

## States should call constitutional convention

Posted: Saturday, July 10, 2010 3:00 am | Updated: 11:37 am, Tue Jul 13, 2010.

Tom Patterson, Commentary |

If states are serious about getting more clout in the federal system, they should call a constitutional convention.

Does that sound preposterous? It shouldn't. Admittedly, "states' rights" fell into disfavor during the civil rights movement of the last century. Some states claimed the (non-existent) right to discriminate against racial minorities. Unfortunately, "states' rights" became a code word for bigotry.

Bull Connor and his infamous anti-integration fire hoses are long gone, but the consequences are still with us. Left unchecked, the federal government has continued its growth spurt begun under FDR's New Deal. This result was exactly what our founders feared and tried to prevent — excessive concentration of power in a remote, centralized government, with the states demoted to a dependent role.

Although they like the federal money, states complain bitterly about federal encroachment into formerly local matters like education, intrastate commerce, incarceration policies and environmental protections. The unfettered federal government has accumulated a dangerous level of debt and now has foisted Obamacare's expense onto the states' already tottering finances.

But there's not much that states can do. The U.S. Senate served as a forum for states' concerns until state legislatures lost the right to elect their senators in 1913. The 10th Amendment, reserving all but the specifically enumerated powers in the Constitution to the "states respectively, or to the people," has been mostly ignored by the courts. The states seem powerless to regain their power.

But states do have one last option. It has been there all the time and nobody can stop them from exercising their power because it's in the Constitution. That's the right to call a constitutional convention.

Article V of the Constitution provides two pathways for amending the Constitution. One is through amendments proposed by Congress. The other is by two-thirds of the states calling a "convention for proposing amendments." In either case, amendments must be ratified by three-fourths of the states.

Yet the states have never called a constitutional convention. Thomas Jefferson would have been disappointed. He believed that every generation or so, the states would need to propose amendments to check unwarranted powers and privileges accumulating at the federal level. Constitutional conventions would serve as needed routine maintenance for our system of checks and balances and would keep the state vs. federal relationship in proper working order.

Since it didn't work out that way, one of the obstacles today is that states are uncertain how to proceed, even if they wish to do so. How would delegates be selected? How would the convention be organized and leaders selected? How would votes be apportioned? The lack of precedents is disconcerting to today's policymakers.

Still, the logistical problems are solvable. Historic opportunities often demand courage. This convention could be a real game-changer. Some of the most needed reforms will never come from the status quo. Federal legislators are never going to agree to term-limit themselves or to substantially restrict the burdens they impose on states.

In the 1990s, there was an unsuccessful attempt to get the states to propose a Balanced Budget Amendment, requiring the federal government to live within its means. Think about how much stronger our economy would be, how much brighter our future would be, if the states could have pulled that off.

States can either complain about their degraded status or they can do something about it. The Constitution's framers wouldn't have given states powers they didn't intend for them to use.

Maybe Arizona should lead the way. If not us, then who?

---

East Valley resident Tom Patterson (pattersonomc@cox.net) is a retired physician and former state senator.

**More about** [Constitution](#)

- [ARTICLE: Pearce seeks to deny birth certificates to children of illegal immigrants](#)
- [IMAGE: Mosque protest](#)
- [ARTICLE: McCain says he doesn't back 14th Amendment change](#)
- [ARTICLE: Napolitano, White House against ending birthright citizenship](#)
- [ARTICLE: GOP in Congress attacks 14th Amendment's birthright citizenship clause](#)

**More about** ["states' Rights"](#)

- [ARTICLE: States' rights should be encouraged, not punished, by Washington](#)

© Copyright 2010, East Valley Tribune, Mesa, AZ. [Terms of Use | Privacy Policy]