

Cross Examination Questions About an Article V Convention

We suggest that you use these questions in the order presented below.

1. If the idea of an Article V convention is premised on the fact that Congress is overstepping its authority and not obeying the Constitution, what makes you so certain that adding new wording (or amendments) to the Constitution would change anything?

FOLLOW UP: Seven years after the ratification of the Bill of Rights, – including the First Amendment, which specifically states, “Congress shall make no law ... abridging the freedom of speech, or of the press...” – Congress passed the Alien and Seditions Act, which among other provisions limited both the freedom of speech and freedom of the press. Given that history, how can you be certain that any new amendments that come from a modern convention won't also be ignored therefore making your efforts vain and this whole process of applying for and calling a convention a HUGE waste of time?

2. Do you agree that there has not been a Federal Constitutional Convention since 1787?

FOLLOW UP: Would you agree that the same rules, procedure, and options used in 1787 could also be used at an Article V convention today?

FOLLOW UP: In 1787 the Philadelphia Convention passed a resolution to conduct the process in secret. Do you have or could you please cite any specific legal authority to guarantee that an Article V convention would not do the very same?

3. Is it your position that the State legislatures can strictly limit the scope of the topics that can be considered at the Article V convention?

4. What specific legal authority can you present that a convention called under Article V of the current Constitution would be different from a constitutional convention called under the Articles of Confederation?

5. Many states that called for a convention in 1787 put specific limiting language on their convention delegations to simply revise (i.e., amend) the Articles of Confederation. Yet they completely scrapped the Articles of Confederation and drafted a completely new Constitution. What specific legal authority can you cite that would prevent or prohibit a convention from likewise ignoring the limitations imposed by this state and proceeding ahead with drafting an entirely new constitution?

6. Writing on the subject of an Article V convention, in the Fall 1990 issue of the *Hamline Law Review*, Federal Judge Bruce M. Van Sickle wrote that “A state does not have the power to limit a constitutional convention to particular topics.” What makes you so certain that he is wrong and you can limit the convention to a single amendment or specified topics?

7. In a letter written in 1988 about an Article V convention, former Chief Justice of the Supreme Court Warren Burger said that the states have no way to “limit or muzzle the actions of a constitutional convention.” What makes you so certain that he is wrong and that you are right?

8. In 1986, former U.S. Supreme Court Justice Arthur Goldberg wrote an opinion piece in the *Miami Herald* newspaper saying that there is no way to prevent an Article V convention from “reporting out wholesale changes to our Constitution.” Again, what makes you so certain that he is wrong and that you are right?

9. In 1979, while discussing a resolution from his state applying to Congress to call a constitutional convention to propose a balanced budget amendment, U.S. Senator Barry Goldwater said, “if we hold a constitutional convention, every group in the country — majority, minority, middle-of-the-road, left, right, up, down — is going to get its two bits in and we are going to wind up with a Constitution that will be so far different from the one we have lived under for 200 years that I doubt that the Republic could continue.” As before, what makes you so certain that Senator Goldwater was wrong and that instead you are right?

10. You say that no matter what comes out of the convention, three-fourths of the states still have to ratify it. Article 13 of the Articles of Confederation required that any alterations (or amendments) to the Articles had to be “confirmed by the *legislatures of every state*.” However, the 1787 Convention changed both the manner of and the required threshold for ratification, reducing it from “legislatures of every state” to the “Ratification of the *Conventions of nine States*,” according to Article 7 of the Constitution. Given that history, what specific legal authority do you have to suggest that the delegates to a convention today would *not* also change the ratification process or even reduce the threshold necessary for ratification?

11. Under the principles of Article 6 of the Constitution, the states have the ability to nullify federal laws that are not appropriate. For example, many states nullified the Fugitive Slave Acts of 1850. And 14 states have nullified federal laws on marijuana. While others have nullified federal gun control laws from being enforceable within their state. If the idea of an Article V constitutional convention is to address federal laws that are not good for our state, why don't we just nullify them?

12. The organization called “Convention of States,” or COS, run by Mark Meckler receives millions of dollars of dark money in huge increments of six and seven figure chunks. Do you have any idea where this money is coming from?