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Senate Joint Resolution 1
Opponent Testimony

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Government Oversight and Reform Committee

Mr. Chairman, members of this Committee,

Thank you for the opportunity to testify before you today about Senate Joint Resolution 1. My name is Joseph Healy. I do not appear before you as an official representative of any particular organization. I am no more than what I hope to be, a voice for the Common Man, my fellow citizens of the State of Ohio and of this great Republic. I was born in Cleveland, and moved to Columbus to attend The Ohio State University. My first political act was to vote for Ronald Reagan for President. In those days my cause celebre was the right to life for the unborn. This, of course, opened the door to many more issues; there was much talk then of the Original Intent of the Framers of the Constitution. How could a Supreme Court Judge make up a right to abortion out of whole cloth, finding it in the "penumbras" of the Constitution, and strike down every state law prohibiting the same? Certainly that was not what the Framers intended!

So I have been a grassroots activist for many years with various groups. Currently I serve as a member of my Party's County Central Committee. I work part time for the County Board of Elections, and I have been a candidate for this august body in the 15th District, unsuccessfully. It is a difficult one for a member of my Party. The ongoing quest of my political life has been, "How do We The People control the government, especially the Federal Government?" Well, as Thomas Jefferson said, we "bind them down from mischief by the chains of a constitution."

That brings us to our Constitution, which seeks to accomplish the difficult task of "form[ing] a more perfect union" while at the same time "secur[ing] the blessings of liberty." It is hard to be both united and free. Many have referred to the whole episode as the Miracle in Philadelphia. They may not have emerged successful had it not been for Benjamin Franklin's call for prayer, his appeal to the "Father of Lights" for "His blessings upon their deliberations." His speech that day certainly marked a turning point in their progress, which had stalled. But emerge successful they did; at which time a woman asked, "What have you

given us, Dr. Franklin?" To this he replied, "A Republic, Madame, if you can keep it." Hamilton, in Federalist no. 9, calls it a "CONFEDERATE REPUBLIC", possessing features of a mere confederacy, a league of equal sovereignties, mixed with features of a consolidated national republic. John Adams calls it a complex system, truly unique in history, an invention all our own, replete with all manner of checks and balances.

But what of the Convention? Was it a "runaway"? James Madison concedes as much in Federalist no. 40, saying that the delegates had to disregard the less important instructions to merely amend the Articles of Confederation in order to fulfill the more important mission of "rendering the federal constitution adequate to the exigencies of the union." So he justifies taking the liberty to change the means in order to accomplish the ends. They essentially used the maxim "It's better to ask forgiveness than to ask permission." He ends by saying that even though they violated half their commission, they kept the other half—that even if they exceeded their powers, they were justified in doing so as the peoples' representatives; that even if they violated all their commission, if the result was good, it ought to be accepted. He covers all the bases; he certainly was a slippery one when he had to be.

Having gathered under the auspices of Article 13 of their current charter, the convention quickly morphed into a general constitutional convention. They immediately shuttered the windows, bound the delegates to secrecy, scrapped the Articles, and proceeded to write an entirely new document. They even changed the method of ratification so that neither the approval of Congress, or the State legislatures was required. This was truly a body of boundless power, inasmuch as they were agents of the Principles, the States, and they were vested with authority even to "alter their former systems of government," resorting to the Declaration itself. Needless to say, a convention of this nature is akin to unleashing the Genie from the bottle.

Am I glad they did it? Indeed I am. But what about today? Do we have the caliber of men like a Madison, a Franklin, a Washington, to guide such a process? It was not long after the Philadelphia Miracle, that James Madison warned us never to try this again. Must I go into all the reasons why such would be a disaster? Most Americans today, I dare say, can't even read the writings of the Founders, much less understand them. And are they even interested? The moral character of our people today has much deteriorated, and is not even in the same league as that of the founding generation. If you have a different view, we will just have to agree to disagree. Add to these the ambivalence to things of this nature. Last year we had a special election to amend our city charter in Columbus, and only 9% of the registered voters showed up. Over-looming all this is the reality that a formidable enemy to our Constitution exists in our midst. I have long traced the activity of individuals who for over 100 years have worked to undo and replace our founding charter and principles. Some call them Progressives; I call them the Insiders. Having their tentacles stretching across this land through various foundations, and sundry front groups, special interest groups, and grassroots organizations, they have mounted well-funded campaigns to alter and replace

our Constitution over many decades. Some of these groups seem to be on the Left, some seem to come from the Right; but they collaborate on a common goal of opening up the Patient on the operating table.

Call A Convention is an umbrella organization founded by Lawrence Lessig, a former advisor to President Obama, which has brought together right-wing groups such as ALEC, COS, BBATP, CFA with left-wing groups such as Convention USA, AmendAmerica, ArticleV.org (IOAVWG), Wolf-Pac, to work together to bring about an Article V Convention. Lessig, who has said—and I quote—"It's time to rewrite our Constitution," and Meckler, from COS, have been working together for several years now, seeking to garner support from both sides of the aisle to call a convention. You will find many strange bed-fellows amongst these groups. For example, 8 presidents of ALEC have recently publicly endorsed NPVIC, which is an attempt to circumvent and subvert the electoral system for choosing the President. ALEC has also long promoted an Article V Convention as well as nightmarish free trade agreements such as NAFTA, TTP, and TTIP. So there are many forces at work here to open the door to Constitutional change.

The fact is, we have not had a federal convention since 1787, and we have never had an Article V Convention. The possible scenarios are endless. Congress may manage it, or not. The delegates may exceed their mandates, or not. It may be orderly or chaotic. The state legislatures may see the results, or not. But even if everything goes according to the plan of the planners, what have we really accomplished? We've added more words to a document that is largely ignored and disobeyed by those sworn to uphold it. If the Federal Government doesn't obey the Constitution as it is currently written, what makes you think they will obey it if you change it? What's more, we are admitting that the Constitution is flawed, deficient in its ability to check the Government. But is it? I happen to disagree.

Let us briefly look at just a few highlighted passages from the Constitution. Article I, section 1. All legislative Powers herein granted shall be vested in a Congress of the United States. The operative words here are 'all' and 'herein granted'. All means there is no lawmaking power in the Executive, or the Judicial Branch. Herein granted means Congress can only make laws in the categories of their enumerated powers. And where are these found? Let's go to Article I, section 8. These are the categories of powers—over the armed forces, post roads, coin (not print) money, foreign and interstate commerce, etc. It ends with the Necessary and Proper Clause: 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. We need to underline 'for the carrying into execution the foregoing powers.' They can't make any laws they think are necessary and proper, only those for the purpose of executing their enumerated powers. And the 2nd part, the 'other powers', those are any powers that come later in the document. There's one that comes later, in Article V—the power to call a convention. If they apply this clause to their power to call a convention, they may come up with a whole lot of rules they think are necessary and proper.

But moving on to the Supremacy Clause: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding. It doesn't say anything there about judicial opinion being supreme law, now does it. Quite the opposite; 'judges in every state shall be bound thereby.' It doesn't say anything about international law either. There's no higher law for this nation than the Constitution, except 'the Laws of Nature and of Nature's God.' But notice the operative words again, 'in pursuance thereof.' Only laws which are made in pursuance of the Constitution are valid and thus supreme.

Finally, let's look at the 10th Amendment. The body of the Constitution are positive grants of power, but it's a very specific list of enumerated powers. If an arena of power is not specified, they have no authority to act in that sphere. But lest they forget, the Framers tacked on the Bill of Rights, which prohibits the government explicitly. It is a list of what they can't do: you can't do this, you can't do that. You can't touch religion, speech, press, assembly; you can't arrest or search without a warrant, keep your hands off our guns, and on and on. And the 10th Amendment caps it off, saying essentially, if we left anything out, you can't do that either. All powers not granted are reserved to the States and the People. So it all seems very clear to me: If the power is not enumerated, it is not granted; and if is not granted, IT IS FORBIDDEN.

If the Federal Government confined itself to its enumerated powers in Article I, section 8, there would be no Department of Energy, Education, Transportation, HUD, HHS, FDA, EPA, TSA, OSHA, and on and on. If the Constitution were obeyed, the Federal Government could be, should be, perhaps 20% its size. I truly believe this. But it is not obeyed. What is really needed here is not a change in the Constitution, but a MECHANISM to enforce the Constitution as currently written. So here is where it gets difficult. We tend to want a quick fix, to press a button, to tweak the system, and it automatically makes everything better, rather than the arduous, old-fashioned means of vigilance of an informed electorate. This is step 1: to educate and awaken the people to the truth, so they will turn these Constitution-breakers out of office. The second step is to understand the separation of powers, and to insist that it is used by those we put in federal office. The three branches of government were not intended to cooperate with each other, but to vie against each other, to contend one with the other, to check each other. So when John Marshall decrees *Marbury v. Madison*, Jefferson says, "It is not law." When he issues another decree, Andrew Jackson says, "Let him enforce it." When the President says, "If Congress won't act, I will," then begin impeachment proceedings.

But ultimately we cannot rely on the Federal Government to check itself; the States must do it—by simple non-compliance, by resistance, by defiance, by rendering null and void unconstitutional federal mandates, by punishing federal agents who seek to enforce them;

by withholding monies in every creative way possible; by passing and enforcing laws for the public good, despite what a federal judge may say. We the States are the Principles, the Board of Incorporators of this Union; and we are the judges of what the Constitution means, the ultimate arbiters of all constitutional questions. Why are we so squeamish, so hesitant to resist tyranny? This nation was built on resistance, on defiance, on rebellion! We have a city in Ohio named Defiance. Ben Franklin's national motto was, "Rebellion to tyrants is obedience to God." "Sic Semper Tyrannis." The States must no longer bow down as subservient vassals to an all-powerful federal government. They must interpose themselves between their citizens and the usurping creature they have created. This will not lead to disunion and chaos; it will lead to peaceful and enjoyable union under our venerated Constitution—finally in force. There will be celebrations across this land when this Leviathan is called to the carpet and put back under harness.

Now is the time for us to resurrect the spirit of defiance in our American DNA, and for a vigilant American People along with their emboldened sovereign State governments, to restore and enforce our Constitution according to its original design, rather than opening it up to reconstructive surgery in a constitutional convention. We may end up with a Frankenstein's monster, having wasted much time, trouble, and treasure in the process.

God Bless You and give you wisdom. Thank You.