

Paper Title: The Periodic Constitutional Convention Referendum in Early American Thought

Conference: Annual Meeting of the Midwest Political Science Association

Session: Voting on Constitutional Reform in the States

Date: April 15, 2021

Author: J.H. Snider, The State Constitutional Convention Clearinghouse

Abstract: Fourteen U.S. state constitutions mandate a periodic state constitutional convention referendum (PCCR), with the specified period between referendums ranging from ten to twenty years. Every few years at least one of these referendums appears on a state ballot. The last three were in New York (2017), Hawaii (2018), and Iowa (2020); the next three will be in Alaska, Missouri, and New Hampshire (all in 2022). Using constituent power theory as a framework, this paper discusses the development of PCCR in early American thought, including the dynamics of what this paper labels the “checks & balances” theory of PCCR, which it contrasts with the “modernization” theory associated with Thomas Jefferson. After introducing a constituent power framework influenced by the work of Joel Colón-Ríos, it traces the evolution of this institution in early American state constitutions: Pennsylvania (1776), Massachusetts (1780), New Hampshire (1794), Indiana (1816), Rhode Island (1842), and New York (1846). New York’s 1846 Constitution marks the beginning of PCCR’s modern era in that it was the first state to incorporate both PCCR and legislatively initiated amendment in the same constitution. This development made modernization theory less relevant in explaining PCCR’s democratic function, but it did not necessarily diminish its PR value, as illustrated by the cases of New York in the mid-1840s and Hawaii in 2008.