

Article V - Text

*"**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 three fourths 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."*

DIAGRAM OF THE CON-CON CALL:

Step 1: On the application of the Legislatures of two thirds of the several States – to call a Convention. The plain language of the text does not answer the following questions: Must the applications of the requisite number of States be identical or ask for substantially the same amendment or merely deal with the same subject matter? Must the requisite number of petitions be contemporaneous with each other, substantially contemporaneous, or strung out over several years?

Step 2: The Congress...shall call a convention. The plain language of the text does not specify when and how a convention is to be convened. There is no legal precedent that specifies how delegates are selected, how they are compensated...etc.) Consequently, there is no certainty as to who the delegates would be. Congress is given a free hand to determine the method of selecting delegates.

Step 3: for proposing Amendments. The plain language of the text does not indicate if a convention could be limited to consideration of the amendment or the subject matter which it is called to consider. No legal provision limits the constitutional convention in the amount of amendments it can consider or propose.

Step 4: which...shall be valid...as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress. Congress chooses the mode of ratification. States legislatures do not have the ultimate power of ratification. As in the case of the first Constitutional Convention in 1787, there is also a risk that the delegates could change the mode of ratification entirely.

"You wish to know my sentiments on the project of another general Convention... I shall give them to you with great frankness... If a General Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress appointed to administer and support as well as to amend the system; it would consequently give greater agitation to the public mind; an election into it would be courted by the most violent partisans on both sides; it would probably consist of the most heterogeneous characters; would be the very focus of that flame which has already too much heated men of all parties; would no doubt contain individuals of insidious views, who under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union might have a dangerous opportunity of sapping the very foundations of the fabric. Under all these circumstances it seems scarcely to be presumable that the deliberations of the body could be conducted in harmony, or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first Convention which assembled under every propitious circumstance, I should tremble for the result of a Second, meeting in the present temper of America, and under all the disadvantages I have mentioned." **James Madison, November 2, 1788** – [Letter to George Thurberville](#)