

Executive Summary

There is a threat to our democracy so severe it is shocking it has gone unnoticed this long, or been dismissed as impossible by the few who know about it and should be sounding the alarm. The threat is known as an Article V constitutional convention. It is a provision in the constitution allowing for a convention to be called by state legislatures. It sounds harmless enough and on the surface some people believe the individual policy reasons to call a convention are good ideas. On the right, the motivation is a balanced budget amendment, on the left to overturn the Supreme Court's decision in *Citizens United*, a decision that allowed unlimited secret money to flow from corporations and unions and gave rise to SuperPACs.

Common Cause believes in both good fiscal management of our tax dollars so we don't bankrupt the country, and has been working since the day of the Court's decision to overturn *Citizens United*.

But Common Cause strongly opposes an Article V convention, or any similar call, preferring the traditional method of Congress referring an amendment to the states, as they did the Balanced Budget Amendment in 19XX (CK). Just last year the Senate had its first vote on the Democracy for All Amendment to overturn *Citizens United*. It received a majority vote of 55 Senators, but failed to get the 60 required for an amendment to move forward. While this route takes time, it also ensures we don't do harm to the constitution.

An Article V convention has never happened in our history. Never invoked, Article V of the U.S. Constitution calls on Congress to convene a convention that would draft and submit an amendment to the states for ratification once 34 state legislatures – two-thirds of the Union – petition for such a gathering.

An Article V convention cannot be limited in scope, meaning that even though proponents say all they intend to do is to pass their one amendment, there is nothing that prevents the convention, once convened, from making other changes. This could include rolling back some of our hardest fought victories as the individual rights enshrined in the constitution have been extended to increasing numbers of people to create a more perfect union. In addition, there are no prescribed rules for how the convention would be conducted, how delegates are to be chosen. For example, if the states selected delegates, currently there would be a rightward influence owing to the number of legislatures and governorships the Republican Party controls. But if selection were based on population centers to better reflect the people's will, creating a situation where more delegates came from our largest cities, one might assume a more leftward influence.

As detailed in this report, one accounting puts proponents within seven states of the required 34 necessary to call a convention, and almost no one knows it. Constitutional scholars, business people, historians, politicians, and everyday American voters became more alarmed when a major campaign was announced to coordinate efforts in 2016 and devote considerable resources to winning those final few states.

With the infusion of [secret, undisclosed] contributions and the organizing infrastructure of the ultra-conservative corporate-run American Legislative Exchange Council (ALEC), what seemed impossible is within reach. Adding an extra level of concern, a small group from the far-left is pushing a convention to

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overturn *Citizens United* and with considerably less cash and infrastructure, has won four states in the last 18 months (CK). If either of these efforts are successful independently, or succeed in coalescing their efforts, they represent the single greatest threat to our democracy since the Civil War.

This report examines the pro-convention campaign, including its funding, the groups behind it, and the dangers posed by its possible success, making a case that a convention could easily exceed its mandate to focus on budget issues and instead undertake a wholesale and highly divisive re-write of the nation's charter. It details how the convention effort is being driven largely by well-financed conservative groups, particularly the American Legislative Exchange Council (ALEC), an association of state legislators – overwhelmingly Republican – and businesses that works like a lobbying group for its corporate members but calls itself a charity.

Conservative activists are pursuing three paths toward an amendment, all endorsed by ALEC. In more than two dozen states, they've secured legislative approval of resolutions calling on Congress to convene an Article V convention to enact a balanced budget amendment. Some also are pushing a "Compact for America" initiative, which would bind participating states to petition Congress for a convention for a balanced budget amendment once three-fourths sign the compact. Others are advancing an initiative they call the "Convention of States, which would open a convention up to further limiting the power of and enacting fiscal restraints on the federal government. The initiative, however, does not specifically lay out which powers and fiscal policies would be changed

The report explores:

- The historical push for Article V conventions on issues ranging from budgetary items to abortion to campaign finance.
- The activities and funding behind groups and individuals, including ALEC and prospective presidential candidates John Kasich and Mike Huckabee, taking part in the current push for an Article V convention.
- Other proposals to change the Constitution using Article V, including imposing term limits on Congress and the U.S. Supreme Court and regulating campaign finance.
- Legal and constitutional dangers that would accompany a constitutional convention.
- Opposition to a convention from across the political spectrum, including the Republican National Committee, Republican and Democratic legislators, labor unions, civil liberties organizations, gun rights advocacy groups, reproductive rights organizations, and public interest democracy groups.

The report warns that given the current hyper-partisan environment of U.S. politics, the power of special and corporate interests in the post-*Citizens United* era, and the amount of legal ambiguity around Article V, the call for a convention poses a huge threat to the nation.

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