

**TESTIMONY OF ANDREA R. YAGODA OPPOSING SJR6
SENATE GOVERNMENT OVERSIGHT AND REFORM COMMITTEE**

Chair Manchester, Vice Chair Brenner and Ranking Member Weinstein my name is Andrea R. Yagoda. I have been a resident of Ohio for 52 years. I am here today as a private citizen to testify against SJR6 as I believe this Resolution is a pathway to oblivion and will open a can of worms that cannot be closed once opened, a Pandora's box, if you will.

SJR6 is an attempt to limit the terms of the members of the US House and Senate, however, no specific proposed term limits are part of the Resolution.

What should the term limits be?

The Resolution does not state how the Ohio state legislature will select the delegate to the Convention. We must assume this means all Ohioans not just the base, not just the members of one political party since the United States Constitution is for the protection of all Americans not just those with views represented by organizations like ALEC. So, will the selection of a delegate require the approval of the minority party in the legislature? Will all states be held to the same procedure in selecting delegates or will only a minority of Americans be actually represented at the Convention? At a time, in large part, due to gerrymandering, state legislatures contain super majority and do not necessarily represent all of their constituents, a selection of a delegate by the mere majority seems unjust.

Further the Resolution fails to provide to provide how many delegates each state will have one. Will a majority of states or a super majority be required to pass amendments? And will it be possible that states like Wyoming which has

a population of 581,075, Vermont 623,251, Alaska 724,357, N. Dakota 770,026, S. Dakota 896,581, Delaware 990,334, Montana 1,085,004, Rhode Island 1,061,509; Maine; 1,354,522, New Hampshire 1,377,529; Hawaii 1,455,271, population of these states total 10,919,459 could dictate what is best for Ohio with a population of 11,799,448. As of spring 2021, the population of the United States is approximately 331,449,281 thus the least populous twenty six (26) states representing only a small fraction of the total US population could dictate the convention. Is this what this legislature believes is protecting Ohioans? States with a fraction of the population of our state dictating what is best for us?

The Resolution, is silent as to who will set the rules for the Convention. Article V is similarly silent on how a convention would operate. Here again, neither Congress nor the courts have any authority to impose rules.

Will the rules be set before commencement of the Convention or at the Convention? Will the Rules require a majority vote or a super majority vote?

Pursuant to Article V of the US Constitution, once the number of states have been met, a convention shall be called so the following provisions of SJR6 attempting to limit the considerations of the convention to only term limits is meaningless as once the convention is called and commenced these provisions have no effect.

Justice Berger has opined that once a Constitutional Convention has been convened it would be difficult to end the convention if the agenda did not conform to that which was stated. <https://i2i.org/wp-content/uploads/2013/11/Burger-lettera.pdf>

Nothing in Article V or anywhere else in the Constitution limits the scope of the changes a convention could consider. And even if such a limit existed, nothing in Article V empowers any body to regulate or constrain a convention and the Supreme Court has held that efforts to amend the Constitution involve “political questions” beyond the jurisdiction of the federal courts. Even more importantly, no court or other body exists with the authority to enforce any such rules and to override the decisions of a constitutional convention.

The only prior convention empowered to start rewriting our Constitution was the Philadelphia Convention of 1787. It demonstrates how easily an Article V convention could disregard any purported limits and open up the entire Constitution. Unlike the proposed Article V convention, the Philadelphia Convention was subject to strict, binding limits on its jurisdiction. Article XIII of the Articles of Confederation prohibited any amendments not agreed to by every state; Article VI forbade agreements among states outside the Articles of Confederation. After being called to propose amendments to the Articles, the Philadelphia Convention quickly discarded those rules and began writing an entirely new constitution. It also decreed that its new constitution would become effective upon ratification by nine states, not the unanimous approval Article XIII demanded.

Nor would the ratification process protect against a runaway convention. An Article V convention could follow the Philadelphia Convention’s example and unilaterally redefine the ratification process. It could, for example, call for a national referendum to ratify its handiwork. Even if the current state-

based ratification process remains, majorities in the thirty-eight smallest states – with just over 40% of the nation’s population – would suffice to bind the country.

This is a dangerous Resolution. It is dangerous for our Constitution, dangerous for our rights, dangerous for our economy and programs Ohioans rely upon every day. I urge this committee to vote no on HJR1.

Andrea R. Yagoda