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**Testimony of ACLU of Wisconsin  
In Opposition to Senate Joint Resolution 57 and Assembly Joint Resolution 77  
Joint Committee on Insurance, Financial Services, Government Oversight and Courts**

Chair Craig and Members of the Committee:

Thank you for the opportunity to provide testimony in opposition to Senate Joint Resolution 57 and Assembly Joint Resolution 77, which petition Congress to call a constitutional convention to amend the constitution to impose fiscal restraints on the federal government and make other changes. The ACLU of Wisconsin is deeply concerned about the dangerous and unintended consequences that are likely to result from calling a constitutional convention for the first time in the history of our republic.

**A constitutional convention places our entire form of government and all of our carefully crafted freedoms and liberties at great risk.**

In the entire history of our republic, a constitutional convention has never been convened, and with good reason. To do so is a radical act that places our entire Constitution at risk.

Under Article V of the Constitution, there are two methods to amend the constitution. While a constitutional convention has never been convened, the other method of approving a specific amendment by two-thirds of the House and senate and three-fourths of the states has been repeated 27 times.

While the idea of a constitutional convention may sound desirable and perhaps even necessary, the problem is that a convention is likely to create far worse problems than its proponents aim to solve.

This is because, most importantly, a constitutional convention **may not** be confined to a single subject, nor is there any way to protect against a convention rewriting our nation's founding document wholesale. This means that those calling for various rights-limiting constitutional amendments in years past<sup>i</sup> will undoubtedly advocate for additional changes on subjects as varied as gun control and reproductive rights.

- There are no standards governing the conduct and procedures of a constitutional convention.
- There is no way to ensure that delegates will truly represent the will of the people.
- There is no mechanism for ensuring that the rules governing the convention's conduct are fair.

The delegate selection process is not spelled out in the constitution. If each state has the same number of delegates and it takes a simple majority to pass an amendment, then the 26 smallest states—which make up less than 18 percent of the U.S. population—could pass an amendment. This is undemocratic.

A convention could choose proportional representation like in the House of Representatives, in which case California would receive approximately 53 more votes than Wyoming.

The ACLU finds the prospect of such a convention particularly troubling in light of the fact that many of our contemporary policymakers have strayed far from the wisdom of our Founders, particularly in the realm of checks on government power. We live in an age when national security is often used as the basis for the violation of individual rights. In order to challenge abuses of power, such as the overreaching of the NSA and executive branch secrecy, we all too often have to call on our Founders' wisdom, rooted in our Constitution and Bill of Rights. Such wisdom should not be lightly abandoned simply because we are frustrated and disillusioned by politics, particularly when we have no idea exactly which direction such a decision will take us.

Despite the efforts of this package of proposals, states cannot limit the agenda of a Constitutional Convention. A Constitutional Convention would open up the Constitution to whatever amendments its delegates chose to propose, just as the convention that produced the current Constitution ignored its original charge, to amend the Articles of Confederation, and instead wrote an entirely new governing document. In fact, ratification fails to be a safeguard. Conventions have the authority to change the process for ratifying amendments.

What we are here to warn you against, is the mistaken belief that a federal constitutional convention is the remedy to what ails our political system. Rather than placing our Constitution and all of the protections contained therein at risk, we strongly urge you to vote against these bills.

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<sup>i</sup> To give a few examples, the ACLU has lobbied against a Flag Desecration Amendment (criminalizing expression), a School Prayer Amendment (giving school officials authority to mandate how, when and where students pray), and a Federal Marriage Amendment (denying same-sex couples marriage rights).