

Why an Article V amendment convention should be embraced

It has been over seven years since the Supreme Court's disastrous *Citizens United v. FEC* decision in January, 2010. Since then, 19 states and over 700 cities and towns have asked Congress to propose a constitutional amendment to overcome this decision by asserting that corporations are not people and money is not speech. However, Congress has not proposed such an amendment, and corporations and billionaires increasingly dominate our oligarchic political system.

Political scientists from Princeton and Northwestern Universities studied 1,800 policy initiatives and found that the preferences of ordinary citizens had almost no influence on the outcome. They concluded that the U.S. is more like an oligarchy than a democracy. Confirming this finding, *The Economist*, a well respected weekly, recently downgraded the United States from a "full democracy" to a "flawed democracy." The U.S. should no longer be considered a beacon of democracy for the rest of the world.

Politely asking Congress to propose the constitutional amendment we need to overcome *Citizens United* and achieve government of, by and for the people has not worked. It's time for the states to exercise their constitutional authority to "up the ante" by calling for an Article V amendment convention.

We have never had an Article V amendment convention, and we probably never will. Whenever states have lined up to call for one, as occurred with four of the past 11 amendments, Congress has preemptively proposed the needed amendment rather than allowing their authority to be usurped. Nevertheless, the ability and willingness of the states to call an amendment convention serves the purpose of keeping Congress accountable to the people.

The 17th amendment (direct election of senators) is a classic example. First introduced in Congress in 1826, it was stonewalled by the Senate until the turn of the century. Only after 31 states called for an amendment convention did Congress finally muster the requisite 2/3 votes in both the House and the Senate to propose the amendment, which was finally ratified in 1913.

States have called for amendment conventions hundreds of times, but never have 2/3 of the states called for a convention on the same topic. The U.S. Department of Justice asserted, "...we are convinced that Article V was designed to permit limited conventions and that a variety of legal and political means are available to help enforce such limits."¹

So far, five states have called for a limited Article V amendment convention to overturn *Citizens United v. FEC*. Each of these convention calls is limited to the topic of overturning *Citizens United*, and cannot be counted toward calling a convention on any other topic. The states' convention calls are the source of authority for the convention, so any proposals beyond their scope would be out of order. State legislatures can recall their delegates if they exceed their instructions.

Neither Congress nor an amendment convention can amend the Constitution. They can only propose amendments for ratification by 3/4 of the states (i.e. 38 of the 50 states). Either major party can block ratification of a proposed amendment because each major party controls at least one chamber in at least 13 state legislatures, so only an amendment proposal with bipartisan support would have a chance of ratification.

Winston Churchill said, "Democracy is the worst form of government, except for all the others." America is now more of an oligarchy than a democracy. Political leaders must ask themselves, "How do my biggest donors want me to vote?" rather than "What's best for the country?" The legitimacy of our government is based on the consent of the governed, and that consent is being sorely tested. The overarching risk to our future and that of our children is the risk of failing to fix our broken democracy, and the only constitutional recourse available to the people when Congress won't propose the amendment we need is the amendment convention process.

¹ (US Department of Justice report to the Attorney General, pp 49-50): <https://www.i2i.org/files/2013/08/Limited-Article-V-Convention-Attorney-General.pdf>