



Written by [Joe Wolverton, II, J.D.](#) on August 22, 2013

Levin, Limbaugh, Hannity Calling for Con-Con

In his new book, *The Liberty Amendments: Restoring the American Republic*, “conservative” radio talk show host Mark Levin is calling for a new constitutional convention (con-con) “to reform the federal government from its degenerate, bloated, imperial structure back to its (smaller) republican roots,” [as reported by Forbes](#).



Levin, it should be noted, is notorious among many segments of the conservative spectrum for his assertion that the president of the United States has power to [“make war.”](#)

Levin’s fellow radio rabble-rousers, [Sean Hannity](#) and Rush Limbaugh, have joined him in this movement.

Hannity hosted Levin on August 16 for a one-hour special on the Fox News program *Hannity*, referring to Levin as “the Great One” and allowing Levin to explain his plan for an Article V convention to amend the Constitution.

Limbaugh, speaking of Levin’s idea, said on his syndicated program:

I don’t want to say it’s simple, but it makes so much sense.... And it is something that, the more people read it, the more people become familiar with it and demand that something be done to reaffirm and strengthen the Constitution, it’s something like this that is going to be necessary ... The American people have the power to change this.

After praising Limbaugh, the story in *Forbes*, written by a self-commissioned “foot soldier” in the battle to bring to pass a constitutional convention, lists a few of the usual suspects in the ranks of the purportedly growing con-con army: Mark Meckler, head of Citizens for Self-Governance and co-founder of the Tea Party Patriots; Nick Dranias of the Goldwater Institute; and Independence Institute’s constitutional scholar, Robert G. Natelson.

At one time, all of these “conservatives” have proposed various con-con schemes, promoting them as the only way to force the federal beast back inside the cage of the Constitution.

The particular provision of the Constitution relied on by the con-con proponents is Article V. In relevant part, [Article V states](#):

The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.



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One of the “evils” Levin and his cohorts claim would be eliminated by an Article V con-con is the runaway federal spending spree. In fact, Nick Dranias and others have pushed for a con-con that would be empowered specifically and exclusively to consider a Balanced Budget Amendment (BBA).

Before state legislatures vote for an Article V con-con proposal that could cause real and radical damage to our Constitution, they should first consider whether a balanced budget amendment is necessary and whether it would actually steer our Republic away from the fiscal problems we are facing. The fact is that determined citizens and state legislators could rescue the United States from its financial peril without resorting to opening up the Constitution to tinkering by state-appointed delegates, many of whom would be bought and paid for by special interests and corporations.□□

Thomas Jefferson wrote: “If a nation expects to be ignorant and free ... it expects what never was and never will be.” A fundamental requirement of vigilance is holding elected representatives’ feet to the fire by compelling them to honor their oath of office and not exceed the limits of their power as set forth in the Constitution.□□

Furthermore, there is no historical proof that a balanced budget amendment would drive Congress back to within its constitutional corral. Even the most conservative estimates indicate that about 80 percent of expenditures approved by Congress violate the U.S. Constitution. That fact wouldn’t change by adding an amendment to the Constitution.□□

Whether these bills spend our national treasure on unconstitutional and undeclared foreign wars, billions sent overseas in the form of foreign aid, expanding the so-called entitlement programs, or redistributing wealth via corporate and individual welfare schemes, none of these outlays is authorized by the Constitution.□□

And don’t forget, a committed, concerned, and constitutionally aware citizenry can balance our budget more quickly than any balanced budget amendment and without the danger of letting the wolves of special interests and their political puppets into the constitutional hen house.

Perhaps the most critical consideration that must be made by well-intentioned Americans anxious to do something to change the current course and to restore this country to its constitutional foundations is the indisputable threat to liberty posed by an Article V con-con as proposed by Mark Levin in his new book.

Despite the crushing weight of evidence produced by The John Birch Society, Eagle Forum, and other constitutionalist organizations, Levin and like-minded con-con supporters insist that the constitutional convention held in Philadelphia in the summer of 1787 did not exceed its mandate. In fact, based on the undeniable success of the constitutional convention of 1787, those calling for a new constitutional convention claim that a new con-con could accomplish just as much good as the first convention and be kept from becoming a “runaway convention” that could result in a new constitution, one that doesn’t resemble the current one.□□

Furthermore, the con-con clique claims that the historical record of the convention of 1787 proves that it was not a “runaway convention” and that a modern-day convention could be carried out without exceeding a very limited purpose.□□ Unfortunately, this account of those seminal events is not accurate.

A core premise of their conclusion is that the delegates to the Constitutional Convention of Philadelphia did not exceed their mandate. In an earlier report published by the Goldwater Institute, the claim was made that, “48 of the 55 delegates [to the Philadelphia Convention] had instructions which allowed them to go beyond amending the Articles of Confederation.”□□ To assert, then, that the Constitutional



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Convention was not “runaway” with regard to those 48 delegates is arguably true. However, what of the seven delegates whose commissions expressly forbade them from ratifying, or even participating in, any proposal calling for the dismantling of the government created by the Articles of Confederation? What of the states represented by those delegates? Yet after ratification of the Constitution crafted in Philadelphia, the citizens and governments in those states were considered to be equally bound to abide by the terms of that contract.□□

More importantly, regardless of any state or congressional legislation requiring them to consider only a balanced budget amendment, the assembled delegates to a new constitutional convention would possess unlimited, though not unprecedented, power to propose revisions to the existing Constitution, based on the inherent right of the People in convention to alter or revise their government.□□

The prospect of a convention endowed with power of this magnitude, populated by politicians (many of whom would likely be bought and paid for by powerful lobbyists and special interest groups) determined to tinker with the precision gears that give movement to works of our mighty Republic, is frightening and should give pause to everyone considering enlisting in the forces fighting for a con-con.

While Levin, Meckler, Dranias, Natelson, et al, are educated men who desire to do something to demolish the Leviathan that is consuming our country and shredding our Constitution, their method is poorly chosen and potentially fatal.

To begin with, rather than expose the Constitution to the whims of special interest groups, political action committees, corporations, and the politicians they pay for, why not enforce the Constitution as written?□□

For example, there is not a single syllable in the Constitution providing for foreign aid (\$74 billion spent from 2010-2011), undeclared wars in Afghanistan and Iraq (nearly \$4 trillion spent since 2001), or the 185 federal welfare programs (nearly \$2 trillion spent from 2010-2011). In the past decade, based on just those three examples alone, Congress has authorized the spending of over \$6 trillion for unconstitutional purposes! Wouldn't the country's economic outlook be improved by forcing our federal representatives to obey the limits on their power as provided by the Constitution, rather than allowing the delegates to a new constitutional convention (and the powerful interests many of them would be financially beholden to) to produce some document that not only would do nothing to restrain the federal government, but could potentially rewrite our Constitution? The certain risks associated with a con-con far outweigh the promised benefits of a balanced-budget amendment.□□

Fortunately, there is another way for states to exercise their collective authority on the federal government without resorting to a constitutional convention. It is the concept described by Thomas Jefferson as the “rightful remedy” for any and all unconstitutional acts of the federal government: nullification.□□

Simply stated, nullification is a concept of legal statutory construction that endows each state with the right to nullify, or invalidate, any federal measure that a state deems unconstitutional. Nullification is founded on the assertion that the sovereign states formed the union, and as creators of the compact, they hold ultimate authority as to the limits of the power of the central government to enact laws that are applicable to the states and the citizens thereof.

With these facts in mind, it would seem that our nation's fiscal and political well-being is better served by governors jealous of their states' sovereignty and their rightful role as “shelters against the abuse of power,” signing into law state bills nullifying unconstitutional federal measures (including those that



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have propelled our national indebtedness into the stratosphere) than by a constitutional convention with unchecked power to amend our Constitution out of existence in the name of balancing the budget.□□

What's more, by seeking out and electing federal representatives committed to never voting for a single spending bill that violates the enumerated powers of the Constitution and refusing to reelect those members of Congress that do vote for such measures, the federal budget would be balanced — by following the Constitution, not “fixing” it.□□

Enforcing the Constitution and demanding that states stand up to their would-be federal overlords accomplishes the same goal as Levin's proposed con-con without putting the Constitution so close to the shredder that an Article V convention could become.

Despite Levin's personal popularity and the powerful electronic bully pulpit he commands, conservatives that find themselves in general agreement with his positions must forcefully reject the Article V constitutional convention he is advocating.

No matter the soothing words and the slate of scholars standing with Levin, the convention they're calling for would be beyond the control of the people or their representatives and could result in the proposal by the assembled delegates of potentially fatal and irreversible alterations to our Constitution that could very well end up being ratified.

Image: screen grab from Fox News' "Hannity," featuring Mark Levin (left) and Sean Hannity, Aug 16

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