

TESTIMONY OF ELLEN HORTON  
ON HJR 2  
132<sup>nd</sup> GENERAL ASSEMBLY OF OHIO 2017-18

Chairman Roegner, Vice Chairman Lipps, Ranking Member Leland and members of the Federalism Interstate Relations Committee, I appreciate this opportunity to present my concerns about the dangers of HJR 2- the joint resolution involving Ohio in the call for an Article V Constitutional Convention.

My Background

I am a retired teacher of both private and public schools, having taught at both the elementary and secondary levels. I have been trained to teach *The Constitution of the United States* by leadership from the Institute on the Constitution (IOTC) whose headquarters are near Washington, D.C., and I am a certified instructor of *The Constitution of the United States*. I, as well as other IOTC instructors, have taught the IOTC Constitution class to attorneys who admit to having taken Constitution Law classes in law school without ever having studied the Constitution itself. The IOTC curriculum is based, not on case law, but on our founders' original intent, as recorded in their own writings. These attorneys who take the IOTC class express surprise when they come to understand the extent to which modern legislation, some of it enacted by the federal judiciary, has illegally amplified the voice of big government over the voice of the people—a situation that our founding fathers intended to prevent.

My Concerns

The Continental Congress that developed our existing Constitution met in convention and is, therefore, used as an example by many Article V proponents in addressing the way that matters should operate in a future convention. In the first go-round, the states and the federal legislature were *in agreement* as to the purpose of amending the Articles of Confederation--to give *additional* power to the central government. The War for Independence had been greatly hindered by the limits on Congress to support colonial troops. The states had experienced the negative repercussions of those strict limits, so the states' intended convention outcome coincided with the intent of Congress in holding a convention.

Today, the people and the federal government are not necessarily like-minded. States want to reclaim authority that has been usurped by federal overreach. Congress tends toward the acquisition of control over the states and is unlikely to relinquish control. Harmony of purpose does not exist as it did in the Second Continental Congress; yet, the earlier convention is inappropriately cited as an analogous convention model.

Since we find no comparable precedent to the proposed Article V Convention, the unknowns are extensive. The fact remains that the United States has a proven history of the effectual alternative to the convention method of proposing amendments, completely devoid of the risks that surround the unidentified outcomes of an Article V convention. Unnecessary risks are not good business, not good government, and prudent advocates of legitimate constitutional reform understand what works, and they follow the proven avenue for constitutional reform.

Advocates of an Article V convention hope to resolve the very same problems that convention opponents want to solve. However, even proponents of an Article V convention admit to uncertainty in predicting the amount of states' control that will be respected in convention. At the Convention of States website, you will find this reaction to the Congressional Research Service's (CRS) analysis of Article V.

[http://www.conventionofstates.com/congressional\\_research\\_service\\_report](http://www.conventionofstates.com/congressional_research_service_report).

*"However, the author of these documents reports that Congress has 'laid claim to' a number of other prerogatives as well, including tracking state applications, establishing procedures to summon a Convention, setting the timeframe for deliberations, **determining the number of delegates and selection process for them, setting convention procedures, and arranging for transmission of the proposed amendments to the states.**" (Emphasis mine, EH)*

### Points to Ponder:

- The Congressional Research Service (CRS) has determined that Congress *is not limited* as to the number of topics to be considered for amendment.
- Congress assumes authority *to select the topics* to be considered, even alterations to the existing Constitution—alterations that may *not* have been proposed at the request of the states.
- In order to guarantee that the states will not be trampled by Congress, our founders required that our U.S. Senate vote on proposed amendments that might come out of convention. Amendment XVII has negated that check on federal authority, and today's U.S. Senate represents federal overreach, not state supremacy as it was intended to do.
- Article V does not identify a *method for selecting delegates*. That being the case, since Congress calls the convention, Congress has leeway in the process of selecting delegates. On the extreme end of this consideration is the realization that there is no constitutional requirement that every state be represented or even that delegates originate from the United States. Perhaps Mexico and Canada would be invited to send delegates. Might our amended constitution bear the title "The Constitution of the North American Union"? A global measure of this type would totally negate the current Constitution's guarantee that every state enjoy a protected Republican form of government and that the Union of States form a unique and exceptional nation.

Amendment by Convention has never been tested. At the very least, one who deeply investigates *both* sides of the argument should have some concern about the unknowns that present risks to the Constitution that has preserved our liberties up to this point. The problems do not lie within the *Constitution of the United States*, that it should be changed. The problems lie in the facts

- that we have neglected to follow the Constitution, as intended by our founding fathers.
- that we have failed to be properly-equipped citizens, educated and involved in the preservation of our rights.

A convention will do nothing to make our legislators follow the Constitution, amended by convention or otherwise. After all, we already have a Constitution, and it is being disregarded. A convention will not correct that problem.