



Legal Authority - ThePeople'sConvention.org

by Blair C. Henry JD

1. Why have a constitutional summit?

- Trust and confidence in the American democratic process is now at, or near, an all-time low¹
- Democracies/republics fail when they lose the trust and confidence of the people
- The more democratic a community is, the happier the people are² (image)
- Should elected representatives fail to address a concern, it's up to the people to amend their state and national constitutions

2. What does it take to amend a constitution?

- Each state has its own rules for amending the state constitution
- There are at least **three** ways to amend the U.S. Constitution

The THREE Ways to Amend the US Constitution				
WHO PROPOSES THE CHANGE(S)	STEP 1	STEP 2	STEP 3	STEP 4
1. CONGRESS Article V (five) Constitution	2/3 Senate (67)	2/3 House (290)	CONVENTION	3/4 States Approve (38)
2. STATE LEGISLATORS Article V (five) Constitution	2/3 States call for convention (34)	Congress calls the convention	CONVENTION	3/4 States Approve (38)
3. THE PEOPLE THEMSELVES 1 st Amendment Constitution	CONVENTION	3/4 States Approve (38)		

3. The First Way – via CONGRESS – 3 Steps

- **Article V** (five) of the U.S. Constitution in 1789³
- Two-thirds of House and Senate propose amendment
- Forward proposals for approval by 75% of state legislatures/conventions (38 states)
- All 27 amendments accomplished this way

4. The Second Way – via THE STATE LEGISLATURES – 4 steps

- Also, **Article V** of the U.S. Constitution⁴
- **State legislators design a convention**
- Forward proposals for approval by 75% of state legislatures/conventions
- Attempted numerous times, convention never held in over 225 years (why⁵)

5. The Third Avenue – via THE AMERICAN PEOPLE THEMSELVES – 2 Steps

- Established two years later under the **First Amendment** to the U.S. Constitution in 1791⁶
- The right to of the people to peacefully assemble (Hold a convention/summit)
- The right to of the people to petition the government to redress grievances (amendments)
- Forward proposals for approval by 75% of state legislatures/conventions (Art V. 38 states)

6. The Difference Between an “Article V Convention” and a First Amendment Summit

An <u>Article V</u> Convention (typically)	Our <u>First Amendment</u> Constitutional Summit
1 Relies exclusively on Article V	Relies primarily on the First Amendment
2 Partisan , predetermined agenda	Neutral, nonpartisan, nothing predetermined
3 Focuses exclusively on state legislators	Focuses exclusively on the American people
4 Secretive, influenced by outside interests	Transparent, outside interests prohibited
5 May support contentious issues	Focus on what Americans agree on
6 Focuses only on national constitution	Focuses on state and national constitutions

Blair Henry is the Founder & Executive Director of ThePeoplesConvention.org, a neutral, nonpartisan convention organizer based in Sedona Arizona. Dr. Henry has served as a corporate and prosecuting attorney, mediator, graduate school professor, delegate to both the Republican and Democratic state conventions and intern at both the United States Senate and the Washington State Senate.

¹ <http://thepeoplesconvention.org/pollings/>

² <http://thepeoplesconvention.org/democracy-and-happiness/>

³ **Article V (five) of the U.S. Constitution**

Text relating to amendments proposed by CONGRESS in bold

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.

. www.archives.gov/exhibits/charters/constitution_transcript.html

⁴ **Article V (five) of the U.S. Constitution**

Text relating to amendments proposed by the STATE LEGISLATURES in bold

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.

www.archives.gov/exhibits/charters/constitution_transcript.html

Why an Article V (five) convention has never been held

While originally envisioned as a “people’s” convention, and while not constitutionally required to do so, the state legislatures have typically taken it upon themselves to design their own rules for a convention and they have never been able to get 67% of the states (34 today) to agree on the rules.

⁵ Typically, due to the inability of 34 state legislatures to agree on the rules

⁶ **First Amendment to U.S. Constitution**

Text relating to holding a convention and presenting proposals in bold

Congress shall make no law respecting an establishment of *religion*, or prohibiting the free exercise thereof; or **abridging** the freedom of speech, or of the press; or **the right of the people peaceably to assemble, and to petition the government for a redress of grievances.** (45 words)