

FRIENDS OF THE ARTICLE V CONVENTION

One Friend At A Time . . .



Counting Applications Correctly—Numerically

Many people believe in order to “count” state applications for a convention call must be aggregated together based on the subject of the amendment contained in the application. This is known as “same subject” counting. This is another urban legend originating from the John Birch Society. The urban legend says if not enough applications on the “same subject” exist, Congress doesn’t have to call a convention.

Article V mandates a convention call “on the application of two thirds of the several state legislatures.” Two thirds is a numeric ratio. Thus, according to the Constitution, the correct basis for counting applications for a convention call is a numeric count of applications. If enough states have applied to satisfy the two thirds ratio called for in Article V, Congress must call. Alexander Hamilton illustrated this point in Federalist 85 saying, “the Congress will be obliged "on the application of the legislatures of two thirds of the States [which at present amount to nine], to call a convention for proposing amendments.” Hamilton made no mention of “same subject.” His brackets clearly are intended to illustrate what “two thirds of the States” means—a count of states. See [this link](#) for further details.

On May 5, 1789, on the occasion of submission of the first application to Congress by a state (Virginia) Congress resolved the question of count. Congressman Bland proposed the application be submitted to a congressional committee to consider the various subjects within it. After discussion (led by James Madison author of Article V) Congress determined any count was based on a numeric count of applying states. The application was not referred to committee for consideration of its subject matter. See [this link](#) for further details.

Congress has followed this procedure ever since. No application has ever been referred to a congressional committee for “consideration” of its subject matter. Currently Congress is counting the state applications. It list only shows the state submitting the application and the year it was submitted. There is no mention of the subject matter of the application. See [this link](#) to view the list. See [this link](#) for further details.

The Supreme Court has ruled on questions about Article V numerous times. Not once has the Court ever stated or even implicated applications were to be counted based on the subject matter of the application rather than by a numeric count of the applying states. To review these rulings, please [click here](#).