

**TESTIMONY
OF
PAUL SISK**

**GOVERNMENT OVERSIGHT COMMITTEE
OHIO HOUSE OF REPRESENTATIVES
COLUMBUS, OHIO**

LEGISLATIVE HEARING ON H.J.R. 3

Chairman Peterson, Vice Chair Thomas, Ranking Member Humphrey, and members of the committee, my name is Paul Sisk and I am from Loveland, Ohio, House District 55. My remarks today are intended to dispel the claim that an Article V Convention of the states could become “runaway” and have dangerous, unintended consequences, such as loss of the Bill of Rights or our entire Constitution. You will likely hear the “runaway convention” claim made many times in opposition testimony. My sources of information are the writings of constitutional scholars Michael Farris and Professor Robert G. Natelson.

An Article V Convention for amending the US Constitution is simply a meeting among the 50 United States for the purpose of proposing amendments to the US Constitution. Multi-state meetings or conventions have been occurring in America for over 350 years. In the more than 40 multi-state conventions known to have occurred in America, there is no precedent for a runaway convention ever occurring. Not even one has ever gone off the rails. Not once.

In the case of Article V Conventions, there are at least 9 safeguards to ensure that the meeting conforms to the Founder’s intent.

Safeguard #1: At every previous multi-state convention, the first order of business was to elect convention leaders. Delegates representing the 34 states that requested the Article V Convention would elect leaders who support reining in the federal government. Anyone proposing mischief at an Article V Convention would be ruled out of order by convention leaders.¹

Safeguard #2: Our opposition frequently claims that delegates to an Article V Convention will have “plenipotentiary” or unlimited power at the convention. They further claim that this plenipotentiary power will allow them to take the convention into dangerous and unintended territory, such as writing a new constitution. This claim is false. Article V Conventions are, by design, limited in scope. Therefore, delegates will have limited authority. Put simply, delegates will have no authority to write a new constitution or do anything else outside the instructions given by their legislature.¹

As proof, Ohio HJR3 states, “A Convention of the States for proposing amendments to the Constitution of the United States convened pursuant to this application shall be limited to consideration of the topics specified herein and no other.”

Safeguard #3: There is no provision in the Constitution for replacing the Constitution. The only thing that can come out of an Article V Convention is proposed amendments for state legislatures to consider.

Safeguard #4: In order for an amendment to become officially proposed at an Article V Convention, at least 26 states must vote for it. Since 34 states will have requested the Article V Convention for reining in the federal government, there’s no way that an amendment for rescinding the second amendment or Bill

¹ The Law of Article V: State Initiation of Constitutional Amendments, 2d ed., Apis Books 2020, Robert G. Natelson

of Rights, for example, could get 26 states to vote for it. The 34 states that requested the convention would never vote for it.

Safeguard #5: If, by some means, an amendment were proposed that fell outside the stated scope of the Article V Convention, it would be a constitutionally invalid “proposal.” Therefore, Congress would not be obligated to select a mode of ratification and the ratification process would stop, killing the invalid proposal.²

Safeguard #6: The Constitution stipulates that after an amendment is officially proposed at an Article V Convention, it only becomes part of the Constitution if 38 states ratify it. Only extremely popular amendments could ever be ratified by 38 state legislatures. It would be absurd to believe that 38 state legislatures would vote to rescind the Bill of Rights or any aspect of it.

Safeguard #7: If any delegate violates his or her instructions from the state legislature, that delegate can be recalled by the respective state legislature. As proof, Ohio HJR3 states:

“The Ohio General Assembly may provide further instructions to its delegates and may recall its delegates at any time for a breach of a duty or a violation of the instructions provided.”

Any delegate who did this would commit political suicide on the national stage. This alone serves as a deterrent.

Safeguard #8: In many states, resolutions requesting an Article V Convention have explicit limitations on delegates’ authority. As proof, Ohio HJR3 states:

“This application is made with the express understanding that an amendment that in any way seeks to amend, modify, or repeal any provision of the Bill of Rights shall not be authorized for consideration at any stage;

This application shall be void *ab initio* (/äb ĭ-nĭsh’ē-ō’/) if ever used at any stage to consider any change to any provision of the Bill of Rights;”

Safeguard #9: States can pass statutes pertaining to Article V Convention delegates faithfully following instructions. For example, the state of Indiana has passed legislation with the following provision.³

“A delegate or alternate delegate who knowingly or intentionally votes or attempts to vote outside the scope of the instructions established ... or the limits placed by the general assembly ... commits a Level 6 felony.”

In summary, America has a rich history of over 40 multi-state conventions held for a variety of purposes. In over 350 years there has not been a single case of a multi-state convention going off the rails and becoming “runaway”. There are at least 9 safeguards for ensuring an Article V Convention complies with the US Constitution.

It’s time that we the people exercise our constitutional rights to restore justice, discipline and order to our republic. Please help us achieve this by supporting HJR3.

² Natelson, Robert G. *Proposing constitutional amendments by a convention of the states: A handbook for state lawmakers*. American Legislative Exchange Council, 2011.

³ <https://law.justia.com/codes/indiana/2017/title-2/article-8.2/>