



Written by [Raven Clabough](#) on January 6, 2011

## Conservative and Liberal Calls for a Con-Con

Several weeks ago, a liberal organization known as the Justice Movement asked Congress to pass legislation authorizing the formation of a constitutional convention in Philadelphia on July 4, 2011. This organization mistakenly believes that Congress is authorized under Article V of the Constitution to convene a constitutional convention with the approval of two-thirds of the House of Representatives as well as that of the Senate.



They have confused the two methods for amending the Constitution provided in Article V. The first method includes approval by two-thirds of the House and Senate, but does not involve a constitutional convention. The second method requires Congress to call a constitutional convention for proposing amendments on the application of the legislatures of two-thirds of the states. Both methods then require approval by three-fourths of the states.

Calls for “con-cons” have become more frequent as liberal and conservative organizations grow weary of the federal government’s overreach.

According to its [website](#), the Justice Movement “is a group of committed, everyday Americans of varied backgrounds and political views who collaboratively are dedicated to galvanizing political action that attains measurable results for all Americans.” Its mission is to “transform” the United States and “wage justice for America.”

The Justice Movement, which claims to have no affiliation to either any political party or candidate, purports to be seeking a new patriotic movement. In an effort to “use America’s greatness in the cause of justice...here at home,” the group has formed a Constitutional Convention Planning Committee. PR Newswire reports:

Among the constitutional scholars who have agreed to serve on the Justice Movement Constitutional Convention Planning Committee is Professor of Law at the University of Pennsylvania School of Law Professor Kermit Kim Roosevelt III — great grandson of President Theodore Teddy Roosevelt. He clerked for U.S. Supreme Court Justice David Souter and is the author of *The Myth of Judicial Activism*. Professor Roosevelt also is a member of Human Rights Advisory Board at Harvard University’s Kennedy School of Government.

The Justice Movement contends that a constitutional convention is necessary in order to transform the Electoral College system for electing a president. Likewise, members of the Justice Movement’s Constitutional Convention Planning Committee assert that the Constitutional Convention should pass a



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legal requirement mandating that all Americans vote in all elections as part of their “civic duties,” and that it should change political campaign finance laws.

While the Justice Movement maintains clear Marxist and Socialist philosophies, calls for constitutional conventions have by no means been limited to liberal organizations. Some conservative groups, including certain Tea Party groups, have been working to acquire state backing for a constitutional convention for a number of reasons.

Some believe a con-con would provide for the passage of amendments which would empower states to repeal unconstitutional laws such as ObamaCare, including the recently introduced [Repeal Amendment](#). Introduced by Representative Rob Bishop of Utah, the amendment reads:

Any provision of law or regulation of the United States may be repealed by the several states, and such repeal shall be effective when the legislatures of two-thirds of the several states approve resolutions for this purpose that particularly describe the same provision or provisions of law or regulation to be repealed.

According to Marianne Moran, executive director of [RepealAmendment.org](#) and former executive director of Tea Party In Action,

[The Repeal Amendment] restores a lot of the sovereignty and a lot of the power that the states have lost. This doesn't undo some of those bad Supreme Court cases and doesn't resolve some of the problems of the Seventeenth Amendment, but it does restore some of the balance of power that was originally intended — and the mechanism by which we can control some of the out of control spending and get our debt under control.

However, while it appears that the Amendment was written with the best of intentions, it raises a number of concerns. First, it seemingly seeks to replace the process of nullification, an option that is already available to the states. Likewise, it runs the risk of disturbing the already delicate balance of states' rights versus federal powers.

Larry Greenley of the John Birch Society sums it up best:

The amendment undermines the authority of the federal government, which has the power to pass laws as long as they are in accordance with the enumerated powers delegated to Congress in Article I, Section 8 of the Constitution. It complicates the whole idea of federalism.

There is another important movement which could lead to a constitutional convention. Some conservative congressmen have indicated their support for a [Balanced Budget Amendment](#), including Mike Lee of Utah, who is a member of Balanced Budget Amendment Now (BBAN) — a grassroots initiative that seeks congressional approval of a BBA by the autumn of 2011.

According to BBAN's website:

You have heard all of the clichés: “talk is cheap” or they “talk the talk, but don't walk the walk.” Unfortunately, the first describes the lip service many in Congress give to a Balanced Budget Amendment. They claim to support fiscal discipline but refuse to change their big spending ways. The latter refers to many non-profit groups who support a Balanced Budget Amendment, yet have not aggressively demanded action or held Members of Congress individually accountable for inaction.

We are different, we are solely focused on passing a BBA now, we will not compromise our sole mission for some other legislative agenda priority. We want results now and will push for them



now.

A number of Republicans and Tea Party elected officials have already indicated support for such an amendment, including Lindsey Graham (S.C.), Jim DeMint (S.C.), Tom Coburn (Okla.), and Rand Paul (Ky.).

However, despite the purported benefits of such an amendment, a number of negative consequences may result. First, it fails to target the real underlying cause of America's deficit: massive amounts of unconstitutional spending.

Second, if the House and Senate fail to approve a balanced budget amendment by October 2011, the announced deadline of the BBAN organization, then BBA supporters will very likely turn to the second method for amending the Constitution in Article V as they did in the 1970s and '80s — getting two-thirds of the states to petition Congress to call a constitutional convention for proposing amendments.

Convening such a constitutional convention for any reason could lead to inadvertent risks such as the passage of harmful amendments such as those proposed by the Justice Movement.

Despite the allure of a constitutional convention, the John Birch Society contends that such a convention would be unlikely to rein in the federal government, while at the same would pose a great risk of harmful changes to the Constitution:

There is little chance of getting the out-of-control federal government to begin honoring the Constitution just by making some changes to it. What's needed is for the states that formed the federal government as their agent when they ratified the Constitution, to rein in their agent by making independent judgments regarding the unconstitutionality of federal laws and actions based on the Tenth Amendment.

They add, "New amendments to the Constitution ... could undermine and weaken the integrity of the Constitution."



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