

Representative Wiggam, Chair; Rep. John, Vice Chair, Rep. Kelly, Ranking Member and members of the State and Local Government Committee –

Rep. Wiggam, Please see that copies of this testimony go to all of the above addressees.

TESTIMONY OF RICKI PEPIN
ON SJR 1 – 02/09/22

Chairman Wiggam and members of the State and Local Government Committee –

Thank you for the opportunity to present some arguments against SJR 1 – the joint resolution calling for an Article V Constitutional Convention of the States to limit power of the federal government and impose federal term limits. As a private citizen who also has led classes on the U. S. Constitution for more than 20 years, I would like to cite the three biggest reasons (there are many more) why an Article V Constitutional Convention is a very dangerous idea. These reasons are rooted in the definition of legal terms, verifiable history, and applying them to the resolution before us today.

1. Plenipotentiary Power

No matter how delegates are chosen or by whom they are chosen, or what restrictions are placed upon them by those who choose them, once the convention convenes the delegates have what is known as “plenipotentiary power.”

Webster’s 1828 Dictionary defines –

Plenipotentiary – (adj.) containing full power; or (noun) – a person invested with **full power** to transact **any business**.

“Full power to transact any business.” These are very all-inclusive terms. Plenipotentiary power is an integral part of the parliamentary procedure. It is necessary from time to time to empower a body to write or re-write governing documents. That’s why Robert’s Rules makes it clear that the convention is the highest law making body of any organization. The question those of us who oppose this convention are asking is – What limits the highest law-making body? Lower law-making bodies (State General Assemblies)? How could they do this? SJR 1 claims the authority to name delegates, provide instructions to them and to be able to recall them for any breach of the instructions provided. While this sounds great, if the delegates to the Article V Convention are vested with plenipotentiary power – full power to transact any business – and they are the “highest law making body of any organization” – what enforcement authority do lower law-making bodies – the States - have to recall or control them? Simple and obvious answer – They don’t.

Delegates who are vested with plenipotentiary power HAVE THE LEGAL AUTHORITY TO DO ANYTHING THEY DEEM NECESSARY. They do NOT need to adhere to any limitations put upon them from anyone, or keep promises to stick to just the agenda they agreed to at any

prior point in time. **There is no higher-powered enforcement mechanism to “make them do” what anyone wants to make them do.** They have been given the authority to change the Constitution, and are therefore, above the current Constitution, above State lawmakers, above anyone and everyone else. At this point in history, who could/would you trust with this type of power? **Putting our entire Constitution on the table is irresponsible and unthinkable, but that is exactly what this Article V Constitutional Convention could do.**

2. Monitoring & Accountability

The Founding Fathers MET IN SECRET with instructions to amend the Articles of Confederation. They did not even release their notes until the last one of them had died. They also came out of these secret meetings with an entirely new document, our U. S. Constitution, scrapping the Articles of Confederation entirely. And they did it legally, demonstrating their plenipotentiary power to ignore the explicit instructions of 12 of the 13 States to simply amend the Articles of Confederation. [Note: Rhode Island boycotted the convention and did not attend.] Modern-day delegates could also choose to MEET IN SECRET so no one could monitor, much less have any input during their meeting times or have any idea what is being discussed or changed.

3. Ratification Safeguards

Simply put, there are none. The supposed “safety net” of the current Constitution’s requirement of three-quarters of the States having to ratify whatever the delegates come up with, is more aptly described as no net at all: The founders changed the ratification process at the same time they scrapped the Articles of Confederation. Modern-day delegates could do the same - CHANGE THE RATIFICATION PROCESS – and it would be completely legal - simply exercising their right to plenipotentiary power.

Summary

Mark Meckler and other proponents of this so-called Convention of States make statements that are inaccurate, misleading and even dangerous because **they are all based on the false premise that the States can control an Article V Convention.** This is simply not true. And if your premise is faulty, as theirs is, then it is highly unlikely that your conclusions can be right. To illustrate this, I’ve attached a copy of Mark Meckler’s previous testimony on this subject, with with some challenges to his statements incorporated. Some (not all) of his false premises have been put into **RED FONT** followed by my brief counterpoint in **BLUE FONT**. Time will not permit me to review these to the committee verbally, and I respectfully urge you read over these later. It will only take about five minutes of your time.

So what is the answer to an out-of-control federal government? This problem will not be solved by more Constitutional amendments. **How can we think that by adding amendments to a document that is being ignored will suddenly cause those who are ignoring it to begin to read, respect and enforce it?** The true answer lies in “we the people” enforcing the Constitution we have. But how can we enforce something we don’t know? Mark Twain said, “*A lie can travel halfway around the world while the truth is still putting on its shoes.*” We must educate ourselves and our children on both the true contents and underlying principles of the U. S.

Constitution, which is what my classes do. Then we must elect representatives who know these principles and have the integrity to uphold and enforce them. If they don't, we need to replace them with people who will.

I want to close with a quote from Herbert Hoover who understood that our Constitution is part of our American heritage. At a reception for his 80th birthday he said, "*God has blessed us with...heritage. The great documents of that heritage are not from Karl Marx. They are from the Bible, the Declaration of Independence and the Constitution of the United States. Within them alone can the safeguards of freedom survive.*"

Educating ourselves and our posterity in this heritage is the beginning of restoration, not more amendments. Winning the hearts and minds of individuals is not a quick fix, but it is the only true fix. Thank you for your attention and allowing me to testify today.