

# What Article V Actually Says

Increasing frustration with Federal overreaches and abuses of governmental power has resulted in many Americans returning to the Foundations of the United States to find solutions. It was known from the start that all governments are essentially a necessary evil – that in time, no matter how bound by supreme laws of the land, governments would become destructive of the very ends for which the people originally created them.

In the case of the U.S. Declaration, Constitution and Bill of Rights, our Founders did absolutely brilliant work to provide separation of powers, limited duties and authorities and checks and balances aimed at preventing that inevitability. They also assumed that sooner or later, the inevitable would come to pass, despite their efforts to prevent it – and they provided numerous remedies as well.

In recent years, one such remedy has been heavily promoted by some searching for a solution to Federal tyranny – The Article V Convention of States. The group leading the charge on this initiative is [Citizens for Self-Governance](#) and their web site for this project is found at [www.ConventionofStates.com](http://www.ConventionofStates.com)

In reviewing this proposed solution, I will work from the statements found at the [Convention of States web FAQ page](#) as well as Article V text itself.

## **First, the actual text of Article V**

“The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one

or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.” ([Source](#))

### **Next, the definition of a Constitutional Convention**

Any meeting between Congress and the States in which the stated purpose of the meeting is to amend the United States Constitution, is by definition, a Constitutional Convention. The power to amend the U.S. Constitution is derived from [Article V](#). Congress may propose and pass amendments to the Constitution without a “convention.” None of the 27 amendments to the Constitution have been proposed by constitutional convention. The Congress proposes an amendment in the form of a joint resolution, later sent to the States for ratification.

However, for the amendment process to begin from the states, 2/3 of the State Legislatures must apply to Congress to convene a “convention” for the purpose of considering proposed constitutional amendments being offered by the States. In either case, the same amendment process begins. The States cannot amend the Federal Constitution outside of a Constitutional Convention. They can only force Congress to convene a convention for that purpose and propose amendments for consideration.

### **The Amendment Process**

The Amendment Process is very cut-n-dry. The process can begin either by Congress passing Joint Resolutions sent to the States for ratification, or by 2/3 of the State legislatures applying to Congress to convene a Constitutional Convention.

In either case, Congress will oversee the process, consider proposed amendments and determine which amendments will be

sent back to the States for ratification. No amendment is adopted until this process has completed and at least  $\frac{3}{4}$  of the States have officially ratified the amendments. ([Source](#))

## Statements by Citizens for Self-Governance

On their [FAQ page](#), the Convention of States initiative answers the following key questions...

### [What is a Convention of States?](#)

**Answer:** *“A convention of states is a convention called by the state legislatures for the purpose of proposing amendments to the Constitution.”*

Clear enough, right... The initiative seeks to amend the Federal Constitution by having 2/3 of the States apply to Congress to convene a convention for that purpose. But then the answer continues with this text – *“They are given power to do this under Article V of the Constitution. It is not a constitutional convention.”*

By definition, it IS a “Constitutional Convention” they are applying to Congress to convene. The minute Congress “shall” convene, the prescribed [Amendment Process](#) begins.

### [How Do the State Legislatures Call a Convention of States?](#)

**Answer:** *“Thirty-four state legislatures must pass a resolution called an “application” calling for a Convention of States. The applications must request a Convention of the States for the same subject matter. The applications are delivered to Congress.”*

Indeed, 2/3 of the State legislatures can apply to Congress to convene a convention for the purpose of hearing proposed amendments to the Constitution. In the end,  $\frac{3}{4}$  of the States must ratify amendments passed at the convention and sent to the states for ratification, or the entire process is moot.

There is some word-smithing involved here... They continually refer to this convention as a "Convention of States," when in fact, by definition, they are applying to Congress to convene a "constitutional convention."

### **A Number of other Falsehoods**

*"As long as each states applies for a convention that deals with the same issue (i.e., limiting the power and jurisdiction of the federal government), Congress must call the convention."*

It is true that upon the application of 2/3 of the State legislatures, Congress "shall call" the convention, setting the time, place and process for considering amendments to the Constitution. It is false that Congress has no convening authority over that convention. Read the [Amendment Process](#).

*"The text, history, and purpose of Article V all point to the ability of the states to limit a convention to the consideration of a single topic or set of topics."*

As already stated, this process has never been attempted. All existing amendments to the U.S. Constitution were passed by Congressional Joint Resolution and sent to the States for ratification. Never in our history has 2/3 of the States applied to Congress to convene a constitutional convention on their behalf, for the stated purpose of amending the Constitution.

The theory that Congress will have no say, or that the convention can be limited or controlled by the States throughout the amendment process is just that, a theory. It has never been attempted, much less accomplished.

Some point to the Bill of Rights as an example of success. However, the Bill of Rights was actually largely agreed to during the ratification of the Constitution itself, and immediately adopted after, in order to secure the ratification

of the Constitution.

## **Closing Statement**

Yes, 2/3 of the States can apply to Congress to convene a convention for the purpose of amending the Constitution.

Yes, Congress “shall” convene upon that application by the States

Yes, the States can attempt to limit and control the scope of the amendments, with no guarantees whatsoever

No, the States cannot amend the U.S. Constitution free from any Congressional oversight

Yes, the entire Amendment Process must ensue and be completed before any amendments will have been adopted.

Further, State legislatures are constantly changing as well. By the time you can get 2/3 of the States to file an application with Congress, the make-up of those legislatures will be different than when the process began. So, there will be no way to predict what amendments will be proposed by the time that a convention could be convened, or the outcome of it.

Last, I understand that some “experts” are pushing this solution as if it could work the way they say. Don’t ask me why they do this, I do not know.

But true constitutionalists seeking to reign in a runaway federal government would simply seek to enforce existing Constitutional text, rather than amending it. In truth, a serious effort to reign in the federal government would focus on repealing several existing amendments, rather than adding to them with amendments we cannot control.

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