**Publius Huldah’s Written Testimony Against SJR 1**

**Committee Meeting March 22, 2017 at 10:00 a.m.**

Chairman Coley, Vice Chair Uecker, Ranking Member Yuko, & Members of the Government Oversight and Reform Committee: Thank you for this opportunity to speak with you.

**Article V of our Constitution** provides two methods of amendment. C**ongress:**

* Proposes amendments; or
* *“Calls”* a convention to propose amendments if two thirds of the States “*apply”* for it.

The first method was used for the existing 27 Amendments: Congress proposed them and sent them to the States for ratification or rejection.

Under the second method, *Congress* “*calls”* a convention. We’ve never had a convention under Article V – they are dangerous becausea new Constitution can be imposed at a convention.

Today, the convention lobby is insisting we need a convention to get amendments which ***they say*** will “limit the power and jurisdiction of the federal government”.

**1.**

So let’s look at the Constitution we already have.

It delegates only a handful of powers to the federal government.

[This Chart](https://publiushuldah.files.wordpress.com/2013/08/chart-showing-federal-structure-3-1-part-a2.pdf) lists *the powers* delegated to the federal government over the Country at Large – *it’s a short list*.

It’s only with respect to the powers *listed* in the Constitution that the federal government has lawful authority.

**So our Constitution *already* “limits the power and jurisdiction of the federal government” to those few powers listed in the Constitution. [[1]](#footnote-1)**

But everybody ignores it!

It is the *ignoring of* our Constitution which has caused our problems. To say we can control those *who ignore the Constitution* - by amending the Constitution - is absurd!

**2.**

Here’s *why* and *how* a new Constitution can be imposed at an Article V convention:

**The Declaration of Independence** (2nd para)says **it’s the Right of a People to alter or abolish their Form of government and set up a new government.**

* We invoked that Principle in 1776 to throw off British rule.

* In 1787, we invoked that Principle again to throw off our *first* Constitution, [the Articles of Confederation](http://memory.loc.gov/cgi-bin/ampage?collId=llsl&fileName=001/llsl001.db&recNum=127); and we set up a *new* Constitution – the one we now have - which created a *new* government. [[2]](#footnote-2)

If there is an Article V convention, the Delegates will have that same power to get rid of our second Constitution and impose a third Constitution.

How did we get from our first Constitution to our second Constitution? There was a convention to propose Amendments to our first Constitution!

The [Continental Congress resolved on February 21, 1787](http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=003/llfr003.db&recNum=16&itemLink=r?ammem/hlaw:@field%28DOCID+@lit%28fr0032%29%29%230030003&linkText=1) to call a convention to be held at Philadelphia:

“**for the sole and express purpose of revising the Articles of Confederation”.**

But the Delegates *ignored* this limitation – and they ignored [the instructions from their States](http://memory.loc.gov/cgi-bin/ampage?collId=llfr&fileName=003/llfr003.db&recNum=562&itemLink=r%3Fammem%2Fhlaw%3A%40field%28DOCID%2B%40lit%28fr0032%29%29%230030003&linkText=1) [[3]](#footnote-3) – and they wrote our second Constitution.   It is impossible to stop this from happening at another convention.

A third Constitution will have its own new mode of ratification.

Our first Constitution required the Continental Congress and allof the then 13 States to ratify Amendments.

But our second Constitution, drafted at the “amendments convention” of 1787, provided at Article VII that it would require only 9 States for ratification.

If we have a convention today, there is nothing to stop Delegates from proposing a third Constitution with its own new mode of ratification.

New Constitutions are already prepared or in the works:

* The [**Constitution for the Newstates of America**](http://www.sweetliberty.org/issues/concon/newstates.htm#.WM_eDqK1uMr) is ratified by a national referendum[Art 12, § 1]. The States are dissolved and replaced by regional governments answerable to the new national government.
* Here’s the proposed Constitution for “[**The New Socialist Republic in North America**](http://revcom.us/socialistconstitution/SocialistConstitution-en.pdf)”.
* The [**Constitution 2020 movement is backed by George Soros**](http://keywiki.org/Constitution_2020)**.** They want a Progressive Constitution *in place* by the year 2020.
* Do you know about the [**North American Union**](http://www.cfr.org/canada/building-north-american-community/p8102)? During 2005, George W. Bush met with the PM of Canada and the President of Mexico and they sketched it out. The three Countries merge and a Parliament is set up over them. The link takes you to the website of the Council on Foreign Relations where you can download **the Task Force Report on the North American Union.** It erases our Country. They need a new Constitution to transform us *from* a sovereign nation *to* a member state in the North American Union; and they need *a convention* to get that new Constitution.

**3.**

So this is why brilliant men have warnedagainst an Article V convention.

In his [November 2, 1788 letter to Turberville](http://oll.libertyfund.org/titles/madison-the-writings-vol-5-1787-1790#lf1356-05_mnt081), **James Madison**, Father of our Constitution, said he “trembled” at the prospect of a second convention; and if there were an Art. V Convention:

“the most violent partizans”, and “individuals of insidious views” would strive to be delegates and would have “a dangerous opportunity of sapping the very foundations of the fabric” of our Country.

In [Federalist Paper No. 85](http://www.foundingfathers.info/federalistpapers/fed85.htm) (last para), **Alexander Hamilton** said he “dreads” the consequences of another convention because the enemies of the Constitution want to get rid of it.

**Justice Arthur Goldberg** said in his [1986 editorial in the Miami Herald](https://publiushuldah.files.wordpress.com/2014/12/arthur-j-goldberg.pdf) that any attempt at limiting the agenda would almost certainly be unenforceable.

**Chief Justice Warren Burger** said in his [June 1988 letter to Phyllis](http://www.eagleforum.org/topics/concon/pdf/WarrenBurger-letter.pdf) Schlafly:

 “…there is no effective way to limit or muzzle the actions of a Constitutional Convention…”

**“**After a Convention is convened, it will be too late to stop the Convention if we don’t like its agenda…”

“…A new Convention could plunge our Nation into constitutional confusion and confrontation at every turn…”

And [**Justice Scalia** said on April 17, 2014](https://www.youtube.com/watch?v=z0utJAu_iG4&feature=youtu.be&t=1h6m2s) – it’s on video: "I certainly would not want a Constitutional Convention. I mean whoa. Who knows what would come out of that?"

[**HERE**](http://leg.mt.gov/bills/2007/Minutes/Senate/Exhibits/jus71a15.pdf) are additional letters and articles by eminent Jurists and scholars to the same effect.

**4.**

The States have no control over an Article V convention.

Article V says *Congress* calls the convention:

* A “call” is the official summons for the convention to take place.
* And Article I, §8, last clause, *delegates**to Congress* the power to make the laws “necessary and proper” to carry out its power to “call” the convention.

**The States don’t “call” it – they “apply” for it.**

The [April 2014 Report of the Congressional Research Service](https://publiushuldah.files.wordpress.com/2014/09/crs-report.pdf):

* Shows that Congress sees Art. V as *delegating* *to Congress* exclusive authority over setting up the convention; and that in Congress’ preparations for Article V conventions in the past, Congress has planned:
	+ to determine *the number and selection process* for delegates.
	+ to apportion delegates to match Electoral Votes; and
	+ has provided that delegates would receive immunity from arrest.

The convention lobby insists they know *exactly* how a convention will operate. But page 27 of the CRS Report says:

“In the final analysis, the question what sort of convention? is not likely to be resolved unless or until the 34-state threshold has been crossed and a convention assembles.”

**See? We’ll have to *get* a convention before we know how it is going to operate.**

[This chart](https://publiushuldah.files.wordpress.com/2016/02/myth-v-fact-chart-caavc1.pdf) shows what State Legislatures, Congress, and Delegates have the power to do. The only power States have is to “*apply”* to Congress for Congressto *“call”* a convention.

It’s not a “convention of states” - it’s a *federal* convention, called by Congress, to perform a *federal* function.

So the Delegates won’t be under State authority. They can impose a Constitution – like the Newstates Constitution - which *eliminates* the States and the federal government.

So the “reservations, understandings, and declarations” set forth in SJR 1 are ineffective. They **contradict** Article V of our federal Constitution, and thus are unconstitutional under the Supremacy Clause [Art. VI, clause 2, US Constitution].

Please read the 2 pages of [Judge Van Sickle’s Article](https://publiushuldah.files.wordpress.com/2017/03/van-sickle03192017.pdf) on this issue.

**5.**

What the solution?

1. Dust off our copies of our Declaration of Independence and Constitution, read them, and obey them.

2. Help downsize the federal government to its constitutional size.

3. And Hamilton, Jefferson, and Madison told us to **resist** federal usurpations! They said when the federal government does things which are *not on the list*, each State has the *natural right* to nullify *of their own authority* all such acts. You can find their words [HERE](http://tenthamendmentcenter.com/2015/05/16/nullification-made-easy/) and [HERE](http://tenthamendmentcenter.com/2015/08/04/what-should-states-do-when-the-federal-government-usurps-power/).

**6.**

Ohio has already submitted to Congress 7 applications for an Article V convention. Rescind them! The JBS has a rescission form [[4]](#footnote-4) We’re getting close to Congress calling a convention. So ***please*** rescind Ohio’s existing applications *this session*!

Thank you for allowing me to testify; and I welcome your Questions. “Publius Huldah” is the pen name of *retired* attorney Joanna Martin. <https://publiushuldah.wordpress.com/>

1. “The powers delegated by the proposed Constitution to the federal government are few and defined.” [Federalist Paper No. 49](http://www.foundingfathers.info/federalistpapers/fed45.htm) , 3rd para from the end (Madison). [↑](#footnote-ref-1)
2. [Federalist Paper No. 40](http://www.foundingfathers.info/federalistpapers/fed40.htm), 15th para (Madison) [↑](#footnote-ref-2)
3. Article XIII of the Articles of Confederation required approval of amendments by the Continental Congress and by every State. The Instructions to Delegates from their States said the purpose of the Convention was:

	* for “alterations to the Federal Constitution which, **when agreed to by Congress and the several States, would become effective**“:  Virginia, Pennsylvania, Delaware, Georgia, S. Carolina, Maryland, & New Hampshire;
	* “**for the purpose of revising the Federal Constitution**”: Virginia, Pennsylvania, North Carolina, Delaware, and Georgia;
	* “**for the sole and express purpose of revising the Articles of Confederation**”: New York, Massachusetts, and Connecticut;“**provisions to make the Constitution of the federal Government adequate**”: New Jersey. [↑](#footnote-ref-3)
4. At [THIS LINK](https://www.jbs.org/action-projects/stop-a-constitutional-convention), scroll down to “Take Action” and see 4th & 5th bullets down. [↑](#footnote-ref-4)