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Warning: A “Convention of States” Is Practicing to Rewrite the Constitution

If a far-right organization gets its way, our country will be thrown into a constitutional crisis.

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If the adage “practice makes perfect” has merit, be afraid—be *very* afraid. This August, a far-right group is convening its third-known practice session on how to rewrite the Constitution to advance partisan goals. The organization, Convention of States, is not only rehearsing how to amend the Constitution; it is also promoting a highly undemocratic method of doing so. If Convention of States gets its way, our country will be thrown into a constitutional crisis with no guarantee that our democracy survives.

To be clear, our founders anticipated that the Constitution would be amended over time. During its ratification, George Washington acknowledged the inevitable flaws of a document so grand in scope and unprecedented in design. He remarked that the document was “not free from imperfections” and noted his expectation that it would be amended by future generations: “I do not think we are more inspired, have more wisdom, or possess more virtue, than those who will come after us.” This sentiment is why the Constitution includes an entire article devoted to how to amend our founding document.

Article V sets out two methods for amendment. One such method—and the only method to thus far be used—is to have two-thirds of Congress propose an amendment and three-quarters of state legislatures ratify it. The other method, which has never previously been utilized, is via constitutional convention.

A constitutional convention may sound democratic at first blush. It is easy to envision a utopian version wherein thousands of Americans, representing the diversity of this country in all its forms, are present and utilize representative, democratic methods to propose and approve constitutional amendments. This is not, however, what Convention of States has in mind.

On its website, Convention of States includes a video that claims to explain how Article V works. The video is patently wrong in several regards, most worryingly in its claim that at a convention, each state would get one vote. There is a reason Convention of States is planning for and promoting this highly unrepresentative, undemocratic method of amendment: It would enable a minority of Americans to amend our Constitution. Specifically, a white minority.

A “one state, one vote” process would give Wyoming’s overwhelmingly white population of 576,000 the same voting power as California’s diverse 39.5 million people. North Dakota’s overwhelmingly white population of 779,000 would have the same voting power as New York’s diverse 19.7 million people. This disproportionate power structure is alarming in the US Senate; it would be even more alarming as the structure by which the US Constitution is amended.

And yet, the Constitution does not require that an Article V convention be representative. It does not require that democratic procedures be used to ensure inclusive consultation and genuine majority decisions. This ambiguity would certainly allow for a representative, democratic process, but it also would allow for an undemocratic “one state, one vote” procedure. It is in this ambiguity that Convention of States sees opportunity, and why more people need to be paying attention to this run at our Constitution.

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On its website, Convention of States asks, "Why call an Article V Convention?" and answers by stating, "Simple: to bring power back to the states and the people, where it belongs." A "one state, one vote" procedure would not bring power back to the people, however, at least not all the people. It would perpetuate the political dominance of white people, who make up a declining percentage of this country's population.

Convention of States further misinforms the public by claiming that delegates to a convention would be selected by state legislatures. There is nothing in Article V that specifies how delegates would be chosen or how amendments would get proposed. But again, in the absence of a nationwide conversation about constitutional amendment, Convention of States sees opportunity to advance its desired undemocratic plan without organized opposition or pushback.

As part of its multiyear campaign, this far-right organization is convening its third-known mock constitutional convention or what it is calling a "simulation" this August. According to its website, at this "simulation":

Commissioners from across the entire country, representing every state, will congregate in Colonial Williamsburg to experience the event of a lifetime. They will work diligently to craft, discuss, and vote on proposed amendments on 3 essential topics: term limits, fiscal restraints, and limitations on the scope, power, and jurisdiction of the federal government.

In the video advertising the upcoming "simulation," the narrator says, "We want it to be tried out, so people understand how does it work, what kind of rules are there, will there be interplay between commissioners, when you're going to do something this important, it's important to practice." I'm going to be a broken record here because, again, the Constitution provides next to no rules for an Article V convention. Any rules that are decided upon for this "simulation" will be made up by the simulation organizers and say nothing about what the rules would be if a constitutional convention actually were to be convened.

But here is the part of that advertisement that is correct. When you're planning to hijack the Constitution, it is important to practice. And the right's practice of how to radically amend the Constitution should scare the rest of us and motivate us to speak up.

At the group's last mock convention, held in 2016, also in Williamsburg, Va., "delegates" passed an amendment to drastically curtail Congress's lawmaking authority and executive agencies' rule-making authority. Such an amendment could and likely would, for example, cripple the ability of agencies like the Environmental Protection Agency to combat climate change or the Centers for Disease Control to respond to a pandemic. Additionally, "delegates" passed an amendment to enable state legislatures to nullify federal laws and regulations, which would turn our federal system on its head. This is their goal, to minimize the federal government and empower states in a way that will preserve white dominance in this country.

One more area where Convention of States gets Article V wrong: The Constitution does not specify that a constitutional convention can be restricted to specific topics. So, even if a constitutional convention were convened with a single and specific amendment in

mind, once convened, delegates could pursue any array of amendments they desired. Convention of States can state that its objective is for a constitutional convention to be convened to "limit the power and jurisdiction of the federal government, impose fiscal restraints, and place term limits on federal officials." Not only are the first two of these extremely broad, but it is naive to believe that a convention, once called, could be restricted to only these topics.

There can be genuine policy debates about the role of government, and there should be a conversation in this country about constitutional amendment to address the founding failures of our founding document. But a genuine policy debate and any discussion about amending our constitution needs to be inclusive, transparent, and democratic. What Convention of States is doing is none of these things.

Convention of States is doing more than holding mock simulations. It is lobbying inside state capitols for state legislatures to apply for a constitutional convention. And here is perhaps the scariest part of all this: The Constitution does not give Congress discretion on whether to call a convention. Article V is clear in this respect. It states that Congress "shall" call a convention if two-thirds of state legislatures apply for one. To stop the right's sought-after capture of our Constitution, it must be stopped at the state level.

There are already proposals in Congress regarding an Article V convention. While the accuracy of the state count in these proposals and by Convention of States is dubious, the mere existence of these proposals is deeply concerning. On an encouraging front, Oregon recently withdrew its application for a constitutional convention. More states should consider doing the same.

In sum, Convention of States is charting a course for a constitutional crisis, and too few people are paying attention. This threatens all of us, and we need to be collectively engaged in sounding the alarm. If we wait until Congress is compelled to call a convention, it'll be too late. **N**

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