

Article V



WHAT IT SAYS

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in threefourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ALEXANDER HAMILTON FORESEES FUTURE AMENDMENTS

Writing in the last Federalist, the series of articles designed to explain the new Constitution and aid its ratification, Alexander Hamilton addressed the suspicion expressed by some Anti-Federalists that those who gained power under the new Constitution would resist any changes that might restrain their powers. He pointed out that the states retained potential leverage over the national government through the amendment process.

In opposition to the probability of subsequent amendments it has been urged, that the person delegated to the administration of the national government, will always be disinclined to yield up any portion of the authority of which they were once possessed. For my own part I acknowledge a thorough conviction that any amendments which may, upon mature consideration, be thought useful, will be applicable to the organization of the government, not to the mass of its powers; and on this account alone, I think there is no weight in the observation just stated. I also think there is little weight in it on the other account. The intrinsic difficulty of governing thirteen states at any rate, independent of calculations upon an ordinary degree of public spirit and integrity, will, in my opinion, constantly *impose* on the national rulers the *necessity* of a spirit of accommodation to the reasonable expectations of their constituents. But there is yet a further consideration, which proves beyond the possibility of doubt, that the observation is futile. It is this, that the national rulers, whenever nine states concur, will have no option upon the subject. By the fifth article of the plan the congress will be *obliged*, “on the application of the legislatures of two-thirds of the states (which at present amounts to nine) to call a convention for proposing amendments, which *shall be valid* to all intents and purposes, as part of the constitution, when ratified by the legislatures of threefourths of the states, or by conventions in three-fourths thereof.” The words of this article are peremptory. The congress “*shall* call a convention.” Nothing in this particular is left to the discretion of that body. And of consequence, all the declamation about their disinclination to a change, vanishes in air. Nor however difficult it may be supposed to unite two-thirds or threefourths of the state legislature, in amendments which may affect local interests, can there be any room to apprehend any such difficulty in a union on points which are merely relative to the general liberty or security of the people. We may safely rely on the disposition of the state legislatures to erect barriers against encroachment of the national authority.

WHAT IT MEANS

Realizing that over time the nation would want to make changes to the Constitution, its framers established a process to allow that to happen. Unlike laws and regulations that can be passed by simple majorities in Congress, the Constitution is more difficult to change. Amendments are offered to the states once two-thirds of the Senate (67 of the 100 senators) and of the House (290 of 435 representatives) vote to approve the change, or when two-thirds of the states (34 of the 50 states), call for a national convention (a gathering of representatives of each state) to propose a change. Once the amendment is proposed, three-fourths of the state legislatures, or state conventions (38 of the 50 states) must vote to ratify the amendment before it becomes part of the Constitution. One portion of the Constitution is not subject to amendment. There can be no amendment that would deny a state its equal votes in the Senate, without that state's consent.

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“Amendments to the Constitution ought to not be too frequently made; . . . [if] continually tinkered with it would lose all its prestige and dignity, and the old instrument would be lost sight of altogether in a short time.””

— Andrew Johnson, speech to a crowd gathered at the Capitol in Washington, D.C., on February 22, 1866

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