



Addressing Rita M. Peters of Convention of States

On September 3, 2022, Dr. Robert Malone, MD, MS graciously posted on his Substack account a guest article that this author wrote on behalf of The John Birch Society about the subject of an Article V Convention, titled "[Article V Convention Threatens Liberty.](#)"

Although the article only mentioned the Convention of States (COS) organization once in passing, COS quickly responded — not just once, but thrice!

The first official COS response was posted on their website and titled "John Birch Society Finds Self-Destruct Switch in Constitution." Surprisingly, the post endorsed JBS as a "stalwart conservative organization founded to oppose and expose communist infiltration of our government and institutions" but added "it has one blind spot: an Article V Convention of States." A response to COS's initial response was published on [TheNewAmerican.com](#) and reprinted in the October 17, 2022 issue of *The New American* magazine. COS has since taken down their [initial response](#), leaving only a "404 error" message in its place accompanied by a sad emoji. Fortunately the page was archived by the Internet Archive "WayBack Machine" and can still be accessed here:

<http://web.archive.org/web/20220907142442/https://conventionofstates.com/news/john-birch-society-finds-self-destruct-switch-in-constitution?>

The second COS response was titled "Response to Dr. Malone." It, too, has since been [taken down by COS](#), but is archived here:

<https://web.archive.org/web/20220909000017/https://conventionofstates.com/malone>

In it, COS encouraged their supporters to spam Dr. Malone's email inbox with messages in favor of an Article V Convention and attacking The John Birch Society.

And the third COS "response," titled "[A Response to Christian Gomez](#)," was written by Rita M. Peters, a constitutional attorney who serves as the Convention of States Project's senior vice president for



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Written by [Christian Gomez](#) on October 12, 2022

legislative affairs. Unfortunately, her essay was not so much a response to the contents of this author's initial article, but rather a reaction to it, attacking the credibility of the author.

With that brief preface out of the way, what follows is a response to Rita M. Peters' essay.

In her third paragraph, she writes:

Before we get to the arguments on either side, let's examine the sources. Christian Gomez is a "Research Project Manager" for the John Birch Society with a bachelor's degree from Seton Hall University. He is not a lawyer, nor a peer-reviewed published author on the subject of the Constitution or Article V.

No argument from this author thus far. Yes, he currently gets to serve as the Research Project Manager for The John Birch Society and is also a contributor to *The New American*, for which he has been writing since the summer of 2010 about various topics including [Article V](#) of the U.S. Constitution. And yes, he has a bachelors degree from Seton Hall University. He is not a lawyer. Nor is he a "peer-reviewed" author in any academic journals. But what does any of that have to do with the question of whether an Article V Convention is a good or bad idea at this time?

The only reason Peters mentions any of this is because she is seeking to discredit the author rather than deal with the arguments that she fails to properly address. She contrasts this author to a select list of "nationally renowned constitutional experts with too many letters behind their name[s] to list here [in her essay]," with the implication being, "Don't listen to this Christian Gomez guy, he's not a lawyer so what he does he know about the Constitution? The Constitution was not written for the average person, but rather for the scholars and lawyers — the *only* people who can truly understand and explain the Constitution." In other words, trust the "experts."

As one person, with the username LDT, commented on the Substack post of Rita M. Peters' essay, "It's hard to read this without it leaving a bad taste in your mouth that you've just been schooled and told to sit in the cheap seats and let your more 'highly educated betters' handle this." Peters' elitest scorning of those opposed to an Article V Convention is a common smear tactic of COS.

The idea is to divert the attention of the reader/audience by attacking the person with whom COS disagrees rather than focusing on the substance of the person's arguments. This way COS can avoid any real debate on the subject, just as COS and its president Mark Meckler perpetually refuse to debate constitutional educators and speakers [Robert Brown](#) and [Shawn Meehan](#) about an Article V Convention. In fact, COS previously used the [same lame arguments](#) to try to discredit Robert Brown.

Robert Brown and this author are not the only people an established group of "experts" have tried to suppress for offering a viewpoint contrary to that accepted by the gatekeepers of a particular subject. For the past three years, government officials, the mainstream media, and social-media giants have tried to silence any voices of dissent with regard to SARS-CoV-2, Covid-19, and mRNA Covid vaccines.

Medical "experts with too many letters behind their name to list here," such as Dr. Anthony S. Fauci, M.D., the director of the National Institute of Allergy and Infectious Diseases and an advisor to every U.S. president from Ronald Reagan to Joe Biden, have repeatedly told us about the need to maintain social distancing, shelter-in-place to the detriment of the economy and people's livelihoods, obey mask mandates, and how the Covid-19 "vaccines" are "safe and effective." The mainstream media and social-media giants highlighted which authors of peer-reviewed medical papers to follow and "fact checked"



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the articles and interviews of those offering a contrary position as being “partially false,” “misleading,” or outright cancelled them by removing their content altogether. Again, we were told to trust the experts.

So who are some of these so-called experts whom Peters cites?

The first on her list is Professor [Robert Natelson](#), a longtime convention advocate who repeatedly cites his own work as sources, and who is the main person responsible for changing the name from “Constitutional Convention” to “Convention of the States” in order to market it better. 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 concept of a state-controlled convention under the name “Convention of States” has been peddled.

Second on her list is COS co-founder Michael Farris. While his work on defending the constitutional rights of homeschoolers and parents is certainly commendable, his desire to change the Constitution gives one pause. Farris recommended a constitutional amendment to expand the number of justices on the Supreme Court and to model it after the European Court of Human Rights, which is the judicial body of the Council of Europe. In a 2014 interview with *World Net Daily*, Farris [said](#):

I [would] propose reconfiguring the Supreme Court after the model of the European Court of Human Rights. There are 46 nations in that court’s jurisdiction, and every nation appoints one judge. We should expand the Supreme Court to 50 justices and have the states appoint the justices for a specific term (six or eight years) with no right of reappointment. That one change would do more to ensure a constitutional government than anything I know.

Many on the Left today likewise want to pack the Court with additional justices. And the late Supreme Court Justice Ruth Bader Ginsburg also shared the same affinity for the European judicial system over that established by the Founding Fathers in the U.S. Constitution. In a 2012 interview with the Arabic-language channel MEMRI TV, Justice Ginsburg [said](#), “I would not look to the U.S. Constitution if I were drafting a constitution in the year 2012.... You would almost certainly look at the European Convention on Human Rights.” The European Court of Human Rights (ECHR), which Farris would like to “reconfigure” the U.S. Supreme Court after, was originally established to supervise the enforcement of the European Convention on Human Rights, which Ginsburg praised over the U.S. Constitution.

Under the pretense of limiting the “power and jurisdiction of the federal government,” could delegates to an Article V Convention propose restructuring the Supreme Court after that of a foreign court such as the ECHR?

Next on Peters’ list of “experts” is neoconservative radio and television talk-show host Mark Levin, who wrote the book *The Liberty Amendments*. In the book, Levin proposes a total of 11 constitutional amendments, some of which would move the United States closer to being a “democracy” rather than a republic. For example, his “Amendment to Grant the States Authority to Directly Amend the Constitution” in Chapter 9 lowers the ratification threshold from the current three-fourths of the states to two-thirds of the states, thereby making it easier for the “sovereign people” to change the Constitution by a vote of their state legislators.



Written by [Christian Gomez](#) on October 12, 2022

Levin's proposed "Amendment to Grant the States Authority to Check Congress" in Chapter 10 enables a three-fifths vote of the state legislatures to override a federal statute. In practice, this would make it harder for states to nullify unconstitutional laws passed by Congress, seeing as it currently only takes one state to nullify an unconstitutional action. While Levin's proposed amendment seeks to overturn federal statutes, it would not necessarily do so in regard to the constitutionality (or lack thereof) of the statute in question, but based on a three-fifths majority of the states. Ideally, leftists would prefer a simple democratic majority of the U.S. population to be able to overturn any federal laws, irrespective of their constitutionality. Levin's proposed amendment is a step in the direction of populism and democracy.

Seldom does Levin mention in his book the enumerated powers of the Constitution or even the 10th Amendment, which already restrains the federal government and empowers the states. As Larry Greenley summarizes in his [book review](#) of *The Liberty Amendments*, published in *The New American*:

Levin's amendments empowering the states to override the laws, regulations, and legal decisions of the various branches of the federal government make no reference to the powers delegated by the Constitution, a dramatic downgrading of the enumerated powers and the 10th Amendment.

Instead of upholding the Constitution originally ratified by the states in 1788, Levin is creating a mechanism for state intervention in the workings of the federal government that vetoes federal laws, regulations, and legal decisions based on the momentary preferences of the sovereign people as expressed in votes of the state legislatures without reference to the Constitution.

Levin's standard for overturning federal statutes is not based on the Constitution, but on majoritarian principles. Peters and COS may label him an "expert," but a constitutionalist he certainly is not, especially given how much he wants to alter the government from what the Framers of the Constitution originally established.

Levin has also repeatedly denigrated Republicans who espouse a non-interventionist foreign policy, such as that held by many of the Founding Fathers, as belonging to the "Putin wing" of the Republican Party. Levin was also an enthusiastic supporter of President George W. Bush's undeclared War in Iraq and vehemently disparaged U.S. Representative Ron Paul and others belonging to the "Old Right" as siding with Saddam Hussein and Al-Qaeda. Similarly, Peters and COS attempt to portray The John Birch Society as being linked with the far left because of JBS's longstanding opposition to convening an Article V Convention in the current political climate, in which lack of knowledge of the Constitution is widespread.

Given the widespread ignorance of the Constitution, the odds of constitutionalists, or strict constructionists, comprising the majority of the delegates to an Article V Convention are not favorable. Many Republican state legislators are not constitutionalists. Instead, neoconservative or establishment RINO legislators could very well form an alliance with Democrats and other leftists to propose and ultimately ratify constitutional amendments that would be harmful to our republican government and individual liberty. And that assumes that the legislatures of the several states will be permitted to ratify whatever comes out of a convention.

Under Article V, *Congress* gets to decide whether proposed amendments are ratified by state



Written by [Christian Gomez](#) on October 12, 2022

legislatures or special ratifying conventions. Furthermore, modern convention delegates may also invoke the “sovereign right of the people” to “alter or abolish” the federal government to enable them to scrap the present Constitution and propose an entirely new one that contains its own new method of ratification, such as a national referendum.

Another “expert” touted by Peters is “Robert P. George, one of the nation’s leading conservative legal scholars, currently the McCormick Professor of Jurisprudence and founding director of the James Madison Program in American Ideals and Institutions at Princeton University.” Among Robert P. George’s past accomplishments, which Peters neglected to mention, was his work in drafting the so-called [Conservative Constitution](#). Regarding the right of the people to keep and bear arms presently protected by the [Second Amendment](#) of the U.S. Constitution, George’s proposed constitution makes provision for federal gun-control laws. In Article I, Section 12 of the “Conservative Constitution,” we find,

Neither the States nor the United State [*sic*] shall make or enforce any law infringing the right to keep and bear arms *of the sort ordinarily used for self-defense or recreational purposes*, provided that States, and the United States in places subject to its general regulatory authority, *may enact and enforce reasonable regulations on the bearing of arms, and the keeping of arms by persons determined, with due process, to be dangerous to themselves or others.* [Emphasis added.]

Based on this language, who exactly gets to decide what constitutes firearms “ordinarily used for self-defense and recreational purposes”? How would leftist lawmakers and future courts interpret what is meant by “reasonable regulations”? And who would U.S. Attorney General Merrick Garland (another “expert” with too many letters behind his name) say fits the description of “persons determined, with due process, to be dangerous to ... others”?

COS has [disavowed any association](#) with George’s “Conservative Constitution,” yet Peters touts him as an expert who supports the calling of a Article V Convention ostensibly to amend the Constitution. A reading of the [Conservative Constitution](#) (and comparing it with a reading of the current [Constitution](#)) may provide insights as to the type of changes to the Constitution that George would like to see made.

Moving on to Peters’ rebuttal to the arguments made by this author in the [initial Substack post](#), she writes:

The first thing to notice about Christian Gomez’ argument (and that of the John Birch Society he represents) is that it is incongruous. They claim to revere the Constitution, but they demonize the Article V convention process, which is part of it.

Neither this author nor The John Birch Society “demonize” the Article V Convention process. It is an undeniable fact that Article V, including the Convention method, are part of the federal Constitution. However, we oppose utilizing that particular method (i.e., a Convention) *at this time*. This is by no means incongruous. One can revere the Constitution but not necessarily be in favor of utilizing every aspect of it. For example, Congress issuing a declaration of war is constitutional, but that does not mean that JBS advocates that Congress should declare war against, say, Russia over Ukraine or China over Taiwan. Is The John Birch Society’s reverence for the Constitution incongruous with our opposition to a Declaration of War? The John Birch Society does believe that if the United States does go to war or



Written by [Christian Gomez](#) on October 12, 2022

take any military action against a sovereign nation that it should do so only with a congressional Declaration of War, but at the same time we do not want Congress to declare a war against any country right now. Someone might retort that a Declaration of War is extreme, to which we say, so is petitioning Congress to call a Convention.

Impeachment and removing the president of the United States is also part of the Constitution, but The John Birch Society vigorously opposed the Democrats' partisan attempt to impeach, convict, and remove Donald Trump from the presidency, and one would also imagine that Rita M. Peters and the leaders of COS likewise opposed this shameful scheme. Just because something is part of the Constitution does not mean that it should or must be executed immediately.

Peters continues, "They describe the Bill of Rights as 'paramount to preserve liberty,' yet scoff at the idea of new amendments for the same purpose." That is a rather strange line of reasoning. Why would we need new amendments to accomplish what was already achieved by the initial Bill of Rights? And if Peters is suggesting that a new Bill of Rights is needed because the federal government is ignoring or violating the first 10 amendments, then what would stop the federal government from ignoring or violating any additional amendments?

Or is she advocating a [second Bill of Rights](#), such as that proposed by President Franklin Roosevelt in his 1944 "State of the Union Message to Congress," in order to enshrine so-called second generation or "economic" rights in the Constitution?

Peters boils down the anti-Convention argument to what she describes as "the faulty premise that the Constitutional Convention of 1787 was a 'runaway convention.' In short, the JBS believes that the statesmen who drafted our Constitution did so in defiance of the commissions their states gave them." However, she and COS conveniently omit addressing that many of the delegates to the Federal Convention of 1787 *admitted* that they lacked the authority from their state commissions to dispense and replace the then-Articles of Confederation with an entirely new document rather than amend it. This author included some of those quotes in the original Substack post.

For example, James Madison, in his diary entry on the debates at the Federal Convention for May 30, 1787, [observed](#):

Gen. PINCKNEY *expressed a doubt* whether the act of Congress recommending the Convention, or *the commissions of the Deputies to it, would authorize a discussion of a system founded on different principles from the Federal Constitution.*

Mr. GERRY seemed to *entertain the same doubt.* [Emphasis added.]

And on June 16, 1787, Madison recorded New York delegate John Lansing, Jr. 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.... N. York would never have concurred in sending deputies to the convention, if she had supposed the deliberations were to turn on a consolidation of the States, and a National Government."

In fact, one would be hard-pressed to find a single delegate who said the opposite, i.e., claiming that the commissions from the states authorized the delegates to go further than simply revising the Articles of Confederation. Instead, some of the delegates justified the necessity of exceeding their commissioned



Written by [Christian Gomez](#) on October 12, 2022

authority. For example, Alexander Hamilton said, “The States sent us here to provide for the exigencies of the Union. To rely on and propose any plan not adequate to these exigencies, merely because it was *not clearly within our powers*, would be to sacrifice the means to the end.” (Emphasis added.)

As the sovereign representative of the people at large, the delegates cited the “original principle” of being able to “abolish or alter their governments” as the basis for scrapping the ineffective Articles of Confederation with the much-improved current Constitution. At the Pennsylvania ratifying convention, on November 26, 1787, James Wilson, who previously served as one of Pennsylvania’s delegates to the Federal Convention, [said](#):

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.]

Peters did not address any of these quotes that also appeared in this author’s original article on Dr. Malone’s Substack account. Instead, she says, “A full, well-researched response to this now-debunked claim can be read in [Michael Farris’ law review article](#), published in the Harvard Journal of Law and Public Policy.”

Though his article is well-written, Farris fails to quote or cite a single state commission from 1787 that granted “any and all authority” to their delegates. Nor does Farris mention, quote, or cite a single delegate who claimed that his state’s sending commissions granted him or any of the other delegates such power. If their state commissions contained such language, then surely the delegates would have known this and even cited it when their power to create a new, national form of government was called into question.

Peters and COS do not expect many to read Farris’ 87-page article. It is simply meant to impress others with the name “Harvard” and distract from the main argument. It does not debunk the true history that the Convention delegates did, in fact, exceed the authority of their state sending commissions when they created a new and more national system (in the form of the current federal Constitution) than what existed under the Articles of Confederation.

During the Convention, many delegates spoke out about how their limits of delegated authority were being violated. Many others conceded this to likely be true, but declared such action to be necessary. Yet, none of them countered by pointing to such authority in their state commissions. Farris did nothing to dispel this historical fact. Therefore, referencing it does nothing to enhance Peters’ rebuttal.

It is also ironic that Peters would reference [The Federalist, No. 40](#), seeing as she clearly isn’t familiar with Madison’s arguments made therein. For example, the “alter or abolish” phrase that she attacks this author for using was cited by Madison in *The Federalist*, No. 40. And if we apply the rest of the arguments from *The Federalist*, No. 40 to today’s COS movement, would they embrace these rationalizations?

The following is a chronological list of the arguments Madison used in *The Federalist*, No. 40 to justify exceeding their limited authority:

- Where does one draw the line between authorized & unauthorized changes?
- Have the Articles of Confederation been replaced “so long as a part of the old articles remain”?



Written by [Christian Gomez](#) on October 12, 2022

- On changing the method of ratification, “it is admitted that the convention have departed from the tenor of their commission.”
- Regarding the Convention, “the powers were merely advisory and recommendatory.”
- Although the powers of the Convention may have been limited, the present crisis necessitated “sacrificing substance to forms.”
- Even if the proposed Constitution was “wholly foreign to their commission,” Congress was also usurping its authority, which justified the Convention doing so.
- A “rigid adherence” to the forms, or proper procedures and rules, “would render nominal and nugatory [i.e. neutralize], 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.’”
- It was essential that the Convention propose “*informal and unauthorised propositions.*” [Italics in original].
- Urgency justified proposing measures “not warranted by their commission.”
- Should the Constitution be rejected, simply because “the convention were neither authorized by their commission” to propose it?
- And, “if they had exceeded their powers, they were not only warranted but required.”

Each one of these could be the subject of a paragraph or two. For example, would COS support delegates saying their delegate commissions “were merely advisory and recommendatory” and not to be taken too strictly?

Notice how COS never cites Madison’s actual reasoning in *The Federalist*, No. 40. Doing so would be toxic to their agenda.

Nevertheless, Peters continues, “According to Christian Gomez and the JBS, if 34 states were to take the incredibly foolish step of applying for a convention to propose amendments that limit the scope and power of the federal government, the ultimate outcome would be a Leftist-controlled circus writing a radical new constitution that would ‘permanently consolidate [the Administrative State’s] current unconstitutional powers.’”

She and COS assume that a Convention would be controlled by the state legislatures, and that the state legislatures would also be the ones ratifying whatever comes out of the Convention. She further claims that this author and the JBS “have absolutely no basis for those claims,” but repeatedly ignores the precedent set forth at the actual [Convention of 1787](#) held in Philadelphia, in which the delegates were tasked by their [state commissions](#) “for the sole and express purpose of revising the Articles of Confederation” in order to “render the federal Constitution adequate to the Exigencies of Government.” The 1787 Convention originally began as a limited Convention of the States with the initial intention of simply revising, or amending, the Articles of Confederation, not to furnish an entirely new document. [History](#), which COS intentionally and repeatedly misrepresents, is the basis for our claims.

Peters also claims that the very leftists whom we insist “are waiting in the wings to take over a convention, are terrified that COS will succeed in its mission.” As proof of this claim, Peters offers a list of more than 230 leftist organizations opposed to a new Constitutional Convention. While many of those organizations may indeed oppose the COS organization’s stated conservative objectives for obvious partisan reasons, she and COS ignore the fact that many of those same leftist groups and also former U.S. Senator Russ Feingold (D-Wis.) are *not* opposed to amending the Constitution. They, too, want to amend Constitution, especially for a campaign finance reform amendment, also known as the [“We the People Amendment.”](#)



Written by [Christian Gomez](#) on October 12, 2022

Two of the leading organizations on the Left pressuring state legislatures to apply to Congress to call a Convention are [Wolf-PAC](#) and [Move to Amend](#).

In fact, Move to Amend boasts a list of 728 [endorsing organizations](#) supporting their efforts to amend the Constitution via an Article V [Constitutional Convention](#).

Additionally, *The Nation* magazine, a far-left Marxist publication, published an article in their November 20/27, 2017 issue titled "[Conventional Wisdom: Why the left should embrace the movement for a new constitutional convention](#)." The article recommends an Article V Constitutional Convention to propose a host of radical leftist amendments to the Constitution, including abolishing the Electoral College. The article also suggests using an Article V Convention to add so-called second generation rights, such as those in FDR's proposed "[second Bill of Rights](#)," to the Constitution. "Other issues now pressed by the left — the right to health care, education, housing, the vote, even a basic income — could also be raised in a convention of states," *The Nation* claims. On [page 21](#), the article favorably quotes COS president Mark Meckler as saying, "The hordes have broken through the gates of Washington, DC, and now we should tear the structure down."

Not only are leftists favorably quoting Meckler in support of an Article V Convention, Meckler also [travels with them](#) and has even shared the same side on a debate stage with them. On December 7, 2017, Mark Meckler shared the debate stage with his friend, leftist Harvard Law Professor Lawrence Lessig, against Georgetown Law Professor David A. Super and Walter Olson of the libertarian Cato Institute. The debate, hosted by Intelligence² Debates, was titled "[Call a Convention to Amend the Constitution](#)." And as is customary COS fashion, they also attempted to discredit Professor Super and Olson by referring to them as "[anti-Article V 'scholars'](#)" with quote marks around the word scholars, as if to suggest that they were not scholars because of their opposition to an Article V Convention. Suffice it to say, both Meckler and Lessig lost the debate.

Even today, Mark Meckler refuses to debate constitutional educator and speaker Robert Brown over an Article V Convention. Why? If Meckler and COS are correct, would not a debate help further their cause to "debunk" the "lies" of those who currently oppose an Article V Convention?

This author may not be a constitutional lawyer or an expert "with too many letters behind his name." Yet isn't it ironic that someone who is a constitutional attorney and who has authored numerous briefs for the U.S. Supreme Court and the U.S. Circuit Courts of Appeals went out of her way to attempt to discredit this author, who is none of those things? If this author is not even credible, then why give him the time of day?

This author's only concern, and that of [The John Birch Society](#), is keeping our Republic, preserving the Constitution from alteration, and ultimately promoting the truth, which appears to evade Rita M. Peters, Mark Meckler, and the Convention of States organization. It is no surprise that [Glenn Beck retracted his endorsement of COS](#), and other conservatives who've previously endorsed COS should likewise reconsider their support for the organization and its predilection for propagating blatant lies.

This author still invites Rita M. Peters and all those interested in this topic (regardless of one's position) to read the July 11, 2022 Special Report of *The New American* magazine, available for [free online](#), or for purchase as either a physical print copy or digital download PDF from [ShopJBS.org](#).



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