



GENERAL SESSION

January 25, 2012

**Program Topic: Amendment to the U.S. Constitution
Requiring the Federal Government
to Get Permission From the States
Before Raising the Debt Ceiling**

Presented by: Utah Issues – Suzanne Merrill; WSLC Past President

**Speaker: Rep. Bradley M. Daw (R) Dist. 60, Utah County (Orem)
Gayle Ruzicka – Executive Director; Utah Eagle Forum**

NOTE: Rep. Brad Daw (R) will be running a bill in the 2012 legislative session that calls for the country to convene a constitutional convention for the purpose of amending the Constitution to say that Congress must have permission from the states before it raises the national debt.

The bill would require any increase in the federal debt to be approved by a majority of state legislatures

Both Rep. Daw and Ms. Ruzicka agreed that, as the bill's sponsor, Rep. Daw would be allotted a brief time to respond to Ms. Ruzicka's arguments against it.

Rep. Daw began by lamenting that on January 12, 2012 the legislative branch of the federal government ceded its authority to the executive branch with regard to raising the debt ceiling. "How was this done?" he questioned.

The "super committee" was tasked with finding a way to reduce the federal budget deficit by at least \$1.2 trillion over the next 10 years. Having failed to arrive at a clear solution, the committee did make some

recommendations for mandatory cost cuts. Massive tax increases and huge defense spending cuts were included in the automatic cuts, which would become part of the agreement if the super committee failed to reach its goal.

However, a provision within the agreement gave the executive branch the authority to raise the debt ceiling. This authority, Rep. Daw explained, constitutionally resides with the legislature. Unfortunately, the veto

power of the legislature could not override the provision. The House vetoed it. The Senate would not.

Rep. Daw then drew a comparison between the budgeting process at the state and federal levels. He asserted Utah's tightly reined state economy requires great discipline and exacts difficult fiscal choices during every session. Conversely, he believes the U.S. Congress taxes, borrows, and spends with apparent abandon. Federal overspending isn't a partisan problem. Incentives for it are built into the system.

Until 1787, all power resided with the states. Each state could even print its own currency. The constitutional convention balanced the powers between state and federal government with a "brilliant document." However, an imbalance began again with the 14th Amendment and ensuing judicial activism. The federal power to tax granted by the 16th Amendment deepened the imbalance.

Article 5 of the U.S. Constitution states that two-thirds of the state legislatures are required to approve the call for a constitutional convention. Three-fourths of the states would need to approve any amendments produced by the convention in order for them to become law.

Every Founder, continued Rep. Daw, supported the concept of constitutional conventions for proposing amendments. James Madison, in particular, defended its use to push back against the federal government.

Gayle Ruzika asked, "What will happen if two thirds of the states call for a convention?" Congress will immediately take charge, she said. From that point, he continued, everything is unclear because Article 5 doesn't specify. We don't know, for example, how delegates would be chosen.

We don't know how many votes each state would get.

Say Utah was allotted five delegates. Who and how would they be selected by the state itself? Would they be elected? Congress, being in control, could stipulate that U.S. Congressmen must be included as delegates. Many of both parties agree we don't have adequate rules to govern these important details.

Ms. Ruzika also maintained it would also be entirely possible for Congress to manipulate delegates' votes, forcing them to approve the debt increase by threatening to withhold federal money from their states. The media would add to the chaos by magnifying every difficulty encountered in the process.

Finally, overarching all the other unknowns, Ms. Ruzicka said that Article 5 refers to "amendments" rather than to "an amendment." This could be construed to mean that a constitutional convention could propose other amendments (i.e. abortion, gun control) for deliberation after it has been convened.

It may be, she continued, we may truly need a constitutional convention someday. But she does not believe that time has come, even though she believes the federal debt ceiling raises have created an awful situation. "If Congress doesn't follow the Constitution regarding budget matters now," she asked, "Why would they abide any better by an amendment?"

Responding to questions, Ms. Ruzika said the first constitutional convention was called to amend the Articles of Confederation. Instead, she said that we ended up with a new Constitution. A "runaway convention," as she called it, could lead to radical changes to the existing Constitution. Lobbying, money, and jockeying for power would all play into the uncertainty.

The U.S. Constitution defines states' rights. The states, Ms. Ruzika observed, should stop

accepting so much federal money. They could then join together to invoke nullification (the right to nullify, or invalidate, any federal law that a state judges to be unconstitutional.)

Rep. Daw concluded by saying he appreciates the level of scholarship the Eagle Forum brings to issues such as this, although he disagrees on this particular one.

He agreed the wording of Article 5 is vague, but noted that the framers of the Constitution held several conventions and trusted them to work well. He believes the states would control them now as they did then. States would set the rules. Each state would get one vote. The convention would consider one amendment. The 1787

convention, as well as subsequent interstate conventions, set precedents for these issues. Rep. Daw said the state delegates attended the first constitutional convention, with the clear understanding they were going to construct a Constitution rather than simply amend the Articles of Confederation.

Responding to questions, Rep. Daw said a balanced budget amendment and debt ceiling amendment don't conflict with each other. His bill is an improvement to any balanced budget amendment Congress may pass, since it does not allow Congress to opt out of its own amendment if it wants more funds.

In addition, he informed us, two states have already given approval to similar legislation calling for the convention. Twelve other states are moving forward on such legislation.

Reported by Pam Grange

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