



Kyle Pierce, Executive Director, The Ohio Coalition To End Qualified Immunity

Opponent/Interested Party Testimony: House Joint Resolution 1

April 17, 2023

Chairman Wiggam, Vice-Chair Hillyer, Ranking Member Mohamed, thank you for allowing me to present public comment, on House Joint Resolution 1, to this committee. My name is Kyle Pierce, and I am the executive director of The Ohio Coalition To End Qualified Immunity, which seeks to end qualified immunity in Ohio through a citizen initiated constitutional amendment.

I'm sure that others testifying today will touch on the myriad of issues with this proposed resolution, so I will instead add some historical context to the primary sponsor's ignorant, misleading, or just plain manipulative claims.

In his sponsor testimony on the 22<sup>nd</sup> of March, the primary sponsor confidently declared that:

*"The initiative petition has been relatively controversial since its inception. It came about in the 1912 convention. It was one of the most hotly debated items to come out of that con- convention. It passed by one of the narrowest vote margins of any amendment that was put before Ohioans for consideration."*<sup>1</sup>

The thrilling tale he tells has one imagining a fiercely contentious issue that passed by the slimmest of margins, with both the proponents and opponents biting their nails in anticipation of updated vote tallies from the various precincts, with the total oscillating between the Yeas and

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<sup>1</sup> <https://ohiochannel.org/video/ohio-house-constitutional-resolutions-committee-3-22-2023>

the Nays up until the counting of the very last ballots, culminating in the Yeas just barely pulling ahead at the last minute, with supporter weeping tears of joy and opponents hanging their heads in somber defeat, thinking that if they had just found room for grandma in the horse and buggy for her to vote, things might have turned out differently– the brave and courageous protagonist of 2023 (as the primary sponsor would have us believe) need not distract from his noble brothel of back-room deals to defeat the sinister will of Ohioans in 1912.

A fan of political dramas myself, I happily delved into the history behind this amendment. My quest first brought me to The Supreme Court of Ohio's Law Library website, which holds the entire proceedings and debates of the 1912 constitutional convention. Surely, this amendment must have barely made it out of convention and onto the ballot. I searched through the index and found the page I was looking for: 1950, final vote on the passage of the proposal. I quickly navigated to the document containing the proceedings of May 31, 1912, day 79 of the convention. I scrolled to the second column of page 1950 and found:

*"The secretary will call the roll upon the final passage of this proposal. The yeas and nays were taken, and resulted-yeas 82, nays 18"<sup>2</sup>.*

82 to 18 to place the proposal on the ballot. That's not any kind of slim margin or indicative of a hotly contested issue. Well, the primary sponsor did say that the passage was one of the slimmest vote margins of any amendment put before Ohioans, so I then set my sights on the actual passage of the amendment, where the nail-biting and close call would really happen.

At long last, I had found the answer on the Cleveland State University's Law Library website. A list of all proposed amendments was staring me in the face—all I had to do was scroll down. And scroll down, I did. What I found was this:

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<sup>2</sup> <https://www.supremecourt.ohio.gov/docs/LegalResources/LawLibrary/resources/day79.pdf>

9-3-1912	CC	<a href="#">Adopt initiative and referendum</a> seen on page 5	II:1, 1a-1g	Approved	yeas 312,592 nays 231,312
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Far from barely passing, the amendment passed with 57.47% of the vote. I had been deceived—we had all been deceived. A politician twisting things to make them look different from reality? Why would our noble protagonist do such a thing? What happened to all the honest politicians? Like a drop of rain that had experienced the thrill of whipping through a hurricane, I now found myself in an ocean of fish excrement, surrounded by political putridity.

Would the primary sponsor somehow find a way to describe an annoying bee buzzing around his face as a group of bald eagles descending upon him with swooping attacks, scathing our dear protagonist's innocent countenance? Would an acorn falling from a tree and striking him become a torrent of hail the size of softballs that our fearless hero would have to miraculously evade? Would tiny little baby hands on a grown man become the hands of a lumberjack who felled 34 trees in an hour; tiny little baby feet the rivals to those of LeBron James; tiny little baby whatever else he would exaggerate? I am not sure that I would place too much confidence in the hyperbole that the primary sponsor has demonstrated himself capable of twisting into a fragile facade of reality.

Thank you Chairman Wiggam, Vice-Chair Hillyer, Ranking Member Mohamed for accompanying me on this journey of discovery. I am happy to answer any questions.

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<sup>3</sup> <https://guides.law.csuohio.edu/c.php?g=190570&p=1258419>