

# INTRODUCTION

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A constitution is, in simplest terms, a statement of fundamental principles of government. When in written form constitutions are uniquely American in derivation, and every citizen of this and former generations for nearly two centuries has enjoyed the protections of at least two—a state constitution and the U.S. Constitution. Yet, except for judges, lawyers, and political scientists, few people have read either of the constitutions that govern them and fewer still have given them careful study or thought. Despite the complacency most people exhibit toward these fundamental documents, however, proposals to alter a constitution can excite the most intense emotions apparent in the American political process. A mystique of immutability has arisen around American constitutions. A constitution, in the minds of many, is as sacrosanct as the flag.

But constitutions are the product of the life experiences of the people who write them, and they become, with the passage of time, increasingly anachronistic. Such was the case in the fall of 1967 when 142 delegates assembled in the historic Maryland State House in Annapolis to rewrite in its entirety the basic document of Maryland government—the State Constitution of 1867.<sup>1</sup>

Evidence of the inertia and innate conservatism that must be overcome to reformulate a state constitution is provided by the genesis of the Maryland Constitutional Convention of 1967-1968. That convention was called to write a replacement for a constitution that had served the state for a century. The Constitution of 1867—Maryland's fourth constitution—replaced a constitution that lasted but three years. Unfavorable reaction to provisions of the Constitution of 1864 not only resulted in the adoption of a new framework of government, but also led those who drafted the 1867 Constitution to mandate periodic public reviews of that document. Article 14, section 2, provided for taking the "sense of the people in regard to calling a convention for altering th[e] constitution" every twenty years at a general election. If a majority of the voters affirmed the desirability of a new constitutional convention, the Constitution of 1867 required that "the General Assembly at its next session shall provide by Law for the assembling of such convention and the election of delegates thereto."

Given the difficulty of altering an existing constitution, this provision for mandatory referendum on the question of calling a constitutional convention must have seemed prudent to the authors of the Constitution of 1867. And, in fact, in 1930 by a vote of 108,351 to 93,701, and twenty years later in 1950 by the substantial margin of 200,439 to 56,908, the citizens of Maryland registered their desire for a constitutional convention. In neither years, however, did the number of affirmative votes, although a majority of those cast on the question of a constitutional convention, equal a majority of total votes cast in the particular general election. Adopting the narrow interpretation that since the affirmative majority on the question of calling a constitutional convention constituted less than a majority of the total votes at the

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<sup>1</sup> For background on the Constitutional Convention Commission and Constitutional Convention, see *Report of the Constitutional Convention Commission* (Annapolis: Constitutional Convention Commission, 1967), pp. 1-18.