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## Back to the drawing board for state constitution?

By Casey Seiler Updated 7:20 am, Thursday, February 9, 2017

*Albany*

Quick: What is "yellowtail tenure"?

That question was posed Monday morning by former state Assemblyman Richard Brodsky during a two-hour "boot camp" for state reporters and editorial writers on the history and legal structure of New York's infrequent constitutional conventions. The event, co-sponsored by the Rockefeller

Institute and the state Bar Association, looked to November 2017, when voters will be asked whether to hold what would be the state's 10th Constitutional Convention since 1777.

While the state Legislature can call for a convention at any time, the question has appeared automatically every 20 years since 1957 — a once-in-a-generation vote called for by the constitution itself.

The most recent convention, held in 1967, was initiated by legislative action and approved by voters following a series of Supreme Court decisions that ruled against New York's redistricting process. In what historians on the panel characterized as a "fatal error," the convention decided to put its proposed constitutional changes — including the creation of an independent redistricting panel — in a "take-it-or-leave-it" package rejected by a statewide vote.

Public policy scholar Gerald Benjamin of SUNY New Paltz said that during a time of concern over state government's conduct, the convention vote offered "a moment to push the reset button."

"When the stars align, it could be a very powerful moment," he said.

Benjamin described Gov. Andrew Cuomo, who supported the idea of a constitutional convention during his 2010 campaign for governor, as "not hostile, but not engaged" more recently. A Cuomo spokesman reiterated the governor's desire to see a convention approved.

The Bar Association wants to see the state establish a "nonpartisan preparatory Constitutional Convention commission as soon as possible," according to a release from the group.

Critics of the idea of a new convention often point to the expected cost to taxpayers — Benjamin said the cost of the '67 convention, if adjusted for inflation, would be \$47 million in 2015 dollars — as well as the possibility that the cast of elected delegates would be dominated by the same politicians and special interests that dominate the Capitol during the course of regular business. Benjamin noted that the state's "laughable" campaign finance laws would apply to the delegate elections that would follow statewide approval of a convention.

Benjamin, however, noted that the prospect of fixing the delegate-selection system for a convention might be one of the most compelling reasons to hold one.

Historian Peter Galie of Buffalo's Canisius College said if citizens were required to read the state constitution — which is six times longer than the U.S. Constitution — they would react with everything from puzzlement and anger to a call for action.

Which brings us back to "yellowtail tenure," which appears to refer to a type of landlord-less property ownership. The term remains as a placeholder note in Article 1 of the state constitution, New York's Bill of Rights, despite being repealed by statewide vote in 1962.

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*Correction: The original version of this story gave an incorrect cost for the 1967 convention.*

**H E A R S T**