

## **Two Cheers for a Constitutional Convention** **It might well be the right way to limit government, or at least start a conversation about it.**

By: Stephen Moore  
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I'm writing this column at the Freedomfest Conference, a gathering attended by 2,000 leading movers and shakers of the conservative/libertarian movement. The theme is limiting the power of Big Brother in Washington. The big topic of discussion: Is government so unwieldy and is Congress so broken that the only way to limit government is to change the Constitution?

A big faction has concluded: This is our best and maybe only hope.

The instigator of the idea is John Agliandolo, a successful businessman who has long been a major funder of free-market causes (he was the financier behind the *Atlas Shrugged* movie trilogy). He convened heads of major conservative and libertarian groups to map out a strategy to amend the Constitution in order to put a leash on government.

He and others, like radio-talk-show host Mark Levin, are not talking about the normal route to change the Constitution, in which Congress passes an amendment and then the states ratify it. No, he wants the states to call a convention to propose a series of "Liberty Amendments" that would then be ratified by the states.

Mr. Agliandolo wants term limits, a balanced-budget amendment, a tax-reform amendment, and perhaps other restrictions on federal power. "We can never count on Congress to reform itself or limit its power," he says. "We need to go around Congress to get this done." A group of state legislators met recently in Indianapolis to explore this same option.

The convention approach has never been tried — at least not since 1787. The Founders made the process incredibly difficult: It takes two thirds of the states to call for a convention, and then once the convention has agreed on amendments, three quarters of the state legislatures must vote for ratification.

To some, this is a mountain that just can't be climbed. "Does anyone think this is a good idea?" asks David Boaz, vice president of the Cato Institute. "What makes us think that a convention appointed by politicians will come up with better ideas than Congress? What's to stop them from approving an amendment for national health insurance or public financing of political campaigns?" he wonders. Another problem that was identified by Freedomfest founder Mark

Skousen: Only about half the states are red states with GOP control. How do you get two-thirds to agree to limit government power?

In the past, it has been conservatives, such as Phyllis Schlafly, who have warned that a constitutional convention would turn into a runaway opportunity for liberalism, possibly leading to enactment of the Equal Rights Amendment and an abortion-rights amendment. Now conservatives are rethinking that knee-jerk opposition.

There are dangers for sure, and the hurdle to clear is extremely high — appropriately so. But the crusade in and of itself may be highly educational for the public. It could get voters focused on the need to reform the fiscal rules in an era of trillion-dollar deficits. And some commonsense ideas like a balanced-budget requirement or term limits for Congress command large majorities of support among voters (meanwhile, Congress is about as likely to agree to these constraints as a monkey is to cage itself).

Randy Barnett, a constitutional scholar at Georgetown University, has been working on the issue for years. He has drafted an amendment called the “Repeal Amendment,” which would allow for the repeal of laws passed by Congress if a majority, or perhaps a supermajority, of state legislatures vote to revoke the law. Terrible laws like Obamacare could be extinguished by the states. It makes a lot of sense to have such a safety valve — in fact, it’s surprising the Founders never thought of this as a check and balance.

It’s unlikely — though not impossible — that a convention would ever be convened. Mr. Barnett points out that other convention calls, when they got close to passing through the states, spurred Congress to act to avoid a convention. This is what happened with direct election of senators 100 years ago. Kickstarting the reform process and demonstrating widespread public support for reforms might get Congress off its duff.

The timing looks appealing: Public approval for Congress has reached an all-time low of about 10 percent. Tea-party members are ready to go. Supporters of the convention process say that the only other path to major fiscal reforms is to hit the financial wall, as Greece and other nations have. That isn’t a pretty process. We may want act now before we get to that point.