

## What's Wrong with the Legislative Branch

Article 1 of the Constitution states that all legislative powers are vested in a Congress that consists of a Senate and a House of Representatives. We have two other Conversation Pieces on our website that are pertinent to our conversation about the Legislative Branch. One is entitled "The US Constitution - Article 1, Section 8", which is a reprint of the text from the Constitution that lists the enumerated powers and the specific responsibilities of the federal government. When you read through this section of the Constitution, you realize that these responsibilities all relate to protecting our country's citizens. This includes the military protection of the country as a whole and protecting our citizens' unalienable rights.

The second Conversation Piece is entitled "There Ought to be a Law (or not)". Our Editorial Board believes that unless a proposed law serves to help protect the security of the country or the rights of our citizens, it probably shouldn't be passed and become law. Unfortunately, Congress has passed many laws over the years that have enabled the federal government to grow well beyond its enumerated powers. Our elected representatives, who pledge to uphold the Constitution, have been the primary violators of the Tenth Amendment, which states *"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people"*.

In this Conversation Piece, we want to re-establish the link between the Tenth Amendment and the General Welfare clause. The US House of Representatives is oftentimes referred to as "The People's House." Each congressional district elects its representative to serve on its behalf in Washington DC. However, this does not mean that the representative should be going to Washington DC to bring back pork to their district. Their representative has an obligation to uphold the Constitution and the Tenth Amendment. Members of the US House should only vote in favor of laws that advance the interests of the country as a whole (aka Favoritism to None).

We also want to make a link between Article 1, the Tenth Amendment, and the concept of federalism. The US Senate was originally established to represent the interests of the individual states in relation to the powers of the federal government. Federalism is a concept whereby power is distributed between a central authority and its constituent parts. Under the original Constitution, Senators were elected by the states' legislatures, so that the states could send Senators to Washington DC to protect the interests of state governments. Unfortunately, this concept was altered with the passage of the Seventeenth Amendment, and since then, Senators are directly elected by the citizens of each state. Therefore, Senators now represent the interests of the citizens of their state, instead of representing the interests of state governments. One of the unintended (or was it intended?) consequences of the Seventeenth Amendment was to increase the power of the federal government at the expense of the states' governments.

In our next monthly newsletter (June 2020) we will talk more about Article 2 and the Executive Branch. The Legislative Branch has ceded too much of its power to the Executive Branch. This is primarily a direct result of the "progressive" movement. Our overriding complaint about the federal government is that it has grown well beyond its intended scope. Not only has the legislature passed laws that have expanded the federal government's role, it has facilitated the establishment and subsequent growth of the Administrative State (the bureaucracies that report to the President). In our August 2020 newsletter we will talk some more about this unelected (and unaccountable) "non-constitutional" branch of the federal government. But for now, let's just say that Congress has

abdicated its responsibility that calls for the House and Senate to be the only source of federal laws that regulate the lives of our country's citizens.

Our last complaint is not necessarily about the Constitution or Congress per se, but instead focuses on the general dysfunction of our federal government. Public opinion polls about Congress have demonstrated our citizens' ongoing and growing dissatisfaction. Many of our country's Founders gave us warnings about the potentially detrimental effects of political parties. Unfortunately, our Editorial Board does not have any useful answers regarding basic human nature and its effects on politics and government. Different people are wired differently. Many people look to the federal government for security from want. This fosters a sense of dependency and entitlement. Other people cherish individual Liberty and abhor coercion. And many other people simply want to be left alone and are apolitical, disengaged, and do not vote. Having said that, the numbers show that large portions of all three groups of citizens respond negatively when asked for their opinions about Congress.

So, what are some of the solutions to the above issues? Our first recommendation is to re-instate the underlying principles behind the General Welfare clause. The laws passed by Congress must never show favoritism towards any particular sub-segment of our country's citizens. This means no more "identity politics" and no more crony capitalism or crony socialism. It also means that there should never be a law that favors one state (or group of states) at the expense of other states. Our citizens need to re-embrace the concept of E Pluribus Unum (Out of Many, One). Any proposed law that violates the General Welfare clause should be rejected.

Our next recommendation is to repudiate and begin to reverse the detrimental effects of the "progressive" movement. Our country's Founders looked back at history to identify what has worked, and what doesn't work. Accordingly, they wrote a Constitution that established a federal government that has lasted longer than any other system of government in human history. Unfortunately, over the course of the past 100 years or so, we have deviated from the Founders' vision and have ended up planting some very toxic weed seeds. Fiscal irresponsibility, dependency, entitlement, and the diminution of civil society have been some of the end results of the "progressive" movement.

We also need a balanced budget amendment. Here is a proposed approach that would be "fairly easy" to implement. As long as there is a debt balance outstanding, Congress must prepare and pass a budget (on a timely basis at least three months prior to the end of the government's fiscal year) that calls for taxing our country's citizens for the amount necessary to cover the approved spending for the upcoming year, plus an amount equal to 10 percent of the debt outstanding. There should never again be any "future obligations for deficit spending" that are passed on to our children and grandchildren. If Congress cannot find the will (or be willing to suffer the wrath of the electorate) to fund something that a majority of Congress deems to be necessary, then that item should not be included in the budget.

Budgeted spending should only be for those responsibilities that are spelled out in the original Constitution. However, if during the course of the subsequent fiscal year additional unanticipated spending needs arise, the first solution should be the re-allocation of existing budgeted funds. Such a re-allocation would require only a simple majority vote in both the House and Senate. If that is not possible or feasible, then any such additional spending must be covered by a new "emergency tax" that must be approved (spending and the associated new tax) by a 60% positive vote by both the Houses and Senate. If the spending is deemed necessary and can pass with a 60% vote, then

Congress could choose to defer some of the budgeted debt retirement, but such an approach would require a 66% vote by both the House and Senate. Unfortunately, that means some of the planned debt retirement is going to be pushed off for another year, but the members of Congress would then need to justify to the voters why such spending was necessary and why it couldn't be paid for by re-allocating existing funds.

One of the keys to accomplishing these changes would be to implement Term Limits for members of the House and Senate. There are currently no checks and balances to protect our country from career politicians. Fortunately, many good people are initially elected to Congress who have sought public office to advance the General Welfare of the country and intend to do the right thing(s). However, unfortunately, once they assume office, they begin to compromise their values because they immediately begin to focus on their next re-election. They are pursued by special interest groups, and they begin to become beholden to wealthy donors who promise to help them stay in office. They also begin to realize that they can easily vote for special interest legislation and / or other "non-constitutional" spending programs, because they can avoid incurring the wrath of the voters by pushing those types of costs onto future generations who are not yet old enough to vote.

Fortunately, We-the-People have the means to reverse the negative effects of an out-of-control, intrusive and coercive federal government. We can return to the concept of a limited, focused, more efficient government. This will require us to re-establish the underlying principles spelled out in the original Constitution and the Federalist Papers. We-the-People just need to find the political will to accomplish that task. This starts with remembering that the federal government works for us, not the other way around. We can call for a Convention of States under Article V of the Constitution. The purpose of such a convention would be to propose amendments to impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and members of Congress. We encourage every citizen to visit the website [www.conventionofstates.com](http://www.conventionofstates.com) to learn more about Article V, which is the "fail safe" mechanism given to us in the Constitution to check the powers of the federal government.