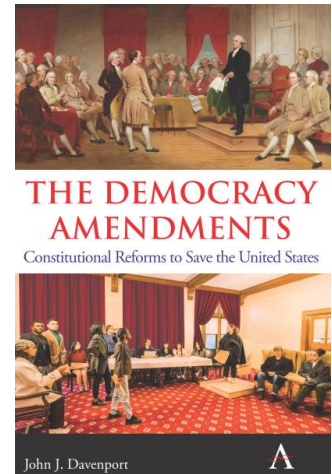


Why Moderates Should Support Calling a National Constitutional Convention: The Effective and Just Alternative to Abbott's 'Convention of States'

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The Plot. During the last eight years, a radical antifederalist movement has been promoting the idea of calling a new constitutional convention – and scaring liberal and centrist political leaders and organizations along the way. This so-called “convention of states” (CoS) movement, as critics have noted, is funded by Koch Brothers money through ALEC; it aims to destroy federal capacities to steer the economy and hold corporations to basic standards. Backed by Federalist Society lawyers, this movement was created by Texas governor Greg Abbott, former Republican Senator Rick Santorum, and their allies to turn cronies in red state capitols across the nation into convention delegates. They hope to rig their pet convention so it can discuss *only their* proposals to gut federal powers to make laws that are needed to secure public goods, and make Congress even more gridlocked.



The result is that 19 states have passed a CoS call for a new convention, and 16 other states are considering it. But their arrogant approach is self-defeating: it has caused more moderate statehouses to oppose a new convention or rescind their previous calls; and a convention that considered only Abbott's preferred amendments would utterly fail to craft ratifiable compromises. To get to the threshold of 34 active state resolutions (2/3rds of states) in favor, which would compel the federal government to organize a convention (per a never-used provision in Article V), will require a convention setup that **offers hope to all major constituencies** within the United States, not just to one extreme lobby serving plutocrats. The need for such a viable alternative convention design is urgent because, as argued in *The Democracy Amendments*, without bipartisan amendments soon, there may not be a United States. Autocracy, secession, and mass violence are becoming real possibilities.

We Desperately Need Fundamental Constitutional Reform –and cannot get it from Congress.

Many of the biggest defects in our constitutional framework that have created a dysfunctional Congress, minority rule, domination by the wealthiest interests, news media reduced to propaganda and hate-mongering, and a Supreme Court far to the right of America's sane middle can only be fixed with constitutional changes. Whether it is third party spoilers, winner-take-all primaries, Iowa and New Hampshire unfairly hogging the early contest spots for half a century, maximal computerized gerrymandering, swing-state domination of the presidential race via the Electoral College, a failed impeachment system, Supreme Court justices on the Court for 30 years and timing retirement to replicate themselves, or an insufficiently independent Department of Justice, only constitutional amendments can fix the roots of many systemic problems that threaten to destroy the nation. And yet, paralysis induced by the Senate filibuster and the power of big-money lobbies also makes it impossible to get amendments through Congress and onto the states for possible ratification.

Aren't We Too Polarized for This? We cannot wait for a “less polarized” new era of political harmony in which to call a convention. A dying patient cannot always be stabilized before receiving strong medicine. The original convention in 1787 also met in a time of huge political tensions and dangers. Moreover, a convention can be designed by law to avoid the forces polarizing Congress.

The Convention Approach Need Not Be Dangerous. A convention offers a different and *far superior* way to get *proposed* amendments on to the next step, in which ratification by three-quarters of states makes them law. To understand this, two common confusions must be allayed.

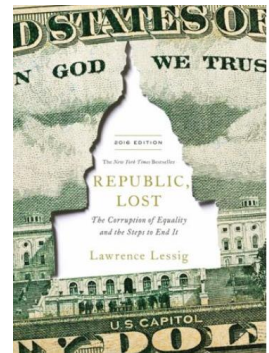
- Despite popular fears, **a convention cannot change the Constitution by itself**: all proposals passed

by a convention still need ratification by a full 38 states (3/4th of 50). That virtually ensures that none of Abbott's radical amendment ideas would ever become law. Only amendments that include serious compromises to address structural problems stand a chance of being ratified.

- After many possible crises during 2024 and 2025, more of the public may be driven by events towards the convention option. When that happens, Abbott's jerry-rigged "states' rights" design *must not* be the only one on offer. The public needs better alternatives that are ready to go.
- In other words, by simply putting heads in the sand and just saying "no no no" to any talk of a convention, liberal and progressive thinkers may only forfeit this fight to the CoS crowd, whose approach only ensures a failed convention. The only way to avoid this disaster is to take the lead in setting out more effective and just design for a national convention, before it is too late.

Designing a National Convention. For all these reasons, moderate and centrist political leaders need to take ownership of this issue and engage, rather than just hoping that a convention never happens. To maximize chances for good outcomes, all the following points have to be considered.

- A convention has procedural advantages if set up in the right way: it can pass amendments by a simple or qualified majority vote in one body, as opposed to two-thirds of both chambers of Congress, when sending proposed amendments to the states.
- The greatest advantage a convention offers is that, unlike Congress, it could consider multiple possible amendments at once, combine some of them, and *thus forge new compromises or grand bargains* that can both solve fundamental problems and actually get ratified by 3/4th of the states.
- This outcome is more likely with convention delegates who are *not on ordinary political career tracks*. Delegates should be chosen in popular elections, but the public would trust them most if the delegates cannot have served in state or federal government during the last decade, and are legally barred from state or federal political jobs (or otherwise profiting from their work) for a decade after the convention. The public really wants an event that is not business-as-usual, which requires delegates who are insulated from the pressures of big-money lobbies like ALEC.
- Such non-political delegates would be moved by concern for their reputations in history, knowing that children would be studying their actions even a century later. So they would aim for amendments that could actually get ratified – unlike those that Abbott wants to force through.
- Yet experts could still play a role in a well-designed convention: each delegation could bring with them nonvoting experts chosen from a qualified pool (defined by law) to help guide deliberations.
- Crucially, these and other details about how a convention works can be set in a federal law calling a new convention. Precisely because Article V offers no details, Congress has wide latitude when writing an enabling statute. For example, the law could allocate between one and six delegates per state *depending on state population*. It could also say that 51% of *delegates*, rather than a majority of state *delegations*, is sufficient to pass a proposal out of the convention and on to the states.
- This is great cause for hope. For, if a process like this were to get going, the public appetite to ratify at least some reasonable and moderate proposals coming out of a convention could be overwhelming and virtually unstoppable: for most Americans really want fundamental change.
- But so much depends on how this enabling law is written and how it gets through Congress. Progressives and moderates should *take the initiative* on this, before the terrible design proposed by the CoS crowd takes hold instead.
- When a new convention is planned, this prospect will inspire wide-ranging conversations and a focus on constitutional issues in schools that will improve citizens' understanding. People will learn from this process. And the great hopes inspired by this historic occasion are sure to put enormous pressure on the delegates to succeed in forging new solutions. Imagine a convention delivering its results on July 4, 2026. The founders expected future conventions, and the time has come.



Several centrist legal scholars have come to the same conclusions: see the work of Lawrence Lessig, Larry Sabato, and Sanford Levinson, for example.