

Testimony of William L Serra on HJR2 21 March 2017

Chairwoman Roegner, Vice Chairman Lipps, Ranking Member Leland and Federalism and Interstate Relations Committee members, Good afternoon. Thank you for this opportunity to share my perspective on HJR2.

I am a student of History. Study of the Founders and our Constitution and our Republic has become my passion. I currently serve as an Instructor for a nationally-recognized Course on the United States Constitution, established by the Institute on the Constitution out of Maryland. I want to provide several thoughts on HJR2 and a Constitutional Convention or Convention of States or whatever other moniker might describe it. I'll present some history which might clarify for you why many believe that such a gathering will not be constrained by any agreements or direction provided by the separate states, or by Congress.

Our nation is operating under its Second Constitution. During the Revolutionary War, the states realized the need for a Constitution which would enable effective international relations, and allow for the conduct of the war. In 1777, a convention was held which resulted in the Articles of Confederation. The Articles of Confederation (article XIII) required approval by all the states. That applied as well to any future amendments. Ratification by all states was completed in 1781. Following the War, the states agreed that the Articles needed to be amended. An Article XIII convention was called in 1787, for the purpose of AMENDING the Articles of Confederation. We have had only one "amendments" convention, the federal convention of 1787; and that resulted in the overthrow of our first Constitution, the Articles of Confederation, and the government it created.

Preceding the 1787 convention, states provided their delegates with instructions. Called under Article XIII of the original Constitution, the convention scrapped the first Constitution in its entirety. Once the doors closed, the convention ignored instructions from the several states to their delegates. The convention disregarded their stated purpose: to AMEND the original Constitution! Examples of the "changed ground rules" included secret proceedings, scrapping of the Articles of Confederation, and changing the ratification process. (Remember the Articles required ALL states to ratify any changes.) Delegates were able to accomplish this course change because of plenipotentiary powers afforded to ANY convention.

My point in bringing up this history to you is to emphatically state that once a modern-day Congress acts upon the call by 2/3rds of the states for a convention, any "agreements" or directions by states to their respective delegates will mean nothing. Any promises of restraint by proponents of a 21st Century Constitutional Convention are

meaningless, and misleading. Robert's Rules of Order defines a convention's plenipotentiary powers – once convened, it may write the rules, and run roughshod over whatever the states and delegates have been led to believe will be occurring behind its closed doors.

Proponents mention various “problem areas” and claim that a Constitutional Convention is the only answer. Let's look for a second at the proposed Balanced Budget Amendment. Any suggestion that such an amendment will result in balanced budgets is fallacious. Examination of proposed Balanced Budget amendments contains so many loopholes that essentially nothing would change – Congress would have the means to continue wasteful spending practices. The answer is to demand that Congress adhere to the limitations set forth in Article I, Section 8 of our Constitution. Would a new BBA coming out of a 21st century Con-Con recognize and adhere to those original limits on spending? I think not. Many fear that a BBA would simply “memorialize” current spending levels, and thus, make any future cuts in spending unconstitutional. (We must beware of the unintended consequences when we begin to tinker with the Constitution.)

The proposed HJR2 seeks to LIMIT discussion of amendments under a convention to specific topics. Yet we must recognize that given a convention's plenipotentiary powers, such limitations in a resolution will very likely be ignored. Again, our Convention history proves that point.

An Article V Constitutional Convention under Article V is not the proper remedy for our Nation's problems. Use of the traditional means of amendment when amending is necessary is the answer. Compliance with the oath to support and defend the Constitution would go far in solving our budget problems. Article VI, paragraph 3 of the Constitution requires Senators, Representatives, members of State Legislatures, all Executive and Judicial Officers, both of the United States, and of the several States to be bound by Oath or Affirmation to support the Constitution. When we act to uphold the Constitution, the problems which justify a plea for an Article V resolution begin to resolve themselves. I ask you to carefully consider your actions. Amending the Constitution by Congressional initiative has worked for each of the 27 Amendments. Please let us not stray into uncharted waters, lest we unleash dangerous consequences which were never intended. Please oppose HJR2.

Thank you for allowing me to testify. I would be happy to answer any questions.