

Article V Constitutional Convention Proposal Draft

February 21, 2013

1 Absctract

There is clear evidence that capaign fiance laws in the United State are no longer sufficient at preventing abuse of the electoral process. This enviroment is in direct contro-diction with the obligation that Pennsylvania's state legislators have towards ensuring that elections in the Pennsylvania are fair and free. Since the cause of this current elec-torial enviroment is due to the supreme court's interpretation that campaign donations are protected under the first ammendment of the United State constitution, the only way the current electoral enviroment can be changed is with an ammendment to the consitution. Ammendments to the United States constitution can be proposed in one of two ways, the first is by ammendments proposed by the United States Congress and the second is by a constitutional convention called by two thirds of states in the union. This proposal is meant show the legal justification and precidence of an Article V Constitu-tional Convention and that calling a convention, with the express purpose of reforming campaign finance laws in the United States, is the best way in which Pennsylvania state legistlators can fulfill their obligation toward ensure that elections are fair and free.

2 Introduction

2.1 History of Campaign

- The Federalist Papers are considered the framework in which the US constitution was based. The intent of how the House of Representatives should function is stated as: "To have submitted it to the legislative discretion of the States, would have been improper for the same reason; and for the additional reason that it would have rendered too dependent on the State governments that branch of the federal government which ought to be dependent on the people alone." (James Madison, Federalist 52); and, WHEREAS,
- The idea of representatives should be dependent on the people alone has changed with supreme court desisions Buckley v. Valeo 1974 and Citizens United v. Federal Election Commission 2008 which have allow unlimited campaign controbutions be spent of political office.

Total US Population (estimate)	310,823,152
Pct of US population giving \$ 200+	0.40 %
Pct of US population giving \$ 2,500+	0.08 %

Table 1: Percentage of US population that donates to campaigns.

	Count	Total*	To Dems*	To Reps*	To PACs*
Donors giving \$200-\$2,499	1,003,011	\$659.4	\$272.3	\$281.9	\$106.0
Donors giving \$2,500+	237,640	\$2,128.6	\$807.5	\$1,139	\$207.7
\$2,500-\$9,999	193,380	\$802.4	\$297.2	\$405.1	\$105.8
\$10,000+	44,260	\$1,326.3	\$510.3	\$734.6	\$101.9
\$95,000	1,819	\$217.8	\$82.3	\$127.3	\$10.8
\$1,000,000	1	\$1.9	\$0.0	\$0.1	\$0.0

Table 2: How much each donator bracket contributes to campaigns. (* in millions of dollars)

2.2 Present Day

- Elections are now primarily decided by campaign funds: "In 93 percent of House of Representatives races and 94 percent of Senate races that had been decided by mid-day Nov. 5, the candidate who spent the most money ended up winning, according to a post-election analysis by the nonpartisan Center for Responsive Politics. The findings are based on candidates' spending through Oct. 15, as reported to the Federal Election Commission." [?]
- The primary funders of campaign donations today make up a very small percent of the population: "Only a tiny fraction of Americans actually give campaign contributions to political candidates, parties or PACs. The ones who give contributions large enough to be itemized (over \$200) is even smaller. The impact of those donations, however, is huge." [?]
- Given the influence campaign funds have on deciding an election and the small percentage of the population that actually contributes to campaigns, the current electoral process of this country is unfairly skewed towards wealthy donors and provides a clear disadvantage to low income voters.

Suppose that elections in PA are fair. Then by the definition of a fair election, Elections in PA are free and equal. This means that by the definition of Free Elections in PA are not under the control or in the power of another; (Google definitions). Also, this means that elections are equal. However. statistically electoral wins are strongly correlated with cadates that are better funded, "In 93 percent of House of Representatives races and 94 percent of Senate races that had been decided by mid-day Nov. 5, the candidate who spent the most money ended up winning, according to a post-election analysis by the nonpartisan Center for

Responsive Politics. The findings are based on candidates' spending through Oct. 15, as reported to the Federal Election Commission." [?]. This strongly suggests (I would have to prove more here probably), That the outcome of an election is determinative on campaign contributions. Since there is inequality in campaign contributions, then there is an inequality in how elections are determined. Since there is an inequality in how elections are determined then elections in PA are unequal. (Only a tiny fraction of Americans actually give campaign contributions to political candidates, parties or PACs. The ones who give contributions large enough to be itemized (over \$200 dollars) is even smaller. The impact of those donations, however, is huge.) [?] Since they are unequal then they are unfair.

The proposal is meant to show the legal justification, precedence, and necessity of calling an Article V Constitutional Convention as described in the United States Constitution. The purpose of this convention would be to propose amendments to the United States constitution with the express purpose of reforming campaign finance laws in the United States.

There is clear evidence that campaign finance laws in the United States are no longer sufficient at preventing abuse of the electoral process. This current electoral environment was caused by a series of supreme court decisions starting at the Supreme Court Case of Buckley v. Valeo in 1974 and ending most recently in Citizens United v. Federal Election Commission 2008. Since it is now the interpretation of the supreme court that campaign donations are protected under the first amendment, there are not longer any restriction in the amount any one person can give to a

Article V of the US Constitution dictates that states, through their legislators, may at any time call for a convention to propose amendments to the constitution if it is deemed necessary. The process requires that two thirds of all states in the union, submit resolutions to the United States Congress calling for a convention. Once a convention is called, delegates from each state are sent to the convention to discuss and submit amendments to state for ratification. An amendment is passed in the event that it is ratified by at least three fourths of states in the union.

2.3 Problem

I need to convince my state legislator to propose or support a resolution to call for an article V constitutional convention.

2.4 What do I need to show for State Rep Staffers

- precedent (think they mean legal authority, and obligations)
- studies of its effects
- possible downfalls or pitfalls
- support from public.

- what has to be put into motion

2.5 What do I need to do after I address all the points from the staffers.

- make a simple summary of argument
- send it to many other elected officials.

2.6 What will be the general outline of the paper?

1. What is the goal of this paper?

I want to prove the statement: if my rep calls for an article V convention for campaign finance then it will significantly benefit american society.

2. what is a constitutional convention? It is a way to propose amendments to the constitution without needing congress.
3. Why should my rep call a convention? It will help fix our broken democracy
4. Why is our democracy broken? our campaign finance system, lobbying, (anything else) produces inadequate or detrimental legislation for most of the people in our society
5. How will a constitutional convention fix it?

3 What am I trying to prove?

I should give the legal justification followed by an historical example.

3.1 Main Statement I am trying to prove

I want to prove the statement: if my rep calls for an article V convention for campaign finance reform, lobbying reform, and to end corporate personhood, then it will significantly benefit american society?

I want to prove the statement: if my rep calls for an article V convention for electoral reform, then it will significantly benefit american society?

Or.

My rep is obligated to ensure elections of representatives of all level of government are fair in PA.

Elections are not fair in PA.

Campaign finance reform would make elections fair in PA.

Campaign finance reform is only possible now through a constitutional convention amendment.

my state rep can call for such a convention.... or something like that..

4 How am I going to prove it?

I need to continue to break up the statement: "if my rep calls for an article V convention for campaign finance reform, lobbying reform, and to end corporate personhood, then it will significantly benefit american society?" Into smaller and simpler propositions until entire thing is proved.

(maybe instead of 'campaign finance reform, lobbying reform, and to end corporate personhood' more generally say 'fair elections' then define fair election).

5 Proof

First I have to prove that the first proposition can be true.

Proposition 1: my state representative calls for an article V convention for campaign finance, lobbying reform, and to end corporate personhood.

Breaking up proposition 1:

if Anthony Williams is my state rep then he can call for an article v constitutional convention to propose amendments to the constitution.

if a constitutional convention is called to propose amendments to the constitution then that convention can be held specifically for campaign finance reform.

if a constitutional convention is called to propose amendments to the constitution then that convention can be held specifically for lobbying reform.

if a constitutional convention is called to propose amendments to the constitution then that convention can be held specifically for ending corporate personhood.

5.1 US constitution

Axiom of Legislator Oath (US con): A state legislator must support the US constitution (see Appendix ??).

Axiom of State Legislators Regulating Elections: State legislatures can regulate national elections for their state (see Appendix ??).

Axiom of Superseeding State Legislator Election Regulations: Congress can override the regulations of state legislators. (see Appendix ??).

Axiom of Article V Constitutional Convention: State legislators can call for constitutional conventions to propose amendments to the united states constitution when they think it is necessary (see Appendix ??)

5.2 state house representative

Definition of State house rep: If someone is a members of the state House of Representatives then they are members of PA General Assembly.

Axiom of PA legislative power: If someone is a member of PA's general assembly then they have legislative power in PA. (Note PA Legislative Power : The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives. (see Appendix ??))

Theorem of State house legislative authority: If someone is a members of the state House of Representatives then they have the power to create legislation in PA:

Proof of theorem: If someone is a members of the state House of Representatives then they are members of PA General Assembly. by definition of Definition of State house rep. Since the GA has the legislative power of the commonwealth by the Axiom of PA legislative power then a house rep can create legislation.

Axiom of fair elections in PA: Elections in PA need to be fair. (see Appendix ??)

Axiom of State house oath: A state house representative is obligated to support, obey, and defend the Constitution of the United States and PA (see Appendix ??).

Theorem of state house obligations toward fair elections: A PA state house is obligated take actions that ensure fair elections. (note this theorem only says what their obligations are, it says nothing about that PA representatives authority. More about that later).

Proof of state house obligations (Not done yet):

We need to show to show that a state house representative is obligated to support fair elections on both the state and house level.

So a house representative is obligated to support the Constitution of PA by the axiom of state house oath. The constitution of pa requires that elections in PA be fair. Therefore and house representative is obligated to ensure that elections are fair in PA on the state level. Also, since PA state rep is obligated regulate elections on that national level by the Axiom of State Legislators Regulating Elections, then State house reps are obligated to sure that PA elections on the national level are fair . Therefore a state house rep is obligated to take actions that ensure that elections are fair on both the state and national level (note, the Axiom of Superseeding State Legislator Election Regulations seems to contradict this but it doesnt. This theorem talks about what the motivations of what the state legislator should be, not what thier authority is. This I will explain later.).

5.3 Constitutional Convention

Theorem of PA state senators need to call constitutional convention for electoral reform. : PA state senators have the authority to call for a constitutional convention

when it is to ensure fair elections.

Proof: A PA state house is obligated take actions that ensure fair elections by the Theorem of state house obligations toward fair elections. PA state house reps can also call for amendments to the constitution when they deem it necessary by the Axiom of a Article V Constitutional Convention. Then PS state senators have an obligation to call for a constitutional convention when it is necessary to ensure fair elections.

Empirical Evidence of the validity of this theorem: The PA legislator has in already passed resolutions for article V constitutional conventions for electoral reform. (See Source Jpg on this). Need to explain historical context behind this.

Notes: What is left to do. What type of reforms are necessary?

5.4 Fair Elections

Definition of a Fair Election (PA constitution): A fair election is an election that is both free and equal. (Note PA Constitution on Elections: Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.. (see Appendix ??)).

Definition of Free: Adjective not under the control or in the power of another; able to act or be done as one wishes.

I need to prove the validity of this statement. Elections in PA are not fair. Or Not(Elections in PA are fair).

Proof:

Suppose that elections in PA are fair. Then by the definition of a fair election, Elections in PA are free and equal. This means that by the definition of Free Elections in PA are not under the control or in the power of another; (Google definitions). Also, this means that elections are equal. However, statistically electoral wins are strongly correlated with candidates that are better funded, "In 93 percent of House of Representatives races and 94 percent of Senate races that had been decided by mid-day Nov. 5, the candidate who spent the most money ended up winning, according to a post-election analysis by the nonpartisan Center for Responsive Politics. The findings are based on candidates' spending through Oct. 15, as reported to the Federal Election Commission." [?]. This strongly suggests (I would have to prove more here probably), That the outcome of an election is determinative on campaign contributions. Since there is inequality in campaign contributions, then there is an inequality in how elections are determined. Since there is an inequality in how elections are determined then elections in PA are unequal. (Only a tiny fraction of Americans actually give campaign contributions to political candidates, parties or PACs. The ones who give contributions large enough to be itemized (over \$200 dollars) is even smaller. The impact of those donations, however, is huge.) [?] Since they are unequal then they are unfair.

We are given that that Elections in PA are not fair.

I need to prove the validity of this statement: State senators are obligated to take action.

Since we are given that elections in PA are not fair. Then PA state house rep is obligated to take actions that ensure elections are fair by the Theorem of state house obligations toward fair elections.

5.5 How to correction counter example:

I need to show: that there exists a sequence of actions that can be taken to change the current unfair elections into fair ones in the future.

I need to show: That this sequence of steps is optimal.

Proof of there exists a sequence of actions :

- PA state senators have the authority to call for a constitutional convention when it is to ensure fair elections by Axiom of Article V Constitutional Convention. Therefore, they can call for a constitutional convention. (This statement is true. All other statement I have to make a strong argument that it probably will be true.)
- PA state senators would call for a convention through a bill stating their desire for a convention and how they want that convention to run. (* Then I would have to prove that this statement is very likely to be true. Give Support here) for example!!!! (Oklahoma <http://www.youtube.com/watch?v=0lXcgUBnYMI> 52:30 Larence Lessing). Runaway convention.
- When there is enough supports from states then a convention would be called by Axiom of Article V Constitutional Convention. * Then I would have to prove that this statement is very likely to be true. Give Support here)
- Delegates for the convention would be called through a random sample of the voting population. (<http://www.youtube.com/watch?v=0lXcgUBnYMI> 56:26 Larence Lessing)
- Delegates deliberate on amendments to the constitution within the that constraints of state resolutions.
- Delegates would make amendments that call for the public financing of campaigns.
- States would ratify amendments on fair elections because the random sample of people would reflect the opinion of the people concerning fair elections. (site public opinion).
- These amendments would fix our unfair elections : (site previous studies here)

Therefore there exists these sequence of actions that would change our current unfair election system into a fair one.

Examples of historical events that supports this.

5.6 This is the optimal way to fix the counter example.

Argument: for parts 1-8. Can be true even if the first statements are false (give lessig's opinion of tactics).

8: Examples of other states implementing similar public finance systems.

Examples of supporting opinions.

Supporting opinions should be in the front.

Examples site opinion of lessig, political commenators,

5.7 fair elections mean a large public benifit to society.(Consequences of this actions)

I need to show that fair elections have a benifit to EVERYONE! By restablishing public trust in government.

Note: There is evidence of this based on PA previous call for a conventionand it ended up fixing the problem even though a convention was not heald. (Lessig)

(<http://www.youtube.com/watch?v=0lXcgUBnYMI> 51:45).

Empirical evidence shows that, this is not true:

(* Intesting note. the US consitution makes no reference to free and fair elections. Is this because of slavery???*).

PA elections are

I know there are studies on public financing of elections that suggests that more diverse canidates are elected.

Representatives of congress are to be "dependent on the people alone." (James Madison, Federalist 52);

6 Appendix

6.1 United States Constitution

6.1.1 Article VI

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United

States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

6.1.2 Article I, Section 4

The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

6.1.3 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.

6.2 Pennsylvania State Constitution

6.2.1 Article II, Section 1

The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.

6.2.2 Article I, Section 5

Elections shall be free and equal; and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

6.2.3 Article VI, Section 3

Oath of Office Senators, Representatives and all judicial, State and county officers shall, before entering on the duties of their respective offices, take and subscribe the following oath or affirmation before a person authorized to administer oaths.

"I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity." The oath or affirmation shall be administered to a member of the Senate or to a member of the House of Representatives in the hall of the House to which he shall have been elected. Any person refusing to take the oath or affirmation shall forfeit his office.

References

- [1] Donor Demographics — OpenSecrets.
- [2] Money Wins Presidency and 9 of 10 Congressional Races in Priciest U.S. Election Ever - OpenSecrets Blog.