

*Rep. Thomas Hall, Chair; Rep. Ron Ferguson, Vice Chair; Rep. Latyna Humphrey, Ranking Member; and Members of the House Government Oversight Committee:*

If we are to believe Mr Santorum's and Mr. Farris's assertions concerning an Article V Convention, should we not also believe statements that they have made in the past?

Mr. Farris: (At ALEC conference, question of addressing the Supreme Court at an Article V Convention): "... for one thing I would do is I would make it like the...Court of the European Court of Justice. We should have 50 Supreme Court justices and they should be appointed by the State legislatures and they meet in panels, take away the Federal government's ability to appoint them..."

(next question: "the changes this convention makes to the Constitution will indeed be followed and what mechanism do we have other than the court, if there is one, to insure that they will?")

Mr. Farris: "The greatest thing that we can achieve at a convention is if they mess it up again we call another convention and if they know that this is a realistic process the states can correct Washington DC, if they abuse it, we just keep calling it, so if the Supreme Court messes up okay let's abolish it, if they're going to ignore the Constitution, we abolish the Supreme Court."

(<https://www.youtube.com/watch?v=UCA2pyLHtiY&t=4195s>)

Convention of States Counsel Robert Kelly (Debate with Mr. Lewis) Mr. Lewis's argument against this is that it opens up all the Articles, and that's true. . . not ... Article 7...not 6...but it does open up Article 1 dealing with Congress because guess what, Congress is part of the problem. It opens up Article 2, why, because the President is part of the problem. It opens up Article 3, why, because the Supreme Court is part of the problem. It allows us Article 5 to be considered so that the States don't have to go through this convoluted process in the future so that if ¾ of the States agree in advance they could propose amendments to the Constitution. It opens up these articles because the problem is not in an isolated single branch of the Federal government. It's the President, it's the Supreme Court, and it's Congress, and if we limited ourselves to just touching one of those we're not going to fix the problem."

(<https://www.youtube.com/watch?v=kCApyUYvuRE&t=39s>)

(Question: "If there's no risk, then why did you put limitations on the enabling of the...the three basis limitations in laws so..") Mark Meckler: "As opposed to doing a general convention...the reason is for narrative. In other words if I were to say, if we were to put out there to the world that hey we're just going to have a convention we have no idea what's going to talk, what we're going to talk about at this convention then frankly nobody would support it because there'd be so much fear out there everybody would be afraid, that we had to frame it in a way, I mean this is one of the things that I think, I'm just going to say this generally Libertarians and

conservatives are really bad at narrative. We just don't generally understand narrative and if you don't frame a political discussion in the correct way, you lose."

(<https://www.youtube.com/watch?v=W3zV69-cUMI> )

In Report: Article V Constitutional Conventions Gerard N Magliocca recounts the history of Article V and especially the one time that Congress called for ratification by state conventions, a process was developed that guaranteed the ratification of the 21<sup>st</sup> Amendment. The much touted ratification by  $\frac{3}{4}$  of the States is not a guardrail to protect the Constitution from unwarranted amendments.

In the Kansas legal case Thomson v Masterson, Hawke v Lessor was citing calling the Article V Convention a Federal process, indicating that State limits on amendment proposals or faithful delegate laws would not apply to a strictly Federal Function.

Indeed In the 1957 paper to the 85<sup>th</sup> Congress. Problems Relating to a Federal Constitutional Convention by Cyril F. Brickfield, states: "In the discussions in the constitutional convention concerning article V, not a single word was uttered to indicate that article V was not to be all embracing on the subject of amendments." The particular merits or rather the lack thereof for Interstate treaties, (*such as water rights or migratory birds*), is also addressed, along with the practice of State legislatures using their power to interpose against unconstitutional acts by Congress.

The most interesting question brought forth is the idea of a "political question" versus a judicial question. Under this established precept, could any court consider any arguments arising over calling, electing delegates, scope of arguments, location of, or funding of an Article V Convention? Brickfield proposes a bill expressly for setting out the rules of holding an Article V Convention. Such bills have been submitted by Orrin Hatch, S.1710 in the 96<sup>th</sup> Congress and S. 1272 in the 93<sup>rd</sup> Congress by Sam Ervin.

The questions have been the same since at least 1957, and they remain unsettled today: what are the rules, if any, that govern an article V Convention. The legal opinions remain divided both for and against holding any Article V Convention, however, in a divisive world with unscrupulous people, and enemies wishing to tear down the parchment that has held our country together, should we not be compelled to err on the side of caution?