



Written by [Joe Wolverton, II, J.D.](#) on February 26, 2014

## Article V: Con-Con or Nothing Is the Cry of This Cause Célèbre

Although leadership of the movement to call for an Article V “convention of states” go to great lengths to assure supporters that this meeting would not be a “constitutional convention,” the message apparently hasn’t reached the Illinois state legislature.

The “Short Description” of the bill provided on the [official website of the Illinois General Assembly](#) is “US Constitutional Convention.” This Freudian slip will surely result in a phone call from some big-money backer of the Article V convention within hours of the publication of this article.



In fairness, though, the rest of the bill performs the requisite grammatical gymnastics that are the hallmark of ALEC-approved Article V legislative language.

As with other resolutions making their way through various state legislatures, the Illinois measure makes critical errors in its application of the letter of Article V of the Constitution.

Article V reads:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Notice, concerned constitutionalists, that there is not a single word in that very important and controversial provision that provides for a limited convention. That did not stop the state legislature of Illinois from making that critical error, however.

Citing its opposition to the U.S. Supreme Court case of *Citizens United v. Federal Election Commission* and “related cases and events,” Senate Joint Resolution 42 calls for a convention “limited” to considering this issue.

The plain language of Article V limits neither the scope of the convention it anticipates nor the number of the amendments that may be proposed at such a meeting.

In fact, if the purpose of the suggested convention is to propose amendments to the Constitution, doesn’t that make it per se a constitutional convention, regardless of how narrow an agenda those calling for the convention say they will follow?



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It seems very dangerous to rely on semantics as a balance to the risks that would attend such a convention, regardless of the language preferred by its advocates.

Furthermore, those of us with faith in the work of the Founders likely agree that adding and deleting words from the Constitution is a sin typically committed by enemies of our Republic, not by those who call themselves “true constitutionalists.”

As John Locke wrote in his *Essay Concerning Human Understanding*, “Every man carries about him a touchstone, if he will make use of it, to distinguish substantial gold from superficial glitterings, truth from appearances.”

When it comes to the United States of America, the touchstone each one of us carries is the Constitution. We must insist that everyone — particularly those who would have us accept them as savior of the Republic — adhere to the precise language of that sacred document and do not add or subtract from it for their own purposes, no matter how noble they believe them to be.

Anyone claiming to revere the Constitution — particularly those on the right of the political spectrum — should never be guilty of skulking about in constitutional “penumbras” to find justifications for their causes.

On another pressing point, there seems to be a substantial segment of the otherwise well-intentioned constitutionalists, wary of the unchecked expansion of the federal government, that are giving into the lure of the cult of personality pushing for an Article V convention. The names of the members of the corps of conservative celebrities fighting for this historical event are well known and need not be repeated here.

What does need to be rehearsed, however, is the writing in 1787 by Samuel Bryan, a Pennsylvania anti-federalist who employed the pseudonym “Centinel.” Note how very applicable Bryan’s words are to our own situation, particularly when it comes to the big names associated with the Article V movement:

Whether it be calculated to promote the great ends of civil society, viz. the happiness and prosperity of the community; it behoves you well to consider, uninfluenced by the authority of names. Instead of that frenzy of enthusiasm, that has actuated the citizens of Philadelphia, in their approbation of the proposed plan, before it was possible that it could be the result of a rational investigation into its principles; it ought to be dispassionately and deliberately examined, and its own intrinsic merit the only criterion of your patronage.

Let us avoid, my fellow constitutionalists, joining the ranks of those pushing for an Article V constitutional convention (and, yes, it will be a constitutional convention) because of the influence of the “authority of names” who have made the issue their latest cause célèbre.

Later, “Centinel” has a little more to say that seems like it was written after he read the Article V con-con literature.

In nearly every piece of propaganda published by the “convention of states” proponents, the point is made that if the people don’t take back the authority wrested from them by Washington, D.C. (read [this article](#) for my response to that claim), the Republic will fall and the federal government will abolish liberty.

Now, while I certainly agree that something needs to be done immediately to force the federal beast back inside its constitutional cage and that the states are the ones to administer the remedy (unlike the COS, though, I support the “rightful remedy” of nullification), I do not believe that without a convention



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our Constitution will be thrown onto the scrap heap of history.

A very important, although as yet unanswered question, is why the Article V con-con proponents have adopted this “convention or nothing” approach to fighting federal overreach? Should we not employ all our weapons before launching this nuclear option?

Running the risk of holding a convention attended — as it most certainly would be — by an unknown and uncontrollable bloc of progressive and socialist delegates is unnecessary and unwise.

Also, I reject the “all or nothing” false dialectic espoused by the COS. For a group that places so much faith in state ratifying conventions, they believe states incapable of playing the role reserved to them in the federal relationship established by the Constitution and as manifested through the nullification of unconstitutional acts of the federal government.

Finally, there is the money being spent on this endeavor. There are several very wealthy and influential men from both the Left and the Right, writing very big checks to pay the expenses of the traveling spokesmen for the Article V movement, as well as for the advertising and collateral being distributed to sell the idea to those across the political spectrum.

On this point again, consider the words and warnings of “Centinel:”

The wealthy and ambitious, who in every community think they have a right to lord it over their fellow creatures, have availed themselves, very successfully, of this favorable disposition; for the people thus unsettled in their sentiments, have been prepared to accede to any extreme of government; all the distresses and difficulties they experience, proceeding from various causes, have been ascribed to the impotency of the present confederation, and thence they have been led to expect full relief from the adoption of the proposed system of government, and in the other event, immediately ruin and annihilation as a nation.

Constitutionalists should be hopeful that all state legislators pause, resist the attraction of celebrity, the lull of largesse, and the purported inevitability of the ruin of our Republic in the absence of an Article V convention, and consider the alternatives. Then, that they exhaust all these alternatives before opening our Constitution to the tampering of an unaccountable and uncontrollable group of delegates gathered at a constitutional convention.

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