



The Framers voted against giving Article V the power of a Constitutional Convention.

The opponents falsely claim an Article V convention is a Constitutional Convention (Con-Con) and can rewrite the entire Constitution.

The Framers voted against giving Article V the power of a Con-Con!

Immediately after the Framers unanimously approved adding the convention mode back into Article V on Sept 15th, 1787, a motion was made by Roger Sherman of Connecticut to give Article V the power of a Constitutional Convention;

"Mr. SHERMAN moved to strike out of article 5, after "legislatures" the words, "of three fourths," and so after the word "conventions," leaving future conventions to act in this matter, like the present convention, according to circumstances."

This motion was defeated by a vote of seven to three (one divided).

Several years later, Roger Sherman was a member of the 1st Congress and during the debate on the Bill of Rights, he stated the following in regard to Article V; "All that is granted us by the 5th article is that, whenever we shall think it necessary, we may propose amendments to the Constitution; not that we may propose to repeal the old and substitute a new one."



Scan to read the Madison's Notes of the 1787 Federal Convention on Sept 15, 1787.



The differences between an Article V Convention and a Constitutional Convention.



Scan to read article "An Article V Convention Is Not a Constitutional Convention by Ken Quinn.

"Every constitution for the United States must inevitably consist of a great variety of particulars, in which thirteen independent states are to be accommodated in their interests or opinions of interest... Hence the necessity of moulding and arranging all the particulars which are to compose the whole in such a manner as to **satisfy all the parties to the compact**; and hence also an immense multiplication of difficulties and casualties in obtaining the **collective assent to a final act**... But every amendment to the constitution, if once established, would be a **single proposition, and might be brought forward singly**... The will of the requisite number would at once bring the matter to a decisive issue. And consequently, whenever nine or rather ten states, were **united in the desire of a particular amendment**, that amendment must infallibly take place. **There can therefore be no comparison between the facility of effecting an amendment, and that of establishing in the first instance a complete constitution.**" ~ Federalist 85

DIFFERENCES BETWEEN A CONSTITUTIONAL CONVENTION AND AN ARTICLE V CONVENTION

ACTION	CONSTITUTIONAL CONVENTION	ARTICLE V CONVENTION
Propose	Propose New Constitution	Propose Amendments to Current Constitution
Power	Full Powers, Unlimited	Limited to Subject of State Applications
Authority	Outside of the Constitution	Under Article V of the Constitution
Requirement to Call	Unanimous Consent of States to be Bound	Application by Two-thirds of the States
Called By	The States	Congress
Scope of Passage at Convention	Entire Constitution as a Whole Document	Individual Amendments, Singly
Votes for Passage at Convention	Unanimous Consent Required	Simple Majority
Scope of Ratification by the States	Entire Constitution as a Whole Document	Individual Amendments, Singly
Votes for Ratification by the States	Only Binds States That Ratify It	Ratified by Three-fourths and Binds All States

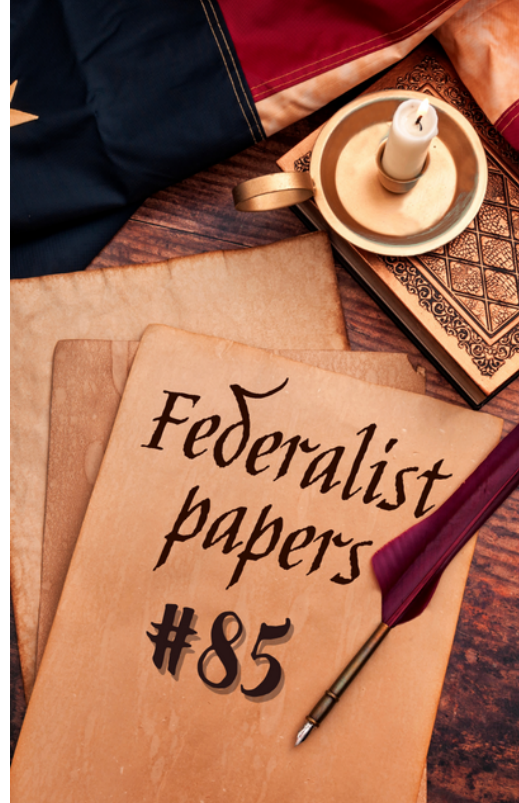


5

The Framers intended an Article V convention to be limited to the amendment(s) applied for by two-thirds of the legislatures.



Scan to read "Charles Pinckney: The Forgotten Framers and Originator of the Article V Limited Convention" by Ken Quinn.



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In Federalist 85 Alexander Hamilton clearly explains that Article V allows the state legislatures to propose and ratify a SINGLE AMENDMENT.

The amending provision (Article V) was introduced on the very first day of the 1787 Federal Convention as a limited convention and that never changed.

On May 29th, at the 1787 Federal Convention, Charles Pinckney introduced a draft of a federal government and within it was Article XVI which allowed for the amending of it; Art. XVI. **"If two-thirds of the legislatures of the states apply for the same**, the legislature of the United States shall call a convention for the purpose of amending the constitution..." Pinckney's proposed system of government was referred to the Committee of the Whole and was ultimately submitted to the Committee of Detail along with the Virginia Plan and the New Jersey Plan.

On August 6th, the Committee of Detail reported the first draft of the new Constitution which contained the following resolution; Art. XIX. **"On the application of the legislature of two-thirds of the states in the Union for an amendment of this Constitution, the legislature of the United States shall call a convention for that purpose."**

On Sept 15th, the vote adding, "convention for proposing amendments" into Article V only removed the dependence on Congress to propose the amendment(s) and transferred that authority exclusively to the states. It did not change the requirement that applications from two-thirds of the state legislatures had to be for the same amendment(s), nor the purpose of the convention, to propose the specific amendment they applied for. This was the clear intention of the members as they formulated the text of the amending provision during the course of their debates, which is now embodied in Article V.

Article V simply allows state legislatures to propose a single amendment if two-thirds concur in applications to Congress to call a convention for it.

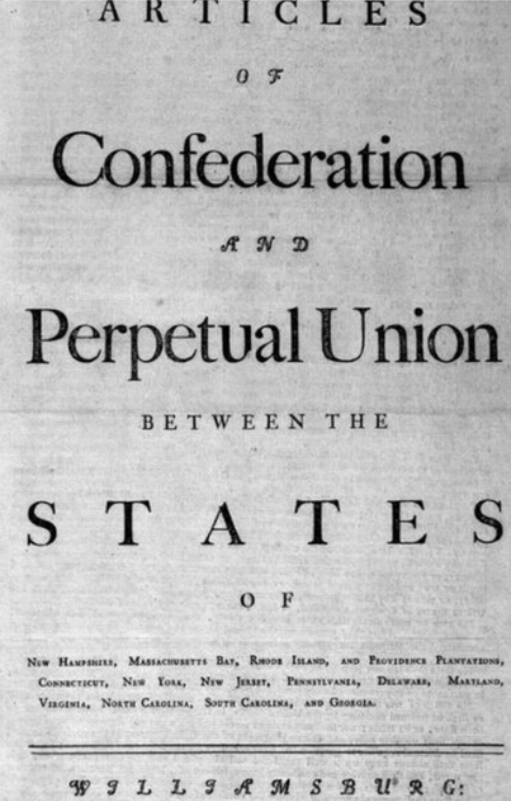
*"But every **amendment** to the constitution, if once established, would be a **single proposition, and might be brought forward singly**. There would then be no necessity for management or compromise, in relation to any other point, no giving nor taking. The will of the requisite number would at once bring the matter to a decisive issue. And consequently, whenever nine or rather ten states*, **were united in the desire of a particular amendment, that amendment must infallibly take place**. There can therefore be no comparison between the facility of effecting **an amendment**, and that of establishing in the first instance a complete constitution...We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority."*

~ Federalist 85, Alexander Hamilton



Scan to read Federalist 85.

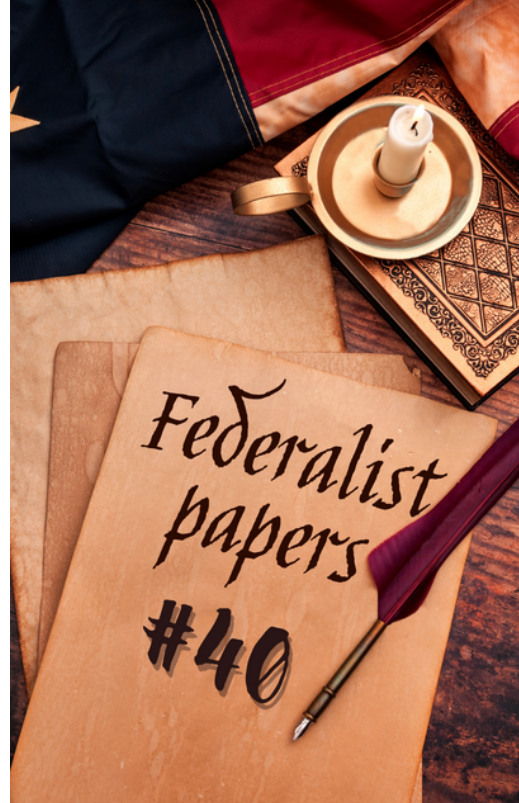
* two-thirds (propose) or three-fourths (ratify)



1

"The 1787 Federal Convention was called solely to revise the Articles of Confederation."

FALSE!



2

In Federalist 40 James Madison refutes the charge that the 1787 Federal Convention exceeded its authority to draft a new Constitution.



Scan to read Federalist 40.

The 1787 Federal Convention was not called by Congress for the sole and express purpose of revising the Articles of Confederation.

The 1787 Federal Convention was called by Virginia in response to the recommendation from the Annapolis Convention of 1786 which convened to address issues of commerce. The commissioner's report from Annapolis explained that they felt it important to expand their powers to address other issues and since they did not have the authority to address anything other than commerce, they recommended that another convention be called and for the commissioners to be given authority to address those issues. This demonstrates that the legislatures control their commissioners.

"Under this impression, Your Commissioners, with the most respectful deference, beg leave to suggest their unanimous conviction, that it may essentially tend to advance the interests of the union, if the States, by whom they have been respectively delegated, would themselves concur, and use their endeavours to procure the concurrence of the other States, in the appointment of Commissioners, to meet at Philadelphia on the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union;"



Scan to read the commissions issued by the state legislatures.

James Madison refutes the charge that the 1787 Federal Convention exceeded its call (runaway convention) and refers to the commissions from the state legislatures to prove that the delegates had full authority to adopt a new Constitution.

*"The powers of the convention ought in strictness to be determined by an inspection of the commissions given to the members by their respective constituents... From these two acts it appears, 1st. that the object of the convention was to establish in these states, a firm national government; 2d. that this government was to be such as would be adequate to the exigencies of government and the preservation of the union; 3d. that these purposes were to be effected by alterations and provisions in the articles of confederation, as it is expressed in the act of congress, or by such further provisions as should appear necessary, as it stands in the recommendatory act from Annapolis; 4th. that the alterations and provisions were to be reported to congress, and to the states, in order to be agreed to by the former, and confirmed by the latter. From a comparison and fair construction of these several modes of expression, is to be deduced the authority under which the convention acted. **They were to frame a national government, adequate to the exigencies of government and of the union, and to reduce the articles of confederation into such form as to accomplish these purposes.**" ~ Federalist 40, James Madison*



We have a long rich history meeting in conventions to propose solutions to our problems.



The States have been meeting in a convention every year since 1892 to propose needed reforms, and the rules work.

Conventions among the States are nothing new and have been a part of our country from the very beginning as a means of proposing solutions to solve problems.

Founding-Era Conventions and the Meaning of the Constitution's "Convention for Proposing Amendments"

Rob Natelson - Florida Law Review, Volume 65, May 2013, Number 3

*"Under Article V of the U.S. Constitution, two-thirds of state legislatures may require Congress to call a "Convention for proposing Amendments." Because this procedure has never been used, commentators frequently debate the composition of the convention and the rules governing the application and convention process. However, the debate has proceeded almost entirely without knowledge of the many multi-colony and multi-state conventions held during the eighteenth century, of which the Constitutional Convention was only one. **These conventions were governed by universally-accepted convention practices and protocols. This Article surveys those conventions and shows how their practices and protocols shaped the meaning of Article V.**"*



Scan to read article by Rob Natelson.

The Uniform Law Commission (ULC) is a Convention of the States that has been meeting annually since 1892 to propose uniform state laws. The procedures and rules of the ULC are virtually identical to how an Article V convention would function.

- Each state is represented by "commissioners." The number and selection of commissioners for each state is determined by that state's legislature.
- Each commissioner is required to present the commission (credentials) issued to them by their state legislature before they can represent their state.
- The ULC's "Scope and Program Committee" reviews all proposed topics up for consideration by the ULC to ensure that they are consistent with the ULC's mission.
- The ULC appoints drafting committees to draft the text of each legislative proposal.
- Each piece of legislation that is drafted must be approved by the entire body of commissioners sitting as a committee of the whole.
- Finally, the commissioners vote on each piece of legislation by state, with each state having one vote. A majority of the states present must approve the legislation before it is formally proposed to the states.
- Even once the legislation is formally proposed to the states as a model act, the state legislatures must adopt that legislation to make it binding. Until it is adopted by the state legislatures it remains only a proposal.



Watch videos on the Uniform Law Commission website to learn more.



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Congress has introduced over 12,000 amendments to the Constitution under Article V while the States have introduced ZERO.

Visit the National Archives to download a spreadsheet to view all of these amendments.

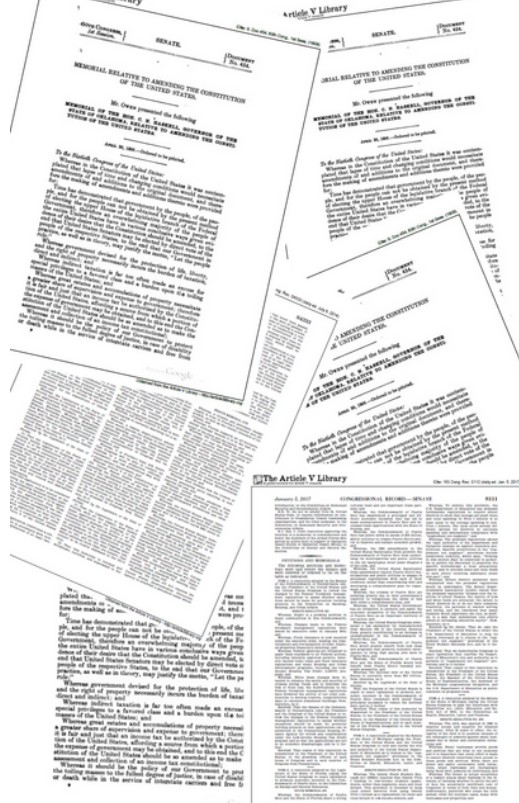


The Framers gave the state legislatures equal authority to propose amendments to the Constitution, yet only Congress has used this authority under Article V.

*"That useful alterations will be suggested by experience, could not but be foreseen. It was requisite, therefore, that a mode for introducing them should be provided. The mode preferred by the convention seems to be stamped with every mark of propriety. It guards equally against that extreme facility, which would render the Constitution too mutable; and that extreme difficulty, which might perpetuate its discovered faults. It, moreover, **equally enables the general and the State governments to originate the amendment of errors**, as they may be pointed out by the experience on one side, or on the other."* ~ Federalist 43

Since 1789, Congress has introduced over **12,000** amendments to the Constitution. Only **thirty-three** of these amendments received the necessary two-thirds approval from both Houses of Congress to be proposed to the States, with **twenty-seven** of them being ratified by the States and added to the Constitution. During that same time period, the state legislatures which have equal authority to propose amendments have never once been able to introduce one to be referred to a committee, discussed, debated, and voted on because they did not attain the two-thirds needed on the same amendment.

An Article V convention simply allows the States the same opportunity that Congress has taken advantage of over 12,000 times, to introduce an amendment to the Constitution to provide a needed reform.



12

The 400 + Article V applications that have been passed by the state legislatures prove the convention is limited.

There have been over 400 Article V applications submitted to Congress by state legislatures since 1788. If Congress is required to call a convention upon application from two-thirds of the state legislatures, why hasn't a convention been called by Congress?

The answer is obvious, two-thirds of the state legislatures have **NOT concurred in applications for the same amendment or subject**, which is the requirement to have a convention called under Article V. This is another clear proof that demonstrates the process is controlled and the scope of the convention is limited.

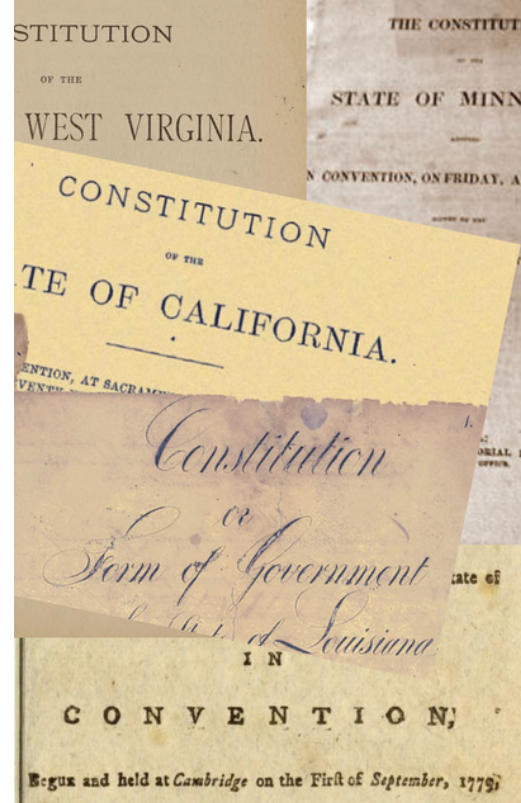


Scan to visit the Article V Library to view many of these applications submitted to Congress by the state legislatures since 1788.

Mr. PAGE Thought it the best way to enter the application at large upon the Journals, and do the same by all that came in, *until sufficient were made to obtain their object.*



We know how an Article V convention will function because we have used rules in conventions among the states numerous times before.



The States have proposed over 6,000 amendments to their constitutions in conventions. We know very well how the process works.

We have history to look to in determining the rules of an Article V convention.

"During the founding era, there were more than 30 conventions of states held capped off by the Philadelphia Convention of 1787, which drafted the United States Constitution. Since our founding, at least seven conventions of states have been held, including the first national convention of states called since 1861 held in Phoenix during September 2017.

To date, multiple state legislator groups have begun drafting proposed rules for a convention, for example, the Assembly of State Legislatures (ASL). The Arizona convention was called specifically to draft a set of rules for a future convention. All of these rules have certain principles in common: (a) voting will be on a one state/one vote basis; (b) a majority of states present and voting shall conduct the business of the convention; and (c) matters outside the scope of the call shall be deemed out of order. These principles are consistent with those observed in the numerous other past conventions.

Of course, the convention itself, once convened and credentialed, will as its first order of business, consider, debate and adopt a set of rules for the convention."

Article V Myths, written by David Guldenschuh, advisor to U.S. Term Limits.

The States have been proposing amendments in conventions since the very founding of our country.

"All told, the fifty states have held 233 constitutional conventions, adopted 146 constitutions, and ratified over 6,000 amendments to their current constitutions."

"In several states, the large number of conventions is also a product of the relative difficulty of achieving constitutional change through the legislative process. Thus, in some states, it has been practically impossible for legislative-initiated amendments to be ratified because they must receive a majority of all votes cast in the entire election rather than on the particular question. The only realistic opportunity to secure constitutional change in these states - Tennessee is a leading example - has been through constitutional conventions, and in fact **five limited conventions were called in Tennessee in the second half of the twentieth century in order to enact constitutional changes.**"

~ *The American State Constitutional Tradition*, John J. Dinan, pg. 7 and 11.

Sounds a lot like Congress, doesn't it?



Scan to view number of state constitutional amendments in each state.



Scan to view amending state constitutions at Ballotpedia.

7





Did James Madison really tremble at the thought of calling an Article V convention?



Scan to read Madison's letter in context.

No! James Madison is falsely cited as an opponent of an Article V convention due to a quote of his taken out of context. He drafted the final language of Article V and voted for it!

Madison opposed a specific plan to call a second convention to adopt another Constitution, not an Article V convention to propose amendments. In a letter he wrote to George Lee Turberville in Nov. of 1788. Madison responded to his question; *"You wish to know my sentiments on the project of another general Convention as suggested by New York."* The New York Legislature and the Anti-Federalists wanted to call a second convention to rewrite the entire Constitution before it even took effect! Madison opposed that idea and wrote, *"Having witnessed the difficulties and dangers experienced by the first Convention, which assembled under every propitious circumstance, I should tremble for the result of a Second."* Madison even describes the two types of conventions in his letter; *"A Convention cannot be called without the unanimous consent of the parties who are to be bound by it, if first principles are to be recurred to; or without the previous application of 2/3 of the state legislatures, if the forms of the Constitution are to be pursued."*

Madison believed it would be simpler at that time to have Congress propose amendments because it would be too difficult to get unanimous consent to call a Constitutional Convention or two-thirds to call an Article V convention. He also thought that calling a second convention would be viewed by Europe as a dark cloud over the Constitution which would damage our relationships and harm the impact our new Constitution was having in the world.

8





The American Bar Association and the Department of Justice both issued studies concluding an Article V convention can be limited.

"The paper concludes that Article V permits the states to apply for, and the Congress to call, a constitutional convention for limited purposes, and that a variety of practical means to enforce such limitations are available. The language and structure of Article V, as well as the history of its drafting, support this conclusion because the two methods of constitutional amendment, Congressional initiative and the state-called convention, are treated by Article V as equally available procedural alternatives. There is no suggestion that the alternative modes are substantively distinct, that one is subordinate to the other, or that use of one mode is restricted to particular topics or circumstances."



Scan to read the U.S. Department of Justice Report to the Attorney General, Sept 10, 1987.

Much of the past discussion on the convention method of initiating amendments has taken place concurrently with a lively discussion of the particular issue sought to be brought before a convention. As a result, the method itself has become clouded by uncertainty and controversy and attempted utilization of it has been viewed by some as not only an assault on the congressional method of initiating amendments but as unleashing a dangerous and radical force in our system. Our two-year study of the subject has led us to conclude that a national constitutional convention can be channeled so as not to be a force of that kind but rather an orderly mechanism of effecting constitutional change when circumstances require its use. The charge of radicalism does a disservice to the ability of the states and people to act responsibly when dealing with the Constitution.



Scan to read "Amendment of the Constitution by the Convention Method Under Article V" American Bar Association.