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8 March 2019

Representative John Barker
Chair, Federal and State Affairs
300 SW Tenth Street, #285-North
Topeka, Kansas 66612

Dear Representative Barker and Members of the Committee,

I am writing to voice my opposition HCR 5009: making application to the U.S. Congress to call a convention of the states.

There are many reasons that contraindicate the proponents' claims for such a measure:

(1) A convention could write its own rules since the Constitution provides no guidance for ground rules governing a convention. This would leave open fundamental questions as to how and how many delegates would be chosen and whether a supermajority vote would be required to approve amendments. *(Consider for a moment if every state had one vote in the convention; the convention could approve amendments with a simple majority vote... meaning the 26 least populous states — which contain less than 18 percent of the nation's people — could approve an amendment for ratification.)*

(2) A convention could set its own agenda, possibly influenced by powerful interest groups. *(The only constitutional convention in U.S. history, in 1787, went far beyond its mandate. Charged with amending the Articles of Confederation to promote trade among the states, the convention instead wrote an entirely new governing document.)* A convention held today could set its own agenda, too; meaning it's entirely plausible that powerful, well-funded interest groups would seek to influence the process and press for changes to the agenda.

(3) A convention could likely enact changes that are far more sweeping than many legislators supporting these resolutions envision because of the broad language contained in many of the resolutions already passed in other states.

(4) A convention could choose a new ratification process. The 1787 convention ignored the ratification process under which it was established; it would be unwise to assume that ratification of the convention's proposals would necessarily require the approval of 38 states, as the Constitution currently specifies.

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(5) No other body, including the courts, has clear authority over a convention. It is not clear that the courts — or any other institution — could intervene if a convention chose not to limit itself to the language of the state resolutions calling for a convention. As a retired judge, Rep. Barker, you can appreciate how quickly things might devolve without agreed to procedure and language. Article V of the US Constitution contains no restrictions on the scope of constitutional amendments (other than those denying states equal representation in the Senate), and the courts generally leave such “political questions” to the elected branches.

There are *many* other practical reasons why this bill should be set aside. For now I leave you with this simple request: Oppose with your vote HCR 5009.

Sincerely,

A handwritten signature in black ink that reads "Leslie D. Mark". The signature is written in a cursive, flowing style.

Leslie D. Mark

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