

ANOTHER PERSPECTIVE

CALL A CONSTITUTIONAL CONVENTION, ALREADY!

Article V: A gift from the founders.

By [Allen Mendenhall](#) – 3.14.14



UPI



We've talked endlessly about using a Constitutional convention to wrest the reins of government from entrenched interests and put them back in the hands of the people. Enough talk: It's time to put the theory into action.

To recap, the Constitution may be amended in two ways: by a two-thirds vote of Congress, or by a convention called by two-thirds (34) of the (50) state legislatures. All amendments to date have arisen through the first mechanism, although conservatives and libertarians increasingly are calling for state lawmakers to pursue the second. If 34 states pass convention measures, Congress *must* convene a convention to discuss amending the constitution. In the words of James Madison, who was instrumental to the drafting of Article V, "If two thirds of the States make application, Congress cannot refuse to call one." Even the centralizer Alexander Hamilton conceded that the wording of Article V leaves "nothing..to the discretion of Congress."

The publication of Mark Levin's *The Liberty Amendments* seems to have brought this simmering talk to a boil. In his book, Levin suggests several amendments: to establish term limits for members of Congress, to repeal the Seventeenth Amendment, to establish term limits for Supreme Court justices and provide a legislative override of their opinions, to limit federal taxing and spending, to restrict the federal bureaucracy, to promote free enterprise, to protect private property, to grant the states more direct power to amend the Constitution and check Congress, and to ensure that voting is open to citizens only. A non-profit called Citizens for Self-Government, run by Tea Party leader Mark Meckler, is [organizing grassroots support](#) for a convention. Lawmakers in Georgia have even come to [taking votes on the matter](#).

Some conservatives and libertarians worry about a runaway convention, the possibility that liberal leaders in Congress will hijack the

proceedings, or that amendments proposed would far surpass the scope of what state lawmakers intended. But take comfort:



First, for any amendment to take effect requires ratification by three-fourths (38) of the (50) states. The ultimate decision-making authority, then, lies with the states that called convention.

Second, the role of Congress within the convention itself is supposed to be ministerial. In fact, if we were to follow the procedures and protocols of the Founding generation, then state assemblies made up of state delegates would oversee and implement the business, dealings, and records.

Third, some scholars, such as retired constitutional law professor Robert G. Natelson, who interprets the Constitution from an originalist perspective, argue that state lawmakers can limit the scope of the Article V convention to a single issue, which could prevent imprudent overhaul of the entire Constitution. For instance, Chief Justice Roy Moore of the Supreme Court of Alabama, my boss, has urged all 50 governors to push for an Article V convention limited to one amendment prohibiting any state or federal law from defining marriage as anything besides the union of a man and a woman.

The real question, it seems to me, is which issues are worth convening over. There is a general scholarly consensus that Congress must group applications by category and then call a convention whenever a particular tally reaches the magic number of 34 states.

Everything that opponents of an Article V convention fear — a makeover of the constitution and the centralization of power — has already occurred under the current federal regime and with the validation of a Supreme Court that cares more about what its precedents say than about what the Constitution mandates. We have never held an Article V convention, so there is as much evidence that it will succeed as there is evidence that it will not succeed. Natelson, among others, has demonstrated that the Framers conceived of Article V as a vehicle for bypassing Congress, curbing the power of an oppressive central government, and enabling the states to have and to exercise concurrent power with the federal government. As Natelson puts it, "the convention for proposing amendments is nothing but a diplomatic gathering of the States to which each state sends a delegation, called a committee, and in which each state stands in a position of sovereign equality."

Opponents of an Article V convention appear to be more worried about the potential for a runaway convention than they are about the runaway federal government that has already distorted or rendered meaningless several constitutional provisions: the Commerce Clause, the Fourteenth Amendment, the Establishment Clause, the Tenth Amendment, and so forth. We can encourage our state legislatures to call for an Article V convention run by the several states that may not succeed, or we can try what we know for certain does not work: voting in the same old establishment politicians to Congress and the presidency. To me, the choice seems easy. ↗

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sharon • 17 minutes ago

America is on the wrong path with this administration in charge, maybe we need to try what Mark Levin is suggesting.

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aware • 2 hours ago

Like those "entrenched interests" wouldn't be in control of a convention, too. I don't know about other states, but mine is totally controlled these parasites. Here is what John T. Flynn said in the 40s:

"Fascism will come at the hands of perfectly authentic Americans, as violently against Hitler and Mussolini as the next one, but who are convinced that the present economic system is washed up and that the present political system in America has outlived its usefulness and who wish to commit this country to the rule of the bureaucratic state; interfering in the affairs of the states and cities; taking part in the management of industry and finance and agriculture; assuming the role of great national banker and investor, borrowing millions every year and spending them on all sorts of projects through which such a government can paralyze opposition and command public support; marshaling great armies and navies at crushing costs to support the industry of war and preparation for war which will become our greatest industry; and adding to all this the most romantic adventures in global planning, regeneration, and domination all to be done under the authority of a powerfully centralized government in which the executive will hold in effect all the powers with Congress reduced to the role of a debating society. There is your fascist. And the sooner America realizes this dreadful fact the sooner it will arm itself to make an end of American fascism masquerading under the guise of the champion of democracy."

75 years later the fascist oligarchy is firmly established and rushing headlong to disaster.

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Vern Crisler • 2 hours ago

Not this again. Sorry, the American people are no longer worthy of the founders. To unleash a corrupt, Democrat-enabling, Obama-loving, low-information voting public on the Constitution would be political suicide for what little constitutional government we still have left. And I'm just talking about Republican voters.

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alanthegreat • an hour ago

If they opened a convention, their wouldn't be a constitution left that we would recognize when they finished with it. Open this up let the corruption and ignorance finish the final task. Your exactly right, the people don't even know what the Constitution is, let alone how to amend it properly. Way too far down the path.

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J.J. Sefton • 8 minutes ago

We are already living the results of a constitutional convention and have been since at least the New Deal. Every time Obama announces that he will use his pen and phone, every time the SCOTUS gives us Roe v. Wade or the Obamacare/Roberts decision we get a Constitutional convention.

And Article V does not throw out the Constitution. It allows the state legislatures to bypass Congress - the very source of problem along with the bureaucracy - and propose and enact amendments themselves to return power to the state, reestablishing the 9th and 10th Amendments.

Read Levin's book.

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J.J. Sefton • 15 minutes ago

Okay - people here are confused. An Article V Convention of the States IS NOT a Constitutional Convention. It does not throw out the e

Constitution and start from scratch. What it is is the final throw put in by George Mason to allow the states themselves to propose and enact amendments to the Constitution to beat back a tyrannical Federal government.

We cannot expect Congress - especially a leftist one - to enact laws that will neuter its own power. It must be left to the states.

Please read the Article itself and then read Mark Levin's "Liberty Amendments."

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• an hour ago
Bandido

A convention is a fine thought, but a chimerical one. Federalism is dead in this country and has been for years. Neither the States nor the people have the energy or independence of spirit for such a bold measure. Both are passively content to allow Washington to dictate the lives, overturning any laws the people see fit to adopt in the various States of which Washington disapproves. People are conditioned to habitual servitude, resigned to their helplessness. Only a massive shock in the form of a major war or an economic catastrophe could dislodge the inertia.

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• 27 minutes ago
CJW

The only way a convention would help is if the convention is limited to specific amendments where the states vote yes or no.

If it is an open convention where everything is on the table then you will have the same result as the Constitutional Convention of 1787 that met to revise the Articles of Confederation but scrapped the Articles to draft the present Constitution.

The problem is that supporters of this idea assume that the states are more conservative and respectful of the Constitution than Congress. The same pool of politicians in Congress are in the states legislatures.

Liberals are looking for a way to erode the First and Second Amendment, why give them another chance.

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• 11 minutes ago
J.J. Sefton → CJW

A good many of the state ARE more conservative. Amendments like repeal of the 17th amendment, term limits on elected officials AND the judiciary plus enactment of a flat/fair tax and abolition of the progressive tax will go a very long way in resetting and restoring the republic.

THERE IS NO OTHER WAY. EXCEPT BLOODSHED. You want that?

1
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• 28 minutes ago
Bill Fleming

This is a very bad idea.

With the idiocy and vocal voice of the socialist leaning left and a liberal President in office for 2 more years as well as the corrupt propaganda machine that exist in the MSM, opening this door will do nothing but wreck havoc on a document that does not need to be touched or altered but simply needs to be adhered to.

^
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• 14 minutes ago
Guest → Bill Fleming

Well then grab your tar, feathers and rope and head to DC, mmkay?

1
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• 6 minutes ago
Bill Fleming → Guest

Unfortunately it may eventually lead to some serious coercion of the political elite that is ruining our country to get it back on course.

If your comment was an attempt to bait me with the "tar, feathers and rope" set up then you my friend are ignorant and part of the problem, if not then please explain otherwise.

^
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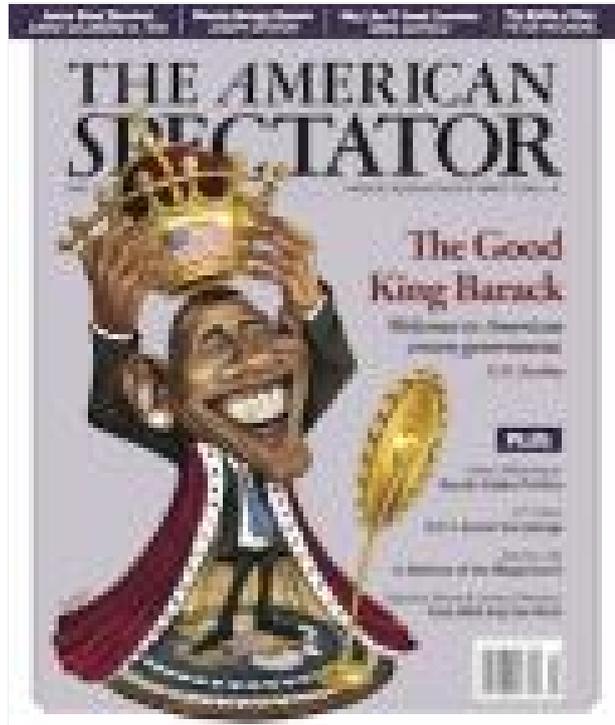
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