

METHODS OF AMENDING

THE

STATE CONSTITUTIONS.

by

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## METHODS OF AMENDING THE STATE CONSTITUTIONS.

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METHODS OF AMENDING

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STATE CONSTITUTIONS.

A constitution is the framework of an organization; it is the vital organ on which its life depends, and having its origin with the members of that body, it is the principles laid down by them and which all have consented to obey. Charles Borgeand defines "constitution" as, "the fundamental law, according to which the government of a state is organized and the relations of individuals with society, as a whole, is regulated."

The foundation of all republican forms of government is a constitution. Our own government is founded upon a constitution, framed by the fathers of our nation over a century ago. It is "the supreme law of the land," and all must yield to it. It is an instrument containing only the most general and necessary principles. As our forefathers were laboring over this instrument, and were bending their talent and best strength to perfect it, they realized that time must bring changes, and that change in manners and customs must be accompanied by a corresponding change in the laws and rules which govern the changing body. But, while law must change with manners and customs, yet there are certain principles that are and have been common to man in all ages, and man's nature is such that

it is probable that the future will be but a development of the principles that form the foundation of the present. The framers of the constitution realized this, and sought to embody in it only those principles that would be lasting and on which the future must build. Thus they attempted to make the constitution concise, containing only ground matter.

The general government of the United States is made up of a number of subordinate commonwealths. Each of these commonwealths has a constitution which is the supreme law of the state, but which is subordinate to the United States constitution. The constitutions of the commonwealths are founded on the same principles as the national constitution.

A constitution, once adopted, is a very difficult instrument to alter. It is so because only the foundation of a government is contained in it, and there is rarely need of change. Secondly, it is made difficult to change, in order to prevent any radical changes in government.

It is very difficult to amend a constitution on account of the very large percentage of the voters required to favor it. It is next to impossible to get a two-thirds vote of all the electors in a state favoring an amendment, unless it is most strikingly needed. They will go to the polls, vote the ticket "straight," and forget to vote on the amendment; or else they do not care enough to bother with it.

The provisions for amendments in the early constitutions were not explicit, only one or two having anything like the provisions of today. The matter of amendment was left largely to the legislature.

But, as the matter of amendments is one of no small importance, the states, gradually, as they had their constitutions revised, provided more explicitly for them; and, tho at present there are great differences as to the method of amending in the different states, yet there is a general method which most follow. The following table gives, in a concise way, the requirements of the different states in the process of the amendment of their constitutions.

The old constitutions of Kentucky, Mississippi, and South Carolina are used in this work.

STATE.	VOTE IN THE LEGISLATURE.	WHERE PROPOSED.	VOTE BY YEAS AND NAYS.
1. Ala.	2/3 of each house.	General assembly.	Not required.
2. Ark.	Majority elected to each house.	Either house.	Yes.
3. Cal.	Majority of each house.	Either house.	Not required.
4. Colo.	2/3 of all elected to each house.	Either house.	Not required.
5. Conn.	2/3 each house.	House Rep.	Yes.
6. Del.	2/3 of all elected to each house.	Either house.	Yes.
7. Fla.	2/3 elected to each house.	Either house.	Yes.
8. Ga.	2/3 elected to each house.	Either house.	Yes.
9. Ida.	2/3 elected to each house.	Either house.	Yes.
10. ILL.	2/3 each house.	Either house.	Yes.
11. Ind.	Majority elected to each house.	Either house.	Yes.
12. Ia.	Majority elected to each house.	Either house.	Yes.
13. Kan.	2/3 of all elected to each house.	Either house.	Yes.
14. Ky.			
15. La.	2/3 of all elected to each house.	Either house.	Yes.

STATE	VOTE IN THE LEGISLATURE.	WHERE PROPOSED.	VOTE BY YEAS AND NAYS.
16. Me.	2/3 both houses.	Either house.	
17. Md.	3/5 elected to each house.	" "	Yes.
18. Mass.	Maj. senate, prsnt. 2/3 House, voting.	" "	"
19. Mich.	2/3 each house.	" "	"
20. Minn.	Maj. both houses.	" "	Not required.
21. Miss.	2/3 each house/	" "	Not required.
22. Mo.	Maj. elected to each house.	" "	Yes.
23. Mont.	2/3 elected to each house.	" "	"
24. Neb.	3/5 elected to each house.	" "	"
25. Nev.	Maj. elected to each house.	" "	"
26. N.H.			
27. N.J.	Maj. elected to each house.	" "	"
28. N.Y.	Maj. elected to each house.	" "	"
29. N.C.	2/3 each house.	" "	Not required.
30. N.D.	Maj. elected to each house.	" "	Yes.

STATE	VOTE IN THE LEGISLATURE.	WHERE PROPOSED.	VOTE BY YEAS AND NAYS.
32.Ore.	Majority elected to each house.	Either house.	Yes.
33.Pa.	Majority elected to each house.	" "	"
34.R.I.	Majority elected to each house.	General Assembly.	"
35.S.C.	2/3 elected to each house.	Either house.	"
36.S.D.	Majority elected to each house.	" "	"
37.Tenn.	Majority elected to each house.	" "	"
38.Tex.	2/3 elected to each each house.	" "	"
39. Ut.	2/3 elected to each house.	" "	"
40.Vt.	2/3 Senate Maj. of House.	Senate.	Not required.
41.Va.	Majority elected to each house.	Either house.	Yes.
42.Wash.	2/3 elected to each house.	" "	"
43.W.Va.	2/3 elected to each house.	" "	"
44.Wis.	Majority elected to each house.	" "	"
45.Wyo.	2/3 each house.	" "	"



	No submitted at one time.	Period of publication.	Vote of electors to adopt.	Is vote separate?
1.	No limit.	3 mo.	Majority voting at election.	Not required.
2.	Three	6mo.	Majority voting at election.	Yes
3.	No limit.	"shall be pub- lished."	Majority voting thereon.	Not required.
4.	" "	3 mo.	Majority voting thereon.	" "
5.	" "	not stated	Majority at town meetings.	" "
6.	" "	3 mo.	Not submitted to electors.	" "
7.	" "	3 mo.	Majority voting thereon.	Yes.
8.	" "	2 mo.	Majority voting thereon.	"
9.	" "	6 wks.	Majority of electors.	"
10.	See end.	3 mo.	Majority of votes cast.	Not required.
11.	No limit.	not required.	Majority of electors.	Yes.
12.	" "	3 mo.	Majority voting thereon.	"
13.	Three.	3 mo.	Majority voting thereon.	"
14.				
15.	No limit.	2 mo.	Majority voting thereon.	"
16.	" "	----	Majority voting thereon.	Not required.
17.	" "	3 mo.	Majority voting thereon.	Yes.
18.	" "	"shall be pub- lished."	Majority voting thereon.	Not required.
19.	" "	-----	Majority voting thereon.	" "
20.	" "	-----	Majority voting.	Yes.
21.	" "	3 mo.	Maj. voting for mem's. of legislature.	"
22.	" "	4 wks.	Majority voting thereon.	"
23.	Three	3 mo.	not stated.	"

No. submitted at one time.	Period of publication.	Vote of electors to adopt.	Is vote separate?
24. No limit.	3 mo.	Majority voting at election.	Yes.
25. " "	3 mo.	Majority voting thereon.	Not required.
26.			
27. " "	3 mo.	Majority voting thereon.	Yes.
28. " "	3 mo .	Majority voting thereon.	Not required.
29. " "	-----	Majority votes cast.	" "
30. " "	3 mo.	Majority voting thereon.	Yes.
31. " "	6 mo.	Majority voting.	"
32. " "	4 wks.	Majority of electors.	"
33. " "	3 mo.	Majority voting thereon.	"
34. " "	not stated.	3/5 voting thereon.	Not required
35. " "	" "	Majority voting thereon.	Yes.
36. " "	12 wks.	Majority voting thereon.	"
37. " "	-----	Majority voting for rep.	Not required.
38. " "	4 wks.	Majority of votes cast.	Yes.
39. " "	2 mo.	Majority voting thereon.	"
40. " "	3 mo.	Majority voting for rep.	Not required.
41. " "	3 mo.	Majority voting thereon.	" "
42. " "	3 mo.	Majority voting thereon.	Yes.
43. " "	3 mo.	majority voting thereon.	"
44. " "	3 mo.	Majority voting	"
45. " "	12 wks.	Majority.	"

## CONSTITUTIONAL CONVENTION.

	Vote in Legis. to submit.	Vote of the people	Submitted to the people?
1.		maj. at any election.	Read on three several days in each house.
2.	-----No provisions.-----		
3.	must pass the legislature.	maj. of votes thereon.	
4.	must pass the legislature.	maj. of electors.	
5.	-----No provisions.-----		
6.	2/3 vote.	maj. voting thereon.	Submitted to next general assembly before amendment goes to the people.
7.	2/3 both houses.	maj. voting thereon.	
8.	Convention called by concurrence 2/3 members of each house.		
9.	2/3 each house.	maj. voting.	Yes.
10.	2/3 each house.	maj. vote.	The general assembly at the same session can propose amend- ments to but one article, and to the same article but once in four years.
11.	-----No provisions.-----		
12.		majority.	Amendments proposed must be referred to next legis. No amendment can be proposed while another is pending. Question of constitutional convention submitted every ten years.

## CONSTITUTIONAL CONVENTION.

	Vote in Legis. to submit.	Vote of the people.	Submitted to the people?	
13.		majority.		
14.	maj. of each house.	majority.		Amended by convention.
15.	-----	No provision.	-----	Read on three separate days.
16.	-----	No provision.	-----	
17.		maj.voting at election.	Yes.	Question of convention sub- mitted once in twenty years.
18.	-----	No provision.	-----	Referred to next general court.
19.	must pass legislature.	majority.		
20.	2/3 elected to each house.	maj. of all voting.		
21.	-----	No provision.	-----	Read and passed by two-thirds vote on three successive days.
22.	Majority.	maj.voting.	Yes.	
23.	2/3 elected to each house.	maj.voting thereon.	Yes.	
24.	3/5 each house.	maj.voting at election.	Yes.	
25.	Majority.	maj.voting.		Referred to next legislature after amendment is proposed.
26.	2/3 general assembly.	maj.voting thereon.		Regulation of amendments left to the legislature.

CONSTITUTIONAL CONVENTION.

Vote in legis. to submit.	Vote of the people.	Submitted to the people?
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- |     |                            |                            |   |
|-----|----------------------------|----------------------------|---|
| 27. | -----No provision-----     |                            | Proposed amendments referred to the next legislature--voted on by people at special election. Amendments not oftener than once in five years. |
| 28. |                            | majority.                  | Yes. Proposed amendments referred to next legislature.  |
| 29. | 2/3 each house.            | maj. votes cast.           |   |
| 30. | -----No provision-----     |                            | Proposed amendments referred to the next legislature.   |
| 31. | 2/3 each house.            | maj.voting.                |   |
| 32. | -----No provision-----     |                            | Proposed amendments referred to the next legislature.   |
| 33. | -----No provision-----     |                            | Proposed amendments referred to next legislature. Amendments proposed only once in five years.  |
| 34. | -----No provision-----     |                            | Proposed amendments submitted to next legislature.  |
| 35. | 2/3 elected each house.    | to maj.voting at election. | Proposed amendments must be ratified by constitution. Read on three several occasions   |
| 36. | 2/3 elected to each house. | maj.voting at election.    |   |

## CONSTITUTIONAL CONVENTION.

	Vote in legis. to submit.	Vote of the people.	Submitted to the people?	
37.	Majority.	maj.voting at election.		Proposed amendments referred to next legislature.---Read on three several days in each house.
38.	-----No provision-----			
39.	2/3 elected to each house.	maj.voting thereon.	Yes.	
40.	-----No provision-----			
				When approved by people must pass legis. by 2/3 vote in each house. Read on three several days. Yeas and nays taken on final vote.
41.	Majority.	maj. voting at election.		Proposed amendment referred to next legislature.
42.	2/3 elected to each house.	maj.voting at election.		
43.	Maj. elected to each house.	maj. voting.	Yes.	Read on three several days.
44.	Maj. of each house.	maj.voting.		Proposed amendments referred to next legislature.
45.	2/3 each house.	maj.voting.	Yes.	

The foregoing statistics show that in thirty-six of the states either house may propose amendments; in six, the general assembly; while in one (Connecticut) the house alone can exercise this duty. In none is this function left wholly to the senate. In two of the states, Kentucky and New Hampshire, the constitution can be altered only by convention; so this, as well as several other phases of our subject, cannot apply to them.

The necessary vote in the legislature, before a proposition for amendment can be submitted to the people varies greatly. Thirteen states require a two-thirds vote of all the members elected to each house; six, a two-thirds vote in each house; two, a majority of each house; fifteen, a majority of all members elected to each house; two, three-fifths of each house; two, three-fifths of all members elected to each house; two, a two-thirds vote in each house; while one (Massachusetts) requires in the senate a majority of those present, and in the house, two-thirds of those voting. Thirty-seven of the states require the vote in the legislature to be by yeas and nays.

Nearly all the states require that amendments, before they become valid, must be submitted to the people for their approval. Only one (Delaware) does not require this. The vote of the electors to adopt, however, varies in the different states. Twenty-four require that they shall be ratified by a majority of those voting on the amendment; eight require a majority of those voting at the

election at which the amendment is voted on; four require a majority of the electors of the state; one, simply that it be approved by the electors; one (Connecticut) requires that they shall be approved in town meetings by a majority; one, as before stated, does not submit amendments to the electors; while one requires three-fifths of those voting on the amendment to favor; and three, a majority of the electors voting for representatives at that election.

In thirty-one of the states, their constitutions provide for calling constitutional conventions to revise or amend their constitutions, while in the other fourteen, no such provision is made.

Before an amendment is submitted to the people, it is required, in most cases, that it shall be for some time previous published in one or two papers in each county of the state. Twenty-three states require that they shall be published three months prior to the next election; two, six months; three, two months; three, for four weeks; one, six weeks; two, twelve weeks; eight do not require that they be published, while three require that they shall be published prior to election, but do not state the time.

The number of amendments that can be submitted at a time is not limited in forty-one of the states; while in three not more than three can be submitted. One state allows but one amendment to an article at a time, and further requires that amendments cannot be submitted oftener than once in four years. In twenty-seven states, a separate vote on each amendment is required, while in eighteen it is



either not required or is left to the legislature.

In fourteen states, an amendment that has been proposed and passed the legislature must then be referred to, and pass the next legislature to be chosen, before it is submitted to the people for their approval or rejection. In one state (South Carolina) after an amendment has been approved by the people, it must be again submitted to the legislature and passed by a two-thirds vote.

From the foregoing, we might write out what seems to suit the majority of minds as to the method of amending constitutions. The following is what we get. It is the amendment article to the constitution of the state of Washington, which is the only state constitution that answers the requirements shown by the foregoing statistics to be the majority mind of the people:

"Section 1. Any amendment or amendments to this constitution may be proposed in either branch of the legislature, and, if the same shall be agreed to by two-thirds of the members elected to each of the two houses, such proposed amendment or amendments shall be entered in their journals, with the ayes and noes thereon, and be submitted to the qualified electors of the state for their approval, at the next general election, and if the people approve and ratify such amendment or amendments, by a majority of the electors voting thereon, the same shall become part of this constitution, and proclamation thereof shall be made by the governor: Provided, That, if more than one amendment be submitted, they shall be submitted in

such a manner that the people may vote for or against such amendments separately. The legislature shall also cause the amendments that are to be submitted to the people to be published for at least three months preceding the election, in some weekly newspaper in every county where a newspaper is published thruout the state.

Section 2. Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a convention to revise or amend the constitution, they shall recommend to the electors to vote at the next general election for or against a convention, and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at the next session, provide by law for calling the same; and such convention shall consist of a number of members not less than that of the most numerous branch of the legislature.

Section 3. Any constitution adopted by such convention shall have no validity until it has been submitted to and adopted by the people.