

## Constitutional Amendment Study Background for the November 16 Conference Call

This study is not about any particular amendment; rather it is about establishing guidelines for evaluating amendments

### *Questions to Consider for Guidelines to Evaluate Proposed Constitutional Amendments*

The study asks us to first decide what constitutes an appropriate and well-crafted amendment. This is accomplished by addressing the following issues.

1. Should amendments be made to the constitution only when they address extreme problems and long term needs or should overwhelming public sentiment in favor of the change override exercise of restraint?

*Historically, the Constitution was only been amended a very few times, reflecting the exercise of great restraint of the American people to use this tool. This question asks whether the League favors the use of the amendment process only when the matter at hand is of extreme importance and has long term repercussions, or the reluctance to amend the constitution can be overridden when the public is very much in favor of the change.*

2. How important is it that the wording of the amendment be effective in achieving its policy objective? In other words, should we support an amendment that may be unenforceable or miss the objective or have unintended consequences with the view that the Courts and legislature can sort it out over time?

*This question speaks to the issue of how carefully the proposed amendment should be crafted. In other words, should we demand that the proposal be drafted so that it is sure to achieve its goals, or should we support a less precise proposal which might not reach its goal, or have unintended consequences relying on the courts and legislature to sort it out.*

3. Should we only support amendments that make our political system more democratic or support individual rights, or should we not be constrained by these parameters?

*Most of our amendments have either been aimed at making our country more democratic or protecting individual rights ( I.e. The Bill of Rights and lowering the voting age). Should we limit our support of future amendments to those which foster these goals, or should we not consider these parameters as important to whether to support a proposal.*

4. Should we only support amendments with policy objectives which cannot be achieved by legislation or a political approach which are easier to achieve than amending the constitution?

*It is very hard to change the Constitution and much easier to pass/change a law. Should we only support constitutional amendments which have goals which cannot be achieved by other means, such as legislation or executive action.*

5. Should we take into consideration whether the public policy objective is more suited to a constitutional (i.e. general) approach or a legislative (i.e. specific) approach?

*Constitutional provisions are very broad (e.g. Congress shall make no law abridging the right to speech); legislation is very specific (e.g. It is unlawful to threaten the life of the President). In assessing a proposal, should we take into consideration whether the problem is best solved by a general or a specific approach.*

The second part of the study considers the possibility of convening a Constitutional Convention to consider the passage of a proposed amendment. This process has never been successfully used and so it is rife with questions such as how it would work, who would be the delegates, how they would be chosen and what the convention could consider once convened. The first questions for study consider these and

other questions; the second part asks whether, given the uncertainty of the process, we should support any call for a constitutional convention.

The final question asks, basically, whether it is more important to foster our positions, or to ensure that the process of amending the constitution is done carefully and correctly.