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Written by **Peter Rykowski** on March 29, 2021

Wisconsin Ground Zero in Battle Over Constitution

Wisconsin has emerged as a battleground in the debate over whether to apply to Congress to call a convention to propose amendments under Article V of the Constitution, otherwise known as a constitutional convention (Con-Con). Supporters and opponents of a convention clashed at a recent Wisconsin Senate committee hearing, displaying the stark differences between the two sides.

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The Con-Con Resolutions

Wisconsin is a top target of Con-Con proponents in the current legislative sessions, with four resolutions having been introduced.

Two of them — Senate Joint Resolution 8 (S.J.R. 8) and Assembly Joint Resolution 9 (A.J.R. 9) — follow the wording of Mark Meckler's Convention of States (COS) Project application, urging Congress to call a convention to propose amendments "that impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress."

The other two resolutions — Senate Joint Resolution 12 (S.J.R. 12) and Assembly Joint Resolution 16 (A.J.R. 16) — call for a convention to propose a congressional term limits amendment.

The hearing, held on Wednesday, March 24, in the Senate Committee on Government Operations, Legal Review and Consumer Protection, was over S.J.R. 8 and S.J.R. 12.

False Claims and Tall Tales

Following testimonies from sponsors of the resolutions, the committee heard testimony from Meckler, the president of COS. Meckler started off by spouting his tall tale that Article V of the U.S. Constitution was the Founding Fathers' solution to federal overreach, ignoring the reality that constitutional enforcement was the Founders' solution to usurpations.

The traveling salesman then discussed each of the three topics advocated for in his COS resolutions — term limits, fiscal restraints, and jurisdiction limitations on the federal government. According to Meckler, legislators could use the resolution text to enact a number of constitutional changes for each of the three individual topics.

While the suggestions Meckler listed — including reversing illegal Supreme Court precedents, limiting the Court to nine justices, and term limits for unelected government bureaucrats — might sound appealing to conservatives, they illustrate one of the many dangers of the COS resolution specifically, and, more broadly, any Article V convention.

The text is so vague that even if a convention did not stray from the resolution text — a prospect no one should count on — the text could be twisted to justify a slew of amendments that increase and entrench

the power of the federal government. Tellingly, a September 2016 Article V convention simulation hosted by Convention of States ended up proposing amendments that did just that.

In the most revealing moment of his testimony, Meckler attempted to refute his constitutionalist critics by equating case law with the Constitution. While constitutionalists argue for enforcing the Constitution, Meckler questioned "which constitution they're referring to." Holding up a book listing every Supreme Court ruling, Meckler stated that case law has become the real "Constitution of the United States of America." Thus, rather than nullifying these rulings — much of which are blatantly unconstitutional — Meckler claimed the solution is to change the text of the Constitution itself.

Shortly after Meckler, Ken Quinn, the northern regional director for U.S. Term Limits, testified. Among other statements, he claimed that "there's no such thing as a runaway convention." He further stated that an "Article V convention" is not synonymous with a "constitutional convention," baselessly claiming that the latter would require unanimous consent.

These two allegations by Quinn are easily refuted by looking at the 1787 Constitutional Convention. Originally convened to merely amend the Articles of Confederation, the 1787 convention led to the drafting and ratification of the current Constitution. Furthermore, while the former document required unanimous consent for making constitutional changes, the convention threw out that rule and required only nine of the 13 states to ratify the new constitution.

During his testimony, Quinn claimed that he had once supported "an organization" that opposed a Con-Con but changed his mind after researching the matter himself. He made multiple false claims about The John Birch Society, including that it argues the U.S. Constitution was illegally adopted, and that it originally supported an Article V convention.

The John Birch Society Responds

It was not long before Christian Gomez, research project manager for JBS, was called upon to give his testimony. He began by refuting the peddlers' claims about an Article V convention and JBS. For example, he noted JBS's 1967 response to a letter inquiring about a Con-Con in which it unequivocally rejected the idea.

Gomez also set the record straight about the lobbyists' unfounded assertions that an "Article V convention" is different from a "constitutional convention" and urged the committee not to get distracted by mere semantics.

Not only does no such distinction exist in Article V's text, but contrary to Meckler's claim that his proposal would not be a "convention of delegates," Gomez noted New York's 1789 application for a "Convention of Deputies" under Article V. More recent application resolutions, including in Louisiana and Connecticut, have used the term "constitutional convention."

Additionally, Gomez pointed out that even if a distinction existed, it could easily be abandoned in the same way that the 1787 constitutional convention abandoned the Articles of Confederation's requirement of unanimity for the ratification of constitutional changes.

Further illustrating how the term "convention of states" is merely a lobbyist-created talking point to make a Con-Con more appealing to state legislators, Gomez noted how Meckler himself had called for "single-subject constitutional conventions" in his 2012 book *Tea Party Patriots* and how he co-hosted the "Conference on the Constitutional Convention" with left-wing law professor Lawrence Lessig.

Having refuted the Con-Con peddlers, Gomez used his testimony to note Article V's purpose of fixing

potential defects in the Constitution, rather than to limit the federal government. He further noted that an Article V convention would be more likely to increase and entrench an expansive federal government through poorly-worded amendments, amendments that blatantly increase the size and power federal government, or a new constitution altogether. The current problems with the federal government, Gomez argued, stem from a disregard of the Constitution rather than problems with the document.

In the limited time he had to testify (more on that later), this writer emphasized Supreme Court Justice Scalia's warning that "This is not a good century to write a constitution," and how the Left would take advantage of any Article V convention to advance a far-left agenda in line with international norms.

Furious Felzkowski

Committee hearings are intended for legislators to examine arguments for and against proposed legislation prior to making a decision. However, Senator Mary Felzkowski (R-Irma) showed her cards — and bias — early. This was not surprising, considering her sponsorship of both the COS and term-limits resolutions — ironically, she is currently serving her fifth term in the legislature.

After asking Gomez his solution to federal overreach in lieu of an Article V convention — to which he aptly responded by pointing out officials' duty under Article VI to nullify unconstitutional laws, and how it is an immediate solution as opposed to the Article V process that often lasts decades — Felzkowski began attacking his position.

The five-term legislator claimed that nullification would be ineffective at reining in federal spending such as the $1.9 trillion spending, to which Gomez noted the importance of educating citizens to vote out fiscally irresponsible members of Congress, and also the ineffectiveness of most balanced-budget amendments. In fact, states can help rein in federal spending — 80 percent of which is unconstitutional — by abolishing the Federal Reserve and by passing a State Sovereignty and Federal Tax Funds Act.

Unsatisfied, Felzkowski accused Gomez of basing his arguments on the dangers of a Con-Con on hypotheticals — despite the other side relying far more on untested hypotheticals. She ended her tirade by claiming Gomez was "only including parts of the information" — as if the other side does not do this — and that "it's very hard to take what you're saying seriously." Notwithstanding the irony, it is unfortunate that a legislator used the hearing to be an advocate rather than an observer.

The Uhl Family Steals the Show

The most impressive testimonies during the hearing were delivered by the five-strong Uhl family.

The first in the family to testify were Christy and Alise. Christy, 11, stated the obvious fact that the U.S. Constitution is not the problem, meaning the solution is to punish corrupt politicians rather than change the Constitution. Alise, 12, noted that the Founding Fathers, who adhered to Christian principles, sought freedom and a limited government. Those principles embodied in the U.S. Constitution would be in danger with a constitutional convention under Article V.

Immediately after the girls' testimonies, Senator Duey Stroebel (R-Saukville), another sponsor of the two resolutions, went on the defensive, repeating the falsehood that an "Article V convention" is somehow distinct from a "constitutional convention." Such a response was unprompted and unnecessary, indicating the effectiveness of the girls' testimonies.

The girls' parents, Curtis and Dominique, also testified. Among other thoughtful points, Curtis noted that when considering the COS resolution, a representative had stated "we have to do something," a poor attitude when the Constitution and freedom are at risk. Curtis also referred to Meckler's lofty

statement that state legislators "have the power to alter the structure of the federal government." The former noted that only 2,445 representatives and senators from 38 states can initiate a constitutional convention that would affect over 300 million people — a frightening thought.

Dominique, in addition to pointing out several reasons why a Con-Con is a dangerous idea and referring to alternative constitutions crafted by the Deep State, called out the self-promoting lobbyist Meckler for lying about COS's popularity. She also went into depth about realistic steps the states can take — and are presently taking — to nullify the federal government.

The nullification bills Dominique mentioned included a Texas bill to comprehensively examine the constitutionality of federal actions and, if necessary, nullify them; a Missouri bill to robustly prevent enforcement of past, present, and future gun controls; a Kentucky bill to prevent unconstitutional federal National Guard deployments; and an Oklahoma bill to nullify unconstitutional presidential executive orders. Dominique showed the committee that a wide variety of superior options exist to an Article V constitutional convention.

Another impressive testimony was given by Elayna, 15. She pointed out a significant reason why an Article V convention is particularly dangerous today: Human nature is depraved, and the character, wisdom, and morals present among the Founding Fathers — and present in early U.S. history — have significantly deteriorated in the nation today.

If a convention under Article V happened today, Elayna stated, political leaders would not trust in God as the Founders had, but they will largely be overcome with greed and seek to advance their personal agendas. As evidence, she noted how Con-Con advocates are already seeking to aggregate unrelated, centuries-old Article V applications with newer ones in an attempt to reach the 34-state threshold.

Furthermore, Elayna asked, if amendments such as congressional term limits or a Balanced Budget Amendment are so popular, why can the regular process not be used? Rather than open up the Constitution in a precarious time using an untested Article V convention, she concluded, any proposed amendments should go through the regular process.

Elayna received a barrage of questions from the committee members, particularly Senators Stroebel and Felzkowski. Their questions included why the Founding Fathers included Article V in the Constitution and what alternatives to an Article V convention should be used. Elayna answered those questions ably, impressing many of those watching.

The committee's questioning of Elayna, along with Stroebel's unprompted comments following her sisters' testimonies, indicated a level of fear in response to their testimonies. They had no other reason to make those comments or question Elayna so intensely. Furthermore, they asked no questions of the girls' parents.

The Uhl Family's testimonies — particularly their daughters' — were effective, powerful, and intelligent. Being a family that homeschools, their testimonies also illustrate the importance and clear advantage of giving one's children a proper education, divorced from the left-wing indoctrination and dumbing-down present in the public-school system.

Final Observations

Throughout the hearing, a notable distinction between the two sides' testimonies was their substance. Those in opposition focused solely on the subject of the hearing, namely why an Article V convention would be harmful to Americans' God-given freedoms and how Article VI offers an immensely superior alternative.

On the other hand, most of the testimonies in favor — with the exception of a select few — were vague and did not address the topic at hand. For example, many of the individuals focused on their life stories or talked about problems in the federal government without discussing how Article V, specifically, would solve those problems.

The committee also was inconsistent in its treatment of the two sides. Immediately before this writer testified, it imposed a five-minute rule for testimonies, preventing me from delivering half of my testimony. However, multiple subsequent individuals in favor of a convention — who largely did not directly address the topic at hand — spoke longer than five minutes without interruption.

Finally, Dr. Wayne Sedlak, a pastor from West Bend, registered to testify in opposition to the resolutions with the help of a legislative assistant. However, the committee never called on him to testify. After Dr. Sedlak confronted the committee about this error, it allowed him to submit written testimony. Nonetheless, excluding him from the oral hearings deprived the committee and those watching of a powerful voice in opposition to a convention and in favor of nullification.

As of this article's writing, S.J.R. 8 and S.J.R. 12 still await an executive session, in which the committee will decide whether to send the resolutions to the floor. Whichever way it, and the legislature, decides, could have significant ramifications for the entire country and the freedoms guaranteed in the Constitution.

Wisconsin residents can contact their legislators in opposition to a Con-Con by visiting The John Birch

Society's legislative alert here. Everyone can take action against Con-Con applications in their respective states by visiting JBS's action project page here.