

Government and Veterans Affairs Committee
SCR 4004

Chairman Shawn Vedaa; Vice-Chairman Scott Meyer; Members Jay Elkin, Richard Marcellais, Kristin Roers, Mark Weber, Mike Wobbema"

SCR 4004 is a legislative attempt to rescind all applications from previous sessions that request the U.S. Congress to call an Article V convention of states, no matter for what reasons. I hope you will recommend its passage.

Many think that delegates to a convention of states could be controlled by state legislatures, but would that be possible? And if delegates from states like North Dakota and Wyoming could be limited by their states, would that hold true for the hundreds from very liberal states like California and New York? But if I came from a big liberal state, would I accept being limited?

However, there might be only one delegate per state, but then would the big states think that fair? In the Electoral College, a state like California has 50-plus votes, and a state like ours has three. Proponents of an Article V convention claim delegates could be controlled by passing "faithful delegate" laws. In the convention that gave us our present Constitution, the "father of the Constitution" James Madison wrote in his journal that the delegates voted to keep their proceedings secret. If delegates in a present-day convention voted to act by secret ballot, the legislatures might never know who did what.

At the end of the 1787 Constitutional convention, a group called the "anti-

federalists” wanted another convention because they did not trust the Constitution that had just been formed. Madison and Hamilton went along with adding the second Article V method because they understood a people always have the right to meet in convention and draft a new constitution whether that right is in the constitution or not. But right away they started warning against using it. And our very first Supreme Court Chief Justice John Jay wrote that another convention would be an “extravagant risque.” Madison “trembled” with the thought, and Hamilton “dreaded” it.

While still relatively young in 1979, future Supreme Court Justice Antonin Scalia voiced his opinion that an Article V convention might be reasonable. However, after a number of years on the Court, he changed his mind. In 2014 he said, “I certainly would not want a Constitutional Convention. I mean whoa. Who knows what would come out of that?” And the next year he added: “A Constitutional Convention is a horrible idea. This is not a good century to write a constitution.”

So, in 2015, Scalia seemed worried about a convention ending with a new constitution, not just with a new amendment or two.

Those who insist that a convention called by Congress is safe say that no matter what amendments come from it, they need to be ratified by three-fourths of the

states—a safeguard against bad amendments. However, that many states did ratify Amendment 16 which gave us the personal income tax that takes in billions of dollars each year—but never enough. The states also ratified Amendment 17 which took away the power of state legislatures to select their U.S. senators.

Then the country dealt with Amendment 18 prohibiting alcohol. As one might reason, Utah's legislature was quite hesitant about getting rid of that amendment. To pass the 21st amendment to again allow alcohol, a special ratification group was formed, especially for that purpose.

An Article V convention could change the ratification method for any amendments the delegates might propose. (The 1787 convention changed ratification requirements from all the thirteen states to only nine.)

Our constitution is a contract with the people. Let's say another person and I sign a contract and soon I start violating and ignoring parts of it. Eventually, I completely disregard the entire agreement. If the other signer doesn't do anything about it, can we blame the contract? That's why we have a debt of over 25 trillion, plus other problems. But we still have the best constitution ever written. We can still downsize the federal government to its enumerated powers—by eliminating federal departments like education, energy, agriculture, environmental protection, housing, etc. The states have the right to get into these areas--not the federal government.

The tenth amendment says: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." And that's why Madison said: "The powers delegated by the proposed constitution to the federal government are few and defined. Those which are to remain in the state governments are numerous and indefinite."

Logically then, the federal government does not have a budget because Congress's spending was limited from the beginning. Congress is to appropriate funds to carry out the handful of enumerated powers and then pay the bills with receipts from the kinds of taxes stipulated. On the other hand, state constitutions created state governments of general, almost unlimited powers. Accordingly, state governments may lawfully spend money on just about anything and therefore need budgets to limit their decisions.

The ultimate solution, then, is strict adherence to the federal constitution as written, not by going into territory that made our greatest forefathers "tremble" with "dread" because of its "extravagant risque."

I urge a YES vote on SCR 4004 to rescind all applications asking Congress to call an Article V convention of states.