A Constitution for PA
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In late 2005, we published an article that argued it was time to consider holding a constitutional convention in Pennsylvania. In that article and in a subsequent one we concluded that "we have reached a critical juncture during which a window on reform is open in Pennsylvania. How long that window might be open, or even how wide it is, are not yet known. These are all issues that Pennsylvanians should be discussing in the next few months."

Now in 2007, it is even clearer that such a window has opened. Since last autumn’s decisive vote for change in the legislature, myriad voices have been heard calling for constitutional change in Pennsylvania. Senator Jeff Piccola is wrapping up a series of statewide hearings to discuss the need for a convention. The State House has begun a series of internal rule changes, and diverse conservative and liberal groups have publicly advocated a constitutional convention.

Five key questions emerge from this developing consensus. The whys, whats, whens and hows of constitutional change include:

**Why Do We Need A Convention?**
The argument for calling a constitutional convention is clear and convincing. Many of the state government fundamentals in place today owe their existence to decisions made at the last constitutional convention in 1873—work that now is more than 130 years old. The last time the state took a comprehensive look at its constitution, Ulysses Grant was in the White House, Queen Victoria reigned in Britain, the notorious "Boss Tweed" was going on trial for corruption in New York, and the Wright Brothers’ first flight was still three decades in the future. In short, Pennsylvania’s constitution is a legal fossil unequipped to deal with the problems of the 21st century.

The consequences of having an outmoded constitution have been both pernicious and cumulative. For decades, state government has grown helter-skelter, adding parts and functions with no systematic review of how it works or even if parts of it work at all. One could not imagine any company doing more than 50 billion dollars worth of business and employing 55 thousand workers without routinely reviewing and updating its strategic plan. Yet Pennsylvania has not developed a new plan much less updated its old plan since 1873.

**What Should Be The Scope Of The Convention?**
The scope question is critical; it asks should a constitutional convention be a limited one, limited to the structure and the framework of government issues dealing with the executive, judicial, and executive branches of state government? Or should the convention’s scope be unlimited stretching to such issues as tort reform, education, healthcare, and other policy issues?

What seems clear is that meaningful, sustained reform is going to require a comprehensive review of state government structure and functions—to include at least a sweeping consideration of the organization and operation of the three main branches. To this point, the discussion has been narrowly focused; reform
proposals have given disproportionate attention to the actions of the state legislature and issues like the size and term limits of the legislature. Almost no attention has been given to the executive and judicial branches. That’s a mistake. State government is a complex interrelated system, and reform should systematically consider all parts of that system.

**What Topics Should Be Addressed?**

No other arena of reform needs more sorting out than this one. One reform group (Democracy Rising) has identified more than 180 reform proposals. Overall, there are probably at least three dozen reforms that would require constitutional change rather than simple statute or rule making. In modern times, there has never been such a plethora of serious reform proposals under active discussion.

These include proposals, such as term limits on members of the General Assembly, session limits for the legislature, a nonpartisan commission for legislative redistricting, reducing the size of the House and Senate, initiative and referendum, merit selection of judges, reform of eminent domain procedures, and greater home rule for local governments.

Whether any, some, or all of these should be addressed by a convention is for the legislature to determine. But it should do so only with widespread citizen participation and involvement.

**What Can We Learn from Prior Conventions?**

Pennsylvania history reveals some fascinating historical contrasts in the state’s constitutional record. On the one hand, the state has been prolific in making and unmaking constitutions. During colonial times, the state operated under four different constitutions (or Frames of Government). Since then (1776), there have been five subsequent constitutions.

On the other hand, it has often been a long spell between constitutions. The last general convention was held back in 1872 and 1873. So it has been more than 13 decades since there was a comprehensive study of Pennsylvania state government.

The most recent constitution dates to 1968. But it was 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 legislative or executive branches.

Even getting this much was not easy; the 1968 convention was preceded by six previous efforts to alter the 1873 convention--all unsuccessful for a variety of reasons.

**When Should We Do It?**

Soon--but not too soon. Windows on reform tend to open infrequently and close abruptly. We don’t know how long we have before the reform impulse will run down. Pennsylvania’s own political history suggests real danger here. On the other hand, we want to do it right and that means allowing adequate time for public discussion, planning, and consensus building. Importantly, the citizens of the state should have a direct role in the process in advance of the deliberations of the convention. This should include provisions that allow the voters to express their opinions on some of the important items to be addressed at the convention.
Other important questions will need to be answered. The means for selection of delegates, for example, the time the convention should meet, and other issues pertaining to the nuts and bolts of running a constitutional convention. But in lining up the trees we don’t want to obscure the forest. There is a time in government for piecemeal, incremental reform. This isn’t that time in Pennsylvania.

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