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City Bar's Support of Constitutional Convention Is Flawed



By [Jerry H. Goldfeder](#)

In 1997 I supported a constitutional convention. The New York City Bar Association opposed it, vigorously objecting to a deeply flawed delegate selection process. Putting aside that issue at the time, I believed that New Yorkers would have a greater opportunity to effect government reform through a convention than by continuing to urge an unresponsive state legislature to enact meaningful change. Only Gov. Mario Cuomo and a handful of other respected leaders shared this view. Our position was soundly defeated at the polls.

Twenty years later, I have come to the opposite conclusion—that a constitutional convention under the very same delegate selection process that existed in 1997 would either fail to enact change or, worse, undermine if not eviscerate many existing constitutional protections. I no longer view the issue as one of "hope over fear." Instead, I am persuaded that the realities of the inherently flawed delegate procedures outweigh any hoped-for reform.

This year, the city bar supports a convention. Although it concedes that the delegate selection process, unchanged, still has "deficiencies," it pins its hopes for a successful convention on "[s]tatutory revisions to the delegate selection process [that] can be made [by Albany] this year [or next]."

There is absolutely no basis for this hope. The city bar's draft report cites no evidence that the Legislature has even considered enacting the multiple reforms the city bar says would "make the process more open, less subject to the control of political leaders and more likely to result in a convention reflective of the will of the state's population." Indeed, the city bar concedes the opposite, that "the legislative and executive branches appear collectively unable or unwilling to sufficiently address public concerns that our elective processes need to be updated and fixed."

The city bar's optimism may be commendable, but it should not override the more clear-eyed approach it employed 20 years ago. This is especially true in light of its further observation that "single issue politics, PAC money and special interests could derail a convention or lead to detrimental results." There is no evidence that these influences have diminished since 1997. In fact, the role of money in our political system has become even more dominant. The city bar opts to rely on "education" of the voters to overcome the influence of money in the already-unacceptable delegate selection process. This reliance, I am afraid, is an expression of misplaced hope.

I come to this conclusion reluctantly. I have advocated for election and other reforms all of my professional life, and remain deeply committed to more liberalized, democratic processes. While I sincerely congratulate the city bar for its painstaking work, I cannot subscribe to its hope that a convention chosen through the current delegate procedures is likely to enact reforms. On balance, it poses more risks than opportunities.

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