

Written Testimony against PA HR206 and SR234 by Judi Caler
October 22, 2019

The Honorable Garth D. Everett, Chair; The Honorable Kevin J. Boyle, Democratic Chair; and Members of the House State Government Committee; and

The Honorable Anthony H. Williams, Minority Chair; The Honorable Kristin Phillips-Hill, Vice Chair; and Members of the Senate State Government Committee.

My name is Judi Caler, and I'm President of Citizens Against an Article V Convention. Thank you for the opportunity to submit written testimony against **HR206** and **SR234**.

All Applications asking Congress to call an Article V convention jeopardize our federal Constitution and endanger our liberty.

Convention Delegates, as sovereign Representatives of "We the People," have the inherent Right "to alter or to abolish" our "Form of Government," as expressed in the Declaration of Independence, paragraph 2. And we don't know who those Delegates would be or who would select them! See attached flyer or [HERE](#).

Legislators have been assured by the Convention of States Project (COSP) that State Legislatures would appoint convention Delegates, set the Rules, and control the convention. ***But this isn't true!***

Article V provides that when 2/3 of the State Legislatures *apply* for it, ***Congress*** calls a convention. Convention Delegates wouldn't be under State control. An Article V convention is not a state function! The convention would be ***a federal convention called by Congress*** to perform ***the federal function*** of addressing ***a federal constitution***.

This [CHART](#) shows **WHO** has the power to do **WHAT** under Article V.

The Constitution puts Congress in charge. But once the convention is convened, the Delegates can change the rules and do whatever they want. The Delegates would have more power than state legislatures or Congress.

Hopefully, you're not depending upon the language of **HR206** and **SR234**, p. 2 (beginning with line 20), and continuing through pp. 3, 4, 5, 6 and 7 (through line 14), to prevent a "runaway"

convention! A full 75% of **HR206** and **SR234** is devoted to statements indicating control over Congress and convention Delegates by the several States and Pennsylvania. And COSP claims there is “universal historical precedent” at “interstate conventions” for one state, one vote.

But in fact, there is *no precedent* for an Article V convention, as we’ve never had one. The closest precedent we have is the Philadelphia Constitutional Convention of 1787 called by the Continental Congress “*for the sole and express purpose of revising the Articles of Confederation.*” That convention resulted in the Delegates’ ignoring their instructions and proposing a new Constitution which created a new Form of Government. And they made the ratification method for the new Constitution (our current one) easier, to boot!

Interstate conventions are irrelevant. Voting at the constitutional convention would just as likely imitate the Electoral College, where Pennsylvania gets 20 votes and California, 55.

Since Congress and convention Delegates can’t be controlled by State Law, all limitations written into **HR206** and **SR234** are unconstitutional and ineffective. They serve only to give legislators a false sense of security, so they’ll vote *for* the application. After the convention convenes, it will be too late to stop it.

Please VOTE “No” on HR206, SR234, and any other applications from Pennsylvania asking Congress to call an Article V convention. Thank you for your consideration.

I thank Chairs Everett and Boyle as well as the committee members for this opportunity to comment on HR206.

I'm Neil Goldstein, a resident of Delaware County and Organizing Director of Pennsylvania United to Amend (<https://paunitedtoamend.wordpress.com>), an all-volunteer, nonpartisan group seeking campaign-finance reform.

Our group testified on Oct. 17, 2018, at the Senate State Government Committee informational hearing on so-called Article V Convention resolutions. We were invited to speak because we supported such a measure before that panel. This session, the Free and Fair Elections Resolutions we support are again before that committee (SR192) and your committee (HR457, primary sponsor Rep. Murt). One of the main groups supporting HR206, Convention of States, spoke at that hearing. That group is separate from and unrelated to PA United to Amend.

Although our group takes no position on the substantive aims of HR206, we strongly support its pursuit of its goal through the process set forth in Article V of the U.S. Constitution for *state legislatures* seeking “a Convention for proposing Amendments” to that cherished document. (Such a gathering would in no way be a “constitutional convention.”)

Frankly, we find it confounding and disheartening that circumstances are such that anyone feels the need to publicly declare support for any group's effort to simply follow the plain language of the Constitution — but that's the sad position our republic finds itself in these days.

Before briefly dealing with some key aspects of Article V, I want to stress two points.

The first is what the Congressional Research Service has called the “prodding effect” of pursuing a convention. Many constitutional amendments — such as the entire Bill of Rights — included a campaign for a convention. When the number of resolutions passed by *state legislatures* on a given topic approached the required two-thirds (now 34 states) threshold to trigger a convention, *Congress* reacted and proposed the amendment itself. The power of that effect has been acknowledged even by some opponents of conventions.

The second is the danger of delegitimizing Article V. Some organizations try to raise fears that an Article V convention will somehow be dangerous. But our federalist form of government was brilliantly designed to operate with checks and balances, and the Article V convention process is our only constitutional check on an unresponsive Congress. We can't risk undermining that system by handing over the exclusive power of proposing amendments to Congress. To attack the Article V process is to attack the Constitution itself, a dangerous prospect that destabilizes the foundation of our democratic republic.

I'm not a lawyer. I'm a retired journalist who has for five years been volunteering in an effort for major campaign-finance reform. Along the way I have read authoritative, peer-reviewed reports on Article V (see below) and talked with lawyers who are experts on Article V. Here is some of what I've learned about the Article V process:

- A convention would primarily be a discussion of what to do about a given issue. The *only* official action a convention could legitimately take would be, as the plain language says, to *propose* amendments on a given subject. It cannot lower the threshold for ratification, which is 75% of the states.

- A convention can be limited to a single subject. All peer-reviewed legal reports on this topic conclude that the states have to the power to call such a limited convention, and that there are multiple ways to enforce the limitations.
- Those ways of enforcing the limitations are: (1) Congress — It can set limitations on the topic the states have specified. And it can refuse to submit for ratification proposals that stray from the subject-matter limitation. (2) Courts — There is ample precedent for judicial review of Article V matters. That review can serve as an important check on the convention process. (3) The delegates — They can be instructed by the states to respect the limits in the state applications. Also, the states or Congress could require delegates to take an oath of office. (4) The states — Three-fourths of the states [38] must ratify constitutional amendments proposed by either Congress or a convention. This is the ultimate and most important “check” on the amendment process. Neither a convention nor the Congress can accomplish any constitutional changes by itself.
- To amplify the previous point, it's obvious that a convention can be limited to a single issue, because if multiple issues could be mingled, we would have already had a convention! Explanation: Congress is required to call a convention upon the applications of at least 34 states. Since our republic's founding, there have been more than 400 applications for a convention, submitted from 49 states on a variety of issues. So, if Congress could have taken 20 applications from Issue A plus 10 from Issue B and 4 from Issue C and count them all together to reach 34, it would have already called a convention. But Congress hasn't done that because applications are counted in *separate categories* based on subject matter. No one subject or category has reached the two-thirds threshold. To be clear, because the federal-powers issues addressed by HR206 are different from the campaign-finance issue addressed by HR457, separate conventions would be required should both resolutions reach the 34-state threshold.
- To easily find the relevant, authoritative reports on Article V conventions by the U.S. Department of Justice, Congressional Research Service, and American Bar Assn., go to <https://wolf-pac.com/about/resources/>. (Wolf-PAC.com has nothing to do with Gov. Wolf.)

I'm glad to try to respond to any comments or questions you may have. Thank you for your attention to this vital matter.

Neil Goldstein

Organizing Director

Pennsylvania United to Amend

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