

The ACLU of New Hampshire, Common Cause, the New Hampshire Sierra Club, League of Women Voters New Hampshire and United States, New Hampshire Voters Restoring Democracy, the Center for Budget and Policy Priorities, NEA-NH, the Kent Street Coalition, AFSCME Council 93, the Brennan Center, Granite State Progress, along with a coalition of 240 national and local organizations from across the country, support Representative Fox's HCR 9, a resolution to rescind any and all of New Hampshire's previous calls for an Article V convention to rewrite the U.S. Constitution.

Under Article V of the U.S. Constitution, Congress must call an amending convention when two-thirds of the states (34) petition for one. An Article V convention has never been called in American history, and we should not try to have one at this time in our history, when political discourse is polarized, rancorous, and vulnerable to special interests.

An Article V convention poses a dangerous threat to the U.S. Constitution, our democracy, and our civil rights and liberties. There is no language in the U.S. Constitution to limit a convention to one issue. Both supporters and opponents of a convention have argued that once called, a convention will be able to consider whatever amendments to the Constitution that the delegates choose. There are also no guidelines or rules to govern a convention. Because the Constitution lacks such provisions and we have no direct precedent, it is unclear how convention delegates would be picked, what rules would be in place, what would happen in the case of legal disputes, how the American people would be represented, and how to limit the influence of special interests in a convention. Because there is no consensus on how to limit a convention's scope, nearly any constitutional issue could be raised and our fundamental rights could be undermined, including free speech, marriage equality, voting rights, and privacy, and other civil rights and civil liberties, among others.

Former Supreme Court Chief Justice Warren Burger wrote on his concerns in a 1988 letter:

[T]here is no way to effectively limit or muzzle the actions of a Constitutional Convention. The Convention could make its own rules and set its own agenda. Congress might try to limit the Convention to one amendment or one issue, but there is no way to assure that the convention would obey. After a Convention is convened, it will be too late to stop the Convention if we don't like its agenda. The meeting in 1787 ignored the limit placed by the Confederation Congress "for the sole and express purpose."

With George Washington as chairman, they were able to deliberate in total secrecy, with no press coverage and no leaks. A Constitutional Convention today would be a free-for-all for special interest groups, television coverage, and press speculation."¹

¹ Letter from Chief Justice Warren Burger to Phyllis Schlafly, June 22, 1988, <http://constitution.i2i.org/files/2013/11/Burger-letter2.pdf>.

One of the nation's most esteemed constitutional law scholars, Professor Laurence Tribe of Harvard Law School, warned of similar dangers in a speech at 2011 symposium on the Article V convention issue, saying:

*"First of all, we have developed orderly procedures over the past couple of centuries for resolving [some of the many] ambiguities [in the Constitution], but no comparable procedures for resolving [questions surrounding a convention]. Second, difficult interpretive questions about the Bill of Rights or the scope of the taxing power or the commerce power tend to arise one at a time, while questions surrounding the convention process would more or less need to be resolved all at once. And third, the stakes in this case in this instance are vastly greater, because what you're doing is putting the whole Constitution up for grabs."*²

It should also be noted that special interests are campaigning for an Article V convention in order to significantly rewrite the U.S. Constitution. This could be a threat to the bill of rights, to the separation of powers, to checks and balances, or to other rights and freedoms we have worked hard to secure.

We cannot – must not – roll the dice when it comes to preserving the fundamental rights and protections in the U.S. Constitution. For all the reasons stated above, the undersigned organizations strongly urge you to support Representative Fox's HCR 9.

Sincerely,

Kent Street Coalition

Louise Spencer, Co-Founder

Common Cause

Karen Hobert Flynn, President

National Education Association-New Hampshire

Megan Tuttle, President

New Hampshire Sierra Club

Cathy Corkery, State Director

Granite State Progress

Zandra Rice-Hawkins, Executive Director

League of Women Voters New Hampshire

Liz Tentarelli, President

² Remarks as part of the Conference on the Constitutional Convention, Harvard Law School, September 24-25, 2011, Legal Panel, recording available at <http://www.conconcon.org/archive.php>.

League of Women Voters of the United States
Virginia Kase, CEO

New Hampshire Voters Restoring Democracy
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AFSCME Council 93

Center on Budget and Policy Priorities