



Written by [Joe Wolverton, II, J.D.](#) on February 7, 2014

Convention of States and Article V: Tearing Up the Talking Points

While power is in the hands of the people, or democratic part of the community, more especially as at present, it is easy, according to the general course of human affairs, for the few influential men in the community, to obtain conventions, alterations in government, and to persuade the common people they may change for the better, and to get from them a part of the power.

— [Federal Farmer](#), October 12, 1787



The various proposals being pushed by the broad con-con coalition are supported by very powerful men who, as Federal Farmer foresaw, would convince well-meaning friends of liberty that they can change the Constitution for the better. The stick at the end of that desirable carrot is the transfer of power, not from the federal government to the states as those on the right wing of the coalition promise, but from the people to the monied interests paying the bills of the Convention of the States (COS) crowd.

Before pulling back the curtain back and exposing some of the wizards pulling the levers of the con-con movement, I want to dismiss some of the COS talking points that may have convinced a few good conservatives to support their dangerous plan.

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A Con-Con By Any Other Name

First, on nearly every website repeating the con-con propaganda, the particular group publishing the information denies that they are calling for a constitutional convention.

For example, from the [Convention of the States FAQ](#) (frequently asked questions):

What is a Convention of States?

It is not a constitutional convention. It cannot throw out the Constitution because it derives its authority from the Constitution.

It's curious that the COS people go to such lengths to deny that they are calling for a constitutional convention, yet they have no problem calling what happened in Philadelphia in 1787 a constitutional convention and it was called for EXACTLY the same reason as the COS: to propose amendments to the existing constitution.

This is the last paragraph from the report of the Continental Congress calling for the convention of the states held in Philadelphia begun in May 1787:

Resolved that in the opinion of Congress it is expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate



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to the exigencies of Government & the preservation of the Union.

Change a few words, modernize the language a little bit, and this is precisely the same call being made by the COS organization, yet they consistently deny that they are calling for a constitutional convention. They cannot have it both ways.

Tell me COS and like-minded groups, do you not want to hold a “convention of delegates who have been appointed by the several states” for the limited (“sole and express”) purpose of revising the Constitution? Do you not claim that when the states agree to the proposals that would come out of your convention, the Constitution will be able to save the republic from the “exigencies of government” and preserve the country?

Of course that’s what you want, your websites and literature say exactly that, almost word for word.

If you are intellectually honest, then, you will stop denying that your “convention of the states” is a constitutional convention, or, on the other hand, you will scrub from your literature any reference to the convention of 1787 as a constitutional convention. Because, as the history I’ve cited above reveals, if the Philly convention was a con-con, then so is the convention you are promoting.

So, constitutionalists, next time a pro-Article V person tells you the convention of the states is not a constitutional convention, ask them if the convention in Philadelphia of 1787 was a constitutional convention. When they admit that it was, then read them the call from the Continental Congress reproduced above and my comparison of it to their own Convention of the States literature and watch the verbal tap dance begin.

True Constitutionalists

The other day, a friend of mine who is a leader in the liberty movement texted me and complimented me for always trying to approach the issue from an intellectual rather than an emotional point of view. I was touched by that observation because from the depth of my soul I loathe these internecine battles that are dividing the forces of freedom.

Nothing in recent history has caused a bigger rift among constitutionalists than the Article V convention movement and sadly, some advocates on both sides of the debate have taken to name-calling and sarcasm.

One of the latest examples is particularly appalling to me.

Although it seems to have been recently scrubbed from the site, on February 1, the Convention of the States posted [the following declaration](#) on its Facebook page:

Beware the False Constitutionalists

You know who they are.

1. They are false constitutionalists because they believe the Constitution was born of a lawless, runaway process that overthrew the Articles of Confederation. Their claim that the Constitution must never be amended and should simply be enforced is absurd when they assert its illegitimacy in the same breath.
2. They are false constitutionalists because Article V is in the Constitution and they refuse to consider any circumstances under which it could be used. A real constitutionalist takes the work of the Founders and makes it workable.



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There are several things wrong with this social media smear.

First, words like this smack of the attitude described by the anti-Federalist Federal Farmer that I quoted at the beginning of this piece. It sounds like a powerful man (or group of people) trying very hard to get power by manipulating otherwise smart and well-intentioned people.

Second, who is the author of the COS Facebook post to decide who qualifies as “true” constitutionalist? There is nothing more repellent and unconscionable to the good men and women working sincerely and seriously to restore the Republic in the best way they know how and in the way they believe to be true than for someone to call their constitutionality “false.” This is particularly true when the self-proclaimed arbiter of true constitutionality makes his despicable claims anonymously.

Next, with regard to the “runaway” nature of the Constitutional Convention of 1787, see my analysis above, as well as [this earlier article](#) on the subject.

Fourth, please, anonymous decider of true constitutionalism — whoever you are — provide evidence of one example of an opponent of the Convention of the States claiming that “the Constitution must never be amended.” If such an assertion was ever made by an anti-Article V group, that group should be corrected. Until you come forward with the proof, though, we’ll assume this was just emotional hyperbole put out for the purpose of making a baseless claim.

The final problem with this reprehensible reproach of the beliefs of other constitutionalists is the part about taking the work of the Founders and “mak[ing] it workable.”

Confiscating Constitutional Weapons From the States

Sir or madam — again, we don’t know because you weren’t considerate or courageous enough to put your name to the post — is it not consistent with the work of the Founders to demand that state legislators play the critical part in our federal system that the Founders expected them to play?

Have you read *The Federalist Papers*? Perhaps you should re-read [No. 46](#), written by James Madison (I assume, by the way, that Mr. Madison would make the cut as a “true constitutionalist”) where he writes:

Should an unwarrantable measure of the federal government be unpopular in particular States, which would seldom fail to be the case, or even a warrantable measure be so, which may sometimes be the case, the means of opposition to it are powerful and at hand. The disquietude of the people; their repugnance and, perhaps, refusal to co-operate with the officers of the Union; the frowns of the executive magistracy of the State; the embarrassments created by legislative devices, which would often be added on such occasions, would oppose, in any State, difficulties not to be despised.

Is there not in nullification — a constitutional weapon most in the Article V camp want to confiscate from the states — the very act of refusing to cooperate with the officers of the Union? Is this not, then, a way to make the work of the Founders “workable?”

Besides, is it not a bit curious that the con-con coalition places so much faith in the states when it comes to protecting the Constitution from any progressive or socialist proposals that might come out of their Convention of States, but they deny them the power and prerogative to check the federal government’s abuses through the very constitutional, very limited, and very effective program of nullification?

Why, also, would anyone claiming to have the restoration of state power as a goal insist that the states



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surrender a weapon as potent as nullification, even if he believes that there are better weapons in the arsenal? Do I refuse to fire my rifle just because it's not a bazooka?

Divide and Conquer

Recently, a prominent supporter of the Article V convention wrote that, with regard to the deepening division among constitutionalists concerning the constitutionality of nullification, he suspects that "[left-wing sources help foster them](#)." There is likely much truth to that with regard to the COS issue, as well.

Although the hour is late, there remains hope for reconciliation.

We can come together, put the brakes on the rush toward an Article V convention, and come to a consensus on a tack that will accomplish our common goals. First, though, we must stop the in-fighting, stop the invective, stop the name calling, stop the sarcasm, and start speaking to and writing to each other in a way that manifests our mutual respect.

Monday, I will submit the final article in this series exposing the very real and irreparable dangers posed by the Convention of States specifically and the Article V convention movement generally.

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