Reconstituting Pennsylvania
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Former U.S. senator and presidential candidate George McGovern may be best known for his bad timing--being buried in Richard Nixon's landslide victory in 1972--less than two years before Nixon himself would be ignominiously forced from office. McGovern was not without a sense of humor; however, as he observed years after his defeat: "You know, sometimes, when they say you're ahead of your time, it's just a polite way of saying you have a real bad sense of timing."

McGovern’s belated insight about timing pervades political life: candidacies, legislation, and public policy itself are mightily affected by the vagaries of timing; little is possible in public affairs when the timing is bad, and nothing is impossible if the timing is right.

The importance of timing evokes some special resonance right now in Pennsylvania. Since the Civil War, Pennsylvania has been notorious for its anti-reform, stick-in-the-mud, slow to change political culture. And the notoriety has been well earned: for years--decades in fact--dozens of well-considered reform proposals, designed to modernize state politics have been ignored, stalled, or amended beyond recognition by Pennsylvania’s reigning political establishment. The list is long, but would include proposals such as lobbyist disclosure, open records laws, reducing the size of the legislature, and many, many other reform proposals.

But now, growing out of the pay raise controversy, there seems to be a looming consensus that serious reform may finally be in the Pennsylvania air. In this emerging milieu, perhaps a dozen or more major proposals have been suggested or continue under discussion. Most of these until now have been given short shrift in the legislature. Nevertheless, many of them do have advocates, important advocates, and some degree of public support.

The list, in addition to those previously mentioned, includes proposals that would adopt a non-partisan commission for legislative redistricting; adopt referendum, initiative and recall; appoint rather than elect appellate jurists; reform eminent domain procedures; adopt a progressive state income tax; enact greater home rule for local governments; reform public education funding; and consolidate local governments.

Nor is this an exhaustive list. Numerous other ideas have been touted that deal with the respective structure and powers of state government, state finances and taxation. In modern times, there has never been such a plethora of serious reform proposals under active discussion.

The reasonable question is how to handle all of them? A reasonable answer is to call for a state constitutional convention. True, some of these issues could be dealt with legislatively in statute, but increasingly it is clear that only a constitutional convention can adequately address the gamut of problems confronting the state; only a constitutional convention can deal comprehensively and systemically with a reform agenda this broad.

In fact, legislation to do so has already been introduced in the State House. It calls for a constitutional convention that would consider changes to nine areas of the present constitution, including local government consolidation, the role of judges, and public education funding.
The argument for calling a constitutional convention to consider reforms can be succinctly stated: confidence in state government has fallen to appallingly low levels. Pennsylvania has a legislature that won’t consider major reforms; a political system that has atrophied with age; a lobbyist system that protects the status quo; and a backlog of unaddressed public policy problems-- issues that threaten to leave us permanently behind other states.

Moreover, these problems--while certainly aggravated by the behavior of some officials--are rooted in an antiquated governmental structure little changed from the 19th century. Pennsylvania’s political problems are as much structural as behavioral, as much about the nuts and bolts of government as about the quality of political leaders.

How a constitutional convention would perform is a key question. Certainly Pennsylvania history provides some examples, and some cautions. During colonial times, the state operated under four different constitutions (or Frames of Government), and five subsequent constitutions since 1776.

The last general convention was held back in 1872 and 1873. So it has been 133 years since a comprehensive study of Pennsylvania state government. Interestingly, the Constitution of 1873 put in place some of the features of state government that are at the heart of controversy today.

The state house was increased from 100 to 200 and the senate from 25 to 50 members, doubling the size of both chambers. To ensure integrity in the legislative process, amendments were banned to bills that would alter their original meaning, bills were required to be read in their entirety on three separate days on the legislative calendar of each house, and all bills--other than money bills--were limited to one subject matter, and any amendments to a bill were to be printed and circulated before final passage.

It’s richly ironic that the controversy over the passage of recent laws--those dealing with the pay hike, creating the slots operations, and involving property tax relief--all involve the very sections of the state constitution designed more than a century ago to open up the legislative process, to make more transparent the activities of lawmakers, and limit unethical behind-the-scenes deal making.

The most recent constitution dates back to 1968, but it was produced by a limited convention in which the delegates were constrained to considering change in only four areas of the constitution: judiciary, local government, finance, and reapportionment. Significantly, it did not deal with the legislature or the executive branches.

The 1968 Convention was preceded by six previous efforts to alter the 1873 convention--all unsuccessful for a variety of reasons. Some of the state’s most important leaders, including then-Governor Raymond Shafer, former Governors Scranton and Leader, both US Senators, Joe Clark and Hugh Scott, and many leaders in both parties, all rallied in support of the 1968 convention’s call, and the final product was approved by almost 250,000 votes in referendum.

The 1968 convention was successful in some respects, but ineffectual in others. Much was done, much was left undone. It didn’t reduce the size of the legislature, for example, a goal sought by some delegates, but it did permit home rule for municipalities, raised the ceiling on state borrowing, and created a unified state judiciary.
In historical perspective the 1968 convention began, but did not complete the work necessary to prepare Pennsylvania for the 21st century. Much of that work still remains unfinished. Now almost 40 years later, we may have a second chance to get that job done.

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