



Written by [Joe Wolverton, II, J.D.](#) on January 30, 2014

Convention of the States: Scholars Ignore History

For as much as the “Convention of the States” (COS) supporters like to talk about constitutional articles with Roman numerals, there’s one they refuse to mention: Article XIII.

In 1787, the document known as the Articles of Confederation was the constitution of the United States. Its [Article XIII](#) mandated that regarding any changes to the Articles: “Nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every State.”



When the constitutional convention met in Philadelphia in May 1787, that legally binding and constitutional provision was ignored. From the moment Edmund Randolph stood and proposed what was known as [the “Virginia Plan,”](#) the Constitutional Convention of 1787 became a “runaway convention.”

There’s no debating that fact. There was a provision of the constitution prohibiting any changes to the Articles without unanimity. That provision was not only disregarded, but was replaced, eventually, by Article VII of the Constitution created at the convention.

[Article VII of our current Constitution reads:](#)

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

That’s quite a bit different. With the approval of that new provision, the unanimity rule and the constitution were replaced.

Despite constant reassurances by the pro-Article V convention group, there is nothing that could prevent a “convention of the states” from going down that same road.

Were we lucky (blessed) by the results of the runaway convention of 1787? Yes, undoubtedly. Would we be so lucky again? Not likely. As I’ve indicated [in a previous article on the subject](#), there are scores of socialist organizations slaving at the thought of getting their hands on the Constitution and making it over into something we wouldn’t recognize. These groups have adopted Article V as the means to that end: an Article V convention of the states.

There is nothing in Article V limiting the power of a convention called under its authority. Think of the ramifications of a convention called to change the Constitution — a convention without legal limits on its power.

Of course, the COS organizers claim that the convention they support would not create a new constitution.

That’s not the point. The point is that the COS *could* create a new constitution, just as the constitutional



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convention in Philadelphia did in 1787.

On that point, was the convention of 1787 called to consider a new constitution? No, it was called “to devise such further provisions as shall appear to them necessary to render the constitution of the Federal Government adequate to the exigencies of the Union.”

In other words, the convention was meant to be a limited convention, empowered for the very limited purpose of considering amendments to the Articles of Confederation that would help the country get out of the financial mess it was in in 1787.

Does that not sound precisely like the language used in COS literature? Yes. On its [Frequently Asked Questions \(FAQ\) page](#), the COS states:

The federal government is spending this country into the ground.... It's time American citizens took a stand and made a legitimate effort to curb the power ... of the federal government.

Lastly, a final and very important point about Article XIII of the Articles of Confederation.

In its FAQ, the COS claims: “It [the Convention of the States] cannot throw out the Constitution because its authority is derived from the Constitution.”

Two questions will reveal the fundamental errors with this statement and will explain why the COS promoters try to avoid at all costs mention of the Articles of Confederation, specifically Article XIII.

First, was the authority of the constitutional convention of 1787 derived from the constitution in effect when that convention was held in Philadelphia? Yes. The Continental Congress' report calling for the Philadelphia convention specifically references the “provision in the Articles of Confederation & perpetual Union for making alterations therein.” Article XIII.

Second question: Did the convention in Philadelphia in 1787 “throw out the Constitution” in effect at that time and replace it with a new one, radically different from the one already in legal effect? Yes. The differences between the Articles of Confederation and the Constitution of 1787 are significant. Not the least of which was the method established for adopting those changes and endowing them with the force of law. What once required a unanimous vote, now required the approval of only 3/4 of the states.

While the push to hold a second constitutional convention is progressing in many states, there is yet time for concerned Americans with a better grasp of history than the scholars promoting the Convention of the States to speak up and prevent this convention from happening.

One final question: Can we afford to entrust the future of our Constitution to a group of people who make blatantly incorrect statements about the power of an Article V convention and the history behind the adoption of our current Constitution?

No.

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