

Time for a Second Constitutional Convention?

Contributed by Dan Schwartz
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PT speaks with Larry J. Sabato, author of the recently published *A More Perfect Constitution*. Reminding us of Jefferson's quote that, "the earth belongs always to the living generation," Professor Sabato advances 23 proposals in line with Jefferson's call for a new Constitution every 19 years—including asking the states to call a Constitutional Convention.

PT: The public's attention span is generally not all that long, and even if it weren't, the 23 changes would likely be a stretch. What would be "Larry's Top 5" picks? Sabato: I believe that our government needs such drastic structural alteration that there is only one solution: a Constitutional Convention. Here are my "top five" changes:

- Both the Vietnam and Iraq conflicts have illustrated a modern imbalance in the constitutional power to wage war. Once Congress consented to these wars, presidents were able to continue them for many years—long after popular support had drastically declined. Limit the president's war-making authority by creating a provision that requires Congress to vote affirmatively every six months to continue American military involvement.

- If the 26 least populated states voted as a bloc, they would control the U.S. Senate with a total of just under 17% of the country's population. We should give each of the 10 most populated states two additional Senate seats and give each of the next 15 most populated states one additional seat.

- The requirement that the president must be a "natural born citizen" should be replaced with a condition that a candidate must be a U.S. citizen for at least 20 years before election to the presidency.

- The insularity of lifetime tenure, combined with the appointments of relatively young attorneys who give long service on the bench, produces senior judges representing the views of past generations better than views of the current day. A nonrenewable term limit of 15 years should apply to all federal judges, from the district courts all the way up to the Supreme Court.

- The incoherent organization of primaries and caucuses dictates that candidates start campaigning at least a full year in advance of the first nomination contest, in order to become known nationwide and to raise the funds needed to compete. Congress should be constitutionally required to designate four regions of contiguous states; and, the regions would hold their nominating events in successive months, beginning in April and ending in July. A U.S. Election Lottery, to be held on January 1 of the presidential election year, would determine the order of regional events.

PT: PT is not a proponent of "states rights" nor "state sovereignty" (a logical impossibility in a system of divided authority). Though state governments nominally represent an important component in the Framers model, state legislators have been all but reduced to lobbyists in the nation's capitol. Is there a future for the states' reasserting their legitimate constitutional authority in American government? Sabato: *A More Perfect Constitution* urges that we utilize the second form of constitutional revision in Article V, precisely because the states have a major role in calling the convention. The 34 states needed to petition Congress for a convention can certainly specify the kinds of topics they wish to be discussed at the convention. And, in the end, 38 states will have to ratify anything that comes out of the constitutional convention. The Founders and Framers themselves did not trust Congress, and were much more inclined to trust the states, as am I. The states are not called the "laboratories of democracy" for nothing; most of the good ideas that are adopted nationally come out of the states.

PT: Does your proposal to increase the size of the House and the Senate ignore far deeper fault lines within the system? Other than gerrymandering, our reporting has repeatedly found that the structural breakdown doesn't occur until elected officials reach the state capitol or Washington: committee system dominated by the majority party, seniority, antiquated parliamentary rules (e.g., "gut and amend" or "closure"), influence of lobbyists and 'special interests,' and, the leadership's iron grip on dispensing the perks of office from committee assignments all the way down to where a member parks his/her car. How would a larger House or Senate get at these issues? Sabato: You make some very good points, but I would contend that my rearrangement and restructuring of the U.S. House and the U.S. Senate would have some very positive effects on Congress. Wholly apart from the positive impact of eliminating gerrymandering, the larger House and Senate will be more representative of the diversities found in the states. To that extent, I would expect cooperation and commonality to become more prominent. PT: Let's take "perfecting the presidency." Does it really matter whether the President is elected to a 4 or 6 or 10-year term if he/she doesn't belong there in the first place? As you sagely point out on your website, we are now faced with the prospect of 2 families controlling the White House for a total of 28 years, and their surnames aren't Washington, Jefferson or Lincoln.

Isn't the real issue more, "how are presidential candidates selected by the two major parties," where the process has morphed into candidates hijacking the parties electoral and fund-raising machinery. That raises the next question: "Does the entire superstructure crumble without a means to promote the "virtuous" and able to public office?" (The Framers seem to have thought so.) Sabato: You make some of the same arguments that de Tocqueville and Bryce made in the 19th century. Why don't the best people run for president, and sometimes other political offices? The stresses and strains on elected officials today are enormous. The press coverage, the intense negative campaigning, the day-in and day-out controversies that cause wear and tear on the elected officials and their families—all of these reasons and many more suggest that we are fortunate so many individuals are still willing to serve. That does not absolve us of our responsibility to try to improve the campaigning and electoral environment, so that we can get more good people to run for office. Finally, I did not spend much time on campaign finance reforms because I have written three other books on the subject, where I have laid out my reform plans. PT: In your introduction, you

elaborate “principles and standards” that underlie the Framers’ work and advocate that they remain our “guiding stars” for the process you eloquently describe. Again, PT would suggest that these principles are far broader, as articulated in “Principles of the American Republic” on our website. How would you compare those with the principles you have suggested as well as those which underlie the “23 proposals”?

Sabato: Your principles are intriguing and widely supported— not just by me, but by most Americans. I cannot comment on them all, but let me simply say that our common need for a successful society and civilization require that we all give something back; in a fashion that does not contradict our principles and deepest beliefs. I strongly support federalism, not in the narrow sense of “states’ rights,” but in the dynamic, creative design of the American republic. As you note, there is no substitute for civic virtue. We should build up a store of as much civic virtue as possible through good civic education, but also through a thoroughgoing, modern restructuring of the federal government— just as the Framers wanted us to do. I truly believe they would have been disappointed to discover that we were not going to hold any future constitutional conventions. They clearly wanted us to do so, and expected us to do so with regularity. It has been 220 years, and it’s time to start planning for a convention that may be a generation or so away.

PT: Thank you for your time, Professor Sabato. Professor Larry J. Sabato is the Robert Kent Gooch Professor of Politics at the University of Virginia, director of their Center for Politics, and a political analyst.