



Written by [Joe Wolverton, II, J.D.](#) on June 28, 2023

Convention of States: “Guidelines” for Writing Amendments to the Constitution

In one of its [latest blog posts](#), Convention of States (COS) is once again proving it has no understanding of the Constitution or the principles upon which it was established. The new post promotes what the author calls “Seven Guidelines for Drafting Proposed Amendments.”

Here we go.

The first guideline offered by Convention of States to those who would draft amendments to the Constitution for consideration at their convention is: “Regulates government, not private activity.”



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In support of this suggestion, they cite the 18th Amendment as an example of an amendment that regulated private activity instead of regulating the government.

It is very ironic that the author uses the 18th Amendment as an example of a bad amendment, considering that COS consistently claims in its literature that there’s no way that three-quarters of the states would ever agree to any terrible amendment that would effectively repeal the Second Amendment.

Really? There’s no way three-quarters of the states would sign off on terrible amendments? Have you read the 16th Amendment? Have you read the 17th Amendment?

The ratification of the 16th, 17th, and 18th Amendments is undeniable proof that three-quarters of the states could agree to an amendment that not only regulates private activity, but eliminates private property as we know it today — or to an amendment to the Second Amendment that explicitly declares that the right to keep and bear arms applies only the armed forces!

Again, if you think that would never happen, remember that states agreed to an amendment allowing the federal government to steal a percentage of your income, despite the fact that the Constitution as ratified expressly prohibited such a tax!

Later in this section, the author quotes from a book written by a man who purportedly supports a Con-Con. The quoted selection explains:

[The U.S. Constitution] provides the law that governs those who govern us and it is put in writing so it can be enforced against the servants of the people, each of whom must swear a solemn oath to obey “this Constitution.”

True enough. But guess what? State legislators, governors, and judges are already “bound by oath or affirmation to support this Constitution.” That hasn’t stopped state governments from colluding with the



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federal government in the consolidation of power into D.C. That hasn't stopped state governments from participating in every unconstitutional plan, policy, act, order, and opinion that comes out of Congress, the White House, or the Supreme Court!

What's my point in highlighting the failure of state lawmakers, governors, and judges to uphold their oaths to support the Constitution? The point is to show that there is a way to force the federal beast back inside its constitutional cage without running the risk of an amendments convention that could so easily and uncontrollably exceed its authority and all but amend the Constitution out of existence: Article VI!

Let's hold our state politicians' feet to the fire by reminding them of their Article VI oath and working to remove those who prove themselves unfaithful to that oath! This is a constitutionally sound way to rein in Washington, D.C. — by filling our state legislatures and governor's mansions with people committed to being true to their oath by refusing to participate in any unconstitutional act of the federal government.

On to the second guideline: "Germane to the Application."

Basically, this guideline requires that any amendment proposed to COS for consideration at the Con-Con they're trying to call be aimed at one of these three purposes:

- Impose fiscal restraints on the federal government
- Limit the power and jurisdiction of the federal government
- Impose term limits on federal officials

Again, the first two of these goals are redundant and completely unnecessary and would prove completely ineffectual.

So, let us get this straight, COS: The same federal government that is so out of control and destroying liberty in direct defiance of limits *already included* in the Constitution are, after the amendments proposed at your convention are ratified by the states, suddenly going to stop violating the Constitution?

Your amendments will have the power to turn tyrants into statesmen simply by being new? Come on. The feds ignore the current Constitution, they ignore the current amendments, and they would continue to ignore any amendments you could get ratified. Think logically. Be intellectually honest with yourselves and your supporters.

It's this simple: The Constitution already imposes fiscal restraints on the federal government. Remember, the Constitution as ratified (meaning, the Constitution not including the amendments) is not a list of things the federal government *cannot* do, it is a very limited list of the *very few things the federal government can do!* As Alexander Hamilton explained in [The Federalist No. 84](#):

I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a



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regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power.

You must understand that the Bill of Rights was a list of amendments, so anything Hamilton says here of the amendments known as the Bill of Rights is applicable — and even more so — to any amendment being pushed by Convention of States to “impose fiscal restraints on the federal government” or to “limit the power and jurisdiction of the federal government.” I echo the words of Hamilton: “For why declare that things shall not be done which there is no power to do?”

It’s a very good question. And Hamilton’s warning about what could happen should there be a convention to consider such unnecessary amendments is apt and should be heeded: Holding a convention to consider amendments to the Constitution aimed at taking away power from the federal government that it was not given in the first place is a dangerous ploy, giving enemies of liberty generally — and the Constitution specifically — an excuse to give a “plausible pretense for claiming that power.” We can’t say we haven’t been warned.

I will address the remaining “guidelines” in a future article, but want to close with this warning of what has happened historically — and what could happen to us in the near future — to those who fail to heed these warnings about the dangers of repairing the Constitution. This is from the letter known as [Cato No. 5](#):

You are then under a sacred obligation to provide for the safety of your posterity, and would you now basely desert their interests, when by a small share of prudence you may transmit to them a beautiful political patrimony, which will prevent the necessity of their traveling through seas of blood to obtain that, which your wisdom might have secured....

Let’s show just a small share of prudence and work to prevent a convention of states, lest we suffer the terrible fate foretold by history.





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