



Written by [Joe Wolverton, II, J.D.](#) on May 23, 2014

Herman Cain Parrots ALEC's Call for a Con-Con

Former presidential candidate and pizza purveyor Herman Cain is the latest self-professed "conservative" to join the clique calling for an Article V constitutional convention.

In an article published May 20 in the *Canada Free Press*, Cain presumes to teach readers who have "not been taught" about how to use Article V and the "state legislatures" to force Congress to "stop its fiscal insanity." Cain claims later in the piece that any amendment recommended by the convention would require "a vote of three-fourths (38 total) of state legislatures for ratification."

That just isn't so.

Truth is, there are so many errors of fact and constitutional construction in that first paragraph that it is difficult to correct all the errors in the rest of Cain's summary of the best way to save the Republic.

Cain has apparently developed the habit common to his cohorts of leaving out key portions of Article V, a sort of constitutional contraction. Typically this brand of syncope, as I like to call it, involves highlighting portions of the text of Article V in order to convince readers that the process is safe and that rogue amendments will never make it into the Constitution.

One of the most egregious examples of this subtle subtraction of key constitutional language pertains to the method of ratification of amendments proposed by delegates at an Article V constitutional convention.

Concerning the method of state approval of amendments sent to them by the convention, Article V mandates that they will become part of the Constitution "when ratified by the legislatures of three fourths of the several states, *or by conventions in three fourths thereof.*" (Emphasis added.)

That last phrase regarding special ratifying conventions is the part that Article V proponents like to leave out and Cain has repeated that key sin of omission. I have an idea why.

No one, no matter how heavily invested in the cause of the "convention of states" (a phrase not found in Article V), can guarantee the outcome of a special ratifying convention. In fact, in light of the lists of leftist groups found in the con-con camp, the results of these conventions could be an outright scrapping of the Constitution written by the Founders in favor of one more in line with the progressive ideologies of these Article V convention advocates.

As I mentioned above, there are myriad socialist and progressive organizations desperate to change the Constitution and make it more conformable to their dangerous ideas of "good government."

These socialist suggestions run the gamut from changing the Second Amendment so as to prevent civilians from owning weapons and ammunition, to increasing the amount of direct democracy in the working of Congress, to protecting the rights of same-sex couples to marry.





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Now, there are admittedly not enough state lawmakers who would vote in favor of the most controversial and constitutionally offensive amendments. What also must be admitted, however, is that the billions being spent on this effort by the Left would likely buy seats for their delegates at any special ratifying convention.

The mind boggles at the potential proposals that could come out of a convention occupied by such radical enemies of the rule of law and republican liberty.

Besides, another demonstrable fact of modern political life is that radical socialists and progressives are spending billions to fund these fringe groups, and contemporary politicians — no matter how “conservative” — aren’t exactly known for their ability to resist hefty campaign contributions.

All those who are at this moment involved in the battle to protect our Constitution should make particular mention of this provision of Article V when confronting those of any political stripe who conveniently leave it out of their propaganda.

There is an historical precedent for this: Congress submitted the 21st Amendment repealing Prohibition to state ratifying conventions. Also, the convention could conceivably change the ratification rules, as was done by the Convention of 1787.

Maybe pointing that out to Herman Cain will help him better appreciate the potential irreparable harm to our Constitution that could result from the Article V convention he’s now promoting.

Next, Cain proposes the Article V convention as a way to add a balanced budget amendment (BBA) to the Constitution so as to avoid a federal “fiscal collapse.” Cain explains why we can’t rely on Congress to confine itself to act within the boundaries of its power drawn up in the Constitution:

But a major problem with politicians, even good ones, is that they quickly learn it benefits them to bestow favors on the electorate with other people’s money. The Constitution limits the power of the federal government precisely because the nature of politics incentivizes government to grow. It also needs to limit the power of politicians to borrow and spend because the same kinds of incentives exist for them to do so irresponsibly. Even good people have to live within the limits of the powers enumerated by the Constitution, and that’s as it should be.

That logic is very confused and terribly tautologous.

Somehow, our country was driven to the edge of this economic abyss by a Congress bent on spending money and growing government — this despite having no constitutional authority to do so — but Cain is trying to sell us on the idea that if we can but add a BBA to the Constitution, Congress will undergo some sort of conversion into faithful followers of constitutional limits on its power.

Buyer beware. Americans concerned about the growth of government and the profligate spending habits of lawmakers should first consider whether a balanced budget amendment is necessary and whether it would actually steer our Republic away from the fiscal problems we are facing.

The fact is that determined citizens and state legislators could rescue the United States from its financial peril without resorting to opening up the Constitution to tinkering by state-appointed delegates, many of whom would be bought and paid for by special interests and corporations.

Furthermore, there is no historical proof that a balanced budget amendment would drive Congress back to within its constitutional corral. Even the most conservative estimates indicate that about 80 percent of expenditures approved by Congress violate the U.S. Constitution. That fact wouldn’t change by adding an amendment to the Constitution.



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Whether these bills spend our national treasure on unconstitutional and undeclared foreign wars, billions sent overseas in the form of foreign aid, expanding the so-called entitlement programs, or redistributing wealth via corporate and individual welfare schemes, none of these outlays is authorized by the Constitution.

And don't forget, a committed, concerned, and constitutionally aware citizenry can balance our budget more quickly than any balanced budget amendment and without the danger of letting the wolves of special interests and their political puppets into the constitutional hen house.

Finally, and most lamentably, given the professorial tenor taken in his article, Cain "teaches" readers that, "This is not a constitutional convention, which would be for the purpose of writing an entirely new Constitution. It is solely for the purpose of voting to enact amendments."

First, on nearly every website repeating the con-con propaganda — including the American Legislative Exchange Council (ALEC) website highlighted by Cain — the particular group publishing the information denies that they are calling for a constitutional convention.

It's curious that pro-Article V convention people continue denying 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 almost every contemporary con-con call: 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 to be held in Philadelphia 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 to the exigencies of Government & the preservation of the Union. (Emphasis added.)

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

Here's a question for Herman Cain, ALEC, and the rest of the con-con group: 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 they want and their websites and literature say exactly that, almost word for word.

If they are intellectually honest, then, they will admit that the history of the creation of our own Constitution proves that the "convention of the states" is a constitutional convention. If they continue to deny it, then they must erase from all their literature any reference to the convention of 1787 as a constitutional convention. Because, as the history cited above reveals, if the Philly convention was a con-con, then so is the convention Cain and others are promoting.

So, Mr. Cain, if your convention of the states is not a constitutional convention, I ask you: Was the



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convention in Philadelphia of 1787 a constitutional convention? If you believe it was, then please read the call from the Continental Congress copied above and let the reality sink in.



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