

TESTIMONY OF JIM LEWIS  
ON HJR 2  
132<sup>nd</sup> GENERAL ASSEMBLY OF OHIO – 2017-18

Chairman Roegner, Vice Chair Lipps, Ranking Member Leland and members of the Federalism Interstate Relations Committee, thank you for the opportunity to present some arguments against HJR 2 – the joint resolution calling for an Article V Constitutional Convention of the States. I teach classes on the Constitution and have been doing so for 7 years. My testimony will be short and hopefully to the point.

**Article V conventions**

CoS folks will call this a “convention of states” and will tell you it is somehow different from an Article V convention, or a Constitutional Convention or an Amendments convention. Call the convention what you want to, the fact of the matter is this convention, applied for by 34 States when called, will be a **Federal convention**, not a State convention.

Since Congress calls any such convention, what do they (congress) think their role will be? To see all you have to do is look at the latest report on this subject by the *Congressional Research Service* of April 2014, entitled *The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress*, to see what Congress thinks, go to page 4, first two paragraphs:

“First, Article V delegates important and exclusive authority over the amendment process to Congress. As noted earlier in this report, first among these are the right to propose amendments directly to the states for their consideration on the vote of two-thirds of the Members of the House of Representatives and the Senate and the responsibility for summoning a convention for consideration of amendments on application of the legislatures of two-thirds of the states *and* submitting any amendments proposed by an Article V Convention to the states for their consideration.”

“Second, while the Constitution is silent on the mechanics of an Article V convention, **Congress has traditionally laid claim to broad responsibilities in connection with a convention**, including (1) receiving, judging, and recording state applications; (2) establishing procedures to summon a convention; (3) setting the amount of time allotted to its deliberations; (4) determining the number and selection process for its delegates; (5) setting internal convention procedures, including formulae for allocation of votes among the states; and (6) arranging for the formal transmission of any proposed amendments to the states.”

The State's role in the Article V amendments convention process seems to be limited to applying to Congress and asking them to call a convention or as Article V states:

**“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;”

Article V says nothing about any role for the States except saying they shall apply to Congress.

Article V is part of the “law of the land” and it gives Congress the primary role of “calling the convention”. Article 1 Section 8 Clause 18 commonly called the “necessary and proper clause says that Congress shall have the enumerated power to:

**“To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, *and all other Powers vested by this Constitution* in the Government of the United States,”**

Article V certainly vests in Congress the power to “call” the convention, therefore A1S8C18 vests in Congress the power to make all laws, rules, and regulations necessary to run this FEDERAL convention.

If a convention is called, Congress will be calling the shots on its constitution and operation, not the States. It is a federal convention, once the States send their delegations, the representatives are free to propose anything they want.

State control over a federal convention, the main talking point for CoS proponents, is a fairy tale. Every argument they put forth is discredited and struck down by the actual words of the U. S. Constitution. Which do you choose to believe?