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Chronological history of Common Cause's opposition to Free and Fair Election Legislation: Article V Convention and the 28th Amendment to overturn *Citizens United*

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Wolf-PAC and Get Money Out-Maryland (GMOM) joined forces in 2014 to advocate for Maryland to join other states in convention calls for a Free and Fair Elections Amendment. (Vermont and California called in 2014; Illinois and New Jersey in 2015; and Rhode Island in 2016.) Common Cause-Maryland testified in support of Maryland's Democracy Amendment Resolution(DAR) in 2014, the first year it was introduced to the Maryland General Assembly(MGA) by then-Senator Jamie Raskin.

In 2015, Maryland Common Cause staff, Jennifer Bevan-Dangel, stated that they wouldn't support the bill, but would not oppose. We had growing support in both chambers.

After the DAR passed the Maryland Senate, and in the final week of the 2015 session, Common Cause staff began calling House leaders and delegates and sent a letter to the MGA signed by several other DC-based organizations. According to our supporters in the General Assembly, Common Cause staff called their offices numerous times asking for the bill to be killed or amended to strike out the Article V convention call. Progressive Maryland also changed positions, and they informed GMOM that some of their funding sources threatened to cut off funding if they continued to support the DAR in the form that passed the Maryland Senate.

The letter to the MGA claimed the following: "Thus, the call of a convention would place all of the constitutional rights and protections of individuals up for grabs. This includes protections that exist for civil rights, civil liberties, freedom of religion, freedom of speech, voting rights, privacy and many others. The role of the courts in protecting the rights of individuals and minority interests would also be subject to change."

The letter omitted the ratification process that is the substance of Article V. The House gutted the Resolution to be a request to Congress (which Maryland had previously approved in 2012, in a letter from the General Assembly). The Senate did not accept the amendment, and therefore the bill died on the last day of the session.

In 2016, several previously supportive legislators backed away from the DAR, citing fears of a convention.

Common Cause-Maryland stated it would not actively oppose the bill in 2016; however, it would submit written opposition, and it would use a resolution to repeal Maryland's prior Article V applications to raise alarms about the runaway convention. During the hearings on the DAR, Common Cause sent an email to legislators that warned "Say No to Constitutional Chaos" and alleged: "Well-funded special interests on the right, as well as well-meaning activists on the left, are lobbying state legislatures throughout America to call for an Article V constitutional convention which would give any Tom, Jane or Harry almost unlimited legal authority to completely rewrite our federal Constitution. "Again, this email which encouraged legislators to oppose an Article V Convention and members to email legislators, did not reference the ratification requirement.

Get Money Out-Maryland secured the endorsement of then-Congressman Chris Van Hollen and an activist Maryland pastor, Rev. Delman Coates. GMOM brought copies of thousands of petitions from Maryland citizens supporting the DAR to legislators. Both Van Hollen's and Coates' offices called the Speaker of the House and the Chair of the House Rules Committee and urged a vote in the waning days of the 2016 session. On the last day of the session, the Speaker's office told Get Money Out volunteers that the White House had called and asked them to kill the Resolution. (We were not able to learn who called or what reason was stated by the "White House," although another source cited the efforts of Fred Werthheimer and Robert Greenstein.) The DAR did not get a vote in either chamber.

In 2017, 62 cosponsors of the bill in the House and 23 in the Senate signed on to the bill. We also submitted unequivocally supportive testimony from

Congressman Jamie Raskin and Senator Chris Van Hollen. The bill was endorsed by the Maryland chapter of the NAACP and Chesapeake Climate Action Network and thousands more Maryland citizens signed petitions in support. Jeff Clements from American Promise testified on the need for the 28th Amendment and the legitimacy of multiple paths to secure it as well as build a movement of engaged citizens dedicated to campaign finance reform. Pastor Coates wrote testimony and a personal letter concerning the civil rights implications of unlimited money in our elections.

In 2017, Maryland leadership, at the urging of Common Cause, passed a bill to rescind old calls for Conventions. These four old convention calls requested constitutional Amendments outlawing the federal income tax, reintroducing school prayer, a balanced budget amendment and removing One Person, One Vote. (GMOM also supported the rescission of these old calls.) Common Cause and 40 other organizations wrote a letter to the leadership and committee chairs supporting this rescission legislation. In that letter, Common Cause claims that a convention will enact amendments; and once again does not include the ratification process required of all amendments, regardless of their origination in Congress or an Article V Convention.

Common Cause's 2017 testimony was used by Rules Chair Anne Healy in her floor speeches during the House session on rescinding. Healy cited several legal experts whose statements were taken out of context and who did in fact support a limited convention. (https://medium.com/@marketing_75534/the-honest-path-to-save-democracy-3811163db2d0).

In this testimony against a convention, Common Cause claims that a convention could rewrite the ratification rules, in effect changing the text of Article V; and even if these regressive amendments were rejected by the required number of states, the testimony claims, "this would seriously undermine the legitimacy of these rights and protections."

Also in 2017, Common Cause has successfully placed a number of Op-Eds in numerous media outlets, which they now cite as evidence for their point of view. They continue to argue that the number of red states and the dangerous Trump administration would put a convention in the hands of the Koch Brothers and all our civil liberties would be at risk.

While Common Cause's testimony with its erroneous information was being circulated among the members of the MGA, Common Cause lobbyists worked in Vermont and helped the Vermont Senate rescind its 2013 call; and worked in New Mexico to kill the committee vote. (As of this writing, however, the Vermont application is still in effect because the Vermont House has taken no action.)

At this point, the founder of Wolf-PAC, Cenk Uygur called out Common Cause for its opposition during his internet news report on April 6, 2017, "Find Out How Left-Wing Group Betrayed Progressives (Common Cause)". Common Cause responded with a press release and 230 organization co-signers opposing a Convention. In the press release, Common Cause claims:

"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."

As in previous writings, Common Cause completely excludes the ratification process and again makes the claim that a convention will enact amendments.

This is quite a leap from what Article V actually states:

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...** (Emphasis added.)

Common Cause and its lobbyists have actively opposed convention calls on overturning *Citizens United* and have done so with misleading rhetoric and misinformation. For every expert opposed to a convention who insists it could not be limited, other experts, including the Justice Department and the Congressional Research Service, have concluded that a convention's authority to propose a constitutional amendment could be limited to the amendment topic that the convention has been called to address. A number of state legislative conferences have proposed guidelines for a convention, should one be called. While a convention is unprecedented, building movements of engaged citizens dedicated to change has been a part of American life since the ink dried on the original Constitution. Founding Father, George Mason inserted the state convention method into Article V as he surmised that someday Congress might be a problem.

The thousands of volunteers working in multiple state legislatures seek calls for Article V convention to build public support and to prod Congress as has been successful in the past. (According to the National Archives, Congress wrote the 17th Amendment when convention calls for direct election of senators were one state short of the threshold in 1912.) Options to address the increasingly corrosive effect of money in our political life are limited. If Common Cause's goal is to create doubt about the convention as a tool, we request the rhetoric be limited to what is actually stated in Article V. Endless conjecture about the dire consequences of an Article V convention have undermined the work of hundreds of unpaid volunteers, thousands of concerned citizens and multiple state legislators who have joined forces to attempt to turn around what is not conjecture: the wealthy special interests who now control our democracy.