

# The History of Article V: Reclaiming Our Heritage

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by Michael Farris –

George Mason was a visionary of liberty. He was the chief force behind the Virginia Declaration of Rights in 1776—the document which provided the framework for the Bill of Rights fifteen years later.

As a delegate to the Constitutional Convention, Mason was concerned that despite the best intentions of leaders like James Madison and George Washington, the federal government might grow beyond acceptable limits and invade the people's liberty.

As the convention was winding towards its end, Mason realized there was a crucial oversight in the proposed method for future constitutional amendments. The proposal on the floor provided that all amendments would be proposed by Congress and then would be ratified by the states. Mason, however, contended that under this process, Congress would never propose amendments to rein in the power of the federal government. Consequently, there was no ultimate check to keep the government from growing too large.

Like the other key leaders of his generation, Mason understood that the most important protection for liberty was a structure of government that funneled power through a strict system of checks and balances. According to Mason, the states were the ultimate check on the federal government. So Mason suggested, and the Framers unanimously agreed, that the states needed to have a way to propose amendments too.

This is why Article V of the Constitution provides two methods to propose amendments to the Constitution. Congress can propose amendments when two-thirds of both houses of Congress approve an amendment. Alternatively, state legislatures can apply for a convention to propose amendments on a particular topic. Once two-thirds of the states apply, Congress has a mandatory duty to call such a convention by naming the time and place for the convention to begin.

Virginia lost no time applying for such a convention. In November of 1788, before the new government under the Constitution was operational, the legislature of Virginia passed an application under Article V applying for a "Convention of the States" for the purpose of proposing a bill of rights and other similar amendments.

Virginia's legislature was composed of many of the same people who wrote and ratified the Constitution. They knew what Article V said, they knew what it meant, and they intended to use it. The states were trusted to limit the power of the federal government. And they knew that Article V existed, not for the purpose of rewriting the whole Constitution, but to propose particular amendments. Ultimately, of course, Congress passed a bill of rights and the states were satisfied.

There have been over 400 applications for a Convention of States (COS) passed by the state legislatures in the 226 years since that first application. But, there has never been a COS because two-thirds of the states have never agreed on a particular subject.

This leads us to the first iron-clad rule of constitutional law governing a COS: *The states must agree on the agenda for the COS and until the states set the agenda, no convention is convened.*

A COS was designed to stop federal abuses of power, which begs the most obvious question in American politics today: *Is the federal government abusing its power?*

Thomas Jefferson would say that the answer to this question is self-evident. No sensible person can deny that every branch of the federal government is abusing its power.

Congress legislates on topics using power it does not have. It spends money—trillions of dollars—that it does not have. The President regularly legislates—a power he does not have—through executive orders and regulations. The Supreme Court rewrites the Constitution—a power it clearly does not have—through interpretations of the so-called "living Constitution."

The Founders would be furious with the federal government's abuse power even if it was using its power wisely install effective policies. But the chaos, debt, and devastation created by the federal government proves the truth of one of the Founders' central beliefs: Tyranny never results in wise government.

To be clear, the federal government is not only abusive, it is also incompetent.

The Founders would not be surprised by these abuses, but they would be shocked that we have tolerated them for so long. They would demand an accounting for the gift of liberty that they fought and died to give us. And when we tried to blame Congress, the White House, and the Supreme Court, they would shake their heads. "We gave you Article V," they would say. "We gave you the power the power to stop tyranny. Why haven't you used it?"

Internal threats are always the greatest dangers to liberty. We must use the Constitution's own system of checks and balances to save this nation and our legacy of liberty. And we need to do it now.

(Please visit [www.conventionofstates.com](http://www.conventionofstates.com) for more information).

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