



Written by [Christian Gomez](#) on September 27, 2022

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COS Endorses JBS — Except for “One Blind Spot”

Recently, Dr. Robert Malone, who pioneered the development of mRNA technology and, at great personal cost, courageously warned the public about the risks associated with taking the Covid-19 vaccines, invited us to submit an article about the topic of an Article V Convention to post on his Substack. Graciously and humbly we accepted the opportunity. On September 3, Dr. Malone published a post on his Substack account titled “What An Article V Convention Might Mean,” which also featured a succinct article written by this author titled “Article V Convention Threatens Liberty.” In his Substack post, Dr. Malone did not endorse The John Birch Society’s stance on an Article V Convention so much as provide his readers with an opportunity to “consider a different point of view on this important topic.”



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This author and The John Birch Society remain grateful and extend our warmest thanks and appreciation for the opportunity to submit an article to be posted on Dr. Malone’s Substack. We are also humbled by his generous warm words about the Society:

From what I can tell, the JBS organization has actually been at the vanguard of political perspectives that many now accept as mainstream, and has consistently advocated anti-racist positions. In hindsight, it is clear that the JBS has successfully opened the Overton window of acceptable political discourse.

The article received many positive responses and comments, but it was not without its detractors — something that both Dr. Malone and The John Birch Society are all too familiar with.

On September 5, Convention of States (COS) posted an official response on their website titled “John Birch Society Finds Self-Destruct Switch in Constitution,” in which they accused The John Birch Society of having “snookered” (tricked) Dr. Malone into taking the wrong side on the Article V Convention issue.

Founded in 2013, COS is an organization exclusively dedicated to convening a convention to propose amendments to the U.S. Constitution, ostensibly designed to “impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress” — as if the Constitution did not already establish a very limited federal government, restrain Congress from what it can spend money on, define what sound money actually is, provide a way for voters to remove incumbent members of Congress at the ballot box,



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and enable individual states to nullify any unconstitutional federal acts.

COS claims that these constitutional remedies are ineffective. Yet they accuse The John Birch Society of not believing in the Constitution, because it opposes an Article V Convention that would enable delegates to propose wholesale changes to parts of or the whole Constitution.

However, COS's official blog response took a slightly different and somewhat refreshing tone. Convention of States' response actually glowingly endorsed The John Birch Society (except for "one blind spot," addressed below), saying: "JBS is a stalwart conservative organization founded to oppose and expose communist infiltration of our government and institutions." This warm endorsement comes as an unexpected surprise. Thank you.

COS has apparently had a sea change in logic and abandoned its typical intellectually bereft arguments, such as nullification being a terrible idea and the existence of numerous other conventions supposedly comparable to an Article V Convention, etc. We applaud COS for moving in the right direction, and would like to make available to them and others our July 11, 2022 [Special Report](#) of *The New American* magazine about Article V to help COS continue down the right road.

The COS response also mentions notable JBS speakers such as "John McManus, Alan Stang, Gen. Singlaub, Larry McDonald's son, Yuri Bezmenov (Tomas Shuman), Pastor Everett Silevan, Paul Snyder, and so on." We recommend adding to that list other JBS speakers, such as World War II veteran Don Fotheringham, the founder and chairman of the Constitution Commemoration Foundation Dr. Scott Bradley (Ph.D.), constitutional educator and previous JBS Regional Field Coordinator Robert Brown, and current JBS Field Coordinator Robert Owens, Esq.

Despite the unexpected accolades and endorsement from COS, the response falls flat in its understanding about Article V. For example, it accuses The John Birch Society of having "one blind spot: an Article V Convention of States."

COS continues to "snooker" many patriotic Americans into believing that the answer to today's massive national problems is amending the Constitution instead of electing people who obey it. They've also been snookering patriots into believing that an Article V Convention is entirely distinct from a "Constitutional Convention." As we shall explain below, nothing could be further from the truth.

COS Name Game

In a COS video, co-founder Michael Farris explains: "People get confused with a Constitutional Convention and a Convention of the States, under Article V — properly called a 'convention for proposing Amendments.' The processes and procedures and the scope are entirely different."

COS regurgitates this same unsubstantiated claim in their blog post responding to the Substack article, stating:

The problem is that [Nebraska, South Carolina, West Virginia, and Wisconsin] and other states *have not called for a "Constitutional Convention," but an Article V Convention of States* "for proposing amendments to the Constitution." Then in the next sentence [Christian Gomez] *again calls it a constitutional convention.*

This *mislabeled evokes fear* in some minds because it is accompanied by the idea that this is exactly what led to the Constitutional Convention in Philadelphia that totally rewrote the



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Articles of Confederation and gave us the Constitution and Bill of Rights. [Emphasis added.]

It is clear that COS firmly believes and wants others to also believe that a Constitutional Convention is different from an Article V Convention, which they ironically mislabel as a “Convention of States.” COS, we hear what you are saying, we understand what you are saying, and it’s utterly false.

COS has never backed up or provided any credible citation for this distinction that they have been hawking since their organization was founded in 2013. The truth is that an Article V Convention is not a “Convention of States,” and in fact there is no such thing as an “Article V Convention of States.”

Neither the language nor the concept of a “Convention of States” appears in Article V. Labeling an Article V Convention as a “Convention of States” can be traced to former University of Montana law professor and self-styled “Article V expert” Robert Natelson. In a speech delivered on September 16, 2010, Natelson said, “I’m going to put the process on reset.” In a modified transcript of that speech published in 2011, Natelson said “we should call it ... an *Article V convention*, an *amendments convention*, or a *convention of the states*.” (Emphasis in original.)

Natelson changed the name. Then, in 2013, Mark Meckler founded Citizens for Self-Governance, and later that year launched its Convention of States Project, which parrots Natelson’s name change. Since then, the false concept of a state-controlled convention, under the misnomer “Convention of States,” has been peddled.

COS fails to mention that the change from calling an Article V Convention a “Constitutional Convention” to calling it a “Convention of States” originated with Natelson. Instead, COS explains on their website: “It is not a convention of delegates but a convention of states.... This is also a matter of history. In 1788, the Virginia legislature correctly called this process a ‘convention of states’ in the first application ever passed under Article V.”

While Virginia’s application in 1788 for an Article V Convention did use the phrase “convention of the States,” the resolution actually went on to call it a “convention ... of deputies from the several States.” Likewise, New York’s application in 1789 for an Article V Convention (the second application passed under Article V) also referred to it as a “Convention of Deputies from the several States.” The specific phrase “Convention of States” or “convention of the states” did not appear in any other application for an Article V Convention made prior to 2010.

In fact, many state applications to Congress referred to the convention as a “Constitutional convention,” and some applications today still call it a Constitutional Convention. But by calling it a “Convention of States,” as opposed to the traditional and correct term “Constitutional Convention,” Meckler and COS are attempting to distinguish the two terms as having completely different meanings. They define a “Convention of States” as meaning an Article V Convention to amend the Constitution. According to COS, a “Convention of States” is only for amending the Constitution, whereas the term “Constitutional Convention” they have *redefined* to mean a convention *exclusively* for framing or writing a new constitution.

This distinction has gone a long way toward snookering state legislators into believing that a “Convention of States” could never exceed its “limited” authority and draft an entirely new constitution.

Black’s Law Dictionary — the nation’s premier legal dictionary used by law students, lawyers, and



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judges — has, since its second edition printing in 1910, consistently defined the term “constitutional convention” as “A duly constituted assembly of delegates or representatives of the people of a state or nation for the purpose of framing, revising, or *amending its constitution.*” (Emphasis added.)

And the fifth edition of *Black’s Law Dictionary*, published in 1979, further states, “Art. V of the U.S. Const. provides that a Constitutional Convention may be called on the application of the Legislatures of two-thirds of the states.”

Furthermore, objecting to the use of the phrase “Constitutional Convention” to describe an Article V “convention for proposing Amendments” is rather ridiculous and makes those objecting look rather ignorant about English. The word “constitutional” simply means “relating to a constitution.” An Article V Convention is a Constitutional Convention because it *is* a convention relating to the Constitution.

Simply put, an Article V Convention is in fact a Constitutional Convention. It is *not* a “Convention of States.”

The First Convention of States

In actuality, the label “Convention of the States” was *first* applied to the Philadelphia Convention of 1787 — the very same convention that COS insists was not a “Convention of States” because it was the Convention that drafted the current Constitution. On March 25, 1787, exactly two months prior to the convening of the Federal Convention in Philadelphia, George Washington, who would go on to be elected president of the Convention and later president of the United States, wrote:

Indeed, the thinking part of the people of this Country are now so well satisfied of this fact that most of the Legislatures have appointed, & the rest it is said will appoint, delegates to meet at Philadelphia the second Monday in May next in general *Convention of the States* to revise, and correct the defects of the federal System. [Emphasis added.]

As recorded in *Secret Debates of the Federal Convention of 1787*, New York Chief Justice Robert Yates, along with another delegate from New York, wrote in the notes for “Friday, May 25th, 1787”: “Attended the *Convention of the States* at the State House in Philadelphia when the following States were represented.” (Emphasis added.) This was followed by a list of the states and names of the delegates from each one.

Furthermore, Nathan Dane, a delegate from Massachusetts to the Confederation Congress, made a motion on September 26, 1787, stating, “It was expedient that a *Convention of the States* should be held for the Sole and express purpose of revising the articles of Confederation.” (Emphasis added.) Dane’s motion concluded, “Resolved that there be transmitted to the Supreme executive of each State a copy of the report of the *Convention of the States* lately Assembled in the City of Philadelphia signed by their deputies the seventeenth instant including their resolutions and their letter directed to the president of Congress.” (Emphasis added.)

The Convention of 1787, which gave us our current Constitution, was referred to as a “Convention of the States” numerous times. Therefore, to say that “a convention under Article V is a ‘Convention of the States’ and not a ‘Constitutional Convention,’ because a ‘Convention of States’ is only for amending rather than rewriting the Constitution,” is completely disingenuous and ignores the historical record.



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Omitting History

Regarding whether the Philadelphia Convention of 1787 (the one that the Founders actually referred to as being a “Convention of the States”) exceeded its authority when it drafted the current Constitution, the COS blog said: “the Constitutional Convention did exactly what it was charged with by the Annapolis Convention of States of 1786: to update the Articles of Confederation ‘to meet the exigencies of the Union,’ not merely to amend the Articles of Confederation.”

Here is yet another COS-ism: the claim that the Convention that birthed our nation’s present Constitution did not run away with its authority and then label anyone who disagrees as being an enemy of the Constitution. COS has also repeatedly accused The John Birch Society of believing that the “Constitution was illegally adopted.” It is a historical fact that the delegates to the Convention of 1787 exceeded the authority from their state commissions when they replaced the Articles of Confederation (rather than amend them) with the current Constitution. Acknowledging that history does not make one an enemy of the Constitution. And no, the Constitution was *not illegally adopted*. The John Birch Society and *The New American* magazine (a JBS affiliate) have never said and do not believe that the Constitution was “illegally adopted.”

The COS blog, as is typical of COS, omitted any mention of the fact that *many of the Convention delegates likewise acknowledged that they were not sent to the Convention to scrap and replace the Articles of Confederation, but did so anyway.*

They were expressly limited to amending or revising the Articles of Confederation, and were not authorized to replace them. This fact was recognized by James Madison, the father of the Constitution, who, in his diary of what took place at the Convention, recorded New York delegate John Lansing as saying:

The power of the Convention was restrained to amendments of a Federal nature.... The *acts of Congress, the tenor of the acts of the States, the commissions produced by the several Deputations, all proved this....* It was un-necessary and improper to go further. [Emphasis added.]

Does COS accuse Convention delegate John Lansing of believing that the Constitution was illegally adopted?

Or what about Judge Caleb Wallace? On May 3, 1788, he said:

I think the calling [of] another continental Convention should not be delayed ... for [the] single reason, if no other, that *it was done by men who exceeded their Commission*, and whatever may be pleaded in excuse from the necessity of the case, something certainly can be done to *disclaim the dangerous [precedent]* which will otherwise be established. [Emphasis added.]

Convention delegate Luther Martin from Maryland likewise admitted, “We apprehended but one reason to prevent the states meeting again in convention; that, when they discovered the part this Convention had acted, and how much *its members were abusing the trust* reposed in them, *the states would never*



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trust another convention." (Emphasis added.) Those do not sound like the words of a man who believes that the Convention did exactly what it was supposed to do.

Convention delegate Robert Whitehall of Pennsylvania was even more emphatic. On November 28, 1787, Whitehall said:

Can it then be said that the late convention did not assume powers to which they had no legal title? On the contrary, Sir, *it is clear that they set aside the laws under which they were appointed, and under which alone they could derive any legitimate authority they arrogantly exercised any powers that they found convenient to their object, and in the end they have overthrown that government which they were called upon to amend, in order to introduce one of their own fabrication.* [Emphasis added.]

And then there is Convention delegate James Wilson, who also admitted that they did not act within the powers given to them by the states who sent them when they replaced the Articles of Confederation. On November 26, 1787, he explained:

The Federal convention did not act at all upon the powers given to them by the States, but they proceeded upon original principles, and having framed a constitution which they thought would promote the happiness of their country, they have submitted it to their consideration, who may either adopt or reject it, as they please. [Emphasis added.]

However, despite lacking the power from the states that sent them, the delegates did not act illegally because they invoked the "original principle" from the Declaration of Independence to "alter or abolish" their government when they drafted the Constitution, as Wilson explained.

Likewise, as this author has previously written and explained in *The New American*:

An Article V Convention also exercises a sovereign function as defined earlier by *Black's Law Dictionary*. It is a convention with the purpose of proposing modifications (plural) to government, if you will. Seeing as the convention by definition represents the people at large, it has power and scope that supersedes established governments. As such, the convention cannot be limited, because it is the epitome of the sovereign will of the people. The Declaration of Independence clearly reads, "it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security," referring to the people. James Madison invoked this right in *The Federalist*, No. 40, to justify the actions of the delegates in the 1787 convention, writing that it is "the transcendent and precious right of the people to 'abolish or alter their governments as to them shall seem most likely to effect their safety and happiness.'"

When assembled at an Article V Constitutional Convention (as in the convention relating to the Constitution in Article V), the delegates ultimately are not subordinate to the state legislatures or even Congress, but to the sovereign will of the people, whom they ultimately represent. When Virginia and New York applied to Congress for a convention, they both referred to it as a "Convention of Deputies from the several States" because that is precisely what such a convention relating to the constitution



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(Constitutional Convention) is — a convention of *deputies* (a synonym for *delegates*) who represent the people of the different states. An Article V Convention is not a “Convention of States,” it’s a convention of delegates from each state representing the people of each state for the purpose of amending or *rewriting* the federal Constitution. In other words, it’s a federal Constitutional Convention with delegations representing the people of each state.



Runaway convention? COS omits the fact that many of the delegates to the Federal Convention of 1787 admitted that they exceeded the authority from their state commissions when they replaced the Articles of Confederation with a new Constitution.

The only role guaranteed to the state legislatures in Article V is that of making application to Congress. After that, *Congress calls the convention* (the states do not call the convention), and in calling the convention, *Congress prescribes* the manner in which the delegates of the people will be selected. If all that the delegates do at the convention is propose amendments to the existing Constitution, then *Congress decides* if either the state legislatures of three-fourths of the states or *special ratifying conventions* (made up of delegates representing the people, *not* state legislators) ratify the proposed amendments.

However, if the delegates, who represent the sovereign will of the people of their respective states, decide to instead scrap the existing Constitution and replace it with a new one that they have drafted, then the new constitution would be ratified *according to the manner described within the proposed new constitution*, just as our current Constitution was ratified by the requirements spelled out in Article VII of the new Constitution as opposed to the manner described in Article XIII of the then-existing Articles of Confederation. The John Birch Society wants to prevent opening this Pandora’s box that may lead to an entirely new (and very likely socialist-leaning) constitution embracing modern concepts such as “second generation rights.” An Article V Convention is far too risky; we risk losing our Republic.

The John Birch Society completely agrees with the late U.S. Senator Barry Goldwater, who warned from the Senate floor on February 26, 1979:

I think it would be very foolhardy, it would be a tragic mistake, to hold a constitutional convention for this one purpose [to propose a balanced budget amendment]. I say it would be foolhardy and dangerous because if we hold a constitutional convention, every group in the country — majority, minority, middle-of-the-road, left, right, up, down — is going to get



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its two bits in and we are going to wind up with a Constitution that will be so far different from the one we have lived under for 200 years that I doubt that the Republic could continue.

Senator Goldwater was right; Mark Meckler is not.

If Not Article V, Then What?

Rather than being deceived by COS's flawed understanding of Article V and their efforts to petition Congress for a Constitutional Convention, there *is* a proper solution to our runaway federal government. As we indicated earlier, the Constitution *already limits* the federal government to the powers listed therein. The proper solutions, therefore, are constitutional enforcement and nullification. Nullifying unconstitutional federal usurpations at the state level is firmly grounded in the text of Article VI of the Constitution. Article VI binds state legislators — along with members of Congress, the executive branch, and judges — by their oath “to support this Constitution.” Furthermore, the Bill of Rights declares what the federal government *cannot* lawfully do.

Article VI of the Constitution says: “*This Constitution*, and the Laws of the United States which shall be made *in Pursuance thereof* ... shall be the supreme Law of the Land.” (Emphasis added.) Any laws that are made not in “Pursuance” of the Constitution are null and void, and are therefore *unenforceable*. Elected officials at all levels of government, especially state legislators, are duty-bound to *nullify* all unlawful federal acts.

A single state can *immediately* stop unconstitutional federal usurpations and other violations of power. Taking action to hold elected officials accountable to their oath and getting state legislators to nullify unconstitutional acts will stop these lawless acts and abuses. Neither new constitutional amendments nor rewriting the Constitution will stop them. Please ask yourself which of these two approaches to reining in our runaway federal government is logical: changing the rules, or enforcing the existing rules? If the problem is *disobedience* to the Constitution rather than the Constitution, then the answer to that question is obviously enforcement of the existing rules.

Informed Electorate

Ultimately, there is no substitute for a well-informed electorate that has been educated in the principles of the Declaration of Independence and the Constitution. The John Birch Society provides that education. In addition to being “a stalwart conservative organization founded to oppose and expose communist infiltration of our government and institutions,” as COS said, The John Birch Society also provides tools and resources that patriotic Americans can use to stay informed and educate others about what’s happening and how our elected officials are voting, and — most importantly — a plan to use that information to remain free. Consider joining The John Birch Society in both opposing an Article V Convention and enforcing the existing Constitution as the Founding Fathers intended. Visit [JBS.org/ConCon](https://www.jbs.org/ConCon) for more information and resources.



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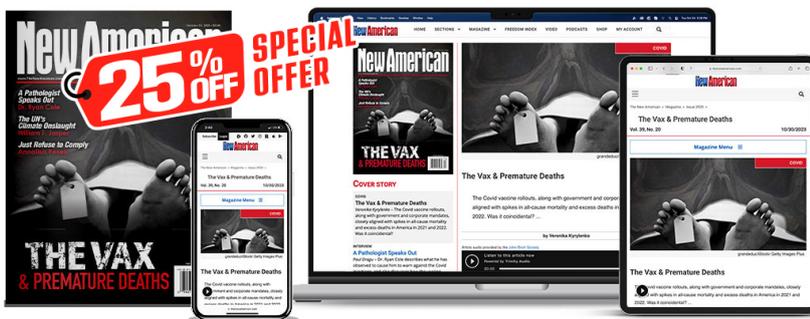
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