

Questions from Prof. Beau Breslin

Tuesday, July 21, 2020 12:00pm EDT

Care to speculate about 2075 convention issues?

Or, run off elections?

Submitted: Rebecca M. '79

ANSWER: Tough one. I can't even fathom what will be the primary issues of the day in fifty years. My guess, however, is that there will be some conversation about transnational constitutions at that time. In other words, I don't think national borders and single constitutions for different countries will be as common as they are now. Of course, I hope we have a planet to constitute at that time. Climate change could make constitutions largely irrelevant.

What about gun laws/rights? It seems time to address this issue.

Campaign finance - only the rich can currently even run. This is definitely an issue I would add.

Submitted: Jacqueline M. '92

ANSWER: I agree that it is long past time to address this issue. But I don't think a Constitutional Convention is the place to take it up. Rather, I should say I don't think progress can be made at a constitutional convention. Gun control can only come through the conventional political process because each side of the Second Amendment debate is too dug in – they don't even speak the same language. Gun rights advocates speak about their uninhibited individual liberty whereas gun control advocates speak of community needs. Until there is a shared vocabulary, the debate will continue unabated.

Did the recent SCOTUS case, along w/ the Trump 2016 election, basically do away with the remaining rationale for the Electoral College? I'll hang up and listen.

Submitted: Andy K. '05

ANSWER: The Electoral College will remain as long as federalism is a first principle of the American polity. What I would advocate for is not the elimination of the electoral college, but the elimination of the "unit rule" – the rule that all electoral votes go to the winner of the state's aggregate vote. I prefer the Maine model where single electoral votes are awarded based on a candidate's electoral victory in a single congressional district and then the state's two Senate electoral votes are awarded to the winner of the state vote.

Would the 1953 convention have addressed *Korematsu v. US*?

Submitted: Jeff D. P'24

ANSWER: I doubt it. It was not until *Trump v. Hawaii* (2018) that the Court overruled *Korematsu*. I don't think delegates would have had the courage in 1953 to remedy that egregious wrong. One of the problems with Constitutional Conventions generally is that they tend to tip conservative, by which I mean moderate or towards the status quo (not Republican). Very rarely do constitutional conventions advocate for things that we would consider radical for the time.

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In his Marbury v. Madison (1803) opinion, Chief Justice John Marshall wrote "Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and consequently the theory of every such government must be, that an act of the legislature repugnant to the constitution is void." Had Thomas Jefferson's "periodic"—generational—constitutions prevailed, making their provisions more transitory—that is, less "fundamental" or "paramount"—what would the effect on Marbury have been?

Submitted: Aymon L. '23

ANSWER: I don't think generational constitutional change would have altered the principle of judicial review. An act repugnant to the Constitution is still unenforceable even if the Constitution is brand new.

COMMENTS

White Christian dominance in governmental power reduces very slowly. Education is key to appreciating diversity. Perhaps a focus on this would be useful.

Submitted: Suzanne Miller Silvers

Totally agree. Education would be a major topic of conversation at any Constitutional Convention.

Off topic - just tell him later - love his rooster dishes and want to know what the blue balls are that are hanging from the candle sconces?

Submitted: Ellen Weiler (parent)

Thanks! Those blue balls are decorative pieces of art that come from Valley Artisans Market in Cambridge, NY.