



Written by [Steve Byas](#) on October 11, 2017

Article V Con-Con Proponents Want to “Clarify” the Second Amendment

It is on the agenda of the Convention of States Project to “clarify” the wording of the Second Amendment.

When Congress passed the Sedition Act in 1798, limiting freedom of speech and freedom of the press, Congressman Nathaniel Macon of North Carolina was dumbfounded, asking how could they have so ignored the clear wording of the First Amendment. The First Amendment clearly stated that Congress was forbidden to make any law abridging either freedom of speech or freedom of the press. Yet, only seven years after the First Amendment was ratified, Congress did just that. We should keep this in mind when we consider the movement to call for a national convention to consider amendments to the Constitution, in order to rein in the federal government.



In a recent Facebook post on the Convention of States Project (a leading group pushing for a national convention to consider amendments to the Constitution) page, someone asked, “Why not include an update to the second amendment in COS? Gun control advocates wear out the point that it was written when people had only muskets, so why not make it read the way we want it to read now?” The questioner certainly had a great point. I would add this question for the enemies of the right to keep and bear arms: If the Second Amendment protects only weapons in use in 1791, does that mean that newspapers may use only printing presses that were in existence at the time, as well?

The response of the Convention of States Project is troubling. “It’s called a ‘Clarification Clause,’ Rick, and that’s *very much on the agenda* of any number of the study groups that are currently being conducted around the country composed of COS Project advocates and their state legislators.” (Emphasis added.) In other words, it is very much on the agenda of the COS to alter the wording of the Second Amendment, in order to “clarify” its language for how they want it to read now.

This is not to say that the leadership of COS desires to do away with the Second Amendment, but it certainly illustrates the dangers of the Constitutional Convention they favor.

Writing for COS in 2015, Charles Cooper, a lawyer who has made several appearances before the Supreme Court, stated, “Our constitutional rights, especially our Second Amendment right to keep and bear arms, are in peril.” Cooper asserted that the “most potent threat facing the Second Amendment comes not from Congress, but from the Supreme Court. Four justices of the Supreme Court do not believe that the Second Amendment guarantees an individual right to keep and bear arms.”



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Cooper added, “They believe that Congress and state legislatures are free not only to restrict firearms ownership by law-abiding Americans, but to ban firearms altogether. If the liberals get one more vote on the Supreme Court, the Second Amendment will be no more.”

Cooper makes it very clear that he believes the Second Amendment “guarantees to every law-abiding responsible adult citizen an individual right to keep and bear arms.” He offered as proof his testimony before a committee of the U.S. Senate, arguing that a bill proposed by Senator Diane Feinstein (D-Calif.) “would violate the Second Amendment.” In fact, Cooper wrote, “the states ensured that the Constitution would *expressly* protect ‘the right of the people to keep and bear arms’ by adopting the Second Amendment.”

The Convention of States website also reprinted a letter to The Hill.com, with much of the same line of thinking. In it, a COS supporter wrote, “What’s needed is a way for the states to have the power to overturn Supreme Court decisions ... a constitutional amendment could be written, for example, allowing a three-fifths vote of the state legislatures to challenge court decisions.”

In both of these instances, advocates of a Constitutional Convention argue that an amendment to the Constitution would protect the right to keep and bear arms, despite believing the Second Amendment already does that. In short, these supporters of a Constitutional Convention believe that the Supreme Court could misinterpret the Constitution to rule the Second Amendment does not protect the individual right to keep and bear arms. Their solution is to write a new amendment, telling them again what is already, as Cooper admitted, *expressly* stated in the Second Amendment: individual Americans have a right to keep and bear arms.

The problem is not that we need to make a change in the Second Amendment or any other part of the Constitution, *but rather that we need to follow the Second Amendment that we already have.*

U.S. Constitution.net offers a new version of the Second Amendment on its website, which would actually repeal the Second Amendment, replacing it with the words, “The right of the people to keep arms for hunting, sport, collecting, and personal defense shall not be infringed.” While it should be noted that this is not the COS website, it does illustrate the dangers of monkeying around with the reason that the Second Amendment was adopted in the first place.

No rational person can believe that James Madison wrote the Second Amendment to protect hunting, sport-shooting, or collecting. While those are valid reasons to own a weapon, including a gun, and we can certainly agree that all Americans have a right of “personal defense,” the fundamental reason that Madison included the individual right to keep and bear arms in the Second Amendment was as a last line of defense against a tyrannical national government.

COS supporters should consider that supporters of the Second Amendment would not be the only delegates at a Constitutional Convention. Enemies of the Second Amendment would be present, too. And do we really want a Con-Con in session in the charged atmosphere of a Las Vegas-style shooting?

Would it really make any difference how the Second Amendment was “clarified?” After all, as Nathaniel Macon noted, it took only seven years after the adoption of the First Amendment to ignore its prohibition on Congress making any laws abridging the freedom of speech or of the press.

Is the slim chance that they would finally respect the clear wording of the Constitution worth the risk that pro-gun-control activists would ram through an amendment with their own “clarifications” of the Second Amendment — clarifications that would deprive all of us of the right to keep and bear arms?



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