



Written by [Joe Wolverton, II, J.D.](#) on August 7, 2023

Convention of States Inventing History Yet Again

The Convention of States (COS) is so determined to convince patriotic Americans who rightly revere our Founding Fathers to support their quixotic quest for a second Constitutional Convention that they are willing to, at best, misrepresent the facts of the first convention and the votes and statements made by the delegates who attended it.

In [response to the FAQ](#) entitled “Article V says Congress ‘Calls’ the Convention. Does this Mean They Control the Convention and Choose the Delegates?” COS writes:



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No. The Founders made this very clear. Once 34 states apply, Congress has no discretion whether to call a convention and no control over the delegates (see Federalist No. 85, see paragraph beginning “In opposition to the probability...”). George Mason proposed to add the Convention of States provision to Article V because he thought Congress had too much control over the amendment process. The Framers unanimously agreed with him. It makes no sense to interpret Article V to give more power to Congress, when the whole point was to take power away.

The factual errors in this “answer” must be addressed so that otherwise well-intentioned, patriotic Americans do not end up supporting a cause that could very well result in the catastrophic repeal of the protections of our God-given rights as enshrined in our Constitution.

To begin, I will give them credit for correctly stating that Article V gives Congress no control over the delegates chosen by the states. It is worth noting, however, that COS exercised *complete* control over the delegates hand-picked to represent the states at its simulated convention held earlier this week in Virginia. You can read more about that [here](#).

Now, on to the two claims in their answer that are demonstrably untrue.

First, George Mason was *not* the delegate at the Convention of 1787 who proposed adding the state convention method of calling for a convention for proposing amendments to the Constitution.

Resolution 13 of the so-called Virginia Plan introduced by Edmund Randolph on May 29 reads: “That provision ought to be made for hereafter amending the system now to be established, *without requiring the assent of the National Legislature.*” (Emphasis added.)

Truthfully, that one sentence is enough to prove beyond any reasonable doubt that George Mason absolutely was not responsible for proposing that states be empowered to amend the Constitution without the permission of Congress.

That method of amending the Constitution was included in the *very first version* of the plan the Convention had been debating since May 29, the plan proposed by *Edmund Randolph!*



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However, in order to set the record straight and to provide our readers with the whole story of how the amendment procedure set out in Article V of the Constitution was created, we will tell the rest of the story.

On June 5, Resolution 13 was brought up for debate, and after Charles Pinckney of South Carolina said he “doubted the propriety or necessity of it [the resolution], Elbridge Gerry spoke in favor of it, arguing that “nothing had yet happened in the states where this provision existed to prove its impropriety.”

When he says that nothing had happened in the states to cause the provision to be considered improper, Gerry was referring to the fact that the state constitutions of Delaware, Maryland, South Carolina, Pennsylvania, Georgia, Massachusetts, and New Hampshire all contained provisions for amendment, with Pennsylvania, Georgia, Massachusetts, and New Hampshire all requiring amendments to be made by conventions of the people.

After Gerry’s remarks, the proposition was postponed for further consideration, which occurred on June 11.

On that day, James Madison reports that “several members did not see the necessity of the Resolution at all, nor the propriety of making the consent of the National Legislature unnecessary.” At which point, George Mason stood to support the provision, arguing, “The plan now to be formed will certainly be defective, as the Confederation has been found on trial to be. Amendments, therefore, will be necessary.”

What George Mason said next will never be quoted by COS or anyone else pushing for an amendments convention.

After arguing that amendments would be necessary, Mason said, referring to future amendments, “It will be better to provide for them in an easy, regular and constitutional way, than to trust to chance and violence.”

Chance and violence: If there are two words that better describe the process being promoted by COS I don’t know what they would be. The undeniable fact is that Article V is silent on so much regarding the amendment process that it is impossible for an honest person to argue that chance wouldn’t play a critical role at every point along the road toward an amendments convention. I have addressed those unanswered questions in an earlier article.

Next, George Mason declared that it would be “improper to require the consent of the National Legislature” in the making of amendments “because they may abuse their power, and refuse their assent on that very account.”

After he sat down, Edmund Randolph voiced his agreement with Mason and then the convention voted unanimously in favor of the *first clause* of the resolution — “That provision ought to be made for hereafter amending the system now to be established” — but, and this is the very moment that the COS “answer” becomes a fabrication, the second clause — “without requiring the consent of the National Legislature” — was *postponed yet again*.

That is certainly *not* the unanimous approval for cutting Congress out of the picture that COS describes in the answer to question of Congress’s role in the amendment process.

On July 23, the vote in favor of the first clause was accepted without debate or dissent and that was the last time the issue was discussed before August 6 when the Committee of Detail issued its first draft of the Constitution to the delegates.



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Article XIX of that first draft — the provision that would eventually become Article V in the final version of the Constitution — provided for amending the Constitution, and it reads: “On the application of the Legislatures of two-thirds of the States in the Union, for an amendment of this Constitution, the Legislature of the United States shall call a convention for that purpose.”

Next, on August 30, Gouverneur Morris suggested that the Legislature should be left to call a convention whenever they pleased, but no one supported such a plan, and Article XIX remained unchanged.

On September 10, on a motion by Elbridge Gerry, a reconsideration of Article XIX was considered and put to a vote.

Madison’s record of Gerry’s speech reads as follows:

This Constitution, he [Gerry] said, is to be paramount to the State Constitutions. It follows, hence, from this article, that two thirds of the States may obtain a Convention, a majority of which can bind the Union to innovations that may subvert the State Constitutions altogether. He asked whether this was a situation proper to be run into.

At this point, Alexander Hamilton and James Madison advocated for granting Congress a role in the amendments process.

Madison’s statements on this point are illustrative and thus also will never be quoted by COS. Regarding the resolution as included in the first draft, Madison “remarked on the vagueness of the terms, ‘call a Convention for the purpose,’ as sufficient reason for reconsidering the article. How was a Convention to be formed? — by what rule decide? — what the force of its acts?”

The questions posed by Madison point to the vagueness that persists in Article V, the very vagueness regarding rules, for example, that will allow enemies of the Constitution to find loopholes through which they will introduce, in George Mason’s own words, “chance and violence” into any convention called to consider amendments to the Constitution.

In answer to his own questions, Madison offered the following revision of the resolution:

The Legislature of the United States, whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the legislatures of the several States, shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths, at least, of the Legislatures of the several States, or by conventions in three fourths thereof, as one or the other mode of ratification may be proposed by the Legislature of the United States.

After an amendment made by John Rutledge to prevent amendments made prior to 1808 from affecting the compromise over commerce and slave importation, the convention voted 9 states to 1 (with New Hampshire divided) in favor of Madison’s motion as amended by Rutledge.

The last time the provision for amending the Constitution was discussed was on September 15 when Gouverneur Morris and Elbridge Gerry — not George Mason — moved “to amend the Article as as to require a convention on application of two thirds of the states.”

Madison said he saw no problem with Morris’s suggestion, except that “difficulties might arise as to the



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form, the quorum, &c. which in constitutional regulations ought to be as much as possible avoided.”

Once again, we see one of the Framers warning us about the “difficulties” that would attend any amendments convention called in the future.

Finally, after a few verbal modifications and after the approval of an amendment proposed by Roger Sherman protecting the equality of state suffrage in the Senate, Article V as we know it today became part of the final version of the Constitution that was eventually ratified by the states.

As anyone can clearly see, the foregoing record of events that took place at the Convention of 1787 — *as recorded by James Madison* — proves beyond all reasonable doubt that both claims made by COS in its “answer”:

1. George Mason proposed the convention of states method, and
2. “The Framers unanimously agreed with him”

are false.



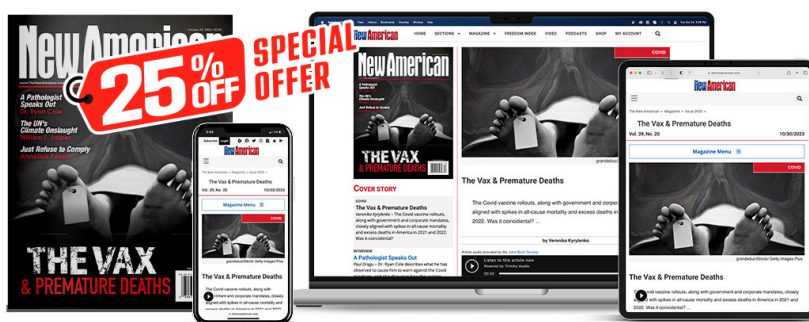


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