



1:10 - Expert Opinions About Another Constitutional Convention

A wide array of elite minds in law, politics and history, including liberal and conservative views, overwhelmingly conclude that the idea of a Constitutional Convention would be an exceptionally bad one.

One reason is because once a convention is called, there is no way for State Legislatures to limit or control the business of the convention itself.

In essence, once the application is made and Congress calls for the convention, the State Legislature is nothing more than a mere observer.

Gordon S. Wood elaborates in his 1969 book *The Creation of the American Republic 1776-1787* conventions are “an extraordinary representation of the people actually superior in authority to the ordinary legislature.” In other words, a convention is a sovereign body, drawing its power from the people directly. Wood further explains: “The people’s authority was in fact to be divided up. ‘CONVENTIONS . . . are the only proper bodies to *form* a Constitution, and Assemblies [or Legislatures] are the proper bodies to make Laws agreeable to *that* Constitution.’”

If that’s true, a State Legislature is legally incompetent to dictate **ANY** terms to a sovereign Convention body.

Judges from every spot on the political spectrum who have been published on this subject have concluded that an Article V Convention would be a very high risk, foolish proposition.

For example, Former U.S. Supreme Court Justice Arthur Goldberg wrote in the *Miami-Herald* newspaper on September 14, 1986, “There is no enforceable mechanism to prevent a convention from reporting out wholesale changes to our Constitution and Bill of Rights.”

Former U.S. Supreme Court Chief Justice Warren Burger also agreed that a Convention was high risk with low reward, stating in a 1988 letter to Phyllis Schlafly, “The Convention could make its own rules and set its own

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agenda.”

The late U.S. Supreme Court Justice Antonin Scalia summed it up best in 2014 during an interview on the *Kalb Report*, where he said:

“I certainly would not want a Constitutional Convention! I mean, Woah! Who knows what would come out of that!”

Many other judges have written opinions and law review articles – all of the position that this is a bad idea. The risks definitely outweigh the benefits.

Dr. Ron Paul, citing the potential total evisceration of the Constitution as “very real,” wrote in 2017: “There is much to be done to save our ailing republic and restore liberty, but a convention in our current climate is not the answer.”

President Ronald Reagan shared these same concerns, saying in a 1982 interview with the *Los Angeles Times*: “Well, constitutional conventions are kind of prescribed as a last resort, because then once it’s open, they could take up any number of things.” Congressman Thomas Massie tweeted on December 9, 2021: “An Article v Convention would be a disaster.” And, in 1984, former U.S. Secretary of Defense Melvin Laird characterized the scheme as an “an act fraught with danger and recklessness.” and concluded that it would adversely impact inflation and create a national security crisis.

World class practicing lawyers, also think this is a terrible idea. William Olson and Herb Titus are respected litigators who have argued before the U.S. Supreme Court. Their detailed position paper called the convention gambit “reckless in the extreme.” Likewise, David Super, Washington D.C. litigation attorney concludes that the concept “is a gamble none of us can afford” and in the process also points out that the claim that an Article V Convention can be used in any other, more limited, way is nonsense. “The claim that an Article V Convention would be a ‘Convention of the States’ has no support in the Constitution.”

Law professors from the top-tier law schools agree that an Article V Convention would be an unacceptable risk. Strong letters of opinion against the Article V Convention process, have been issued from professors at liberal and conservative elite law schools including Harvard, Yale, Stanford, Notre Dame and BYU.

As for the claims by convention salesmen, such as Mark Meckler, Rick Santorum, or Mark Levin that they are 100% certain that this entire plan is “safe and effective,” Rex Lee, former Solicitor General of the U.S, aptly commented, “Anyone who purports to express a definitive view of the subject is either deluded or deluding.”

I’ll end by asking this: If a convention of states were to be held, and if it produced a limited slate of suggested amendments, would Congress simply stand down and surrender their power?

What America would witness is endless Supreme Court challenges along with limitless congressional hearings. Leaving America “out of control” more than ever.

Learn more about Article V and the amendment process by visiting [JBS.org](https://www.jbs.org).