

WITNESS INFORMATION FORM

PLEASE COMPLETE THE WITNESS INFORMATION FORM BEFORE TESTIFYING

DATE: 3/28/17

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(IF APPLICABLE)

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ARE YOU REPRESENTING: YOURSELF _____ ORGANIZATION

DO YOU WISH TO TESTIFY ON
LEGISLATION (BILL NUMBER): HJR 2

SPECIFIC ISSUE: _____

SUBJECT MATTER: _____

DO YOU FAVOR _____ OR OPPOSE THE ENACTMENT OF LEGISLATION REGARDING THIS ISSUE?

PLEASE GIVE A BRIEF STATEMENT OF THE GROUNDS ON WHICH YOU FAVOR OR OPPOSE SUCH ENACTMENT:

See attached statement

WILL YOU HAVE A WRITTEN STATEMENT, VISUAL AIDS, OR OTHER MATERIAL TO DISTRIBUTE?

Yes No _____

(IF YES, PLEASE PROVIDE COPIES TO THE CHAIRMAN OR SECRETARY)

HOW MUCH TIME WILL YOUR TESTIMONY REQUIRE? N/A

Testimony of Jordan T. Henry

Director of Research, Eagle Forum Education and Legal Defense Fund

On HJR 2

Ohio House Committee on Federalism and Interstate Relations

132nd General Assembly of Ohio

Dear Chairman and Distinguished Members of this Committee,

No one would dispute the fact that our U.S. Congress is failing the American people. We all want to see change take place. However, House Joint Resolution No. 2, which calls for an Article V Constitutional Convention, has a number of troubling implications that we would like you to be aware of.

First, a Constitutional Convention would be too risky a gamble with the Constitution in its present form. Phyllis Schlafly likened a Constitutional Convention to a game of Russian roulette because of the uncertain outcome and high stakes. The Constitution is arguably the best governing document in the history of the world, and it is also the best weapon that we have against government overreach. To risk it without an overwhelming number of safeguards would be foolish.

Unfortunately, a Constitutional Convention would not have many of the safeguards that proponents claim it would. For instance, a convention could not be limited to a single term limit amendment. Article V of the Constitution clearly states that Congress “shall call a Convention for proposing Amendments.” The plain language of the text states that plural amendments must be allowed to be proposed. However, that is one of few issues that is plainly settled by Article V. Other issues that are not mentioned in the Constitution and therefore cannot be guaranteed include: Will each state get one vote or will it be proportional? Who will pay for the convention? How will delegates be chosen? Will proceedings be open to the influence of the media or will deliberations be closed? There are simply too many unanswered questions to take such a huge risk.

Second, these unanswered questions will inevitably be given to Congress and the Supreme Court to decide. Under Article V, Congress is the entity that calls the convention, not the states. Therefore, Congress would have the power to make all of the important decisions setting up the convention. A study by the American Bar Association on this topic concluded that “Congress has discretion in interpreting Article V and in adopting implementing legislation. It cannot be gainsaid [denied] that Congress has the primary power of administering Article V.” If Congress was worried that HJR 2 would lead to a limitation of their power, they would do everything possible to control the convention. There is nothing in Article V that prevents them from doing so.

The Supreme Court would also be quick to support the crooked Congress in their grasp at power. According to the website of the Convention of States Project, a leading supporter of a Constitutional Convention, “The federal judiciary supports Congress and the White House in their ever-escalating attack upon the jurisdiction of the fifty states.” Clearly, the panel of nine unelected lawyers that we call the Supreme Court is not on the side of the people. Since the principle of judicial review gives the Supreme Court authority to determine questions of constitutional procedure, they will determine how an Article V Convention is conducted. The aforementioned study from the American Bar Association said “The Committee believes that judicial review of decisions made under Article V is desirable and feasible. We believe Congress should declare itself in favor of such review in any legislation implementing the convention process.” The federal judiciary is a part of the problem. Giving them the discretionary power to determine how our Constitution is amended will only make the problem worse.

To support an Article V Constitutional Convention is to underestimate the power of the grassroots to make real change. No one denies that it will be hard to rein in Congressional overreach. It is going to take the hard work of thousands of tireless patriots. However, I firmly believe that the voters can force Congress to listen to us. There is no silver bullet like a Constitutional Convention that can make everything easy for us, but we can persevere without placing our wonderful Constitution in jeopardy at the hands of Congress and the Supreme Court.

Thanks,

Jordan T. Henry

Director of Research, Eagle Forum Education and Legal Defense Fund