



Will Some Conservatives Hand the Left a New Constitution?

“We’re in a battle for the future of our country,” former Senator Tom Coburn (R-Okla.) told the annual convention of the American Legislative Exchange Council (ALEC) on Friday. “We’re either going to become a socialist, Marxist country like western Europe, or we’re going to be free.” Sadly, if the proposal for a Convention of the States pushed by Coburn and ALEC were to actually succeed, the chances of the United States being transformed into a socialist democracy like Germany or France would greatly increase.



ALEC is an organization that presents itself as a resource for conservative state legislators around the country. ALEC often drafts model state-level legislation that sympathetic legislators then introduce in their own state as their own. Organizations such as ALEC are why laws passed by different state legislatures appear so similar, and why certain issues suddenly gain support, with the appearance of spontaneity.

Corburn, who left the Senate in 2010, is now employed by the Convention of the States (COS) organization (with a salary of almost a quarter-million dollars per year, according to the latest figures available). The COS supports using a method found in Article V of the U.S. Constitution to call for a national convention to propose amendments, ostensibly to rein in the power of the federal government.

Under Article V of the Constitution, adopted in 1789, there are two methods to propose changes to the document and two ways to ratify any such proposals. All 27 amendments to the Constitution have been proposed via the first method — a two-thirds vote of each house of Congress. Ratification requires the approval of three-fourths of the state legislatures or three-fourths of state conventions. The second method of ratification has been used only once.

The second method of proposing an amendment has never been used. In fact, James Madison, whose work on the Constitution that went into operation in 1789 was so great that he is often dubbed “The Father of the Constitution,” expressed fear for the future of America if a second constitutional convention were ever held.

Yet, “conservatives” such as Coburn view the calling of a “Convention of the States” — they do not like the term “Constitutional Convention” — as our best avenue to enact certain changes to the Constitution to rein in the federal government.

What are those changes? The most popular proposal is an amendment to require the federal government to enact an annual balanced budget — known as the Balanced Budget Amendment, or BBA. Other proposals often supported by “conservatives” who are advocating for the convention include term limits for members of Congress; the repeal of the federal income tax; giving the states the power to veto any federal law, decision of the Supreme Court, or executive order with a three-fifths vote from the



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state legislatures.

As it stands, the proposal to require an annual balanced budget has won support from 28 states — 34 are required to force Congress to call a convention. While Arizona and Wyoming have both passed bills calling for a convention to have a balanced budget amendment since Donald Trump has been president, three other states — Maryland, Nevada, and New Mexico — have rescinded their calls.

Because some of these proposals sound so good to many conservatives, it is not surprising that many political leaders considered “conservative” have lending their support for calling a convention. Among the more well known are Mark Levin (who wrote the book *The Liberty Amendments* dedicated to the concept), Sean Hannity, former Alaska Governor Sarah Palin, and Senator Rand Paul (R-Ky.).

Other conservatives and conservative groups vehemently oppose the convention idea. Leading the opposition is The John Birch Society (the parent organization of *The New American*) and the late Phyllis Schlafly’s Eagle Forum. The opposition of these two groups is mostly responsible for the defeat of pro-convention proposals in more than a dozen state legislatures in just the last year alone.

Why in the world would The John Birch Society and the Eagle Forum oppose efforts to balance the federal budget or repeal the federal income tax?

For one thing, they believe that the document produced by George Washington, James Madison, and Alexander Hamilton is far superior to anything our present generation of politicians such as Nancy Pelosi and Paul Ryan are likely to produce. As the late Supreme Court Justice Antonin Scalia once observed, the 21st century is a “bad century” in which to write a new U.S. Constitution.

Can anyone seriously believe that an electorate that has sent our present bunch of politicians to Congress would suddenly wise up and send a better bunch to a modern convention? The powerful special interests that have so much influence over Congress and state legislatures would not sit idly by and let any such convention be dominated by patriots who favor limited government, liberty, and free enterprise.

In fact, the socialist publication *Jacobin*, named after one of the radical clubs that engineered the French Revolution, published a recent op-ed reprinted in the establishment *New York Times* calling for “a new political system” to replace the Constitution that Madison and Washington crafted in 1787. Is anyone so naïve as to think leftists such as those at the *Jacobin* would just allow conservatives to run a convention in the 21st century?

Make no mistake: Leftists such as the socialists at the *Jacobin* would be represented at any such convention called by Congress — they may even constitute a majority! And what would these socialists propose at a convention? They want to replace our present Constitution because it has “long been venerated by conservative business elites ... on the grounds that it hands them the power to fend off attempts to redistribute wealth.”

Does any supporter of the Second Amendment really want a Con-Con to gather now, in this toxic anti-gun-rights atmosphere?



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We can only guess what the motivations are of such political figures as Sarah Palin and Mark Levin. Taking their word for it that they sincerely want to rein in the power of the federal government, it should be noted that just because they *think* that is what would happen does not mean that that is what *would* happen should a constitutional convention be called today.

As former Supreme Court Chief Justice Warren Burger once observed, it is unlikely that such a convention could be limited to one subject or a limited number of subjects.

Coburn argues that no possibility exists for a runaway convention that would create an entirely new document. And even if such a thing did happen, he and other convention advocates say that three-fourths of the states would refuse to ratify it.

First of all, should we be willing to take such a chance? Secondly, the 1787 convention *was* a runaway convention in that the delegates did not follow the ratification requirements of the Articles of Confederation — approval by unanimous vote of all 13 state legislatures. Who is to say that modern-day delegates wouldn't argue that, since they are replacing the 1789 Constitution, the current ratification requirement is not necessary?

The John Birch Society argues that the real solution — the real conservative solution — is to invoke Article VI of the Constitution rather than taking a chance with an Article V Convention. Article VI stipulates that the Constitution itself is the supreme law of the land, and all other laws and court decisions must follow it. In other words, it is not the Constitution itself that is the problem, but rather the failure to follow it.

Levin, Hannity, Palin, and Coburn are not likely to change their minds, but the Constitution and all it protects is simply too important for us to put our trust in their judgment.





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