

FEDERALISM IN Action

Abbott's Texas Plan to Reassert States' Rights

Recent Texas governors have focused their political career on the overreaching federal government. Current governor Greg Abbott is no exception. When running for the state's highest office, Abbott famously quipped, "I go to the office, sue the national government, and go home." Now Abbott is trying to increase the stakes. His recently published book, *Broken But Unbowed: The Fight to Fix a Broken America*, calls for a constitutional convention to reign in the national government and reassert states' rights. If thirty-four state legislatures call for a constitutional convention, then Abbott will get his way.

The Texas Plan proposes nine new amendments to the U.S. Constitution. The amendments would do the following:

1. prohibit Congress from regulating activity that occurs within a state,
2. require Congress to balance its budget
3. forbid federal agencies from creating federal law
4. forbid federal agencies from preempting state law
5. allow states to override U.S. Supreme Court decisions with a two-thirds majority vote
6. require a seven justice super-majority for U.S. Supreme Court decisions that invalidate a democratically enacted law
7. limit the national government to powers expressly delegated to it in the U.S. Constitution
8. allow state officials to sue in federal court when federal officials overstep their bounds, and
9. allow a two-thirds majority of states to override a national law or regulationⁱ

Other southern states (Florida, Georgia, Tennessee, and Alabama) have also called for a constitutional convention. Proponents of a new convention would like

to see significant power devolved back to the states. If implemented as Abbott's plan suggests, the surviving national government would be weak.

Critics argue that, once called, a new convention would have the power to create any type of government it wanted and could result in a runaway convention. In many ways those who support a constitutional convention want to revisit federalist arguments lost by their predecessors. It is unclear, however, just what a convention could produce. A new constitutional convention might result in a removal of environmental regulations, as Abbott might prefer. Or it might lead to the abolishment of the Second Amendment, as others might want.

- Should Texas support a new constitutional convention?
- If we adopted Abbott's proposals, which laws do you think would change in the state?
- What effect, if any, might the Texas Plan have on minority rights?

i. Greg Abbott, "2016 Press Release: Governor Abbott Unveils Texas Plan, Offers Constitutional Amendments to Restore the Rule of Law," <http://gov.texas.gov/news/press-release/21829> (accessed July 1, 2016).