

Testimony *in opposition to* HB 2722 (Delegate Bill)
For the Kansas House Federal and State Affairs Committee – March 9, 2022 at 9:00 AM CST

By Joanna Martin, J. D.

To: Mr. Chairman Barker, Vice Chair Arnberger, Ranking Member Ruiz, and Honorable Members of the Committee:

I am a retired litigation attorney, trial and appellate, and have spent the last more than 12 years as a volunteer writing and speaking on our federal Constitution and all aspects of an Article V convention. I live in Tennessee and write as an individual Citizen.

I.

Contrary to what the various organizations pushing for an Article V Convention assure you, State Legislatures have no power to select and control Delegates to an Article V convention.

Congress calls the convention provided for in Article V, US Constitution, and makes the laws necessary and proper to organize the convention:

Article V, US Constitution, says:

“The Congress, whenever two thirds of both Houses shall deem necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, ***shall call a Convention*** for proposing Amendments...” [emphasis added]

Article I, §8, last clause, US Constitution, says Congress shall have the Power...

“To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.” [italics added]

The April 11, 2014 Report of the Congressional Research Service [\[CRS\]](#) shows that Congress is well aware that it has the authority to organize and set up the convention:

“Second, While the Constitution is silent on the mechanics of an Article V convention, **Congress has traditionally laid claim to broad responsibilities in connection with a convention, including** (1) receiving, judging, and recording state applications; (2) establishing procedures to summon a convention; ... (4) **determining the number and selection process for its delegates...**” (p. 4) [emphasis added]

[S. 1272, the Federal Constitutional Convention Procedures Act](#), passed the US Senate during 1973, and illustrates that Congress recognizes that it has the power to determine the number and selection process for Delegates: **It provided for the election of one Delegate from each Congressional District; and the election of two additional Delegates for the State at large.**¹

The convention is *a federal function*, not a State function; and State Legislatures have no control over it. When those pushing for an Art. V Convention assure you that State Legislatures *will select Delegates & control everything the Delegates do, they are making stuff up. Congress decides how Delegates will be selected!* And whether Congress provides for the election of Delegates (as in S. 1272); or Congress selects the Delegates; or Congress comes up with some other mode of selecting Delegates; State Legislatures have [no power over Delegates](#). Delegates have [the self-evident Right](#) to “alter or abolish” the existing state & federal governments and set up a completely new form of government.²
No one has power over Delegates!

We don't know what Congress will do about selecting Delegates! Congress may appoint *themselves* as Delegates.³ *Nothing* in the Constitution or anywhere else requires Congress to permit States to select Delegates. *Congress alone* determines how delegates will be selected and how many there will be.

Those pushing for an Article V Convention haven't been telling Legislators the Truth. They cannot point to any provision in our federal Constitution which supports their assurances that State Legislatures will select and control the Delegates.

Don't buy a pig in a poke: Don't initiate a process State legislatures won't have any control over.

¹ So the number of Delegates each State would get would be the same as its number of Electoral Votes! E.g., Calif would get 55 Delegates; Kansas would get 6.

² The proposed [Constitution for the Newstates of America](#) does just that: it eliminates the States and replaces them with regional governments answerable to the new national government. And Article XII, Sec. 1 thereof provides that it is ratified by a referendum called by the President. The States don't vote on it.

³ Page 40 of the [CRS Report](#) shows it's been recognized that **there doesn't seem to be any “. . . constitutional prohibition against [U.S.] Senators and Representatives serving as delegates to an Article V Convention. . .”**

II.

An Article V Convention Made Easy

Those pushing for an Article V Convention promise that nothing can come out of a Convention *except* proposed Amendments to our existing Constitution, & that the Amendments will rein in the fed gov't.

But Robert P. George, a member of Mark Meckler's "Convention of States" Legal Advisory Board,⁴ has already co-authored a [NEW Constitution](#) which grants massive powers to a new fed gov't.

"That's not a concern", you say, "because the phrase, 'a Convention for proposing Amendments', which appears within Article V, restricts Delegates to 'proposing Amendments', right"?

Not so! Our Declaration of Independence recognizes that a People have the "self-evident Right" "to alter or to abolish" their gov't & set up a new one.⁵ And in *Federalist No. 40*, James Madison, a Delegate to the federal Convention of 1787, invoked the Declaration of Independence as justification for the Delegates' ignoring their instructions to propose Amendments to the Articles of Confederation and writing a new Constitution which created a new Form of Government.⁶

And the new Constitution had an easier mode of ratification: it would be ratified when only 9 of the 13 States approved it; whereas amendments to the Articles of Confederation had to be approved by the Continental Congress & all of the 13 States.⁴ Today, ratification of a new Constitution could be by national referendum, as in the proposed [Constitution for the Newstates of America](#) (Art. 12).

Now you see the real agenda behind the push for an Article V convention: It provides the opportunity (*under [the pretext of seeking amendments](#)*) to replace our existing Constitution with a new Constitution which moves us into a new system of gov't. And since it will have its own mode of ratification, it will be approved.

It's a hollow promise that ¾ of the States have to ratify whatever comes out of a convention. **Oppose** HCR 5027, HCR 5009, HCR 5029 & all other applications for Congress to call an Art. V Convention.

⁴ Robert P. George is also [a Member](#) of the globalist Council on Foreign Relations.

⁵ The Declaration of Independence is part of [the "Organic Law"](#) of our Land.

⁶ In [Federalist No. 40](#) (15th para), Madison says the Delegates knew that reform such as was set forth in the new Constitution was necessary for our peace & prosperity. They knew that sometimes great & momentous changes in established gov'ts are necessary & a rigid adherence to the old gov't takes away the "transcendent and precious right" of a people to "abolish or alter their governments as to them shall seem most likely to effect their safety and happiness," ... "and it is therefore essential that such changes be instituted by some **INFORMAL AND UNAUTHORIZED PROPOSITIONS**, made by some patriotic and respectable citizen or number of citizens..." [caps are Madison's]

⁴ ART. 13 of [the Articles of Confederation](#).