By Constitutional mandate, every 20 years, the people of New York are asked on a general election ballot if they would like to convene a constitutional convention to propose a new constitution.

They have a commission which calls for a convention of ordinary citizens and suggest that New Yorkers take advantage of new technology such as cable television and electronic town meetings to observe convention proceedings.

In 1997, the commission targeted the budget process, state-local relations, education, and public safety as being of special importance.

A constitutional convention, members then argued, could then write a new constitution in clear English, simplify voter registration, improve voting rules and ballot access, regulate campaign finance and lobbying, etc.

Opposing the calling of a constitutional convention were the AFL-CIO, Sierra Club, Abortion Rights. Labor unions saw a convention as a threat to their right to organize, trial lawyers worried about limits on lawsuits, environmentalists feared that a convention might jeopardize provisions protecting open spaces, women’s groups feared it may restrict abortion rights, conservatives feared that liberal interests would control the convention.

2 weeks before the election, polls indicated that voters, upset by the inability of the state government to get anything done, were overwhelmingly in favor of calling for a constitutional convention to make government work better.

On November 5, 1997, 62% of New York voters actually rejected the call for the convention because in those 2 weeks opponents got busy with tv ads, phone calls, etc.

State constitutions are are both instruments of government and limitations on government.

THE ROOTS OF STATE CONSTITUTIONS

The first state constitutions were outgrowths of colonial charters.

In 1787 the framers of the US Constitution drew heavily on their experience with these state charters.

The people of each state are free to create whatever kind of republican government they wish.

A state constitution typically consists of a preamble, a bill of rights, articles providing for the separation of powers, a two-house legislature, an executive department, an independent judiciary with the power of judicial review, a description of the form and powers of local government, how to amend the constitution and various miscellaneous provisions.

The bill of rights in the state is very similar to the federal bill of rights.

CHART PG. 579

Constitutional Rigidity and Evasion

State constitutions contain more details than the US Constitution does. They are longer and less flexible, and they require more frequent amendment.

The US Constitution has only 7,400 words; and most state constitutions have around 26,000.

Most state constitutions also contain many trivial subjects.

State constitutions and their more frequently adopted amendments tend to be longer than the national one because their bills of rights cover, in addition to the traditional rights, more recently emerging protections, such as the rights of victims of crimes.
State constitutions have to deal with a much wider range of functions, educational provisions, and criminal codes than the US Constitution, which created a national government of intentionally limited powers to deal with a limited range of functions. Many of them have not had the longevity of the national Constitution.

Constitutions as Roadblocks
- Many legislatures gave special privileges to railroads, canal builders, and other interests, and constitutional amendments were adopted to prevent such abuses.
- In time, state constitutions became encrusted in layer upon layer of procedural detail.
- State constitutions—intended as charters of self-government—are often like straitjackets imposed on the present by the past—they are often roadblocks to effective government.
- The legislature cannot act, and voters then turn to constitutional amendments.

Getting Around the Constitution
- Unwritten rules, practices, political parties and interest groups also shape events.
- One device for constitutional change is:
  - Judicial Interpretation—whereby judges modify a constitutional provision by a new interpretation of its meaning.

The New Judicial Federalism
- New Judicial Federalism—state constitutions have taken on greater importance. It is the practice of some state courts using the bill of rights in their state constitutions to provide more protection for some rights than is provided by the Supreme Court’s interpretation of the Bill of Rights in the US Constitution.
- Since the 1970s, as the Supreme Court has become more conservative, some states have begun applying their own state constitutions and state bills of rights to review the actions of state and local officials.
- US Supreme Court sent clear messages to state Supreme Court judges that they are free to interpret their own state constitutions to impose greater restraints than the US Constitution does.
- US Supreme Court and the US Constitution set the floor, not the ceiling.
- State Constitutional Studies link [www.camlaw.rutgers.edu/statecon/overview](http://www.camlaw.rutgers.edu/statecon/overview)

Amending State Constitutions
- Amendments may be proposed by the state legislature, citizen-initiated ballot petitions, or constitutional conventions. After an amendment has been proposed, it must be ratified.
- Ratification is by the Voters!
- In most states, an amendment becomes part of the constitution when approved by a majority of those voting on the amendment.
- In some states it requires a majority of all those who voted—this provision makes ratification difficult—because sometimes people who vote for representatives don’t vote on the amendment questions.
- Slightly more than 3/4 of all constitutional amendments proposed by legislatures have been adopted in recent years.
Legislative Proposals

- Revision Commission- may be appointed by a legislature, it is a state commission that recommends changes in the state constitution for action by the legislature and vote by the voters.
- The commission is a small number of people, some selected by the governor and some by the legislature, and all work together to present proposals for constitutional revision.
- A commission is less expensive than a convention.
- The recommendations of revision commissions are seldom implemented quickly, but still, they may provide less partisan consideration of amendments and be more resistant of single-interest groups than either the legislature or a convention.

Initiative Petitions

- Constitutional Initiative Petition- a device that permits voters to place specific constitutional amendments on the ballot by petition.
- The number of signature required on petitions varies from 4-15% of either the total electorate or the number of voters who voted in the last election.
- Once the appropriate state official (either the A.G. or Sec. Of State) approves the precise wording of a petition, the amendment is placed on the ballot at the next general election.
- The number of votes required to approve a constitutional amendment is typically a majority vote.
- In some states, initiative proposals are limited to amending the state constitution, not to revising it. The distinction between them is that revision refers to a comprehensive change to the basic governmental plan, a substantial alteration in the basic governmental framework, or a substantial alteration of the entire constitution, rather than to a less extensive change in one or more of its provisions.
- Voters have approved about 50% of amendments proposed by initiative petitions compared with slightly more than 75% for those proposed by state legislatures.
- Initiatives tend to be used for controversial issues that have already been rejected by the legislature and engender an organized opposition.
- Sometimes initiatives are proposed to launch educational campaigns rather than to win adoption.
- People anxious to limit the power of state and local governments are using the initiative process in more states.
- The focus of constitutional initiatives has shifted from questions of governmental structure to questions of substantive policy.

Constitutional Conventions

- We have had 233 of them-144 in the nineteenth century but only 63 in the twentieth century.
- Calling conventions of the people is a uniquely American idea, emphasizing that legislators cannot be trusted and that the supreme power belongs to the people.
- 41 state constitutions authorize their legislature to submit the calling of a convention to the voters; the other states assume that the legislature has the power to do so.
- If the voters approve, the next step is to elect delegates to a convention.
The way convention delegates are selected seems to affect the kind of document the convention proposes. Selection by nonpartisan, multimember districts is more likely to result in a reform convention that makes major changes than one in which political parties play a major role.

When the convention has prepared a draft of the new constitution, the document is submitted to the voters.

Convention delegates have to decide if voters should be asked to accept or reject the new constitution as a whole, or should they vote on each section separately?

**THE POLITICS OF CONSTITUTIONAL REVISION**

- Constitutions significantly affect who gets what from government. Therefore, how a constitution is changed can help or hinder various groups.
- Most people simply do not care. It is difficult to work up enthusiasm for revising a state constitution except among people with special interests.
- Supporters of the status quo thus have a built-in advantage.

PAGE 585-587: Specific case examples:

- Rhode Island
- Louisiana
- Hawaii
- Texas
- Arkansas
- Alabama