

Constitution Class Handout
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Lesson 10

Amendments and Conventions

Article V is the section in the Constitution that provides the people and the States the opportunity to change the law of the land if needed by establishing the amendment process. Originally, only the States were going to be able to propose amendments. On the second to the last day of the Constitutional Convention, the Founding Fathers added as an afterthought to allow the Congress to propose amendments as well. The amendment process is the only process through which the Constitution may be altered.

Amendments, according to Article V, may be proposed by either two-thirds of both Houses of the United States Congress, or by a national convention of States. Amendments must then be ratified by approval of three-fourths of the States either through their legislatures, or through ratifying conventions.

Amendments proposed by a national convention is a process known as an **Article V. Convention**.

Current opinion regarding an Article V. Convention varies. Some people and groups have warned against such a convention, fearing a runaway convention that could be used to re-write the Constitution. The Constitution does not allow for a runaway convention. In an Article V. Convention, only amendments may be proposed.

The call for an Article V. Convention is nothing new. Forty-Nine States have called for it, many of those calls beginning longer than over a 100 years ago. Over 700 applications have been made. The convention has never taken place because the Congress will not set a time and place (the only federal duty in an Article V. Convention), for fear of the people proposing amendments, and the States ratifying them, that would limit the powers of the federal government. Centralized systems do not like it when the individual mind gets involved, and demands change.

There are three kinds of conventions. A con-con, which is a Constitutional Convention, and there was only one, held back in 1787, and there should only be one in our history. In addition to the con-con, and the Article V. Convention, is a kind of convention called **Republic Review**. A Republic Review may be used to audit the federal government, determine what is unconstitutional, and then form a plan of action to alter the federal government so that it falls in line with the principles of the United States Constitution. An Article V. Convention, or the States working together through nullification, could be the result of a Republic Review. The strategy to convene a Republic Review convention lies primarily with We the People.

Amendments, no matter how they are proposed, require three-quarters approval from the States. This approval process is called "ratification." Ratification is the failsafe, according to Alexander Hamilton in

his Federalist 85, against conventions that may be used to rewrite the Constitution. Any change to the Constitution is possible, as prescribed by Article V, as long as the amendment is capable of receiving three-quarters of the States' ratification votes.

The only exception to any amendment being possible is addressed at the end of Article V. According to the Constitution, no amendment, without the consent of the State in question, may deprive a State of equal suffrage in the Senate. This testifies to the importance, in the minds of the framers, to the need for the United States Senate to remain unchanged, with the Senators being appointed by the State legislatures.

Since the Constitution is a document that contains **express powers** for the federal government, granted by the States, the only way to change or add authorities is through the amendment process, with State approval. When it is understood that the original authorities granted to the federal government were granted to the central government by the States, it is appropriate that it takes three-quarters of the States to ratify an amendment. When Congress proposes an amendment, it is literally a case of the federal government asking for permission of the States to have a new authority, and approval by the States requires three-quarters agreement.

Terms:

Article V. Convention - A convention for the proposal of constitutional amendments applied for by the States and called by Congress.

Express Powers - Powers granted to the federal government by enumerated authorities expressly granted in the United States Constitution.

Republic Review - A convention of delegates representing the several States in order to audit the laws, actions, and composure of the United States federal government; a review of unconstitutional characteristics of the federal government based on the amendment ratification concept that if it takes three-quarters of the States to ratify an amendment, a quarter (plus one) of the States determining a law, action or department of the federal government to be unconstitutional allows the States to nullify the item.

Questions for Discussion:

1. What two sources may propose amendments?
2. Why does it require the States to ratify proposed amendments?
3. How is an Article V. Convention an important part of restraining the federal government?

Resources:

Friends of the Article V. Convention: <http://foavc.com/>

G. R. Mobley, *We the People: Whose Constitution is it Anyway?*;
Hobart, Washington: Mobius Strip Press (2013)

G. R. Mobley, *We the People: The Strategy to Convene a Convention for Republic Review*; Hobart, Washington: Mobius Strip Press (2014)

Joseph Andrews, *A Guide for Learning and Teaching The Declaration of Independence and The U.S. Constitution - Learning from the Original Texts Using Classical Learning Methods of the Founders*; San Marcos: The Center for Teaching the Constitution (2010).

Madison's Notes Constitutional Convention, Avalon Project, Yale University: http://avalon.law.yale.edu/subject_menus/debcont.asp

Mark R. Levin, *The Liberty Amendments: Restoring the American Republic*; New York: Threshold Editions, a division of Simon & Schuster (2013)

Philip B. Kurland and Ralph Lerner, *The Founder's Constitution – Volume Four – Article II, Section 8, Clause 5 to Article VII*; Indianapolis: Liberty Fund (1987)

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