

Mandamus Case

34 States vs. Congress

for Failure to Call the Convention

for Proposing a Fiscal-Responsibility Amendment Since 1979

- According to the [Article V Library listing](#) of unrescinded Applications on any subject (plenary) and on the single subject of fiscal responsibility published in the Congressional Record beginning in 1788 and in a few state records, Congress failed to call a Convention for proposing Amendments in 1983 when it appears there were 40 unrescinded “continuing” state Applications. Only 34 Applications are required, a total reached in 1979.
- Congress has no complete list of Applications and Rescissions as mandated by Article V
 - A [House Rule](#) requires [publishing by state and year current, but not historic, Applications and Rescissions](#),
 - Congress has no [legal process like ratification](#) to securely store, list and “*call upon the Application of two-thirds of the states*”
 - [The Congressional Research Service](#) noted, in 2017, that “According to the National Archives, state applications have traditionally not been collected in a central repository but are scattered through the holdings of the Center for Legislative Archives.”
- The proposed “[Article V Records Transparency Act of 2017](#)” states it would take “5 years and \$18 million” to “compile” but “*would not designate as valid*” (i.e. count) any of the Applications and rescissions passed “for each of the fiscal years 2018 through 2023”.
 - The proposed Article V Records Transparency Act would, according to the [CRS](#) “arguably meet the demands to compile (Applications and Rescissions)”
 - The proposed Act died in 4 committees with no co-sponsors.
- 21 States passed Plenary Applications from 1789-1929 such as [Virginia's 1789 Application](#) stating the Convention for proposing Amendments would have “*full power to take into their consideration the defects of this Constitution...and report such Amendments thereto as they shall secure... inalienable rights of mankind.*”
- Rob Natelson’s conclusion in his May 9, 2018 Federalist Society Review, “[Counting to Two Thirds: How Close Are We to a Convention for Proposing Amendments](#)”, was: “When counting applications toward a convention for proposing a balanced budget amendment...Congress should add to the count any extant plenary applications.”