

April 10, 2015

## **Reform Groups Strongly Oppose Efforts in the States to Call a Constitutional Convention**

**Statement Issued by the Brennan Center for Justice, Common Cause, Democracy 21, Issue One, People For the American Way, Public Citizen and USAction**

Our reform organizations strongly oppose the efforts to pass resolutions in the states calling for a constitutional convention.

The organizations include the Brennan Center for Justice, Common Cause, Democracy 21, Issue One, People For the American Way, Public Citizen and USAction.

Our groups support a number of campaign finance measures to respond to the destructive and indefensible Supreme Court decision in the *Citizen United* case. Many of us support a constitutional amendment to overturn *Citizens United*. Others are focused on building the case for a new jurisprudence to serve as the basis for reversing the *Citizens United* decision.

All of our groups, however, strongly oppose the calling of a constitutional convention which would put the constitutional rights and protections of all Americans at great risk. We do not believe this is the way to address the campaign finance problems created by *Citizens United* or any other problems currently facing the country.

The Constitution provides that two-thirds of the states can force Congress to call a constitutional convention. It provides very little further guidance.

Thus the Constitution does not say whether the issues to be considered by a constitutional convention can be limited to the ones set forth in the call for a convention. Most observers believe the scope of issues to be considered by a convention cannot be restricted.

Former Supreme Court Justice Warren Burger stated, “[T]here is no way to effectively limit or muzzle the actions of a Constitutional Convention. The Convention could make its own rules and set its own agenda.”

Former Supreme Court Justice Arthur Goldberg stated, “There is no enforceable mechanism to prevent a convention from reporting out wholesale changes to our Constitution and Bill of Rights.”

Thus, the call of a convention would place all of the constitutional rights and protections of individuals up for grabs. This includes protections that exist for civil rights, civil liberties, freedom of religion, freedom of speech, voting rights, privacy and many others. The role of the courts in protecting the rights of individuals and minority interests would also be subject to change.

All of the nation's constitutional history and constitutional rights would be vulnerable to alteration and revision. Justice Antonin Scalia has said, "I would not want a constitutional convention. Whoa! Who knows what would come of it?"

There are no established rules, furthermore, for determining whether the 34 states calling for a convention have to adopt a resolution focused on the same issue, whether resolutions previously passed can be withdrawn, whether resolutions passed long ago expire after a certain period of time elapses, or whether all resolutions count regardless of how they are limited to specific issues.

Furthermore, there are no rules and no process in existence for determining how delegates would be chosen for the convention and how decisions by the delegates would be made.

Different states could establish different rules for electing or appointing delegates. If states held elections, there may or may not be any campaign finance or election rules that apply to the election in each state. We do not know how many delegates each state would have and how the votes of the delegates of each state or the votes of the states would be counted in a convention. And since there are no rules for the functioning of the convention itself, we have no idea as to the process by which the convention would reach decisions.

Huge amounts of money would very likely be spent by wealthy Americans, corporations and other well-financed interests to influence the decisions made by the convention.

To put it simply, we would be unleashing the opportunity for a wholesale rewrite of the founding Constitution of our country with no limit on the issues to be considered and no idea about how the process for doing this would work and how decisions would be made.

This makes no sense and would pose grave danger to the nation.

Unlike the well-established and tested process for proposing, considering and adopting individual amendments to the Constitution, which has been used multiple times throughout our history (both successfully and unsuccessfully), there has never been a constitutional convention since the Constitution was first adopted and ratified in 1788.

To call a constitutional convention would imperil the work of our Founding Fathers and the more than 200 years of constitutional history that followed.

Our groups strongly urge states to oppose adopting a call for a constitutional convention.

Brennan Center for Justice  
Common Cause  
Democracy 21  
Issue One  
People For the American Way  
Public Citizen  
USAction

Contact Kathryn Beard, Democracy 21 at 202-355-9600.  
Contact Dale Eisman, Common Cause at 202-736-5788.