

# Written Testimony opposing HJR 1

To Chairman Wiggam, Vice Chair John, Ranking Member Kelly, and members of the State and Local Government Committee.

Many of Ohio's citizens are fed up with our out-of-control Federal Government and believe that many of the laws and regulations they promulgate are outside the scope of the enumerated powers given to them by the States. I am one of those citizens. I'm as upset as anyone about this overreach, corruption and out of control spending. I support the Amendments described in this Resolution. Fortunately, the Founding Fathers have given us several methods to amend the Constitution when that is necessary, including the standard Amendment process which has been successfully used at least 27 times in our nation's history. I fear that this Resolution is an attempt to garner attention by using an alternative approach and play on the current partisan climate in our country. It is not necessary, and it is dangerous.

In September 1786, delegates from five states met at the Annapolis Convention and invited all states to a larger convention to be held in Philadelphia in 1787. The Confederation Congress endorsed this convention on February 21, 1787 "for the sole and express purpose of revising the Articles of Confederation." And what did we get, Mr. Franklin? On May 29, 1787, they voted to make their deliberations secret and the States lost control of the Convention.

The only experience we have with anything like this Convention showed us that, once the delegates begin their process, there will be virtually no check on what they end up doing. In 1787 they used the Declaration of Independence as a powerful authorization for ignoring the directions of the States they represented, and the rest is history. We were very fortunate indeed that our Founding Fathers placed the good of the nation over their individual, partisan priorities and delivered an amazing Constitution that has stood the test of time. Why should we be convinced that, especially with the current highly partisan atmosphere in this country, a new Convention would be properly restrained and would not go further than originally intended?

Multiple new Constitutions have already been created and floated by different groups, including at least one by a member of the COS Board (Robert George). Why would he create a new Constitution if the sole intent is limited to Amendments? By the way, you may have heard about George Mason proposing this method at the end of the Constitutional Convention- he is also famous for saying he would rather cutoff his hand than sign our current Constitution - he proposed the Convention method because he *wanted* a new Constitution. But Madison, Hamilton, Jay and multiple other Supreme Court Justices, including Antonin Scalia have expressly opposed this method. In fact, in a 1787 letter to his friend George Lee Turberville, Madison enumerated four strong arguments against such a Convention. And according to Chief Justice Warren Burger in 1988, "...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..." They knew the risks.

No matter what limitations you try to put on our delegates, the Ohio Legislature will not control or determine the scope of activities and deliverables of the Convention once it is convened. Once the Convention is passed by 34 states, the states will lose all power to determine the content of the deliberations, the method of delegate selection, and the method of ratification. Previous attempts at proposing this Convention by COS recommended delegate selection based on state populations, for example, and there is no Constitutional requirement for "one

state, one vote.” And it may not require ratification based on the current Article V guidelines, just like it was changed during the original Convention. Once it is convened, even recalling the Ohio delegation would only eliminate any input into the process by our State.

Even if the Convention were somehow limited to the three topics proposed, look at how broad those topics are. How many ways are there to “limit the power and jurisdiction of the federal government?” or to “impose fiscal restraints?” We would be giving the delegates broad powers indeed, even if somewhat constrained.

As a reminder, even the LSC Analysis of this Resolution includes this warning:

*“...the Constitution does not indicate whether the states that apply for a convention may limit the scope of amendments the convention is to propose. A convention of the states has never been held under Article V. If Congress called a convention as a result of the resolution and others like it, and the convention proposed amendments outside the scope of the topics listed in the resolution, it is not clear whether a reviewing court would find the proposed amendments valid.”*

In fact, the Constitution says that Congress will call the Convention and determine the method of ratification, not the States. And Congress is also empowered in Article I Section 8 to make laws enforcing these actions. If Congress calls the Convention, why can't it also provide the method for delegate selection and voting process? This Resolution may, in fact, give more power to Congress than was ever intended.

The problems we are having with our current federal government are the result of ignoring the Constitution that we already have. Our federal government is not being confined to the limitations already placed on it in Article I, Section 8. If our federal government won't abide by the Constitution we have, why should we expect them to obey any new Amendments?

What Ohio needs to do is hold the federal government accountable for its overreach. And if we propose new Amendments, they should be proposed through the proven process that has worked for more than 230 years. If the Ohio Legislature signs on to pursue these Amendments, then they should also support the proven approach of proposing and ratifying these Amendments.

Please do not support this Resolution and this proposed **experimental** Convention. Please do not open Pandora's box. It is fraught with risk and more importantly, it is not necessary. We have a proven process for Amendments- why take the risk?

Those who cannot learn from the past are doomed to repeat it.

Sincerely,



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