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Surviving Two Centuries: The U.S. Constitution and the Amending Process

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The United States may not have a lengthy national history by European standards, but its 1787 Constitution has seen longer continuous service than any other written frame of government in existence today. The world's second oldest continuing constitution, that of Norway, was established nearly three decades later in 1814. Such constitutional durability is exceedingly rare. Of the 160 national constitutions in effect in 1983, no fewer than 101 were new since 1970. El Salvador alone went through thirty-six constitutions between 1824 and 1983, an average of one every four years and five months.[1] The stability of American political arrangements, the slow pace of change in government policy, and the frequent appeal to constitutional law in defense of a particular viewpoint all reflect, at least in part, the extraordinary longevity of the United States Constitution.

In 1987, Americans enthusiastically celebrated the bicentennial of their Constitution, displaying a genuine national pride in its design and durability. The commemoration focused attention on the Philadelphia convention and the founding fathers who drafted the Constitution two centuries ago. This was appropriate since Americans regard their government as basically undisturbed since that time.

It is significant, as well as ironic, that the United States, a nation which in many ways prizes and indeed symbolizes modernity, glories in an eighteenth century constitution. Thomas Jefferson, who did not attend the Philadelphia meeting but followed its work carefully from his diplomatic post in Paris, expected a new constitutional upheaval at least every fifty years. Instead the Constitution has endured, in part because Americans ceased to think of it as merely a set of operating rules for the conduct of public affairs. They began instead to regard it as an inspired work of political genius, the embodiment of timeless ideals. For the most part it gained this status after the Civil War, viewed by many as principally

a heroic defense and bloody vindication of the Constitution. Before the Civil War, the Constitution had been a matter of frequent dispute, mainly in terms of conflicting claims of state and national power. After the war, however, the Constitution was no longer seen as merely a frame of government, and one of disputable wisdom at that, but as a repository of immutable democratic principles baptised in the blood of patriots, a hallowed document worthy of civic worship. Americans endlessly quoted British Prime Minister William Gladstone's praise of the Constitution as "The most wonderful work ever struck off at a given time by the brain and purpose of man."[2]

Its very vagueness also contributed to the Constitution's longevity. Because the founding fathers made its provisions so broad and general, the Courts, the Congress, and the executive could interpret it in such a fashion as to legitimize innovations in governance. When the Civil War affirmed central national authority far greater than the federal balance struck by the founding fathers, justification for the new order was obtained by a rereading of the original Constitution. Later, when the economic and social conditions of the 1930s fueled demands for greater national powers, especially for the executive, the Supreme Court, nudged along by a 1936 electoral landslide and an insistent Franklin Roosevelt, chose to read the Constitution in a new light. The original list of presidential duties was claimed as sufficient basis for broader exercise of executive authority. Each branch of government could find constitutional validation as it adapted to meet new and unexpected circumstances. Judicial review, the interpretation of the terms of the Constitution by the courts, had not been mentioned in the original document. Nevertheless, it developed rapidly, if not without controversy, because of the evident need for some determining authority to resolve disputes over what the Constitution meant, especially as evolving applications caused it to be interpreted in different ways.

The Constitution's survival for two centuries is also the result of its capacity for amendment. Formal changes in the government's charter could be made and judgments of the Supreme Court overridden by a method which bore the endorsement of the revered founding fathers. At various pivotal moments in the nation's history, support for the Constitution might have evaporated had it not been able to bend before the demands of reform. This proved particularly important during the initial state ratification debates (which produced the Bill of Rights), the Civil War (which led to three amendments), and the Progressive era (which generated four). Amendment gave the Constitution the flexibility required to resolve tensions. Furthermore, the promise of permanence associated with the installation of reforms in the Constitution itself helped persuade crusaders for change that their victory was complete and secure. To understand the longevity of the American charter of

government, it is therefore necessary to examine this often overlooked or misunderstood feature.

The Constitution owes its very existence to the failure of its predecessor, the Articles of Confederation, to contain an adequate amending mechanism. After only a few years, the Articles were found wanting, and demands for change arose. The Articles stipulated, however, that alterations required the approval of every state, and that proved nearly impossible to obtain. In drawing up the Articles in 1776–77, the second Continental Congress had wanted to safeguard liberty by making certain that a central national government could not acquire too much power. Therefore the Congress defined the powers of government narrowly and made their alteration exceedingly difficult. The Philadelphia convention of 1787, ostensibly called to revise the Articles, instead took the radical step of disregarding them altogether. The delegates decided that the prevailing requirement of unanimous state approval made revision too difficult. The necessity to compromise to meet any state's objection would be too limiting. The founding fathers therefore proposed different, less stringent terms for the acceptance of the new Constitution and for its further amendment. Indeed it is overriding the Articles more than any other facet of its law-making that entitles the Philadelphia convention of 1787 to be called "revolutionary."

Making advanced formal arrangement for altering the fundamental charter of government was a new concept in the late eighteenth century. Governments of an earlier day rested their legitimacy on claims of divine inspiration, sanction, and guidance. To suggest a plan which openly anticipated that government would not function perfectly and that mere mortals might need to make organic changes in its structure and authority would have been outright heresy. None of England's seventeenth-century Cromwellian constitutions, for instance, provided for amendment. Among American colonial charters, only William Penn's innovative Pennsylvania Frame of Government of 1682 contained even an oblique and negative reference to altering the terms of government.

The idea that governmental charters were never perfect but must be capable of formal modification from time to time if they were to avoid simply being disregarded as conditions changed only began to gain currency on the eve of the American Revolution. The idea of rational and routine constitutional change embodied the first principles of the eighteenth century enlightenment. American states, obliged to adopt new constitutions to legitimize their own authority following their 1776 separation from Britain, began to include provisions for their revision. By 1787 eight state charters contained amendment provisions, with three giving the power to the legislatures and five to state conventions.[3]

Delegates to the Philadelphia convention discussed the desirability of

an amendment provision early in their deliberations.[4] When Edmund Randolph first presented Virginia's plan for a federal union, it included an amendment procedure. Virginia delegate George Mason called attention to the American Revolution's principle that governments were founded by the people, and thus could legitimately be altered or abolished by them. He asserted that "Amendments therefore will be necessary and it will be better to provide for them in an easy, regular and Constitutional way than to trust to chance and violence." Alexander Hamilton agreed that "an easy mode should be established for supplying defects which will probably appear in the New System."

The means rather than the principle of amendment concerned the delegates. They showed no enthusiasm for the English concept of an unwritten constitution which allowed Parliament to make changes in the framework of government in the same manner and by the same majorities used to approve ordinary legislation. Such an amending system appeared too sensitive to a temporary majority or whim to insure governmental stability. Constitutional change should require, the founders thought, broader participation and a greater degree of agreement, a higher level of consensus.

A requirement that Congress call a constitutional convention at the request of two-thirds of the states appealed to the delegates. They were determined to avoid placing the power of amendment exclusively in the hands of the national legislature. Some thought that the national legislature should not be involved in the process at all. George Mason argued that it would be improper to require the assent of Congress to an amendment. If Congress found a way to abuse its power, it would naturally refuse to agree to corrective action at its own expense. "The opportunity for such an abuse may be the fault of the Constitution, calling for amendment," Mason reasoned.

The difficult question of amending procedure was among the last issues to be resolved by the Philadelphia convention. On September 10, 1787, delegates finally hammered out the details of Article V, the amending provision. They did so in a way which mirrored their general approach of federal power sharing between state and national governments. After securing the right of two-thirds of the states to initiate the amending process by obligating Congress to call a national constitutional convention at their request, the framers granted Congress non-exclusive power to propose amendments as well. Nevertheless, final state approval of all amendments, however initiated, was regarded as essential. A proposal to require ratification by two-thirds of the states was narrowly rejected on a 6 to 5 vote, but when the requirement was raised to approval by three-fourths of the states, it passed unanimously.

Had the lower two-thirds ratification standard been endorsed, constitutional change would have been easier, of course. James Madison's

proposal for limiting the size of House districts to 40,000 people, approved by Congress as part of the Bill of Rights, would not have fallen one state short of ratification. Left intact, it would have required a House of Representatives of over 6000 members following the census of 1980. On the other hand, the Equal Rights Amendment would have been adopted in 1975 when the thirty-fourth state ratified it. But although the founding fathers rejected the unanimous consent standard of the Articles of Confederation, they believed that the framework of government should not be altered without extremely wide support. By setting the standard at three-fourths, they insisted upon an even greater degree of state approval to revise the Constitution than the nine-thirteenths which they accepted as sufficient to put it into effect. They insisted on protecting minority positions until a very broad consensus among the states had been achieved. This has been criticized as undemocratic, and obviously it was. But it clearly indicates the founders' concern with defending minorities against democratic enthusiasms.

As a last step in defining the amendment process, the Philadelphia convention approved the proposal of James Madison and seconded by Alexander Hamilton, two of the most influential delegates, that states be allowed to ratify amendments either by legislative action or through conventions. Congress could choose between the two methods without restriction. This provision was apparently slipped into Article V at the last moment without much discussion. It tempered the founding fathers' preference for representative government by making possible a ratification method which, as it turned out, would prove to be much closer to direct democracy. So it would be improper to use Article V as evidence that the founders were thoroughly hostile to democracy. Instead, they were seeking to balance what they saw as the ultimate authority of the citizenry with the benefits of seasoned leadership and governmental stability.

The existence of the amending provision helped insure the acceptance of the new Constitution. As each state debated the proposed charter, critics raised objections to practically every one of its provisions. Supporters of the Constitution used Article V to offer reassurance. James Madison acknowledged in the 37th Federalist that the Constitution was not "a faultless work." Gouverneur Morris spoke for his fellow framers when he declared, "Surrounded by difficulties, we did the best we could; leaving it with those who should come after us to take counsel from experience, and exercise prudently the power of amendment, which we have provided." In the North Carolina ratifying convention, James Iredell soothed fears by saying, "There is a remedy in the system itself for its own fallibility, so that alterations can without difficulty be made, agreeable to the general sense of the people." In fact, the promise of prompt amendment to remedy the most serious objection to the

Constitution, its lack of a bill of rights, proved crucial to the federalist victory in several state conventions.

'The demand for immediate addition of a bill of rights forced the first Congress to face one question not addressed by Article V: Where in the Constitution should amendments be located? When James Madison introduced several amendments, he proposed that they be woven into the charter at appropriate places. Roger Sherman of Connecticut and other protested any alteration of the original text and argued for adding amendments at the end of the document. Sherman's proposal prevailed, setting a precedent which ever since has fostered the image of the original Constitution as sacrosanct. With amendments treated as supplements, no obligation existed to remove or clarify possibly contradictory constitutional language. On the contrary, the need would arise for the Supreme Court to determine which of the Constitution's provisions applied in a given situation.

By the start of the twentieth century, the effort of the founders to make amendment easier than it had been under the Articles of Confederation appeared to have failed. Of the fifteen amendments adopted by 1900, twelve had been part of putting the federal government into operation. The Bill of Rights, the first ten, were adopted within two years of the ratification of the Constitution. Two minor amendments, the Eleventh and Twelfth, soon followed in 1795 and 1804. Since then only three more amendments had been adopted, all during the extraordinary first five years of Reconstruction after the Civil War. Many politicians and political observers thereafter concluded that amendment was impossible except under exceptional circumstances.

Early in the twentieth century, however, amendments began to win approval. The stream was not large, but its flow was rather steady and certainly significant. Dealing with a variety of subjects and drawing on different bases of support, these amendments demonstrated that the founding father's intention could be realized: the Constitution could be revised, not easily but successfully, when a sense arose that other political means had failed and reform was imperative. Constitutional amendment was possible, in other words, when all else failed. As more amendments were adopted, the nature of the amending process and thus the Constitution itself became clearer.

Between 1913 and 1920 four amendments implemented major Progressive reform goals: a graduated federal income tax, direct popular election of U.S. Senators, women suffrage, and national prohibition of alcoholic beverages. Constitutional change was necessary to impose a direct national tax on personal incomes because in 1895 the Supreme Court had declared such a system of taxation unconstitutional. A growing need for federal revenue, the inadequacy of tariff and excise taxes (mainly taxes on liquor), and a spreading belief that taxes should fall

most heavily on the wealthy (supposedly those who were deriving the greatest benefits from the society and government as well as those who would be least hurt by the tax) produced an irresistible demand for amendment. Specific provisions of the Constitution allowing state legislatures to chose Senators and to define the franchise needed to be overturned if national policies of direct election and female voting rights were to prevail. Political demands for wider participation in government, especially to achieve popular reform objectives, overwhelmed conservative preference for more restricted and controlled voting. Adoption of prohibition, an effort to gain a permanent national solution to the dilemma of alcoholic beverages, proved particularly significant in terms of the amending process.

American prohibition, like the contemporary Norwegian movement, reflected the efforts of long-standing national temperance crusades to deal with a serious social concern. Its constitutional character is what gives the U.S. episode its distinctiveness. American temperance advocates believed that if a prohibition on alcoholic beverages was inserted into the Constitution, it could never be removed. The political requirements would be insurmountable. Knowing this, opponents of prohibition would, out of respect for law, finally accept defeat. Drinking would cease, and the society would be the better for it. Or at least so the theory held.[5]

The demand for constitutional prohibition rising from a broad constituency created difficulties for many politicians. Ohio Senator Warren G. Harding, for one, neither wished to see liquor abolished nor wanted to lose the votes of temperance advocates. Believing that only the two dozen states which had adopted statewide liquor restrictions were likely to vote for a national prohibition amendment in the foreseeable future, he cleverly proposed that he and others would vote for the amendment in Congress provided that it stipulated a seven year time limit on ratification. Harding figured that he and his colleagues could thereby appear to support the amendment, while at the same time dooming it to defeat. But to his surprise and horror, within thirteen months more than the required thirty-six states ratified the Eighteenth Amendment. The common political tendency to seek to satisfy as many interests as possible, together with a lack of understanding of the amending process, caused the downfall of Harding's plan. Seven year time limits have frequently been attached to amendment proposals since, but never again to such ironic effect. In the absence of such clear stipulations, the Supreme Court ruled in 1938, the validity of ratification procedures was a political question to be decided by Congress.

National prohibition also raised other questions about the amending process. Anticipating congressional submission of prohibition and other amendment proposals, the state of Ohio had adopted a law allowing

public referendums on their ratification. When the Ohio legislature overwhelmingly ratified the prohibition amendment, citizens petitioned for such a referendum. In November 1919, Ohio voters rejected national prohibition by the slender margin of 479 votes out of a million cast. This was the only ratification referendum held in 1919, but others were in prospect as opponents of both prohibition and women suffrage sought to overturn legislative approval.

The Supreme Court quickly rejected the Ohio referendum. The Court declared that Article V gave Congress sole power to chose the means of ratification, saying, "The determination of the method of ratification is the exercise of a national power specifically granted by the Constitution, and is limited to two methods, by action of the legislatures of three-fourths of the States, or conventions in a like number of States." Dismissing the argument that referendums were a part of the legislative process, the Court ruled that the Ohio referendum had no validity. The Eighteenth Amendment was upheld, and no other amendment referendums were conducted. But a widespread public feeling arose that special-interest-dominated legislatures had approved prohibition against the will of a democratic majority. This sense of anti-democratic action planted seeds of opposition and resistance to the liquor ban.

Throughout the 1920s the Supreme Court continued to interpret the Constitution so as to support the new amendment. Among other things, it approved expanded police powers of search and seizure. The Court allowed both state and federal governments to punish a single liquor violation (a system which appeared to some to constitute double jeopardy). It also permitted police wiretapping of telephones. Under the leadership of conservative Chief Justice William Howard Taft, the Court clearly felt obligated to ensure the success of the Constitution's new provision, even when this led to new, perhaps dangerous governmental practices. Many of the law enforcement procedures approved during the prohibition episode would eventually be overturned in the 1960s by a Court with very different set of constitutional priorities.

The widespread and highly visible disregard for prohibition, together with the implications of its enforcement, alarmed and alienated many Americans, including some who had initially embraced a national ban on liquor. For several years, however, prohibition's critics despaired of remedying the situation. After all, no amendment had ever been repealed. To do so required a massive shift of support to reverse the margin of a two-thirds congressional vote and ratification by three-fourths of the states. Quite understandably, most people accepted one Senator's assessment: "There is as much chance of repealing the Eighteenth Amendment as there is for a hummingbird to fly to the planet Mars with the Washington Monument tied to its tail."[6] Nevertheless, opposition to national prohibition continued to increase. Congress,

viewing the sweeping 1932 Democratic election victory as a mandate to end the liquor ban, even though that assessment was unproven and unprovable, voted in February 1933 for a new amendment to abolish the Eighteenth.

Leading antiprohibitionists, recalling the 1919 Ohio episode, insisted that Congress not send the repeal amendment to state legislatures for ratification. Repeal advocates successfully argued that the new amendment should be submitted to state conventions so that in selecting delegates the public could decide the liquor issue. While each state set the rules for its own convention, in most states voters had a simple choice between one statewide slate of wet convention delegates and one slate of drys. Nationwide, 73 percent of those voting preferred the wet slates. Of the thirty-eight states to vote in 1933, only South Carolina rejected repeal. The conventions quickly confirmed the public choice. No convention took more than a day, and New Hampshire's lasted a mere seventeen minutes. By December 5,1933, nine and one-half months after Congress approved the new Twenty-first Amendment, the ratification process was completed. No one argued that the outcome failed to reflect the popular will.

Given the speed, relative ease, and unquestioned democracy of convention ratification, it is noteworthy that 1933 marked the only use of this method since the original Constitution was approved by state conventions in the 1780s. In recent decades, the procedure has not even been given serious consideration. When, for instance, the Equal Rights Amendment won congressional approval in 1972, its Senate sponsor assumed that the greatest hurdle had been cleared and that state approval would follow automatically. No thought was given to requiring convention ratification, thereby taking the matter out of the hands of state legislatures and giving the public a direct voice in deciding the issue of complete legal equality for women.[7] The heavy majority of public support for the measure which opinion polls repeatedly indicated then existed was not called into play. One can only speculate what the results of convention delegates elections might have been. However, it seems noteworthy that the organized opposition to ERA, which helped stall legislative ratification three states short of the necessary thirty-eight approvals, did not fully emerge until 1975, long after a convention ratification process would likely have run its course.

The prohibition episode made politicians cautious but not invariably opposed to further constitutional amendments. After the Supreme Court twice blocked congressional efforts to prohibit wage labor by children an amendment granting Congress such power was submitted to the states in 1924. The child labor amendment encountered stiff resistance, but eventually won twenty-eight state ratifications and died only when it became clear in 1938 that the Court's thinking had changed enough to

permit Congress to accomplish its purpose by passing ordinary legislation.

Amendments were adopted in 1933 to transfer authority to a new President and Congress more quickly after an election and in 1951 to limit a President to two terms (which Republicans championed after losing four elections to Franklin Roosevelt, but soon came to regret when Dwight Eisenhower was barred from a third term). Furthermore in the early 1950s Congress gave serious consideration to a proposed amendment to curtail presidential authority to enter into international agreements without Senate approval, thus reducing presidential independence in the conduct of foreign relations. After a heated debate, this so-called Bricker Amendment failed by one vote to achieve the necessary two-thirds approval from the Senate.

By the 1960s, a half century after many thought amendment impossible, it had come to be viewed as a normal and manageable, if still infrequently used part of the law-making process. When civil rights developments and the death of John Kennedy suggested the need for changes in suffrage and presidential succession arrangements, amendment was regarded as a practical as well as appropriate solution. The prompt and seemingly easy adoption of amendments allowing the District of Columbia to participate in presidential elections (1961), outlawing poll taxes (1964), and establishing a new system of presidential succession and vice-presidential replacement (1967) seemed to dispel doubts about the workability of amendment procedures.

A surge of confidence in the amending process as a means of changing both laws and social attitudes was evident, especially among political liberals, in two episodes in the early 1970s. Concern about the disdain of Vietnam era youth for the American political process led to calls for encouraging their participation by lowering the voting age from 21 to 18. Among legislators, support grew rapidly for an 18-year-old suffrage amendment. A Supreme Court decision supporting 18-year-old voting in federal elections and the spectre of differing state and federal suffrage requirements led Congress to ignore the decisive rejection of lower voting ages in seven of eight referendums on such proposals in 1970. Early in 1971, an 18-year-old suffrage amendment sped through Congress. Its ratification by thirty-eight state legislatures followed in only 100 days.

The following year Congress approved an amendment to ensure equal rights for women. This proposal had been around since 1923, but congressional support grew after the mid-1960s with the sudden surge of public interest in full equality for women. Within twenty-three months, the Equal Rights Amendment won ratification in thirty-three states, but the process then slowed. Two more states added their support by 1977, but they were the last to ratify. Even a controversial modification of its

joint resolution proposing the amendment, by which Congress extended the original seven-year time limit on ratification by three years to 1982, could not generate the necessary thirty-eight state endorsements. Four state legislatures even reconsidered their initial action and voted to rescind their ratification of the amendment. It seems doubtful on the basis of their earlier interpretations of Article V, that either Congress or the Supreme Court would have held these rescissions to be valid, but neither body had to face this interesting and problematical question since the required three-fourths of the states never ratified the ERA.

The ERA episode served as a dramatic reminder that state approval of constitutional amendments is not automatic, even with a two-thirds congressional endorsement and favorable public opinion polls. States retain enormous power in the amending process, perhaps their greatest power in a federal system which has steadily tilted toward central national authority at state expense. A handful of states, even those most sparsely populated, can block ratification of an amendment. In the 1980 census, the combined population of the thirteen smallest states was 9,800,000, or 4.3 percent of America's 226,500,000 people. Thus, convention delegates or legislative representatives elected by a bare majority in those states, slightly more than 2 percent of the nation's population, could conceivably prevent an amendment's adoption. In the case of the ERA, the fifteen non-ratifying states contained 28 percent of the U.S. population, a distinct minority but one of the size that the founding fathers intended should have a veto on amendments. In fact, the most thinly populated states have never acted in unison to employ their disproportionate power in the federal system to either adopt or block any constitutional change.

While ERA advocates called the support which the amendment received a sure sign of a national preference for equal treatment of women, opponents claimed that the amendment's ultimate defeat reflected a continued commitment to traditional social and family values. Proponents and detractors alike thus regarded the amendment as a symbol well worth fighting over, both before and after the fact. Although ERA supporters might have a more logically sound interpretation of the voting, their adversaries found plenty of solace in the failure of the amendment to obtain the degree of national consensus required by the founders.

In recent years, other interest groups have sought to place symbols of their beliefs in the Constitution. Often they were responding to congressional or Supreme Court action to which they objected. Their dissatisfaction produced calls for amendments requiring a balanced federal budget, permitting school prayer, preventing legal abortions, and ending racial integration imposed through school busing. The very difficulty of amendment allows the discontented to keep preaching the

need for their remedy without having to face the consequences of success.

For example, Ronald Reagan has called repeatedly for a balanced budget amendment. This most prominent amendment proposal of the 1980s rests on the assumption that a balanced budget requirement would force reductions in federal spending. However, such an amendment might just as likely compel tax increases to fund a budget which Congress was unwilling to reduce. Reagan's actual budget policies ran directly counter to the principle of a balanced budget amendment, leading to the conclusions that either he was hopelessly confused or, more likely, was playing the same double game that Warren Harding once tried with such unfortunate results. The fact that a President can divert attention from actual policies with calls for constitutional amendment suggests both how confusing amendment proposals can be and how seriously they are taken.

Questions about the wisdom of an actual balanced budget amendment, as opposed to symbolic gestures of support for the idea in order to discourage government spending, make it doubtful, though hardly impossible, that thirty-eight states would ratify such a measure. Indeed the odds against any amendment proposal succeeding are rather long. Since 1789 more than 10,000 proposals for amendment have been introduced in Congress, but only thirty-three have obtained two-thirds approval. Of these, twenty-six have been ratified (one repealing another), while seven have failed. However, if a balanced budget amendment overcame such odds, like-minded efforts to amend the Constitution would surely follow quickly, as was the case during Reconstruction, the Progressive era, and the 1960s. Amendments have been such powerful symbols of American political consensus that they have often encouraged further reshaping of constitutional arrangements.

The amending system has thus far permitted enough constitutional alteration to mollify extreme discontent. At the same time, it has proven sufficiently resistant to change that it has produced a great degree of stability in American governmental arrangements. Thus it has functioned as the founding fathers intended, as a mechanism for change but at the same time as a brake on democracy, slowing and often stopping momentary majority preferences. Whether this conservative tendency is an admirable or unfortunate characteristic of the American Constitution remains a topic of debate.

On occasion constitutional amendments have brought about extremely important national policy changes. Amendments abolishing slavery, imposing taxes in proportion to wealth, and prohibiting commerce in alcoholic beverages immediately and profoundly altered property rights highly valued in the United States. Each represented government confiscation of private property. Likewise, suffrage changes allowing black,

female, and 18-year-old voting significantly shifted political power. Amendments have, in other words, fundamentally altered the policies as well as the procedures of American government. Furthermore the Supreme Court, regarding an amendment as a directive it must respect, has reconsidered previous constitutional provisions in light of a new amendment.

As the founding fathers intended, amendment has allowed the modification of the Constitution so as to prolong its acceptance and effectiveness and avoid its wholesale abandonment. The fact that the United States has been able to celebrate the 200th anniversary of the Constitution does not mean that amendment and judicial review provide a perfect system for sustaining the charter's vitality. Nor does mere longevity signify that the task of modification has been performed infallibly, indeed even always wisely. But the bicentennial should serve as a reminder that one strength of the United States Constitution and a reason for its extraordinary endurance has been its provision for its own ongoing reform and reformulation.

NOTES

1. Michael Kammen, *A Machine That Would Go of Itself: The Constitution in American Culture* (New York: Knopf, 1986), p. 394.
2. Kammen, already cited, provides the best study of evolving popular attitudes toward the Constitution over the course of two centuries.
3. A useful discussion of the innovative nature of amendment can be found in Benjamin Fletcher Wright's introduction to his edition of *The Federalist* (Cambridge: Harvard University Press, 1966), pp. 68–69.
4. A good brief description of the convention can be found in Forrest McDonald, E *Pluribus Unum: The Formation of the American Republic, 1776–1790* (Boston: Houghton Mifflin, 1965), chapter 7. A more detailed narrative is provided by Catherine Drinker Bowen, *Miracle at Philadelphia: The Story of the Constitutional Convention May to September 1787* (Boston: Little, Brown, 1966). The following discussion of the convention is drawn therefrom.
5. The discussion of national prohibition herein is drawn from David E. Kyvig, *Repealing National Prohibition* (Chicago: University of Chicago Press, 1979).
6. Associated Press dispatch, September 24, 1930, quoted in Charles Merz, *The Dry Decade* (Garden City, N.Y.: Doubleday, Doran, 1931), p. 297.
7. Birch Bayh, interview with author, 1981.