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## Risk and Reform: Explaining Support for Constitutional Convention Referendums

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**Abstract:** Scholars of comparative constitution-making and direct democracy agree that economic conditions affect public support for constitutional reform but disagree as to how. Prospect theory suggests both approaches may be correct, depending on the political and economic context in which voters operate. Fourteen states periodically ask their citizens whether to call a state constitutional convention, making this the oldest form of direct democracy in the United States. We test our theory in pre-election polls in two of these states and a survey experiment. The results indicate negative perceptions of economic and government performance increase support for conventions when voters view them as opportunities to correct problems. On the other hand, if a convention represents a chance to improve on an acceptable status quo, voters with positive performance evaluations become more supportive. Our findings contribute to the heuristics literature and inform normative debates over direct democracy and popular constitutionalism.

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The Massachusetts Constitution of 1780, written mostly by John Adams, was the first in the history of the world ratified by a popular referendum. It scheduled another referendum 15 years later, asking voters whether they wanted another constitutional convention (Tarr 2000, 70). Adams wrote two justifications for this provision into the constitution. He argued a convention ballot measure creates an opportunity “to correct those violations which by any means may be made therein, as well as to form such alterations as from experience shall be found necessary.”<sup>2</sup> This passage highlights competing motivations for constitutional reform, the implications of which have not been fully developed in the study of public law or political behavior.

Scholars of comparative constitutionalism (e.g., De Vries 2018; Elkins, Ginsburg, and Melton 2009) predict deteriorating economic conditions will lead to constitutional change. At the same time, the American direct democracy literature finds voters are more likely to adopt referendums, including state constitutional amendments, when economic conditions are healthier (Bowler and Donovan 1998). We draw upon prospect theory to synthesize these two approaches. In this paper, a series of experimental and observational studies indicate that voters leverage performance perceptions to form convention attitudes, but the way they process these heuristics varies across state political and economic contexts.

Constitutional renegotiation is always a risky proposition, but individuals tend to be more risk-averse when facing the prospect of additional gains, and more risk-tolerant when facing the possibility of additional losses (Kahneman and Tversky 1979; see also Ansolabehere and Konisky 2009). Individuals use their perceptions of the status quo as a reference point when

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<sup>2</sup> See <https://malegislature.gov/Laws/Constitution>.

determining their preferred level of risk tolerance (Tversky and Kahneman 1991). A constitutional convention could provide a method to repair political malfunctions, or it could offer an occasion to improve upon an acceptable status quo. Citizens, consequently, will behave differently if they think a constitutional convention will “correct violations” rather than “form alterations from experience.”

Today, fourteen states automatically schedule a referendum on whether to call a state-level constitutional convention every 10-22 years.<sup>3</sup> We test our theory of voters’ openness to constitutional change in pre-election polls in two of these states and a survey experiment. The experimental study analyzes how competing frames shape support for a hypothetical convention referendum. The results show that political appraisals and economic evaluations affect support for conventions. However, the direction of these effects varies based on whether respondents are told a convention could “eliminate problems” or “further strengthen” how their state is governed.

Recently, voters in New York and Rhode Island defeated convention referendums. Based on their regional, demographic, and ideological profiles, these states approximate a most similar systems design ideal for testing our theory. Voters in these two states, like our experimental subjects, leveraged state performance heuristics, based on their state’s political and economic context. Rhode Islanders considered a constitutional convention in 2014 as their state lagged

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<sup>3</sup> Oklahoma has not held a convention referendum since 1970. According to a 1970 advisory opinion issued by then-Attorney General G.T. Blankenship, placing a convention referendum on the ballot requires legislative action, and the failure of the Oklahoma Legislature to pass such a law in 1990 and 2010 (or any time in between) explains the lack of subsequent referendums (Martineau 1970).

behind the rest of the nation according to objective economic indicators, and the outgoing governor was incredibly unpopular. According to a pre-election poll, voters with *negative* economic and political performance perceptions were most likely to favor a convention. New York's convention referendum took place in 2017 when state unemployment was below 5%, economic growth ranked twenty-fourth amongst the states, and most citizens thought the state was "on the right track." Here, *positive* economic and political performance evaluations jointly increased the likelihood of New York voters supporting a convention.

These results suggest voters may not know much about state constitutions, but they still venerate them. They are not inclined to favor state constitutional reform arbitrarily, but only when they think their state is in a strong enough position to take a risk, or in such a weak position that they cannot afford *not* to take a risk. This finding is consistent with emerging evidence that citizens extend at least some of their veneration of the U.S. Constitution to their respective state constitutions (Brown and Pope 2019; Stephanopoulos and Versteeg 2016; Zink and Dawes 2016). The context-dependent usage of heuristics also informs normative debates on direct democracy and popular constitutionalism.

## CONSTITUTIONAL REFORM AND THE VARYING EFFECT OF PERFORMANCE PERCEPTIONS

While elites have total control over amending the U.S. Constitution, voters in forty-nine states (Delaware being the lone exception) must ratify state constitutional amendments. The states have held 233 constitutional conventions, compared to one for the United States (Dinan 2006). Over the course of American history, voters have approved state convention ballot

measures on 37 occasions.<sup>4</sup> Table 1 provides information about convention ballot measures in current and former state constitutions. Nowhere has calling constitutional conventions become so common as in New Hampshire, where residents have done so on 15 occasions via periodic referendums, most recently in 1982 (Dinan 2006).

[Insert Table 1 about here.]

Many Americans are ignorant of their founding documents, necessitating the use of cognitive heuristics to form constitutional attitudes. A recent survey, for instance, found that only 26% of Americans can correctly identify the three branches of the federal government (Rozansky 2017). Levels of state constitutional knowledge are lower still. According to one survey, only half of Americans even know their state has a constitution, and 11% of respondents in one poll were quite confident their state did not have a constitution (Tarr 2000, 2).

The most obvious heuristic to mitigate a lack of constitutional knowledge is elite endorsements. If a state's governor supports a convention, voters who support the governor should be more likely to vote yes. Convention ballot measures, however, tend to be low-salience affairs (Snider 2017). In the run-up to both the referendums analyzed below, elected officials

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<sup>4</sup> The states have only held 28 constitutional conventions following voter ratification of a convention ballot measure. On three occasions, state legislatures refused to pass enabling legislation to convene the convention (Martineau 1970). The remaining conventions failed to get off the ground because of how courts in Hawaii, Maryland, and Michigan have defined the required majority. A convention call in these states must receive the support of a majority of those voting in the election, rather than a majority of those voting on the ballot measure itself. In other words, voter abstention is a *de facto* "no vote" on the referendum (Snider 2017).

equivocated. New York Governor Andrew Cuomo said he supported “the concept of a convention” but worried about how it would operate in practice (Mahoney 2017). Gina Raimondo, who was elected governor of Rhode Island in 2014, said in a debate that she did not support a convention “at this time” but did support most of the reforms that convention supporters hoped to address (Gregg 2014).

Even if political leaders refuse to elaborate on the wisdom of constitutional reform, voters can leverage other heuristics. One strategy is to adopt a default position of opposing a convention referendum. Voters may not know much about their constitutions, but they have emotional attachments to them. Critics have argued that Americans’ willingness to venerate the U.S. Constitution makes it impossible to evaluate its significant democratic deficits (e.g., Levinson 2006). Emerging research suggests citizens also support their state constitution (Brown and Pope 2019; Stephanopoulos and Versteeg 2016; Zink and Dawes 2016). Zink and Dawes (2016) theorize that constitutional veneration implicates so-called *existence bias*. According to this theory, individuals assume the presence of the status quo is a sign of its normative desirability (Eidelman, Crandall, and Pattershall 2009). Existence bias derives from a combination of regret avoidance and loss aversion, and it increases the longer current arrangements have remained in place (Eidelman, Pattershall, and Crandall 2010).

Direct democracy scholars (e.g., Bowler and Donovan 1998; Kriesi 2005) have uncovered similar evidence in other referendum context. According to these studies, when voters are uncertain how a new policy would change the status quo, simply voting no relieves them of demanding information costs. The effect of this heuristic is strongest amongst voters with lower levels of education (Bowler and Donovan 1998, 73). Given the low-information environment of state constitutional reform, we expect many voters will utilize this heuristic,

making it difficult to assemble a majority in favor of a convention (see also Fernandez and Rodrik 1991).

At the same time, we predict perceptions of state government performance and the economy can also structure support for a constitutional convention. There are two potential obstacles to the effective exercise of these heuristics. First is the well-known finding that partisans' evaluations of real conditions are endogenous to their political proclivities (Brown 2010; Evans and Andersen 2006; Rudolph 2003; but see Malhotra and Kuo 2008). In order for voters to revise their beliefs about constitutions in light of economic conditions, their perceptions of the economy must be relatively unbiased by their party loyalties. Otherwise, motivated reasoning will cause partisans' beliefs about objective conditions to vary according to the partisanship of the incumbent president and governor. This might confound the heuristic process for partisans who otherwise might seek to revise state constitutions during especially bad (or good) times.

Second, voters must correctly assign responsibility for poor economic performance. Multiple levels of government make it harder, but not impossible, to make these calculations. Voters weigh state-level unemployment against the national figure when determining gubernatorial approval ratings (Cohen and King 2004; see also Dickerson and Ondercin 2017). Similarly, an analysis of European elections demonstrates that when voters observe shifts in the local or national economy, they weigh these developments against global economic conditions. If a downturn has afflicted their home country to a similar degree as the rest of Europe, voters attribute the situation to global forces and do not punish domestic incumbents. But when a nation substantially out- or underperforms its European counterparts, voters assign economic responsibility to domestic political actors (Duch and Stevenson 2008).

In sum, we believe voters can and will use performance heuristics to evaluate the prospects of constitutional change, but the literature is currently divided on exactly *how* these perceptions affect constitutional attitudes. We review this debate before offering a context-driven theory that synthesizes existing scholarly insights.

### *Solving Problems Through Constitutional Reform*

One literature approaches constitutional change from a rational choice perspective. Elkins, Ginsburg, and Melton (2009, 66, 73) contend that constitutions are binding agreements between parties, and compliance depends on whether the parties think alternative arrangements would make them better off. Opportunities for reform become viable when decision-makers anticipate the expected future costs of the current constitution exceed future benefits plus the cost of renegotiation. This approach is consistent with the basic logic of prospect theory. When government fails to meet basic expectations, citizens change their political frame of reference. If individuals view the status quo as a loss compared to the more prosperous recent past, prospect theory predicts they will become more risk-tolerant (Kahneman and Tversky 1979). Under these conditions, the uncertainty of potential constitutional reform becomes less threatening.

One such circumstance in which the potential for reform becomes less threatening is an economic downturn. Elkins, Ginsburg, and Melton (2009, 132) found constitutional failure occurred 7% of the time during major economic crises, compared to a baseline constitutional death rate of 5%.<sup>5</sup> Other studies in comparative politics provide stronger support for the notion

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<sup>5</sup> While this difference might appear substantively small, the study also found a positive association between constitutional longevity and per capita GDP (Elkins, Ginsburg, and Melton 2009, 31).

that poor economic performance undermines support for existing constitutional arrangements. De Vries (2018) finds evidence that European voters become more willing to leave the EU when they anticipate “going it alone” would provide greater benefits than the status quo. Support for Brexit was significantly higher among voters who believed the EU hampered the British economy (Clarke, Goodwin, and Whiteley 2017). Likewise, Quebecers who thought the Canadian federal government harmed the province’s economy were significantly more likely to favor secession than others (Mendelsohn 2003).<sup>6</sup>

In a typical election, voters punish leaders and parties for poor performance by voting them out of office. Direct democracy measures, however, typically address policy changes, not changes in leadership. Nonetheless, convention ballot measures may be an exception to this rule. Constitutional conventions can hold elites accountable as well, by changing the rules that constrain their behavior (Tolbert 1998).

### *Making Improvements Through Constitutional Reform*

At the same time, the direct democracy literature has found that ballot measures, including state constitutional amendments, enjoy more support when state-level economic indicators are stronger (Bowler and Donovan 1998). Comparative scholars have uncovered similar findings. Canadian voters satisfied with their standard of living were more likely to support the Charlottetown Accord, a 1992 constitutional referendum. Canadians with both positive economic and government performance evaluations were even more likely to support the proposed reform (LeDuc and Pammett 1995).

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<sup>6</sup> Neither of these studies shed light on whether these economic perceptions were correct or whether they represented the motivated reasoning of secessionists.

If bad times make voters more willing to consider changes to their state constitutions, why would they also be open to experimentation when times are good? Indeed, loss aversion suggests that voters will be less tolerant of the uncertainty of constitutional reform because preserving a positive status quo seems more desirable (Tversky and Kahneman 1991). The answer to the “ain’t broke, don’t fix it” paradox comes from an offshoot of prospect theory. Behavioral economists have found that when individuals have experienced many prior gains, they may be willing to gamble away some of the “house money” they have received (Thaler and Johnson 1990).

During good times, some individuals may conclude status quo arrangements are strong enough to withstand any unforeseen negative consequences of reform. Mitigating the prospect of future harm is especially relevant in the context of constitutional change, as amendments are more difficult to repeal than ordinary statutes. Voters understand the difference between laws that are easier to repeal and harder to repeal, even in the low-information environment of American state politics. A series of experiments found voters were less likely to support a state ballot measure when they were reminded that the policy change would amend their state’s constitution (Zink and Dawes 2016).

Calling a state constitutional convention is a unique form of direct democracy, which may create incentives that differ from those of the initiatives and referendums studied by Bowler and Donovan (1998) and the state constitutional amendments analyzed by Zink and Dawes (2016). On a typical ballot measure, voters must decide whether to change state law. A convention referendum, by contrast, may seem less risky because it only starts an expert discussion on how to change state law. If voters call a convention, delegates can recommend

amendments to the existing constitution or propose an entirely new document. Before any of these proposals take effect, however, voters must approve them in a subsequent referendum.

### *Prospect Theory and the Contextual Effect of Performance Heuristics*

Overall, the existing literature does not agree as to whether strong economies bolster or weaken convention referendum support; our theory seeks to bridge this gap. Performance perceptions matter, but we predict the way voters utilize these heuristics varies according to the statewide context. In some situations, citizens who are the most economically discouraged will be more supportive of constitutional reform. In others, those with more optimistic outlooks will be willing to vote yes. The prospect of constitutional reform creates an uncertain future, but voters' appetites for uncertainty varies based on their views of the status quo.

We are not the first to claim that prior gains and losses affect the risk perceptions of political decisions. To predict when citizens join interest groups, Hansen (1985) argues that political and economic conditions change the perceived value of group membership, even when the actual costs and benefits of joining remain constant. Sociologist James Davies (1962) synthesized Marx's and Tocqueville's opposing theories of revolution, arguing sustained economic growth raises citizens' expectations of regime performance. Only when a sudden downturn subsequently frustrates these heightened expectations do individuals become inclined to revolutionary action.

Framing can also change the perceived utility of constitutional change (Tversky and Kahneman 1986). Quattrone and Tversky (1988) found the proposed Equal Rights Amendment to the U.S. Constitution was significantly more popular when framed as a means of "eliminating discrimination against women" as opposed to "improving the rights of women." In other words, when viewed as a correction to a problem, the ERA enjoyed more support than when perceived

as an improvement upon an acceptable status quo. In another study, respondents indicated their position on the ERA by answering an unframed question. Supporters of the ERA, when subsequently asked to justify their position, were significantly more likely to state the amendment would “eliminate discrimination” than “improve the rights of women.”

Voters expect their political leaders to manage the economy and perform other essential functions. In the domain of losses, voters perceive a convention as a potential solution to problems in government performance. Under these conditions, we predict they will behave in ways consistent with challenger/incumbent elections. That is, dissatisfaction will increase support for change. In the context of solving problems, we predict:

H1. *(Problem-Solving Condition): Citizens with more negative perceptions of their state’s economy will be more likely to vote for a state constitutional convention.*

H2. *(Problem-Solving Condition): Citizens with more negative perceptions of their state government’s performance will be more likely to vote for a constitutional convention.*

On the other hand, if a state is performing effectively and its economy is strong, citizens adopt a more positive frame of reference. In the domain of gains, we predict voters will behave in ways consistent with previous studies of direct democracy. Positive perceptions of economic and governing performance will mitigate voters’ status quo bias and make them more open to calling a convention. This leads to the following hypotheses under improvement framing conditions:

H3. *(Improvement Condition): Citizens with more positive perceptions of their state’s economy will be more likely to vote for a state constitutional convention.*

H4. *(Improvement Condition): Citizens with more positive perceptions of their state government’s performance will be more likely to vote for a state constitutional convention.*

Finally, government performance perceptions may not correlate strongly with economic evaluations and vice versa. Some voters might dislike their governor because of negative partisanship but be reasonably pleased with their state's economy. However, the effects of these heuristics are likely to be strongest when citizens' economic and governing perceptions align. That is, we predict an interactive effect when citizens are jointly satisfied (or dissatisfied) with governmental performance and the state of the economy. We expect:

H5. *(Problem-Solving Condition): Negative economic and governance perceptions will interact to increase support for a state constitutional convention.*

H6. *(Improvement Condition): Positive economic and governance perceptions will interact to increase support for a state constitutional convention.*

### *Study Design*

Our hypotheses predict voters process their economic and governance performance assessments differently depending on the frame describing the convention. We test these predictions in Study One, a survey experiment that manipulates whether a convention could “eliminate problems” or “further strengthen” how a state is governed. We model convention support by interacting the framing device with respondents' perceptions of their state's economy and satisfaction. Study Two, a pre-election survey from Rhode Island, provides a political and economic context fraught with problems. Study Three presents pre-election polling data in New York, where voters operated in a more positive political and economic context.

Testing our theory in Rhode Island and New York is ideal because they approximate a most similar systems design. Demographically, these states are heavily Catholic and urban, with

similar levels of educational achievement (Barooah 2012).<sup>7</sup> They also have comparable levels of liberalism amongst their electorates and state legislators (Matthews 2014; Pacheco 2014). At the time of their referendums, both had Democratic governors and Democratic majorities in their legislatures.<sup>8</sup> As mentioned previously, neither Governor Cuomo nor incoming Governor Raimondo provided strong signals about their position on a convention. Finally, interest groups opposed to a convention in Rhode Island and New York outspent supporters at similar ratios, although the total amount of money spent was higher in New York.

Neither state allows for a constitutional initiative for citizens to circumvent the legislature in creating constitutional change. The lack of this institution has two important consequences. First, both state constitutions have relatively low amendment rates.<sup>9</sup> Thus, Rhode Island and New York are different from places like California, where voters might eschew the open-ended

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<sup>7</sup> See <https://statisticalatlas.com/United-States/Educational-Attainment#figure/state/bachelors-degrees>. We recognize there is no Rhode Island equivalent to the division between upstate New York and New York City. Our New York survey analysis controls for region.

<sup>8</sup> There is one exception. In an effort to promote bipartisanship, some Democrats in the New York Senate caucused with Republicans, giving them the majority (Wang 2018).

<sup>9</sup> Between 2000-2010, the Rhode Island Constitution was tied for the 5<sup>th</sup> lowest amendment rate, while the New York Constitution was tied for the 7<sup>th</sup> lowest. The process for amending the New York Constitution is somewhat more difficult than that in Rhode Island. The New York Legislature must pass an amendment in consecutive legislative sessions before submitting the amendment to a referendum vote. The Rhode Island General Assembly need only pass an amendment once before the voters weigh in (Council on State Governments 2015).

nature of a convention in favor of individual constitutional amendments. Second, New York and Rhode Island rank as the 11<sup>th</sup> and 18<sup>th</sup> most corrupt states, respectively, according to one recent study (Dincer and Johnston 2014). If elites control the amendment process, the only realistic opportunity for good government reforms is in a constitutional convention.

From a motivated reasoning perspective, the Democratic control in both states also helps us to test our argument. While motivated reasoning theory might predict that Democrats would be more positive in their appraisals of the state economies in *both* cases, we will see below that economic evaluations across the two states were markedly different. This difference is consistent with literature that demonstrates how “accuracy motivations” often rival “directional motivations” (Bolsen, Druckman, and Cook 2014). That is to say, partisans balance in their minds a need to obtain and express accurate information against a need to feel good about their party’s performance in office. Our theory predicts that *prevailing* economic sentiments affect the pattern of support for constitutional change, meaning that voters must accurately appraise the state economy at least in part (Dickerson and Ondercin 2017).

While motivated reasoning is always a concern when it comes to economic perceptions, in both cases we see that voters ‘get it right’ more often than they do not. Perceptions of the economy can (and should) conflict as different individuals experience the economy differently. But when contrasted against political appraisals, we will see that economic perceptions are often orthogonal and surprisingly accurate. Thus, the real conditions facing voters in Rhode Island and New York are influential on constitutional convention attitudes despite the inevitable impact of partisan motivations.

## STUDY ONE: RISK FRAMING AND SUPPORT FOR CONSTITUTIONAL EXPERIMENTATION

## *Methods & Data*

In October 2018, we obtained a convenience sample of 613 workers on the Amazon MTurk platform,<sup>10</sup> who were invited to participate in a brief survey asking whether they would support a (hypothetical) state constitutional convention. Afterwards, the survey measured respondents' attitudes towards risk, their evaluations of current political and economic conditions, and basic demographic information. To eliminate the possibility of post-treatment exposure bias, we collected these independent variables before treatment exposure.

The study randomly assigned respondents to one of three conditions. Respondents in the Control Group were asked whether they would support a referendum to call a state constitutional convention. Those in the Problem-Solving Condition first encountered a brief vignette stating supporters of the convention “believe it could eliminate problems in the way [state] is currently being governed.” Those in the Improvement Condition received a passage stating supporters believe the convention “could further strengthen the way [state] is currently being governed.” Following the vignette, respondents in the treatment conditions answered the same question about voting for a convention ballot measure.

We utilize probit regression to estimate treatment effects, contingent on the theoretically-relevant effects of economic and political perceptions. In experimental research on performance evaluations, the key quantity of interest is not the effect of the treatment on the dependent variable, but rather how treatment exposure impacts the *marginal effects* of an independent variable on the dependent variable (e.g., Anson 2018). These marginal effects are, therefore, the

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<sup>10</sup> Qualification conditions included residency in a U.S. state, HIT approval rates greater than 90%, and age 18 or older.

“treatment effects” of greatest interest. The analysis compares the marginal effect of performance evaluations in the two treatment groups against the marginal effect of these perceptions among individuals in the control group. We also control for risk preferences using the same measure used by Zink and Dawes (2015).<sup>11</sup>

### *Results*

Figure 1 displays the marginal effect of state economic and government satisfaction assessments on the probability of favoring a convention across experimental conditions, holding risk attitudes constant. The effect of performance perceptions was indistinguishable from zero in the Control Group, but the results are different when filtered through the treatments. We expect (H1) voters in the Problem-Solving Condition will be more favorable to a convention if they believe their state is experiencing a poor economy and government mismanagement. As the left side of Figure 1 displays, a one-point increase in economic optimism (on a 1-5 scale) decreased the probability of favoring a convention by 7.8% in the Problem-Solving condition. While this -7.8% finding is significantly different from zero, there is no statistically significant difference between individuals in the Problem-Solving Condition and individuals in the Control Group, where the marginal effect of economic perceptions was -3.0%. Consistent with H2, government evaluations also generate a negative marginal effect of 10.2%, but this finding does not achieve statistical significance.

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<sup>11</sup> See the Appendix for tables of all experimental models. In both models, individual with more risk-tolerant dispositions are significantly more supportive of a convention.

[Insert Figure 1 about here.]

Respondents in the Improvement Condition should be more favorable to a convention if they have more positive views of the economy (H3) and government performance (H4). In this treatment, the marginal effect of economic perceptions was not statistically different from zero. Respondents who are satisfied with their state government, as predicted, were 10.0% more likely to back a convention. The *treatment effect* in this condition, however, achieves statistical significance. Relative to the Control Group, the effect of government satisfaction is significantly higher among individuals in the Improvement Condition ( $p < 0.05$ ). While the sample size of the study might limit the potential significance of the treatment effect's direction, we nevertheless see substantial evidence that the Improvement Condition deflects respondents' perceptions in a more positive direction.

Figure 2 further explores these results. We estimate a probit model which interacts government satisfaction, economic evaluations, and experimental condition. This figure displays the marginal effect of government satisfaction across levels of economic optimism, holding risk preferences constant. The goal here is to analyze levels of support among respondents with positive and negative economic and political perceptions.

[Insert Figure 2 about here.]

First, we examine respondents in the Control Group, for whom the effect of government satisfaction remains relatively constant and near-zero, regardless of a respondent's economic evaluations. The interaction between government and economic assessments in the treatment conditions, however, shows a pattern in line with expectations. Within the Problem-Solving Condition, individuals satisfied with their government oppose calling a convention, and this effect grows more negative as economic optimism increases. On the other hand, economic

optimism increases the positive effect of government satisfaction within the Improvement Condition. As the confidence intervals of Figure 2 indicate, neither of these effects achieves statistical significance, except when economic optimism holds a value of between 3 and 4 in the Improvement Condition. As the low power environment of an experiment inflates the confidence intervals of a triple interaction, the data provide only suggestive evidence that the joint effect of the two heuristics differs across the treatment groups.

Overall, the experimental results suggest that framing the benefits of a convention affect how respondents utilize performance heuristics, both separately (as displayed in Figure 1) and in combination (as displayed in Figure 2). Such a relationship is negative when the prevailing discourse frames the referendum as a way to solve existing problems. A narrative that stresses a convention would further strengthen the status quo creates a positive relationship. Although the low power and artificial nature of the treatments present issues of external validity, these initial experimental findings lay the conceptual groundwork for more detailed tests of real constitutional referendums.

## STUDY TWO: SUPPORT FOR A CONSTITUTIONAL CONVENTION IN RHODE ISLAND, 2014

In 1984, 54% of Rhode Island residents voted to call a convention, which resulted in the adoption of a new constitution two years later. This new founding document required citizens to vote on convention ballot measures every ten years, which they have rejected since. The convention referendum in 2014 received little attention during the campaign season. Groups supporting the convention, composed of government reform advocates, spent \$39,701, while opponents, mostly unions and civil liberties groups, spent \$141,800 (Snider 2017, 281). On Election Day, 2014, the convention ballot measure was rejected by 55% of voters.

The Great Recession hit Rhode Island particularly hard. In 2009, Rhode Island's unemployment rate stood at 11.2%. Five years later, Rhode Island had the second-worst unemployment figure among the 50 states. Rhode Island's 2014 unemployment rate of 7.7% was significantly higher than the national unemployment rate of 6.2%.<sup>12</sup> Rhode Island's GDP (1.2%) also significantly lagged behind the national figure (2.2%).<sup>13</sup> Voters were well aware of these negative developments, as majorities of both Republicans and Democrats surveyed in a 2014 poll (described below) rated the state economy as "poor."

The state's political context was also fraught. Outgoing Governor Lincoln Chafee had an approval rating in the 20% range, leaving the state with a \$200 million budget deficit (Greenblatt 2015). Given the objective indicators of Rhode Island's economy and outgoing Governor Chafee's low approval rating, we expect many voters will perceive a convention as presenting an opportunity to correct political dysfunction. If that is the case, voters with more negative evaluations of the state's economy and governance should be more inclined to call a convention. We proceed to test these hypotheses on a pre-election survey.

### *Methods & Data*

The Rhode Island poll consisted of a telephone survey administered by the Taubman Center for Public Policy at Brown University between October 14-17, 2014. The Taubman Center conducted landline and cell phone interviews on a random sample of 1,129 likely voters, including an oversample of 500 Providence voters. Respondents who did not know how they would vote on the convention referendum received a follow-up question about how they were

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<sup>12</sup> See <https://www.bls.gov/lau/>.

<sup>13</sup> See <https://www.bea.gov/data/gdp/gdp-state>.

leaning. The Appendix reports the results of an ordered probit model using a four-point dependent variable (voting no, leaning no, leaning yes, voting yes). The key findings of the analysis are unaffected by this alternative model.

Respondents were asked to report how much they had heard about the referendum on a four-point scale and to assess the performance of the Rhode Island economy and the national economy on three-point scales.<sup>14</sup> The survey also included a dichotomous measure of the respondent's state government satisfaction. To measure party affiliation, interviewers asked with which party respondent was registered. Because the resulting partisan distributions do not fully square with contemporaneous samples of likely Rhode Island voters in 2014, the Appendix presents evidence that our results are robust to poststratification weighting on key covariates.

### *Results*

Table 2 displays the results of two probit models with robust standard errors predicting support for a Rhode Island convention. According to Model 1, many demographic traits exert little influence, while education and ideology play larger roles. A one-unit increase in education from its mean value decreases the predicted probability of favoring a convention by roughly 5.1%, all else equal. A one-unit change in ideology, from 'moderate' to 'conservative,' similarly decreases the likelihood of referendum support by a more substantial 9.0%. Providence residents are also 8.4% more likely to favor a convention compared to voters in other areas of the states ( $p = 0.052$ ).

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<sup>14</sup> Only 0.5% of respondents characterized the Rhode Island economy as "excellent," so we combined this response with "good" to form a three-point scale. Respondents' perceptions of the state economy and state government performance are only modestly correlated  $r = 0.420$ .

[Insert Table 2 about here.]

The failure of party affiliation to yield significantly different attitudes is puzzling, as the Republican Party had very little power in Rhode Island. Revisions to the state constitution could provide Republicans greater opportunities to exert political control. It is possible that, given the low salience of this ballot measure, respondents were not able to leverage their partisan identities as a heuristic. High information voters, however, may be more capable of reasoning based on partisanship. A subsequent analysis of Model 1 among only those respondents who say they have heard “a great deal” about the referendum indicates Republicans are more likely than Democrats to favor a convention, although this finding falls just short of statistical significance ( $p = 0.104$ ).

Our theory predicts that voters with negative economic and government performance perceptions will be more inclined to call a constitutional convention. The results provide limited evidence for H1 and H2. A one-unit increase in pessimism towards the state of Rhode Island’s economy, controlling for a host of relevant demographic and perceptual variables, increases support for a constitutional convention by around 7.0% ( $p = 0.069$ ). Voters who are dissatisfied with the performance of the Rhode Island government are also 10.3% more likely to support a convention than those who are satisfied ( $p = 0.086$ ). On the other hand, the U.S. economy variable does not achieve conventional levels of statistical significance. Taken together, these results suggest that only perceptions of the correct level of government influence convention attitudes.

The specification of Model 2 allows us to simultaneously examine the effects of political and economic perceptions on convention support (H5). Figure 3 displays the results of this interaction, holding other predictors at their means. As displayed on the right side of the figure, the effect of negative economic perceptions on convention support is particularly strong (and

statistically significant) amongst respondents who are also dissatisfied with the state’s governing institutions. The predicted probability of supporting the ballot measure is 0.680 amongst the most frustrated Rhode Islanders. The interaction of negative economic and government performance perceptions supports H5 (Marginal Effect = -0.099,  $p = 0.022$ ).<sup>15</sup> Overall, Rhode Islanders in 2014 approached this ballot measure as if it were a typical candidate election – the most dissatisfied citizens were the ones most willing to change the status quo. Three years later, New Yorkers faced a convention referendum in a different political and economic context.

[Insert Figure 3 about here.]

### STUDY THREE: SUPPORT FOR A CONSTITUTIONAL CONVENTION IN NEW YORK, 2017

The New York Constitution of 1938 requires the scheduling of a convention referendum every twenty years. In 1967, voters called a convention, where delegates proposed a new constitution with several popular reforms, but it also included a controversial repeal of the so-called “Blaine amendment,” which bans state support to sectarian schools. Voters rejected the proposed constitution in a subsequent referendum (McKay 1967). Each subsequent convention ballot measure has failed, including by an overwhelming 83% of voters in 2017.

We predict New Yorkers will approach this referendum with status quo bias that can be mitigated by positive perceptions of governance and the state economy. In 2017, New York met the definition of full employment with a state unemployment rate of 4.7%. New York’s 2016-2017 per capita GDP ranked twenty-fourth among the states. While it would not be accurate to

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<sup>15</sup> While a simple  $t$ -test of the interaction coefficient falls short of conventional levels of statistical significance, we follow the advice of Brambor et al. (2006) and calculate the marginal effect of economic perceptions over both values of the performance variable.

describe New York’s objective economic indicators as incredibly robust, being near the “middle of the pack” creates a different context than Rhode Islanders faced in 2014. New Yorkers of all political stripes in 2017 (as measured by a poll described below) were more likely to say the economy was “good” than “poor.”

The political context between these states also differed. Unlike Lincoln Chafee, New York Governor Andrew Cuomo enjoyed a 57% approval rating in the fall of 2017 (Lovett 2017). Interest groups in New York also spent considerably more money on the convention ballot measure than in Rhode Island. Labor Unions, along with the New York Farm Bureau, and civil rights groups raised and spent \$4.1 million opposing the convention. Convention supporters, led by the New York Bar Association, spent just \$1.1 million.<sup>16</sup> As mentioned previously, opponents outspent supporters at a similar rate as those in Rhode Island.

### *Methods & Data*

The New York data come from a telephone survey conducted by the Siena College Research Institute from September 25 through October 2, 2017, to 789 registered voters in New York. The sample was constructed using a stratified dual-frame probability sample of landline and cellular telephone lines from within New York State weighted to reflect known population patterns. The data was statistically adjusted by age, party, region, and gender to ensure representativeness. The unadjusted sample was 54.4% female, and the median respondent was sixty-four years old. A slight majority of respondents, 52.8%, identified as Democrats, 19.8% were Independents, and 27.4% identified as Republicans. Ideologically, the sample was 31.1% liberal, 38.9% were moderates, and 29.9% identified as conservatives.

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<sup>16</sup> See <https://www.followthemoney.org/entity-details?eid=43552163>.

We include several demographic controls in addition to measures of economic and political performance. The variable measuring union participation takes a value of one if the respondent or family member is a union member and two if both the respondent and a family member are union members. Self-reported knowledge of the referendum is measured on a four-point scale with the median respondent having heard “some” about this issue.<sup>17</sup> The region variable accounts for respondents from New York City, the suburbs of New York City, and upstate residents.

The survey measures state economic perceptions on a three-point scale. It also includes a dichotomous measure of whether respondents think New York is on the “right track” or heading in the “wrong direction.” Like other scholars (e.g., Jacobson 1996), we use this measure as a proxy for government satisfaction.<sup>18</sup> Independents, whites, and residents of New York City serve as reference categories for their respective variables.

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<sup>17</sup> Unfortunately, the wording of the knowledge question, which occurs immediately before the question measuring convention support, is problematic. The question reads, “Switching gears, the last New York State Constitutional Convention was held in 1967. Since then, New Yorkers have twice voted against having a constitutional convention - in both 1977 and 1997. In 2017, New Yorkers will again have an opportunity to vote on whether or not there should be a State Constitutional Convention. How much have you heard about that vote in 2017 on whether or not to have a constitutional convention?”

<sup>18</sup> Fewer than 2% of respondents described the New York economy as “excellent,” so we collapsed this variable to a three-point scale. This survey did not include a question measuring

## *Results*

Table 3 presents the results of two probit models predicting support for a constitutional convention in New York. According to the results in Model 1, many demographic measures, including party identification and ideology, do not achieve statistical significance. As previously mentioned, partisan elites in New York, like those in Rhode Island, did not give strong or clear cues on this referendum. This lack of signaling may have prevented voters from engaging in partisan-motivated reasoning. Race, however, plays a larger role in shaping convention attitudes in New York. The predicted probability of convention support is 0.296 higher among Latinos than whites, and 0.135 higher among African Americans ( $p = 0.085$ ).

[Insert Table 3 about here.]

Since convention opponents outspent supporters, we assume individuals reporting higher levels of referendum knowledge experienced greater exposure to negative campaign messages. A one-unit change the self-reported knowledge scale leads to a 0.134 decrease in the predicted probability of supporting a convention. In New York, opposed interest groups aired television ads predicting a convention could undermine protections for unionizing (Snider 2017). The data suggest this campaign was effective. Respondents who are members of labor unions are 6.8% less supportive of a convention than non-union members.<sup>19</sup>

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perceptions of the national economy. Like our Rhode Island data, economic and government performance assessments are somewhat correlated  $r = 0.431$ .

<sup>19</sup> As indicated in the Appendix, the main findings are unaffected if the union membership variable is not included in the model.

Like Rhode Islanders, state-level economic considerations significantly affect New Yorkers' likelihood of supporting a convention. Unlike the Rhode Island results, convention support in New York is significantly higher among voters with more positive economic assessments. A one-unit increase in economic optimism is associated with a 7.7% increase in support for a convention, supporting H3. At the same time, voters with more positive government performance attitudes are no more likely to support the ballot measure, failing to confirm H4.

Model 2 interacts economic perceptions with the 'right track' variable, and Figure 4 visualizes the interaction term. As the right side of this figure indicates, economic assessments do not significantly influence the likelihood of favoring a convention amongst respondents who believe New York is heading in the wrong direction. On the other hand, economic perceptions strongly influence respondents who believe New York is heading in the right direction (Marginal Effect = 0.176,  $p < 0.001$ ), consistent with H6. The predicted probability of supporting the ballot measure is 0.361 amongst respondents who are satisfied with the New York government and believe the state economy is performing well. In New York, positive economic evaluations and satisfaction with government performance jointly increase support for a constitutional convention, the opposite combination of views held by Rhode Islanders.

[Insert Figure 4 about here.]

## HOW TO ASSEMBLE A MAJORITY IN SUPPORT OF A CONSTITUTIONAL CONVENTION

According to the survey data, ending dissatisfaction appears to be a more powerful force than the desire to improve an acceptable status quo. Comparing Figures 3 and 4, we see that the

most frustrated Rhode Islanders were much more likely to support their convention (predicted probability = 0.680) than the most contented New Yorkers (predicted probability = 0.361).

This difference in effect sizes in New York in Rhode Island may be a function of the different polling techniques<sup>20</sup> or other unobservable differences. Nonetheless, prospect theory might also explain this discrepancy. Preventing additional losses is a more powerful force than achieving additional gains (Tversky and Kahneman 1991). Imagine Person A, who is usually risk-averse, and Person B, who is more risk-seeking in his/her decisionmaking. When the status quo reference point is strongly negative, it is likely that Person A and B will update their perceptions and become more risk-tolerant. However, in the domain of gains, it is likely that only Person B will interpret the status quo as so positive that they should “gamble with house money” in the hopes of an even better future (Thaler and Johnson 1990).

Our experiment yields further support for this interpretation of the differing effect sizes. In a follow-up to the questions analyzed above, we asked respondents in the Control Group if they believed the convention would eliminate problems in how their state is governed or further strengthen how their state is governed. Convention supporters were more likely to choose the “problem-solving” frame, while opponents tended to choose the “further strengthen” frame. Perhaps because we measured this relationship in a small subsample (N = 204), the finding did not achieve statistical significance ( $p = 0.176$ ). However, the direction of the result conforms to prospect theory research about framing support for the Equal Rights Amendment (Quattrone and Tversky 1988).

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<sup>20</sup> The two polls used different sampling methods, included different questions, and coded some variables (like race and party) differently.

Given these individual-level incentives, why did the negative political and economic context of Rhode Island fail to generate a majority coalition in support of a convention? To move to the aggregate level, one could multiply the predicted probability of supporting a convention (based on a respondent's perceptions) by the proportion of the sample who share those perceptions to arrive at a rough estimate of convention support in the state. However, the distribution of performance perceptions displayed in Figures 3 suggests this quantity was never enough to form a majority. Our case states likely did not capture extreme enough levels of economic and political dissatisfaction for a reform coalition to coalesce.<sup>21</sup>

Theoretically, we might expect that voters would respond to more severe problems with a more immediate desire for constitutional renegotiation. We might imagine that voters would approach a future referendum (such as Iowa's in 2020) differently if their state had a much worse economy than the country as a whole. Were Iowans to recognize a deficit in the state's response to a local economic crisis, we might forecast a narrow win for the referendum. Without such a crisis, voters' perceptions might be more mixed—ultimately preventing enough of them from sorting into the deeply pessimistic category that is most likely to spark a majority to support constitutional change.

## RETHINKING AMERICANS' SUPPORT FOR CONSTITUTIONAL REFORM

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<sup>21</sup> Among those who had an opinion, 61.4% of respondents to the Rhode Island poll favored a convention. However, 24.4% of the sample had no opinion. Given how low information voters often resort to preserving the status quo (Bowler and Donovan 1997, 73), most undecided voters probably also ended up voting no on Election Day.

To sum up, the analysis provides at least some evidence for each of our hypotheses. The Improvement treatment in the experiment provided evidence for our positive government evaluations hypothesis (H4), and the interaction of economic and government satisfaction (H6). The Rhode Island analysis corroborates our predictions regarding negative economic assessments, (H1), negative government perceptions (H2), and negative interaction between the two (H5). The New York analysis supports our hypotheses concerning positive economic perceptions (H3) and the interaction between economic and government assessments (H6).

In experimental and real-world settings, citizens use performance assessments to inform their constitutional attitudes, but the effect of these heuristics varies across contexts. Taken together, our empirical analysis helps to resolve a theoretical debate between studies of comparative constitutionalism (De Vries 2018; Elkins, Ginsburg, and Melton 2009), which suggest constitutional change is more likely to occur when the status quo deteriorates, and direct democracy (Bowler and Donovan 1998), which suggest the opposite. Both approaches have merit because voters—even as they venerate constitutions—approach convention referendums conditionally.

Public opinion scholars have long emphasized the nuance of heuristic use. Some citizens will use more heuristics than others; others will selectively turn to higher-quality heuristics (e.g., Sniderman, Brody, and Tetlock 1991). Scholars typically attribute differences in how voters process information to differences in capacity or interest. Our study suggests that heuristics operate in an even more subtle fashion. While further research is needed, our data indicate that even when voters choose to use the same heuristics, they may process them differently based on their particular political or economic context. Further study is also needed to see if these findings generalize to constitutional reform in other settings, both within and outside the United States.

It is curious that voters in these states (and our experiment)<sup>22</sup> did not leverage partisan heuristics as much as we might have expected. A convention represents an opportunity for out-partisans to gain greater political leverage, which is especially salient given the powerlessness of the Republican Party in Rhode Island and New York. This non-finding stands in contrast to prior scholarship that finds electoral losers are more supportive of electoral reform and exhibit more risk-tolerance than electoral winners (Bowler and Donovan 2007) and that Swiss voters often engage in partisan-motivated reasoning on ballot measures (Colombo and Kriesi 2017). If the party leaders in our case states had taken a stronger stand on their convention referendum, these studies suggest they could have persuaded out-partisans to support a convention. However, partisanship's lack of explanatory power mitigates potential concerns that omitted variable bias is shaping both performance perceptions and convention support.

This study also informs normative debates over direct democracy and popular constitutionalism, a legal theory that posits ordinary citizens to be the most authoritative interpreters of the Constitution (e.g., Kramer 2006). Skeptics of direct democracy and popular constitutionalism alike doubt the capacity of ordinary citizens to make informed choices. This study does not provide evidence of a citizenry engaged in thorough deliberation. Nevertheless, our analysis suggests that voters who operate in this low-information environment can still rely on basic performance cues to make informed and predictable decisions when it comes to constitutional change.

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<sup>22</sup> There was no significant effect of a respondent being an out-partisan in their home state or nationally and their willingness to support a hypothetical convention. See the Appendix for more details.

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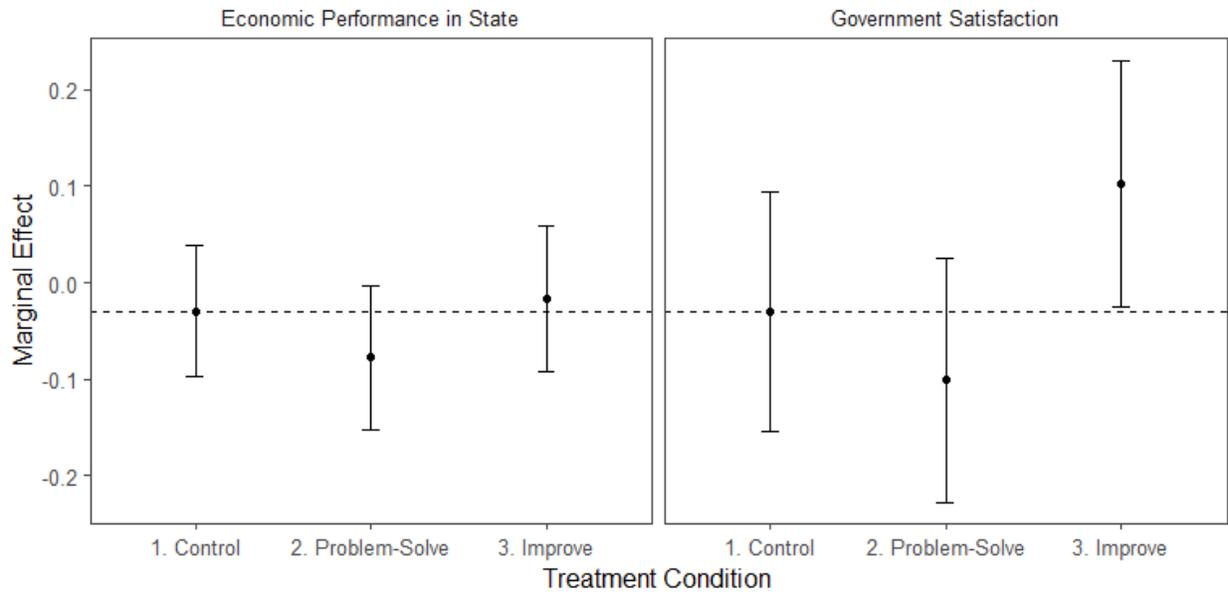
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## TABLES AND FIGURES

*Table 1. Historical Data on State Constitutional Convention Referendums*

Current State	Year Adopted	Conventions Called	Former State	Year Adopted	Conventions Called
Alaska	1959	0	Indiana	1816	0
Connecticut	1965	0	Kentucky	1792	1
Hawaii	1959	3	Massachusetts	1780	0
Illinois	1970	0	Virginia	1870	0
Iowa	1857	1			
Maryland	1851	4			
Michigan	1850	4			
Missouri	1875	2			
Montana	1973	0			
New Hampshire	1792	15			
New York	1846	4			
Ohio	1851	2			
Oklahoma	1907	0			
Rhode Island	1973	1			

Figure 1. Marginal Effect of Economic Optimism and Government Satisfaction on Convention Support, by Experimental Condition (95% Confidence Intervals)



Note: Solid horizontal lines indicate control mean; vertical lines indicate confidence intervals.

Figure 2. Marginal Effect of Government Satisfaction on Convention Support, by Level of Economic Optimism and Experimental Condition (95% Confidence Intervals)

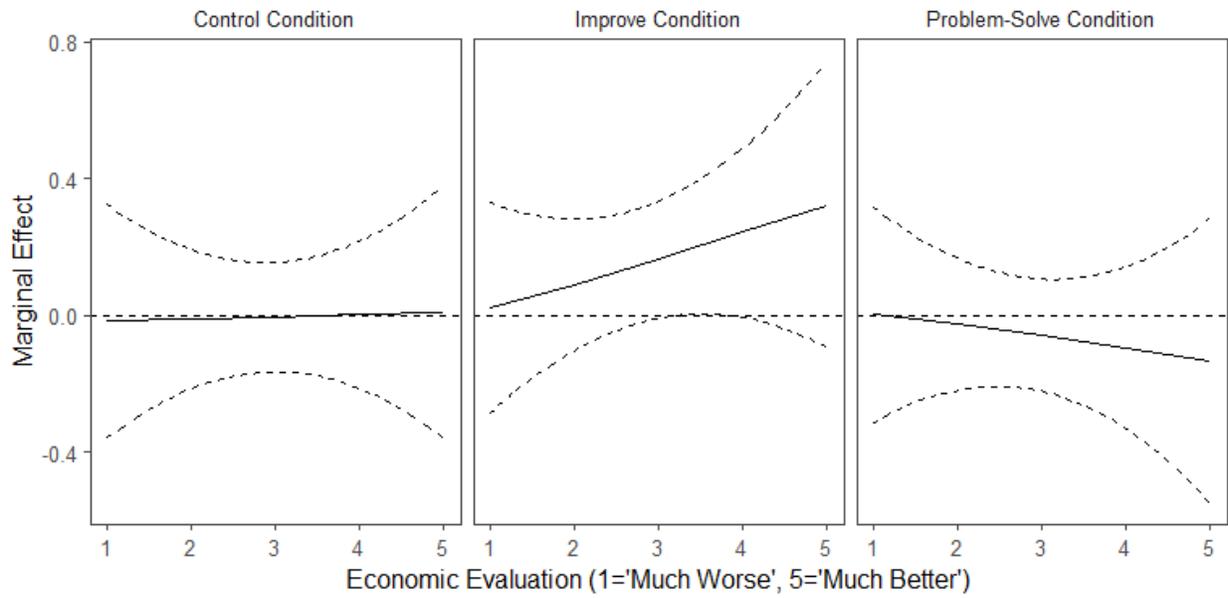


Table 2. Probit Models of Individual-Level Support for Rhode Island Constitutional Convention

Predictors	Model 1	Model 2
Democrat	-0.025 (0.116)	-0.030 (0.116)
Republican	-0.049 (0.185)	-0.065 (0.185)
Ideology	-0.243*** (0.073)	-0.231*** (0.074)
Female	-0.069 (0.103)	-0.079 (0.104)
White	-0.031 (0.141)	-0.030 (0.141)
Age	0.047 (0.050)	0.051 (0.050)
Providence Resident	0.220* (0.113)	0.222* (0.114)
Education	-0.129*** (0.044)	-0.129*** (0.044)
Referendum Knowledge	-0.071 (0.051)	-0.077 (0.051)
U.S. Economy Perception	0.128 (0.084)	0.127 (0.084)
R.I. Economy Perception	-0.188* (0.102)	-0.263** (0.116)
R.I. Government Satisfaction	-0.250 (0.154)	-0.534** (0.247)
R.I. Satisfaction * R.I. Economy Perception		0.298 (0.204)
Constant	0.743*** (0.284)	0.775*** (0.286)
Observations	673	673
Pseudo-R <sup>2</sup>	0.046	0.048
$\chi^2$	37.5***	38.9***

Note: \*  $p < 0.10$ ; \*\*  $p < 0.05$ ; \*\*\*  $p < 0.01$

Figure 3. Support for a Rhode Island Constitutional Convention as a Function of State Economic Perceptions and State Government Satisfaction (95% Confidence Intervals)

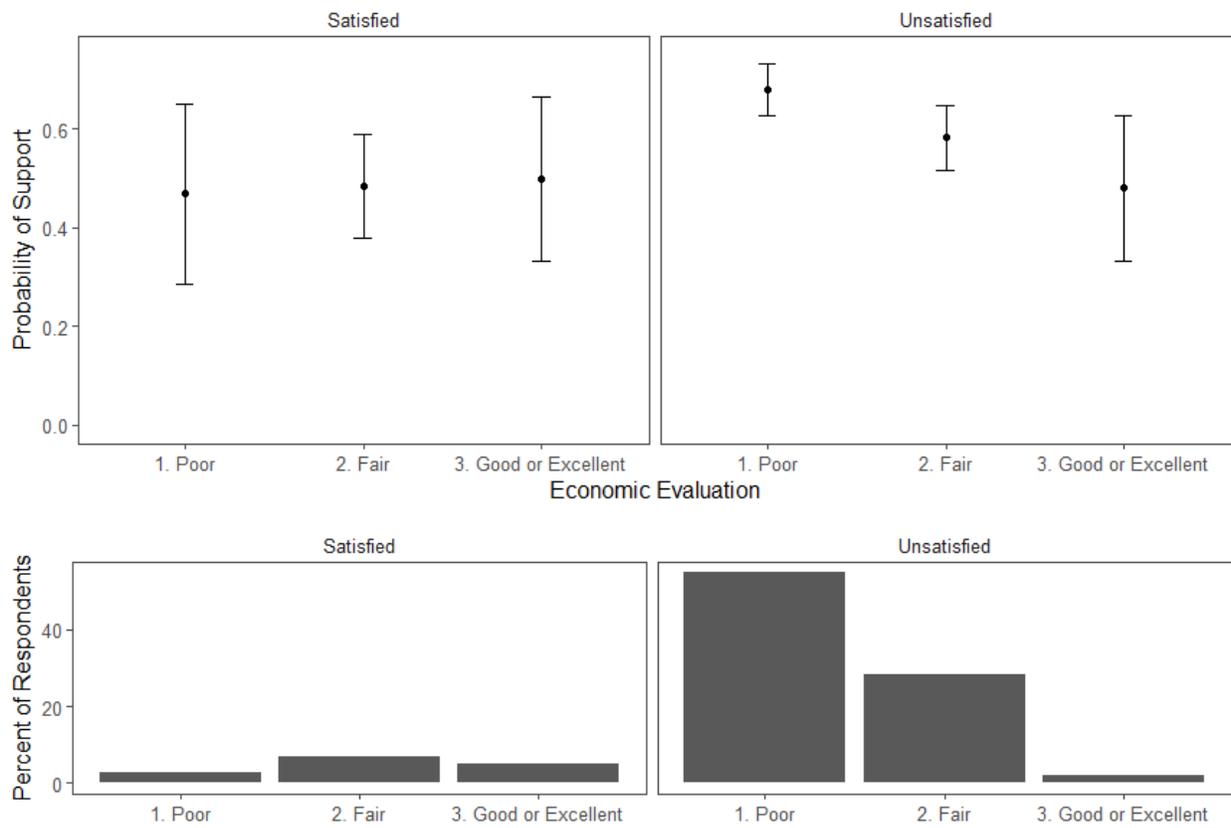


Table 3. Probit Models of Individual-Level Support for New York Constitutional Convention

Predictors	Model 1	Model 2
Democrat	-0.137 (0.183)	-0.131 (0.184)
Republican	-0.183 (0.197)	-0.210 (0.199)
Ideology	-0.075 (0.106)	-0.063 (0.106)
Female	-0.079 (0.132)	-0.060 (0.133)
African American	0.387* (0.225)	0.483** (0.228)
Latino	0.797*** (0.254)	0.844*** (0.258)
Asian	0.257 (0.461)	0.259 (0.449)
Age	-0.003 (0.005)	-0.004 (0.005)
N.Y.C. Suburb Resident	-0.330* (0.184)	-0.334* (0.188)
Upstate Resident	-0.171 (0.176)	-0.192 (0.178)
Union Member	-0.213** (0.107)	-0.231** (0.106)
Education	-0.084 (0.065)	-0.087 (0.065)
Referendum Knowledge	-0.405*** (0.060)	-0.409*** (0.061)
N.Y. Economy Evaluation	0.233** (0.103)	-0.017 (0.148)
N.Y. Government Performance	-0.127 (0.160)	-1.258** (0.499)
N.Y. Government Performance*		0.519** (0.212)
N.Y. Economy Perception		
Constant	1.417** (0.614)	1.908*** (0.635)
Observations	504	504
Pseudo-R <sup>2</sup>	0.169	0.180
$\chi^2$	100.8***	110.4***

Note: \*  $p < 0.10$ ; \*\*  $p < 0.05$ ; \*\*\*  $p < 0.01$

Figure 4. Support for a New York Constitutional Convention as a Function of State Economic Perceptions and Government Performance Perceptions (95% Confidence Intervals)

