



Written by [William F. Jasper](#) on May 5, 2014

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## The Not-so-smart ALEC

“Limited Government • Free Markets • Federalism.” That is the motto of the American Legislative Exchange Council (ALEC), which appears on their literature and on the banner of every page of the organization’s website. ALEC’s “about” page expands on that theme, explaining:

The American Legislative Exchange Council works to advance limited government, free markets, and federalism at the state level through a nonpartisan public-private partnership of America’s state legislators, members of the private sector and the general public.



ALEC’s stated philosophy and goals resonate with liberty-minded Americans, which, undoubtedly, is why many politically conservative state legislators and activist citizens look to it for leadership in rolling back the oppressive hand of Big Government. However, the well-funded and well-connected organization is alienating many of its erstwhile supporters by its support for dangerous trade pacts that threaten the sovereignty of the United States, as well as its efforts to promote a constitutional convention, which could result in the complete destruction of our already tattered and battered U.S. Constitution. That could spell the end of any hope to return to limited government, free markets, and responsible federalism.

Founded in 1973, ALEC has just celebrated its 40th anniversary and is experiencing both the joys of prominent national influence and the pains of harsh criticism. The organization can boast a membership that includes more than 2,000 state legislators and hundreds of corporations, as well as dozens of think tanks, foundations, and non-profit organizations.

For the past several years ALEC has been under attack from a gaggle of left-wing organizations — Color of Change, Common Cause, People for the American Way, Progress Now, the Center for Media and Democracy, the Sierra Club — that claim the organization’s corporate ties and corporate funding have put it in the pocket of big business. These and similar groups have lambasted ALEC for its model legislation opposing federal EPA regulations, gun control laws, “green” energy mandates, and “climate change” carbon taxes, and its support for laws supporting voter identification, “Stand Your Ground” protection, school choice, and privatization of public services. Major media outlets, such as the *New York Times*, Huffington Post, MSNBC, and CNN joined *The Nation*, Media Matters, and other radical-left detractors in attacking ALEC for these sins against the progressive gospel. The highly politicized shooting death of Trayvon Martin in Florida in 2012 provided the key event that ALEC’s critics could leverage to crack the organization’s growing impact. Utilizing the media-created furor over the shooting, the left-wing activist groups launched a petition-pressure campaign that spotlighted ALEC’s support for “Stand Your Ground” laws. The result was an exodus, as major corporations and legislators fled ALEC to avoid the controversy.



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For many of ALEC's staunchest supporters, the attacks on the organization — and the liberal-left/progressive sources from which they usually emanate — only prove its *bona fides* as a defender of free enterprise and constitutional government. They should know better by now. The same alliance of left-wing activists and the liberal establishment media regularly confer legitimacy on false conservatives pseudo-conservatives and business lobbies that promote Big Government by attacking them for not being “progressive” enough. Examples abound: Richard Nixon, Gerald Ford, Bob Dole, John Boehner, Mitch McConnell, the U.S. Chamber of Commerce, the National Manufacturing Association, the American Medical Association — to name but a very small cohort. These politicians and organizations have excelled at co-opting the rhetoric of free markets and limited government, but often go in exactly the opposite direction. In the remainder of this article, we will examine several of the areas where we contend ALEC is following a similarly deceptive path.

## Trading Away Sovereignty

At its Model Policies Annual Meeting 2013, ALEC members adopted a “Resolution Supporting the Successful Negotiation of a Comprehensive and Commercially Meaningful Transatlantic Trade and Investment Partnership (TTIP).” The summary of the resolution, provided on ALEC's website, states:

The Transatlantic Trade and Investment Partnership (TTIP) Agreement has the potential to be the largest trade framework ever negotiated underscoring the importance of ensuring that it is a high standard, comprehensive agreement with strong intellectual property provisions. In keeping with the American Legislative Exchange Council's (ALEC's) support of the Jeffersonian principle of free markets and ALEC's past support of a wide variety of trade frameworks, this resolution supports the negotiation and final ratification of such an agreement.

Similarly, the organization has adopted a “Resolution Urging Congress to Pass the Trans-Pacific Partnership Agreement (TPP).” The resolution summary states:

Drawing on ALEC's guiding free market principles, this resolution calls on Congress to support negotiations for a high standard, comprehensive Trans-Pacific Partnership (TPP).... The TPP has the potential to become the benchmark against which future trade frameworks will be measured for years to come.

The TTIP's promoters portray it as a “trade” agreement between the United States and the 28 member states of the European Union, while the TPP advocates similarly claim they are merely working to expand trade between the United States and 11 Pacific partners: Canada, Mexico, Peru, Chile, New Zealand, Australia, Malaysia, Brunei, Singapore, Vietnam, and Japan. The trade engendered by these agreements, say the promoters, will bring prosperity to all, including millions of promised good-paying jobs. Regular readers of *The New American* are already well aware of the many dangers posed by the TTIP and the TPP, which are being pushed aggressively by the Obama administration and the usual globalist elites at the *New York Times*, the Council on Foreign Relations, the Brookings Institution, and the U.S. Chamber of Commerce. Among the many articles we have published, in our print edition and online, are the comprehensive “Secretly Trading Away Our Independence,” from our May 20, 2013 print edition, and the entire special issue of our September 2, 2013 magazine devoted to the topic, “How the Free Trade Agenda Is Knocking Down America” (available as a free pdf download at <http://www.thenewamerican.com/files/TNA2917.pdf>).



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One of the most important facts, if not the *most* important, to know about both the TTIP and TPP is that they would, if adopted, steadily strip away our national sovereignty, allowing the World Trade Organization (WTO) and the United Nations, as well as regional tribunals and regulatory bodies created by these agreements, to override our local, state, and federal laws. This feature alone makes them very subversive, revolutionary proposals that should be opposed by every elected or appointed official who has taken an oath to “support and defend the Constitution of the United States.” This is no longer a matter of theoretical speculation; as The New American has reported previously, the North American Free Trade Agreement (NAFTA) and the WTO agreement have amply proved this. As a result of adopting both of those agreements, NAFTA and WTO rules and rulings increasingly trump our laws.

Liberty-minded Americans who truly believe in the rule of law and the form of limited government envisioned by our Founders should be working to remove our country from these freedom-destroying organizations, not subjecting us to even more of the same. Even if the agreements dealt only with “trade” issues, the structures and procedures they set in place would be pregnant with dangers because they initiate a developing, ongoing process that is a guarantee of “mission creep,” with an ever-expanding transnational bureaucracy claiming ever more power over our personal, local, state, and national affairs. Obama administration officials acknowledge that the TTIP/TPP agreements deal with agriculture, environment, labor, telecommunications, financial services, and much more. And documents that have been leaked thus far have revealed additional dangers, such as TPP draft proposals that would dramatically curtail free speech on the Internet.

Another disturbing feature of both the TTIP and TPP is the secrecy and intrigue that have become their hallmarks. The American people and their elected representatives in Congress have not been allowed access to the TTIP/TPP negotiation process, nor have they been allowed to see the draft text of the agreements. However, the Obama administration has given representatives of major corporations, labor unions, environmental organizations, and other NGO activist “stakeholders” official access to both the negotiation proceedings and the texts. Thus the TTIP and TPP have become a joint project of Big Government, Big Business, Big Labor, and Big Green (although the Big Labor/Big Green contingents pretend to oppose at least some features of the agreements). The secrecy of the TTIP/TPP process is, in and of itself, a huge red flag alerting all except the willfully blind that something is amiss. ALEC should find this aspect of TTIP/TPP thoroughly objectionable, since it has made a pointed commitment to transparency in government. A perusal of ALEC literature and the organization’s “model policies” web page reveals numerous bills sponsored by ALEC devoted to transparency and criticizing officialdom for withholding information from citizens. The Transparency and Government Accountability Act, Local Government Transparency Act, and the Taxpayer Transparency Act are but three of many model bills crafted by ALEC demanding openness and access for citizens.

Yet still another strike against the TTIP and TPP is the explicit admissions by the top promoters that they intend these agreements to initiate an “integration” process that will continually “widen” (adding more nations) and “deepen” (adding more economic, political, and social issues) with time. This is the same widening-deepening integration process that has gradually transformed the Common Market “trade” bloc into the increasingly tyrannical EU leviathan ruled by central authorities in Brussels. And TTIP/TPP champions have repeatedly expressed their hopes of following the EU path toward centralized power. As of yet, ALEC has not explained how it can square its “Limited Government, Free Markets, and Federalism” philosophy with these TTIP/TPP flaws that are completely at variance with it.



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## **Constitutional Malpractice**

For many years ALEC has been a leading promoter of the idea that the U.S. Constitution must be amended to require a balanced budget. This, of course, appeals to conservatively minded legislators who recognize that continued liberal spendthrift policies are immoral and unsustainable, and lead our nation toward financial Armageddon. ALEC has used the Balanced Budget Amendment (BBA) attraction to argue for an Article V Convention of the States, which constitutionalists (including the editors and writers of this magazine) contend is a dangerous gamble that risks the entire Constitution for an amendment that could not be relied on to rein in Washington, D.C.'s ravenous appetite for spending — even if the convention could be restricted to that one issue. The problem is that, ALEC's assurances to the contrary, once a constitutional convention is called, it becomes a power unto itself and there is no way to limit its power to amend, revise, or toss out and completely rewrite the Constitution. ALEC claims that fears of a "runaway convention" of this sort are misplaced, and they have published *Article V: A Handbook for State Lawmakers* to make their case for a constitutional convention (aka Article V convention). They have also produced a "Resolution for Limitations on Authority of Delegates to a 'Convention for Proposing Amendments' (Article V, United States of America Constitution)." This resolution, says ALEC, "will eliminate the possibility of a 'runaway convention,' the reason most often cited by scholars for their opposition to an Article V Convention. The resolution restricts delegates to work only on those amendments authorized in their legislative instructions and calls for the immediate recall of any delegate that works on an unauthorized amendment."

But in making this claim, ALEC is on very shaky ground. This is clear, first of all, from our nation's own history. Our first — and so far, only — constitutional convention, which took place in Philadelphia in 1787, was a "runaway convention," despite restrictions on delegates similar to those advocated by ALEC. That gathering, in violation of its mandate, threw out the Articles of Confederation that it had been convened to amend, and drew up a completely new governing document. The fact that the product of that breach of trust turned out to be as sound and salutary as it has proved to be should not incite hope that a repeat of the same process would end so well.

James Madison, often referred to as the "father" of the Constitution, said the contemplation of another constitutional convention caused him to "tremble" due to the violent partisanship and "insidious views" so prevalent in his day. Have things so improved that we should be less concerned in our own day? Who but a fool or a knave would say so? Madison warned:

If a General Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress appointed to administer and support as well as to amend the system; it would consequently give greater agitation to the public mind; an election into it would be courted by the most violent partizans [sic] on both sides [and] would no doubt contain individuals of insidious views, who under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union might have a dangerous opportunity of sapping the very foundations of the fabric.

"Under all these circumstances it seems scarcely to be presumeable [sic] that the deliberations of the body could be conducted in harmony, or terminate in the general good," he averred. "Having witnessed the difficulties and dangers experienced by the first Convention which assembled under every propitious circumstance," Madison concluded, "I should tremble for the result of a second meeting in the present temper of America, and under all the disadvantages I have mentioned."



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Noted constitutional scholars of our own time from across the political spectrum — from liberal Supreme Court Justices Warren Burger and Arthur Goldberg to Professors Lawrence Tribe of Harvard and Gerald Gunther of Stanford (both liberals) to Professors Charles Rice of Notre Dame and Rex Lee of Brigham Young (both conservatives) — have echoed Madison, offering their learned opinions that a constitutional convention cannot be limited in its scope, either by Congress or state legislatures. We can say for certain that regardless of the outcome of such a convention there would be dissatisfied factions that would challenge the final product, causing a constitutional impasse and, most probably, sending the whole issue before the U.S. Supreme Court, which has hardly proven to be a staunch defender of limited government. The end result well could be that our U.S. Constitution, which ALEC claims to support, would become a dead letter if ALEC's "free trade" agenda were to come to fruition.

## **Government-Business Cronyism**

Still another area of concern to ALEC's critics on both the Right and Left is the organization's support for "public-private partnerships." ALEC's model legislation for states promotes a "Public-Private Partnership (P3) Authority Act," the summary of which states:

This Act establishes a state Partnership Committee and an Office of Public-Private Partnerships to identify and establish public-private partnerships and approve qualified bidders, requests for proposals, and template contracts. The Act is designed to improve public operational efficiency and environmental performance, promote public safety, attract private investment in the state, and minimize governmental liabilities.

In this area, the supposedly "conservative" ALEC is perfectly in step with the "progressive" Obama administration, which has made public-private partnerships (P3) a centerpiece of its statist program. And many of ALEC's member corporations are also partners in Obama's Fedgov/Big Business "Manufacturing Innovation" consortiums and other P3 endeavors. Those favored corporate cronies include such well-known names as Boeing, General Electric, Microsoft, Caterpillar, Dow Chemical, ALCOA, and ExxonMobil. Hillary Clinton, while Obama's secretary of state, launched the administration's P3 Global Partnership Initiative, spreading hundreds billions of dollars in corporate welfare to the well-connected.

ALEC is in the forefront of spreading the P3 gospel at the state level, along with its progressive partner, the U.S. Chamber of Commerce (USCC), which, like ALEC, talks a good game of "free markets" while actually promoting corporate subsidies and economic fascism. "Fascism," writes Lew Rockwell, president of the genuinely free market-oriented Ludwig von Mises Institute, "is the system of government that cartelizes the private sector, centrally plans the economy to subsidize producers, exalts the police state as the source of order, denies fundamental rights and liberties to individuals, and makes the executive state the unlimited master of society." And it is precisely this kind of cartelized, centrally planned, fascist economy that the ALEC/USCC/Obama/corporate alliance is producing.

ALEC's corporate P3 members are well represented by:

- Big Pharma (Abbott, AstraZeneca, Bayer, Genetech, GlaxoSmithKline, Pfizer);
- Big Farm (Altria Group, Archer Daniels Midland, Kraft Food, J.R. Simplot, Monsanto);
- Big Oil (Shell, BP, Peabody, Marathon, Texaco, Tenneco, Chevron, ExxonMobil);





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- Big Banking (Bank of America, Coldwell Banker, Wells Fargo, First Chicago NBD);
- Big Gambling (Hollywood Casino Corp., Argosy Gaming Co., Boyd Gaming Corp., GTECH Corp.);
- Big Media (Cox Communications, Comcast, the *Wall Street Journal*, News Corp., Thompson Reuters, Time Warner Cable);
- Big Insurance (Blue Cross Blue Shield, Farmers Group, GEICO, Liberty Mutual, State Farm, Travelers);
- Big Tech (Yahoo, Facebook, Google, AT&T, eBay, Hewlett-Packard, IBM, Intel, Sony);
- Big Soda (Coca-Cola, Pepsi-Cola, Dr. Pepper Snapple Group);
- Big Liquor (Seagram & Sons, Hiram Walker, Miller-Coors);
- Big Box Stores (Best Buy, Home Depot, JC Penney, Lowe's);
- Big Auto (Ford, GM, Toyota, Chrysler).

ALEC's critics on the Left erroneously cite these cozy corporate ties as evidence of the corruption inherent in "free market" capitalism. But the ALEC/Obama P3 "partnerships" are the antithesis of genuine free markets, in which entrepreneurs risk *their own* capital — not that of the captive taxpayers — to build businesses that provide goods and services consumers freely choose to purchase, not those determined for them by politicians and government planners.

ALEC may have started out well with the right intentions to promote free enterprise and limited constitutional government — and some of its proposals still do support those worthy efforts — but, as we have shown here, on some very fundamental issues the organization has drifted far from core beliefs proclaimed in its motto. ALEC members who truly adhere to constitutionalist and free market principles would do well to examine the organization more closely and either direct it back on course or cut ties with it, so as not to support harmful legislation and discredit the principles they profess to support.

Photo at top shows Rep. Kenny Marchant (right) introducing Pres. George W. Bush at an ALEC convention, July 2007: AP Images



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