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## Is it possible to pass an "Unconstitutional" Constitutional Admendment?

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[Anthony Watkins](#) · a month ago 🔒

That is to say, assuming someone, or some group had enough money and power to persuade 2/3rds of the state congresses as well as enough of the US congress to pass an amendment that, on its face overturned a key component of the constitution, would that amendment, by process automatically be constitutional?

I know the majority of the amendments we have passed in the history of our country have done this in the manner of opening up our democracy to a larger piece of the population, (i.e. creating a path to citizenship for former slaves, extending the vote to non landed folk, to women, to those between 18 and 21 and so on), but what if the amendment was repressive to a minority, say if the DOMA had been added to the constitution, or an amendment preventing those who entered America without documentation from having a path to citizenship, or an amendment banning the practice of Islam? If passed, would challenges to these amendments have any place in the courts, or would they, bad law that they may be, be constitutional, even if they were immoral?

I think i know the answer. I think if we passed an amendment that called for the death of every first born male child, that would be the law of the land until it was repealed by another amendment. I know there are a series of bars set to make sure we dont do something that stupid, but we do have the 18th amendment, as well as (some of us might add) the 22nd and 2nd as examples of amendments that are of questionable wisdom.

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[Ray Strong](#) · a month ago 🔒

Anthony.

A good question. The Framers had an idea to prohibit certain amendments. In Article V, The clause prohibiting amendments about the Slave trade before 1808 is an example, although it is now moot.

The Same Article V continues on: Provided that no Amendment .... and that no State, without its

Consent, shall be deprived of its equal Suffrage in the Senate.

It seems to me that this Article could properly be amended, however the Framers clearly (original meaning) intended for that language to be sacrosanct.

Politically, I can't see that clause being overturned by amendment because the bar for Amendments is set too high. But if one could get 3/4 of the states to agree, then the amendment might be able to be struck.

In my humble opinion.

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Anthony Watkins · a month ago

Thanks, and, of course there could even be an amendment that repeals the constitution in its entirety, I suppose, but the bar seems way too high for such a radical concept no mater the money, power and charisma attached to such an effort?

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Ray Strong · a month ago

Another note just to be clear. The Constitution also says that "*No State without its consent*" which implies but does not require an unanimous vote. Meaning to me 49 states can vote to reduce thinly populated Wyomings Senate delegation but if they object it cannot be done.

But if the language is struck by amendment, we are possibly back where we started.

I think this reflects the Articles of Confederation which required unanimous support from the States to be amended. One of the reason for the failures of the Articles as it proved to be an unsurmountable hurdle and the Articles were never amended. Given that experience, I think they posed this language believing the hurdle could never be met.

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Anthony Watkins · a month ago

Thanks!





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