

SCR 15, which purports to provide for selection & control of Delegates to an Art. V convention, is false & deceptive

The BLACK font in items 1-4 below is the wording in SCR 15.

The RED font is what the U.S. Constitution says.

The GREEN font is the Report of the Congressional Research Service.

The BLUE font is my comments.

Constitutional Provisions Respecting an Article V convention

Article V, US Constit., says:

“**The Congress**, whenever two thirds of both Houses shall deem necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, *shall call a Convention...*”

So Congress “calls” the convention! Art. I, §8, last clause, US Constit., says Congress shall have the Power:

“**To make all Laws which shall be necessary and proper for carrying into Execution the** foregoing powers, and **all other Powers vested by this Constitution in the government of the United States**, or in any Department or Officer thereof.”

So Congress makes the laws to organize the convention; and may make *all laws* necessary and proper to organize the convention. That includes determining how Delegates will be selected.

Any Resolution made by the Missouri General Assembly which contradicts these provisions of the US Constitution is unconstitutional and violates the “supremacy clause”. Article VI, cl. 2, US Constit., says:

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

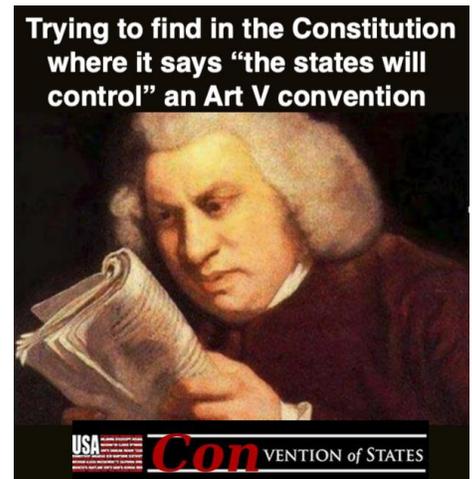
1. SCR 15 asserts: “Whereas, it is necessary for each state to provide for the selection of commissioners to attend any Article V Convention.”

The Truth: Art. V authorizes the States to *apply* to Congress for Congress to “call” a convention. That’s all the States have the power to do. **Nothing in Art. V authorizes the States to select Delegates to the convention.**

Furthermore, Delegates to a convention called to address our Constitution are the Sovereign Representatives *of the People* & have gov’t making & gov’t changing powers. Black’s Law Dictionary defines “constitutional convention”:

“A duly constituted assembly of delegates or representatives of the people of a¹ nation for the purpose of framing, revising, or amending its constitution.... Delegates to the constitutional convention convened in 1787 quickly dispensed with any thoughts of retaining the Articles of Confederation and turned, instead, to the creation of a new Constitution.”

States cannot strip Delegates of their Sovereign Power by the expedient of calling them “commissioners”!



2. SCR 15 asserts: “Now Therefore Be It Resolved that the...Missouri Senate ... the House ...concurring ... hereby adopt the following procedures for the selection of commissioners to attend an Article V convention.” Sections 1& 2 purport to establish the number of Delegates Missouri will have, their eligibility requirements, and procedures for selection.

The Truth: As shown by the provisions quoted above from the US Constitution, all powers over organizing the convention are granted to Congress alone.

The April 11, 2014 Report of the Congressional Research Service shows that Congress also sees Article V as delegating to Congress *exclusive authority* over setting up the convention. The CRS Report exposes as *false* the assurances that the States would be in control of a convention. The Report says:

“Second, While the Constitution is silent on the mechanics of an Article V convention, Congress has traditionally laid claim to broad responsibilities in connection with a convention, including **(1) receiving, judging, and recording state applications;** (2) establishing procedures to summon a convention; ... **(4) determining the number and selection process for its delegates;** (5) setting internal convention procedures, **including formulae for allocation of votes among the states;** ...” (page 4).

“... [In previous bills filed in Congress] **[a]ppportionment of convention delegates among the states was generally set at the formula provided for the electoral college,** with each state assigned a number equal to its combined Senate and House delegations. Some bills included the District of Columbia, assigning it three delegates, but others did not include the federal district. . .” (page 37).

Page 40 of the Report shows that

there doesn't seem to be any “... **constitutional prohibition against [U.S.] Senators and Representatives serving as delegates to an Article V Convention. . .**”

Nothing in Article V (or elsewhere in the US Constitution) requires Congress to permit States to select Delegates. Congress “determ[in]es the number and selection process for its delegates”; so Congress is free to set eligibility standards and select the Delegates. Congress may appoint *themselves* as Delegates.

But ***if*** Congress selects Delegates from the States ***or*** permits the States to select Delegates, Congress might decide that each State will have that number of Delegates which is equal to its electoral votes. If Congress does that, Missouri would get **10** Delegates and California would get **55**.

3. Section 3 of SCR 15 claims power to requires Delegates to “abide by instructions” established by the General Assembly; to act only within the scope of the General Assembly’s application[s] for a convention; to demand that at the convention itself, Delegates will “not support any voting rule other than the rule whereby each states exercises one vote”; and asserts that any vote cast at the convention which violates the State’s instructions is “unauthorized” and “void”.

The Truth: An Article V convention is a *federal* convention, called by the *federal* government, to perform the *federal* function of addressing our *federal* Constitution. State legislatures have nothing to do with it other than to “apply” to *Congress* to *call* the convention.

a) Furthermore, **Article V shows that *the convention itself is the deliberative body***. Article V does not grant to the States any power to control Delegates. Accordingly, any Resolutions or Laws passed by the Missouri General Assembly which purport to strip Delegates of their constitutionally recognized power to act as the deliberative body would be unconstitutional as in violation of Article V; and would fail under the supremacy clause at Article VI, cl. 2, US Constit.

State Legislatures and the Continental Congress couldn’t control Delegates to the federal “amendments” convention of 1787 (where our present Constitution was drafted); and they cannot control Delegates to an Article V convention. That’s because:

- The Delegates are the Sovereign Representatives of *The People*;
- The Declaration of Independence (**DOI**) recognizes the right of a People to form, modify, or abolish their gov’t.; and
- An Article V convention is a sovereign assembly with gov’t - making or gov’t-changing authority.

So Delegates can, like James Madison in Federalist No. 40 (15th para), invoke that “transcendent and precious right” recognized in our DOI, to throw off the governments we have and write a new constitution which creates a new system of government. **The DOI is part of the “organic” - fundamental - Law of our Land; and the Missouri General Assembly has no power to strip *The People* – or their Sovereign Representatives - of that Right. And since the new constitution will have its own mode of ratification, it’s sure to be approved.**

For the fascinating history of how we got from our *first* Constitution (Articles of Confederation) to our *second* Constitution, see this State Flyer.

So if Congress permits the States to select Delegates to the convention; the Missouri General Assembly is free to issue all the instructions it wants to any Delegates from Missouri - and such Delegates are free to ignore them, just as they ignored the Instructions from their States for the federal “amendments” convention of 1787 (as James Madison said they were free to do). See this Delegate flyer for an honest account of our first “amendments” convention.

b) As to the voting at the convention: States have no power to dictate to the Convention how the voting will be conducted. The CRS Report states:

“... A related question concerns vote allocation in an Article V Convention. **Would delegates vote per capita, or would each state cast a single vote**, during the convention’s deliberations...”? [then follows a discussion of different views on this undecided issue] (page 41)

So if Congress permits the States to select Delegates, Congress may decide that each State will have that number of Delegates **and votes** which is equal to its electoral votes. **If Congress does that, Missouri would get 10 Delegates and votes and California would get 55 Delegates and votes.** Or the Convention itself may decide upon a different rule for voting.

c) As to “unauthorized votes” being void: On May 29, 1787, the Delegates to the federal “amendments” convention of 1787 voted to make their proceedings secret. Nothing in Article V or elsewhere in the Constitution requires that the Convention be open to the Public. You can’t stop Delegates to an Article V convention from also making their proceedings secret. And if they decide to vote by secret ballot, the States would never know who voted how.

4. Sections 4 & 5 establish a Joint Legislative Committee and claim to grant to the Joint Committee and to the Missouri General Assembly power to “recall” any Delegate who casts or “attempts to cast” [!] an unauthorized vote.

The Truth: See response to item 3.

Ignorance and Moral Decline are the Cause of our Problems

All of the “horribles” of which the convention lobby complains constitute *violations by the fed and State gov’ts of the existing constitutional limits on federal powers*. The fed gov’t has gotten away with this *because* State Legislators & the People have no idea what our Constitution says. Can *you* recite the enumerated powers by heart?

Furthermore, States & local gov’ts are not victims of fed tyranny. They enthusiastically participate in fed tyranny by taking fed funds to implement unconstitutional fed programs. For FY 2016, 37.3% of the revenue of the Missouri State Gov’t was from fed funds. And that’s a pittance compared to the billions more paid to local gov’ts, NGO’s, research grants, price supports, food stamps, rent & utility subsidies, Medicare, social security, etc., etc., etc. And all that money, paid into all of the States, year in & year out, is added to the national debt.

To claim we can fix our problems by amending our Constitution is absurd. State Legislators are being conned by lobbyists funded by establishment globalists to get an Art. V convention so they can impose a new constitution on us – probably one moving us into the North American Union.

SCR 15 is deceptive, harmful and destructive because it *falsely* assures State Legislators that they will be able to control an Article V convention.

As Brilliant Men have warned, an Article V convention is fraught with peril. The Missouri General Assembly should rescind its existing applications for an Article V convention.

Endnote:

¹ The omitted words address conventions *called in States* to address a *State Constitution*.

Your comments or questions are welcome.

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