

Higher lawmaking: problems to be solved (“phases”)

Supposing you regarded the Articles of Confed a failure, and wanted to mount an exercise in popular sovereignty for constitutional change outside the rule in Article XIII, what would you need to accomplish? (Discussion begins pp. 39-40)

1. Signaling: establish general recognition of the seriousness of the problem, & that a convention (“legally defective parliament” in England; a convening of the people in U.S.) is the appropriate way to deal with it.
2. Proposing: establish that a whole replacement Constitution, with a new allocation of power between states and central govt, was an appropriate way for the convention to deal with the problem.
3. Triggering: get acceptance of the revised criteria for ratifying.
4. Ratifying: meet those criteria, getting (sequentially) acceptance for the changes themselves.
5. Consolidating: dealing with the dissenters to establish consensus that the new rules are really the rules.

Not to be confused with the five-stage “**process**” he says (p. 20) he will identify historically:

- Constitutional Impasse
- Electoral Mandate
- Challenge to Dissenting Institutions
- Switch in Time
- Consolidating Election