Inquiry Design Model (IDM) Blueprint™	
Compelling Question	Is it time for the United States to hold a Constitutional Convention?
Standards and Practices	Content Statement 16: As a framework for the state, the Ohio Constitution has similarities and differences to the federal Constitution. Content Statement 7: The process for formally amending the U.S. Constitution are outlined in the document. Content Statement 19: Individuals and organizations must know the proper level and branch of government to engage at the various stages of making public policy
Staging the Question	Discuss why the Framers held the Philadelphia Convention and/or wrote the Declaration of Independence and compare & contrast those reasons with complaints they've heard or have about our current government.

Supporting Question 1	**Supporting Question 2**	**Supporting Question 3**	**Supporting Question 4**
What are the methods for calling for a Constitutional Convention in Ohio compared to those at the national level?	How is a Constitutional Convention similar to and different from the amendment process?	What have been the major changes to the Ohio and U.S. Constitutions?	What are some arguments for and against a Constitutional Convention?
Formative Performance Task	**Formative Performance Task**	**Formative Performance Task**	**Formative Performance Task**
Construct a Venn Diagram comparing the way Ohio calls for a convention to the way Article V allows for a national constitutional convention.	Write a paragraph comparing the purpose of an Article V convention to the Congress-initiated amendment process.	Write a summary of how the Ohio and U.S. Constitutions have changed over time and what motivated those changes.	Create a T-Chart of the arguments in favor of and against a national Constitutional Convention.
Featured Sources	**Featured Sources**	**Featured Sources**	**Featured Sources**
Ohio Constitution Article XVI, Section 3: 1912 Ohio Constitutional Amendment, "Question of Constitutional Convention to Be Submitted Periodically" **U.S. Constitution Annotated: Article V.3.3 - Proposals of Amendments by**	**Excerpt from *The Records of the Federal Convention of 1787, vol. 2*** **Excerpt from *Federalist 85***	**Ohio Constitution – Law and History: Constitutional Revision Commission 1970-1977** **Excerpt from "Ohio's Constitutional Convention of 1912" by Landon Warner** **Excerpts from Module 15: The Constitution as**	**Excerpts from the transcript of American Constitutional Society's "Article V: America's Hidden Constitutional Crisis" panel discussion** **The Article V Convention to Propose Constitutional Amendments: Current Developments, "Current**

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Convention			**Amended: Article V and a Walking Tour of America's 27 Constitutional Amendments 15.3 Info Brief**	**Developments in the Policy and Advocacy Community" (CRS Report)**
Summative Performance Task	**Argument**	Is it time for the United States to hold a Constitutional Convention? Construct an argument (e.g. detailed outline, poster, essay) that addresses the compelling question using specific claims and relevant evidence from multiple sources while acknowledging competing views.		
	Extension	Hold a Fishbowl discussion or formal debate in class over the question of whether or not the United States should hold a constitutional convention.		
Taking Informed Action	**Action Possibilities:**			
	• Write a letter to a member of the Ohio General Assembly to persuade them for or against applying for an Article V Convention • Conduct and publish a survey that gauges community opinion on whether we should hold an Article V Convention • Write an article for the school or local paper promoting your opinion on holding an Article V Convention • Create a community education pamphlet on the pros and/or cons of Article V Conventions • Draw a political cartoon that highlights your position on holding an Article V Convention			

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Article XVI, Section 3 | Question of constitutional convention to be submitted periodically

Ohio Constitution / Article XVI Amendments

Effective: *January 1, 1913*

At the general election to be held in the year one thousand nine hundred and thirty-two, and in each twentieth year thereafter, the question: "Shall there be a convention to revise, alter, or amend the constitution[,]" shall be submitted to the electors of the state; and in case a majority of the electors, voting for and against the calling of a convention, shall decide in favor of a convention, the General Assembly, at its next session, shall provide, by law, for the election of delegates, and the assembling of such convention, as is provided in the preceding section; but no amendment of this constitution, agreed upon by any convention assembled in pursuance of this article, shall take effect, until the same shall have been submitted to the electors of the state, and adopted by a majority of those voting thereon.

CONSTITUTION ANNOTATED
Analysis and Interpretation of the U.S. Constitution

ArtV.3.3 Proposals of Amendments by Convention

Article V:

> *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.*

Article V establishes an alternative method for amending the Constitution by a convention of the states.[1] It provides that Congress "shall call a Convention for proposing Amendments" upon the request of two-thirds of the state legislatures.[2] This method of proposing amendments, which scholars have debated at length, has never been used.[3] This essay surveys a few of the most prominent debates surrounding an Article V convention of the states.

One ongoing debate concerns whether Congress *must* call a convention upon the request of two-thirds of the states. Article V

states that Congress "shall call a Convention" when enough states have applied for one. Some of the Constitution's Framers, concerned that Congress would block amendments favorable to the states,[4] argued that this language would obligate Congress to call for a convention after receiving the requisite number of state requests.[5] Furthermore, some of the earliest Members of Congress argued that Congress had no power to deliberate on whether to call an Article V convention once it received the requisite number of applications.[6]

However, more recently, some modern scholars have theorized that Congress may be able to block a convention by exercising its apparent role in reviewing state applications and deciding whether the requisite number of states has applied for a convention.[7] In addition, Congress might refuse to submit amendments that result from an Article V convention to the states for ratification.[8] Because it seems unlikely that the Supreme Court would order Congress to call a convention or submit a proposed amendment to the states,[9] such arguments raise questions about whether Article V effectively *obligates* Congress to call for a convention.

Another ongoing debate revolves around whether a state convention, once called, may be limited to addressing certain topics. Concerns with a so-called "runaway convention" that proposes amendments on subjects beyond the scope of the initial call have prompted many of these debates. Some commentators have argued that states may (or must) determine the scope of an Article V convention by applying for a convention on a specific subject or group of subjects.[10] Congress would then be obliged to call a convention only on the issues in the state applications.[11] Other scholars have argued

that the text of the Constitution provides only for a general convention, one not limited in scope to considering amendments on a particular matter.[12]

A third prominent debate concerns Congress's control over other aspects of a convention. During debates over the Constitution, James Madison questioned how an Article V convention would be formed and conduct its proceedings.[13] In the modern era, scholars have debated various issues, including: (1) how delegates to the convention should be chosen; (2) whether Congress, state legislatures, or the delegates should set rules of procedure for the convention; (3) the vote threshold would be required to propose an amendment in convention; and (4) how voting rights on a proposed amendment should be apportioned among the states.[14] Beginning at least as early as the 1960s, Members of Congress have introduced various pieces of legislation that would seek to establish some procedures for an Article V convention.[15]

Since 1960, the states have submitted more than 180 applications for Article V conventions on various subjects.[16] However, Congress has never deemed Article V's threshold for calling a convention to be met. Many unresolved questions surround the state application process, including how to determine whether state applications address the same subject matter and whether the applications expire after a certain amount of time.[17] In the past several decades, the states have come closest to satisfying the threshold for calling a

convention of the states on the issues of apportionment in state legislatures[18] and requiring a balanced federal budget.[19]

Footnotes

1. ^ U.S. Const. art. V.
2. ^ *Id.*
3. ^ Although the convention method for proposing amendments has never been used, some scholars have speculated that the states may "prod" Congress into proposing an amendment on a particular matter by applying for an Article V convention on that issue. *See, e.g.*, Dwight W. Connely, *Amending the Constitution: Is This Any Way to Call for a Constitutional Convention?*, 22 Ariz. L. Rev. 1011, 1015, 1016 n.49 (1980).
4. ^ 2 The Records of the Federal Convention of 1787, at 629–31 (Max Farrand ed., 1911) [hereinafter Farrand's Records] (Madison's notes, Sept. 15, 1787).
5. ^ For example, writing in the *Federalist Papers*, Alexander Hamilton stated that Congress would be "obliged" to call a convention "on the application of the legislatures of two thirds of the States." The Federalist No. 85 (Alexander Hamilton).
6. ^ 1 Annals of Cong. 260–61 (1789).
7. ^ *See* Michael B. Rappaport, *Reforming Article V: The Problems Created by the National Convention Amendment Method and How to Fix Them*, 96 Va. L. Rev. 1509, 1527 (2010) ("If different states apply for limited conventions covering marginally different subjects, then it is quite possible that Congress will use its discretion to determine that the requisite number of states have not agreed on a single subject to apply for a convention. Similarly, even if two-thirds of the states applied for the same limited convention, Congress might use its discretion to determine that limited conventions are not allowed."). *But see* Morris D. Forkosch, *The Alternative Amending Clause in Article V: Reflections and Suggestions*, 51 Minn. L. Rev. 1053, 1079 (1967) ("Congress has its own independent machinery to propose amendments in the first alternative, and to

give Congress the power to review the proposals necessarily deprives the [state convention method] of its independence.").

8. ^ *See* Michael Stern, *Reopening the Constitutional Road to Reform: Toward a Safeguarded Article V Convention*, 78 TENN. L. REV. 765, 777–78 (2011). *But see* Gerland Gunther, *The Convention Method of Amending the United States Constitution*, 14 GA. L. REV. 1, 23 (1979) (acknowledging that Congress may review applications for a convention for conformity with Article V, but adopting the view that Congress cannot refuse to submit a proposed amendment to the states).

9. ^ One scholar has suggested that, even if the Supreme Court exercised jurisdiction over the case, it appears unlikely the Court would "issue an order compelling Congress to carry out a duty which can hardly be called a simple ministerial duty or would, in the alternative, take it upon itself to prescribe the procedures for a convention." *See* Paul G. Kauper, *The Alternative Amendment Process: Some Observations*, 66 MICH. L. REV. 903, 905–06 (1968) ("Whether any legal procedure would be available to compel [Congress] to perform its duty is another question.").

10. ^ Rappaport, *supra* note 7, at 1518 (surveying scholarly debates on the issue). Some scholars have argued that Article V permits states to apply for a convention on particular amendment text. *E.g.*, Rappaport, *supra* note 7, at 1518.

11. ^ Limited convention proposals could call for an Article V convention to consider an amendment establishing congressional term limits or requiring a balanced federal buget, for example. Rappaport, *supra* note 7, at 1513.

12. ^ *See* Rappaport, *supra* note 7, at 1518.

13. ^ 2 FARRAND'S RECORDS, *supra* note 4, at 630 (Madison's notes, Sept. 15, 1787).

14. ^ *See, e.g.*, Sam J. Ervin, Jr., *Proposed Legislation to Implement the Convention Method of Amending the Constitution*, 66 MICH. L. REV. 875, 892–94 (1968) (discussing federal legislation seeking to address these questions).

15. ^ *See, e.g.*, *id.*

16. ^ *Clerk of the United States House of Representatives, Selected Memorials*, https://clerk.house.gov/SelectedMemorial.

17. ^ *Is There a Constitutional Convention in America's Future?: Hearing Before the H. Comm. on the Judiciary,* 103d Cong. 6–10 (1993).

18. ^ Some states sought an Article V convention to consider a constitutional amendment that would overturn the Supreme Court's decision in Reynolds v. Sims, 377 U.S. 533 (1964). In that case, the Supreme Court held that the Fourteenth Amendment's Equal Protection Clause requires that state legislative houses be apportioned "substantially" on the basis of population. *Id.* at 568–76.

19. ^ *See Selected Memorials*, CLERK OF THE U.S H.R., https://clerk.house.gov/SelectedMemorial; Michael Stokes Paulsen, *A General Theory of Article V: The Constitutional Lessons of the Twenty-seventh Amendment*, 103 YALE L.J. 677, 764–89 (1993) (cataloguing state applications for conventions on different subjects). This essay not examine whether a state may amend, rescind, or place conditions on an application for a convention.

Excerpt from *The Records of the Federal Convention of 1787,* ed. Max Farrand (New Haven: Yale University Press, 1911). Vol. 2.

***from* Madison's notes on Sept. 15, 1787:**

...

Art— V. "The Congress, whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths at least of the Legislatures 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 1808 shall in any manner affect the (1 & 4 clauses in the 9.) section of article I.

Mr. Sherman expressed his fears that three fourths of the States might be brought to do things fatal to particular States, as abolishing them altogether or depriving them of their equality in the Senate. He thought it reasonable that the proviso in favor of the States importing slaves should be extended so as to provide that no State should be affected in its internal police, or deprived of its equality in the Senate.

Col: Mason thought the plan of amending the Constitution exceptionable & dangerous. As the proposing of amendments is in both the modes to depend, in the first immediately, and in the second, ultimately, on Congress, no amendments of the proper kind would ever be obtained by the people, if the Government should become oppressive, as he verily believed would be the case.

Mr. Govr. Morris & Mr. Gerry moved to amend the article so as to require a Convention on application of 2/3 of the Sts.

Mr Madison did not see why Congress would not be as much bound to propose amendments applied for by two thirds of the States as to call a call a Convention on the like application. He saw no objection however against providing for a Convention for the purpose of amendments, except only that difficulties might arise as to the form, the quorum &c. which in Constitutional regulations ought to be as much as possible avoided.

...

Excerpt from *Federalist 85*:

...

“In opposition to the probability of subsequent amendments, it has been urged that the persons delegated to the administration of the national government will always be disinclined to yield up any portion of the authority of which they were once possessed. For my own part I acknowledge a thorough conviction that any amendments which may, upon mature consideration, be thought useful, will be applicable to the organization of the government, not to the mass of its powers; and on this account alone, I think there is no weight in the observation just stated. I also think there is little weight in it on another account. The intrinsic difficulty of governing thirteen States at any rate, independent of calculations upon an ordinary degree of public spirit and integrity, will, in my opinion constantly impose on the national rulers the necessity of a spirit of accommodation to the reasonable expectations of their constituents. But there is yet a further consideration, which proves beyond the possibility of a doubt, that the observation is futile. It is this that the national rulers, whenever nine States concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged "on the application of the legislatures of two thirds of the States (which at present amount to nine), to call a convention for proposing amendments, which shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the legislatures of three fourths of the States, or by conventions in three fourths thereof." The words of this article are peremptory. The Congress "shall call a convention." Nothing in this particular is left to the discretion of that body. And of consequence, all the declamation about the disinclination to a change vanishes in air. Nor however difficult it may be supposed to unite two thirds or three fourths of the State legislatures, in amendments which may affect local interests, can there be any room to apprehend any such difficulty in a union on points which are merely relative to the general liberty or security of the people. We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority.”

...



Ohio Constitution - Law and History: Constitutional Revision Commission 1970-1977

Sources for researching the Ohio Constitution, including new and current versions of the Ohio Constitution, constitutional conventions, information on proposed and passed amendments, Ohio Supreme Court cases, a bibliography and more.

Home Primary Sources Calls for Conventions Constitutional Revision
Table of Proposed Amendments Court Decisions Cases to Watch Selected Topics
Bibliography Timeline Weblinks Ohio Constitutional Modernization Commission
Ohio Constitution News

What was the Constitutional Revision Commission 1970-1977?

The Constitutional Revision Commission of 1970-1977 was a 32 member commission created by the Ohio legislature to recommend constitutional amendments. It was created by 1969 of Am. Sub. H.B. 240 of the 108th General Assembly.

Below, you will find lists of the Commissions recommendations, whether they were put before the voters, and whether they passed.



Photo: 112th General Assembly, 1977-1978.

From Ohio Ladies' Gallery.

Constitutional Revision Commission Publications and Resources

- Ohio Constitutional Revision Commission Reports 1970 - 1977
  Volume 11 is the Commission's Final Report, containing Recommendations for Amendments to the Ohio Constitution. Volumes 1-10 contain the reports of various committees.
  Also in print KFO401 1851 .A183

  Pages 16- 21 - History of the Commission

  Pages 448-504. - pp. 448-480 for some provisions, commission recommendations, history and comparison with federal Constitution. pp. 481-482 law creating the revision commission, pp. 483-485 brief history of the Ohio Constitution, p. 487 states location of Commission materials, pp 488 -504 Bibliography..
- Testimony before the Ohio Constitutional Revision Commission Committee to Study the Grand Jury and Civil Petit Jury
  by the Coalition to End Grand Jury Abuse, January 23, 1976, The Statehouse, Columbus (in print) KFO542.A8 C6
- Political Behavior and Public Issues in Ohio
  Edited by John J. Gargan and James G. Coke Papers presented in connection with a project on constitutional revision, sponsored by the Center for Urban Regionalism at Kent State University JK5525 1972 .P65

Revision Commission Proposals Approved by Voters

Ohio voters approved 16 of the 20 amendments that had their origins in recommendations made to the General Assembly by the Commission.

- Revise organization, administration and procedures of General Assembly
  May 1973
- Preparing ballot language and informing voters re: proposed constitutional amendments
  May 1974
- Repeal requirement that Governor appoint Public Works Superintendent for 1-year term
  November 1974
- Expand the purposes for which state may issue industrial development bonds
  November 1974
- Give candidates reasonably equal treatment on ballot, by name rotation or otherwise (but does not have to be "perfect rotation")
  November 1975
- Require joint election of Governor and Lt Governor; revise Lt Governor's duties
  June 1976
- Changes to voting requirements: Reduce voting age to 18, Repeal unconstitutional residency duration requirement
  June 1976
- Changes in Elections, Terms of Office, Vacancies
  June 1976
- Require at least 50% of

Recommendations of the Revision Commission Not Presented to the Voters

NOT presented to the voters:

- **Repeal** a provision permitting courts and juries to **consider the failure of the accused to testify** at trial and further permitting prosecutors to comment on the failure to testify. (While these practices were held unconstitutional by the U.S. Supreme Court, they remain in the Ohio Constitution!)
- Alternatives to the **grand jury**, expansion of rights of persons called before grand jury, and requiring presentation of exculpatory evidence
- Remove provision that **jury**, to try corporation right-of-way cases, must "be of twelve men"
- Consolidate trial courts and other items regarding the **organization of courts**.
- Require a 2/3 legislative majority to increase or decrease the number of judges and to establish courts.
- Requiring that the **members of the General Assembly receive an allowance** for reasonable and necessary expenses related to performance of their duties
- **Remove** a provision making **members of the General Assembly ineligible** to be appointed to public offices created or compensation for which was increased during their elected term and one year after.
- Repeal requirement that a person appointed to office be an elector when appointed, but must become a resident of the state when assuming the office
- Changes in the direct constitutional **initiative**, indirect statutory initiative and **referendum**, including eliminating the requirement that the requisite signatures come from at least half of the state's counties.
- Permit General Assembly to provide for **workers' compensation** through a state fund or private insurance.
- **Repeal** provision requiring no more than an **eight hour day or a 48-hour work week on the construction of public works** carried out or aided by the state or any political subdivision
- **Repeal** provision **denying the right to vote to any, "idiot or insane" person**
- **Permit the General Assembly to reduce the number of counties,subject to the approval of voters in affected counties.**
- Changes concerning **counties** and county charters, including county home rule
- Revise sections relating to **county and township government and municipal corporations**
- Changes concerning municipal charters, issuance of municipal utility bonds and consolidation of cities and villages.
- Revise sections on **corporations** and remove unnecessary provisions

Could the current Ohio Modernization Commission revive any of these proposals?

- Require at least 50% of estate taxes to be returned to political subdivisions (technical changes)
  June 1976
- Repeal of Art. II section 5, disqualifying person convicted of embezzling public funds from holding office
  May 1973
- Succession in case of disability or vacancy in office of Governor or Lt Governor
  May 1973
- Repeal of obsolete provisions on public printing, duelling and Bureau of Statistics
  November 1976
- Require declaration of election results at next regular General Assembly session
  November 1976
- Created Ballot Board to write ballot language for state issues; other changes re. initiative and referendum petitions
  June 1978
- Modification of procedures for adopting, amending and repealing county charters
  November 1978
- Permitting General Assembly to regulate prison labor and remove restrictions on sale of prison-made goods.
  November 1978

Revision Commission Proposals Rejected by Voters

Could the current Ohio Modernization Commission revive any of these proposals?

- Repeal of Art. IV, sec. 22, and 1875 provision allowing the General Assembly to appoint a commision to assist the Supreme Court in disposing cases
  November 1976
- Revision of the indirect debt limit on political subdivisions
  June 1976
- Repealing the $750,000 limitation on state indebtedness and permitting the General Assembly to contract debt for capital improvements with a 3/5 vote
  November 1977

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Subjects: Legal History, Ohio **Tags: constitution, constitutional law, legal history, ohio, ohio constitution**

Excerpt from "Ohio's Constitutional Convention of 1912" by Landon Warner (p. 13-14).
Entire article can be found at:
https://resources.ohiohistory.org/ohj/browse/displaypages.php?display[]=0061&display[]=11&display[]=31

...

The poll was taken at a most favorable psychological time. Conservatives as well as progressives-a new label for radical advocates of change which had just come into popular parlance-determined the moment was at hand to strike for their pet panaceas. Urban capitalists, led by the Ohio State Board of Commerce, wanted to rewrite the taxation article in order to abolish the rule of taxing all property, tangible and intangible, at a uniform rate and to permit classification. The liquor interests sought to eliminate the constitutional injunction against the licensing of saloons in the hope that regulation would head off state-wide prohibition. Most important, though, were the demands of the progressives which had accumulated over the past decade for such varied reforms as municipal home rule, direct primaries, the initiative and referendum, equal suffrage, improvements in the court system and procedures, and legal protection of workers.

This pent-up pressure for progressive changes was part of a ferment at work in many other states of the Union and in the national government as well. In this same year two notable reform governors were elected, Woodrow Wilson in New Jersey and Hiram Johnson in California; and the house of representatives was in revolt against tyrannical conservative control. Although this leftward movement was a response to certain common influences, the component of these forces differed from state to state.

Ohio reformers found inspiration particularly in the teachings of Henry George and Henry Demarest Lloyd. George's vivid portrayal of poverty amidst progress, his message joining Christian brotherhood with equality, as well as his specific panacea for the elimination of want, the single tax, had made converts of a number of Ohioans. Tom L. Johnson, the great Cleveland mayor, is the best known. Others who followed him down the Damascus road were Peter Witt, Frederic C. Howe, Herbert Bigelow, and Brand Whitlock. Lloyd's influence was less pervasive, but his expose of monopolistic practices, notably those of the Standard Oil trust, stimulated the thinking of the Toledo crusader Samuel Milton Jones. Another current which stirred Ohioans generally was the literature of the Muckrakers, whose factual accounts of graft and corruption in government and industry created disaffection for the existing system.

...

Excerpted from *National Constitution Center's Constitution 101 Module 15: The Constitution as Amended: Article V and a Walking Tour of America's 27 Constitutional Amendments, 15.3 Info Brief*. For the full text, visit https://constitutioncenter.org/media/files/15.3_Info_Brief__Periods_of_Constitutional_Change_and_the_27_Amendments_.pdf

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…

THE 16TH AMENDMENT

… The 16th Amendment responded to decades of activism and legal action following the Supreme Court's 1895 decision in *Pollock v. Farmers' Loan & Trust Co.*, which curbed Congress's power to pass an income tax.

The *Pollock* decision divided the justices themselves and spurred decades of political activism by populists and progressives to reverse the decision and grant Congress the power to enact an income tax.

Finally, in 1913, these reform efforts succeeded—with the ratification of the 16th Amendment.

So, reformers once again used the Article V amendment process to reverse a controversial Supreme Court decision….

THE 17TH AMENDMENT

… Some reformers argued that the 17th Amendment was essential to America's commitment to popular sovereignty and was faithful to our system's push toward a more democratic system over time.

Other reformers argued that state legislatures were overrun by parties, machines, and special interests and that the popular election of senators was a simple way to limit that corrupt influence. (For instance, some supporters argued that Senate seats could often be bought and sold in smoke-filled rooms under the original system.)

Still other reformers were concerned that state legislative elections were often dominated by who the legislators would select to the U.S. Senate rather than the candidates' positions on the many important issues facing their states.

Finally, some Senate seats remained open for years as state legislatures deadlocked over who to select….

THE 18TH AMENDMENT

… While it's easy to criticize Prohibition in retrospect, it grew out of decades of social movement activism and what many identified as a genuine problem. The problem? Americans drank a lot of alcohol. And this could give rise to all sorts of social problems—wages spent at the saloon, abuse at home, difficulty holding down a job, and so on.

And the social movement? A combination of five (sometimes overlapping) groups consist of the progressives, suffragists, populists, nativists, and white Southerners groups. Some of these reformers were driven by a public-minded concern for the societal problems brought about by excessive drinking: violence, accidental deaths (and injuries), unemployment, poverty, parenting issues, abandoning your family, personal illness, and so forth.

Some of them were driven by bigotry against certain groups—whether white Southerners against African Americans, nativist Americans against immigrants (like Irish Catholics), or World War I–era Americans against beer-producing (and -drinking) German-Americans.

Some of them were driven by long-standing political alliances between prohibitionists and suffragists—part principle, part political expediency.

This collective movement worked for decades to push for Prohibition—culminating in the ratification of the 18th Amendment. (The Temperance Movement itself went all the way back to 1828—so this was a *long* push for reform.)

And the 18th Amendment remained a live part of the Constitution for 13 years….

<u>THE 19TH AMENDMENT</u>

… This amendment grew out of decades of advocacy by the suffragists and their allies. Women's suffrage began out West in the late 1800s and eventually spread to the rest of the nation— culminating in the ratification of the 19th Amendment in 1920.

So, the amendment itself followed decades of widespread experimentation in the states—with many states extending the vote to women before the ratification of the 19th Amendment.

Even so, it would take many more years—and the hard work of the civil rights movement—to extend voting rights, in practice, to *all* women, including women of color…

…

<u>THE 26TH AMENDMENT</u>

… The 26th Amendment was, in part, a response to the Vietnam War. Many young people who were drafted for the war were still unable to vote.

In 1970, Congress passed a new Voting Rights Act, which lowered the voting age to 18. But in *Oregon v. Mitchell* (1970), the Supreme Court ruled that Congress could only lower the voting age for *national* elections—*not* state and local elections.

To set a national age for those elections, the American people would have to ratify a new constitutional amendment. And so they did.

In response to *Mitchell*, Congress proposed the 26th Amendment.

And in March 1971, the states ratified the amendment—less than *four* months after it was initially sent to the states for ratification. This was the shortest ratification process ever.

<u>THE 27TH AMENDMENT</u>

… At the Constitutional Convention, the delegates spent several days discussing congressional pay. But the delegates decided to leave congressional salaries to ordinary laws passed by Congress.

This feature of the Constitution came under fire during the ratification debates. And James Madison himself became concerned, as well. These critics—echoing arguments advanced by Benjamin Franklin at the Constitutional Convention—feared that members of Congress would choose to pay themselves too much.

Enter (what would eventually become) the 27th Amendment. The 27th Amendment was first written in 1789—that's right, *1789*—and proposed as part of the original Bill of Rights.

James Madison and the First Congress wrote it and approved it with a two-thirds vote in both houses of Congress. Madison and his colleagues wanted to set some sort of limit on Congress's power to raise congressional salaries. So, Madison proposed the (eventual) 27th Amendment— requiring a new election to take place before a congressional pay increase would take effect.

They sent this proposal along to the states for ratification.

Within a few years, six states voted to ratify it—short of the three-quarters of the states necessary to ratify a new amendment. So, while the American people went on to ratify our current First through 10th Amendments, this other proposal did *not* become part of the Constitution.

…

The proposal had no time limit on it. Article V didn't set any deadline either. So, the amendment could *still* be ratified—nearly 200 years later.

... Watson wrote letters to legislators across the country. Most of them ignored him. But one powerful senator loved the idea—Senator William Cohen of Maine.

Cohen pushed for its ratification in Maine. He succeeded in 1983.

This inspired Watson to keep pushing. From there, his amendment push gained momentum. Watson's effort went hand in hand with broader public dissatisfaction with Congress in the 1980s. Voters thought that Congress wasn't doing enough to help the American people. They thought that members of Congress were paid too much and enjoyed too many perks while in office.

And Watson pushed to build on the ratifications from earlier years to build up to the three-quarters of the states necessary to ratify the amendment.

In 1985, five more states ratified the amendment. Finally, in 1992, over two centuries after the First Congress proposed the amendment to the states, three-quarters of the states (38 of 50) ratified it. The 27th Amendment became part of the Constitution. It only took a little over 202 years to get it done.

Excerpt from the transcript of "Article V: America's Hidden Constitutional Crisis". The full video can be found here: https://www.acslaw.org/video/article-v-americas-hidden-constitutional-crisis/

28:07-32:29

... until a few years ago that a group backed by some of the wealthiest individuals in our country decided that they wanted to activate this idea of calling a constitutional convention and they call themselves the Convention of the States, which by the way is kind of a loaded term because it's not actually a Convention of the states at all -- they've only asked for it -- but what they're trying to do is set up a situation where this convention has to be called. My belief and my co-author belief and I think most scholars' belief is this isn't something that Congress gets to think about: if 34 states sent in the petition, it's done; they were required to call a convention. This group has been training people since 2013: they bring in conservative legislators from every state and they hold mock conventions. There are liberals that laugh at this and think it's silly, but they're doing a pretty good job. They're training people who would be delegates, and they're training people... they've done it several times, and they've had mock votes, and the votes have come up with things that frankly are not very happy for me as a progressive or a liberal but also things that might trouble conservatives. In fact, what we found is that a number of states like Montana didn't pass the resolution because of the most far right groups, the Eagle Forum and the John Birch Society didn't want it either. They're concerned about having an open-ended convention where absolutely anything can happen. If you read nothing else in the book, and this is somewhat dated now with our current political events, the title is 'What Trump and the Tea Party couldn't do: the modern conservative push and the mirage of a limited Constitutional Convention." What Senator Rick Santorum who's a former Senator has said, "we're planning on putting resources, people in place to get us where the safety's off and we have a live weapon in our hands." So it's supposed to be a grenade, which does not remind me of Philadelphia. It is a desire to undo the Constitution. Now, there are groups on the left that want this sort of thing as well. They're not as big and as well financed, but some of them want to do it in order to overturn certain decisions such as the Citizens United campaign finance decision, which of course I didn't like... I think it's alarming to people to do this and if you don't believe that people find it alarming, I called up this Dean of a law school and told him that we were writing a book about this, and Joe Kierney here said "an Article V convention? Yikes." I mean this guy's a scholar and that was his reaction. Here's why it's so difficult to sort of just absorb this: there are simply no rules about how this thing should be set up. What's so deeply upsetting to me about the practices that have been held is the way they do the voting isn't based on all the delegates or the size of the delegations: it's one vote per state, that's it. So we go back to this idea of one vote per

state. One of the proposals that passed easily at these things was the idea that if just a majority of state legislators want to overturn an act of Congress. That's enough, and it's gone. Now you know that a majority of state legislators isn't close to representing the views of the majority of the people in this country. We already have an Electoral College that many of us believe distorts the outcomes of presidential elections, and yet what they want to do is essentially gut the power of our national legislature in a way that reminds me of John C Calhoun's nullification doctrine: that you can simply nullify anything that happens at the federal level. Now there's no problem right now with enough attitude about Government, Federal Government being bad -- I think there's quite a bit of that right now -- but the question is: do you want to basically gut the whole mechanism? ...

50:10-51:37

...This thing wouldn't be getting any traction at all if there wasn't a feeling on really all the different sides that things are off. I mean the frustration for liberals especially and Democrats and others that at least twice Republicans were elected President because of the Electoral College... is a sense of having been robbed of a of change that they felt that they were entitled to. On the other hand, the conservative view of ... the idea that the federal government is too big and that it's not accountable has become so ingrained with the American people... has reached the point where people think that they actually could put together a group of state legislators who would do a better job than the Founders. They can just do it and send it out. ... There is the safety valve of 38 states that have to ratify, but keep in mind there's no convention unless 34 have already said we want it, so all they need is four more. ... There is a momentum element that can occur, but of course the 38 States would have to ratify it....

55:00-55:52

... I also have friends on the left who view the possibility of the Article V convention more positively than I do. I would simply submit that to the extent that you think that because of small-d democratic concerns with the Constitution itself: just know that that convention is not going to be small-d democratic. You will not see representation on the basis of population at that convention. You will see effectively the replication of the same small-d democratic problems with the Constitution itself preserved in miniature at that convention. You can expect that the results, however oligarchic you think the Constitution is at present, will be even more so once the Constitution is amended in that way...

1:15:22-1:16:06

... What the states are doing under the leadership of this National group called ALEC, which is a conservative group that drafts legislation that all the states use, is they pass a

thing saying ‘this is how we're going to pick the delegates for the Constitutional Convention, this is how it's going to work’ and the people of the state don't get to vote on… it's not going to be representative: it's just going to be the people that they have brought to these training sessions, two or three of the most conservative members of a gerrymandered legislature. And yes, the majority of the legislatures in our country have some problems like this, arguably. So, you'd have a constitution redrafted by a group of gerrymandered legislatures…

Excerpt from Congressional Research Service Report "*The Article V Convention to Propose Constitutional Amendments: Current Developments*" (2017). The full document can be found at: https://www.congress.gov/crs-product/R44435?q=%7B%22search%22%3A%22R44435%22%7D&s=1&r=1

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Current Developments in the Policy and Advocacy Community

Selected Article V Convention Advocate Activity

In March 2017, the Arizona legislature passed a measure inviting states to a convention that would plan and recommend rules and procedures for an Article V Convention to consider a balanced federal budget amendment. It would also recommend to Congress the criteria for determining the date and location of such a convention once the constitutional threshold of state applications has been reached. In response, official delegations from 19 states and unofficial groups representing three other state legislatures met in Phoenix, Arizona, between September 12 and September 14, 2017, to consider planning issues for an Article V Convention and set non-binding rules for a convention.

In September 2016, the Convention of States held a "simulated" convention in Williamsburg, Virginia. Meeting from September 21-23, unofficial delegates representing all 50 states adopted amendments in the following policy areas: require a balanced federal budget under most conditions; provide term limits for Congress; limit "federal overreach by returning the Commerce Clause to its original meaning"; provide a congressional veto of federal regulations; require a super-majority to increase or establish new federal taxes; repeal the 16th (income tax) amendment; empower the states by a three-fifths vote to "abrogate any federal law, regulation, or executive order."

In December 2015, the State Legislators Article V Caucus newsletter reported that the BBA Task Force joined with the National Federation of Independent Business and the Tea Party Express to conduct state legislator education programs in several states that may consider BBA Task Force applications in their future legislative sessions. The same issue reported that U.S. Term Limits, a policy advocacy group established in 1992 to promote term limits for all levels of elected officials, had initiated a campaign for an Article V Convention to consider an amendment to limit U.S. Representatives to six two-year terms, and U.S. Senators to two six-year terms, for a total of 12 years of service.

Between July 23 and 25, 2015, the Balanced Budget Amendment Task Force sponsored a meeting to discuss convention procedures and coordinate pro-convention group activities. This meeting was held concurrently with that of the American Legislative Exchange Council

(ALEC) which provides a forum for state legislators and private sector leaders to discuss and exchange information on state policy issues. ALEC focuses on issues such as "free markets, limited government and constitutional division of powers between the federal and state governments," and has a prepared handbook for state legislators on the Article V Convention process. According to one source, ALEC finalized model rules for convention procedures at a December meeting.

Also in July 2015, the Convention of States founded a "Convention of States Caucus" for pro-convention state legislators. The caucus was expected to propose draft rules for an Article V Convention at the ALEC San Diego meeting.110 The issue of rules to govern a convention—who should make them and what they should include—has been controversial: "convention procedures" bills introduced in the late 20th century asserted Congress's responsibility for setting rules and regulations for a convention, but some advocates of the process claim Congress has no role in the process beyond calling the convention.

In January 2015, the CFA's Compact for a Balanced Budget Commission was established to provide an organizational framework and institutional presence for the compact and its member states.

Selected Article V Convention Opponent Activity

At the same time, opposition to the Article V Convention continues to be voiced by public policy advocacy organizations representing a broad segment of the political spectrum.

In 2011, the Heritage Foundation cautioned against a convention:

> "[A]n Article V convention is not the answer to our problems. The lack of precedent, extensive unknowns, and considerable risks of an Article V amendments convention should bring sober pause to advocates of legitimate constitutional reform contemplating this avenue. We are not prepared to encourage state governments at this time to apply to Congress to call an amendments convention.

More recently, however, a 2016 Heritage study appeared to be noncommittal on the subject, balancing concerns about a "runaway convention" with "the need to maintain an overriding focus on holding Congress and the President, and, by extension, federal agencies accountable for the decisions they make today."

Eagle Forum, which describes itself as a "pro-family" conservative public interest organization, founded and headed for many years by the late Phyllis Schlafly, has consistently opposed an Article V Convention since at least 1986, on the grounds that it could "jeopardize our most basic liberties enshrined in the Constitution and the Bill of

Rights." In July 2017, "PS [Phyllis Schlafly] Eagles," a break-away group, also voiced opposition, asserting that anonymous financial supporters of a convention were pursuing a "hidden agenda of globalism and open borders, views that they conceal with broad platitudes like 'limit the power and jurisdiction of the federal government.'"

In January 2017, the Center on Budget Policy and Priorities cautioned against both a balanced budget amendment and an Article V Convention, asserting that "state lawmakers considering such resolutions (applying for a convention) should be skeptical of claims being made by groups promoting the resolutions … that states could control the actions or outcomes of a constitutional convention. A convention would likely be extremely contentious and highly politicized, and its results impossible to predict." The center defines itself as "a nonpartisan research and policy institute" pursuing "federal and state policies designed both to reduce poverty and inequality and to restore fiscal responsibility in equitable and effective ways."

The John Birch Society, which describes itself as seeking "to bring about less government, more responsibility, and—with God's help—a better world[,]" has, by its own reckoning, opposed the Article V Convention for 30 years and expressed opposition to the Compact for America since that proposal was announced. The society claimed most recently that pro-convention groups such as Wolf PAC are funded indirectly by philanthropist and political activist George Soros.

On April 4, 2017, Common Cause, which describes itself as "a nonpartisan grassroots organization dedicated to … open, honest, and accountable government that serves the public interest, promote[s] equal rights, opportunity, and representation for all, … an independent voice for change and a watchdog against corruption and abuse of power[,]" issued a statement by 230 public interest organizations declaring opposition to an Article V Convention and urging states to rescind their applications for a convention. It warned of the dangers of a runaway convention and noted, "There are no rules and guidelines in the U.S. Constitution on how a convention would work, which creates an opportunity for a runaway convention that could rewrite any constitutional right or protection currently available to American citizens." Earlier, in December 2015, Common Cause issued a position paper opposing an Article V Convention. The report observed that convention advocates cover a broad range of the political spectrum, but declared that "Common Cause strongly opposes an Article V convention, even as we strongly support a constitutional amendment to reverse *Citizens United*." Specifically the report asserted that no existing judicial, legislative, or executive body would have authority over a convention; that lack of pre-existing procedures could lead to political manipulation of a convention; and that a convention could not be limited to a single issue, and that it might propose

“additional changes that could limit or eliminate fundamental rights or upend our entire system of government.”

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