



## **GOP Platform Calls for Multiple Amendments to the Constitution**

Amid all of the fanfare and speechmaking at this year's Republican National Convention in Cleveland, the party's "Committee on Arrangements" (as the GOP's platform committee is now called) unveiled the Republican Platform for 2016.

Following a preamble that summarized the party's basic principles in language that does justice to the work of America's founding fathers, the platform then goes on to advocate a remedy for several of today's national problems that some strict constitutionalists will find troubling: the passage of amendments to our Constitution.



The platform starts off with lofty, unobjectionable language. Among its most praiseworthy statements are:

We affirm — as did the Declaration of Independence: that all are created equal, endowed by their Creator with inalienable rights of life, liberty, and the pursuit of happiness.

We believe in the Constitution as our founding document.

We believe the Constitution was written not as a flexible document, but as our enduring covenant.

We believe our constitutional system — limited government, separation of powers, federalism, and the rights of the people — must be preserved uncompromised for future generations.

Unfortunately, the committee's partisanship was also revealed in statements such as "For the past 8 years America has been led in the wrong direction." As true as the latter part of that statement is, its timing is about 80 years off. During those eight decades, Republican, as well as Democratic, presidents have led America in the wrong direction — namely, toward bigger government, usurpation of states' rights, and an interventionist foreign policy.

Where the platform goes off course, as far as the strict constitutionalist is concerned, is in proposing new amendments to the Constitution to solve problems that were not caused by flaws in the Constitution but by the failure of those in all three branches of government to adhere to the principles found in the document.

The first proposed amendment in the platform is a "right to life" amendment, which reads:

We assert the sanctity of human life and affirm that the unborn child has a fundamental right to life which cannot be infringed. We support a human life amendment to the Constitution and legislation to make clear that the Fourteenth Amendment's protections apply to children before birth.

While those of us who are firmly pro-life agree with the need to protect the right to life of children before birth, the remedy offered by this proposed amendment ignores the history behind the problem



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and how the deterioration of states' rights contributed to it. Since the above language pointedly mentioned the 14th Amendment, it is critical to recognize that in its 7-2 decision in the case of *Roe v. Wade*, the Supreme Court stated that a woman's right to an abortion fell within the right to privacy (recognized in *Griswold v. Connecticut*) protected by the "due process clause" of the 14th Amendment.

The Due Process Clause reads that no state shall "deprive any person of life, liberty, or property without due process of law." Though this amendment was originally passed to protect the citizenship rights of former slaves, over time, the clause has been cited in a series of Supreme Court decisions to extend restrictions — that the Bill of Rights originally imposed only on *the federal government's* power to violate citizens' rights — to the states, as well.

Such an interpretation has had a damaging effect on adherence to the intent of the 10th Amendment over the years. That amendment states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." An immediate conflict between strict adherence to the 10th Amendment and the Supreme Court's citation of the due process clause of the 14th Amendment as justification to overrule the states' right to restrict abortion is apparent. Since the Constitution does not give the federal government the right to govern crimes against persons (such as murder, assault, and abortion) then this power obviously rests with the states. However, over time, the Supreme Court has established a precedent for using the due process clause as *carte blanche* to usurp states' rights in this and many other areas.

The Republican platform's reliance on "the Fourteenth Amendment's protections" to protect the right to life of unborn children is fraught with irony, therefore. The platform seeks to use another amendment to "retrofit" the 14th Amendment in order to undo the harm done though (an admittedly faulty) interpretation of part of that very amendment.

There is a lesson to be learned from this. It is unwise to attempt to remedy social ills by amending the Constitution to address them at the federal level. A better remedy is to adhere strictly to the 10th Amendment, enforce states' rights, and address social ills at the state or local level.

Keeping this principle in mind, let's look at the other amendments proposed by the platform committee, some of which impact states' rights, while others deal only with federal matters.

The platform proposes:

We will fight for Congress to adopt, and for the states to ratify, a Balanced Budget Amendment which imposes a cap limiting spending to the appropriate historical average percentage of our nation's gross domestic product while requiring a super-majority for any tax increase, with exceptions only for war or legitimate emergencies. Only a constitutional safeguard such as this can prevent deficits from mounting to government default.

In an [article published by \*The New American\* in January](#), John McManus, president emeritus of The John Birch Society, outlined some of the flaws of most proposed balanced budget amendments. Among these were:

1. Expecting government officials to honor an amendment — however well intentioned such an expectation might be — when they currently refuse to honor the existing Constitution is an absurdity.
2. Some BBAs allow 60 percent in Congress to override the requirement for balancing the budget. Getting 60 percent for other outrageous measures is a regular occurrence.



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3. Various BBAs make no mention of the growing problem resulting from declaring some huge expenditures “off budget.” Use of this tactic makes a joke of a balanced budget mandate.
4. Some BBAs call for increasing taxes as a way to balance the budget, even steering taxing authority to the Executive branch.
5. Proponents of some BBAs want a stipulation that the budget need not be balanced if there’s a war, or a real or cleverly contrived national emergency.
6. Various proponents say that a BBA won’t have to take effect for five years or more — thereby sanctioning the addition of more trillions to the nation’s already enormous indebtedness.
7. Finally, balancing the budget ignores already accumulated indebtedness requiring billions annually for interest payments.

As McManus observes:

What’s lost in all of this discussion is that an amendment should be considered if the Constitution is found deficient or in error. But the U.S. Constitution isn’t at fault; the fault lies with government officials who ignore the Constitution’s existing limitations.

The best way to ensure government officials’ observance of the Constitution’s existing limitations is to insist on strict compliance with the aforementioned 10th Amendment.

The next amendment proposed by the committee is one to set term limits for members of Congress. This sounds appealing to many citizens tired of seeing the same tax-and-spend professional politicians elected year in and year out. However, such proposals ignore the fact that under our existing Constitution we already have term limits. They are found in the power of the people not to reelect politicians who are performing in an unsatisfactory manner. A term-limits amendment takes that power away from the people and punishes legislators who are performing well, along with those who are performing poorly.

Another amendment proposed by the committee appears to limit federal power and advocates reversing the Supreme Court’s *Windsor* and *Obergefell* decisions.

“In *Obergefell*, five unelected lawyers robbed 320 million Americans of their legitimate constitutional authority to define marriage as the union of one man and one woman. The Court twisted the meaning of the Fourteenth Amendment beyond recognition. To echo Scalia, we dissent,” the platform states.

While that much is true, we must stop and reconsider the platform’s remedy: “We do not accept the Supreme Court’s redefinition of marriage and we urge its reversal, whether through judicial reconsideration or a constitutional amendment returning control over marriage to the states.”

While there is nothing wrong with the above sentiment, the radical step of amending the Constitution — which says nothing about marriage — is totally unnecessary. A much better solution could be effected through the legislative route, an easier task to accomplish than amending the Constitution. Just such a legislative remedy to the federal courts’ overreach on matters such as abortion and marriage was proposed by former Representative Ron Paul (R-Texas) when he introduced the “We the People Act” (“To limit the jurisdiction of the Federal courts”) when he was in Congress. The bill introduced by Paul sought to remove the jurisdiction of the Supreme Court and other federal courts to strike down local laws on subjects such as religious liberty, sexual orientation, family relations, education, and abortion and charged that the courts had “wrested from State and local governments issues reserved to the States and the People by the Tenth Amendment to the Constitution of the United States.”



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Rather than proposing an amendment to the Constitution, it would be better if the Republican platform included a proposal to support something like Paul's "We the People Act."

Another proposed amendment is not intrinsically bad, but would be redundant if the Constitution as written were followed. The platform proposes a constitutional amendment protecting the ability of parents to direct their children's education and care without "interference by states, the federal government, or international bodies such as the United Nations."

None of the above-named bodies should interfere with children's education. However, stopping the states from so interfering should be a matter that the citizens of each state take up with their state government and empowering the federal government to intervene would only compound the problem. Since the Constitution does not delegate any powers related to education to the federal government, all federal participation in education, including federal aid to the states, must be eliminated. As for the United Nations, stopping interference by the UN is as simple as withdrawing the United States from that world body.

We contacted Larry Greenley, director of missions of The John Birch Society (with which *The New American* is affiliated) for a statement about the general concept of amending the Constitution to solve national problems that could better be addressed by less drastic methods. He said:

It is the longtime policy of The John Birch Society to oppose adding amendments to the current Constitution on the basis that they usually provide the federal government with additional powers not granted to it by the original Constitution. However, we would welcome amendments that repeal certain of the harmful amendments, such as the 16th (income tax) and 17th (direct election of senators).

With regard to the Balanced Budget Amendment (BBA) supported by the 2016 GOP platform, one of the reasons that the JBS opposes a BBA is that it would tend to legitimize the largely unconstitutional federal spending authorized by Congress each year. It would have this effect by focusing attention on whether a specific spending bill would fit within a balanced budget based on political considerations (rule of men, democracy) rather than on whether the power to legislate regarding this activity has been granted to Congress by Article I, Section 8 of the Constitution (rule of law, republic).



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