

A Nation United Against Corruption

— THE — FREE & FAIR ELECTIONS — RESOLUTION —

This is not a left or right issue, it's an **American issue**.

Let's take responsibility, as citizens and elected officials, to fix our broken campaign finance system in America and renew the people's trust in government.

This resolution uses a **proven strategy** to bring about much needed constitutional change when Congress is unwilling or unable to take action, by calling for a limited convention under Article V of the U.S. Constitution to address the topic of campaign finance reform.

We must ensure that elections in America are transparent, **free from** the undue influence of special interests, and **fair enough** that any citizen can be elected.

The Problem is we are in danger of losing a country dependent upon the people alone. This fundamental American principle has been distorted by a dependency on powerful special interests, often with little to no transparency, and eroded the people's trust in government.

The Solution is a U.S. Constitutional Amendment. Why an Amendment?

- **An Amendment is the only solution that goes above Congress and the Supreme Court.**
- **An Amendment is a lasting solution and can protect state and local laws.**

There are only **two** ways to propose amendments to the Constitution:

- **2/3 Congress can propose...**
- **2/3 of the States can apply for a convention to propose...**

Ratification: Any amendment proposed by Congress or a convention **must be approved by 75% of the States** afterwards. This extremely high bar **ensures** that only the most reasonable amendments, those with widespread appeal across the political spectrum, will become part of the Constitution.

Facts

- The majority of U.S Constitutional Amendments have included a convention campaign from the States
- 85% of Americans believe our campaign finance system needs fundamental changes

Taking Responsibility for Fixing our Broken Government

“Money’s dominance over politics is a top problem our nation faces. It prevents us from tackling anything else. We have reached a stunning point: Either we are a country that makes decisions based on the common good, or one where the size of your wallet determines the worth of your ideas. Either we uphold the values of a representative democracy or we allow greed and wealth to destroy the great American experiment in self-governance.”

— former Senator Alan Simpson (R-WY)

“Millionaires, billionaires can put in unlimited amounts of money directly into the campaign. In a way, it gives legal bribery a chance to prevail, because almost all the candidates, whether they’re honest or not, and whether they’re Democratic or Republican, depend on these massive infusions of money from very rich people in order to have money to campaign.”

— former President Jimmy Carter

“Our nation is facing a crisis of liberty if we do not control campaign expenditures. We must prove that elective office is not for sale. We must convince the public that elected officials are what James Madison intended us to be, agents of the sovereign people, not the hired hands of rich givers...”

— former Senator Barry Goldwater (R-AZ)

“The need for real campaign finance reform is not a progressive issue. It is not a conservative issue. It is an American issue. It is an issue that should concern all Americans, regardless of their political point of view, who wish to preserve the essence of the longest standing democracy in the world, a government that represents all of the people and not a handful of powerful and wealthy special interests.”

— Senator Bernie Sanders (D-VT)

“Conservatives want to see more transparency in politics. We deserve an America where our views are not dismissed simply because we might disagree with a high-priced lobbyist who happened to give more money to a politician.”

— John Pudner, Executive Director, Take Back Our Republic

Article V Convention Quotes

“We are convinced that Article V was designed to permit limited conventions and that a variety of legal and political means are available to help to enforce such limits.”

- **Office of Legal Policy, U.S. Department of Justice**, *Limited Constitutional Conventions under Article V of the United States Constitution*

“Our two-year study of the subject has led us to conclude that a national constitutional convention can be channeled so as not to be a [radical force] but rather an orderly mechanism of effecting constitutional change when circumstances require its use. The charge of radicalism does a disservice to the ability of the states and people to act responsibly when dealing with the Constitution.”

- **American Bar Association**, *Amendment of the Constitution by the Convention Method under Article V*

“The Article V Convention for proposing amendments was the subject of considerable debate and forethought at the Constitutional Convention. The founders clearly intended it as a balance to proposal of amendments by Congress, providing the people, through their state legislatures, with an alternative means to consider amendments, particularly if Congress was unable or unwilling to act on its own.”

- **Congressional Research Service**, *The Article V Convention for Proposing Constitutional Amendments: Historical Perspectives for Congress*

“...The Convention Clause provides an important means to adopt or force Congress to adopt amendments that are perceived to be in the national interest by significant percentages of the American population, but that are detrimental to the interests of members of Congress.”

- **Harvard Journal of Law & Public Policy**, *The Other Way to Amend the Constitution: The Article V Constitutional Convention Amendment Process*

“The framers did not provide an unchecked grant of power to a convention: every amendment proposed would be subject to the same conditions faced by those proposed by Congress—“... the notion of a ‘runaway’ convention, succeeding in amending the Constitution in a manner opposed by the American people, is not merely remote, it is impossible.”

- **U.S. Senate Judiciary Committee**, Report to the 98th Congress

“I think the convention can be limited. The fact is that the majority of the scholars in America share my view.”

- **Former Attorney General of the United States, Hon. Griffin Bell**

Article V Convention Quotes (Continued)

“The majority view, however, is that Congress may limit the convention's deliberations. The arguments for this proposition, at least on our consideration of them, appear to be persuasive.”

- **U.S. Department of Justice**, Constitutional Law—Constitution—Article V—The Amending Process—The Convention Method

“Much of the fear surrounding a convention is unfounded. The Convention Clause's text and history indicate that it grants power to the States to limit the scope of any such convention. In addition, the States have the ability to reject any amendments proposed by a convention through the ratification process.”

- **Harvard Journal of Law & Public Policy**, *The Other Way to Amend the Constitution: The Article V Constitutional Convention Amendment Process*

“While I make no recommendation of amendments, I fully recognize the rightful authority of the people over the whole subject, to be exercised in either of the modes prescribed in the instrument itself; and I should, under existing circumstances, favor rather than oppose a fair opportunity being afforded the people to act upon it. I will venture to add that to me the convention mode seems preferable, in that it allows amendments to originate with the people themselves.”

- **President Abraham Lincoln**, *First Inaugural Address*

“We will state our conclusions in advance. First, we think that if a convention for proposing amendments were called under Article V, the constitutionally mandated procedures would operate to deprive the convention of power to make constitutionally viable proposals except with respect to subjects within a predetermined field. [...] Second, we think that Article V gives Congress no power to provide for the ratification of any constitutional proposal that is not developed and proposed in accordance with the procedures contemplated by Article V. Just as Congress would have no power to submit one of its own constitutional proposals for ratification unless two-thirds of the Members of both Houses were in accord that the proposal was necessary and desirable, Congress would have no power to provide for the ratification of any proposal propounded by a constitutional convention unless that proposal were responsive to the application that justified the gathering of the convention in the first instance.”

- **U.S. Department of Justice**, *Constitutional Convention—Limitation of Power to Propose Amendments to the Constitution*

Understanding Article V of the U.S. Constitution

The complete text of 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. ”

“ *A convention for proposing amendments* ”

- A convention called under Article V of the U.S. Constitution is only given the power to **propose** amendments

“ *Shall be valid [...] when ratified* ”

- Any proposal from a convention is **not** valid until ratified by $\frac{3}{4}$ of the states (38 states currently)
- Only 13 states are required to block unreasonable proposals, ensuring that only those proposals with widespread support across the political spectrum will become part of the Constitution

**TREATISE ON
CONSTITUTIONAL LAW**
SUBSTANCE AND PROCEDURE

Fifth Edition

by

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VOLUME 2

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From the Rotunda Constitutional Law Textbook:

"The fact that there are no certain answers to these questions just as there are no absolute answers about any event that will take place in the future, hardly means that a constitutional convention will be a hit or miss proposition. However one resolves these questions, it is important to bear in mind that a Constitutional Convention cannot, by itself, change the present Constitution, for Article V provides that no proposal (either from Congress or from the Convention) can become part of the Constitution unless three quarters of the states ratify it. Thus, Article V, when it created the amendment process, also created a built-in democratic check."



Constitutional Conventions¹

Following the January 2016 meeting, the League of Women Voters of the U.S. board announced a new position calling for safeguards to govern the constitutional convention process under Article V of the U.S. Constitution. State Leagues can use this new position, as well as the new position outlining considerations for evaluating constitutional amendment proposals, to address the ongoing debates in many legislatures regarding constitutional conventions, in particular as they related to the Balanced Budget amendment.

THE LEAGUE'S POSITION

The League of Women Voters is concerned that there are many unresolved questions about the powers and processes of an Article V Constitutional Convention. The League believes that such a convention should be called only if the following conditions are in place:

- The Constitutional Convention must be transparent and not conducted in secret. The public has a right to know what is being debated and voted on.
- Representation at the Constitutional Convention must be based on population rather than one state, one vote, and delegates should be elected rather than appointed. The delegates represent citizens, should be elected by them, and must be distributed by U.S. population.
- Voting at the Constitutional Convention must be by delegate, not by state. Delegates from one state can have varying views and should be able to express them by individual votes.
- **The Constitutional Convention must be limited to a specific topic. It is important to guard against a "runaway convention" which considers multiple issues or topics that were not initiated by the states.**
- Only state resolutions on a single topic count when determining if a Constitutional Convention should be called. Counting state requests by topic ensures that there is sufficient interest in a particular subject to call a Convention and enhances citizen interest and participation in the process.
- The validity of state calls for an Article V Constitutional Convention must be determined by the most recent action of the state. If a state has enacted a rescission of its call, that rescission must be respected by Congress.

Statement of Position on Constitutional Conventions under Article V of the U.S. Constitution as Announced by National Board, January 2016.

¹ From LWVUS, *Impact on Issues: A Guide to Public Policy Positions*, page 32.

To HCR-5 Committee member:

My name is Mike DiMaio, a lifelong Delawarean, I consider myself an artisan, I am a journeyman carpenter with skills in electrical, plumbing, mechanics, and welding. I am currently employed as an engineering draftsman in a retail fixture manufacturing plant in Philadelphia.

About 4 years ago I was here in a committee meeting just like this when senator Bryan Townsends SCR6, a very similar resolution to HCR5 was voted out of committee but was never put up for a vote in the House. In those 4 years billions have been invested into our election process and look where we are now. The Human Development Index can be summed up as the American Dream index, we rank 13th among countries, if you factor in income inequality, we rank 25th on corruption we rank 22nd LEAST corrupt country, 21 countries are better than us, our European counterparts live on average 3 years longer than us, your kids are not expected to do better than you for the first time in our history, Jimmy Carter has conceded that we are now an Oligarchy. How did we get here?

Our laws got us here, the lawmakers running for office with the most money behind them win 95% of the time, THEY have written those laws and it is no coincidence that income inequality is greater now than in the 1920s before the crash.

So what is your tipping point, at what point do you recognize the more money pumped into "campaign donations" from who knows who or from whatever country do you realize that what we have now is destroying this country... Angela Merkel is now considered the leader of the free world.

HCR5 is not calling to re-write the Constitution, that is impossible, it is a calling to propose a discussion to end this madness, joining the other 5 states that have passed a similar resolution and hopefully write the 28th Amendment to the Constitution and have real election reform ending the auctioning of America.

Mike DiMaio

A handwritten signature in black ink that reads "Michael A. DiMaio". The signature is written in a cursive, flowing style.

4606 Ethel Circle

Stanton, DE 19804

Mike Keenan in Support of HCR 5

Good afternoon, Representative Longhurst and members of the committee. I want to thank you for calling this important hearing to discuss HCR 5. My name is Mike Keenan and I'm from Newark, Delaware. I was born and raised here. Both of my parents were born and raised in Delaware. I've worked for Christiana Care as an IT Analyst for over 20 years and I've always been proud of our state. It might sound silly to some but I'm proud that we were the first. I'm proud that we've been one of the fairest. That's why I chose to work, live and play hockey in this community my entire life. I love Delaware. But I don't love politics.

I got involved at an early age when I volunteered to pass out fliers for Representative Roger Roy at age 10. I felt like my voice could matter back then. I was taught that everyone in our country is supposed to be EQUAL. That's the American Dream I was raised to believe in and the values I learned growing up here in Delaware. But in my teen years I began to feel that change. I felt like our Representative Democracy was slipping away from us.

Now I'm a realist and I'm not a fool. (Not a complete fool anyway) And I know there is no denying that special interest has always conveyed power and influence to a degree. But it didn't used to be like this. Today, as a result of several Supreme Court decisions, it's legal for those with enough money to purchase the reins of government. To buy them! And they can do it in plain sight.

This is not OK. This is not fair. And it's not right! It's not what my father and all our forefathers fought for and I have to believe that it's not what any of the members of this committee think is right either. But the Supreme Court has made it so. This is why we need an amendment to our Constitution because only an amendment can supersede our Supreme Court and restore the states' rights to establish their OWN laws and solve this problem going forward.

So how do we do this? Well we've done it before, take the Bill of Rights. But sometimes the states have to lead the way just like they had to with the Bill of Rights. Or like 4 of our last 10 amendments where the states pushed for an Article V convention and Congress had to listen. HCR5 is a chance for Delaware to do the right thing by using the wisdom of historical precedent.

And we aren't alone. Five other states have already called for this amendment and Congress has already started to listen. And more states are working on doing the same. So now it's time for Delaware to do OUR part to make this a more perfect union. Please vote in favor of HCR5. And thanks for giving me the chance to speak.

Nathan Schreppler in Support of HCR 5

Good afternoon, Representative Longhurst and members of the committee. My name is Nathan Schreppler and I was born and raised in this great state. I live in Middletown with my wife, our 3-year-old son, 6-year-old daughter, and mother-in-law. I currently manage dispatching and system monitoring applications as an engineer at a local electric utility.

I grew up exposed to politics and learned how important it is to our community. This led to me serving on the Board of Electrical Examiners and is why I volunteer my free time to Delaware Get Money Out, working to pass HCR 5. I've volunteered for several years now and I'm currently the Volunteer Legislative Director. I do this because we've all watched Congress become unresponsive to regular citizens and they've stopped fighting for issues that matter to us.

As an engineer, I look at this system and see that fighting for individual issues is only dealing with symptoms of a deeper problem. You name the issue... it is almost certainly being affected by the corrupting influence of money in politics, no matter what side of the political spectrum you happen to be on, and Americans all around the country are dealing with the consequences.

About a year and a half ago my mother-in-law was diagnosed with early onset dementia at the age of 59. Without getting into the details, this disease can progress quickly and will inevitably require assisted living to the tune of \$4000 to \$8000 a month. That will be interesting. We are working on it. Honestly, we are fairly well off and it's been stressful, I can only imagine someone dealing with this in a worse financial situation. I don't expect a bailout, I don't even know if my situation should be helped through government action. What I do know is that I want Congress men and women that honestly look at it. That don't weigh special interest donations over average Americans. I want a government that I believe in and then I'll deal with the rest.

The bad news is there are many other issues being neglected by our Congress, issues much more important than my own. That's why must act with urgency to fix our broken campaign finance system, so it's not left to our children to do so.

The good news is our State Representatives still represent us and it's not too late. Passing resolutions like HCR 5 is a proven and effective strategy to force Congress to act when they are unresponsive to the people. That time is now. I ask you to please vote yes and do everything you can to ensure HCR 5 passes this year. Thank you for your time and for your service.

Travis Bicher in Support of HCR 5

Good afternoon, Representative Longhurst and members of the committee. My name is Travis Bicher of Claymont. I moved here a few years ago when my significant other started grad school at the University of Delaware. Delaware has been a great place for us to live. We love the roads, libraries, and believe it or not, even the DMV.

Family and school are the big reasons why I am here today. My brother worked hard for five years, overcoming disability, to get a college degree. He now has a low-paying job and is living at home with my parents back in PA, and he's drowning in student loan debt. This is not a situation exclusive to him. I was lucky and was able to get my own debt down to a mere \$10,000. However, my significant other owes six times that. Unfortunately, this is the reality for many college students and graduates in today's America.

The latest statistics for 2019 show how serious the student loan debt crisis has become. There are more than 44 million borrowers who collectively owe \$1.5 trillion in student loan debt in the U.S. alone. This is higher than both credit cards and auto loans! These are scary statistics and right now there are no talks or plans to address this national crisis. So we must ask ourselves, why?

We don't have to look far. Navient, one of the biggest student loan servicers and debt collectors based in Wilmington, gave over \$400,000 in campaign contributions last year, to both Democrats and Republicans, including the chairs of the committees responsible for oversight of the company, and they also spent over \$2 million on lobbying.

It seems very clear to me that our broken campaign finance system is having devastating effects on so many important issues. Issues that we cannot afford to wait on to get fixed, especially when it's clear Congress is not in our corner.

Right now we can't risk setting aside any tool available to us in the fight to end the corrupting influence of money in our political system. I personally have traveled down every avenue available to me in Delaware to move this issue forward: educating the public, working to get a resolution passed by the New Castle County Council, petitioning our Congressional delegation, and of course working to have the General Assembly pass an Article V convention application on this subject, which would be by far the strongest and most effective method of getting this issue to move forward in Congress, as history has shown.

Amendments take a lot of work, and this is how you do it, engagement at all levels until Congress is forced to take action. At the end of the day, what we need is the 28th Amendment. The convention, the application for a convention, is a tool to help get us there. I ask that you please support and vote yes on HCR 5. Thank you.

Chris Asay in Support of HCR 5

Good afternoon, Representative Longhurst and members of the committee. My name is Chris Asay and I live in Dover. I've lived here for 25 years and I've raised my family here as well. I am a Licensed Massage Therapist, Business owner, Teacher, and volunteer on my city bicycle committee. Delaware is a great place to live and raise a family.

I am proud to be here today to fight for the future, for my kids and for all Americans. Major problems in our country are not being addressed; infrastructure, climate change, the national budget, health care, and this list goes on. It's clear to me that Congress is not responsive to the needs of everyday people.

And I'm not alone.

A recent Ipsos poll found that 83% of Democrats, 78% of Republicans, and 81% of Independents agreed that we need "sweeping laws" to reduce the influence of money in politics. This is not a left or right issue, it is an American issue.

HCR 5 would apply for a convention to propose an amendment. It requires that 34 states, a supermajority, come together, united, to fight for a solution they all agree with. It could only be a solution that is extremely popular with the American people. It could only be something reasonable and potentially effective. I say all this because only an amendment like that could possibly be ratified by 38 states. This means that it only takes 13 states to stop something too extreme or unpopular. This is a very high threshold. It is the very same threshold for Congress, which in its history has introduced over 11,000 amendments, and only 27 have made the grade.

This legislation is a chance to unite as a State, and say loudly and clearly, that the people and legislators of Delaware not only recognize the issues that arise from our broken campaign finance system, but we are prepared to fight for a reasonable solution. Thank you for your time and the opportunity to speak on this important resolution. Please vote yes on HCR 5.

DEAR HOUSE ADMINISTRATION COMMITTEE,

APRIL 10, 2019

Thank you for the opportunity to testify today. On behalf of Common Cause Delaware, I am writing with respect to HCR 5. The Resolution is aimed at reversing the U.S. Supreme Court *Citizens United* decision. Common Cause fully supports the reversal of *Citizens United* and other decisions which have facilitated the corrosive influence of money and politics. Such an amendment would be welcome, along with reform statutes that would include public financing of election campaigns, strong disclosure of political spending, voting rights expansion, election administration modernization, impartial redistricting reform, and other pro-democracy solutions.

However, while supporting the *goal* of the Resolution, Common Cause Delaware has profound concern – and therefore opposes – the Resolution insofar as it calls for an Article V Constitutional Convention as the *means* to achieve the goal.

In 2016, Common Cause Delaware successfully worked with members of the Delaware legislature to rescind the state's previous calls for an Article V convention ([HCR 60](#)). As I outline below, we believe it would be a mistake for Delaware to adopt a new call for convention, regardless of merits of the issue the convention application is focused on.

Simply put, an Article V convention is a dangerous threat to all Americans' constitutional rights and civil liberties. Because there is no language in the U.S. Constitution to limit a convention, it is widely understood that a convention, once called, will be able to consider any amendments to the Constitution that the delegates want to consider.

There are also no guidelines or rules to govern a convention. Due to the lack of provisions in the Constitution and lack of historical precedent, it is unknown how delegates to a convention would be picked, what rules would be in place, what would happen in the case of legal disputes, what issues would be raised, how the American people would be represented, and how to limit the influence of special interests in a convention. Because there is no way to limit a convention's focus, any constitutional issue could be brought up, including the freedom of speech, civil rights and liberties, marriage equality, voting rights, and privacy rights, among others.

According to one of the nation's most esteemed constitutional law scholars, Professor Laurence Tribe of Harvard Law School, a constitutional convention would put "the whole Constitution up for grabs."¹

Another of our nation's foremost constitutional law scholars, Dean Erwin Chemerinsky, recently wrote that "no one knows how the convention would operate. Would it be limited to considering specific proposals for change offered by the states or could it propose a whole new Constitution? After all, the Constitutional Convention in 1787 began as an effort to amend the Articles of Confederation, and the choice was made to draft an entirely new document."²

Several Supreme Court justices have warned about the potential outcomes of constitutional conventions. Former Chief Justice Warren Burger wrote that a "Constitutional Convention today would be a free-for-all for special interest groups."³

Former Justice Arthur Goldberg wrote that "[t]here is no enforceable mechanism to prevent a convention from reporting out wholesale changes to our Constitution and Bill of Rights."⁴ The late Justice Antonin Scalia said that he "certainly would not want a constitutional convention. Whoa! Who knows what would come out of it?"⁵

Prof. Tribe enumerated a number of questions about a constitutional convention that he says are "*beyond resolution by any generally agreed upon political or legal method.*"⁶

Specifically, Prof. Tribe explained the following questions have no agreed upon answer:

1. May a state application insist that Congress limit the convention's mandate to a single topic, or a single amendment?
 - If Congress can call a convention independent of state applications (as Professor Sandy Levinson argues it may), then how could state applications possibly constrain a convention's mandate?
 - If applications are constraining, then how are applications proposing related (but different) topics to be combined or separated?

¹ Michael Leachman & David A. Super, "States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment and Other Issues," Center for Budget and Policy Priorities, July 6, 2014, *available at* <http://www.cbpp.org/sites/default/files/atoms/files/7-16-14sfp.pdf>.

² Erwin Chemerinsky, "Is It a Good Time to Overhaul Constitution?," Orange County Register, Jan. 21, 2016, <http://www.ocregister.com/articles/constitutional-700670-convention-constitution.html>.

³ Robert Greenstein, "A Constitutional Convention Would be the Single Most Dangerous Way to 'Fix' American Government," Wash. Post, Oct. 21, 2014, <https://www.washingtonpost.com/posteverything/wp/2014/10/21/a-constitutional-convention-could-be-the-single-most-dangerous-way-to-fix-american-government/>.

⁴ *Id.*

⁵ *Id.*

⁶ Laurence Tribe, "Conference on the Constitutional Convention: Legal Panel," Harvard Law School, Sept. 24, 2011, *available at* <https://www.youtube.com/watch?v=ZbJ7NOF3HRU&t=52m56s> (uploaded Oct. 6, 2011).



- Are they added up or not added up?
 - When do you hit the magic number 2/3 of the states submitting applications?
2. May the Convention propose amendments other than those it was called to consider?
 3. May Congress prescribe rules for the convention or limit its powers in any way?
 4. May the Convention set its own rules, independent of Article V, for how amendments that it proposes may be ratified – which is what the Philadelphia Convention did? The Philadelphia Convention was called under a scheme that said ratification required unanimity among the states – but they departed from that. What if ratification is decided by a national referendum?
 5. Are the states to be equally represented, or does the one-person, one-vote rule apply? What about the District of Columbia? Do the citizens of the District have a role in a convention?
 6. Could delegates be bound in advance by legislation or referendum to propose particular amendments or vote in a particular way? If delegates are chosen by lottery, it's hard to imagine how they could be bound in advance.
 7. Could the convention propose amendments by a simple majority, or a supermajority of 2/3?
 8. If each state gets one convention vote, must delegates representing a majority of the population nonetheless vote for an amendment in order for it to get proposed?
 9. Conversely, if the convention uses the one-person, one-vote formula, must the delegations of 26 states – perhaps including the District of Columbia – vote in favor of a proposed amendment?
 10. What role, if any, would the Supreme Court play in resolving conflicts among Congress, state legislatures, governors, referenda, and the convention itself? Can we rely on the Court to hold things in check? The Court has assumed that questions about the ratification process are non-justiciable political questions that it can't get involved in.

It risks too much to discover the answers to the above questions after-the-fact.

It is worth noting that in 2013 a majority of members of the Delaware General Assembly wrote a letter to Senator Carper in support of Congress passing a constitutional amendment to overturn Citizens United, but the legislature has never passed a Resolution explicitly calling for this, as other states have done. HCR 5 could easily be amended to remove the dangerous call for an Article V convention, and

instead include language calling on Congress to pass an amendment to send to the states for ratification. This would solve concerns Common Cause Delaware has with the Resolution.

Common Cause is one of over 240 organizations that are opposed to calling an Article V convention.⁷ There is far too much at stake to risking putting the entire Constitution up for a wholesale re-write as part of a constitutional convention – including all of the civil rights, protections, and liberties that we enjoy today. For these reasons, I urge you to vote against HCR 5.

Sincerely,

Jennifer Hill

Program Director

Common Cause Delaware

⁷ “Constitutional Rights and Public Interest Groups Oppose Calls for an Article V Constitutional Convention,” April 14, 2017, *available at* <http://www.commoncause.org/issues/more-democracy-reforms/constitutional-convention/constitutional-rights-and.pdf>

Constitutional Rights and Public Interest Groups Oppose Calls for an Article V Constitutional Convention

This statement was released in April 2017 and the list of signers was updated in March 2019.

Calling a new constitutional convention under Article V of the U.S. Constitution is a threat to every American's constitutional rights and civil liberties.

Article V convention proponents and wealthy special interest groups are dangerously close to forcing the calling of a constitutional convention to enact a federal balanced budget amendment (BBA). This would be the first constitutional convention since the original convention in 1787 — all constitutional amendments since then have been passed first by Congress and then approved by three-fourths of the state legislatures. 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.

Under Article V of the U.S. Constitution, a convention can be called when two-thirds of the states (34) petition for a convention to enact amendments to the constitution. States can also rescind their calls by voting to rescind in the state legislature. Just a few states short of reaching the constitutionally-required 34 states to call a convention, Article V and BBA advocates have recently increased their efforts to call a new convention.

An Article V convention is a dangerous threat to the U.S. Constitution, our democracy, and our civil rights and liberties. There is no language in the U.S. Constitution to limit a convention to one issue and there is reason to fear that a convention once called will be able to consider any amendments to the constitution that the delegates want to consider. There are also no guidelines or rules to govern a convention. Due to the lack of provisions in the Constitution and lack of historical precedent, it is unknown how delegates to a convention would be picked, what rules would be in place, what would happen in the case of legal disputes, what issues would be raised, how the American people would be represented, and how to limit the influence of special interests in a convention.

Because there is no way to limit a convention's focus, any constitutional issue could be brought up for revision by a convention. This includes civil rights and civil liberties, including freedom of speech, freedom of religion, privacy rights, the guarantee of equal protection under law, the right to vote, immigration issues, and the right to counsel and a jury trial, among others. Basic separation of executive, legislative, and judicial powers would be subject to revision as well. A convention might not preserve the role of the courts in protecting our constitutional rights. Even the supremacy of federal law and the Constitution over state laws could be called into doubt.

A 2016 [USA Today editorial](#) correctly stated that calling for a constitutional convention is “an invitation to constitutional mayhem” and “could further poison our politics and hobble American

leaders at moments of crisis.” Notable legal scholars across the political spectrum agree. One of the nation’s most esteemed constitutional law scholars, Professor Laurence Tribe of Harvard Law School, has said a constitutional convention would put “the whole Constitution up for grabs.”

Georgetown University Law professor David Super wrote “a constitutional convention would circumvent one of the proudest democratic advances of the last century in America: one-person, one-vote. Without a precedent, no one really knows how a convention would unfold, but proponents predict that each state would have an equal vote in whatever they got up to.”

Former Supreme Court Chief Justice Warren Burger shared similar concerns, writing, “[T]here is no way to effectively limit or muzzle the actions of a constitutional convention. The convention could make its own rules and set its own agenda. Congress might try to limit the convention to one amendment or one issue, but there is no way to assure that the convention would obey.”

The late Supreme Court Justice Antonin Scalia also warned of the dangers of a constitutional convention. “I certainly would not want a constitutional convention. Whoa! Who knows what would come out of it?,” Scalia said in 2014.

The undersigned organizations strongly urge state legislatures to oppose efforts to pass a resolution to call for a constitutional convention. We also strongly urge state legislatures to rescind any application for an Article V constitutional convention in order to protect all Americans’ constitutional rights and privileges from being put at risk and up for grabs.

National organizations:

African American Health Alliance
African American Ministers In Action
AFSCME Retirees
Alliance for Justice
American Federation of Labor and Congress of Industrial Organizations (AFL–CIO)
American Federation of State, County and Municipal Employees (AFSCME)
American-Arab Anti-Discrimination Committee
Americans for Democratic Action (ADA)
Asian and Pacific Islander American Vote
Bend the Arc Jewish Action
Brennan Center for Justice
Campaign Legal Center
Center for American Progress
Center for Community Change
Center for Law and Social Policy (CLASP)

Center for Media and Democracy
Center for Medicare Advocacy
Center for Popular Democracy
Center on Budget and Policy Priorities
Children's Defense Fund
Citizens for Responsibility and Ethics in Washington (CREW)
Coalition on Human Needs
Common Cause
Communications Workers of America (CWA)
Community Advocates Public Policy Institute
Daily Kos
Democracy 21
Democracy For America
Dream Defenders
Earthjustice
Eclectablog

Economic Policy Institute
EMILY's List
Every Voice
Fair Elections Center
Faith in Public Life
Family Values at Work
Food Research & Action Center (FRAC)
Franciscan Action Network
Greenpeace USA
International Association of Fire Fighters
Jobs With Justice
Leadership Conference on Civil and Human Rights
League of Women Voters of the United States
Main Street Alliance
Mi Familia Vota
NAACP
National Asian Pacific American Families
Against Substance Abuse
National Association of Social Workers
National Council of Asian Pacific Americans
National Council of Jewish Women
National Council of La Raza Action Fund
National Disability Institute
National Disability Rights Network
National Education Association (NEA)

State and local organizations:

Alabama

Fair Housing Center of Northern Alabama

Alaska

Alaska AFL-CIO

Arkansas

OMNI Center for Peace, Justice & Ecology

Arizona

AFSCME 2960
AFSCME Retirees Chapter 97
Arizona Advocacy Network

National Employment Law Project (NELP)
National Fair Housing Alliance
National Korean American Service & Education Consortium (NAKASEC)
National Partnership for Women & Families
National WIC Association
National Women's Law Center
People Demanding Action
People For the American Way
ProgressNow
Service Employees International Union (SEIU)
Sierra Club
Sisters of Charity of Nazareth Congregational Leadership
Social Security Works
State Innovation Exchange
The Arc of the United States
The Forum for Youth Investment
The Public Interest
The Voting Rights Institute
UNITE HERE
United Food and Commercial Workers (UFCW)
Voice for Adoption
VoteVets Action Fund
Women's Voices Women Vote Action Fund
Working America

Phoenix Day

Southwest Fair Housing Council

California

California Common Cause
City of Chino Housing Division
Courage Campaign
Fair Housing Advocates of Northern California

Colorado

ACLU of Colorado
America Votes Colorado

Colorado AFL-CIO
Colorado Common Cause
Colorado Ethics Watch
Colorado Fiscal Institute
Colorado People's Alliance
Colorado Sierra Club
Colorado WINS
New Era Colorado
League of Women Voters of Colorado
ProgressNow Colorado
SEIU Colorado

Connecticut

Common Cause Connecticut
Connecticut Fair Housing Center, Inc.
Planned Parenthood of Southern New England
Holy Family Home and Shelter, Inc

Delaware

Common Cause Delaware

Florida

Common Cause Florida
Faith in Florida
Florida Consumer Action Network
Progress Florida

Georgia

9to5 Georgia Chapter
Black Voters Matter Fund
Common Cause Georgia
Georgia Coalition for the People's Agenda
Georgia STAND-UP
League of Women Voters of Georgia
Partnership for Southern Equity

Hawaii

Americans for Democratic Action Hawaii
Hawaii Alliance for Progressive Action
Hawaii Appleseed Center for Law & Economic Justice

Hawaii Government Employees Association
Common Cause Hawaii
League of Women Voters of Hawaii
League of Women Voters of Honolulu
League of Women Voters Hawaii Island
Life of the Land

Idaho

ACLU of Idaho
Better Idaho
Idaho AFL-CIO

Illinois

Common Cause Illinois
Oak Park River Forest Food Pantry
Project IRENE

Indiana

Common Cause Indiana
Fair Housing Center of Central Indiana

Iowa

AFSCME Iowa Council 61
Congregation of the Humility of Mary
Iowa AFL-CIO

Kansas

Kansas AFL-CIO

Kentucky

Common Cause Kentucky
Jefferson County Teachers' Association
Kentucky AFL-CIO
Kentucky Center for Economic Policy
UFCW Local 227

Louisiana

Greater New Orleans Fair Housing Action Center

Maine



Disability Rights Maine
Maine AFL-CIO

Maryland

ACE-AFSCME Local 2250
AFSCME Council 3
AFSCME Council 67
Baltimore Neighborhoods, Inc.
Benedictine Sisters of Baltimore
Common Cause Maryland
Disability Rights Maryland
League of Women Voters of Maryland
Maryland Center on Economic Policy
Public Justice Center
The Xaverian Brothers

Massachusetts

Massachusetts AFL-CIO

Michigan

Common Cause Michigan
Fair Housing Center of West Michigan
Progress Michigan

Minnesota

Alliance of Chicanos, Hispanics and Latin
Americans (Rochester, MN)
Common Cause Minnesota
Indivisible Minnesota Local
League of Women Voters of Minnesota
Minnesota AFL-CIO
Minnesota Citizens for Clean Elections
TakeAction Minnesota
Women & Advocates Minnesota

Mississippi

Common Cause Mississippi
Mississippi AFL-CIO

Missouri

Vision for Children at Risk

Montana

Montana AFL-CIO

Nebraska

Common Cause Nebraska
Nebraskans for Civic Reform

New Hampshire

New Hampshire AFL-CIO

New Jersey

CWA Local 1081
New Jersey Association of Mental Health and
Addiction Agencies, Inc.
Monarch Housing Associates

New Mexico

ACLU of New Mexico
AFSCME Council 18
Common Cause New Mexico
League of Women Voters of New Mexico
New Mexico Hospital Workers Union (1199NM)

New York

CNY Fair Housing, Inc
Common Cause New York
Disabled in Action of Greater Syracuse Inc.
Long Island Housing Services, Inc.
Schenectady Inner City Ministry
Solidarity Committee of the Capital District

Nevada

AFSCME 4041
AFSCME Nevada Retirees
Battle Born Progress
Culinary Workers' Union Local 226
Let Nevadans Vote coalition
Nevada AFL-CIO
Nevada Conservation League
Nevada State Education Association (NSEA)

SEIU Nevada 1107

North Carolina

Common Cause North Carolina
Disability Rights North Carolina
Independent Living Resources (Durham, NC)

North Dakota

North Dakota AFL-CIO

Ohio

Cleveland Nonviolence Network
Common Cause Ohio
Equality Ohio
Ohio Voice
ProgressOhio
Toledo Fair Housing Center
Toledo Area Jobs with Justice

Oklahoma

Oklahoma AFL-CIO
Oklahoma Policy Institute

Oregon

Common Cause Oregon
Disability Rights Oregon

Pennsylvania

Bhutanese Community Association of
Pittsburgh
Common Cause Pennsylvania
Community at Holy Family Manor (Pittsburgh,
PA)
Just Harvest (Pittsburgh, PA)

Rhode Island

Common Cause Rhode Island

South Carolina

South Carolina AFL-CIO

South Dakota

South Dakota AFL-CIO

Tennessee

Common Cause Tennessee
Nashville CARES

Texas

Clean Elections Texas
Common Cause Texas
Harlingen Community Development
Corporation

Utah

Tabitha's Way

Vermont

Downstreet Housing & Community
Development
P.S., A Partnership

Virginia

The Commonwealth Institute
Virginia AFL-CIO
Virginia Civic Engagement Table

Washington

Conscious Talk Radio
Washington AFL-CIO
Washington Community Action Network
Fuse Washington

Wisconsin

Access to Independence, Inc. (Madison, WI)
AFSCME Council 32
AFSCME Retirees Chapter 32
Citizen Action of Wisconsin
Common Cause Wisconsin
End Domestic Abuse Wisconsin
Grandparents United for Madison Public
Schools

Independence First
League of Women Voters of Wisconsin
Madison-area Urban Ministry
Metropolitan Milwaukee Fair Housing Council
Midstate Independent Living Consultants
One Wisconsin Now
Options for Independent Living Inc (Green Bay, WI)
School Sisters of Saint Francis (Milwaukee, WI)
Survival Coalition of Disability Organization of Wisconsin
The Arc Wisconsin
Wisconsin AFL-CIO
Wisconsin Aging Advocacy Network
Wisconsin Coalition of Independent Living Centers,
Wisconsin Community Action Program Association
Wisconsin Council on Children and Families
Wisconsin Democracy Campaign
Wisconsin Faith Voices for Justice
Wisconsin Voices
National Association of Social Workers, WI Chapter
Dominicans of Sinsinawa - Leadership Council

West Virginia

West Virginia Citizen Action Group

Wyoming

Wyoming AFL-CIO