



Written by [Steve Byas](#) on October 6, 2017

## Las Vegas Reaction Shows Risk of Con-Con to Second Amendment

The reaction to the Las Vegas shooting demonstrates the dangers of an Article V Constitutional Convention to the Second Amendment's protection of our right to keep and bear arms. With even many members of Congress who have been public champions of the Second Amendment wavering, we must ask, if you are a supporter of the right to keep and bear arms, would you want to see an Article V Constitutional Convention in session during this highly-charged moment?



Almost immediately after the first media reports of the mass killings, the enemies of the Second Amendment began to use the tragic circumstances in Las Vegas to accomplish their decades-long goal of disarming Americans. Fortunately, no Constitutional Convention is in session during this media-hyped hysteria, but what if one were?

We have heard tragic stories of some poor guy who blows his own brains out, losing a game of "Russian Roulette." While pitying the poor guy, we also think, "How stupid." There was only a one-in-six chance that the gun will fire the lone bullet, but the consequences far outweigh the benefits of "winning" the game. It is simply too risky.

That is what supporters of the so-called Article V Convention are doing. Frustrated because our federal government regularly ignores the limitations of the U.S. Constitution, these advocates of invoking a national convention to propose amendments claim that the participants at the convention will meet and limit themselves to adopting a series of reforms — reforms that will put the clamps on the progressives in the three branches of our federal government and restore our constitutional republic.

Maybe, but not likely.

Actually, as in a game of Russian Roulette, the risks far outweigh any possible benefits we could hope for in a so-called Convention of the States.

Just a few months before his death, the late Supreme Court Justice Antonin Scalia told a meeting of the Federalist Society, "A constitutional convention is a horrible idea. This is not a good century to write a constitution."

James Madison's contributions to the Constitution were so immense that he has been called the Father of the Constitution. And he wrote the first 10 amendments, known as the Bill of Rights. In 1788, Madison weighed in heavily against having another Constitutional Convention. He said, "If a General Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having greater latitude than the Congress appointed to administer and support as well as to amend the system.... An election into it would be courted by the most violent partisans on both sides.... [It] would no doubt contain individuals of insidious views, who under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union might



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have a dangerous opportunity of sapping the very foundations of that fabric.”

In other words, we could expect some delegates to put forth popular amendments in order to get a convention, then ram through other amendments — such as perhaps the long-time left-wing goal of taking away our constitutional right to keep and bear arms.

Article V of the U.S. Constitution provides two methods of proposing amendments to the Constitution, and two ways to ratify any proposed amendment. Of the 27 amendments added since 1789, all have been submitted to the states for ratification through the first method — two-thirds vote of each house of Congress. The other method — a convention called upon the application of the legislatures of two-thirds of the several states, which may propose amendments (note the plural) — has never been used.

But advocates of what they call an “Article V Convention” argue that the people will not be electing the members of the convention — state legislatures will simply appoint delegates. And that is supposed to reassure us?

Besides that, there is nothing — not one word — in the text of the Constitution that says each state legislature will elect its state’s delegates. The Constitution reads, “The Congress ... on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments.” The only role stipulated for the state legislatures in the Constitution in the creation of the convention is to make application to Congress that such a convention be called. There is not one word about how the delegates are to be elected, how many delegates each state shall get to send to the convention, and what will be discussed once they get there. Even the “there” is not mentioned. Perhaps they would meet in Oklahoma City at IHOP, but I doubt it.

We do know that the 1787 Constitutional Convention expressly rejected the legislatures as the appointing authority for delegates to another Constitutional Convention.

Sure, the state legislatures can make certain demands in their applications, but Congress can simply ignore them. After all, if Congress and the state legislatures disagreed, who would arbitrate between them? The Supreme Court? How often has the Supreme Court sided with the states in any dispute with the federal government? We remember that Chief Justice John Roberts was very explicit that he preferred to defer to Congress — in his upholding of ObamaCare. Actually, it is probable that neither Congress nor the state legislatures could dictate the topic or topics discussed at the convention. It would most likely be the convention itself.

One supporter of a con-con tried to tell me that each state would be equally represented at the convention. Again, perhaps the framers of the Constitution thought it would be that way, but who knows? The Constitution’s wording gives us no guidance at all. Do you really think the states with large populations would agree to a convention in which each state is equally represented?

Most likely, since Congress is given the power to call the convention, Congress would write the rules on how the delegates would be elected, and how many delegates each state would get to send. They might just pick the delegates themselves.

The actual amendments proposed at the convention would not be determined by either Congress or the state legislatures, but rather by the delegates themselves. It is noteworthy that in the early years of the Republic, state legislatures that made applications for a national convention did not even try to dictate the subjects to be discussed. Legislators attempting to do so are ignorant of history.

One of the most popular topics Article V Convention proponents suggest would be covered is a Balanced



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Budget Amendment, or BBA. Others issues come up, such as abortion or term limits. But the convention could meet, and decide they wished to do nothing and adjourn (though this is not likely). Or they could take up several topics. They might even decide to make an entirely new Constitution, more in line with progressive dogma. As former Chief Justice Warren Burger said, "There is no effective way to limit or muzzle the actions of a Constitutional Convention."

Associate Justice John Paul Stevens was a dissenting vote in the *Heller* and *McDonald* cases. He wants the Second Amendment amended to read this way: "A well-regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear arms WHEN SERVING IN THE MILITIA shall not be infringed."

He is not alone in this desire to alter the meaning of the Second Amendment. At present, the enemies of the Second Amendment simply do not have the votes in Congress to send any repeal or alteration of the Second Amendment to the states for ratification. But were we to have an Article V Convention, those who oppose the Second Amendment would make every effort to include a change to it at any such convention. In fact, there are many who believe we need to make changes to the First Amendment as well. One might note that Gary Johnson, the presidential candidate of the Libertarian Party, even called religious liberty a "black hole."

We have only had one such convention in American history. In 1787, the states asked Congress to call a convention "for the sole and express purpose" of considering changes to the Articles of Confederation. But once they met, the delegates determined they needed to start from scratch and construct an entirely new document. We may like the work they did in 1787, but just how many James Madisons do we have now?

The proponents of the Article V Convention brush away such concerns, contending that any bad proposed constitutional amendments to emerge from such a convention would be defeated in the ratification process. After all, it takes three-fourths of the states to ratify, or agree, to any proposed amendments. Really? Are you willing to play Russian Roulette with the Constitution?

In 1787, the Articles of Confederation provided for amendments, too. Under the Articles of Confederation, any such proposed amendments had to be approved by Congress and all 13 state legislatures. Knowing such ratification was impossible, the delegates ignored the constitutional ratification process spelled out in the Articles of Confederation, and skipped Congress. They also skipped the state legislatures, sending the document directly to state conventions! They changed the number of states needing to ratify from a unanimous 13 states to only nine states. Once nine states ratified, they said, the Constitution would go into effect in those nine states.

James Madison admitted in Article 40 of the *Federalist Papers* that the delegates had skirted the legal method of ratification. His argument was basically that the ends justify the means — the Constitution was so needed, it was justified to ignore the Articles of Confederation, the constitution they were then operating under. Fortunately it turned out well, but are we willing to play Russian Roulette and give a modern convention the opportunity to do what they believe is best? Maybe they would think it best to provide for a ratification of some number less than two-thirds of the states. One must understand that most people believe their way is best. Barack Obama thought his way was best.

For sake of argument, let us pretend that we have a convention, and they actually limit themselves to passing some amendment that places this or that restriction on the power of the federal government. Great. And then they send this magnificent piece of work to the state legislatures, and two-thirds pass



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it. We've pulled the trigger and the hammer fell on an empty chamber. We have a great new amendment to the Constitution, telling the federal government what for.

That is possible, but highly unlikely. But would it make any difference? After all, we have a Constitution right now that does not authorize most of the things Congress does. Presidents regularly ignore constitutional restrictions, boasting they have a pen and a phone. The Supreme Court finds all sorts of interesting things in the Constitution ("penumbras," anyone?) that we all know are not in there, and we know they know are not in there, and we know they know we know are not in there. But they continue to do it. Why pass another amendment for them to ignore? As Nancy Pelosi cackled when asked if ObamaCare was constitutional, "Is that a serious question?"

The proponents of the Constitutional Convention/Article V Convention/Convention of States are essentially saying that there is something inherently wrong with our Constitution. The fault is not the Constitution, but the failure to adhere to it. The problem is that we have elected people the likes of Nancy Pelosi, Barack Obama, and the Clintons who do not respect the Constitution. And they certainly do not favor the Second Amendment.

Why would we expect the voters to choose better people to a con-con than we send to Congress? At least we have a chance to replace members of Congress in the next election. If the Constitution is changed at a con-con dominated by progressive types, then the changes favored by their ilk will be written into the Constitution.

It is much easier to change a member of Congress, even one as powerful as House Majority Leader Eric Cantor, than it is to change the Constitution. Do you really think we could add the Second Amendment back in if it were repealed or altered?

Dudley Brown, the president of the National Association for Gun Rights, said, "Anti-gun billionaire playboy Michael Bloomberg is salivating at the opportunity to use an open-ended Article V Con Con to strip law-abiding citizens of their Second Amendment rights." He predicted that powerful left-wing groups will have the financial support from Bloomberg and George Soros to win control of any such convention, and cast aside not just the Second Amendment, but the entire Constitution.

Let's pretend that an amendment to repeal the Second came out of a convention. And, they decide to follow the "three-fourths of all Legislatures" method of amendment. Or perhaps they send it to state conventions. Are you willing to bet your Second Amendment rights that we could stop them from electing delegates to these conventions, or bribing enough state legislators to strip the Second Amendment of any meaningful protection of our right to keep and bear arms?

In 1791, the First Amendment was added to the Constitution. It stated very clearly that Congress was to "make no law" abridging either freedom of speech or the press. Seven years later, Congress passed a law — the Sedition Act — that abridged freedom of speech and freedom of the press. The Sedition Act was sent to the dustbin of history following the presidential and congressional elections of 1800. If the people want a government that is limited by the Constitution, they must use the ballot box to replace the personnel of government who disobey the Constitution.

As Congressman John Randolph of Roanoke noted, the Constitution is just parchment, unless the people hold their public officials to follow its commands.





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