

March 2, 2020

**Testimony on HJ 5**  
**United States Constitution – Amendments Convention – Congressional Term Limits Amendment**  
**Rules and Executive Nominations**

**Position: Unfavorable**

Common Cause Maryland stridently opposes HJ 5, which seeks to reduce the power of Americans to select their representatives through an untested and potentially dangerous Article V Convention.

Term limits have little to no effect on accountability. As James Madison put it in Federalist No. 53, “No man will subject himself to the ridicule of pretending that any natural connection subsists between the sun or the seasons, and the period within which human virtue can bear the temptations of power.” Indeed, term limits arguably provide more incentive to act unethically than the status quo: term-limited legislators have little reason to give heed to the preferences of their constituencies, since those voters won’t be able to re-elect the legislator. That legislator will, however, have incentives to appease future employers, which *could* be constituents if the legislator moves to a higher office, but the it is more likely the legislator will move on to lobbying, or working closely with an industry that they perhaps oversaw.

Term limits also weaken the power of elected legislators as compared to the Executive branch, lobbyists, and agencies, making the legislature *less* accountable. As new legislators get swept in every other cycle, lobbyists and bureaucrats retain institutional knowledge are more heavily leaned on. At a time where legislative offices already must rely heavily on the expertise of these unelected groups, pushing to make them more integral in our governance is the wrong way forward.

Further, the method proposed to enact this policy, an Article V convention, would put at risk the constitutional rights and protections of all Americans. The Constitution provides that Congress “on the Application of the Legislatures of two thirds of the several states, shall call a Convention for proposing Amendments.” Regardless of any limits that are being placed in the state calls for a constitutional convention, it is widely believed that once a convention is called there is no way to limit the constitutional amendments that the convention can consider and on which they can act.

Little precedent exists related to a Convention. What little study of the process has been done, such as by the American Bar Association in 1973, has no binding power on those who would hold a Convention. Even those studies, however, note that significant uncertainties exist in the myriad questions surrounding state and federal authority over such a procedure, and that failing to deal with those uncertainties before calling for a Constitutional Convention would “be courting a constitutional crisis of grave proportions. We would be running the enormous risk that procedures for a national constitutional convention would have to be forged in time of divisive controversy and confusion when there would be a high premium on obstructive and result oriented tactics.”

Congress, nor this legislature, has attempted to clear up any of the uncertainty around an Article V legislature in the decades since such reports were produced. To call for a Constitutional Convention, then, is akin to jumping out of an airplane thinking you’ll pack your parachute on the way down. As such, we request that this committee give HJ 5 an unfavorable report.