



128 Dorrance Street, Suite 400
Providence, RI 02903
Phone: (401) 831-7171
Fax: (401) 831-7175
www.riaclu.org
info@riaclu.org

ACLU OF RI POSITION: OPPOSE

**TESTIMONY ON 23-H 5188,
RELATING TO A NATIONAL CONSTITUTIONAL CONVENTION
March 1, 2023**

The ACLU of RI strongly opposes this bill, which proposes the calling of a federal constitutional convention with the goal of passing constitutional amendments that would “impose restraints on the federal government.” Whatever one’s view of the federal government’s role in society in the 21st Century, the “solution” advanced by this bill is totally inappropriate and would greatly weaken American democracy.

There is significant and respected commentary in the academic and judicial communities that a federal constitutional convention, once called, could not be limited to the issue for which it was convened. Instead, it could become a wide-ranging free-for-all, able to propose any set of constitutional amendments it chose to. We have only one precedent in this respect: the constitutional convention that was called for the specific purpose of amending the Articles of Confederation, and which instead created an entirely new Constitution.

Whatever one’s place on the political spectrum, a national convention would open up the Constitution to tinkering by a wide array of special interests. Indeed, this resolution’s call for a convention “to limit the power and jurisdiction of the federal government” is so open-ended that it inherently offers an opportunity for divisive constitutional amendment proposals on an unlimited range of topics. To give a specific and simple example, consider the issue of abortion. One can easily envision a proposed constitutional amendment taking up the U.S. Supreme Court’s banner by explicitly imposing a constitutional ban on abortion on the grounds that *Roe v. Wade* was inappropriate federal government “activism.” By the same token, however, one could also easily envision a proposed constitutional amendment imposing a jurisdictional bar on the U.S. Supreme Court from ruling on abortion issues on the grounds that its decision overturning *Roe* was itself an improper exercise of federal power. There is no end to the issues a convention could consider or the mischief it could cause. The fact that any amendments emanating from a convention would still have to go to the states for ratification only magnifies the mischief and the outsized role that special interests – with no limit on the amount of money they could – would end up playing.

The ACLU urges rejection of this resolution.