

The Journal Gazette

We don't need a constitutional convention to make us better

October 4, 2022

Last January, in a Monday Five Questions, now-retired state Sen. Dennis Kruse, R-Auburn, had a short, direct answer on the need for redistricting reform.

“Legislators are elected and reflect the values of the voters,” he wrote, “and if voters are unhappy with the job legislators do on redistricting, they can always vote them out of office.”

Kruse’s candor came to mind when we read that Sen. Mike Braun wants Hoosiers to latch on to a movement to convene a constitutional convention as outlined in Article V of the Constitution. Among the new amendments he’d like to see is one mandating congressional term limits. Isn’t voting a referendum on a politician’s success or failure?

Article V of the Constitution provides a process for adding amendments. When two-thirds of the Senate and two-thirds of the House of Representatives vote to change the Constitution, an amendment goes to the state legislatures for a vote.

However, there is a second path for an amendment to proceed, and it is this route that is driving the current call for a Constitutional Convention.

“Alternatively, two-thirds of the state legislatures can submit an application to Congress, and then Congress calls a national convention at which states propose amendments. Three-fourths of the state legislatures or state conventions must vote in favor of an amendment to ratify it.”

As of today, 32 state legislatures have applications in Congress. There needs to be two more before Congress must take this seriously. Even if a convention produced amendments, 38 states have to vote to ratify them to become law.

Skeptics point out that the real problem is that a convention at this moment – in a country with political acrimony and civil unrest – would lead to a runaway convention. For example, Braun might want to term-limit members of Congress or force a balanced budget. But there’s nothing in Article V that would confine the subject matter of a convention, wrote Walter Olson, a senior fellow of the libertarian-associated Cato Institute, in a 2016 article on the subject.

Praise be to the Founding Fathers’ on the brevity of Article V. However, there is a considerable problem with its open-endedness.

“Some respected scholars who favor a convention argue that strict instructions would deter the assembled delegates from venturing beyond the velvet rope,” Olson wrote. “But if that cannot be made a legal requirement, it winds up more like an honor code.”

One revered former Supreme Court justice hated the thought of what such a national convention could create.

“I certainly would not want a constitutional convention,” Antonin Scalia. “Whoa! Who knows what would come out of it?”

Scalia is joined by Supreme Court Chief Justice Warren Burger, who wrote: “Congress might try to limit the agenda to one amendment or one issue, but there is no way to assure that the Convention would obey.”

A national convention might sound appealing to people all along the political spectrum because survey after survey reports that most Americans find the current political system corrupt and broken.

However, circling back to Krause, isn't this why we elect people? If Braun wants term limits, we could vote him out, or he can set limits for himself. If he wants out after his current term, we won't stand in his way.

The senator doesn't need a constitutional convention or amendment for that.