

Testimony to the House Rules Committee
from John Flanery of Eugene Oregon
for the hearing on April 1 2015
regarding HJM 2

Enacting the first Article V convention is a tremendous undertaking - not only the daunting task of convincing 34 legislatures to call for it, but also resolving the attendant legal debates over an event which has never occurred, and of course the mental resources applied once the convention begins. It would be folly to give the convention a mandate so limited that amendment proposals would be insufficient to the problems. Yet that is what HJM 2 would do.

HJM 2 would give the convention a mandate to propose amendments "relating to free and fair elections". Such amendments would be futile both on logical grounds and because of the impossibility of enforcement.

There is no logical reason to focus exclusively on elections. Elections are important only so far as they have an impact on government, and there are many ways money influences government. If elections are to be made "free and fair" shouldn't lobbying also be fair? Yet currently on the Federal level business interests spend \$34 on lobbying for every dollar spent by public interest groups and unions combined. Isn't it just as unfair that a handful of extremely wealthy people can spend hundreds of millions of dollars on "issue ads"? How free is our government when businesses write the very legislation that is supposed to regulate them?

Furthermore, it is impossible to draw effective distinctions between election spending and other spending. As the Supreme Court said in *Buckley v. Valeo*:

"It would naively underestimate the ingenuity and resourcefulness of persons and groups desiring to buy influence to believe that they would have much difficulty devising expenditures that skirted the restriction on express advocacy of election or defeat, but nevertheless benefited the candidate's campaign. Yet no substantial societal interest would be served by a loophole-closing provision designed to check corruption that permitted unscrupulous persons and organizations to expend unlimited sums of money in order to obtain improper influence over candidates for elective office."

Fortunately, HJM 2's overly-restrictive mandate can easily be fixed. For example, New Jersey called for a convention to limit the "*influence of money in our political system*".

The Illinois legislature passed a call for a convention with the following language:

"Resolved, That this application shall be deemed an application for a convention to address each and any of the subjects listed in this resolution;"

If Oregon took this approach, then the scope of the call would include:

"the unjust influence of powerful economic forces that have supplanted the will of the people by undermining our ability to choose political leadership, write our own laws and determine the fate of our state;"

That is a much more robust mandate for a convention.