

## **A New Year's Resolution for ALL Presidential Candidates**

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No matter how awful you think our government and political system have become, odds are you do not know about this travesty of justice, an incredible failure to honor our fabled constitution. This failure has removed the sovereignty of we the people, and made Congress much more powerful than it should be. Let me acknowledge that even though I have been pegged as "Democracy's Mr. Fix It," until recently I too was ignorant about this blatant disregard for a key part of our constitution.

Our Founders were acutely aware of the need to create a mechanism for we the people to, when necessary, circumvent the political power of the three branches of our federal government. They built in a critically important form of direct democracy that, however, our elected MISrepresentatives have refused to implement for decades. Here it is: Article V of our constitution specifies "The Congress, whenever two-thirds of both Houses shall deem it 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 for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress..."

Conventions to consider constitutional amendments should be seen as peaceful revolutions – a remedy specified in our constitution for a government and political system that no longer serves the interests of the public, because representative government has been corrupted by money and special interests. Congress has been so corrupted for so long that it has blatantly ignored the constitutional provision for conventions.

The key point is that our Founders explicitly created the mechanism for the legislatures of two-thirds of the states to call for constitutional conventions that could propose amendments to the constitution. The states were given this power to address excess federal power. This is a clear alternative to Congress itself proposing amendments. All of the twenty-seven amendments thus far incorporated into the Constitution were proposed by Congress. Granted, Article V has sparse language. But clearly Congress "shall" call a convention to order when the only stated requirement is met, namely that two-thirds of state legislatures request a convention. There are NO other stated requirements. So, ask yourself: Have state legislatures requested a convention and has Congress fulfilled its constitutional, legal responsibility and called for one?

Yes, a sufficient number of state legislatures have requested a convention. With 50 states presently in the Union, there must be applications made by lawmakers in at least 34 states in order to trigger constitutionally specified option. In fact, there have been over five hundred applications requesting a convention and Congress has never called for one. All the state applications are there right now in the Congressional Record and Congress is ignoring them. Legally known as laches, things that are ignored on purpose.

As noted in Wikipedia: The framers of the Constitution wanted a means of sometimes bypassing a potentially unwilling Congress in the amendment-proposing process. They thought that there could be circumstances in which Congress, for self-serving reasons, would ignore valid pleas to amend the Constitution and so the framers established an alternate means of proposing change in

the Constitution. Just as an example, consider that a convention might decide to alter or abandon the Electoral College system for choosing a president.

What has Congress done? Congress has never obeyed Article V and certified that a national constitutional convention must be held – remember, NOT by itself to amend the constitution, but solely at its discretion to propose amendments – just as Congress has done in the past. Then, it would be up to state legislatures or state conventions to actually pass or not pass any proposed amendments. Be clear: as noted in Wikipedia, Congress has never responded to many requests from states by calling a convention because those applications requested amendments on different subjects. Though Article V does not explicitly require that state requests must specify what amendment(s) they are interested in pursuing. This Congressional inaction has contributed to the impression that the applications from two-thirds of the state legislatures must petition for the same amendment(s). However, federal courts have never ruled on this "precedent," which has been quietly established through Congressional unresponsiveness. We do not need any judicial decision, because Article V does not require that states specify anything other than their desire for a convention.

As if the illegal actions by Congress is not enough to make your patriotic blood boil, the Supreme Court rejected hearing a case that claimed it was illegal for Congress to avoid calling a convention. In August 2006 Bill Walker filed a petition of close to 1,000 pages; he noted that 49 states had requested a convention. He correctly emphasized that “On its face, that fact alone compels Congress to call a convention, which it has not, and compels the judicial system, under its oath to support the Constitution, to enforce that document’s provision and declare such inaction by Congress, unconstitutional.”

On October 30, 2006 the Supreme Court denied certiorari to this question in Walker v. Members of Congress (06-244). By refusing to hear the case it allowed the direct text of the United States Constitution to be vetoed with impunity by Congress. What is so disturbing about this decision is that the Supreme Court did not think it worthy or that it had a constitutional duty to address the power of Congress by itself to veto an explicit clause and provision in our constitution. Thus two branches of the federal government violated their sacred, sworn oath to obey the constitution. Simply put, the refusal of Congress to issue the call for a convention even when a sufficient number of applying states exists is unconstitutional, and the refusal of the Supreme Court to rule that Congress has acted unconstitutionally was itself unconstitutional.

Imagine this: Congress upholds its oath and issues a call for a constitutional convention. The states would hold special elections for delegates; the delegates would convene and make their own rules for reaching decisions. Once all the delegates had proposed their ideas and agreed on what amendments should be ratified by the states, the convention would end. The proposed amendments would then be sent out to the states by Congress; the ratification process would begin. Once any single amendment garnered the approval of 38 states – a high hurdle – it would be amended to the Constitution. A host of electoral reforms could be enacted to restore quality of American democracy.

If you truly believe in our constitutional republic and representative democracy with safeguards, then you should want every presidential candidate to take a clear, unequivocal position on this Article V constitutional convention requirement that, so far, Congress and the Supreme Court have refused to honor. It is time for the Executive Branch to stand up for constitutional integrity. Every single one of us should demand from whoever becomes our new president in 2008 a commitment to pressure Congress for a convention. He or she should do that immediately upon taking office – right after that person swears to defend and uphold our constitution. Should we

expect anything less? If not, then let us hear from ALL presidential candidates where they stand. Either say publicly that Article V does not hold or that it should be honored by Congress. Otherwise, our constitution will suffer from three strikes and have little credibility, certainly not by the many people worldwide who already see American democracy as suffering from hypocrisy.

[The subject of constitutional conventions and many other forms of direct democracy are examined in the author's new book *Delusional Democracy*; check it out at [www.delusionaldemocracy.com](http://www.delusionaldemocracy.com).]