



Answering Questions about a Convention of States

Note: The Article V Information Center promotes truthful, unbiased information about the U.S. Constitution's amendment process. It does not take stands on particular amendments, but functions as a non-partisan voter information center. For detailed documentation supporting all these answers, see the Article V Information Center website: articlevinfocenter.com)

Q. What is a convention of states?

A. A “convention of states” (or “convention of *the* states”) is a kind of task force. Specifically, it’s an official task force composed of delegations representing states or state legislatures.

The purpose of a convention of states is to propose common solutions to the problems assigned to it by the states.

Q. What is a convention for proposing amendments?

A. It is a kind of convention of states—a special one authorized by the U.S. Constitution to propose amendments to the states for ratification.

Q. Does a convention for proposing amendments have any power?

A. No. Its sole job is to make one or more recommendations. Any recommendations must be approved by three fourths of the states (38).

Q. Why does the Constitution authorize the calling of a convention?

A. The American Founders understood the Constitution might need amendments and that a corrupt or self-interested Congress might refuse to propose them. So Article V of the Constitution authorizes the state legislatures to propose amendments using the convention mechanism.

Q. How does a convention of states come about?

Any state legislature can invite other states to participate in a convention for any reason. The invitation is referred to as a “call.” However, there is a special

procedure for calling convention of states for proposing amendments: Upon the demand by two-thirds of the state legislatures (now 34) for a convention on the same general topic(s), Congress must issue the call.

Q. How do we know an amendments convention is merely a kind of convention of states?

A. Numerous documents—official and unofficial—from the founding era and after tell us so, as do several court decisions, including a decision by the U.S. Supreme Court decision. Throughout most of our history the most common name for an amendments convention was “convention of the states.”

Q. Who opposes calling a convention?

A. There are two principal groups of opponents:

First, some “establishment liberal” organizations don’t want to check the federal government’s power, so they oppose a convention. These organizations are funded heavily by leftist financiers such as George Soros. They are assisted by some academics, liberal media outlets, and Washington, D.C.-based lobbyists like Common Cause. These groups manufacture nearly all the “ammunition” used by anti-convention lobbyists.

Second, a handful of conspiratorial organizations on the far right oppose a convention. Their spokespersons rarely have any credentials to speak on constitutional issues, so they borrow nearly all their talking points from the Left.

These groups work well together: The liberal organizations provide publicity and arguments and the rightist groups pass on their arguments to conservative lawmakers.

Q. Why would rightist groups oppose a convention to correct a dysfunctional federal government?

A. Some people think these groups secretly receive funding from the Left. They do not disclose their funding sources, so we cannot know if this is true. What is clear is that these groups have learned that frightening people can be effective fundraising.

Q. Someone told me that the 1787 Constitutional Convention was the only convention of states ever held. Is that correct?

A. No. There have been at least 42 conventions of states and, before Independence, of colonies. About twenty were held between 1677 and 1775, and another eleven between 1776 and 1787. Since the Constitution was ratified in 1787, there have

been at least eleven more.

Most of these conventions were regional, but there have been seven national conventions of states: in 1754, 1765, 1774, 1780, 1787, 1861, and 2017.

Q. What other issues have conventions of states addressed?

A. During the colonial era, they usually worked out defense plans or negotiated treaties with Indians tribes. In the 1760s and 1770s, they coordinated common resistance to Great Britain. Non-Article V conventions of states meeting after Independence have proposed anti-inflation measures, recommended changes in commercial law, proposed anti-trust laws, and negotiated Western water compacts.

Several non-Article V conventions have proposed constitutional amendments.

Q. Some claim 1787 Constitutional Convention “ran away”—that Congress called it only to propose amendments to the Articles of Confederation, but it produced a new constitution instead. Is that true?

A. No, that is a myth. The convention was called by the Virginia state legislature and had full authority to propose any reforms it deemed “necessary for the exigencies of the union.”

Q. Who invented the idea that a convention of states can’t be controlled?

A. We don’t know. But the main work of spreading the “runaway” story was done by in the 1960s, ’70s, and ’80s by establishment media and academics. The idea was to discourage campaigns for constitutional amendments requiring a balanced federal budget, reversing certain Supreme Court decisions, and other reforms.

Q. I was told that the Founders believed that the only reason to amend was to correct a defect in the Constitution, not to correct dysfunctions or abuses. Is that true?

A. No. The historical record shows that the Founders inserted Article V to amend for any of four reasons: (1) changed conditions, (2) drafting defects in the Constitution, (3) resolving constitutional disputes (such as correcting bad Supreme Court decisions), and (4) curbing or preventing abuses. The founding generation itself adopted amendments (the First through the Twelfth) for all four reasons.

Q. How are representatives to a convention of states chosen and how are the rules established?

A. Delegates (properly called “commissioners”) are selected by the legislature of

each state, or by whatever method the legislature authorizes. The state legislatures also fix and limit the convention's agenda.

States are semi-sovereigns, and all conventions have met on the basis of sovereign equality among states. No convention has ever changed the rule of state equality. And for political and demographic reasons there is no chance a convention would do so today.

Q. I've heard a claim that James Madison opposed amendments conventions. Is that true?

A. No. In fact, the claim is absurd. Madison was the principal drafter of Article V. He wrote in favor of the process and promoted it in Federalist No. 43.

As far as we can tell, the myth that Madison opposed amendments conventions was invented in 1983 when Arthur Goldberg, a liberal political figure, purveyed it in a legal magazine. Goldberg deceptively excerpted a letter from Madison to make it look like he opposed all amendments conventions. In fact, Madison opposed only a 1789 proposal to re-write the entire Constitution.

Although a liberal figure invented the story, rightist groups have promoted it widely and, we think, in bad faith: They have been provided with Madison's full correspondence, but they continue to disseminate the false claim.

Q. Is a convention for proposing amendments a "constitutional convention?"

A. No. That's another misunderstanding that arose in the 20th century. Unlike a constitutional convention, a convention for proposing amendments operates under the Constitution, has to follow its rules, and can only propose amendments within the state-specified subject matter. The Constitution explicitly limits its role to opposing amendments to "this Constitution"—not writing a new one.

Q. A rightist group claims that some judicial cases hold that a convention is inherently unlimited. Is that true?

A. No. That conclusion is based on a misreading of very old cases by persons without legal training.

Q. Could a convention propose repeal of the Second Amendment?

A. There are several active groups advocating for a convention. All of their convention proposals exclude any change in the Second Amendment.

Q. Could Congress control a convention?

A. No. The Founders adopted the convention procedure specifically to *by-pass* Congress. The claim that Congress could control the convention as part of the “call” or under the Constitution’s Necessary and Proper Clause is based on historical ignorance and a misreading of that clause. It also contradicts principles outlined in numerous court decisions.

Q. If a convention proposed an unauthorized amendment, what would happen?

A. A simple “point of order” from the convention floor could squelch any discussion outside the agenda. Moreover, modern technology lets state legislatures monitor the convention constantly. It can instruct its commissioners in real time and recall any commissioner who tries to exceed his or her power.

Even in the fantasy world where a convention somehow proposed an unauthorized amendment, Congress could kill it by refusing to designate a “mode of ratification,” the courts could void it, and/or (3) the state legislatures whose instructions were violated would refuse to ratify it.

Q. Could the convention alter the mode of ratification?

A. No. A long line of court cases holds that when conventions and legislatures operate under the Constitution, they are bound by constitutional rules—including the Constitution’s ratification rules.

Q. How should I handle anti-convention literature?

A. Answers to bona fide objections are on the Article V Information Center website, articlevinfocenter.com. However, most objections now being presented are merely re-packaged versions of assertions previously debunked. We recommend ignoring them.