Senate State Government Committee

MEMORANDUM

DATE: **October 21, 2019**

TO: **Members of the Senate State Government Committee**

FROM: **Senator Kristin Phillips-Hill**

RE: **Upcoming Joint Public Hearing**

The Senate State Government Committee will conduct a joint public hearing with the House State Government Committee in Room B-31 Main Capitol Building on Tuesday, October 22, 2019, 9 a.m. to 10 a.m. The topic of the hearing will be a discussion of House Resolution No. 206, Concurrent Resolution calling for a Convention of States.

The tentative itinerary for this hearing is as follows:

9:00 A.M.: Chairmen Opening Remarks

9:05 A.M.: Mr. Andy Schlafly,
Pennsylvania Eagle Forum

9:30 A.M.: Mr. Mark Meckler, President,
Convention of States

Mr. Steve Davies, Pennsylvania Legislative Director,
Convention of States

9:55 A.M.: Chairmen Closing Remarks

Testimony will be posted to our website at http://stategovernment.pasenategop.com/

Testimony Against a "Convention of States" (HR 206)

Pennsylvania House and Senate State Government Committees (Oct. 22, 2019)
By Andy Schlafly, Esq., on behalf of Pennsylvania Eagle Forum

Thank you for the opportunity for me to submit this testimony against the so-called "Convention of States" resolution, HR 206.

I submit this testimony on behalf of Pennsylvania Eagle Forum, which has sponsored annual events over the last decade in the Keystone State, as attended by prominent officials. Leaders of Pennsylvania Eagle Forum will be attending this important hearing. I am an attorney who practices before the U.S. Court of Appeals for the 3rd Circuit in Philadelphia.

Pennsylvania is the birthplace of our Constitution and our liberty. Nearby Gettysburg is where so many sacrificed their lives in defense of our freedoms. Yet a new convention under Article V of the Constitution, as attempted HR 206, would put all this at risk. HR 206 should be defeated for many reasons, including the following:

1. ***An Article V convention cannot be limited in scope.*** HR 206 calls for an Article V convention, but the wording of Article V does not allow limiting the scope of it. The delegates themselves will propose amendments without any limitation under Article V. Many scholars, such as the former Chief Justice of the United States Warren Burger, have emphasized that:

> there is no effective way to limit or muzzle the actions of a constitutional Convention. The Convention could make its own rules and set its own agenda. Congress might try to limit the Convention to one amendment or to one issue, but there is no way to assure that the Convention would obey. After a Convention is convened, it will be too late to stop the Convention if we don't like its agenda. The meeting in 1787 ignored the limit placed by the Confederation Congress "for the sole and express purpose." … A Constitutional Convention today would be a free-for-all for special interest groups, television coverage, and press speculation.

Letter by Chief Justice Warren Burger (ret.) to Phyllis Schlafly, dated June 22, 1988.[1]

Phyllis Schlafly opposed use of an Article V convention by anyone in the political spectrum, whether conservative or liberal. Her testimony three decades ago in Oregon against an Article V convention is available on YouTube, where she concluded with:

[1] http://www.pseagles.com/Warren_Burger_letter_1988 (viewed 10/19/19).

> Frankly, I don't see any James Madisons, George Washingtons, Ben Franklins, or Alexander Hamiltons around today who could do as good a job as they did in 1787, and I am not willing to risk making our Constitution the political plaything of those who think they are today's Madisons, Washingtons, Franklins, or Hamiltons.[2]

No state can impose conditions on an Article V convention which are not in the Constitution. Much of HR 206 tries to limit what Pennsylvania delegates can do, but Pennsylvania cannot limit what delegates from other states would do. It does not help to try to tie the hands of Pennsylvania delegates when delegates from California and New York could do whatever they like. Moreover, no court would enforce attempts by a state to add limitations on its own delegates which are not in Article V. Without any enforceability of numerous provisions in HR 206, they are not a safeguard.

HR 206 seems to recognize that an Article V convention would put our Bill of Rights at risk, and says that the application will be void *ab initio* if the Bill of Rights is changed. But by then the horse would out of the barn, and it would be too late to try to pull back the application. Our civil rights and liberties would be put at terrible risk by such an Article V convention, and calling for one is the wrong move at the wrong time, amid our current, highly politicized culture. Once the floodgate is opened to this horrible idea, there is no way to contain it.

2. *It Would Not Be a "Convention of States," but a Convention Called by Congress.*

An Article V convention is not a "convention of states." Under Article V, ***it is Congress alone that would call an Article V convention***. California will have the most influence over a Convention of States because the Supreme Court requires that all representative bodies, other than the U.S. Senate, be based on population: "one man, one vote." HR 206 relies on a false hope by pretending that each state would have an equal vote.

The real name should be a "Convention called by Congress," because that is what it would be under the Article V referenced by HR 206. Changing its name to call it a "convention of states" is nothing more than a euphemism, and does not alter the fact that Congress alone makes the call.

The role of the States is merely to apply to Congress to call the convention. The States cannot limit what Congress does, or what an Article V convention does. Article V itself states that a constitutional convention shall be "for proposing amendments," ***plural***.

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[2] https://www.youtube.com/watch?v=7spVo-61_fY (quotation begins at 17:13).

Simply put, HR 206 would grant Congress more power to pursue mischief. This would not be good for our Nation.

3. ***State legislatures cannot stop proposed amendments that would come out of a Convention of States.*** One of the biggest myths spread about the Convention of States is that the Constitution will be protected by the ordinary process requiring that 38 state legislatures must ratify any proposed amendments. But this is not true. State Legislatures may not even be involved in the ratification process.

Article V of the Constitution permits a constitutional convention ***to create its own ratification process***, using conventions in each state which bypass state legislatures. The 21st amendment was ratified by conventions in each state, not by ratifying votes in state legislatures. In addition, once amendments are recommended by a constitutional convention, the media pressure will be overwhelming to ratify, as it was for the 17th Amendment which was against the interests of state legislatures.

An Article V convention could even change the 3/4th requirement to change the Constitution. After all, if an Article V convention can change other provisions of the Constitution, then it might change the requirements for ratification too. The original Constitutional Convention changed the rules in place then for revising the Articles of Confederation.

4. ***Our Constitution is not the problem, and it needs to be defended rather than criticized.*** Opening the door to vague, sweeping changes of our Constitution is a recipe for disaster. Even supporting such a concept is harmful, because it undermines the need to strongly defend our Constitution, which has produced the greatest freedom and prosperity ever known to mankind.

Some argue that the problems faced by our Nation are too immense to be handled by the current Constitution, and that revisions are needed. Supposedly we need a solution as big as the problem. But it is obviously a mistake to bet the family farm on a roulette wheel at a casino as a way to deal with any problem.

Several of the leading advocates for a Convention of States are politicians who abandoned their offices early, without even completing the terms of office that they ran for. Did they tell voters prior to their elections that they were not going to complete their terms of office? Tom Coburn's constituents sent him to Washington, D.C., to represent them and defend the Constitution. Instead, he quit early and became a paid lobbyist to push the Convention of States. He should have done what he was elected to do, instead of abandoning his job and becoming a lobbyist instead.

While Coburn was in the Senate, he voted to confirm as Solicitor General someone who had no courtroom experience and who does not support adhering to the original

meaning of the Constitution. The Constitution gave Coburn, as senator, the power to block nominees who lack appropriate experience and do not defend the Constitution. It was Coburn who failed, not the Constitution.

Similarly, Jim DeMint left his Senate seat early, without completing his term of office. Why didn't he simply finish the job he was elected to do?

The Constitution is not the problem. What is needed is to elect candidates who will do their job and defend the Constitution, rather than pretending it is the problem.

5. ***Dark money is pushing the Convention of States, and we do not want billionaires rewriting our Constitution.*** We have many laws against corruption of politics by money. But billionaires find ways around these laws, and would control a constitutional convention to write amendments that advantage them rather than ordinary Americans.

HR 206 has a provision that prohibits a Pennsylvania delegate from receiving any item of value, other than educational materials. But that does not prevent any non-Pennsylvania delegate from receiving money to influence them. That also does not prevent a family member of a delegate from receiving money to influence the delegate.

There is not bipartisan support for the Convention of States, but there is bipartisan opposition. Both the Republican and Democratic National Platforms have declined to endorse a Convention of States. Less than a year before he died, the late Justice Antonin Scalia called an Article V convention a "horrible idea," as I personally witnessed and which was published by a reporter. But the Convention of States project has misled people by ignoring this strong statement by Justice Scalia, and instead has exaggerated an ambiguous comment he made in 1979 long before he became a Supreme Court Justice.

Our Bill of Rights could be rewritten, or simply removed. Our Electoral College, which makes Pennsylvania the most important state in the upcoming presidential election, could be eliminated. Civil rights could be terminated by a convention sought by HR 206, which purports to protect the Bill of Rights but does not even try to protect other provisions in the Constitution which safeguard civil liberties.

Our Constitution was a providential result of a unique time, written entirely by Framers who had sacrificed their own lives for our country. It was made possible in 1787 at Independence Hall in Philadelphia without the overwhelming pressures of the modern media, special interest groups, and hired political agitators.

Billions were spent on the last presidential election, but hundreds of billions would be at stake in rewriting the Constitution. Monied interests and the media would easily take control of the process, and no one should favor giving them the keys to our Constitution.

6. ***Important Questions Convention of States Promoters Refuse to Answer.***

The Convention of States is being pushed by dark money, with a secret agenda. The recipients of that money conceal the identity of their billionaire donors, and hide their agenda. ***Ask their spokesmen who is bankrolling them to the tune of millions of dollars, and watch how they will not provide an honest and complete answer***. No one should entrust billionaire manipulators of our political system with rewriting our Constitution.

The vague platitudes in HR 206 mean almost anything. "Fiscal restraints" can require defunding our military, or reducing the pensions of those in the armed forces. "Limit the power and jurisdiction" of the federal government can undermine our national security, or end drug enforcement. ***What is the real agenda behind the push for a Convention of States?*** Tough questions about this need to be asked of the Convention of States promoters.

The ambiguous wording in HR 206 can lead to mischief. HR 206 begins with this: "Petitioning the Congress of the United States to call a Convention for proposing amendments pursuant to Article V of the Constitution [to] ... limit the terms of office for its officials and for members of Congress." Who is HR 206 referring to when it says "limit the terms of office for its officials"? That is separate in HR 206 from limiting the terms of office for members of Congress. An Article V convention could insist on limiting the terms of office for all state legislators, thereby overriding this legislature's decision not to have term limits.

7. ***A Fiscal Note Is Necessary.***

Pennsylvania could lose billions of dollars in funds from the federal government if HR 206 were adopted, and a convention were held. There should be a proper fiscal note attached to HR 206.

Please reject a Convention of States (HR 206) to change our Constitution. ***Our Constitution was created in Pennsylvania and we count on you to defend it***. Thank you for allowing me to submit this testimony on behalf of Pennsylvania Eagle Forum.

Andy Schlafly, Esq.
Pennsylvania Eagle Forum
(908) 719-8608

TESTIMONY OF MARK MECKLER, J.D. ON HR 206 AND SR 234

JOINT HEARING OF THE PENNSYLVANIA HOUSE AND SENATE STATE GOVERNMENT COMMITTEES

OCTOBER 22, 2019

My name is Mark Meckler. I am an attorney residing in California, and I am the Co-Founder and President of Citizens for Self-Governance and the Convention of States Project.

Honorable committee members, the resolutions before you offer a structural solution to a structural problem. They offer you the chance to restore the balance of powers in our federal system by using your constitutional authority under Article V.

Congress and administrative agencies have long usurped powers that rightfully belong to you--the elected lawmakers of Pennsylvania. The activities of Washington, D.C. today would have been unthinkable to our Founding Fathers. Federal laws and regulations now touch upon every aspect of our lives: What kind of light bulbs we can buy. The conditions under which we can buy, sell, and carry firearms. Farming practices. School curriculum. School lunches. Health care and insurance.

Meanwhile, we live under the shadow of a crushing national debt that threatens to enslave our grandchildren and their children. All of this comes courtesy of an activist Supreme Court, which has vastly expanded federal power through its precedents. The Court has created loopholes to the Constitution's limits on federal powers, and those loopholes will remain there until someone closes them.

That "someone" has to be you. It's obvious that Congress is never going to curtail its own power—at least not definitively or permanently. It would take decades for the Supreme Court to reverse enough precedents to eliminate the constitutional loopholes it has created, and that is assuming that the right cases reached it in the right posture, and that we had decades of a solidly, consistently constitutionalist Supreme Court. The president could choose to act with some restraint during his term—maybe—but can do nothing to restrain future presidents.

Fortunately, in their wisdom, our Founding Fathers predicted that this very situation would arise. Toward the very end of the Constitutional Convention, George Mason specifically predicted that the federal government would one day overpower the states. And that is why he insisted that Article V include a way for states to propose constitutional amendments through a state-controlled convention.

Mason's proposal was adopted without dissent. This final version of Article V gave the states the ultimate constitutional power—the power to unilaterally amend the Constitution of the United States, without the consent of Congress.

The way it works is that when 2/3s of the state legislatures (34) pass resolutions applying for a convention to propose amendments on the same topic (which serves as the meeting agenda), Congress has a constitutional duty to name the initial time and place for the meeting and then stand back and let it happen. Each state chooses and instructs its delegation of commissioners, who attend the meeting and work with the other state delegations to hammer out possible amendment proposals on the topic specified in the 34 state applications. Because they act as agents of their state legislatures, the commissioners only have legal authority to act pursuant to that specified agenda, and only to act in pursuance of their legislature's instructions. Every state gets one vote.

Any proposals that are supported by a majority of the states at the convention stage then get submitted back to the states for ratification. Only when 38 states ratify a proposal can it become part of our Constitution.

Now some people will try to prey on fear by telling you that because some of these details are not explicitly stated in the text of Article V, we have no idea how an Article V convention would operate. But that simply is not true. We know what a convention of state is, and the basics of its operation, because we have a very rich history of interstate conventions in America. That history is the very reason this process was provided as an alternative in Article V. Just as we know what a trial by jury looks like without having every detail written into the Constitution, we know how an Article V convention would function. (For a review of the law and history concerning Article V and a discussion of past interstate conventions, access the Article V Legislative Compendium at https://conventionofstates.com/files/article-v-legislative-compendium.) See also, *The Law of Article V: State Initiation of Constitutional Amendments*, by law professor Robert Natelson.

By passing the resolutions before you, Pennsylvania will effectively be raising its hand to say, "Yes, we believe it is time for the states to gather to consider proposing amendments that will re-balance federal power with state power." Specifically, the Article V convention called pursuant to HR 206 and SR 234 would be limited to three topics for amendment proposals:

1. Amendments that impose fiscal restraints on the federal government;
2. Amendments that limit the power and jurisdiction of the federal government; and
3. Amendments that set term limits for federal officials—including or possibly limited to federal judges.

Now this does not mean that the convention must propose an amendment on each of these topics. Rather, these topics describe the outer limit on what would be germane for consideration at the convention.

With this approach, the convention could propose a balanced budget amendment accompanied by limitations on Congress' spending and taxation powers. It could propose limits on executive power, federal agencies, and impose real checks and balances on the Supreme Court.

Most American citizens, nearly two-thirds of likely Pennsylvania voters, and the vast majority of state legislators I speak with as I travel the country, agree that our nation is in desperate need of a re-balancing of power between the federal government and the states. The Article V convention for proposing amendments is *the* constitutional process designed to address that problem.

In fact, in George Washington's farewell address to the American people, his final admonishment to us was this: "If in the opinion of the People, the distribution or modification of the Constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this, in one instance, may be the instrument of good, it is the customary weapon by which free governments are destroyed."

I don't think our Founding Fathers would be surprised that the federal government has claimed more than its constitutional share of power. They *would* be surprised, I think, that we have not used the most effective tool they gave us for curbing it.

History will remember us, one way or another. We will either be remembered as the generation that finally succumbed, completely, to federal tyranny, or the generation who stood and defended the torch of liberty when it was flickering dangerously low.

As Ronald Reagan said, "You and I have a rendezvous with destiny. Will we preserve for our children, this, the last best hope of man on earth, or will we sentence them to take the first step into a thousand years of darkness? If we fail, at least let our children and our children's children say of us we justified our brief moment here. We did all that could be done."

I am out here on the road, away from my home and my family, raising and training a grassroots army of self-governing citizens in all 50 states and speaking to their state legislators because I believe I have no other choice. Let it never be said of our generation that we failed to do all that could be done.

Thank you for allowing me to testify today. In order to further assist you, I have attached a Memorandum responding to frequently asked questions.

MEMORANDUM

To: **Honorable Committee Members**
From: **Mark Meckler, J.D., President of COS Action[1]**
Rita Dunaway, J.D., National Legislative Strategist for COS Action[2]
Subject: **Rebuttal to Common Arguments Against an Article V Convention**
Date: **October 22, 2019**

This Committee is likely to hear a number of arguments in opposition to an Article V Convention to Propose Amendments. We would like to offer the following summary and rebuttal of the typical arguments for your consideration.

Argument 1: The Constitutional Convention in Philadelphia defied its authority in proposing a new Constitution, so we can expect an Article V convention to do the same.

Response: A number of opponents have repeated this tired old myth that denigrates the Founding Fathers and our Constitution. You will be interested to learn that a brand-new law review article has just been published in Volume 40 of the Harvard Journal of Law and Public Policy that definitively refutes the claim that our Constitution was the product of a runaway convention. You can find the article here.

In fact, the Philadelphia Convention was not a "runaway." It is important to understand the basis for the myth, which is a fundamental misunderstanding of how interstate conventions operate. When one understands that the states—not the national government—instruct and limit the convention delegates, then one can understand both why the Constitutional Convention was not a "runaway," and why a modern Article V convention for proposing amendments could not become a "runaway."

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[1] Mark Meckler is Founder and President of Convention of States Action. Meckler earned his J.D., *cum laude*, from UOP McGeorge School of Law and his B.A. in English Literature from San Diego State University-California State University.

[2] Rita Dunaway is National Legislative Strategist for Convention of States Action. She earned her J.D., *cum laude*, from Washington and Lee University School of Law as a Benedum Scholar, as well as a B.A. in Political Science, *summa cum laude*, and a B.S. in Journalism, *summa cum laude*, from West Virginia University.

The Annapolis Convention, initiated by the states to address the regulation of trade among the states, provided the initial impetus for calling the Constitutional Convention. The commissioners from the 5 states participating at Annapolis concluded that a broader convention of the states was needed to address the nation's concerns, and their report requested that such a convention be conducted in Philadelphia on the second Monday in May. The goal of the proposed convention was "to render the constitution of the Federal Government adequate for the exigencies of the Union." It is important to note that, as used at this time, "constitution" did not refer to the Articles of Confederation, but rather, to the system of government more broadly.[3]

In response to the suggestion from the Annapolis Convention that a new convention with broader powers be held in May of 1787, six state legislatures issued resolutions commissioning delegates (or "commissioners") to the Constitutional Convention. These states instructed their commissioners in broad language, in accordance with the purpose stated in the Annapolis Convention resolution: "to render the constitution of the Federal Government adequate for the exigencies of the Union."

Congress played *no* role in calling the Constitutional Convention, and the Articles of Confederation gave it no authority to do so. The power of Congress under the Articles was strictly limited, and there was no theory of implied powers. The states, however, possessed residual sovereignty which included the power to call this convention.

On February 21, 1787, Congress voted to "recommend" the Constitutional Convention that had been called by six states. It did not even purport to "call" the Convention (it had no power to do so). It merely proclaimed that "in the opinion of Congress, it is expedient" for the convention to be held. It recommended that the convention "revise" (not merely "amend") the Articles of Confederation in such a way as to "render the federal constitution adequate to the exigencies of Government & the preservation of the Union."

Ultimately, twelve states appointed commissioners. Ten of these states followed the phrasing of the Annapolis Convention with only minor variations in wording ("render the Federal constitution adequate"). Two states, New York and Massachusetts, followed the formula stated by Congress ("revise the Articles" in order to "render the Federal Constitution adequate").

Every student of history should know that the instructions for commissioners came from the states. In Federalist 40, James Madison answered the question of "who gave the binding instructions to the delegates." He said: "The powers of the convention ought, in strictness, to be determined by an inspection of the commissions given to the members by their respective constituents [i.e. the states]." He then spends the balance of Federalist 40 proving that the commissioners from all 12

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[3] See Robert G. Natelson, *Founding-Era Conventions and the Meaning of the Constitution's "Convention for Proposing Amendments,"* 65 Florida L. Rev. 618, 673, n386 (May 2013) (citing 1 JOHN ASH, THE NEW AND COMPLETE DICTIONARY OF THE ENGLISH LANGUAGE (1775), which defined "constitution" as "The act of constituting, the state of being, the corporeal frame, the temper of the mind, and established form of government, a particular law.").

states properly followed the directions they were given by each of their states. According to Madison, the February 21st resolution from Congress was merely "a recommendatory act."

The bottom line is that the states, not Congress, called the Constitutional Convention. They told their delegates to render the Federal Constitution adequate for the exigencies of the Union, and that is exactly what they did.

Because neither the Constitutional Convention nor any other of the 35-plus conventions of the states in American history have "run away" or exceeded their legitimate authority, there is absolutely zero precedent for a "runaway" convention.

Argument 2: Nothing in Article V limits the convention to a single topic, and in fact, states cannot limit the scope of an amendment-proposing convention. Once convened, state delegations will be free to rewrite the Constitution, and no public body has the power to stop them.

Response: The states whose applications trigger the convention retain the right to limit the scope of the convention however they choose. This is inherent in their power of application. In fact, this is the only reason there has never yet been an Article V convention; while over 400 state applications for a convention have been filed, there have not yet been 34 applications for a convention on the same subject matter.

As the agents of the state legislatures who appoint and commission them, the delegates only enjoy the scope of authority vested in them by their principals (the state legislatures). Any actions outside the scope of that authority are void as a matter of common law agency principles, as well as any state laws adopted to specifically address the issue.

The inherent power of state legislatures to control the selection and instruction of their delegates, including the requirement that said delegates restrict their deliberations to the specified subject matter, is reinforced by the unbroken, universal historical precedent set by the interstate conventions held nearly 40 times in American history. On the other hand, those who make a contrary claim cannot cite a single historical or legal precedent to support it.

As far as the power of other bodies to stop an Article V convention from re-writing the Constitution, there are multiple answers. First of all, remember that the convention's only power is to "propose" amendments to "this Constitution" (the one we already have). Only upon ratification by 38 states does any single amendment become part of the Constitution. Second, Congress has no duty to submit off-topic amendment proposals to the states for ratification in the first place.

Argument 3: A report by the Congressional Research Service points out that in the 70's and 80's, Congress introduced many bills in which it purported to control such matters as selection of state delegates to an Article V convention, voting methods, rules, etc.

Response: The only possible precedent set by bills that fail to pass is that the bills did not enjoy the support of the majority of the body. Even if Congress were to ever pass such a law, it would be challenged in court and struck down based upon common law agency principles (an agent can only act upon a grant of authority from its principal); historical precedent (every interstate convention in American history has operated on a one state, one vote basis) and legal precedent (Congress may not use any of its Article I powers, including its power under the Necessary and Proper Clause, in the context of Article V. *See Idaho v. Freeman*, 529 F.Supp. 1107, 1151 (D. Idaho 1981) ("Thus Congress, outside of the authority granted by article V, has no power to act with regard to an amendment, i.e., it does not retain any of its traditional authority vested in it by article I.") (vacated as moot)).

Argument 4: The states are largely powerless with respect to an Article V Convention; Congress holds all the power under the Necessary and Proper Clause of Article I.

Response: This argument is based on ignorance of existing precedent, holding that Congress may not use any of its Article I powers in the context of Article V. *See Idaho v. Freeman*, 529 F.Supp. 1107, 1151 (D. Idaho 1981) ("Thus Congress, outside of the authority granted by article V, has no power to act with regard to an amendment, i.e., it does not retain any of its traditional authority vested in it by article I.") This case was later vacated as moot for procedural reasons, but the central holding remains unchanged. Congress may not use its power under the Necessary and Proper Clause with respect to the operation of an Article V Convention.

Argument 5: It is a myth that the states can bypass Congress in the Article V process.

Response: Alexander Hamilton explained, in Federalist #85, "[T]he national rulers, whenever nine States concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged 'on the application of the legislatures of two thirds of the States at which at present amount to nine, to call a convention for proposing amendments, which shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the legislatures of three fourths of the States, or by conventions in three fourths thereof.' The words of this article are peremptory. The Congress 'shall call a convention.' Nothing in this particular is left to the discretion of that body. And of consequence, all the declamation about the disinclination to a change vanishes in air. . . We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority."

The entire reason the convention mechanism was added to Article V was to give the states a way to bypass Congress in passing amendments that Congress opposed.

Argument 6: COS's claims that State legislatures have the power to control Delegates, Delegate selection, convention rules, subject matter, etc., is speculation and wishful thinking at best.

Response: Actually, these claims are based upon both the common law principles of agency and upon the unbroken, universal historical precedent set by the interstate conventions held nearly 40 times in American history. On the other hand, those who make a contrary claim cannot cite a single historical or legal precedent to support it. The reason the details of the interstate convention process are not recited in the Constitution is not because they were unknown to the drafters, but rather because they were *known*. Consider the fact that our Constitution contains multiple references to the word "jury," without defining what a jury is or how it operates. This is because, as with the basic operations of interstate conventions, the basic operations of juries were well-known as a matter of historical precedent.

Argument 7: There is no such thing as a convention of states; it is a term that has been used as a gimmick.

Response: "Convention of states" is the label first applied to an Article V convention for proposing amendments by the General Assembly of the Commonwealth of Virginia when it passed the first application for an Article V Convention to propose the Bill of Rights in 1788. The United States Supreme Court has also adopted the term. *See Smith v. Union Bank*, 30 U.S. 518 (1831).

Argument 8: We cannot be confident that the high (38-state) threshold for ratification will protect us from bad amendments, because an Article V Convention could simply change the ratification requirement.

Response: This argument fails based on the plain language of Article V. No constitutional amendment—including an amendment to the ratification requirement—can be achieved without first being ratified by three-fourths of the states (38 states). With regard to the 1787 Constitutional Convention, every state did, in fact, ratify the change in the ratification requirement prior to the Constitution's adoption.

Argument 9: Adding amendments to the Constitution won't help anything, because federal officials simply ignore the Constitution anyway.

In one sense, this is true. If our Constitution were being interpreted today—and obeyed—according to its original meaning, we would not be facing most of the problems we face today in our federal government. But opponents are overly simplistic in their assessment that the issue is as simple as modern-day "ignoring" or "disobeying" the Constitution. The real issue is that certain provisions of our Constitution have been wrenched from their original meaning, perverted, and interpreted to mean something very different.

As just one example, consider the individual mandate provision of the Affordable Care Act. Of course, nowhere in the Article I of the Constitution do we read that Congress has the power to force individuals to purchase health insurance. However, our modern Supreme Court "interprets" the General Welfare Clause of Article I broadly as a grant of power for Congress to tax and

spend for virtually any purpose that it believes will benefit the people. Now we know from history that this is not what was intended. But it is the prevailing modern interpretation, providing a veneer of legitimacy to Congress' actions—as well as legal grounds for upholding them.

The federal government doesn't "ignore" the Constitution—it takes advantage of loopholes created through practice and precedent. The only way to close these loopholes definitively and permanently is through an Article V Convention that reinstates limitations on federal power and jurisdiction in clear, modern language.

For more detailed responses to these questions or to any questions not addressed here, please contact Rita Dunaway at rdunaway@cosaction.com**.**

Attachment A

MEMORANDUM

To:	**Honorable Pennsylvania Senate and House State Government Committee Members**
From:	**Mark Meckler, J.D., President of COS Action[1]** **Rita Dunaway, J.D., National Legislative Strategist for COS Action[2]**
Subject:	**Rebuttal to Common Arguments Against an Article V Convention**
Date:	**April 12, 2019**

This Committee is likely to hear a number of arguments in opposition to an Article V Convention to Propose Amendments. We would like to offer the following summary and rebuttal of the typical arguments for your consideration.

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In fact, the Philadelphia Convention was not a "runaway." It is important to understand the basis for the myth, which is a fundamental misunderstanding of how interstate conventions operate. When one understands that the states—not the national government—instruct and limit the convention delegates, then one can understand both why the Constitutional Convention was not a

[1] Mark Meckler is Founder and President of Convention of States Action. Meckler earned his J.D., *cum laude*, from UOP McGeorge School of Law and his B.A. in English Literature from San Diego State University-California State University.

[2] Rita Dunaway is National Legislative Strategist for Convention of States Action. She earned her J.D., *cum laude*, from Washington and Lee University School of Law as a Benedum Scholar, as well as a B.A. in Political Science, *summa cum laude*, and a B.S. in Journalism, *summa cum laude*, from West Virginia University.

"runaway," and why a modern Article V convention for proposing amendments could not become a "runaway."

The Annapolis Convention, initiated by the states to address the regulation of trade among the states, provided the initial impetus for calling the Constitutional Convention. The commissioners from the 5 states participating at Annapolis concluded that a broader convention of the states was needed to address the nation's concerns, and their report requested that such a convention be conducted in Philadelphia on the second Monday in May. The goal of the proposed convention was "to render the constitution of the Federal Government adequate for the exigencies of the Union." It is important to note that, as used at this time, "constitution" did not refer to the Articles of Confederation, but rather, to the system of government more broadly.[3]

In response to the suggestion from the Annapolis Convention that a new convention with broader powers be held in May of 1787, six state legislatures issued resolutions commissioning delegates (or "commissioners") to the Constitutional Convention. These states instructed their commissioners in broad language, in accordance with the purpose stated in the Annapolis Convention resolution: "to render the constitution of the Federal Government adequate for the exigencies of the Union."

Congress played *no* role in calling the Constitutional Convention, and the Articles of Confederation gave it no authority to do so. The power of Congress under the Articles was strictly limited, and there was no theory of implied powers. The states, however, possessed residual sovereignty which included the power to call this convention.

On February 21, 1787, Congress voted to "recommend" the Constitutional Convention that had been called by six states. It did not even purport to "call" the Convention (it had no power to do so). It merely proclaimed that "in the opinion of Congress, it is expedient" for the convention to be held. It recommended that the convention "revise" (not merely "amend") the Articles of Confederation in such a way as to "render the federal constitution adequate to the exigencies of Government & the preservation of the Union."

Ultimately, twelve states appointed commissioners. Ten of these states followed the phrasing of the Annapolis Convention with only minor variations in wording ("render the Federal constitution adequate"). Two states, New York and Massachusetts, followed the formula stated by Congress ("revise the Articles" in order to "render the Federal Constitution adequate").

Every student of history should know that the instructions for commissioners came from the states. In Federalist 40, James Madison answered the question of "who gave the binding instructions to the delegates." He said: "The powers of the convention ought, in strictness, to be determined by

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[3] See Robert G. Natelson, *Founding-Era Conventions and the Meaning of the Constitution's "Convention for Proposing Amendments,"* 65 Florida L. Rev. 618, 673, n386 (May 2013) (citing 1 JOHN ASH, THE NEW AND COMPLETE DICTIONARY OF THE ENGLISH LANGUAGE (1775), which defined "constitution" as "The act of constituting, the state of being, the corporeal frame, the temper of the mind, and established form of government, a particular law.").

an inspection of the commissions given to the members by their respective constituents [i.e. the states]." He then spends the balance of Federalist 40 proving that the commissioners from all 12 states properly followed the directions they were given by each of their states. According to Madison, the February 21st resolution from Congress was merely "a recommendatory act."

The bottom line is that the states, not Congress, called the Constitutional Convention. They told their delegates to render the Federal Constitution adequate for the exigencies of the Union, and that is exactly what they did.

Because neither the Constitutional Convention nor any other of the 35-plus conventions of the states in American history have "run away" or exceeded their legitimate authority, there is absolutely zero precedent for a "runaway" convention.

Argument 2: Nothing in Article V limits the convention to a single topic, and in fact, states cannot limit the scope of an amendment-proposing convention. Once convened, state delegations will be free to rewrite the Constitution, and no public body has the power to stop them.

Response: The states whose applications trigger the convention retain the right to limit the scope of the convention however they choose. This is inherent in their power of application. In fact, this is the only reason there has never yet been an Article V convention; while over 400 state applications for a convention have been filed, there have not yet been 34 applications for a convention on the same subject matter.

As the agents of the state legislatures who appoint and commission them, the delegates only enjoy the scope of authority vested in them by their principals (the state legislatures). Any actions outside the scope of that authority are void as a matter of common law agency principles, as well as any state laws adopted to specifically address the issue.

The inherent power of state legislatures to control the selection and instruction of their delegates, including the requirement that said delegates restrict their deliberations to the specified subject matter, is reinforced by the unbroken, universal historical precedent set by the interstate conventions held nearly 40 times in American history. On the other hand, those who make a contrary claim cannot cite a single historical or legal precedent to support it.

As far as the power of other bodies to stop an Article V convention from re-writing the Constitution, there are multiple answers. First of all, remember that the convention's only power is to "propose" amendments to "this Constitution" (the one we already have). Only upon ratification by 38 states does any single amendment become part of the Constitution. Second, Congress has no duty to submit off-topic amendment proposals to the states for ratification in the first place.

Argument 3: A report by the Congressional Research Service points out that in the 70's and 80's, Congress introduced many bills in which it purported to control such matters as selection of state delegates to an Article V convention, voting methods, rules, etc.

Response: The only possible precedent set by bills that fail to pass is that the bills did not enjoy the support of the majority of the body. Even if Congress were to ever pass such a law, it would be challenged in court and struck down based upon common law agency principles (an agent can only act upon a grant of authority from its principal); historical precedent (every interstate convention in American history has operated on a one state, one vote basis) and legal precedent (Congress may not use any of its Article I powers, including its power under the Necessary and Proper Clause, in the context of Article V. *See Idaho v. Freeman*, 529 F.Supp. 1107, 1151 (D. Idaho 1981) ("Thus Congress, outside of the authority granted by article V, has no power to act with regard to an amendment, i.e., it does not retain any of its traditional authority vested in it by article I.") (vacated as moot)).

Argument 4: The states are largely powerless with respect to an Article V Convention; Congress holds all the power under the Necessary and Proper Clause of Article I.

Response: This argument is based on ignorance of existing precedent, holding that Congress may not use any of its Article I powers in the context of Article V. *See Idaho v. Freeman*, 529 F.Supp. 1107, 1151 (D. Idaho 1981) ("Thus Congress, outside of the authority granted by article V, has no power to act with regard to an amendment, i.e., it does not retain any of its traditional authority vested in it by article I.") This case was later vacated as moot for procedural reasons, but the central holding remains unchanged. Congress may not use its power under the Necessary and Proper Clause with respect to the operation of an Article V Convention.

Argument 5: It is a myth that the states can bypass Congress in the Article V process.

Response: Alexander Hamilton explained, in Federalist #85, "[T]he national rulers, whenever nine States concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged 'on the application of the legislatures of two thirds of the States at which at present amount to nine, to call a convention for proposing amendments, which shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the legislatures of three fourths of the States, or by conventions in three fourths thereof.' The words of this article are peremptory. The Congress 'shall call a convention.' Nothing in this particular is left to the discretion of that body. And of consequence, all the declamation about the disinclination to a change vanishes in air. . . We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority."

The entire reason the convention mechanism was added to Article V was to give the states a way to bypass Congress in passing amendments that Congress opposed.

Argument 6: COS's claims that State legislatures have the power to control Delegates, Delegate selection, convention rules, subject matter, etc., is speculation and wishful thinking at best.

Response: Actually, these claims are based upon both the common law principles of agency and upon the unbroken, universal historical precedent set by the interstate conventions held nearly 40 times in American history. On the other hand, those who make a contrary claim cannot cite a single historical or legal precedent to support it. The reason the details of the interstate convention process are not recited in the Constitution is not because they were unknown to the drafters, but rather because they were *known*. Consider the fact that our Constitution contains multiple references to the word "jury," without defining what a jury is or how it operates. This is because, as with the basic operations of interstate conventions, the basic operations of juries were well-known as a matter of historical precedent.

Argument 7: There is no such thing as a convention of states; it is a term that has been used as a gimmick.

Response: "Convention of states" is the label first applied to an Article V convention for proposing amendments by the General Assembly of the Commonwealth of Virginia when it passed the first application for an Article V Convention to propose the Bill of Rights in 1788. The United States Supreme Court has also adopted the term. *See Smith v. Union Bank*, 30 U.S. 518 (1831).

Argument 8: We cannot be confident that the high (38-state) threshold for ratification will protect us from bad amendments, because an Article V Convention could simply change the ratification requirement.

Response: This argument fails based on the plain language of Article V. No constitutional amendment—including an amendment to the ratification requirement—can be achieved without first being ratified by three-fourths of the states (38 states). With regard to the 1787 Constitutional Convention, every state did, in fact, ratify the change in the ratification requirement prior to the Constitution's adoption.

Argument 9: Adding amendments to the Constitution won't help anything, because federal officials simply ignore the Constitution anyway.

In one sense, this is true. If our Constitution were being interpreted today—and obeyed—according to its original meaning, we would not be facing most of the problems we face today in our federal government. But opponents are overly simplistic in their assessment that the issue is as simple as modern-day "ignoring" or "disobeying" the Constitution. The real issue is that certain provisions of our Constitution have been wrenched from their original meaning, perverted, and interpreted to mean something very different.

As just one example, consider the individual mandate provision of the Affordable Care Act. Of course, nowhere in the Article I of the Constitution do we read that Congress has the power to force individuals to purchase health insurance. However, our modern Supreme Court "interprets" the General Welfare Clause of Article I broadly as a grant of power for Congress to tax and spend for virtually any purpose that it believes will benefit the people. Now we know from history that this is not what was intended. But it is the prevailing modern interpretation, providing a veneer of legitimacy to Congress' actions—as well as legal grounds for upholding them.

The federal government doesn't "ignore" the Constitution—it takes advantage of loopholes created through practice and precedent. The only way to close these loopholes definitively and permanently is through an Article V Convention that reinstates limitations on federal power and jurisdiction in clear, modern language.

For more detailed responses to these questions or to any questions not addressed here, please contact Rita Dunaway at rdunaway@cosaction.com.

Attachment B

Pensylvania An Act appointing Deputies to the Convention intended to be held in the City of Philadelphia for the purpose of revising the fœderal Constitution.

Section 1st Whereas the General Assembly of this Commonwealth taking into their serious Consideration the Representations heretofore made to the Legislatures of the several States in the Union by the United States in Congress Assembled, and also weighing the difficulties under which the Confederated States now labour, are fully convinced of the necessity of revising the federal Constitution for the purpose of making such Alterations and amendments as the exigencies of our Public Affairs require. And Whereas the Legislature of the State of Virginia have already passed an Act of that Commonwealth empowering certain Commissioners to meet at the City of Philadelphia in May next, a Convention of Commissioners or Deputies from the different States; And the Legislature of this State are fully sensible of the important advantages which may be derived to the United States, and every of them from co-operating with the Commonwealth of Virginia, and the other States of the Confederation in the said Design.

Section 2nd Be it enacted, and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pensylvia in General Assembly met, and by the Authority of the same, That Thomas Mifflin, Robert Morris, George Clymer, Jared Ingersoll, Thomas Fitzsimmons, James Wilson and Governeur Morris Esquires, are hereby appointed Deputies from this State to meet in the Convention of the Deputies of the respective States of North America to be held at the City of Philadelphia on the second day of the Month of May next; And the said Thomas Mifflin, Robert Morris, George Clymer, Jared Ingersoll, Thomas Fitzsimmons, James Wilson and Governeur Morris Esquires, or any four of them, are hereby constituted and appointed Deputies from this State, with Powers to meet such Deputies as may be appointed and authorized by the other States, to assemble in the said Convention at the City aforesaid, and to join with them in devising, deliberating on, and discussing, all such alterations and further Provisions, as may be necessary to render the fœderal Constitution fully adequate to the exigencies of

the Union, and in reporting such Act or Acts for that purpose to the United States in Congress Assembled, as when agreed to by them and duly confirmed by the several States, will effectually provide for the same.

Section 3d And be it further enacted by the Authority aforesaid, That in case any of the sd Deputies hereby nominated, shall happen to die, or to resign his or their said Appointment or Appointments, the Supreme Executive Council shall be and hereby are empowered and required, to nominate and appoint other Person or Persons in lieu of him or them so deceased, or who has or have so resigned, which Person or Persons, from and after such Nomination and Appointment, shall be and hereby are declared to be vested with the same Powers respectively, as any of the Deputies Nominated and Appointed by this Act, is vested with by the same: Provided Always, that the Council are not hereby authorised, nor shall they make any such Nomination or Appointment, except in Vacation and during the Recess of the General Assembly of this State.

Signed by Order of the House
Seal of the Laws of Pensylvania
Thomas Mifflin Speaker Enacted into a Law at Philadelphia on Saturday December the thirtieth in the Year of our Lord one thousand seven hundred and Eighty six.

Peter Zachary Lloyd
Clerk of the General Assembly.

I Mathew Irwin Esquire Master of the Rolls for the State of Pensylvania Do Certify the Preceding Writing to be a true Copy (or Exemplification) of a certain Act of Assembly lodged in my Office.

(Seal)

In Witness whereof I have hereunto set my Hand and Seal of Office the 15 May 1787.

Mathw. Irwine
M. R.

(Seal)

A Supplement to the Act entitled "An Act appointing Deputies to the Convention intended to be held in the City of Philadelphia for the purpose of revising the Federal Constitution.

Section 1st Whereas by the Act to which this Act is a Supplement, certain Persons were appointed as Deputies from this State to sit in the said Convention: And Whereas it is the desire of the General Assembly that His Execellency Benjamin Franklin Esquire, President of this State should also sit in the said Convention as a Deputy from this State — therefore Section 2d Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pensylvania, in General Assembly met, and by the Authority of the same, that His Excellency Benjamin Franklin Esquire, be, and he is hereby, appointed and authorised to sit in the said Convention as a Deputy from this State in addition to the Persons heretofore appointed; And that he be, and he hereby is invested with like Powers and authorities as are invested in the said Deputies or any of them.

Signed by Order of the House

Thomas Mifflin Speaker.

Enacted into a Law at Philadelphia on Wednesday the twenty eighth day of March, in the Year of our Lord one thousand seven hundred & eighty seven.

/capcmcap Peter Zachary Lloyd
Clerk of the General Assembly.

I Mathew Irwine Esquire, Master of the Rolls for the State of Pensylvania Do Certify the above to be a true Copy (or Exemplification) of a Supplement to a certain Act of Assembly which Supplement is lodged in my Office

(Seal)

In Witness whereof I have hereunto set my Hand and Seal of Office the 15 May 1787.

Mathw Irwine

M. R.

(see https://www.consource.org/document/convention-delegates-credentials-1787/)

Attachment C

WHEREAS the convention of deputies from the several States composing the Union lately held in this city, have published a constitution for the future government of the United States, to be submitted to conventions of deputies chosen in each State by the people thereof, under recommendation of its Legislature, for their assent and ratification.

And whereas it is the sense of great numbers of the good people of this State, already signified in petitions and declarations to this House, that the earliest step should be taken to assemble a convention within the State, for the purpose of deliberating and determining on the said constitution.

Resolved, That it be recommended to such inhabitants of the State as are entitled to vote for representatives to the General Assembly, that they choose suitable persons to serve as Deputies in a State convention, for the purpose herein before mentioned; that is, for the city of *Philadelphia* and the counties respectively, the same number of Deputies that each is entitled to of representatives in the General Assembly. That the election for Deputies as aforesaid be held at the several places in the said city and counties, as are fixed by law for holding the elections of representatives to the General Assembly, and that they he conducted under the same officers, and according to the regulations prescribed by law for holding the elections for said Representatives, and at the times herein mentioned, viz. For the city of *Philadelphia*, the counties of *Philadelphia, Chester, Burks, Lancaster, Perks, Montgomery, Northampton, Northumberland, Dauphin, Luzerne, York, Cumberland and Franklin* on the day of the general election of Representatives to the General Assembly. For the counties of *Bedford, Huntingdon, Westmoreland, Fayette and Washington, on the day of October.* That the persons so elected to serve in Convention shall assemble on the last day of *November,*. at the State House in the city of *Philadelphia.* That the proposition submitted to this House by the Deputies of *Pennsylvania* in the General Convention of the States, of ceding to the United States a district of country within this State, for the seat of the General Government, and for the exclusive legislation of Congress, be particularly recommended to the consideration of the Convention.

That it be recommended to the succeeding House of Assembly, to provide for the payment of any extraordinary expenses which may be incurred by holding the said election of Deputies.

WHEREAS, the Convention of Deputies from the several States composing the union, lately held in this city, have published a constitution for the future government of the United States, to be submitted to conventions of deputies chosen in each State by the people thereof, under the recommendation of its legislature, for their assent and ratification; and,

WHEREAS, Congress, on Friday, the 28th inst., did unanimously resolve that the said constitution be transmitted to the several legislatures of the States to the intent aforesaid; and,

WHEREAS, it is the sense of great numbers of the good people of this State, already signified in petitions and declarations to this house, that the earliest steps should be taken to assemble a convention within the State, for the purpose of deliberating and determining on the said constitution,

Resolved, That it be recommended to such of the inhabitants of the State as are entitled to vote for representatives to the general assembly, that they choose suitable persons to serve as deputies in a State convention, for the purpose hereinbefore mentioned, that is, for the city of Philadelphia and the counties respectively, the same number of deputies that each is entitled to of representatives in the general assembly.

Resolved, That the elections for deputies as aforesaid, be held at the several places in the said city and counties as are fixed by law for holding the elections of representatives to the general assembly, and that the same be conducted by the officers who conduct the said elections of representatives, and agreeably to the rules and regulations thereof; and that the election of deputies as aforesaid, shall be held for the city of Philadelphia, and the several counties of this State, on the first Tuesday of November next.

Resolved, That the persons so elected to serve in convention shall assemble on the third Tuesday of November, at the State House in the city of Philadelphia.

Resolved, That the proposition submitted to this house by the deputies of Pennsylvania in the general convention of the States, of ceding to the United States a district of country within this State for the seat of the general government, and for the exclusive legislation of Congress, be particularly re-commended to the consideration of the convention.

Resolved, That it be recommended to the succeeding house of assembly to make the same allowance to the attending members of the convention as is made to the members of the general assembly, and also to provide for the extraordinary expenses which may be incurred by holding the said elections.

See https://teachingamericanhistory.org/resources/ratification/mcmasterstone/chapterii/

Attachment D

2. The Massachusetts Convention ratified the Constitution on 6 February and recommended nine amendments to the Constitution. Three Philadelphia newspapers printed the amendments between 14 and 22 February.
3. Marked "indistinct" by copyist.

Thomas FitzSimons to William Irvine, Philadelphia, 22 February (excerpt)[1]

Our Assembly met yesterday, and from anything that appears, at present I am induced to believe the session will be a short one. Except the provision to be made for Congress and the Wyoming business, I see little to be done; for tho great reforms in many branches of our domestic administration are wanting, yet as there is so good a prospect of obtaining a federal government, it seems to be agreed to postpone all these objects till that event takes place.

I am told there are a great many petitions, nine dozen, against the act of the late Convention and desiring that a new one should be called; but I suspect the result of the Massachusetts business will either prevent their being presented or at least of their being attended to. It would seem, however, that the nearer we approach to the completion of this business the more vindictive and virulent is the conduct of the opposition.

1. Copy, Irvine Papers, PHi.

Assembly Proceedings, Saturday, 1 March

A petition from a number of the inhabitants of Wayne Township, in the county of Cumberland, was read praying that this House may not oppose the adoption of the Constitution for the government of the United States proposed by the late Federal Convention.

Ordered to lie on the table.

Wayne Township Petition, 1 March[1]

To the Honorable the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly Met.

The petition of the subscribers, freemen inhabitants of the county of Cumberland, most respectfully showeth,

That your petitioners are desirous that order and good government should prevail and that the laws and civil government should not be violated or subverted.

That as the members of your honorable body are all sworn or affirmed to do no act or thing that may be prejudicial or injurious to

the constitution of this state as established by the convention [of 1776], they look up to you as the guardians of their rights and liberties therein secured to your petitioners.

That as the [state] constitution expressly declares that the people have a right to change alter or abolish their form of government when they think it will be conducive to their interest or happiness, your petitioners believe there is ample provision made for any change that may be occasioned by adopting the proposed Federal Constitution.

That as the constitution of Pennsylvania was not formed with a direct view of a federal government, the right of the people thereto could not be declared in more express terms.

That the necessity of an efficient federal government is so great as to require no proof or illustration.

That the proposed Federal Constitution cannot be very dangerous while the legislature[s] of the different states possess the power of calling a convention, appointing the delegates and instructing them in the articles they wish altered or abolished.

That your petitioners believe it is more the duty of their representatives to cooperate with the legislatures of the different states in amending the parts that may yet appear to be defective, than to endeavor to deprive them of the benefit of what is indisputably useful and necessary.

That the objections to the Federal Constitution are founded on the absurd supposition that the Representatives in Congress must have an interest different from and contrary to that of their constituents.

That as the proposed plan of government hath been approved by Congress and adopted by a Convention appointed by the citizens of this state for the express purpose of approving or condemning the same, the opposition of the legislature would in our humble opinion be a deviation from the line of their conduct, a wanton usurpation of undelegated power and a flagrant violation of the liberty of their constituents.

That petitions requesting the intervention of the legislature can only proceed from a desire of authorizing the disorder and confusion now spreading through the state by the example of your august body. And,

That their promoters ought to be inquired after and published, that they might be treated with that indignation and contempt justly due to the traitors of their country.

1. DS, John A. McAllister Papers, PPL. Endorsed: "Petition of A Number of Inhabitants of Wayne Township in Cumberland County Praying that the Assembly may not Directly or Indirectly Oppose the Adoption of the Feoderal Constitution

& for other Purposes therein Mentioned—Read 1 time Mar. 1, 1788." Lloyd, *Assembly Debates* (Mfm:Pa. 468) states that John Oliver, an assemblyman from Cumberland County, presented the petition. For a photographic copy of the petition with the names of the thirty-one signers, see Mfm:Pa. 469.

Freeman's Journal, 19 March[1]

In consequence of the outrageous behavior of the mock-federal faction of the county of Huntingdon, in publicly tearing the petitions of the inhabitants of the county, which they had signed to the Assembly, against the proposed Constitution; a number of people of the town of Standing Stone collected and conducted upon the backs of old *scabby* ponies the EFFIGIES of the principals of the junto, viz., John Cannon,[2] Esquire, member of Council and president of the court, and Benjamin Elliot[3], Esquire, a member of Convention of that county. The effigies passing near the door of the court, His Honor Mr. Cannon, who was then sitting on the bench, thinking his dignity wounded, ordered the officers of the court to assist his partisans in apprehending the effigy-men, which they effected in part (as they were not numerous), and a number of persons were thrown into jail. Immediately the county took the alarm, assembled, and liberated the sons of liberty, so unjustly confined; who passed down the jail steps, under loud huzzas and repeated acclamations of joy from a large concourse of people; who soon after retired from the town declaring their intention to *duck* the junto if they repeated their insults.

1. This item, headed "Federal Intelligence," was reprinted in three Antifederalist newspapers: the *New York Morning Post*, 22 March, the *New York Journal*, 27 March, and the Boston *American Herald*, 10 April; and in the *Vermont Gazette*, 7 April.

2. Cannon had represented Bedford County in the Assembly in September 1787 and voted to call the state Convention. He was elected to the Supreme Executive Council from Huntingdon County on 9 October 1787, about a month after the county was created.

3. Elliott, Huntingdon County's only representative in the state Convention, voted to ratify the Constitution.

John Simpson to John Nicholson, Northumberland, 26 March (excerpt)[1]

I received your packet, also one for Colonel [William] Mongomery[2] and others, with petitions to be signed against the Federal Constitution, which are rapidly signing and seven come in already signed that will be forwarded soon.

1. RC, Nicholson Papers, PHarH. Endorsed: "Answered Apl 30th 1788." Simpson was register of wills and recorder of deeds for Northumberland County. There is

Testimony of Steve Davies
House Resolution 206
Senate Resolution 234
House and Senate State Government Committees
October 22, 2019

Chair Everett, Chair Phillips-Hill, distinguished members of the House and Senate State Government Committees, thank you for this opportunity to present testimony in support of House Resolution (HR) 206 and Senate Resolution (SR) 234. HR 206 and SR 234 are concurrent resolutions and, once adopted by respective chambers of the General Assembly, will serve as the application to Congress by Pennsylvania under Article V of the US Constitution for a convention to consider and propose amendments to the Constitution related to term limits for federal officials, restrictions on federal spending and limits on federal scope and jurisdiction.

My name is Steve Davies, I live at 565 Hollow Road in Beaver County, PA. I am married, retired, and have three adult children. Since March 2014 I have been a volunteer for the Convention of States Project (COSP) and have served in a variety of leadership roles over that period. I am not a grassroots activist nor a political activist. I have never run for nor held an elected office.

Our republic is in big trouble. Apathy towards and ignorance of our inalienable rights, our founding and constitutional principles by successive generations of Americans over the past 100 years or so have resulted in government policies and programs that destroy individual freedom and liberty by design. We elect people to public office based on their promises to benefit us at the expense of other citizens. We have essentially turned the Constitution into a fiscal suicide pact, and in doing so may have consigned our children and grandchildren to a lifetime of economic servitude. The game seems permanently rigged in favor of a ruling elite in Washington, DC, and most Americans believe there is no recourse except via federal elections. That all changed for me in 2013 after reading Mark Levin's book, *The Liberty Amendments*. It became clear to me that there is a way to restore the Constitution and its original intent without relying solely on federal election outcomes and actions by those in federal elected offices, but it requires the coordinated efforts of ordinary citizens at the <u>state</u>, not federal level.

After reviewing the COSP resolution, it was my initial belief that an Article V convention application for the listed topics should enjoy strong support from Pennsylvania state legislators and should not be difficult to get passed. A concurrent resolution is solely an action of the General Assembly, with no approval by the governor required. The resolution is obviously not legislation, does not involve money or taxes, is bipartisan in nature and could result in massive transfers of jurisdiction, funding and authority from the federal government back to the states consistent with the separation of powers as outlined in the Constitution. The resolution does nothing more than document Pennsylvania's official position that a convention should be called to discuss and potentially officially propose amendments to the Constitution related to three specific topics. The convention delegates would have no power to change anything. All they would be able to do is discuss and propose amendments. Any proposed amendments passed by the convention would have to be sent to the States for ratification per Article V, and at least 38 States would have to ratify an amendment for it to become law. In effect, an Article V convention has comparable authority relative to establishing federal law as that of a committee of state legislators relative to establishing state law.

I recognized there would be some opposition to convening an Article V convention for the topics specified in the resolution. Some people believe that the federal government is not doing enough; consequently, any reduction in or restriction of what the federal government does is unacceptable. I understand their minds will likely never be changed. What has surprised me is that there are people who believe an Article V convention should never be called for any purpose. They agree that the issues addressed in the COSP resolution need to be addressed; however, they fear a convention could result in completely unintended consequences, like a new Constitution and/or adversely impact the Bill of Rights, especially the Second Amendment.

This argument is based on the belief that the 1787 Philadelphia Convention was in fact a "runaway" convention, and that the delegates, despite being limited to only developing amendments and alterations to the Articles of Confederation ("Articles"), instead proposed a new constitution. In addition, it is believed the delegates proposed a ratification process that was not consistent with the convention call. As a result, they believe there is a material risk that an Article V convention, once assembled, could in effect ignore the convention call and any delegation directives from the state legislatures and not only significantly weaken/eliminate Constitutional protections for the states and individuals, but even produce a new constitution.

This view is not supported by the historical record. To understand why the runaway convention argument is advanced, several historical events in the months prior to and immediately after the start of the convention need to be pointed out. These events are summarized below:

Date	Action
November 23, 1786	Virginia establishes a delegation to attend the 1787 Philadelphia Convention
November 24, 1786	New Jersey establishes a delegation to attend the 1787 Philadelphia Convention
December 30, 1786	Pennsylvania establishes a delegation to attend the 1787 Philadelphia Convention
January 6, 1787	North Carolina establishes a delegation to attend the 1787 Philadelphia Convention
February 3, 1787	Delaware establishes a delegation to attend the 1787 Philadelphia Convention
February 10, 1787	Georgia establishes a delegation to attend the 1787 Philadelphia Convention
February 21, 1787	**Congress passes resolution stating a convention in Philadelphia in May, 1787 would be expedient; resolution language reflects sole purpose would be to amend the Articles of Confederation**
February 28, 1787	New York establishes a delegation to attend the 1787 Philadelphia Convention
March 7, 1787	Massachusetts establishes a delegation to attend the 1787 Philadelphia Convention
March 8, 1787	South Carolina establishes a delegation to attend the 1787 Philadelphia Convention
May 17, 1787	Connecticut establishes a delegation to attend the 1787 Philadelphia Convention
May 26, 1787	Maryland establishes a delegation to attend the 1787 Philadelphia Convention
June 27, 1787	New Hampshire establishes a delegation to attend the 1787 Philadelphia Convention

At the core of the runaway convention concern is the belief that the resolution passed by Congress on February 21, 1787, as shown in the table above, was the call for the convention and defined its scope. That resolution language is:

"Resolved that in the opinion of Congress it is expedient that on the second Monday in May next a Convention of delegates who shall have been appointed by the several states be held at Philadelphia for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall when agreed to in Congress and confirmed by the states render the federal constitution adequate to the exigencies of Government & the preservation of the Union."

(see https://histcsac.wiscweb.wisc.edu/wp-content/uploads/sites/281/2018/03/Confederation-Congress-Call-Constitutional-Convention.pdf)

It is clear the resolution contains two specific provisions related to the convention: (1) it is for "the sole and express purpose of revising the Articles of Confederation", and (2) any alterations/provisions must be "...agreed to in Congress and confirmed by the states...".

This resolution is the basis for the "runaway convention" argument that opponents are using to try to stop passage of the COSP and other Article V convention resolutions. They argue that the delegates to the 1787 convention ignored the convention call by proposing a new Constitution rather than amendments to the Articles, and by proposing a ratification/confirmation process that allowed for something other than unanimous approval by the 13 states. Consequently, they allege, the delegates to an Article V convention, no matter what it is called for, are free to change any aspect of the Constitution, including replacing it, and are free to set a much lower bar for ratification of whatever they propose. This, opponents claim, is a risk we cannot take.

The problem with this logic is the fact that the February 21, 1787 action by Congress was not the convention call. That occurred in November 1786 when Virginia took official action to invite the states to send delegations to Philadelphia the following year. None of the six states that commissioned their delegations prior to passage of the Feb 21, 1787 resolution by Congress limited their delegates to only proposing amendments to the Articles. Of the remaining six states, only two (NY and Mass) limited their delegations to only considering amendments to the existing Articles. There are other facts that do not support the runaway convention allegation:

- There is nothing in the Articles of Confederation that suggests Congress had any power to call a convention for the purpose of amending the Articles.
- The Feb 21, 1787 resolution did not contain two key elements of a formal convention call: it was not addressed to the states, and it did not follow the normal congressional protocol for submitting measures for consideration by the states.
- At the convention on July 23, 1787, Governeur Morris made this statement during convention proceedings:

"The amendment moved by Mr. Elseworth [sic] erroneously supposes that we are proceeding on the basis of the Confederation. This Convention is unknown to the Confederation". (see http://oll.libertyfund.org/titles/farrand-the-records-of-the-federal-convention-of-1787-vol-2 at 92)

No delegates expressed opposition to this statement.

- When the convention ended, the Articles were still in full force and effect. The convention work products were a Ratification and Transition Plan and the Constitution. They were transmitted to Congress and the states. Absent affirmative action by the states, the Constitution would never have gone into effect irrespective of anything said or done during the convention.
- All 13 states took action to establish ratification conventions as recommended by the Transition and Ratification Plan, including Rhode Island, which had boycotted the convention, and NY, whose delegation (except Hamilton, who did not vote) left the convention before it ended. Pennsylvania was the first state do so, having taken action to establish a ratification convention on September 29, 1787.
- On February 1, 1788, the New York legislature, which had instructed its delegation to only consider amendments to the Articles, and whose delegation cast no votes in the convention after July, rejected a motion to condemn the Convention for violating its instructions (see the Harvard Journal of Law and Public Policy, Volume 40, Number 1, April 2017, page 118)
- As set forth in the Ratification Plan and in Article VII of the Constitution, no state that did not ratify the Constitution could be bound by it. At no point did any state lose its right to reject the Constitution, and the Convention had no ability to force any state to accept the new Constitution.
- Finally, and most importantly, unlike the Articles, the Constitution does contain a provision that outlines the process for proposing amendments via a convention. The Framers were clear that they wanted the states to be able to propose amendments in the event Congress refused to do so. They no doubt recognized that not having a convention option outlined in the Articles had caused them much difficulty. Consequently, in drafting Article V, they specified who calls the convention, that the

convention scope is limited to amending the Constitution (and consequently not proposing a new one) and they specified the ratification process. Clearly the Framers intended an Article V convention to be very different from the convention they experienced in 1787. Opponents commonly use the term "constitutional convention" to refer to both types of conventions. This, along with insisting the 1787 convention was a "runaway convention" is obviously a deliberate tactic to create as much confusion and fear on the part of average citizens regarding an Article V convention as possible.

Probably the most comprehensive and well-researched scholarship on the topic of whether the 1787 Philadelphia Convention was a runaway convention is work done by Michael Farris, J.D., and published in the Harvard Journal of Law and Public Policy, Volume 40, Number 1 (cited above). I encourage members of the Committee to have their staff review this document.

In addition, I encourage a detailed review of the attached memorandum (Attachment A) from Mark Meckler and Rita Dunaway to the Pennsylvania Senate and House State Government Committee members dated April 19, 2019. This memorandum lays out a point-by-point response to the "runaway convention" claims.

Final Comments

At the core of the COSP effort is how this question is going to be answered: "Who is going to make decisions about what is best for the citizens of Pennsylvania?" For the past 100 or so years, the answer increasingly has been the federal government, which is overwhelmingly comprised of people who know nothing about what's best for Pennsylvania. As the federal government continues to drive the republic to a fiscal disaster, it is time for the People to remember how the federal government came into existence and for what purposes. The federal government exists at the pleasure of the elected officials and citizens of the states. The collective will of 38 states is all it takes to repeal any law, rule, regulation, executive order and federal court decision, including those by the Supreme Court. The federal government can and must be controlled by the People, both by direct election of federal officials and by their state legislatures exercising the will of the People via Article V and all other constitutional tools. The federal government needs to be restrained and re-calibrated consistent with original intent. And action by the state legislatures is how that process starts.

As the members of the Committee may know, there were more signers of the Declaration of Independence and the Constitution from Pennsylvania than any other state. The Declaration was signed by members of the Continental Congress in Philadelphia. The Constitution was created in Philadelphia. Pennsylvania has a unique place among the states with respect to the

creation of the Republic. And Pennsylvania should be a leader in restoring the foundational law of the Republic and in restoring freedom and liberty to all Americans.

If for some reason you believe an Article V convention is in any way a risky undertaking, I urge you to carefully analyze the historical record of the events leading up to the 1787 Philadelphia Convention and the events prior to formation of the new government in 1789, and especially those actions taken by the Pennsylvania General Assembly. Please do not fail your constituents, and their children and grandchildren, by casting your vote on an Article V amendments convention application based on a false version of US (and Pennsylvania) history. I urge you to consider these actions by the Pennsylvania General Assembly in 1786-87 in evaluating the claims that the 1787 Philadelphia Convention delegates exceeded their authority:

- Attachment B: An Act Appointing Deputies to the Convention, December 30, 1786
- Attachment C: Resolutions Establishing a State Ratification Convention, September 29, 1787

Testimony from Ken Quinn with U.S. Term Limits in Support of HR206

Dear Chairman Everett, Vice-Chairman Boyle, and committee members,

My name is Ken Quinn and I am the Regional Director with US Term Limits. I am here today to testify in support of HR206 because this resolution would allow the states to propose a Term Limits Amendment for Congress which has been the desire of the American people for decades and in a recent poll received **overwhelming support from 82% of the American voters** (See attached McLaughlin & Associates)

We all know Congress is broken. It has become dysfunctional and unresponsive to the American people. Members of Congress no longer listen to the voice of the voters, instead they fulfill the desires of their funders. Money is what gets the attention of Congress and unfortunately, self-interests and maintaining power is the name of the game. We currently have over **10,000 years of combined "institutional knowledge"** in Congress and what is that getting us? We have **$22 Trillion in debt, an immigration crisis, healthcare cost crisis, out of control spending, continuing resolutions to keep the government open**, etc. Enough is enough!

The approval ratings of Congress are consistently below 20%, yet the re-election rates for incumbents is over 95%! Obviously, there is a huge disconnect here. The current system protects incumbents in office and makes it virtually impossible to vote them out of office. **Approximately 20% of congressional races don't even have a challenger**. Members of Congress spend between **30-70% of their time in Washington dialing for dollars** to raise money for their reelection and their party. Key committee chairmanships are not awarded to the most qualified members, but to the ones that have raised the most money for their party. (https://www.cbsnews.com/news/60-minutes-are-members-of-congress-becoming-telemarketers/)

We can only fix these problems with term limits. Term limits for Congress will **reduce corruption**, allow **new people to introduce new ideas**, allow **people with diverse backgrounds** to participate in our government, provide the **voters more choices, increase voter participation**, provide **fair and competitive elections**. People will go to Congress knowing they have a limited amount of time to do the work they were sent there to do instead of turning it into a lucrative lifetime career.

Robert Yates, a New York Delegate to the 1787 Federal Convention accurately described our present state of affairs due to a lack of term limits (rotation of office); "A rotation in the senate, would also in my opinion be of great use. It is now probable that senators once chosen for a state will, as the system now stands, **continue in office for life**. The office will be honorable **if not lucrative.** The persons who occupy it will probably wish to continue in it, and **therefore use all their influence and that of their friends to continue in office.** Their friends will be numerous and powerful, for they will have it in their power to confer great favors;.. Everybody acquainted with public affairs knows **how difficult it is to remove from office a person** who is has long been in it. It is seldom done except in cases of gross misconduct."

I encourage you on behalf of your constituents and the American people to please vote to pass HR206.

Sincerely,
Ken Quinn
Regional Director
U.S. Term Limits

THE ARTICLE V CONVENTION WAS DRAFTED BY THE FRAMERS TO ALLOW THE STATES TO PROPOSE A SINGLE AMENDMENT, NOT PROPOSE A NEW CONSTITUTION:

The attached documents will address the following items:

- **THE FRAMERS INTENDED AN ARTICLE V CONVENTION TO BE LIMITED.**
  In these panels every substantive discussion and vote on the amending provision during Philadelphia Convention which became Article V, proves that the Framers intended an Article V convention to be a limited convention for the amendment applied for by two-thirds of the state legislatures.
- **AN ARTICLE V CONVENTION IS NOT A CONSTITUTIONAL CONVENTION (CON CON).**
- This research explains the differences between a Constitutional Convention called to draft a new Constitution and an Article V convention called to propose an amendment.
- **MADISON REFUTES CHARGE THAT DELEGATES EXCEEDED THEIR AUTHORITY.**
  In Federalist 40, James Madison refutes the charge that the delegates to the Philadelphia Convention exceeded their authority (runaway convention). This false narrative by the opponents today, fuels the "runaway" convention myth and is a campaign of fear to oppose the Constitution. Madison clearly explains that the delegates had full authority from their state legislatures to draft a new Constitution
- **AN ARTICLE V CONVENTION ALLOWS A SINGLE AMENDMENT TO BE PROPOSED.**
  In Federalist 85, Alexander Hamilton explains that the Article V convention is limited to the amendment(s) the states were united in proposing. He opposed the effort to call for a second convention to revise the Constitution prior to ratification, and instead, favored an Article V convention.
- **MADISON OPPOSED A 2ND CONSTITUTIONAL CONVENTION NOT AN ARTICLE V.**
  In James Madison's letter to George Turberville, he explains that he opposes New York's desire for a second Constitutional Convention because it would require unanimous consent and knowing how hard the ratification fight was, he did not want to go through that again. In this letter he also describes the two types of conventions; Constitutional Convention (first principles) and Article V convention (forms).
- **THE DEBATE IN CONGRESS ON 1ST ARTICLE V APPLICATION PROVES IT IS LIMITED.**
  Over fifty of the members in the 1st Congress were either delegates to the 1787 Federal Convention or delegates to their state ratification conventions. They had firsthand knowledge of the intent of Article V and it is abundantly clear that they understood that two-thirds of the state legislatures needed to apply for the same amendment(s) in order for Congress to call a convention.
- **THE UNIFORM LAW COMMISSION SIMILARITIES TO AN ARTICLE V CONVENTION.**
  In this article (Runaway Convention? Meet the ULC: An Annual Conference of States Started in 1892 That Has Never Runaway) I demonstrate that the states currently participate in a Convention of States annually to propose uniform state laws. The National Conference of Commissioners on Uniform State Laws (ULC) is an official meeting of the states and functions virtually identically as an Article V convention. This proves that the states utilize convention rules today and that those rules work.
- **THE JOHN BIRCH SOCIETY DENIES ITS HISTORY AND BETRAYS ITS MISSION.**
  The John Birch Society was a strong advocate for an Article V convention back in the 1960s and 70s to propose the Liberty Amendment and made it one of their main goals. To learn more, I recommend watching this video youtube.com/watch?v=olDrFO9gENc

McLaughlin & Associates

To: All Interested Parties
From: John McLaughlin & Brittany Davin
Re: National Survey Executive Summary – Voters Overwhelmingly Support Term Limits for Congress
Date: January 15, 2018

Survey Summary:

The results of our recently completed national survey show that voters overwhelmingly believe in implementing term limits on members of Congress. Support for term limits is broad and strong across all political, geographic and demographic groups. An overwhelming 82% of voters approve of a Constitutional Amendment that will place term limits on members of Congress. Four-in-five voters believe that it is important for President Trump to keep his promise to support term limits for members of Congress by calling on Congress to vote for term limits, the majority of voters, 54%, believe it is very important for the President to keep his promise.

Do you approve or disapprove of a Constitutional Amendment that will place term limits on members of Congress?

	Total	Rep.	Dem.	Ind.	Hispanic	A.A.*	White
Approve	**82%**	**89%**	**76%**	**83%**	**72%**	**70%**	**86%**
Strongly	56%	63%	45%	63%	45%	46%	61%
Somewhat	26%	26%	31%	20%	27%	24%	26%
Disapprove	**9%**	**6%**	**12%**	**8%**	**18%**	**15%**	**6%**
Somewhat	6%	3%	8%	6%	12%	8%	5%
Strongly	3%	2%	4%	2%	6%	6%	2%
Don't Know	**9%**	**6%**	**12%**	**9%**	**11%**	**16%**	**8%**

**A.A. represents African American voters surveyed*

During his campaign for President, Donald Trump promised that he would support term limits for members of Congress, how important is it for President Trump to keep his promise to support term limits for members of Congress by calling on Congress to vote for term limits.

	Total	Rep.	Dem.	Ind.	Hispanic	A.A.*	White
Important	**79%**	**91%**	**69%**	**79%**	**80%**	**60%**	**83%**
Very	54%	62%	45%	54%	51%	43%	57%
Somewhat	26%	29%	24%	25%	29%	17%	26%
Not Important At All	**12%**	**6%**	**19%**	**11%**	**13%**	**27%**	**9%**
Unsure	**9%**	**3%**	**12%**	**10%**	**7%**	**13%**	**8%**

If a bill were introduced in Congress to place term limits on members of Congress, would you want your senator and congressman to vote yes or no on this bill?

	Total	Rep.	Dem.	Ind.	Hispanic	A.A.*	White
Yes	**77%**	**82%**	**69%**	**80%**	**68%**	**64%**	**81%**
No	**6%**	**6%**	**7%**	**5%**	**10%**	**10%**	**5%**
Undecided	**17%**	**12%**	**24%**	**15%**	**21%**	**26%**	**14%**

Nearly three-in-four voters, 73%, are more likely to vote for a candidate for U.S. Congress who supports implementing term limits on Congress, 42%, are much more likely.

919 Prince Street * Alexandria, Virginia 22314 * Phone: 703-518-4445 * FAX: 703-518-4447
566 South Route 303 * Blauvelt, NY 10913 * Phone: 845-365-2000 * FAX: 845-365-2008
www.mclaughlinonline.com

McLaughlin & Associates

Would you be more likely or less likely to vote for a candidate for U.S. Congress who supports implementing term limits for members of Congress?

	Total	Rep.	Dem.	Ind.	Hispanic	A.A.*	White
More Likely	**73%**	**80%**	**64%**	**77%**	**71%**	**58%**	**78%**
Much More	42%	45%	33%	49%	39%	27%	46%
Somewhat More	31%	35%	31%	27%	32%	31%	31%
Less Likely	**8%**	**5%**	**11%**	**8%**	**15%**	**16%**	**5%**
Somewhat Less	5%	3%	7%	4%	9%	7%	3%
Much Less	3%	2%	3%	4%	6%	9%	1%
No Difference	**11%**	**9%**	**16%**	**6%**	**6%**	**13%**	**11%**
Don't Know	**8%**	**6%**	**10%**	**9%**	**9%**	**14%**	**7%**

Conclusions:

American voters overwhelmingly support placing term limits on members of Congress. The support for term limits is strong, broad and intense, to vote for members of Congress who will vote "yes" on term limits, and against those who will vote "no" against term limits for members of Congress.

Methodology:

This survey of 1,000 likely general election voters nationwide was conducted on Jan. 5th to 11th, 2018. All interviews were conducted online; survey invitations were distributed randomly within predetermined geographic units. These units were structured to correlate with actual voter turnout in a nationwide general election. This poll of 1,000 likely general election voters has an accuracy of +/- 3.1% at a 95% confidence interval. The error margin increases for cross-tabulations.

Key Demographics:

Party:

	Total
Republican	33%
Democrat	36%
Independent/Other	31%

Gender:

	Total
Men	47%
Women	53%

Ideology:

	Total
Liberal	24%
Moderate	40%
Conservative	37%

Race:

	Total
White	71%
Asian/Asian American	4%
African American	12%
Hispanic	11%
Other	2%

Age:

	Total
18-29	15%
30-40	17%
41-55	25%
56-65	23%
Over 65	20%
Mean	49

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566 South Route 303 * Blauvelt, NY 10913 * Phone: 845-365-2000 * FAX: 845-365-2008
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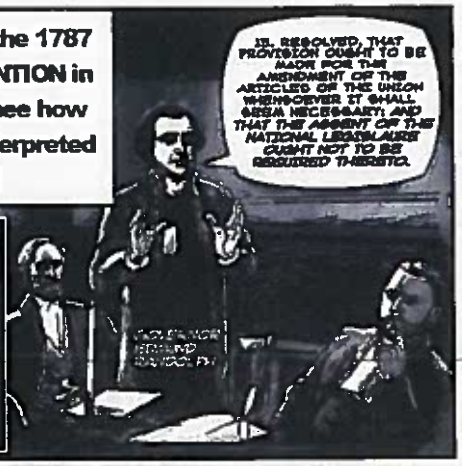
The Article V Limited Convention :

THE FRAMERS' INTENT

QUESTION: Did the Framers of the U.S. Constitution intend for an Article V convention to be limited to the subject agreed to by two-thirds of the states or an open convention?

Let's go back to the 1787 FEDERAL CONVENTION in Philadelphia to see how THE FRAMERS Interpreted Article V!

ON MAY 29 THE FIRST WORKING DAY OF THE 1787 FEDERAL CONVENTION GOVERNOR EDMUND RANDOLPH INTRODUCED FIFTEEN RESOLUTIONS KNOWN AS THE VIRGINIA PLAN WHICH CONTAINED A PROVISION TO AMEND THE CONSTITUTION WITHOUT THE APPROVAL OF THE CONGRESS

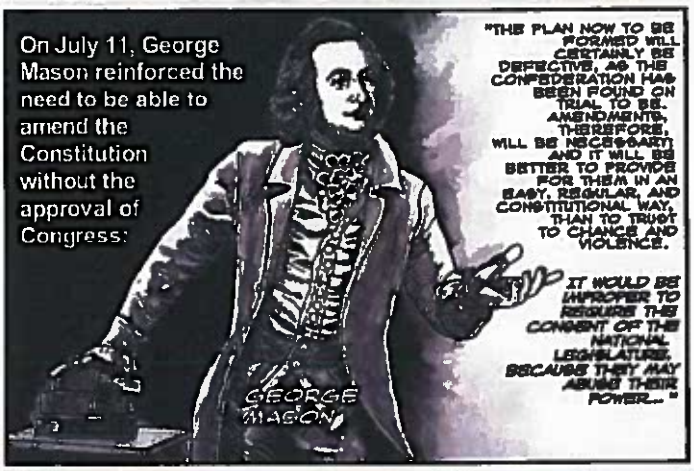


Immediately afterwards Charles Pinckney of South Carolina laid before the House a draft of a federal government which he read. Pinckney's draft included a detailed provision which required a convention to be called by Congress for the purpose of amending the Constitution, if two-thirds of the state legislatures applied for the same amendments.

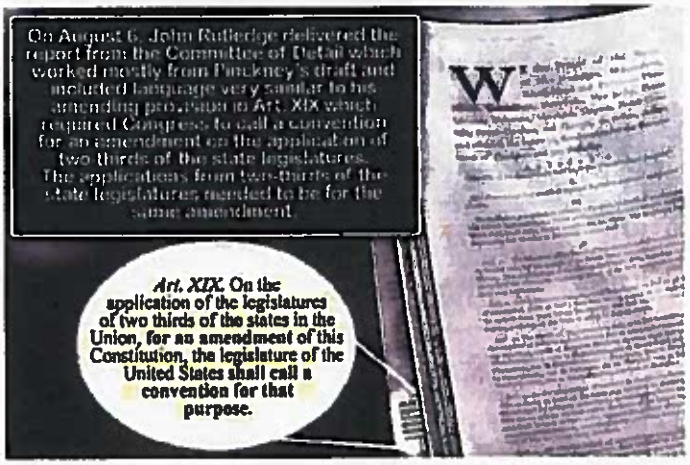
This established the understanding from the very beginning that a convention for amending the Constitution was limited to the subject agreed to by two-thirds of the states.

Pinckney's provision also allowed Congress to propose amendments if two-thirds of each House concurred and required approval from two thirds of the state legislatures to become part of the Constitution.

On July 11, George Mason reinforced the need to be able to amend the Constitution without the approval of Congress:



On August 6, John Rutledge delivered the report from the Committee of Detail which worked mostly from Pinckney's draft and included language very similar to his amending provision in Art. XIX which required Congress to call a convention for an amendment on the application of two thirds of the state legislatures. The applications from two-thirds of the state legislatures needed to be for the same amendment.



On September 10 Roger Sherman moved to amend Art. XIX to allow Congress to propose amendments, but requiring the approval from the several states to be binding.

James Wilson moved to require approval from three-fourths of the several states.

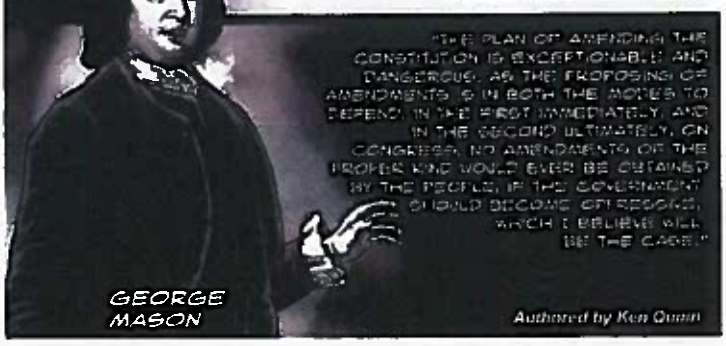
Note: Allowing Congress to propose amendments and requiring the approval from the states were originally in Pinckney's Article XVI amending provision.

James Madison moved to postpone the consideration of the amended proposition to take up the following:

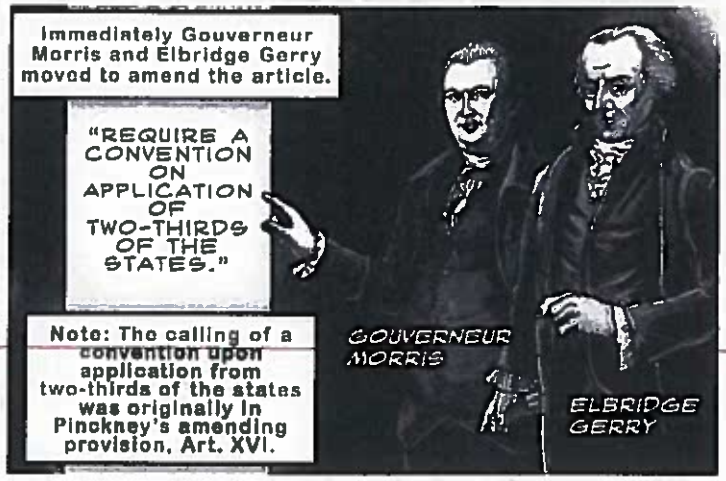
"THE LEGISLATURE OF THE UNITED STATES, WHENEVER TWO THIRDS OF BOTH HOUSES SHALL DEEM NECESSARY, OR ON THE APPLICATION OF TWO THIRDS OF THE LEGISLATURES OF THE SEVERAL STATES, SHALL PROPOSE AMENDMENTS TO THIS CONSTITUTION, WHICH SHALL BE VALID TO ALL INTENTS AND PURPOSES, AS PART THEREOF, WHEN THE SAME SHALL HAVE BEEN RATIFIED BY THREE FOURTHS, AT LEAST, OF THE LEGISLATURES OF THE SEVERAL STATES, OR BY CONVENTIONS IN THREE FOURTHS THEREOF, AS ONE OR THE OTHER MODE OF RATIFICATION MAY BE PROPOSED BY THE LEGISLATURE OF THE UNITED STATES."

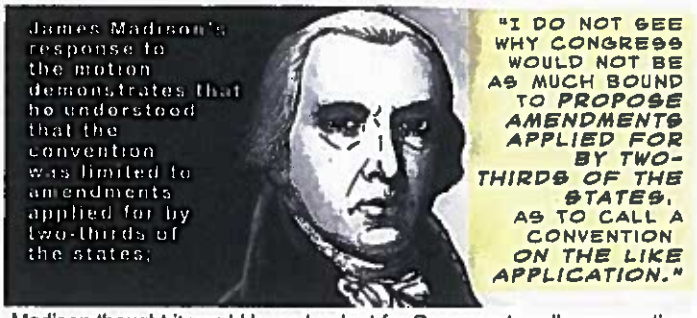
The proposition passed.

On September 15 the last working day of the Convention, the delegates worked to finalize the Constitution. When they reviewed the amending provision, now titled Article V, George Mason vehemently objected to the wording because it only gave Congress the authority to propose amendments in both modes.



Authored by Ken Quinn





Madison thought it would be redundant for Congress to call a convention ~~because it was already bound to propose the amendments applied for by~~ two-thirds of the states, otherwise Madison's response makes no sense. How could Congress propose amendments applied for by the states without specifying those amendments in their applications?

The motion for "a convention on application of two-thirds of the states" was agreed to unanimously.

ANSWER: The Framers of the Constitution intended that an Article V Convention was limited to the subject agreed to by two-thirds of the states in their applications

CONCLUSION:

Throughout the entire course of the debates, the delegates clearly understood that a convention called to amend or propose amendments would be limited to the amendment(s) applied for by two-thirds of the state legislatures. The vote to add "a convention on application of two-thirds of the states" only removed the dependence on Congress to propose those amendment(s) that were applied for and transferred that authority exclusively to the states. It did not change the requirement that applications from two-thirds of the states had to be for the same amendment(s), nor the purpose of the convention, to propose those specific amendments.

Not a single delegate during the debates claimed that the convention was an "open" convention, capable of proposing any amendment, they only understood it to be a limited convention that two-thirds of the state legislatures agreed to. This was the clear intention of the Framers as they formulated the text of the amending provision, which is now embodied in Article V.

Sources

1. From Thomas Jefferson to William Johnson, 12 June 1823," Founders Online, National Archives, version of January 18, 2019, https://founders.archives.gov/documents/Jefferson/98-01-02-3562.

2. The Debates on the Adoption of the Federal Constitution in the Convention held at Philadelphia in 1787, with a Diary of the Debates of the Congress of the Confederation as reported by James Madison, revised and newly arranged by Jonathan Elliot. Complete in One Volume. Vol. V. Supplement to Elliot's Debates (Philadelphia, 1836). https://oll.libertyfund.org/titles/1909#Elliot_1314-05_1595

*Authored by **Ken Quinn***

"There can, therefore, be no comparison between the facility of affecting an amendment, and that of establishing in the first instance a complete Constitution."

— Alexander Hamilton

An Article V Convention Is Not a Constitutional Convention

By Ken Quinn, Regional Director Convention of States Action

A common misconception about an Article V convention is that it is identical to a Constitutional Convention. Unfortunately, today some people believe this, due to false information propagated by groups opposed to the states exercising their constitutional authority. A cursory review of the writings of the Framers during the creation and ratification of the Constitution clearly demonstrates, however that an Article V convention is *not* the same as a Constitutional Convention (or a "Con-Con," as opponents like to call it). Here is what history tells us.

The Framers Rejected a Proposal to Give Article V Conventions More Power

On September 15, 1787, the delegates at the Constitutional Convention unanimously approved adding the convention mode to Article V in order to give the states authority to propose constitutional amendments without the consent of Congress. Immediately after that vote, a motion was made by Roger Sherman to remove the three-fourths requirement for ratification of amendments. This would have given future conventions even more authority by allowing them to determine how many states would be required to ratify their proposals.

James Madison described the motion: *"Mr. Sherman moved to strike out of art. V. after "legislatures" the words "of three fourths" and so after the word "Conventions" leaving future Conventions to act in this matter, like the present Conventions according to circumstances."* This motion was rejected by the Framers, clearly indicating their intent to limit the power of future Article V conventions within carefully delineated constitutional boundaries.

James Madison himself makes it clear that a Constitutional Convention and an Article V convention are separate and distinct entities. According to Madison:

"A Convention cannot be called without the unanimous consent of the parties who are to be bound by it, if first principles are to be recurred to; or without the previous application of ⅔ of the State legislatures, if the forms of the Constitution are to be pursued."

Notice how he described that a Constitutional Convention (first principles) requires unanimous consent to be called by the parties that are to be bound to it, whereas an Article V convention (forms of the Constitution) only requires application by ⅔ of the states.

This high bar of unanimous consent "of the parties who are to be bound to it" is required for a convention to propose a new Constitution, but not for an amendment-proposing convention, which only requires ⅔ of the states to call. Also, a state is only bound by a new Constitution if it ratifies it; this is not the case for an individual amendment. Once three-fourths (38) of the states ratify an amendment, all 50 states are bound by it.

A New Constitution Must Be Ratified As a Whole Document, Whereas Amendments Are Ratified Individually

Another major difference between a Constitutional Convention and an Article V convention for proposing amendments is the passage and ratification process. A new Constitution must be passed and ratified as a complete document, whereas amendments are passed and ratified individually. Alexander Hamilton explains in Federalist 85:

"Every Constitution for the United States must

Continued to back page

USA

CONVENTION of STATES

DIFFERENCES BETWEEN A CONSTITUTIONAL CONVENTION AND AN ARTICLE V CONVENTION		
ACTION	**CONSTITUTIONAL CONVENTION**	**ARTICLE V CONVENTION**
Propose	Propose New Constitution	Propose Amendments to Current Constitution
Power	Full Powers, Unlimited	Limited to Subject of State Applications
Authority	Outside of the Constitution	Under Article V of the Constitution
Requirement to Call	Unanimous Consent of States to be Bound	Application by Two-thirds of the States
Called By	The States	Congress
Scope of Passage at Convention	Entire Constitution as a Whole Document	Individual Amendments, Singly
Votes for Passage at Convention	Unanimous Consent Required	Simple Majority
Scope of Ratification by the States	Entire Constitution as a Whole Document	Individual Amendments, Singly
Votes for Ratification by the States	Only Binds States That Ratify It	Ratified by Three-fourths and Binds All States

Continued from front page

inevitably consist of a great variety of particulars.... Hence the necessity of moulding and arranging all the particulars which are to compose the whole, in such a manner as to satisfy all the parties to the compact; and hence, also, an immense multiplication of difficulties and casualties in obtaining the collective assent to a final act....

"But every amendment to the Constitution, if once established, would be a single proposition, and might be brought forward singly.... The will of the requisite number would at once bring the matter to a decisive issue. And consequently, whenever nine (⅔), or rather ten States (¾), were united in the desire of a particular amendment, that amendment must infallibly prevail. There can, therefore, be no comparison between the facility of affecting an amendment, and that of establishing in the first instance a complete Constitution."

Text of Article V Unequivocally States "Convention for Proposing Amendments"

Article V could not be any clearer in regards to the powers a convention is given. Here is the relevant portion of text: *"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments...."* It is absolutely disingenuous to claim that an Article V convention can propose an entirely new Constitution. The words *"for proposing amendments"* could not be any clearer. Article V gives a convention the exact same authority as Congress: the power to propose amendments — nothing more, nothing less.

"Should the provisions of the Constitution as here reviewed be found not to secure the Govt. & rights of the States agst. usurpations & abuses on the part of the U. S. the final resort within the purview of the Constn. lies in an amendment of the Constn. according to a process applicable by the States."

— James Madison, Letter to Edward Everett, August 28, 1830

Text of Article V Does Not Allow For a New Constitution to Be Drafted

Last but not least is the fact that Article V does not allow for a new Constitution to be drafted, because the text states: *"Congress ... shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof...."* When ratified, the amendments proposed by a convention become part of our current Constitution. A convention cannot, under the plain text of Article V, set up a new constitution.

|| Federalist No. 40 ||

The Powers of the Convention to Form a Mixed Government Examined and Sustained

From the New York Packet.

Friday, January 18, 1788.

Author: James Madison

To the People of the State of New York:

THE SECOND point to be examined is, whether the convention were authorized to frame and propose this mixed Constitution. The powers of the convention ought, in strictness, to be determined by an inspection of the commissions given to the members by their respective constituents. As all of these, however, had reference, either to the recommendation from the meeting at Annapolis, in September, 1786, or to that from Congress, in February, 1787, it will be sufficient to recur to these particular acts. The act from Annapolis recommends the "appointment of commissioners to take into consideration the situation of the United States; to devise SUCH FURTHER PROVISIONS as shall appear to them necessary to render the Constitution of the federal government ADEQUATE TO THE EXIGENCIES OF THE UNION; and to report such an act for that purpose, to the United States in Congress assembled, as when agreed to by them, and afterwards confirmed by the legislature of every State, will effectually provide for the same. "The recommendatory act of Congress is in the words following:"WHEREAS, There is provision in the articles of Confederation and perpetual Union, for making alterations therein, by the assent of a Congress of the United States, and of the legislatures of the several States; and whereas experience hath evinced, that there are defects in the present Confederation; as a mean to remedy which, several of the States, and PARTICULARLY THE STATE OF NEW YORK, by express instructions to their delegates in Congress, have suggested a convention for the purposes expressed in the following resolution; and such convention appearing to be the most probable mean of establishing in these States A FIRM NATIONAL GOVERNMENT:"Resolved, That in the opinion of Congress it is expedient, that on the second Monday of May next a convention of delegates, who shall have been appointed by the several States, be held at Philadelphia, for the sole and express purpose OF REVISING THE ARTICLES OF CONFEDERATION, and reporting to Congress and the several legislatures such ALTERATIONS AND PROVISIONS THEREIN, as shall, when agreed to in Congress, and confirmed by the States, render the federal Constitution ADEQUATE TO THE EXIGENCIES OF GOVERNMENT AND THE PRESERVATION OF THE UNION. "From these two acts, it appears, 1st, that the object of the convention was to establish, in these States, A FIRM NATIONAL GOVERNMENT; 2d, that this government was to be such as would be ADEQUATE TO THE EXIGENCIES OF GOVERNMENT and THE PRESERVATION OF THE UNION; 3d, that these purposes were to be effected by ALTERATIONS AND PROVISIONS IN THE ARTICLES OF CONFEDERATION, as it is expressed in the act of Congress, or by SUCH FURTHER PROVISIONS AS SHOULD APPEAR NECESSARY, as it stands in the recommendatory act from Annapolis; 4th, that the alterations and provisions were to be reported to Congress, and to the States, in order to be agreed to by the former and confirmed by the latter. From a comparison and fair construction of these several modes of expression, is to be deduced the authority under which the convention acted. They were to frame a NATIONAL GOVERNMENT, adequate to the EXIGENCIES OF GOVERNMENT, and OF THE UNION; and to reduce the articles of Confederation into such form as to accomplish these purposes.

There are two rules of construction, dictated by plain reason, as well as founded on legal axioms. The one is, that every part of the expression ought, if possible, to be allowed some meaning, and be made to

conspire to some common end. The other is, that where the several parts cannot be made to coincide, the less important should give way to the more important part; the means should be sacrificed to the end, rather than the end to the means. Suppose, then, that the expressions defining the authority of the convention were irreconcilably at variance with each other; that a NATIONAL and ADEQUATE GOVERNMENT could not possibly, in the judgment of the convention, be affected by ALTERATIONS and PROVISIONS in the ARTICLES OF CONFEDERATION; which part of the definition ought to have been embraced, and which rejected? Which was the more important, which the less important part? Which the end; which the means? Let the most scrupulous expositors of delegated powers; let the most inveterate objectors against those exercised by the convention, answer these questions. Let them declare, whether it was of most importance to the happiness of the people of America, that the articles of Confederation should be disregarded, and an adequate government be provided, and the Union preserved; or that an adequate government should be omitted, and the articles of Confederation preserved. Let them declare, whether the preservation of these articles was the end, for securing which a reform of the government was to be introduced as the means; or whether the establishment of a government, adequate to the national happiness, was the end at which these articles themselves originally aimed, and to which they ought, as insufficient means, to have been sacrificed. But is it necessary to suppose that these expressions are absolutely irreconcilable to each other; that no ALTERATIONS or PROVISIONS in THE ARTICLES OF THE CONFEDERATION could possibly mould them into a national and adequate government; into such a government as has been proposed by the convention? No stress, it is presumed, will, in this case, be laid on the TITLE; a change of that could never be deemed an exercise of ungranted power. ALTERATIONS in the body of the instrument are expressly authorized. NEW PROVISIONS therein are also expressly authorized. Here then is a power to change the title; to insert new articles; to alter old ones. Must it of necessity be admitted that this power is infringed, so long as a part of the old articles remain? Those who maintain the affirmative ought at least to mark the boundary between authorized and usurped innovations; between that degree of change which lies within the compass of ALTERATIONS AND FURTHER PROVISIONS, and that which amounts to a TRANSMUTATION of the government. Will it be said that the alterations ought not to have touched the substance of the Confederation? The States would never have appointed a convention with so much solemnity, nor described its objects with so much latitude, if some SUBSTANTIAL reform had not been in contemplation. Will it be said that the FUNDAMENTAL PRINCIPLES of the Confederation were not within the purview of the convention, and ought not to have been varied? I ask, What are these principles? Do they require that, in the establishment of the Constitution, the States should be regarded as distinct and independent sovereigns? They are so regarded by the Constitution proposed. Do they require that the members of the government should derive their appointment from the legislatures, not from the people of the States? One branch of the new government is to be appointed by these legislatures; and under the Confederation, the delegates to Congress MAY ALL be appointed immediately by the people, and in two States [1] are actually so appointed. Do they require that the powers of the government should act on the States, and not immediately on individuals? In some instances, as has been shown, the powers of the new government will act on the States in their collective characters. In some instances, also, those of the existing government act immediately on individuals. In cases of capture; of piracy; of the post office; of coins, weights, and measures; of trade with the Indians; of claims under grants of land by different States; and, above all, in the case of trials by courts-marshal in the army and navy, by which death may be inflicted without the intervention of a jury, or even of a civil magistrate; in all these cases the powers of the Confederation operate immediately on the persons and interests of individual citizens. Do these fundamental principles require, particularly, that no tax should be levied without the intermediate agency of the States? The Confederation itself authorizes a direct tax, to a certain extent, on the post office. The power of coinage has been so construed by Congress as to levy a tribute immediately from that source also. But pretermitting these instances, was it not an acknowledged object of the convention and the universal expectation of the people, that the regulation of trade should be submitted to the general government in such a form as would render it an immediate source of general revenue? Had not Congress repeatedly recommended this measure as not inconsistent with the fundamental principles of the Confederation? Had not every State but one; had not New York herself, so far complied with the plan of

Congress as to recognize the PRINCIPLE of the innovation? Do these principles, in fine, require that the powers of the general government should be limited, and that, beyond this limit, the States should be left in possession of their sovereignty and independence? We have seen that in the new government, as in the old, the general powers are limited; and that the States, in all unenumerated cases, are left in the enjoyment of their sovereign and independent jurisdiction. The truth is, that the great principles of the Constitution proposed by the convention may be considered less as absolutely new, than as the expansion of principles which are found in the articles of Confederation. The misfortune under the latter system has been, that these principles are so feeble and confined as to justify all the charges of inefficiency which have been urged against it, and to require a degree of enlargement which gives to the new system the aspect of an entire transformation of the old. In one particular it is admitted that the convention have departed from the tenor of their commission. Instead of reporting a plan requiring the confirmation OF THE LEGISLATURES OF ALL THE STATES, they have reported a plan which is to be confirmed by the PEOPLE, and may be carried into effect by NINE STATES ONLY. It is worthy of remark that this objection, though the most plausible, has been the least urged in the publications which have swarmed against the convention. The forbearance can only have proceeded from an irresistible conviction of the absurdity of subjecting the fate of twelve States to the perverseness or corruption of a thirteenth; from the example of inflexible opposition given by a MAJORITY of one sixtieth of the people of America to a measure approved and called for by the voice of twelve States, comprising fifty-nine sixtieths of the people an example still fresh in the memory and indignation of every citizen who has felt for the wounded honor and prosperity of his country. As this objection, therefore, has been in a manner waived by those who have criticised the powers of the convention, I dismiss it without further observation. The THIRD point to be inquired into is, how far considerations of duty arising out of the case itself could have supplied any defect of regular authority. In the preceding inquiries the powers of the convention have been analyzed and tried with the same rigor, and by the same rules, as if they had been real and final powers for the establishment of a Constitution for the United States. We have seen in what manner they have borne the trial even on that supposition. It is time now to recollect that the powers were merely advisory and recommendatory; that they were so meant by the States, and so understood by the convention; and that the latter have accordingly planned and proposed a Constitution which is to be of no more consequence than the paper on which it is written, unless it be stamped with the approbation of those to whom it is addressed. This reflection places the subject in a point of view altogether different, and will enable us to judge with propriety of the course taken by the convention. Let us view the ground on which the convention stood. It may be collected from their proceedings, that they were deeply and unanimously impressed with the crisis, which had led their country almost with one voice to make so singular and solemn an experiment for correcting the errors of a system by which this crisis had been produced; that they were no less deeply and unanimously convinced that such a reform as they have proposed was absolutely necessary to effect the purposes of their appointment. It could not be unknown to them that the hopes and expectations of the great body of citizens, throughout this great empire, were turned with the keenest anxiety to the event of their deliberations. They had every reason to believe that the contrary sentiments agitated the minds and bosoms of every external and internal foe to the liberty and prosperity of the United States. They had seen in the origin and progress of the experiment, the alacrity with which the PROPOSITION, made by a single State (Virginia), towards a partial amendment of the Confederation, had been attended to and promoted. They had seen the LIBERTY ASSUMED by a VERY FEW deputies from a VERY FEW States, convened at Annapolis, of recommending a great and critical object, wholly foreign to their commission, not only justified by the public opinion, but actually carried into effect by twelve out of the thirteen States. They had seen, in a variety of instances, assumptions by Congress, not only of recommendatory, but of operative, powers, warranted, in the public estimation, by occasions and objects infinitely less urgent than those by which their conduct was to be governed. They must have reflected, that in all great changes of established governments, forms ought to give way to substance; that a rigid adherence in such cases to the former, would render nominal and nugatory the transcendent and precious right of the people to "abolish or alter their governments as to them shall seem most likely to effect their safety and happiness," [2] since it is impossible for the people spontaneously and universally to move in concert towards their object; and it is therefore essential that such changes be

instituted by some INFORMAL AND UNAUTHORIZED PROPOSITIONS, made by some patriotic and respectable citizen or number of citizens. They must have recollected that it was by this irregular and assumed privilege of proposing to the people plans for their safety and happiness, that the States were first united against the danger with which they were threatened by their ancient government; that committees and congresses were formed for concentrating their efforts and defending their rights; and that CONVENTIONS were ELECTED in THE SEVERAL STATES for establishing the constitutions under which they are now governed; nor could it have been forgotten that no little ill-timed scruples, no zeal for adhering to ordinary forms, were anywhere seen, except in those who wished to indulge, under these masks, their secret enmity to the substance contended for. They must have borne in mind, that as the plan to be framed and proposed was to be submitted TO THE PEOPLE THEMSELVES, the disapprobation of this supreme authority would destroy it forever; its approbation blot out antecedent errors and irregularities. It might even have occurred to them, that where a disposition to cavil prevailed, their neglect to execute the degree of power vested in them, and still more their recommendation of any measure whatever, not warranted by their commission, would not less excite animadversion, than a recommendation at once of a measure fully commensurate to the national exigencies. Had the convention, under all these impressions, and in the midst of all these considerations, instead of exercising a manly confidence in their country, by whose confidence they had been so peculiarly distinguished, and of pointing out a system capable, in their judgment, of securing its happiness, taken the cold and sullen resolution of disappointing its ardent hopes, of sacrificing substance to forms, of committing the dearest interests of their country to the uncertainties of delay and the hazard of events, let me ask the man who can raise his mind to one elevated conception, who can awaken in his bosom one patriotic emotion, what judgment ought to have been pronounced by the impartial world, by the friends of mankind, by every virtuous citizen, on the conduct and character of this assembly? Or if there be a man whose propensity to condemn is susceptible of no control, let me then ask what sentence he has in reserve for the twelve States who USURPED THE POWER of sending deputies to the convention, a body utterly unknown to their constitutions; for Congress, who recommended the appointment of this body, equally unknown to the Confederation; and for the State of New York, in particular, which first urged and then complied with this unauthorized interposition? But that the objectors may be disarmed of every pretext, it shall be granted for a moment that the convention were neither authorized by their commission, nor justified by circumstances in proposing a Constitution for their country: does it follow that the Constitution ought, for that reason alone, to be rejected? If, according to the noble precept, it be lawful to accept good advice even from an enemy, shall we set the ignoble example of refusing such advice even when it is offered by our friends? The prudent inquiry, in all cases, ought surely to be, not so much FROM WHOM the advice comes, as whether the advice be GOOD. The sum of what has been here advanced and proved is, that the charge against the convention of exceeding their powers, except in one instance little urged by the objectors, has no foundation to support it; that if they had exceeded their powers, they were not only warranted, but required, as the confidential servants of their country, by the circumstances in which they were placed, to exercise the liberty which they assume; and that finally, if they had violated both their powers and their obligations, in proposing a Constitution, this ought nevertheless to be embraced, if it be calculated to accomplish the views and happiness of the people of America. How far this character is due to the Constitution, is the subject under investigation.

PUBLIUS.

1. Connecticut and Rhode Island.

2. Declaration of Independence.

|| Federalist No. 85 ||

Concluding Remarks

From McLEAN'S Edition, New York.

Author: Alexander Hamilton

To the People of the State of New York:

ACCORDING to the formal division of the subject of these papers, announced in my first number, there would appear still to remain for discussion two points: "the analogy of the proposed government to your own State constitution," and "the additional security which its adoption will afford to republican government, to liberty, and to property." But these heads have been so fully anticipated and exhausted in the progress of the work, that it would now scarcely be possible to do any thing more than repeat, in a more dilated form, what has been heretofore said, which the advanced stage of the question, and the time already spent upon it, conspire to forbid.

It is remarkable, that the resemblance of the plan of the convention to the act which organizes the government of this State holds, not less with regard to many of the supposed defects, than to the real excellences of the former. Among the pretended defects are the re-eligibility of the Executive, the want of a council, the omission of a formal bill of rights, the omission of a provision respecting the liberty of the press. These and several others which have been noted in the course of our inquiries are as much chargeable on the existing constitution of this State, as on the one proposed for the Union; and a man must have slender pretensions to consistency, who can rail at the latter for imperfections which he finds no difficulty in excusing in the former. Nor indeed can there be a better proof of the insincerity and affectation of some of the zealous adversaries of the plan of the convention among us, who profess to be the devoted admirers of the government under which they live, than the fury with which they have attacked that plan, for matters in regard to which our own constitution is equally or perhaps more vulnerable.

The additional securities to republican government, to liberty and to property, to be derived from the adoption of the plan under consideration, consist chiefly in the restraints which the preservation of the Union will impose on local factions and insurrections, and on the ambition of powerful individuals in single States, who may acquire credit and influence enough, from leaders and favorites, to become the despots of the people; in the diminution of the opportunities to foreign intrigue, which the dissolution of the Confederacy would invite and facilitate; in the prevention of extensive military establishments, which could not fail to grow out of wars between the States in a disunited situation; in the express guaranty of a republican form of government to each; in the absolute and universal exclusion of titles of nobility; and in the precautions against the repetition of those practices on the part of the State governments which have undermined the foundations of property and credit, have planted mutual distrust in the breasts of all classes of citizens, and have occasioned an almost universal prostration of morals.

Thus have I, fellow-citizens, executed the task I had assigned to myself; with what success, your conduct must determine. I trust at least you will admit that I have not failed in the assurance I gave you respecting the spirit with which my endeavors should be conducted. I have addressed myself purely to your judgments, and have studiously avoided those asperities which are too apt to disgrace political disputants of all parties, and which have been not a little provoked by the language and conduct of the opponents of the Constitution. The charge of a conspiracy against the liberties of the people, which has been indiscriminately

brought against the advocates of the plan, has something in it too wanton and too malignant, not to excite the indignation of every man who feels in his own bosom a refutation of the calumny. The perpetual changes which have been rung upon the wealthy, the well-born, and the great, have been such as to inspire the disgust of all sensible men. And the unwarrantable concealments and misrepresentations which have been in various ways practiced to keep the truth from the public eye, have been of a nature to demand the reprobation of all honest men. It is not impossible that these circumstances may have occasionally betrayed me into intemperances of expression which I did not intend; it is certain that I have frequently felt a struggle between sensibility and moderation; and if the former has in some instances prevailed, it must be my excuse that it has been neither often nor much.

Let us now pause and ask ourselves whether, in the course of these papers, the proposed Constitution has not been satisfactorily vindicated from the aspersions thrown upon it; and whether it has not been shown to be worthy of the public approbation, and necessary to the public safety and prosperity. Every man is bound to answer these questions to himself, according to the best of his conscience and understanding, and to act agreeably to the genuine and sober dictates of his judgment. This is a duty from which nothing can give him a dispensation. 'This is one that he is called upon, nay, constrained by all the obligations that form the bands of society, to discharge sincerely and honestly. No partial motive, no particular interest, no pride of opinion, no temporary passion or prejudice, will justify to himself, to his country, or to his posterity, an improper election of the part he is to act. Let him beware of an obstinate adherence to party; let him reflect that the object upon which he is to decide is not a particular interest of the community, but the very existence of the nation; and let him remember that a majority of America has already given its sanction to the plan which he is to approve or reject.

I shall not dissemble that I feel an entire confidence in the arguments which recommend the proposed system to your adoption, and that I am unable to discern any real force in those by which it has been opposed. I am persuaded that it is the best which our political situation, habits, and opinions will admit, and superior to any the revolution has produced.

Concessions on the part of the friends of the plan, that it has not a claim to absolute perfection, have afforded matter of no small triumph to its enemies. "Why," say they, "should we adopt an imperfect thing? Why not amend it and make it perfect before it is irrevocably established?" This may be plausible enough, but it is only plausible. In the first place I remark, that the extent of these concessions has been greatly exaggerated. They have been stated as amounting to an admission that the plan is radically defective, and that without material alterations the rights and the interests of the community cannot be safely confided to it. This, as far as I have understood the meaning of those who make the concessions, is an entire perversion of their sense. No advocate of the measure can be found, who will not declare as his sentiment, that the system, though it may not be perfect in every part, is, upon the whole, a good one; is the best that the present views and circumstances of the country will permit; and is such an one as promises every species of security which a reasonable people can desire.

I answer in the next place, that I should esteem it the extreme of imprudence to prolong the precarious state of our national affairs, and to expose the Union to the jeopardy of successive experiments, in the chimerical pursuit of a perfect plan. I never expect to see a perfect work from imperfect man. The result of the deliberations of all collective bodies must necessarily be a compound, as well of the errors and prejudices, as of the good sense and wisdom, of the individuals of whom they are composed. The compacts which are to embrace thirteen distinct States in a common bond of amity and union, must as necessarily be a compromise of as many dissimilar interests and inclinations. How can perfection spring from such materials?

The reasons assigned in an excellent little pamphlet lately published in this city, [1] are unanswerable to show the utter improbability of assembling a new convention, under circumstances in any degree so favorable to a happy issue, as those in which the late convention met, deliberated, and concluded. I will not repeat the arguments there used, as I presume the production itself has had an extensive circulation. It is

certainly well worthy the perusal of every friend to his country. There is, however, one point of light in which the subject of amendments still remains to be considered, and in which it has not yet been exhibited to public view. I cannot resolve to conclude without first taking a survey of it in this aspect.

It appears to me susceptible of absolute demonstration, that it will be far more easy to obtain subsequent than previous amendments to the Constitution. The moment an alteration is made in the present plan, it becomes, to the purpose of adoption, a new one, and must undergo a new decision of each State. To its complete establishment throughout the Union, it will therefore require the concurrence of thirteen States. If, on the contrary, the Constitution proposed should once be ratified by all the States as it stands, alterations in it may at any time be effected by nine [2] States. Here, then, the chances are as thirteen to nine in favor of subsequent amendment, rather than of the original adoption of an entire system.

This is not all. Every Constitution for the United States must inevitably consist of a great variety of particulars, in which thirteen independent States are to be accommodated in their interests or opinions of interest. We may of course expect to see, in any body of men charged with its original formation, very different combinations of the parts upon different points. Many of those who form a majority on one question, may become the minority on a second, and an association dissimilar to either may constitute the majority on a third. Hence the necessity of moulding and arranging all the particulars which are to compose the whole, in such a manner as to satisfy all the parties to the compact; and hence, also, an immense multiplication of difficulties and casualties in obtaining the collective assent to a final act. The degree of that multiplication must evidently be in a ratio to the number of particulars and the number of parties.

But every amendment to the Constitution, if once established, would be a single proposition, and might be brought forward singly. There would then be no necessity for management or compromise, in relation to any other point no giving nor taking. The will of the requisite number would at once bring the matter to a decisive issue. And consequently, whenever nine, or rather ten States, were united in the desire of a particular amendment, that amendment must infallibly take place. There can, therefore, be no comparison between the facility of affecting an amendment, and that of establishing in the first instance a complete Constitution.

In opposition to the probability of subsequent amendments, it has been urged that the persons delegated to the administration of the national government will always be disinclined to yield up any portion of the authority of which they were once possessed. For my own part I acknowledge a thorough conviction that any amendments which may, upon mature consideration, be thought useful, will be applicable to the organization of the government, not to the mass of its powers; and on this account alone, I think there is no weight in the observation just stated. I also think there is little weight in it on another account. The intrinsic difficulty of governing thirteen States at any rate, independent of calculations upon an ordinary degree of public spirit and integrity, will, in my opinion constantly impose on the national rulers the necessity of a spirit of accommodation to the reasonable expectations of their constituents. But there is yet a further consideration, which proves beyond the possibility of a doubt, that the observation is futile. It is this that the national rulers, whenever nine States concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged "on the application of the legislatures of two thirds of the States (which at present amount to nine), to call a convention for proposing amendments, which shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the legislatures of three fourths of the States, or by conventions in three fourths thereof." The words of this article are peremptory. The Congress "shall call a convention." Nothing in this particular is left to the discretion of that body. And of consequence, all the declamation about the disinclination to a change vanishes in air. Nor however difficult it may be supposed to unite two thirds or three fourths of the State legislatures, in amendments which may affect local interests, can there be any room to apprehend any such difficulty in a union on points which are merely relative to the general liberty or security of the people. We may safely rely on the disposition of the State legislatures to erect barriers against the encroachments of the national authority.

If the foregoing argument is a fallacy, certain it is that I am myself deceived by it, for it is, in my conception, one of those rare instances in which a political truth can be brought to the test of a mathematical demonstration. Those who see the matter in the same light with me, however zealous they may be for amendments, must agree in the propriety of a previous adoption, as the most direct road to their own object.

The zeal for attempts to amend, prior to the establishment of the Constitution, must abate in every man who is ready to accede to the truth of the following observations of a writer equally solid and ingenious: "To balance a large state or society Usays hee, whether monarchical or republican, on general laws, is a work of so great difficulty, that no human genius, however comprehensive, is able, by the mere dint of reason and reflection, to effect it. The judgments of many must unite in the work; experience must guide their labor; time must bring it to perfection, and the feeling of inconveniences must correct the mistakes which they INEVITABLY fall into in their first trials and experiments." [3] These judicious reflections contain a lesson of moderation to all the sincere lovers of the Union, and ought to put them upon their guard against hazarding anarchy, civil war, a perpetual alienation of the States from each other, and perhaps the military despotism of a victorious demagoguery, in the pursuit of what they are not likely to obtain, but from time and experience. It may be in me a defect of political fortitude, but I acknowledge that I cannot entertain an equal tranquillity with those who affect to treat the dangers of a longer continuance in our present situation as imaginary. A nation, without a national government, is, in my view, an awful spectacle. The establishment of a Constitution, in time of profound peace, by the voluntary consent of a whole people, is a prodigy, to the completion of which I look forward with trembling anxiety. I can reconcile it to no rules of prudence to let go the hold we now have, in so arduous an enterprise, upon seven out of the thirteen States, and after having passed over so considerable a part of the ground, to recommence the course. I dread the more the consequences of new attempts, because I know that powerful individuals, in this and in other States, are enemies to a general national government in every possible shape.

PUBLIUS.

1. Entitled "An Address to the People of the State of New York."

2. It may rather be said TEN, for though two thirds may set on foot the measure, three fourths must ratify.

3. Hume's "Essays," vol. i., page 128: "The Rise of Arts and Sciences."

From James Madison to George Lee Turberville, 2 November 1788

Dear Sir

Your favor of the 20th. Ult: not having got into my hands in time to be acknowledged by the last mail, I have now the additional pleasure of acknowledging along with it your favor of the 24. which I recd. yesterday.

You wish to know my sentiments on the project of another general Convention as suggested by New York.1 I shall give them to you with great frankness, though I am aware they may not coincide with those in fashion at Richmond or even with your own. I am not of the number if there be any such, who think the Constitution, lately adopted, a faultless work. On the Contrary there are amendments wch. I wished it to have received before it issued from the place in which it was formed. These amendments I still think ought to be made according to the apparent sense of America and some of them at least I presume will be made. There are others, concerning which doubts are entertained by many, and which have both advocates and opponents on each side of the main question. These I think ought to receive the light of actual experiment, before it would be prudent to admit them into the Constitution. With respect to the first class, the only question is which of the two modes provided be most eligible for the discussion and adoption of them. The objections agst. a Convention which give a preference to the other mode in my judgment are the following. 1. It will add to the difference among the States on the merits, another and an unnecessary difference concerning the mode. There are amendments which in themselves will probably be agreed to by all the States, and pretty certainly by the requisite proportion of them. If they be contended for in the mode of a Convention, there are unquestionably a number of States who will be so averse and apprehensive as to the mode, that they will reject the merits rather than agree to the mode. A convention therefore does not appear to be the most convenient or probable channel for getting to the object. 2. A convention cannot be called without the unanimous consent of the parties who are to be bound by it, if first principles are to be recurred to; or without the previous application of ⅔ of the State legislatures, if the forms of the Constitution are to be pursued. The difficulties in either of these cases must evidently be much greater than will attend the origination of amendments in Congress, which may be done at the instance of a single State Legislature, or even without a single instruction on the subject. 3. If a General Convention were to take place for the avowed and sole purpose of revising the Constitution, it would naturally consider itself as having a greater latitude than the Congress appointed to administer and support as well as to amend the system; it would consequently give greater agitation to the public mind; an election into it would be courted by the most violent partizans on both sides; it wd. probably consist of the most heterogeneous characters; would be the very focus of that flame which has already too much heated men of all parties; would no doubt contain individuals of insidious views, who under the mask of seeking alterations popular in some parts but inadmissible in other parts of the Union might have a dangerous opportunity of sapping the very foundations of the fabric. Under all these circumstances it seems scarcely to be presumeable that the deliberations of the body could be conducted in harmony, or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first Convention which assembled under every propitious circumstance, I should tremble for the result of a Second, meeting in the present temper of America and under all the disadvantages I have mentioned. 4. It is not unworthy of consideration that the prospect of a second Convention would be viewed by all Europe as a dark and threatening Cloud hanging over the Constitution just established, and perhaps over the Union itself; and wd. therefore suspend at least the advantages this great event has promised us on that side. It is a well known fact that this event has filled that quarter of the Globe with equal wonder and veneration, that its influence is already secretly but powerfully working in favor of liberty in France, and it is fairly to be inferred that the final event there may be materially affected by the prospect of things here. We are not sufficiently sensible of the importance of the example which this Country may give to the world; nor sufficiently attentive to the advantages we may reap from the late reform, if we avoid bringg. it into danger. The last loan in Holland and that alone, saved the U. S. from Bankruptcy in Europe; and that loan was obtained from a belief that the Constitution then depending wd. be certainly speedily, quietly, and finally established, & by that means put America into a permanent capacity to discharge with honor & punctuality all her engagements. I am Dr. Sir, Yours Js. Madison Jr

States and other Powers who are not in treaty with her, and therefore did not call upon us for retaliation; if we are treated in the same manner as those nations we have no right to complain. He was not opposed to particular regulations to obtain the object which the friends of the measure had in view; but he did not like this mode of doing it, because he feared it would injure the interest of the United States.

Before the House adjourned, Mr. MADISON gave notice, that he intended to bring on the subject of amendments to the constitution, on the 4th Monday of this month.

TUESDAY, May 5.

Mr. BENSON, from the committee appointed to consider of, and report what style or titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the Constitution, and to confer with a committee of the Senate appointed for the same purpose, reported as followeth:

"That it is not proper to annex any style or title to the respective styles or titles of office expressed in the Constitution."

And the said report being twice read at the Clerk's table, was, on the question put thereupon, agreed to by the House.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

Mr. MADISON, from the committee appointed to prepare an address on the part of this House to the President of the United States, in answer to his speech to both Houses of Congress, reported as followeth:

The Address of the House of Representatives to George Washington, President of the United States.

SIR: The Representatives of the People of the United States present their congratulations on the event by which your fellow-citizens have attested the pre-eminence of your merit. You have long held the first place in their esteem. You have often received tokens of their affection. You now possess the only proof that remained of their gratitude for your services, of their reverence for your wisdom, and of their confidence in your virtues. You enjoy the highest, because the truest honor, of being the First Magistrate, by the unanimous choice of the freest people on the face of the earth.

We well know the anxieties with which you must have obeyed a summons from the repose reserved for your declining years, into public scenes, of which you had taken your leave for ever. But the obedience was due to the occasion. It is already applauded by the universal joy which welcomes you to your station. And we cannot doubt that it will be rewarded with all the satisfaction with which an ardent love for your fellow citizens must review successful efforts to promote their happiness.

This anticipation is not justified merely by the past experience of your signal services. It is particularly suggested by the pious impressions under which you mean to commence your administration, and the enlightened maxims by which you mean to conduct it. We feel with you the strongest obligations to adore the invisible hand which has led the American people through so many difficulties, to cherish a conscious responsibility for the destiny of republican liberty; and to seek the only sure means of preserving and recommending the precious deposite in a system of legislation founded on the principles of an honest policy, and directed by the spirit of a diffusive patriotism.

The question arising out of the fifth article of the Constitution will receive all the attention demanded by its importance; and will, we trust, be decided, under the influence of all the considerations to which you allude.

In forming the pecuniary provisions for the Executive Department, we shall not lose sight of a wish resulting from motives which give it a peculiar claim to our regard. Your resolution, in a moment critical to the liberties of your country, to renounce all personal emolument, was among the many presages of your patriotic services, which have been amply fulfilled; and your scrupulous adherence now to the line then imposed on yourself, cannot fail to demonstrate the purity, whilst it increases the lustre of a character which has so many titles to admiration.

Such are the sentiments which we have thought fit to address to you. They flow from our own hearts, and we verily believe that, among the millions we represent, there is not a virtuous citizen whose heart will disown them.

All that remains is, that we join in your fervent supplications for the blessings of heaven on our country, and that we add our own for the choicest of these blessings on the most beloved of our citizens.

Said address was committed to a Committee of the whole; and the House immediately resolved itself into a committee, Mr. PAGE in the chair. The committee proposing no amendment thereto, rose and reported the address, and the House agreed to it, and resolved that the Speaker, attended by the members of this House, do present the said address to the President.

Ordered, That Messrs. SHERBURNE, COLES, and SMITH, (of South Carolina,) be a committee to wait on the President, to know when it will be convenient for him to receive the same.

Mr. CLYMER, from the committee appointed for the purpose, reported a bill for laying a duty on goods, wares, and merchandise, imported into the United States, which passed its first reading.

Mr. BLAND presented to the House the following application from the Legislature of Virginia, to wit:

VIRGINIA, *to wit:*

IN GENERAL ASSEMBLY, Nov. 14, 1788.

Resolved, That an application be made in the name and on behalf of the Legislature of this Commonwealth to the Congress of the United States, in the words following, to wit:

"The good People of this Commonwealth, in Convention assembled, having ratified the Constitution submitted to their consideration, this Legislature has, in conformity to that act, and the resolutions of the United States in Congress assembled, to them transmitted, thought proper to make the arrangements that were necessary for carrying it into effect. Having thus shown themselves obedient to the voice of their constituents, all America will find that, so far as

it depended on them, that plan of Government will be carried into immediate operation.

"But the sense of the People of Virginia would be but in part complied with, and but little regarded, if we went no farther. In the very moment of adoption, and coeval with the ratification of the new plan of Government, the general voice of the Convention of this State pointed to objects no less interesting to the People we represent, and equally entitled to our attention. At the same time that, from motives of affection to our sister States, the Convention yielded their assent to the ratification, they gave the most unequivocal proofs that they dreaded its operation under the present form.

"In acceding to the Government under this impression, painful must have been the prospect, had they not derived consolation from a full expectation of its imperfections being speedily amended. In this resource, therefore, they placed their confidence, a confidence that will continue to support them, whilst they have reason to believe that they have not calculated upon it in vain.

"In making known to you the objections of the People of this Commonwealth to the new plan of Government, we deem it unnecessary to enter into a particular detail of its defects, which they consider as involving all the great and unalienable rights of freemen. For their sense on this subject, we beg leave to refer you to the proceedings of their late Convention, and the sense of the House of Delegates, as expressed in their resolutions of the thirtieth day of October, one thousand seven hundred and eighty-eight.

"We think proper, however, to declare, that, in our opinion, as those objections were not founded in speculative theory, but deduced from principles which have been established by the melancholy example of other nations in different ages, so they will never be removed, until the cause itself shall cease to exist. The sooner, therefore, the public apprehensions are quieted, and the Government is possessed of the confidence of the People, the more salutary will be its operations, and the longer its duration.

"The cause of amendments we consider as a common cause; and, since concessions have been made from political motives, which, we conceive, may endanger the Republic, we trust that a commendable zeal will be shown for obtaining those provisions, which experience has taught us are necessary to secure from danger the unalienable rights of human nature.

"The anxiety with which our countrymen press for the accomplishment of this important end, will ill admit of delay. The slow forms of Congressional discussion and recommendation, if, indeed, they should ever agree to any change, would, we fear, be less certain of success. Happily for their wishes, the Constitution hath presented an alternative, by admitting the submission to a convention of the States. To this, therefore, we resort as the source from whence they are to derive relief from their present apprehensions.

"We do, therefore, in behalf of our constituents, in the most earnest and solemn manner, make this application to Congress, that a convention be immediately called, of deputies from the several States, with full power to take into their consideration the defects of this constitution that have been suggested by the State Conventions, and report such amendments thereto as they shall find best suited to promote our common interests, and secure to ourselves and our latest posterity the great and unalienable rights of mankind.

"JOHN JONES, *Speaker Senate.*
"THOMAS MATHEWS, *Speaker Ho. Del.*"

After the reading of this application,

Mr. BLAND moved to refer it to the Committee of the whole on the state of the Union.

Mr. BOUDINOT.—According to the terms of the Constitution, the business cannot be taken up until a certain number of States have concurred in similar applications; certainly the House is disposed to pay a proper attention to the application of so respectable a State as Virginia, but if it is a business which we cannot interfere with in a constitutional manner, we had better let it remain on the files of the House until the proper number of applications come forward.

Mr. BLAND thought there could be no impropriety in referring any subject to a committee, but surely this deserved the serious and solemn consideration of Congress. He hoped no gentleman would oppose the compliment of referring it to a Committee of the whole; beside, it would be a guide to the deliberations of the committee on the subject of amendments, which would shortly come before the House.

Mr. MADISON said, he had no doubt but the House was inclined to treat the present application with respect, but he doubted the propriety of committing it, because it would seem to imply that the House had a right to deliberate upon the subject. This he believed was not the case until two-thirds of the State Legislatures concurred in such application, and then it is out of the power of Congress to decline complying, the words of the Constitution being express and positive relative to the agency Congress may have in case of applications of this nature. "The Congress, wherever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments." From hence it must appear, that Congress have no deliberative power on this occasion. The most respectful and constitutional mode of performing our duty will be, to let it be entered on the minutes, and remain upon the files of the House until similar applications come to hand from two-thirds of the States.

Mr. BOUDINOT hoped the gentleman who desired the commitment of the application would not suppose him wanting in respect to the State of Virginia. He entertained the most profound respect for her—but it was on a principle of respect to order and propriety that he opposed the commitment; enough had been said to convince gentlemen that it was improper to commit—for what purpose can it be done? what can the committee report? The application is to call a new convention. Now, in this case, there is nothing left for us to do, but to call one when two-thirds of the State Legislatures ap-

ply for that purpose. He hoped the gentleman would withdraw his motion for commitment.

Mr. BLAND.—The application now before the committee contains a number of reasons why it is necessary to call a convention. By the fifth article of the Constitution, Congress are obliged to order this convention when two-thirds of the Legislatures apply for it; but how can these reasons be properly weighed, unless it be done in committee? Therefore, I hope the House will agree to refer it.

Mr. HUNTINGTON thought it proper to let the application remain on the table, it can be called up with others when enough are presented to make two-thirds of the whole States. There would be an evident impropriety in committing, because it would argue a right in the House to deliberate, and, consequently, a power to procrastinate the measure applied for.

Mr. TUCKER thought it not right to disregard the application of any State, and inferred, that the House had a right to consider every application that was made; if two-thirds had not applied, the subject might be taken into consideration, but if two-thirds had applied, it precluded deliberation on the part of the House. He hoped the present application would be properly noticed.

Mr. GERRY.—The gentleman from Virginia (Mr. MADISON) told us yesterday, that he meant to move the consideration of amendments on the fourth Monday of this month; he did not make such motion then, and may be prevented by accident, or some other cause, from carrying his intention into execution when the time he mentioned shall arrive. I think the subject however is introduced to the House, and, perhaps, it may consist with order to let the present application lie on the table until the business is taken up generally.

Mr. PAGE thought it the best way to enter the application at large upon the Journals, and do the same by all that came in, until sufficient were made to obtain their object, and let the original be deposited in the archives of Congress. He deemed this the proper mode of disposing of it, and what is in itself proper can never be construed into disrespect.

Mr. BLAND acquiesced in this disposal of the application. Whereupon, it was ordered to be entered at length on the Journals, and the original to be placed on the files of Congress.

DUTIES ON TONNAGE.

The House then resumed the consideration of the Report of the Committee of the whole on the state of the Union, in relation to the duty on tonnage.

Mr. JACKSON (from Georgia) moved to lower the tonnage duty from thirty cents, as it stood in the report of the committee on ships of nations in alliance, and to insert twenty cents, with a view of reducing the tonnage on the vessels of Powers not in alliance. In laying a higher duty on foreign tonnage than on our own, I presume, said he, the Legislature have three things in contemplation: first, The encouragement of American shipping; 2ndly, Raising a Revenue; and, 3dly, The support of light-houses and beacons for the purposes of navigation. Now, for the first object, namely, the encouragement of American shipping, I judge twenty cents will be sufficient, the duty on our own being only six cents; but if twenty cents are laid in this case, I conclude that a higher rate will be imposed upon the vessels of nations not in alliance. As these form the principal part of the foreign navigation, the duty will be adequate to the end proposed. I take it, the idea of revenue from this source is not much relied upon by the House; and surely twenty cents is enough to answer all the purposes of erecting and supporting the necessary light-houses. On a calculation of what will be paid in Georgia, I find a sufficiency for these purposes; and I make no doubt but enough will be collected in every State from this duty. The tonnage employed in Georgia is about twenty thousand tons, fourteen thousand tons are foreign; the duty on this quantity will amount to £466 13s. 4d. Georgia currency. I do not take in the six cents upon American vessels, yet this sum appears to be as much as can possibly be wanted for the purpose of improving our navigation.

When we begin a new system, we ought to act with moderation; the necessity and propriety of every measure ought to appear evident to our constituents, to prevent clamor and complaint. I need not insist upon the truth of this observation by offering arguments in its support. Gentlemen see we are scarcely warm in our seats, before applications are made for amendments to the Constitution; the people are afraid that Congress will exercise their power to oppress them. If we shackle the commerce of America by heavy imposition, we shall rivet them in their distrust. The question before the committee appears to me to be, whether we shall draw in, by tender means, the States that are now out of the Union, or deter them from joining us, by holding out the iron hand of tyranny and oppression. I am for the former, as the most likely way of perpetuating the federal Government. North Carolina will be materially affected by a high tonnage; her vessels in the lumber trade will be considerably injured by the regulation; she will discover this, and examine the advantages and disadvantages of entering into the Union. If the disadvantages preponderate, it may be the cause of her throwing herself into the arms of Britain; her peculiar situation will enable her to injure the trade of both South Carolina and Georgia. The disadvantages of a high tonnage duty on foreign vessels are not so sensibly felt by the Northern States; they have nearly vessels enough of their own to carry on all their trade, consequently the loss sustained by them will be but small; but the Southern States employ mostly foreign shipping, and unless their produce is carried by them to market it will perish. At this mo-

"The fact that the states today are hosting annual meetings based on the same set of rules that our Founding Fathers followed over 200 years ago, proves that these rules are not dead, or lost, or ignored as some claim. To the contrary, they are vibrant, and healthy, and followed to this day."

Runaway Convention? Meet the ULC: An Annual Conference of States Started in 1892 That Has Never Run Away

Ken Quinn, Regional Director for Convention of States Action

For decades fearmongers and naysayers have been claiming that the 1787 Constitutional Convention was a "runaway" convention and therefore if an Article V convention for proposing amendments were held today that it would "runaway" also.

Constitutional attorney Michael Farris (Can We Trust The Constitution? Answering The Runaway Convention Myth) has conducted a thorough inspection of the commissions from the state legislatures and concluded that the delegates to the Constitutional Convention acted well within their powers. The charge that the delegates exceeded their authority was originally refuted by James Madison in Federalist 40, The Powers of the Convention to Form a Mixed Government Examined and Sustained.

Leading Article V scholar Professor Robert Natelson has discovered and researched over thirty multi-colony and multi-state conventions, proving that the process of states convening to address critical issues was a well-established practice (Founding Era Conventions and the Meaning of the Constitution's "Convention for Proposing Amendments").

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Moreover, the procedures at the conventions were incredibly uniform: each state is represented by "commissioners" appointed in a manner determined by the state legislature, commissioners had no authority to act outside the scope of their commission, each state had one vote regardless of its population or how many commissioners it sent. Not a single one of these thirty-plus conventions "ran away."

Still the naysayers persist and claim that times have changed and a convention could never be held in today's partisan political climate without running away and destroying our Constitution. Reality, however, paints a different picture. In fact, the States have been meeting together every single year since 1892 (except 1945) to propose laws through the Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws).

The Uniform Law Commission: Federalism in Practice

Few people are familiar with the Uniform Law Commission, but almost everyone benefits from their work—in fact, anyone who has ever purchased goods from a seller in another state has been the beneficiary of laws drafted by the ULC. The States created the ULC as a way to promote federalism and exercise their Tenth Amendment powers.

The States recognized that the Tenth Amendment gave them great power to shape the development of American society, but they also realized that with that power came certain dangers. The reservation of certain powers to the States meant that the States could enact different laws on the same subjects creating all kinds of a confusion and difficulty for people dealing with multiple states.[1] Of course in some cases this can be a good thing: California and Texas are different states with different heritages and different people—they should be able to enact different laws to represent their citizens. But in others it can be positively crippling. Just ask the Founders who watched their newly founded country nearly tear itself apart due to different commercial systems and regulations in the States.

This has been the perpetual struggle of all federal systems throughout history. One solution is to centralize power in a federal government, and have it enact laws forcing the States to act together. The other is for the States to voluntarily come together and cooperate on issues of common concern, like commerce. In 1892, the States chose the second option and created the Uniform Law Commission.[2]

Thanks in large part to the ULC, today the States have uniform laws on a number of topics, including the Uniform Commercial Code, effectively keeping the federal government at bay and preserving the fragments of federalism. If not for the foresight of the States in 1892, much of the legal framework that allows for seamless and efficient cooperation between the States in our modern commercial system would never have been developed, or, perhaps even worse, would have been created and preempted by the federal government.

This reservation of certain powers to the States, however, created the possibility that the States could and would enact diverse statues on the same subjects, "leading to confusion and difficulty in areas common to all jurisdictions."[1] The first annual meeting of the ULC was held in Saratoga, New York. Twelve representatives from seven states attended: Delaware, Georgia, Massachusetts, Michigan, New York, New Jersey, and Pennsylvania (Mississippi's appointed commissioners were unable to attend).[3] The States recognized that this was a historic moment. The report of the first meeting proudly stated that "It is probably not too much to say that this is the most important juristic work undertaken in the United States since the adoption of the Federal Constitution."

In the more than one hundred years that have elapsed since that time, there has been no official effort to obtain greater harmony of law among the States of the Union; and it is the first time since the debates on the constitution that accredited representatives of the several states have met together to discuss any legal question from a national point of view.[4]

Every year, without fail, the commissioners from the States come together at the ULC's annual meeting to draft and vote on legislation to propose to their states, functioning much like an annual Article V Convention of States, except that instead of proposing amendments, they propose legislation. Today the ULC has nearly 350 commissioners representing all 50 states as well as Washington, D.C., Puerto Rico, and the Virgin Islands.

The Uniform Law Commission Follows the Same Rules that Have Governed Multi-State Conventions Throughout American History

The ULC's process of drafting and proposing legislation is almost identical to the process for an Article V Convention of States and the process used by the Founders at their many multi-state conventions. Much like an Article V Convention of States, at the ULC:

- Each state is represented by "commissioners." The number and selection of commissioners for each state is determined by that state's legislature. [5]
- Each commissioner is required to present the commission (credentials) issued to them by their state legislature before they can represent their state. [6]
- The ULC's "Scope and Program Committee" reviews all proposed topics up for consideration by the ULC to ensure that they are consistent with the ULC's mission. [7]
- The ULC appoints drafting committees to draft the text of each legislative proposal. [8]
- Each piece of legislation that is drafted must be approved by the entire body of commissioners sitting as a committee of the whole.
- Finally, the commissioners vote on each piece of legislation by state, with each state having one vote. A majority of the States present must approve the legislation before it is formally proposed to the States.
- Even once the legislation is formally proposed to the States as a model act, the state legislatures must adopt that legislation to make it binding. Until it is adopted by the state legislatures it remains only a proposal. [9]

The fact that the States today are hosting annual meetings based on the same set of rules that our Founding Fathers followed over 200 years ago, proves that these rules are not dead, or lost, or ignored as some claim. To the contrary, they are vibrant, and healthy, and followed to this day.

Since its beginning in 1892, the Uniform Law Commission has proposed over 300 acts to the state legislatures for adoption. Over the course of that time the commissioners have never exceeded their authority nor has there ever been a "runaway" conference that exceeded the authority or mission of the ULC.

Conclusion

The preposterous notion that the States are incapable of holding a meeting today to debate, draft, and propose amendments to the Constitution because it will "runaway" is not only historically baseless, but is completely undercut by the hard work of the ULC over the past 124 years. It is an undeniable fact that the States are fully capable today of appointing highly intelligent and qualified individuals to research, draft, and propose laws. There is no need to speculate how the States will come together to hold an Article V Convention of States; they are already in the habit of doing so. There is no need to speculate about the rules for a convention; the same rules our Founders followed centuries ago are still followed today when the States assemble to propose laws through the Uniform Law Commission.

1. Walter P. Armstrong, Jr., A Century of Service: A Centennial History of the National Conference of Commissioners on Uniform State Laws 12 (1991) at 13 (as cited in Robert A. Stein, Forming A More Perfect Union, A History of the Uniform Law Commission, at 3).
2. Robert A. Stein, A More Perfect Union, A History of the Uniform Law Commission, Forward by Sandra Day O'Connor, at x.
3. Walter P. Armstrong Jr., A Century of Service: A Centennial History of the National Conference of Commissioners on Uniform State Laws 12 (1991) at 11 (as cited in Robert A. Stein, Forming A More Perfect Union, A History of the Uniform Law Commission, at 7).
4. Robert A. Stein, Forming a More Perfect Union: A History of the Uniform Law Commission 8 (2013) (quoting 41 Cent. L.J. 1, 165 (1895)).
5. Uniform Law Commission Constitution, Article II, Membership, Section 2.2 Commissioners. http://www.uniformlaws.org/Narrative.aspx?title=Constitution
6. Uniform Law Commission Constitution, Article II, Membership, Section 2.6 Credentials. http://www.uniformlaws.org/Narrative.aspx?title=Constitution
7. Uniform Law Commission website, ULC Drafting Process, http://www.uniformlaws.org/Narrative.aspx?title=ULC%20Drafting%20Process
8. Ibid.
9. Ibid.

The time has arrived for our state legislatures to stop falling victim to the fear-mongering tactics and conspiracy theories of extremist groups.

The John Birch Society Denies Its History and Betrays Its Mission

Ken Quinn, Regional Director for Convention of States Project

For decades The John Birch Society (JBS) has been using fear tactics to manipulate state legislators into believing that an Article V convention for proposing amendments is a Constitutional Convention. To further their agenda they make the false claim that the 1787 Constitutional Convention was called by Congress to solely revise the Articles of Confederation and that the convention "ran away" because the delegates wrote an entirely new Constitution instead.

These claims are false and have been refuted by historical facts and even the writings of the Framers themselves (see "Can We Trust The Constitution," by Michael Farris, and Federalist 40, written by James Madison).

This marketing campaign of fear titled "Stop a Con-Con" has silenced the voice of the people and has paralyzed some state legislatures from fulfilling their duty as the barrier against encroachments by the national government (see Federalist 85).

USA

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Instead of supporting the states in their efforts to fight back against an overreaching federal government, JBS has actually helped the federal government to go unchecked by preventing the states from using the very tool the Framers provided to stop such usurpation of power.

The John Birch Society claims to be for "less government and more responsibility," yet when state legislatures try to pass resolutions to actually propose such amendments, JBS actively opposes them and even works to rescind resolutions that have passed!

According to JBS President John McManus, it does not matter what amendment is being advocated by the states; they will oppose it regardless of the topic. JBS works to rescind resolutions even for amendments that they claim they would like to see proposed by Congress, such as repeal of the Seventeenth Amendment (direct election of senators) and the Sixteenth Amendment (federal income tax).

McManus states that only Congress should be allowed to propose amendments to the Constitution. Stop and consider that for a minute. He is actually trying to convince his membership and you as state legislators that those who are daily usurping the Constitution are the only ones who can be trusted to propose amendments to it! Does anyone truly believe that Congress will propose amendments to limit their own power? Of course not!

You see, JBS does not trust you as a state legislator or the people to govern themselves. Does that sound like an organization that supports "less government and more responsibility" to you? JBS will give lip service to the Constitution, but when it comes to the states actually trying to use the Constitution to defend themselves as intended by the Framers, JBS is anti-Constitutional.

However, former JBS leaders were strong supporters of the states calling for an Article V convention for proposing amendments. As you are about to see, they not only understood Article V but they fully advocated for the states to hold a convention to propose an amendment that would fulfill their goal of "less government and more responsibility." That amendment was known as the Liberty Amendment.

In 1944, Willis E. Stone, a descendant of Thomas Stone, a signer of the Declaration of Independence, drafted the Liberty Amendment, which sought to vastly restrict federal authority, cut government cost, protect private enterprises, and repeal the Sixteenth Amendment. Stone ultimately organized the Liberty Amendment Committee in all 50 states and worked for decades to have his amendment proposed either by Congress or by the states in an Article V convention.

Shortly after JBS was founded in 1958 by Robert

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"This country consists of a union of sovereign States which hold the only power to ratify amendments... State legislatures hold concurrent power under the Constitution to initiate such amendments as they, the States and the people within them, require."

— Representative Larry McDonald, John Birch Society National Council & Chairman

Continued from front page

Welch, JBS members began supporting state legislatures in their efforts to pass resolutions for the Liberty Amendment.

As one newspaper reported, "Members of the four Birch societies in Bismarck, the state capital [of North Dakota], were pushing in the legislature a proposal for a constitutional convention to act on an amendment...[the Liberty Amendment]." [1]

In August of 1963, Welch sent an urgent request asking all JBS chapter leaders and members to send telegrams and letters urging the Alabama Senate to pass the resolution calling for the Liberty Amendment.[2]

Welch also produced a 15-minute radio program for JBS called "Are You Listening Uncle Sam," and, in 1967, he dedicated two programs to the Liberty Amendment. On the program Stone explained that his organization was using both methods (Congress and an Article V convention) to propose the Liberty Amendment.

In 1967 California State Senator John Schmitz, who was also a National Director for the John Birch Society, introduced the Liberty Amendment and called for a "national convention." [3]

In 1968 Welch joined Senator Schmitz as special guests at the National Convention of the Liberty Amendment Committee. [4]

Obviously, Welch supported Stone's efforts to have either Congress or the states propose the Liberty Amendment, and he used his time, resources, and relationships to make it happen.

On October 9, 1975, Representative Larry McDonald from Georgia, who served at the time on the John Birch Society's National Council, introduced the Liberty Amendment in Congress and gave extensive testimony — including advocating for the states to propose it in an Article V convention. [5]

In his book titled "*We Hold These Truths*," Representative Larry McDonald accurately explains that Congress and the states are authorized to propose amendments:

"Congress is authorized to propose constitutional amendments if it pleases. It is obligated to call a special convention to propose constitutional amendments if two-thirds of all state legislatures demand that it do so."

Nowhere in the writings of Welch or McDonald do you find them concerned about a "runaway convention" or that the entire Constitution could be thrown out in an Article V convention. In fact, they were one hundred percent behind the states in their efforts to use Article V to propose amendments.

It is only under the current leadership of JBS that this organization has turned its back on the Constitution and the process the Framers gave us to defend our security and liberties. In so doing, The John Birch Society has dented its history and betrayed its mission.

In fact, in his article, "Falsehoods Mark the Campaign for a Constitutional Convention," McManus denies all of the evidence to the contrary. Though a "constitutional convention" is not the same thing as an Article V convention for proposing amendments, McManus and other current JBS leaders insist upon referring to an Article V convention of states as a "constitutional convention." If the President of JBS is this misleading about the history of his own organization, why would anyone in his right mind trust him in regards to the history of our Constitution?

The time has arrived for our state legislatures to stop falling victim to the fear-mongering tactics and conspiracy theories of extremist groups. As representatives of the people and guardians of the Republic, you are the last resort in defending us against this overreaching federal government by proposing amendments to restore the balance of power back to the states.

Time is running out. Will you be led by fear or will you be a fearless leader?

1. The Warren County Observer, March 27, 1967, page 5
2. The John Birch Society, August 30, 1963, Interim Bulletin
3. Daily Independent Journal, February 24, 1967, page 2
4. Colorado Springs Gazette-Telegraph, June 19, 1968, page 36
5. Congressional Record – House, October 9, 1975, 32634-32641

CONVENTION of STATES

A PROJECT OF CITIZENS FOR SELF-GOVERNANCE

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OCTOBER 22, 2109

Dear members of the House and Senate State Government Committee,

On behalf of Common Cause's more than 36,000 members and supporters in Pennsylvania, I am writing to urge to vote against HR 206 and SR 234. These resolutions would call a dangerous Article V constitutional convention that could put every American's fundamental constitutional rights and civil liberties at risk. Common Cause is a nonpartisan grassroots organization dedicated to upholding the core values of American democracy. In the last few years, Common Cause has successfully helped rescind Article V convention applications in Delaware, New Mexico, Maryland, and Nevada and lobbied against passing Article V convention applications in states across the country, including Texas, Hawaii, Illinois, Colorado, Nebraska, Kentucky, Wisconsin, Connecticut, and Rhode Island.

Simply put, an Article V convention is a dangerous threat to all Americans' constitutional rights and civil liberties. Because there is no language in the U.S. Constitution to limit a convention, it is widely understood that a convention, once called, will be able to consider any amendments to the Constitution that the delegates want to consider. There are also no guidelines or rules to govern a convention. Due to the lack of provisions in the Constitution and lack of historical precedent, it is unknown how delegates to a convention would be picked, what rules would be in place, what would happen in the case of legal disputes, what issues would be raised, how the American people would be represented, and how to limit the influence of special interests in a convention. Because there is no way to limit a convention's focus, any constitutional issue could be brought up, including the freedom of speech, civil rights and civil liberties, marriage equality, voting rights, privacy rights, among others.

According to one of the nation's most esteemed constitutional law scholars, Professor Laurence Tribe of Harvard Law School, a constitutional convention would put "the whole Constitution up for grabs."[1] Another of our nation's foremost constitutional law scholars, Dean Erwin Chemerinsky, recently wrote that "no one knows how the convention would operate. Would it be limited to considering specific proposals for change offered by the states or could it propose a whole new Constitution? After all, the Constitutional Convention in 1787 began as an effort to amend the Articles of Confederation, and the choice was made to draft an entirely new document."[2]

Several Supreme Court justices have warned about the potential outcomes of constitutional conventions. Former Chief Justice Warren Burger wrote that a "Constitutional Convention today would be a free-for-all for special interest groups.[3]"

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[1] Michael Leachman & David A. Super, "States Likely Could Not Control Constitutional Convention on Balanced Budget Amendment and Other Issues," Center for Budget and Policy Priorities, July 6, 2014, *available at* http://www.cbpp.org/sites/default/files/atoms/files/7-16-14sfp.pdf.

[2] Erwin Chemerinsky, "Is It a Good Time to Overhaul Constitution?," Orange County Register, Jan. 21, 2016, http://www.ocregister.com/articles/constitutional-700670-convention-constitution.html.

[3] Robert Greenstein, "A Constitutional Convention Would be the Single Most Dangerous Way to 'Fix' American Government," Wash. Post, Oct. 21, 2014, https://www.washingtonpost.com/posteverything/wp/2014/10/21/a-constitutional-convention-could-be-the-single-most-dangerous-way-to-fix-american-government/.

Former Justice Arthur Goldberg wrote that "[t]here is no enforceable mechanism to prevent a convention from reporting out wholesale changes to our Constitution and Bill of Rights."[4] The late Justice Antonin Scalia said that he "certainly would not want a constitutional convention. Whoa! Who knows what would come out of it?"[5]

Prof. Tribe enumerated a number of questions about a constitutional convention that he says are "*beyond resolution by any generally agreed upon political or legal method.*"[6]

Specifically, Prof. Tribe explained the following questions have no agreed upon answer:

1. May a state application insist that Congress limit the convention's mandate to a single topic, or a single amendment?
    - If Congress can call a convention independent of state applications (as Professor Sandy Levinson argues it may), then how could state applications possibly constrain a convention's mandate?
    - If applications are constraining, then how are applications proposing related (but different) topics to be combined or separated?
    - Are they added up or not added up?
    - When do you hit the magic number 2/3 of the states submitting applications?
2. May the Convention propose amendments other than those it was called to consider?
3. May Congress prescribe rules for the convention or limit its powers in any way?
4. May the Convention set its own rules, independent of Article V, for how amendments that it proposes may be ratified – which is what the Philadelphia Convention did? The Philadelphia Convention was called under a scheme that said ratification required unanimity among the states – but they departed from that. What if ratification is decided by a national referendum?
5. Are the states to be equally represented, or does the one-person, one-vote rule apply? What about the District of Columbia? Do the citizens of the District have a role in a convention?
6. Could delegates be bound in advance by legislation or referendum to propose particular amendments or vote in a particular way? If delegates are chosen by lottery, it's hard to imagine how they could be bound in advance.
7. Could the convention propose amendments by a simple majority, or a supermajority of 2/3?

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[4] *Id.*

[5] *Id.*

[6] Laurence Tribe, "Conference on the Constitutional Convention: Legal Panel," Harvard Law School, Sept. 24, 2011, *available at* https://www.youtube.com/watch?v=ZbJ7NOF3HRU&t=52m56s (uploaded Oct. 6, 2011).

8. If each state gets one convention vote, must delegates representing a majority of the population nonetheless vote for an amendment in order for it to get proposed?
9. Conversely, if the convention uses the one-person, one-vote formula, must the delegations of 26 states – perhaps including the District of Columbia – vote in favor of a proposed amendment?
10. What role, if any, would the Supreme Court play in resolving conflicts among Congress, state legislatures, governors, referenda, and the convention itself? Can we rely on the Court to hold things in check? The Court has assumed that questions about the ratification process are non-justiciable political questions that it can't get involved in.

It risks too much to discover the answers to the above questions after-the-fact.

Common Cause is one of 240 organizations that is opposed to calling an Article V convention.[7] There is far too much at stake to risking putting the entire Constitution up for a wholesale re-write as part of a constitutional convention – including all of the civil rights, protections, and liberties that we enjoy today. For these reasons, I urge you to vote against HR 206 and SR 234.

For more information, below is a list of quotes from legal scholars and law professors warning of the dangers of an Article V convention

Sincerely,

Micah Sims

Executive Director

Common Cause Pennsylvania

[7] "Constitutional Rights and Public Interest Groups Oppose Calls for an Article V Constitutional Convention," April 14, 2017, *available at* http://www.commoncause.org/issues/more-democracy-reforms/constitutional-convention/constitutional-rights-and.pdf

Legal Scholars Warn of the Dangers of an Article V Convention

"[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. Congress might try to limit the convention to one amendment or one issue, but there is no way to assure that the Convention would obey." – Warren Burger, **Chief Justice of the U.S. Supreme Court (1969-1986)**

"I certainly would not want a constitutional convention. Whoa! Who knows what would come out of it?" – Antonin Scalia, **Associate Justice of the U.S. Supreme Court (1986-2016)**

"There is no enforceable mechanism to prevent a convention from reporting out wholesale changes to our Constitution and Bill of Rights." – Arthur Goldberg, **Associate Justice of the US. Supreme Court (1962-1965)**

"Questions about such a convention have been debated for years by legal scholars and political commentators, without resolution. Who would serve as delegates? What authority would they be given? Who would establish the procedures under which the convention would be governed? What limits would prevent a "runaway" convention from proposing radical changes affecting basic liberties?...With these thorny issues unsettled, it should come as no surprise that warning flags are being raised about a constitutional convention." – Archibald Cox, **Solicitor General of the United States (1961-1965) and special prosecutor for the U.S. Department of Justice (1973)**

"Any new constitutional convention must have the authority to study, debate, and submit to the states for ratification whatever amendments it considers appropriate...If the legislatures of thirty-four states request Congress to call a general constitutional convention, Congress has a constitutional duty to summon such a convention. If those thirty -four states recommend in their applications that the convention consider only a particular subject, Congress still must call a convention and leave to the convention the ultimate determination of the agenda and the nature of the amendments it may choose to propose." – Walter E. Dellinger, **Solicitor General of the United States (1996-1997) and the Douglas B. Maggs Professor Emeritus of Law at Duke University**

"First of all, we have developed orderly procedures over the past couple of centuries for resolving [some of the many] ambiguities [in the Constitution], but no comparable procedures for resolving [questions surrounding a convention]. Second, difficult interpretive questions about the Bill of Rights or the scope of the taxing power or the commerce power tend to arise one at a time, while questions surrounding the convention process would more or less need to be resolved all at once. And third, the stakes in this case in this instance are vastly greater, because what you're doing is putting the whole Constitution up for grabs." –Laurence Tribe, **professor of constitutional law at Harvard Law School**

"The bigger threat is that a constitutional convention, once unleashed on the nation, would be free to rewrite or scrap any parts of the U.S. Constitution. Do we really want to open up our nation's core defining values to debate at a time when a serious candidate for the White House brags about his enthusiasm for torture and the surveillance state, wants to "open up" reporters to lawsuits, scoffs at the separation of powers and holds ideas about freedom of religion that are selective at best?" – David Super, **professor of law at Georgetown University**

"Note what [Article V] does not say. It says not a word expressly authorizing the states, Congress, or some combination of the two to confine the subject matter of a convention. It says not a word about whether Congress, in calculating whether the requisite 34 states have called for a convention, must (or must not) aggregate calls for a convention on, say, a balanced budget, with differently worded calls arising from related or perhaps even unrelated topics. It says not a word prescribing that the make-up of a convention, as many conservatives imagine, will be one-state-one-vote (as Alaska and Wyoming might hope) or whether states with larger populations should be given larger delegations (as California and New York would surely argue)." - Walter Olson, **senior fellow at the Cato Institute's Center for Constitutional Studies**

"Danger lies ahead. Setting aside the long odds, if California and 33 more states invoke Article V, there's a risk that we'd end up with a "runaway" convention, during which delegates would propose amendments on issues including abortion, gun rights and immigration." – Rick Hasen, **Chancellor's Professor of Law and Political Science at the University of California, Irvine**

"Holding a Constitutional convention when the U.S. is embroiled in extremely toxic, uninformed and polarized politics is a really, really bad idea." – Shelia Kennedy, **professor of law and policy at Indiana University Purdue University Indianapolis**

"But no rule or law limits the scope of a state-called constitutional convention. Without established legal procedures, the entire document would be laid bare for wholesale revision. Article V itself sheds no light on the most basic procedures for such a convention. How many delegates does each state get at the convention? Is it one state, one vote, or do states with larger populations, like California, get a larger share of the votes? The Supreme Court has made at least one thing clear — it will not intervene in the process or the result of a constitutional convention. The game has neither rules nor referees." – McKay Cunningham, **professor of law at Concordia University**

"The result will be a disaster. I hate to think of the worst-case scenario. At best, the fight over every step along the way would consume our country's political oxygen for years." – David Marcus, **professor of law at the University of Arizona**

"At present, there are no rules regarding who can participate, give money, lobby or have a voice in a constitutional convention. There are no rules about conflicts of interest, disclosure of who is giving or expending money. No rules exist that address political action committees, corporate or labor union involvement or how any other groups can or should participate. Not only might legitimate voices of the people be silenced by convention rules, but special interests may be given privilege to speak and affect the deliberations…there are no rules limiting what can be debated at a constitutional convention. Given the potential domination by special interests, who knows the result?" – David Schultz, **political science and election law professor at Hamline University**

"An Article V convention might propose an amendment to restore or expand the liberties of the American people, but it also could propose an amendment that diminishes the liberties of the American people, or of some of the people. " – John Malcolm, **director of the Heritage Foundation's Edwin Meese III Center for Legal and Judicial Studies**

"But nothing in the Constitution limits such a convention to the issue or issues for which it was called. In other words, anything and everything could be on the table, including fundamental constitutional rights. Nor are there any guarantees about who would participate or under what rules. Indeed, for these reasons, no constitutional convention has been called since the first in 1787." – Helen Norton, **professor and Ira C. Rothgerber, Jr. Chair in Constitutional Law at the University of Colorado**

"The lack of clear rules of the road, either in the text of the Constitution itself or in historical or legal precedent, makes the selection of the convention mechanism a choice whose risks dramatically outweigh any potential benefits." – Richard Boldt, **professor of law at the University of Maryland**

"We live in deeply partisan times. There are no certainties about how a constitutional convention would play out, but the most likely outcome is that it would deepen our partisan divisions. Because there are no clear constitutional rules defining a convention's procedures, a convention's "losers" may deem illegitimate any resulting changes. Regardless of the ultimate outcome, the process itself would likely worsen our already vicious national politics." – Eric Berger, **associate dean professor of law at the University of Nebraska College of Law**

"There are no such guarantees. This is uncharted territory…We should not now abandon the very document that has held us together as a nation for over two and one quarter centuries. Rewriting the Constitution is a dangerous errand that would not only unravel the legal ties that have kept us together for so long but would also undermine our sense of national identity and the way that view ourselves as a people." – William Marshall, **professor of law at University of North Carolina**

"Terrible idea…Today's politicians don't have the timeless brilliance of our framers. If we were to rewrite our constitution today, we wouldn't get a particularly good one." – Adam Winkler, **professor of constitutional law and history at the University of California, Los Angeles**

"I believe it's a time for constitutional sobriety. It's a time to keep our powder dry and not to move on an uncharted course. We are not the founding fathers. This would be disastrous." – Toni Massaro, **constitutional law professor at the University of Arizona**

"Having taught constitutional law for almost 40 years, and having studied constitutions from around the globe, I have difficulty imagining anything worse." – Bill Rich, **professor of law at Washburn University in Topeka, Kansas**

"There are no constitutional limits on what the convention could do, no matter what the states say going into it." – David Schwartz, **professor of law at the University of Wisconsin Law School**

"The Constitution allows for the calling of conventions on a petition of enough states, but not limited conventions of enough states. If the delegates decide they don't want to be bound by the (state) resolution, they are right that they can't be bound." – Richard H. Fallon Jr., **constitutional law professor at Harvard University**

"Once you open the door to a constitutional convention, there are no sure guidelines left. This is the constitutional equivalent of opening a can of worms." – Miguel Schor, **constitutional law professor at Drake University School of Law**

"Thus, neither the states nor Congress may limit the convention to specific subjects. While the goal to propose a balanced budget amendment may provide guidance to the convention, it would not have the force of law…Put simply, the rewards of any constitutional change is not worth the risks of a convention." – Sam Marcosson, **professor of law at the University of Louisville**

"Even more frightening is that the entire Constitution will be in play during a convention. The First Amendment could disappear, so could gun rights. There is no guarantee that any of our current constitutionally protected rights would be included in a new constitution. The only guarantee is that all of those rights would be imperiled." – Mark Rush, **the Waxberg Professor of Politics and Law at Washington and Lee University in Lexington**

"Most significantly, we advise the Legislature that a federal constitutional convention called with this resolution could potentially open up each and every provision of the United States Constitution to amendment or repeal. In other words, a federal constitutional convention could propose amendments to eliminate the protections of free speech; the protections against racial discrimination; the protections of freedom of religion; or any of the other myriad provisions that presently provide the backbone of American law." – March 2018 legislative testimony **of Russell Suzuki, Acting Attorney General, and Deirdre Marie-Iha, Deputy Attorney General, of the state of Hawaii**

"Whatever one thinks about these proposed amendments, trying to pass them through an Article V convention is a risky business. The Constitution does not specify how the delegates for such a convention would be chosen, how many delegates each state would have, what rules would apply at the convention or whether there would be any limits on what amendments the convention could consider. A convention that was called to address a specific issue, such as budget deficits, might propose changes to freedom of speech, the right to keep and bear arms, the Electoral College or anything else in the Constitution. There is no rule or precedent saying what the proper scope of the convention's work would be." – Allen Rostron, **associate dean for students, the William R. Jacques Constitutional Law Scholar, and a professor at the University of Missouri**

"Whether I like or dislike the specific proposal is not the point — the point is that a constitutional convention is a risky and potentially dangerous way to propose amendments." – Hugh Spitzer, **professor of law at the University of Washington School of Law**

"A Constitutional Convention could be dangerous and destructive to our country, and citizens should approach the idea with the same wariness the founders did…Do we really want to tinker with this nation's fundamental rights – especially at a time when our country is deeply divided politically? Let's not risk opening what could be a Pandora's box of chaos and an existential crisis for the country." – Dewey M. Clayton, **professor of political science at the University of Louisville**

"If a national constitutional convention were held, all of our rights under the current Constitution, and all of the government's reciprocal obligations, would be up for grabs. Nothing in the Constitution constrains the process that would apply if a convention is actually called. Anything could go, including the process for ratification itself, and there would be no Constitution cop on the block to ensure that things don't go seriously haywire." – Kim Wehle, **professor at the University of Baltimore School of Law and a former assistant U.S. attorney and associate independent counsel in the Whitewater investigation**

"Amendment by convention has never been attempted and little is certain about the powers and prerogatives of such a convention. The basic problem is that there appears to be no effective way to limit the convention's scope once it is called." – Stephen H. Sach, **Attorney General of Maryland (1979-1987)**

"It is unclear, for instance, what the agenda of the convention that the states would call would be. Some people even think that the scope of the convention would be unlimited, and that makes a lot of very rational people wary of making the whole Constitution up for grabs." – John O. McGinnis, **the George C. Dix Professor in Constitutional Law at Northwestern University Pritzker School of Law**

"The dangers stem largely from the fact that it is an uncharted course…The alternative route in Article V is one that has never been taken. This route is obviously legitimate, but it is an unknown…Moreover, the convention would have a plausible case for taking an even broader view of its agenda. Convention delegates could claim that they represent the people who elected them, and that they are entitled to deal with any constitutional issue of major concern to their constituency. The states, quite unthinkingly and without consideration of the implications, have started a process that may eventually produce a shock to them and to the country. It is a process of undeliberate constitution making that would make James Madison turn over in his grave." – Gerald Gunther, **constitutional law scholar and professor of law at Stanford Law School**

"In these contentious times, democratic institutions, norms, and views are under unprecedented stress. When debating whether to adopt a resolution to apply to Congress to call for an Article V Convention, Maryland legislators should keep in mind the possibility that the call could add to a widespread perception of national disarray and push the American Republic closer to a breaking point. The perils of an Article V Convention running amok and altering the core framework of the American Republic are high. This method of reform should therefore be used only as a last resort." – Miguel González-Marcos, **professor of law at the University of Maryland**

"There is a risk of a runaway convention." – Michael Gerhardt, **constitutional law professor at the University of North Carolina School of Law**

"So the fear among some people is that if we were to have such a constitutional convention that the whole Constitution would be up in the air again. It might be possible that the whole thing would be undermined, and no one would know going in what might replace it." – Daniel Ortiz, **constitutional law professor at the University of Virginia**

"First, the national convention method may not result in any amendment, because it generates many uncertainties that can defeat the passage of an amendment. These uncertainties include what the legal rules are that govern the amendment process, what actions the other states will take, what role the Congress will play, and what amendment the convention will propose. Second, this method may result in a different amendment than the one that the state legislature desired through a runaway convention. Even if the state legislature specifically provided that the convention should only address a particular amendment, it is quite possible that the convention could propose an entirely different amendment and that amendment would then be ratified by the states." – Michael B. Rappaport, **professor of law at the University of San Diego**

"Given that Article V contains no safeguards to restrain delegates, or instructions for choosing delegates, no part of the Constitution would be off limits. While some advocating for a convention may claim to care only about one issue, invoking Article V in this way would put the most basic parts of our democracy at risk. Extremists would have free rein to everything from our systems of checks and balances, to our most cherished rights, such as freedom of speech and voting for our leaders." – Wilfred Codrington, **fellow and counsel at the Brennan Center for Justice**

"I want to raise the alarm on a dangerous and little-known campaign organized by a small, powerful group of wealthy special interests who seek to call an Article V convention to rewrite this foundational document. Such a convention poses a grave danger to the rights and freedoms we all hold dear, but it also puts at grave risk the body of national environmental laws and the expert institutions that implement them…There are no rules outlined in the Constitution for how the process of a convention would unfold. We must consider the agenda of those who are lobbying so hard for this convention and how they would seek to gain influence." – Patrick Parenteau, **professor of law at Vermont Law School**

"In this politically fractured time, some state legislatures have called for a convention to rewrite the U.S. Constitution. Article V of the Constitution provides for such a process, but a convention has never before been convened and, and if it occurred, would have no set rules, no predictable outcome." – Justin Pidot, **professor of law at the University of Arizona**

Senator Tom Coburn, M.D.
U.S. Senator, Oklahoma
2005-2015

Testimony of Dr. Tom Coburn, U.S. Senator from Oklahoma (retired)
on HR 206 and SR 234
Pennsylvania House and Senate State Government Committees
October 22, 2019

The time has come for the Pennsylvania state legislature to use its power under Article V of the U.S. Constitution to address national problems that Congress will not address. For instance, it is crucial for the states to force the federal government to live within its means.

With $22 Trillion dollars of debt already (much higher if we count unfunded liabilities), we have a moral obligation to stop the bleeding. Future generations of Americans will not enjoy the blessings of liberty that we inherited if we enslave them to a growing debt of this magnitude.

But we must go further than simply balancing our federal budget. We, the people, must impose additional restraints upon career politicians in DC who will never be inclined to restrain their own power.

Americans have seen a steady, unbroken trend of greater and greater centralization of power in our nation's out-of-touch capitol. We are not only overtaxed but overregulated.

Unelected bureaucrats created more than 81,000 pages of rules and regulations in 2017 alone. Onerous regulations of this magnitude often kill jobs by causing businesses to move overseas. They can also serve as an impediment to new businesses that would otherwise create jobs for Americans who desperately need them. Even if the Trump administration slows down regulation, it will only be a temporary reprieve.

Several years ago Harvey Silverglate wrote a book entitled "Three Felonies A Day," explaining how the average, well-meaning American professional wakes up, goes to work, and comes home, blissfully unaware of the fact that he or she has likely committed multiple federal crimes in the course of the workday due to an ever-expanding code of broad, vague federal laws.

Is this freedom?

And if it weren't insult enough to be overtaxed and overregulated, the fact is that the ordinary, hard-working American is, by and large, simply overlooked.

Year after year, we raise our collective voices to tell our representatives what we want them to do: to end waste, fraud and abuse; to reform our immigration system; to create an atmosphere for job growth; and to make our tax code fair and simple. But instead of doing these things, DC politicians spend much of their time arguing about public policies that don't even belong at the national level, but rather at the state and local levels.

So what can you, as guardians of your citizens' liberty, really DO to force our federal government to get back on track?

Thankfully, America's Founders drafted the Constitution with a safe and effective recourse. Article V provides our state legislatures with the same power it provides to Congress for proposing constitutional amendments.

Since leaving the U. S. Senate, I have dedicated my time and energy to the Convention of States Project—an effort to finally use this Article V power. We are working to pass resolutions in the required 34 states for a convention to propose amendments that "impose fiscal restraints on the federal government, limit the power and jurisdiction of the federal government, and limit the terms of office for its officials and for members of Congress." Fifteen states have already done their part.

In addition to allowing for a balanced budget amendment, HR 206 and SR 234 would allow for the consideration of amendments that do one or more of the following:

- Limit Congress' spending power
- Limit Presidents' use of executive orders to make law
- Limit the ability of administrative agencies to implement rules and regulations where Congress has not provided clear direction
- Limit the use of international treaties to determine U.S. domestic law
- Impose real checks and balances on the U.S. Supreme Court, including, possibly, term limits for Supreme Court justices.

I am here today to urge you to use this constitutional tool to return power back to the states and put DC back in its place. We have come far past the point when we could hope that the next election would result in meaningful governmental reform. We know that no matter which party controls the presidency, and no matter which party controls Congress, the dysfunction in Washington will persist until an outside force stops it.

If you recognize, as I do, that our nation is headed for disaster at the hands of an over-powerful federal government, please support HR 206 and SR 234.

Subject: Written Testimony against HR206

Nothing in Article V or the Constitution limits a convention to a single subject or amendment. The Delegates, as direct representatives of "We the People," *cannot be controlled by federal or state law.*

Why is this so hard to understand? Some in this group evidently have never considered the Declaration to be authoritative. The founders did, but WE the People have forgotten it.

The Delegates would have the ***inherent*** right to propose whatever changes to our Constitution they want, including replacing our Constitution with a new one which has an easier mode of ratification. [See Declaration of Independence, paragraph 2]

You are being lied to. Pretended limits are a marketing gimmick by its proponents designed to give Legislators a false sense of security and control so they will vote for a process which will be totally out of their control. Utter brilliance!

Still think a convention is a good idea?

Bob Hilliard

Sen Garth D. Everett, Chair; Sen. Kevin J. Boyle, Democratic Chair; and Members of the House State Government Committee:

Pennsylvania must VOTE NO on HR206 and all other Article V Convention applications.

All sorts of deceptive con-con arguments are now resoundingly defeated! READ this explanation of the "con" job — http://thewashingtonstandard.com/con-con-lobbys-new-strategy-exposes-their-web-of-deceit/ **NO state passed the many COSP applications in 2018.**

Georgetown law professor David Super pointed out in THIS ARTICLE that **"Calling an Article V convention is reckless**, especially at this divisive moment in our nation's political history."

HERE is our 2019 ***state flyer*** which explains the dangers of an Article V convention.

HERE are words from ***brilliant men*** who warned against an Article V convention.

There is no need for an Article V convention (or in "Newspeak", a "convention of states").

If our Constitution (as is) is followed, the improprieties we've fought for decades (budget concerns and more) can be readily resolved. If the Constitution is NOT rigorously followed, how can additions to it make any change?

It is the **LACK of following our Constitution** that is the issue. Remedy THAT first.

Thank you for your consideration of these significant issues.
Pennsylvania must VOTE NO on HR206.

Trudy Stamps

TESTIMONY OF

KIM STOLFER, President

Firearms Owners Against Crime

Public Hearing On:

HR 206 and SR 234

Before the

Pennsylvania House of Representatives

State Government Committee

on

Amending the US Constitution

through an

Article V Constitutional Convention

October 22, 2019

Chairman Everett, Minority Chairman Boyle and Honorable Members of the House and Senate State Government Committees, I am Kim Stolfer, President of Firearms Owners Against Crime. I appreciate the opportunity to provide this testimony today regarding these critically important issues; adding Pennsylvania to the calls for amending the US Constitution through an Article V Constitutional Convention.

The purpose of my testimony at today's hearing is to discuss HR 206 and SR 234 and the general process of amending the US Constitution through the Article V process. Both of these bills call for a Convention of the States through the Article V Constitutional process to address identical concerns:

- HR 206: Fiscal restraints, limitations on jurisdiction and term limits
- SR 234: Fiscal restraints, limitations on jurisdiction and term limits

Many recognize that certain changes would be beneficial and, perhaps, are necessary. However, our concerns are to the unintended consequences for our Freedoms and the overly optimistic view that once this Article V process is started that it 'can' be limited effectively and that, once started, this Convention will be out of the control of the states thus endangering, most of all, our basic Freedoms.

The Federalist Papers and the Anti-Federalist Papers are collections of debates between the framers regarding the proposed United States Constitution. Both sides were intelligent educated and honorable people who wanted the best for this country.

Amongst the original framers, the Federalists argued accurately and persuasively that the powers to be granted to the Federal Government are so limited and so narrowly defined that we don't need a Bill of Rights.

The Anti-Federalists argued accurately and persuasively that while the powers to be granted to the Federal Government are narrow and defined, men are not saints and powers will be exceeded and grossly abused. They argued that it is absolutely essential that the powers to be delegated to the federal government must be further constrained and limited by a Bill of Rights.

Time and time again, history has proven that the Federalists were dangerously wrong: we definitely needed and need a Bill of Rights.

Imagine what our country would be like today without the Bill of Rights! Imagine a body of legal decisions with no references to the Bill of Rights. In a previous meeting, attended by myself, Mr. Mark Meckler and others, with Sen. Eichelberger and Rep. Bloom on this issue, Mr. Mark Meckler, an advocate for COS, stated that one of his goals was to remove all the legal annotations to the current US Constitution.

Every day we should all thank God that the Anti-Federalists prevailed in that argument.

It is a dangerous and possibly suicidal fantasy to expect that a majority of 21st Century American Legislatures will send delegates to a Constitutional Convention who are smarter and care more for freedom than the original framers. Both HR 206 and SR 234 speak at length to the limits these resolutions would put on delegates and Congress. So, is this 'really' the way this process

would really work? Considering the actions of Congress over the last few decades, is it not illusory to believe that the states will have 'any' control of a Convention once called and that adequate controls will be instituted and our Freedoms will be protected?

These claims of 'state control' were addressed in the Congressional Research Service that issued a report (4/11/2014) that shows that Congress has *exclusive authority* over setting up the convention. This CRS report shows that true control over an Article V Constitutional Convention rests with Congress and not the states, see quotes from page 4 of the report below:

- First, Article V delegates important and exclusive authority over the amendment process to Congress.
- "Second, While the Constitution is silent on the mechanics of an Article V convention, Congress has traditionally laid claim to broad responsibilities in connection with a convention, including **(1) receiving, judging, and recording state applications;** (2) establishing procedures to summon a convention; … **(4) determining the number and selection process for its delegates;** (5) setting internal convention procedures, **including formulae for allocation of votes among the states;**

Neither HR 206 or SR 234 address this issue adequately in our view. This report further illustrates that Congress will have true control of any Article V Convention and this undercuts our faith in the ability of 'any' state to adequately control their delegates 'or' to control the agenda/issues that these delegates will consider. In fact, on Page 2 & 3 of both resolutions ignore the fact that Congress, and 'not' the states, is in control of the Article V Convention and not the states. The CRS report confirms this and outlines how overly optimistic both resolutions are in believing that states can dictate to Congress this basic Constitutional function outside the states' sole power in calling for a Convention.

This legislature knows me because of my activism primarily in defense of the 2nd Amendment to the US Constitution and Article 1, Section 21 of the PA Constitution. My remarks are focused towards that area of my expertise.

However, my/our concerns with an Article V Constitutional Convention goes far beyond just the rights of gun owners and self-defense. Even those who wish to see the 2nd Amendment abolished, should fear altering our form of government because every enumerated and un-enumerated right is equally at risk.

The Bill of Rights and the 2nd Amendment:

The "First Law of Nature" is the human right and responsibility of self-defense. This law of nature predates all laws written by man.

Humans need tools to survive and it follows that the Constitution of the Commonwealth of Pennsylvania and the Constitution of the United States both codify the right of individual citizens to keep and carry the tools that are sometimes necessary for both individual and defense.

None of our rights are safe if we lack the ability to defend them. This is the original intent of Article 1; Section 21 of the Commonwealth's Constitution and it is the original intent of the 2nd

Amendment to the United States Constitution. Indeed, the Pennsylvania Right to Keep Bear Arms is the strongest worded protections in both constitutions.

The Second Amendment was ratified on December 15th, 1791. It is as necessary and valid today as it was during its confirmation. The very real protections that this Amendment affords cannot logically be interpreted as being antiquated. Its purpose remains sound and noble because the need is real and perpetual.

This is the right, the "teeth" if you will, that supports the other rights. This right is under vicious attack by powerful forces: Those forces include the United Nations, faithless politicians, and other debilitating influences of socialist and fascist activism.

A plan of rational reaction is in order. First, we need to recognize truth rather than what is fashionably politically correct.

Writing for the Clairmont Institute Dr. Angelo Codevilla informs us that "the notion of political correctness came into use among Communists in the 1930s as a semi-humorous reminder that *the Party's interest is to be treated as a reality that ranks above reality itself.*"

"*Comrade, your statement is factually incorrect.*"
"*Yes, it is. But it is politically correct.*"

"Because all progressives, Communists included, claim to be about creating new human realities, they are perpetually at war against nature's laws and limits. But since reality does not yield, progressives end up pretending that they themselves *embody* those new realities. Hence, any progressive movement's nominal goal eventually ends up being subordinated to the urgent, all-important question of the movement's own power. Because that power is insecure as long as others are able to question the truth of what the progressives say about themselves and the world, progressive movements end up struggling not so much to create the promised new realities as to force people to speak and act as if these were real: as if what is correct politically—i.e., what thoughts serve the party's interest—were correct factually.

Communist states furnish only the most prominent examples of such attempted groupthink. Progressive parties everywhere have sought to monopolize educational and cultural institutions in order to force those under their thumbs to sing their tunes or to shut up." (end quote)

The Constitution must be accepted logically, with honesty and in its entirety.

The Second Amendment has been assailed on countless occasions. Disloyal legislators defile constitutional principles with blatant violations of the most fundamental commandment, "the right of the people (properly interpreted as individuals in the First, Fourth, Fifth, Ninth and Tenth Amendments of the Bill of Rights) to keep and bear arms shall not be infringed".

Our disingenuous Legislators, Attorney Generals and Supreme Court Justices belittle and dishonor the memory, intent and integrity of our Founding Fathers. These self-perceived ethical scholars of law have bastardized the Constitution with their convoluted and ambiguous interpretations of our unequivocal "Bill of Rights". Virtue by virtue, liberty by liberty, our

Constitutional Republic is being systematically eroded away. It is they who are the most corrupting of outlaws!

Unarmed, we are all vulnerable to tyranny. In truth, it is occurring to this day.

Supreme Court decision: 1803, Marbury vs. Madison, Supreme Court Chief Justice Marshall proclaimed that "any act of the legislature, repugnant to the Constitution, is void". Supported by his proclamation, any law or legislative act that attempts to deprive law-abiding citizens of their Constitutional rights is itself illegal and void form the moment of its enactment.

Lawmen, including prosecutors, are obliged to discern "Constitutional Law". The people must demand from their legislators that they cease their unconstitutional assaults on the American people. If elected officials refuse to obey the limits imposed by the Constitution of the United States then they must vote the traitors out of office, for they are nothing less.

Self-explanatory: In 1856, the U.S. Supreme Court ruled that local law enforcement had no duty to protect individuals but only a general duty to enforce the laws. South vs. Maryland, 59 US (HOW) 396, 15 L. Ed. 433 (1856).

A U.S. Federal Appeals Court declared in 1982, "There is no constitutional right to be protected by the state against being murdered by criminals or madmen." Bowers vs. Devot, U.S. Court of Appeals, 7th Circuit 686 F. 2d 616 (1982).

Preserving your life is a very personal endeavor requiring sound judgment.

Because of their ceaseless and malicious distortion of gun related facts, many members of the news media are morally responsible for these horrific crimes. Knowing full well that women are far more vulnerable, than men, to violent assault, elements of the feminist movement are quite negligent by denying reality.

Many bureaucrats defiantly, and unconstitutionally, prevent honest citizens from exercising the "First Law of Nature". Covertly, elements of government are aiding and abetting the most sadistic malcontents of humanity, the psychopaths and violent criminals within this nation.

The blood of innocents is on the hands of many officials, both elected and unelected.

Without question, many of our elected officials have illegally far exceeded the authority of their office.

> "They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."
> ---**Benjamin Franklin**, Historical Review of Pennsylvania, 1759.

The United States Constitution does not need a makeover. This Commonwealth and the other States need new politicians -- governors, legislators and judges. A constitutional convention -- called for in the name of good government – could, and likely will, be a catastrophe.

Closing Thoughts

The U.S. Constitution may not be perfect, but a new constitutional convention will, most likely, make it worse. A Constitutional Convention would be an uncontrollable Pandora's Box that would allow the wealthiest (many of whom generate their wealth through the government) to re-write the rules governing our form of government.

Every concern raised by HR 206 and SR 234 can be addressed properly under the current Federal Constitution's standards and procedures.

Advocates of a Convention of the States (Constitutional Convention) are upset that the federal government has grown too large. This has happened, they correctly believe, because politicians have ignored the plain meaning of the current Constitution. Yet if that is the case, then rewriting the current Constitution with more or plainer language will only make matters worse.

If politicians can ignore the language of our current Constitution, then they can just as easily ignore the language of another. People who break rules **don't** start obeying them just because 'new' rules are written. **What is lacking is 'accountability'** for politicians who ignore or violate the current Constitution.

Respectfully,
Kim Stolfer, President
Firearms Owners Against Crime
E-Mail: kimstolfer@foacpac.org
Cell: 412-352-5018

THE UNIVERSITY OF UTAH

COLLEGE OF LAW
SALT LAKE CITY, UTAH 84112

November 29, 1983

I here offer brief comments of my own. The proponents are trying to blend the two methods of constitutional change made available by Article Five. They are saying that they do not trust a convention, so they propose to resort to such a body. That is incongruous. They may not have it both ways.

It is to be noted that in the American tradition a constitutional convention is not a constituent assembly -- a body competent both to draft and to adopt a constitution. In such an assembly is reposed sovereignty. The state antecedents of the Federal Constitution of 1787 all contemplated voter ratification. In this context it is not unreasonable to conclude that the members of the 1787 federal convention perceived such a convention to be competant to have the widest range of action in proposing amendments. Of course the very text confirms this by use of the plural "amendments." A convention might propose a single amendment but it would clearly have a wider range.

If what proponents desire is a particular change, the state legislative initiation method is adapted to the purpose. If more general review and possible changes are contemplated the convention method is plainly indicated.

Jefferson B. Fordham

Notre Dame Law School
Notre Dame, Indiana 46556

Direct Dial Number
219-239-5667

December 7, 1987

Mr. Don Fotheringham
Save the Constitution Committee
Box 4582
Boise, ID 83704

Dear Mr. Fotheringham:

You have asked my opinion the effort to rescind the Idaho legislature's approval of the proposed constitutional amendment to require a balanced federal budget. It would be within the power of the legislature, in my opinion, to rescind its approval. The courts could possibly regard the efficacy of that rescission as a political question committed by the Constitution to the discretion of Congress. Nevertheless, even if it were not judicially enforceable, such a rescission would be within the power of the Idaho legislature and it ought to be regarded by Congress as binding.

On the merits of the rescission, I support it for the reasons stated in the enclosed article from the April 22, 1987, issue of The New American.

I hope this will be helpful. If there is any further information I can provide, please let me know.

Sincerely,

Charles E. Rice
Professor of Law

Enclosure

HARVARD UNIVERSITY
LAW SCHOOL

LAURENCE H. TRIBE
Tyler Professor of Constitutional Law

GRISWOLD HALL 307
CAMBRIDGE, MASSACHUSETTS 02138
(617) 495-4621

The primary threat posed by an Article V Convention is that of a confrontation between Congress and such a Convention. Upon Congress devolves the duty of calling a Convention on application of the legislatures of two-thirds of the states, and approving and transmitting to the states for ratification the text of any amendment or amendments agreed upon by the convention. The discretion with which Congress may discharge this duty is pregnant with danger even under the most salutary conditions.

In the event of a dispute between Congress and the Convention over the congressional role in permitting the Convention to proceed, the Supreme Court would almost certainly be asked to serve as referee. Because the Court might feel obliged to protect the interests of the states in the amendment process, it cannot be assumed that the Court would automatically decline to become involved on the ground that the dispute raised a nonjusticiable political question, even if Congress sought to delegate resolution of such a dispute to itself. Depending upon the political strength of the parties to the dispute, a decision to abstain would amount to a judgment for one side or the other. Like an official judgment on the merits, such a practical resolution of the controversy would leave the Court an enemy either of Congress or of the Convention and the states that brought it into being.

A decision upholding against challenge by one or more states an action taken by Congress under Article V would be poorly received by the states involved. Truly disastrous, however, would be any result of a confrontation between the Supreme Court and the states over the validity of an amendment proposed by their Convention. Yet the convention process could, quite imaginably, give rise to judicial challenges that would cast the states into just such a conflict with the Supreme Court — despite congressional attempts to exclude such disputes from the Court's purview.

At a minimum, therefore, the federal judiciary, including the Supreme Court, will have to resolve the inevitable disputes over which branch and level of government may be entrusted to decide each of the many questions left open by Article V.

The only possible way to circumvent the problematic prospect of such judicial resolution is to avoid use of the Convention device altogether until its reach has been authoritatively clarified in the only manner that could yield definitive answers without embroiling the federal judiciary in the quest: through an amendment to Article V itself.

SCHOOL OF LAW
THE UNIVERSITY OF TEXAS AT AUSTIN

727 East 26th Street · Austin, Texas 78705 · (512) 471-5151

April 16, 1987

The Honorable Clint Hackney
House of Representatives
Box 2910
Austin, Texas 78769

Dear Representative Hackney:

The Law Library has provided me with a copy of H.C.R. 69, which you introduced in the Legislature in order to have the Legislature rescind the petition by the 65th Legislature asking Congress either to adopt a balanced budget amendment or to call a constitutional convention for the purpose of proposing such an amendment. I enthusiastically support your resolution.

A balanced budget is something devoutly to be wished. I doubt very much, however, whether amending the Constitution is the way to get it. I feel quite certain that even opening the door to the possibility of a constitutional convention would be a tragedy for the country.

We celebrate this year the Bicentennial of the Constitution of the United States. For 200 years it has served us well. I start with a strong presumption against any amendment to it and with an absolutely conclusive belief that we should not have a constitutional convention. Your resolution correctly says that scholarly legal opinion is divided on the potential scope of a constitutional convention's deliberations. I think that is an accurate statement. My own belief, however, is that a constitutional convention cannot be confined to a particular subject, and that anything it adopts and that the states ratify will be valid and will take effect. We have only one precedent, the Convention in Philadelphia in 1787. It was summoned "for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several Legislatures such alterations and provisions therein." From the very beginning it did not feel confined by the call and gave us a totally new Constitution that completely replaced the Articles of Confederation. I see no reason to believe that a constitutional convention 200 years later could be more narrowly circumscribed.

We will have a balanced budget when we have a President and Congress with the determination to adopt such a budget. I hope that day comes soon, but I hope even more that the day never comes when the country is exposed to the divisiveness and the possible untoward results of a constitutional convention.

I hope you are successful in persuading your colleagues in the House and Senate to adopt H.C.R. 69.

Sincerely,

Charles Alan Wright

UNIVERSITY OF MARYLAND SCHOOL OF LAW
500 WEST BALTIMORE STREET • BALTIMORE, MARYLAND 21201-1786

November 25, 1991

STATEMENT OF PROFESSOR CHRISTOPHER BROWN

The most alarming aspect of the fact that 32 of the necessary 34 states have called for a constitutional convention is the threat this development poses to a system that has worked so well for nearly 200 years. In spite of the fact that 3 states have rescinded their calls for a constitutional convention in recent years, convention supporters have clearly stated their intent to lull the final 2 states into passing convention requests, thereby forcing the U.S. Supreme Court into either upholding the state rescissions or mandating the first federal constitutional convention since 1787. We are on the brink of encountering the risks of radical surgery at a time when the patient is showing no unusual signs of difficulty. If this country were faced with an uncontrollable constitutional crisis, such risks might be necessary; but surely they have no place in the relatively placid state of present day constitutional affairs. Now is not the time for the intrusion of a fourth unknown power into our tripartite system of government.

After 34 states have issued their call, Congress must call "a convention for proposing amendments." In my view the plurality of "amendments" opens the door to constitutional change far beyond merely requiring a balanced federal budget. The appropriate scope of a convention's agenda is but one of numerous uncertainties now looming on the horizon: Need petitions be uniform, limited or general? By whom and in what proportion are the delegates to be chosen? Who will finance the convention? What role could the judiciary play in resolving these problems? The resolution of these issues would inevitably embroil the government in prolonged discord.

Assembling a convention and thereby encountering and attempting to resolve these questions would surely have a major effect upon the ongoing operations of our government. Unlike the threats posed by Richard Nixon's near impeachment, the convening of a convention could not necessarily be compromised to avoid disaster. It would surely create a major distraction to ordinary concerns, imposing a disabling effect on this country's domestic and foreign policies. Only the existence of an actual breakdown in our existing governing structure warrants such a risk-prone tinkering with out constitutional underpinnings. Now is not the time to take such chances.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
CHIEF JUSTICE BURGER
RETIRED

June 22, 1988

Dear Phyllis:

I am glad to respond to your inquiry about a proposed Article V Constitutional Convention. I have been asked questions about this topic many times during my news conferences and at college meetings since I became Chairman of the Commission on the Bicentennial of the U.S. Constitution, and I have repeatedly replied that such a convention would be a grand waste of time.

I have also repeatedly given my opinion that there is no effective way to limit or muzzle the actions of a Constitutional Convention. The Convention could make its own rules and set its own agenda. Congress might try to limit the Convention to one amendment or to one issue, but there is no way to assure that the Convention would obey. After a Convention is convened, it will be too late to stop the Convention if we don't like its agenda. The meeting in 1787 ignored the limit placed by the Confederation Congress "for the sole and express purpose."

With George Washington as chairman, they were able to deliberate in total secrecy, with no press coverage and no leaks. A Constitutional Convention today would be a free-for-all for special interest groups, television coverage, and press speculation.

Our 1787 Constitution was referred to by several of its authors as a "miracle." Whatever gain might be hoped for from a new Constitutional Convention could not be worth the risks involved. A new Convention could plunge our Nation into constitutional confusion and confrontation at every turn, with no assurance that focus would be on the subjects needing attention. I have discouraged the idea of a Constitutional Convention, and I am glad to see states rescinding their previous resolutions requesting a Convention. In these Bicentennial years, we should be celebrating its long life, not challenging its very existence. Whatever may need repair on our Constitution can be dealt with by specific amendments.

Cordially,

WEB

Mrs. Phyllis Schlafly
68 Fairmount
Alton, IL 62002

Statement of Professor Neil H. Cogan

I agree almost entirely with the foregoing memorandum.

My understanding of the Federal Convention is that it is a general convention; that neither the Congress nor the States may limit the amendments to be considered and proposed by the Convention; that the Convention may be controlled in subject matter only by itself and by the people, the latter through the ratification process. My understanding is further that the States and Congress may suggest amendments and the people give instructions, but that such suggestions and instructions are not binding. Thus, I believe that should the Congress receive thirty-four applications that clearly and convincingly are read as applications for a general convention (whether or not accompanied by suggested amendments), then Congress must call a Federal Convention.

While it is plainly appropriate to examine the traditional historical sources -- text, debates, papers and pamphlets, correspondence and diaries -- it is plain too that these sources must be examined, and other sources chosen, within the context of our evolving theory of government. As I understand that theory, the Federal Convention is the people by delegates assembled, convened to consider and possibly propose changes in our fundamental structures and relationships -- indeed, in our theory of government itself --, and controlled only by the people and certainly not by other bodies the tasks and views of which may disqualify them from fundamental change and which themselves may be the subjects and objects of fundamental change.

SCHOOL OF LAW
SOUTHERN METHODIST UNIVERSITY / DALLAS, TEXAS 75275

Greeting: Sen. Garth D. Everett, Chair; Sen. Kevin J. Boyle, Democratic Chair; and Members of the House State Government Committee:

Subject: Written Testimony against HR206

Please vote "NO" in opposition to HR206, or any other resolution that applies to Congress for an Article V convention, for any reason! If you have never looked into this in depth, a convention might sound like a good idea and a viable solution to our problems with the Federal government, but upon further examination, you will find that it is not only the wrong solution, but a dangerous one.

1) **It is unnecessary**. Our problems stem from the fact that the Constitution is being ignored, not any flaws within it. Amending a constitution that is being ignored and is not being enforced is futile. If the American people have not determined how to enforce the tenth amendment, they will not know how to enforce new amendments either. The Article V convention method for proposing amendments was never intended to be used to prevent usurpation of power by the Federal government. Both methods were intended to be used to correct constitutional error. (ref. The Federalist #49)
2) **It is risky**. Our founding document, the Declaration of Independence proclaims the right of the sovereign people "to alter or abolish" their form of government whenever it becomes destructive of their rights, rather than being the protector of them. An article V convention, ***by whatever name it is called***, is a constitutional convention (ref. Blacks Law dictionary) and is made up of delegates who represent the sovereign people. Once it convenes, neither Congress nor the states can control what happens at a constitutional convention. The delegates could even choose to lower the bar or eliminate the requirements for state ratification of amendments. It should be evident to anyone paying attention to politics today, that there is no limit to what extreme measures the delegates would propose. What compromises would be made in order to be able to consider the convention a success? But Congress will have far more influence on it than the states will. Once 34 states have applied, Congress has the power to "call" it. They will use that power to retain as much control as possible, in spite of what the states demand. At this point, if a state like Pennsylvania chooses not to attend because its demands have been ignored, it will have no say in what happens at the convention (like Rhode Island did in 1787) and will have to live with the results of whatever changes the delegates of the other states in attendance choose to make. States that aren't challenging federal usurpation of power now, will not be able to challenge the authority of a superior body, like a constitutional convention. And again, a state that has not discovered the will or the means to enforce the current Constitution, will not be able to enforce new amendments anyway.

A constitutional convention is simply the wrong solution to the problems we have today and would be destructive, rather than beneficial.

Please vote "NO" on any resolutions calling for an Article V convention, including HR206, HR457, HR444 and SR192.

Sincerely,
Wayne Christopher
Grand Bay, AL 36541
251-895-7799

TESTIMONY OF LORRAINE O. GLOEDE ON HR 206

TO: Melanie Donnelly

CC: Chanin Zwing

RE: WRITTEN TESTIMONY AGAINST HR 206

Senator Garth D. Everett, Chair; Senator Kevin J. Boyle, Democrat Chair; and Members of the House State Government Committee:

Will you please accept the following as written testimony against HR 206.

Thank you for this opportunity.

Lorraine O. Gloede

I urge the Committee members to VOTE NO on HR 206.

While it is evident that much time has been spent to carefully craft a Bill that will limit what your delegates may and may not do at an Article V convention, it appears that conventions are sovereign and make their own rules, regardless of how or by whom delegates are chosen and the restrictions placed on them. Once the convention convenes, the delegates have "plenipotentiary power" to do whatever they want because they no longer represent their states. They would be doing federal business, and as such, represent all the people of the country. The second paragraph of our Declaration of Independence gives delegates that power. State rules would not apply. Ratification methods could be changed, and the Constitution itself could be changed (e.g., George Soros wants a new constitution by 2020, and the North American Union wants a parliament. Socialists want a new constitution that will reflect our culture rather than having our culture adapt and reflect our present constitution.)

Robert's Rules of Law say that a convention is the highest law-making body of any organization. Therefore, lower law-making bodies—the states—cannot recall or control the delegates. So, "faithful delegate" bills deceive legislators into believing that an Article V convention is safe because delegates can do only what the state legislators tell them to do. From what I have read, when there is resistance among legislators to passing an application for an Article V convention, the strategy of the convention lobby is to get a "faithful delegate" Bill passed, even though they must know there is no such thing.

The U. S. Constitution does not lay out any guidelines or rules for a convention. There is no clear judicial, legislative, or executive body that would have authority over the convention, although Congress may feel that it has (see *Sovereign Duty* by KrisAnne Hall, "The Congressional Research Service Report"). It was last modified in 2014 and says what Congress believes its duties are with respect to an Article V convention. There are many. Given the lack of rules and authority, the convention would likely be open to outside and special interests. It's unclear how delegates would be chosen. Congress could make themselves the delegates if they decide that each state would have the same number of delegates as it has electors.

According to Constitutional expert Publius Huldah, "State legislators are "creatures of their State Constitutions, and have no 'competent authority' to control the Representatives of the People at an Article V convention. Americans have forgotten a principle which is the basis of free government—that political power originates with The People (Federalist No. 22, last paragraph [Hamilton]). The People create governments by means of constitutions. Since a government is the 'creature' of its constitution, it can't be superior to its Creator, The People." This is why, at the federal convention of 1787, where our present federal Constitution was drafted, our Framers understood that only The People were competent to ratify the new Constitution. George Mason said on July 23, 1787, "...The [State] Legislatures have no power to ratify it. They are the mere creatures of the State Constitutions, and cannot be greater than their creators..."

He did not say he was proposing Article V to rein in the power of the federal government, nor did any other Founder. Amendments do not do that; they correct perceived flaws in documents. Federalist No. 85, 13th paragraph, says that useful amendments would address the "organization of the government, not...the mass of its powers."

We have a limited government, but neither our representatives in Congress nor our state legislators are doing their duty to keep it that way. State representatives can say no (nullification) to any federal law or regulation that is unconstitutional. If our Constitution is not being followed now, why will amendments suddenly make everything right? We need to elect the right people, and we need to be educated to do so. We also need obedience and enforcement. That is the right solution to an out-of-control federal government.

Thank you.

Lorraine O. Gloede

ljog1@yahoo.com

September 20, 2019

The Honorable Garth D. Everett, State Capitol Harrisburg, Pa 17120

RE: HR206 Prime sponsor, Representative Matt Gabler

Dear Representative Everett:

My name is Maria Rayer and I'm District Captain for Convention of States Action Pennsylvania. I reside in PA HD165 and am reaching out to you to ask for your support of HR206.

I support this resolution because the system that our founders put in place has now been flipped on its head. Washington has become a tyrannical monster. They will never know what's best for me and my family, so why are they making so many decisions for me? I believe in an Article V convention because it will return the power to the people and the states where it belongs and how the founders intended.

I'm asking that you please vote YES on this resolution. I look forward to your response and would be happy to answer any questions you may have.

Thank you for your service to our great State of Pennsylvania

Sincerely

Maria Rayer

MARIA RAYER
704 PARKER LANE
SPRINGFIELD. PA 19064

Sen Garth D. Everett, Chair; Sen. Kevin J. Boyle, Democratic Chair; and Members of the House State Government Committee:

The Declaration of Independence, paragraph 2, expresses the right of the people (i.e. convention Delegates) "to alter or to abolish" our "Form of Government." PA legislators need to know that the subject of the amendment doesn't matter; *it's the Article V convention process that jeopardizes our Constitution!*

Legislators have been assured by COSP that state legislators will control convention Delegates and set the convention rules. *But this isn't true!*

Article V provides that when 2/3 of the state legislatures *apply* for it, *Congress* calls a convention. At that point, it will be out of the State Legislators' hands.

Here's an article which I'm sure will be of interest to you: http://www.renewamerica.com/columns/fotheringham/190613 [ad free]

This issue will impact our entire Country, not just Pennsylvania.

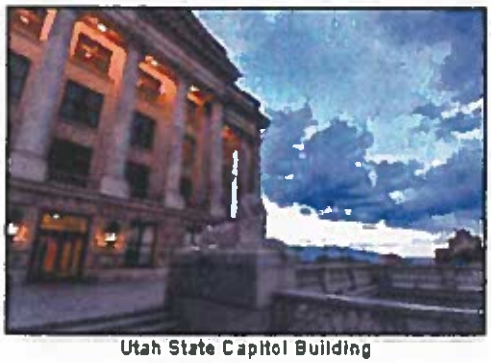
Respectfully,
Beverly Manning
106 Lakewood
Waleska, Ga. 30183

How the 'COS' cheated Utah


Don Fotheringham

By **Don Fotheringham**
June 13, 2019

During the 2019 session of the Utah State Legislature, a powerful lobby known as the "Convention of States Action" (COS) succeeded in getting the Republican leadership to maneuver SJR-9 through the Utah Legislature. SJR-9 is COS's application for Congress to call a convention under Article V of the U.S. Constitution.


Utah State Capitol Building

COS claims they want an Article V convention so we can get amendments to the Constitution which "limit the power and jurisdiction of the federal government."

But anyone who has actually read our Constitution knows it already limits the federal government to a very few clearly defined powers.[1] Our problems arise from the fact that most everyone ignores the existing constitutional limits on federal power.

An Article V convention would be dangerous

So what is the real problem with calling for an Article V convention?

Opponents of an Article V convention warn that if Congress calls a convention, the Delegates, as proxies of the People, would have the inherent power to make unlimited changes in the Constitution – even to establish a new form of government. But the COS lobby assures state legislators that nothing can go wrong because Article V amendments require the approval of three-fourths of the states. They overlook (or cover up) the fact that a new Constitution would have a new mode of ratification, even as the 1787 Convention adopted a new mode, making it easier to ratify the new Constitution.

Our only precedent for a convention came in 1787, when James Madison invoked the Delegates' "transcendent and precious" right to alter or abolish their form of government as the basis for what he and the other delegates did at the Convention. *They ignored their instructions to do nothing more*

than propose amendments to the Articles of Confederation, and drafted a new Constitution, which created a new form of government.

We thank God for the extraordinary character of Washington, Madison, Hamilton, Franklin, and others at the 1787 Convention who used their government-making authority to put the happiness of the people ahead of power and despotism. Can you imagine today's Congress calling an Article V convention run by Nancy Pelosi, Joe Biden, Elizabeth Warren, Jeff Flake, and Maxine Waters?

False promises

The COS lobby works hard to instill a false notion of legislative superiority over the Delegates to a convention. They assure state legislators that they can limit an Article V convention to a single subject, and that they can restrict the convention to specific rules and regulations. Lawmakers who fall for these promises have no concept of their role in the governing process. Legislators are the product of a convention, not its creators. They do not have the power to create or modify the Constitution under which they hold their existence. Legislators have only the power to make statutes – and constitutions are not made by statute. Under Article V, they have only the opportunity to initiate the convention process – nothing more; and Congress has the duty to call it – nothing more.

COS operatives do not want legislators to understand this doctrine, which was clearly understood by our Founding Fathers. It is described in the 1787 Convention record: "It was of great moment he (George Mason) observed that this doctrine should be cherished as the basis of free government."[2]

Uncontested deception

The lobbyists who push the states for an Article V convention will not show up for an open debate.[3] Their only hope for capturing the 34 states needed to trigger a convention is ***uncontested deception.*** In the state hearings, they resort to stratagems and legislative shenanigans to prevent opposing voices from being heard.


Utah Rep. Merrill F. Nelson

To help get their Utah bill passed, the COS put Rep. Ken Ivory on their payroll [4] and made Rep. Merrill F. Nelson a celebrity by sending both of them to a "simulated convention" staged by the COS in Williamsburg, Virginia. This mock convention was supposed to "prove" that Article V conventions are safe and controllable.

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The sad part of this affair is the ease with which we could have beaten the COS in a fair pro/con exchange just as we had done the previous year in 24 states! The pressure was on and Utah was the patsy. But the foregoing was not the end of the subterfuge and deception engineered by the COS. The dirty tricks and the astonishing collaboration of the House leadership had just begun.

The most reprehensible part of the big show came on March 5 on the House Floor. After Nelson's impassioned introduction of SJR-9, six COS proponents (Reps. Stratton, Strong, Acton, Winder, Ivory, and Snow) quickly arose to speak in favor of the resolution. These were hardly spontaneous arguments, for each representative spoke on a different aspect of the issue without any repetition. Then, before any opposing member could arise, Rep. Duckworth arose and "called the question" to end the debate. The Speaker, Brad Wilson, immediately declared Duckworth's motion "non-debatable" and called for a voice vote to end the debate, and the ayes had it! That was the end of the most corrupt Floor session in Utah's history. *It was rigged to silence all voices against SJR-9!!*

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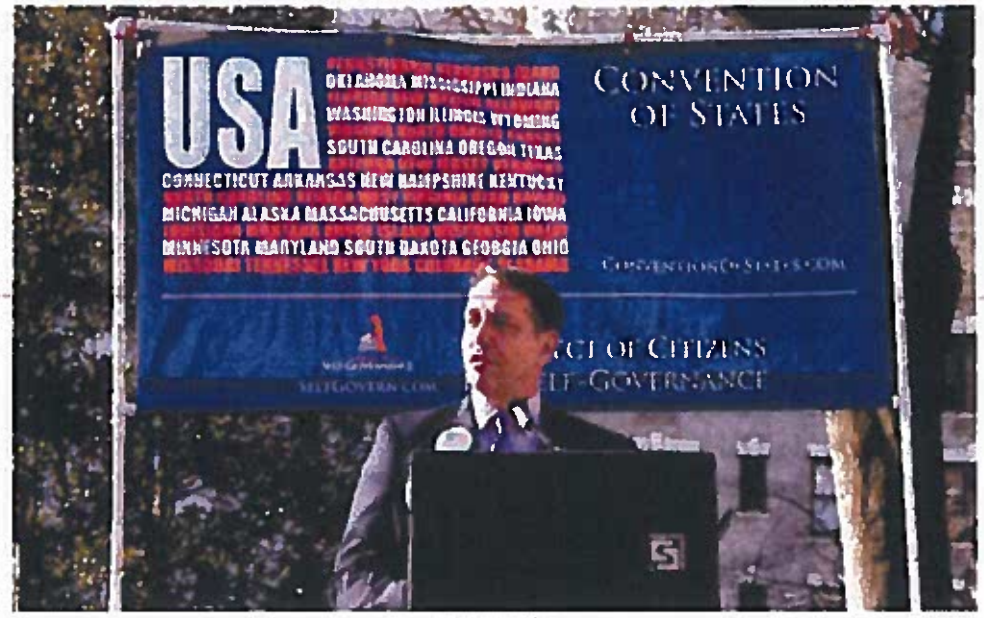

Mark Meckler

COS head Mark Meckler's confession

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How COS won the connivance of Utah's leadership and the committee chairmen, I do not profess to know; however, I think such a conspiracy could be carried out by as few as 20 of the 104 members of the Utah House and Senate. That means we yet have a body of strong, faithful representatives who, when fully informed, will rise up to protect our Constitution and honor their oath to support and defend it.

NOTES:

[1] In Federalist No. 45 (third paragraph from end) James Madison, Father of our Constitution, writes:

> "The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce ...the powers reserved to the several States will extend to all objects which ... concern the lives, liberties, and properties of the people, and their internal order ... and prosperity of the State."

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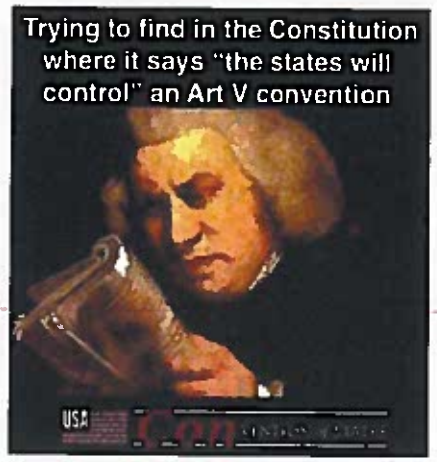
False claims in SR 234 & HR 206 application for an Article V Convention which contradict the US Constitution



The BLACK font in items 1-6 below is the wording in SR 234 (HR 206).
The RED font is what the U.S. Constitution says.
The GREEN font is the Report of the Congressional Research Service.
The BLUE font is my comments.

Constitutional Provisions Respecting an Article V convention

Article V, US Constit., says:

> "The Congress, whenever two thirds of both Houses shall deem necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments…"

So *Congress* "calls" the convention. Art. I, §8, last clause, US Constit., says Congress shall have the Power:

> "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing powers, and all other Powers vested by this Constitution in the government of the United States, or in any Department or Officer thereof."

So *Congress* makes *all laws* to organize the convention. That includes determining how Delegates will be selected.

Any Resolution made by the Pennsylvania General Assembly which contradicts these provisions of the US Constitution is **unconstitutional and of no effect**. Article VI, cl. 2, US Constit., says:

> "This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

The April 11, 2014 Report of the Congressional Research Service shows that Congress understands that the Constitution delegates to Congress *exclusive authority* over setting up the convention. The CRS Report exposes as *false* COS's assurances that the States would organize the convention. The Report says:

> **"First, Article V delegates important and exclusive authority over the amendment process to Congress…"** (page 4)

> "Second, While the Constitution is silent on the mechanics of an Article V convention, Congress has traditionally laid claim to broad responsibilities in connection with a convention, including **(1) receiving, judging, and recording state applications;** (2) establishing procedures to summon a convention; … **(4) determining the number and selection process for its delegates;** (5) setting internal convention procedures, **including formulae for allocation of votes among the states;** …" (page 4).

1. The SR 234 (HR 206) application falsely claims [page 2, lines 22 -30 & line 1 on page 3]:

> "(1) An application to Congress for an Article V Convention confers no power on Congress other than to perform a ministerial function to call a Convention.
> (2) This ministerial duty shall be performed by Congress only when Article V applications for substantially the same purpose are received from two-thirds of the legislatures of the several states.
> (3) The power of Congress to call a Convention solely consists of the authority to name a reasonable time and place for the initial meeting of the Convention."

The Truth: The Constitution doesn't say that! Art. V authorizes the States to *apply* to Congress for *Congress* to call a convention. **That's all the Constitution authorizes the States to do.** The Constitution grants *to Congress* the power to make the laws "necessary and proper" to carry out its power to "call" the convention; & States cannot change this by wishful thinking and by claiming that Congress' powers are merely "ministerial".

Article V *doesn't confer any power on the States to dictate to Congress how Congress is to count the applications.* Congress has power to **judge the applications** as they deem best. [1] **The States cannot dictate to Congress how Congress is to exercise a power the Constitution grants to Congress!**

2. The SR 234 (HR 206) application falsely claims [page 3, lines 2-6]:

> "(4) Congress possesses no power to name delegates to the Convention, as this power remains exclusively within the authority of the legislatures of the several states.
> (5) Congress possesses no power to set the number of delegates to be sent by any state."

The Truth: Art. V doesn't say that! *Congress* has the power to make the laws "necessary and proper" to "call" the convention, and that includes determining how Delegates will be selected and how many there will be.

Nothing in Art. V (or elsewhere in the US Constit.) requires Congress to permit States to select Delegates. The CRS Report recognizes that *Congress* **"determ[ines] the number and selection process for its delegates"** - so *Congress* decides how Delegates will be selected. Congress may appoint *themselves* as Delegates.

Furthermore, *if* Congress permits the States to send Delegates, the CRS Report recognizes that **Congress may decide that each State will have that number of Delegates & votes which is equal to its electoral votes** (p. 37, 41). If so, Pennsylvania would get 20 Delegates & votes, and California 55.

3. The SR 234 (HR 206) application falsely claims [page 3, lines 7-12]:

> "(6) Congress possesses no power to determine any rules for the Convention.
> (7) According to the universal historical precedent of interstate conventions in America, states meet under conditions of equal sovereignty, which means one state, one vote."

The Truth: The Constitution delegates *to Congress* the power to make the laws "necessary and proper" to "*call*" the convention – *to organize it.* But once the convention is convened and Delegates assemble, the Delegates alone have the power to make the Rules. On **May 29, 1787,** at the convention called to propose revisions to *our first Constitution* (the Articles of Confederation), *the Delegates made the Rules for their proceedings & voted to make their proceedings secret.*

The "interstate conventions" are irrelevant: They weren't **constitutional conventions** called to propose changes to our Constitution! The only relevant historical precedent for a convention called under Article V is the federal convention of 1787 **called by the Continental Congress "for the sole and express purpose of revising the Articles of Confederation"; but which resulted in the Delegates' ignoring their instructions and proposing a new Constitution which created a new Form of government.**

As to voting, and as noted just above, **the CRS Report recognizes that Congress may decide that each State will have that number of votes equal to its electoral votes.**

4. The SR 234 (HR 206) application falsely claims [page 3, lines 13-23]:

> "(8) A convention convened pursuant to this application is limited to consideration of topics solely specified in this resolution.
> (9) This application is made with the express understanding that no amendment which in any way seeks to amend, modify or repeal any provision of the Bill of Rights of the Constitution of the United States is authorized for consideration at any stage.
> (10) This application shall be void ab initio if ever used at any stage to consider any change to any amendment within the Bill of Rights."

The Truth: An Article V convention is a *federal* convention, called by the *federal* government, to perform the *federal* function of addressing our *federal* Constitution. State legislatures have nothing to do with it other than to "apply" **to** *Congress for Congress to call* the convention. See **this Chart**.

Furthermore, **Article V shows that *the convention itself* is the deliberative body. State Legislatures may not strip Delegates of their constitutional powers to "propose amendments".** Article V doesn't grant to the States any power to control Delegates.

State Legislatures and the Continental Congress couldn't control Delegates to the federal "amendments" convention of 1787 (where our present Constitution was drafted); and they cannot control Delegates to an Article V convention. That's because:

- The Delegates are the Sovereign Representatives of *The People;*
- The Declaration of Independence (DOI) recognizes the right of a People to form, modify, or abolish their gov't.; and
- An Article V convention is a sovereign assembly with gov't - making or gov't-changing authority.

So Delegates can, like James Madison in **Federalist No. 40** (15th para), invoke that "transcendent and precious right" recognized in our DOI, to throw off the governments we have and write a new constitution which creates a new Form of gov't. And since the new constitution will have its own mode of ratification, it's sure to be approved. **This State Flyer** shows how we got from our *first* Constitution to our *second* Constitution.

The assertion that a State may "void" its application after the convention has convened is absurd. *Once Congress "calls" the convention, the bell has rung, the States can't un-ring it.*

5. The SR 234 (HR 206) application falsely claims [page 3, lines 24-28]:

> "(11) The General Assembly of the Commonwealth may provide further instructions to its delegates.
> (12) The General Assembly of the Commonwealth may recall its delegates at any time for breach of their duties or violation of their instructions."

The Truth: See response just above. Furthermore, *if* Congress permits the States to select Delegates, the Pennsylvania General Assembly may issue all the instructions it wants to Delegates from Pennsylvania, **and the Delegates are free to ignore them, just as they ignored the instructions from their States for the federal "amendments" convention of 1787** (See Delegate flyer).

And if Delegates make the proceedings secret (as at our *first* "amendments" convention), the States won't know what's going on & can't stop it. If Delegates vote by secret ballot, the States would *never* know who did what.

6. The SR 234 (HR 206) application says [page 3, lines 29 - page 4, line 6]:

> "(13) Under Article V, Congress may determine whether proposed amendments shall be ratified by the legislatures of the several states or by special state ratification conventions;...
> ...the General Assembly of the Commonwealth recommend that Congress choose ratification by state legislatures;..."

That statement is true. The States are free to make recommendations to Congress - but Congress is free to ignore the recommendations. And **SR 234 (HR 206) omits the rest of the story**: As recognized in our DOI, a People always have the "self-evident Right" to assemble in convention and overthrow one gov't and set up a new one. **The DOI is part of the "Organic Law" of our Land,** and the Pennsylvania General Assembly has no power to repeal it.

Ignorance and Moral Decline are the Cause of our Problems

All of the "horribles" of which SR 234 (HR 206) complains constitute *violations by the federal gov't of the existing constitutional limits on their powers.* The federal gov't has gotten away with this because Americans are generally ignorant of what our Constitution says.

FURTHERMORE: States & local gov'ts are not victims of fed tyranny. They enthusiastically participate in fed tyranny by taking fed funds to implement unconstitutional fed programs. For FY 2017, 35% of the revenue of the Pennsylvania State Gov't was from fed funds. And that's a pittance compared to the billions more paid to local gov'ts, NGO's, research grants, price supports, welfare subsidies, Medicare, social security, etc.. *And all that money, paid into all of the States, year in & year out, is added to the national debt.*

To claim we can fix our problems by amending our Constitution is absurd. Those funding the push for an Article V convention have a different agenda (see Rescission flyer).

Endnote:

[1] E.g., some applications filed with Congress are over 150 years old. Pennsylvania **has applications from the early 1900s!** Should old applications be counted? Can Congress aggregate the various different applications to get the 34 State total? **Congress has the power to judge the applications and make the laws deciding these issues.**

Prepared by Joanna Martin, J.D. at publiushuldah@gmail.com

Sen. Anthony H. Williams, Minority Chair; Sen. Kristin Phillips-Hill, Vice Chair; and Members of the Senate State Government Committee

The Declaration of Independence, paragraph 2, expresses the right of the people (i.e. convention Delegates) "to alter or to abolish" our "Form of Government." PA legislators need to know that the subject of the amendment doesn't matter; *it's the Article V convention process that jeopardizes our Constitution!*

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Here's an article which I'm sure will be of interest to you: http://www.renewamerica.com/columns/fotheringham/190613 [ad free]

This issue will impact our entire Country, not just Pennsylvania.

Respectfully,
Beverly Manning
106 Lakewood
Waleska, Ga. 30183

How the 'COS' cheated Utah


Don Fotheringham

By **Don Fotheringham**
June 13, 2019

During the 2019 session of the Utah State Legislature, a powerful lobby known as the "Convention of States Action" (COS) succeeded in getting the Republican leadership to maneuver SJR-9 through the Utah Legislature. SJR-9 is COS's application for Congress to call a convention under Article V of the U.S. Constitution.


Utah State Capitol Building

COS claims they want an Article V convention so we can get amendments to the Constitution which "limit the power and jurisdiction of the federal government."

But anyone who has actually read our Constitution knows it already limits the federal government to a very few clearly defined powers.[1] Our problems arise from the fact that most everyone ignores the existing constitutional limits on federal power.

An Article V convention would be dangerous

So what is the real problem with calling for an Article V convention?

Opponents of an Article V convention warn that if Congress calls a convention, the Delegates, as proxies of the People, would have the inherent power to make unlimited changes in the Constitution – even to establish a new form of government. But the COS lobby assures state legislators that nothing can go wrong because Article V amendments require the approval of three-fourths of the states. They overlook (or cover up) the fact that a new Constitution would have a new mode of ratification, even as the 1787 Convention adopted a new mode, making it easier to ratify the new Constitution.

Our only precedent for a convention came in 1787, when James Madison invoked the Delegates' "transcendent and precious" right to alter or abolish their form of government as the basis for what he and the other delegates did at the Convention. *They ignored their instructions to do nothing more*

than propose amendments to the Articles of Confederation, and drafted a new Constitution, which created a new form of government.

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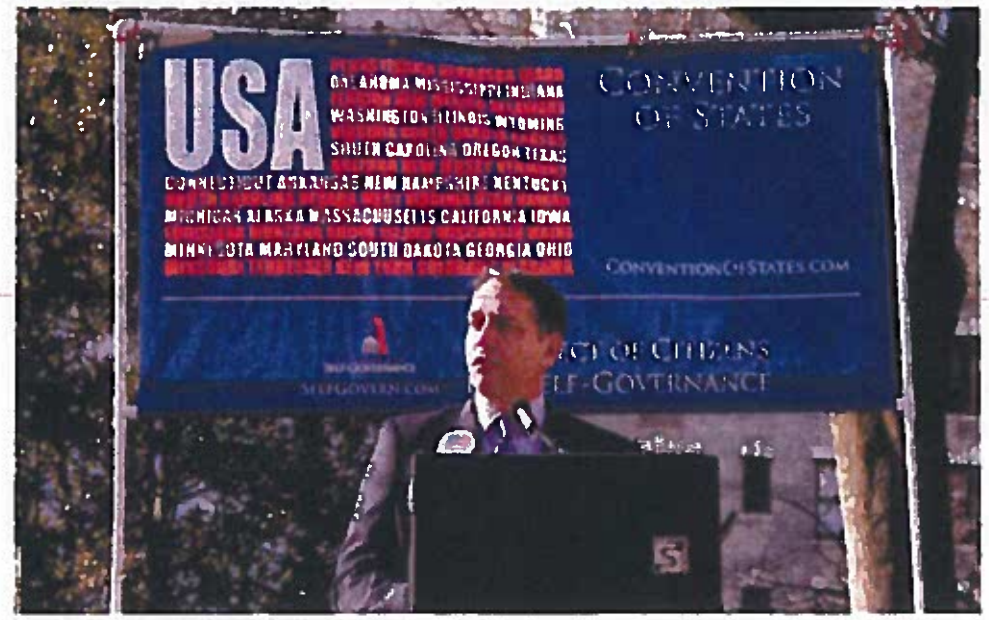

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Dear Representative:

We're asking you to VOTE NO on HR 206 & SR 234!

The Declaration of Independence, paragraph 2, expresses the right of the people (i.e. convention Delegates) "to alter or to abolish" our "Form of Government." PA legislators need to know that the **subject** of the amendment doesn't matter; *it's the **Article V convention process** that jeopardizes our Constitution!*

HERE and attached is our **State flyer** which explains the dangers of an Article V Convention (A5C).

HERE and attached are words from **brilliant men** who warned against an A5C.

You have been ASSURED by COSP (and WILL be by Tom Coburn & Mark Meckler that state legislators will control convention Delegates and set the convention rules. ***But this isn't true!*** **You new legislators need to understand the MYTHS……..and the TRUTH!!!!!**

Article V provides that when 2/3 of the state legislatures ***apply*** for it, ***Congress*** calls a convention. At that point, it will be out of the State Legislators' hands.

This **CHART** shows **WHO** has the power to do **WHAT** under Article V.

This **ARTICLE** shows why States can't control the Delegates or prevent a runaway convention.

Thank you for DEFENDING our Constitution! Thank you for voting NO on HR 206 & SR 234 and ANY OTHER applications from PA asking Congress to call an Article V Convention!

Gratefully….. Chris Owen

Why States should ***NOT ask*** Congress to call an Article V convention, a/k/a "constitutional convention," or in Newspeak, a "convention of states."

Why State Legislators should vote "No!" on all Delegate bills and all Applications asking Congress to call an Article V Convention

1. Article V provides that if two thirds of the States apply for it, ***Congress*** shall call a convention for proposing Amendments to the US Constitution. However, **Delegates would have the right, as recognized in the 2nd paragraph of our Declaration of Independence (DOI), to throw off the Constitution we have and write a new constitution which creates a new government.**[1]

- Our only precedent for an "amendments convention" is the Federal Convention of 1787 which was called by the Continental Congress "for the sole and express purpose of revising the Articles of Confederation" (AOC). But the Delegates ignored Congress's limiting instructions (and the limiting instructions from their States) and wrote a new Constitution – the one we have now.

- Furthermore, the new Constitution had a new and easier mode of ratification. Whereas Amendments to the AOC had to be approved by the Continental Congress and ***all*** of the then 13 States, the new Constitution provided at Article VII that it would be ratified by only 9 States. A third constitution could provide for ratification by national referendum instead of ¾ of the States!

- In Federalist No. 40 (15th para), James Madison invoked the Delegates' "transcendent and precious right" to alter or abolish our form of government, as recognized in the DOI, to justify ignoring their instructions and drafting a new Constitution which created a new government.

- James Madison and Alexander Hamilton were Delegates to the "amendments convention" of 1787 and had ***personal knowledge*** that Delegates can't be controlled. That's why Madison trembled at the prospect of an Article V convention; Hamilton dreaded one; and future Chief Justice John Jay said another convention would run "extravagant risques."[2]

2. The Convention of States Project (COSP) ***implicitly acknowledges the danger of a convention*** when they say state legislatures should pass "unfaithful delegate" laws which ***they claim*** will control Delegates. But such laws can't control Delegates because:

- The DOI recognizes that a People have the self-evident right to throw off their form of government and set up a new one. We can't stop Delegates from exercising self-evident rights!

- *Since Congress* "calls" the convention, they have traditionally claimed the ***power to determine the number and selection process for Delegates.*** See the April 11, 2014 Report of the CRS (p.4). Congress may appoint themselves as Delegates. Nothing requires Congress to permit States to participate in the convention!

- Delegates wouldn't be under state control. An Article V convention is not a state function. The convention would be ***a federal convention called by Congress*** to perform ***the federal function*** of addressing ***a federal constitution***.

- As Sovereign Representatives of The People, Delegates would have sovereign immunity for what they do at a convention. Art. I, § 6, cl.1 of the US Constitution, and state constitutions recognize that legislators have immunity. The CRS Report (pg. 37) shows that Delegates to an Article V convention will have immunity.

- James Madison's Journal of the Federal Convention of 1787 shows that on May 29, 1787, the Delegates voted to make the proceedings secret. If Delegates today decide to meet in secret or vote by secret ballot, the states would never know ***who did what***. The American Legislative Exchange Council (ALEC) writes model Art. V convention legislation and is experienced at holding secret meetings with state legislators from which the Press is barred by armed guards.

- Delegates, as Sovereign Representatives *of the People*, are not answerable to state legislatures (which are "mere creatures" of the state constitutions) or to Congress (which is a "mere creature" of the federal Constitution). ***The Delegates have the power to eliminate the federal and state governments*** –precisely what the proposed Constitution for the Newstates of America does.

3. COSP says their application doesn't ask Congress to call a "***constitutional convention***," but rather, a "***convention of states***" which falsely implies it is controlled by the states. COSP has fooled some legislators into believing they can be ***against*** a "constitutional convention" (where our existing Constitution can be replaced); and yet ***support*** an "Article V convention" **which COSP has redefined as a "convention of states"** controlled by state legislators. ***But there's no such thing in the Constitution! COSP made it up!***

4. The Constitution we have **delegates only a few powers to the fed. gov't**. But for 100 years, everyone has ignored the existing limitations. We can't fix federal usurpations of non-delegated powers with Amendments, because Amendments can't take away powers the Constitution doesn't grant!

5. Those behind the push for a convention have another agenda & they need a convention to get it done.[3]

Endnotes:

[1] ***None*** of the Delegates to the federal convention of 1787 said the purpose of an Art. V convention is to enable States to get amendments to the Constitution in order to remedy violations of the Constitution by the fed. gov't. *COSP fabricated that claim!* See: **What the Framers *really said* about the purpose of amendments to our Constitution**. Furthermore, our Framers knew the People had the right to meet in convention and draft a new Constitution whether or not the convention method was added to Art. V; and they couldn't stop People in the future from doing what they had just done. Most likely, the convention method was included in Art. V to induce Anti-federalists to support the new Constitution.

[2] Four US **Supreme Court Justices and other luminaries** have warned that an Article V convention is fraught with peril.

[3] George Soros wants **a Marxist constitution** in place by 2020. Globalists want us in **the North American Union**. The proposed Newstates Constitution establishes a dictatorship and is ***easily ratified*** via national referendum (Art. XII, §1).

Brilliant men have warned that Delegates to a convention can't be controlled

- During April 1788, our 1st US Supreme Court Chief Justice John Jay wrote that another convention would run an "**extravagant risque.**"

- In **Federalist No. 49**, James Madison said a convention is **neither proper nor effective** to restrain government when it encroaches.

- In his Nov. 2, 1788 letter to **Turberville**, Madison said he "trembled" at the prospect of a 2nd convention; and if there were an Article V convention: "the most violent partizans", and "individuals of insidious views" would strive to be delegates and would have "a dangerous opportunity of sapping the very foundations of the fabric" of our Country.

- **In Federalist No. 85 (last para)**, Hamilton said he "dreads" the consequences of another convention because the enemies of the Constitution want to get rid of it.

- **Justice Arthur Goldberg** said in **his 1986 editorial in the Miami Herald** that "**it cannot be denied that**" the Philadelphia convention of 1787 "**broke every restraint intended to limit its power and agenda,**" and "**any attempt at limiting the agenda [at an Article V convention] would almost certainly be unenforceable.**"

- **Chief Justice Warren Burger** said in his **June 1988 letter to Phyllis Schlafly:** "...there is no effective way to limit or muzzle the actions of a Constitutional Convention... After a Convention is convened, it will be too late to stop the Convention if we don't like its agenda... A new Convention could plunge our Nation into constitutional confusion and confrontation at every turn..."

- **Justice Scalia** said on April 17, 2014 **at the 1:06 mark of this video**: "**I certainly would not want a Constitutional Convention. I mean whoa. Who knows what would come out of that?**"

- **Other eminent legal scholars have said the same – Neither the States nor Congress can control the Delegates. See THIS.**

Yet convention supporters ridicule these warnings as "fear mongering." And they quote *law professor* Scalia ***in 1979, before*** his decades of experience as a Supreme Court Justice, to "prove" otherwise.

Ask yourself, "Is it possible that James Madison, Alexander Hamilton, Chief Justice Jay, Justice Goldberg, Chief Justice Burger and Justice Scalia understood something about the plenipotentiary powers of Delegates to an Article V convention which the pro-convention lobby hasn't grasped?

Rep. Garth D. Everett, Chair; Rep. Kevin J. Boyle, Democratic Chair; and Members of the House State Government Committee:

Sen. Anthony H. Williams, Minority Chair; Sen. Kristin Phillips-Hill, Vice Chair; and Members of the Senate State Government Committee:

Pennsylvania must VOTE NO on SR 234, HR 206 and all other Article V Convention applications.

All sorts of deceptive con-con arguments are now resoundingly defeated! READ this explanation of the "con" job — http://thewashingtonstandard.com/con-con-lobbys-new-strategy-exposes-their-web-of-deceit/ **NO state passed the many COSP applications in 2018.**

Georgetown law professor David Super pointed out in THIS ARTICLE that **"Calling an Article V convention is reckless**, especially at this divisive moment in our nation's political history."

HERE is our 2019 ***state flyer*** which explains the dangers of an Article V convention.

HERE are words from ***brilliant men*** who warned against an Article V convention.

There is no need for an Article V convention (or in "Newspeak", a "convention of states").

If our Constitution (as is) is followed, the improprieties we've fought for decades (budget concerns and more) can be readily resolved. If the Constitution is NOT rigorously followed, how can additions to it make any change?

It is the **LACK of following our Constitution** that is the issue. Remedy THAT first.

Thank you for your consideration of these significant issues.
Pennsylvania must VOTE NO on SR 234, HR 206.

Trudy Stamps

Hon. Garth Everett, Chair Hon. Kevin Boyle, Democratic Chair; and Members of the House State Government Committee; and Sen. Anthony H. Williams, Minority Chair; Sen. Kristin Phillips-Hill, Vice Chair; and Members of the **Senate State Government Committee**

I am very concerned that an Article V Convention would result in the loss of our Constitutionally- protected, God-given rights. Liberty in America now and in the future is at risk!

I strongly urge your opposition to HR 206 and SR 234. Pennsylvania should not apply for an Article V convention. I further urge that the PA legislature should work to rescind any existing applications for such a convention. Please consider the testimony in the attached document and the linked video.

https://www.youtube.com/watch?v=Bf9Rto3Gkog

Dave Affleck

Why OPPOSE an Article V Constitutional Convention?

"The fear that a constitutional convention could become a 'runaway' convention and propose wholesale changes in our Constitution is by no means unfounded. Rather, this broad view of the authority of a convention reflects the consensus of most constitutional scholars who have commented on the issue" - *Gerald Gunther* (Stanford Law Professor)

• During April 1788, our 1st US Supreme Court Chief Justice John Jay wrote that another convention would run an "extravagant risque."
• In Federalist No. 49, James Madison said a convention is neither proper nor effective to restrain government when it encroaches.
• In his Nov. 2, 1788 letter to Turberville, Madison said he "trembled" at the prospect of a 2 nd convention; and if there were an Article V convention: "the most violent partizans", and "individuals of insidious views" would strive to be delegates and would have "a dangerous opportunity of sapping the very foundations of the fabric" of our Country.
• In Federalist No. 85 (last para), Hamilton said he "dreads" the consequences of another convention because the enemies of the Constitution want to get rid of it.
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• Chief Justice Warren Burger said in his June 1988 letter to Phyllis Schlafly: "...there is no effective way to limit or muzzle the actions of a Constitutional Convention... After a Convention is convened, it will be too late to stop the Convention if we don't like its agenda... A new Convention could plunge our Nation into constitutional confusion and confrontation at every turn..."
• Justice Scalia said on April 17, 2014, "I certainly would not want a Constitutional Convention. I mean whoa. Who knows what would come out of that?"
• Other eminent legal scholars have said the same – Neither the States nor Congress can control the Delegates.
Yet convention supporters ridicule these warnings as "fear mongering." And they quote law professor Scalia in 1979, before his decades of experience as a Supreme Court Justice, to "prove" otherwise. Ask yourself, "Is it possible that James Madison, Alexander Hamilton, Chief Justice Jay, Justice Goldberg, Chief Justice Burger and Justice Scalia understood something about the plenipotentiary powers of Delegates to an Article V convention which the pro-convention lobby hasn't grasped"?

DEFENDING THE CONSTITUTION AND BILL OF RIGHTS AGAINST ALL ENEMIES

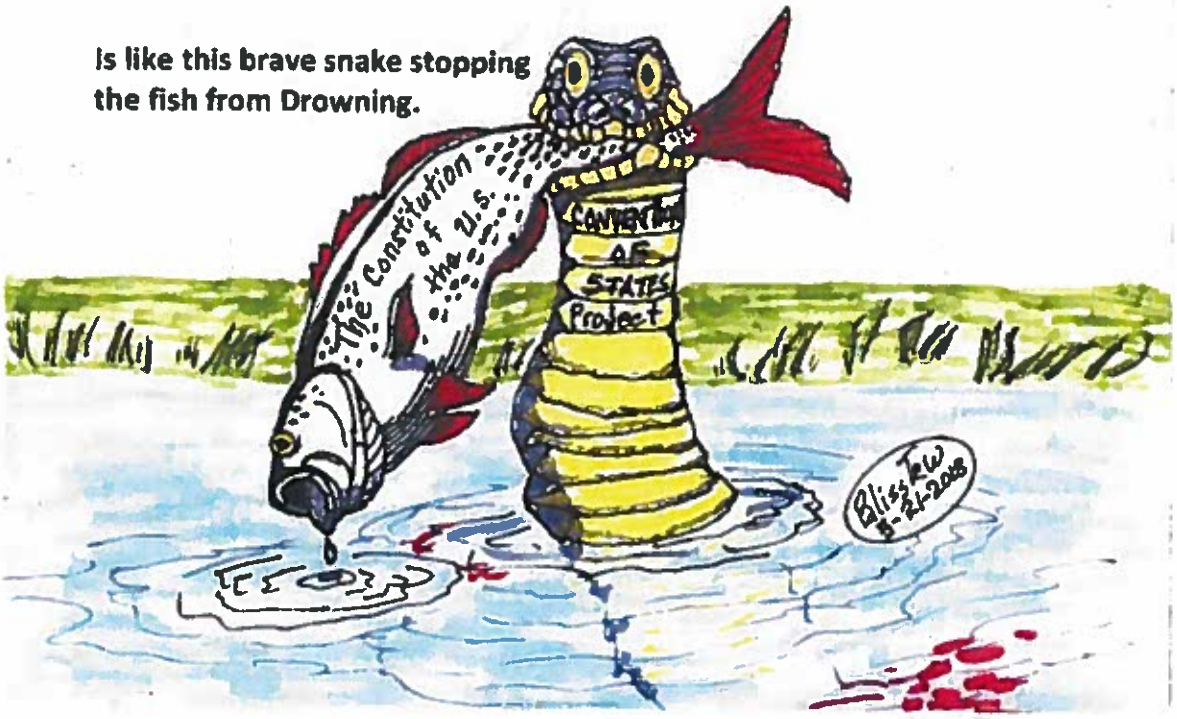
COLONEL ROBERT F. CUNNINGHAM, AKU PRESS, LLC. ALBUQUERQUE

Honorable Guardians of the Sacred Constitution of these United States:

Republican Chair, Senator Garth D. Everett;
Democratic Chair, Senator Kevin J. Boyle;
Representative Melanie Donnelly;
Representative Chanin Zwing;
Members of the House State Government Committee:

THE Convention of States Project

Is like this brave snake stopping the fish from Drowning.



There will be a hearing of the Pennsylvania **Senate State Govt Committee** addressing all Senate applications for an Article V Convention on Tuesday October 22 @ 9:00 AM (Eastern).

Former US Senator Kommrade KRAPolian Tom Coburn and Kommrade KRAPolian Mark Meckler from COSP are expected to testify, spreading their usual damned lies and polished falsehoods. Kommrade KRAPolian **Coburn is on the COSP payroll** for $240,000 in 2016 alone!

Here are the bills we oppose in the Pennsylvania House and Senate: **HR206 (COS), HR444 (Term Limits), HR457 (Wolf-PAC); SR192 (Wolf-PAC), SR133 (HR187)** (COSP); **SR254 (HR357)** (WP); and **SR134** (Regulation Freedom) !!!

VOTE "NO!" ON HR206 (COS), HR444 (Term Limits), HR457 (Wolf-PAC), SR192 (Wolf-PAC), SR133 (HR187) (COSP); **SR254 (HR357)** (WP); **SR134** (Regulation Freedom); **and any and all other Resolutions asking Congress to call an Article V Convention !!!**

Term limits: a palliative, not a cure explains why term limits won't cure the real problem: ***disregard for our Constitution.*** This **VIDEO** (4:23 9:22) explains why a term limits amendment should be called the ***"Lame Duck Amendment."***

The Declaration of Independence, paragraph 2, expresses the right of the people (i.e. convention Delegates) "to alter or to abolish" our "Form of Government." Pennsylvania Legislators need to know that the **subject** of the amendment doesn't matter; ***it's the Article V Convention process that jeopardizes our Constitution !!!***

The fact is, Delegates to an ARTICLE V CONVENTION would determine their own Rules and do whatever they want, ***including write a new Constitution.*** Whatever Rules ASL or any other group comes up with are totally irrelevant. David Super's new article in the Denver Post is excellent: **"Gambling with our Constitution"**

Kommrade KRAPolian George Soros is the major money behind these deceptions by COSP, ***just like he sold out Jews and Innocents to Hitler's Gestapo!*** The Article V Convention Project (COSP) is focused on ***deceptive*** delegate bills in several states as a strategy to fool legislators into voting ***for*** their ARTICLE V CONVENTION resolutions.

(1) This **VIDEO** (at 0:44) features COS General Counsel ***Kommrade KRAPolian Robert Kelly*** explaining that ***COS intends to "amend" the bulk of the Constitution*** should a convention be called! And here **Kommrade KRAPolian Mark Meckler** admits his "solution" ***won't solve the problem.***

ARTICLE (a) shows how COSP's own **Dog & Pony show** proposed amendments would ***expand, not limit*** the federal government!
ARTICLE (b) exposes why a Balanced Budget Amendment (BBA) would ***legalize*** unconstitutional spending eliminate all Freedom, Liberty and Pursuit of Happiness, ***our capability to defend against this growing tyrannical government*** and disHonor the **Brilliant Men** who framed our Constitution.
ARTICLE (c) why we need to oppose the BBA and all ARTICLE V CONVENTION resolutions.

HERE is a **State Flyer** which explains the dangers of an Article V Convention (AVC).

HERE are words from **Brilliant Men** who warned against an AVC.

Legislators have been assured by COSP that state legislators will control convention Delegates and set the convention rules. ***But this isn't true and the perpetrating liars know it !!!***

Article V provides that when 2/3ds of the state legislatures ***apply*** for it, ***Congress*** calls a convention. At that point, ***it is out of the State Legislators' hands.***

This **CHART** shows **WHO** has the power to do **WHAT** under Article V.

This **ARTICLE** shows why States can't control the Delegates or prevent a runaway convention.

(2) Once the Convention is convened, Delegates are the Sovereign Representatives of the People and can make whatever rules they want. **States can't prevent a runaway convention!** At the federal "amendments" convention of 1787, the Delegates made rules on May 29, 1787 to ***make their proceedings secret.*** Consider this scenario:

Gavel = This Article V Convention will come to order!
Gavel = Is there a motion to be determined by this Article V Convention?
Gavel = Motion #1, make these proceeding secret?
Gavel = 100% Yea! 0% Nay! The Yeas have it, the motion is carried.
Gavel = Is there a motion to be determined by this Article V Convention?
Gavel = Motion #2, abolish the Constitution of these United States in its entirety!
Gavel = 100% Yea! 0% Nay! The Yeas have it, the motion is carried.
Gavel = Is there a motion to be determined by this Article V Convention?
Gavel = Motion #3, enact the Communist Manifesto in its entirety as the Supreme Law of governance of these United States!
Gavel = 100% Yea! 0% Nay! The Yeas have it, the motion is carried.
Gavel = Is there a motion to dismiss and disband this Article V Convention?
Gavel = 100% Yea! 0% Nay! The Yeas have it, the motion is carried.
Gavel = This Article V Convention is dismissed and closed.

(3) And our entire Sacred Constitution, Sacred Bill of Rights and Sovereign Nation ***will be gone!***

As an Elected Guardian of our Sacred Constitution and Sacred Bill of Rights you cannot permit this COSP disaster to occur!

STOP THE ARTICLE V CONVENTION CONSTITUTIONAL DISASTER!

Following Constitutional Process of State-by-State confirmation or rejection of Constitutional additions and subtractions: The original Bill of Rights contained only TEN (10) Articles – currently there are TWENTY SIX (26) - SIXTEEN (16) Amendments enacted into law since the original ratification. Amendment XI passed by Congress on March 4, 1794, ratified by the states February 7, 1795 via ***IN-State*** Conventions!

REFERENCE FACT: The Eighteenth (Amendment XVIII) to the United States Constitution, ratified on January 17, 1920 mandated nationwide Prohibition on alcohol. The Twenty-first (Amendment XXI), ratified on December 5, 1933, REPEALED the Eighteenth (Amendment XVIII), ratified on January 17, 1920

- WITHOUT the idiocy or necessity of any 'convention' other than State-by-State legislative processes.

Amendment XXI, SECTION 3

This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions ***IN*** the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

QUOTE: "conventions ***IN*** the several States," and "within ***SEVEN*** years from the date of submission" ... **simple and has *worked for over 220 years!***

Thank you for defending our Constitution!

Sincerely,

Colonel Robert F. Cunningham

Ward 14, Legislative District 14, Senate District 12
1826 Poplar Lane, SW
Albuquerque, NM 87105
505 247 4843
colrfcunningham@theakuriansmail.com

Written Testimony against PA HR206 and SR234 by Judi Caler
October 22, 2019

The Honorable Garth D. Everett, Chair; The Honorable Kevin J. Boyle, Democratic Chair; and Members of the House State Government Committee; and

The Honorable Anthony H. Williams, Minority Chair; The Honorable Kristin Phillips-Hill, Vice Chair; and Members of the Senate State Government Committee.

My name is Judi Caler, and I'm President of Citizens Against an Article V Convention. Thank you for the opportunity to submit written testimony against **HR206** and **SR234**.

All Applications asking Congress to call an Article V convention jeopardize our federal Constitution and endanger our liberty.

Convention Delegates, as sovereign Representatives of "We the People," have the inherent Right "to alter or to abolish" our "Form of Government," as expressed in the Declaration of Independence, paragraph 2. And we don't know who those Delegates would be or who would select them! See attached flyer or **HERE.**

Legislators have been assured by the Convention of States Project (COSP) that State Legislatures would appoint convention Delegates, set the Rules, and control the convention. ***But this isn't true!***

Article V provides that when 2/3 of the State Legislatures ***apply*** for it, ***Congress*** calls a convention. Convention Delegates wouldn't be under State control. An Article V convention is not a state function! The convention would be ***a federal convention called by Congress*** to perform ***the federal function*** of addressing ***a federal constitution***.

This **CHART** shows **WHO** has the power to do **WHAT** under Article V.

The Constitution puts Congress is in charge. But once the convention is convened, the Delegates can change the rules and do whatever they want. The Delegates would have more power than state legislatures or Congress.

Hopefully, you're not depending upon the language of **HR206** and **SR234**, p. 2 (beginning with line 20), and continuing through pp. 3, 4, 5, 6 and 7 (through line 14), to prevent a "runaway"

convention! A full 75% of **HR206** and **SR234** is devoted to statements indicating control over Congress and convention Delegates by the several States and Pennsylvania. And COSP claims there is "universal historical precedent" at "interstate conventions" for one state, one vote.

But in fact, there is ***no precedent*** for an Article V convention, as we've never had one. The closest precedent we have is the Philadelphia Constitutional Convention of 1787 called by the Continental Co*ngress "for the sole and express purpose of revising the Articles of Confederation.*" That convention resulted in the Delegates' ignoring their instructions and proposing a new Constitution which created a new Form of Government. And they made the ratification method for the new Constitution (our current one) easier, to boot!

Interstate conventions are irrelevant. Voting at the constitutional convention would just as likely imitate the Electoral College, where Pennsylvania gets 20 votes and California, 55.

Since Congress and convention Delegates can't be controlled by State Law, all limitations written into **HR206** and **SR234** are unconstitutional and ineffective. They serve only to give legislators a false sense of security, so they'll vote ***for*** the application. After the convention convenes, it will be too late to stop it.

Please VOTE "No" on HR206, SR234, and any other applications from Pennsylvania asking Congress to call an Article V convention. Thank you for your consideration.

I thank Chairs Everett and Boyle as well as the committee members for this opportunity to comment on HR206.

I'm Neil Goldstein, a resident of Delaware County and Organizing Director of Pennsylvania United to Amend (https://paunitedtoamend.wordpress.com), an all-volunteer, nonpartisan group seeking campaign-finance reform.

Our group testified on Oct. 17, 2018, at the Senate State Government Committee informational hearing on so-called Article V Convention resolutions. We were invited to speak because we supported such a measure before that panel. This session, the Free and Fair Elections Resolutions we support are again before that committee (SR192) and your committee (HR457, primary sponsor Rep. Murt). One of the main groups supporting HR206, Convention of States, spoke at that hearing. That group is separate from and unrelated to PA United to Amend.

Although our group takes no position on the substantive aims of HR206, we strongly support its pursuit of its goal through the process set forth in Article V of the U.S. Constitution for *state legislatures* seeking "a Convention for proposing Amendments" to that cherished document. (Such a gathering would in no way be a "constitutional convention.")

Frankly, we find it confounding and disheartening that circumstances are such that anyone feels the need to publicly declare support for any group's effort to simply follow the plain language of the Constitution — but that's the sad position our republic finds itself in these days.

Before briefly dealing with some key aspects of Article V, I want to stress two points.

The first is what the Congressional Research Service has called the "prodding effect" of pursuing a convention. Many constitutional amendments — such as the entire Bill of Rights — included a campaign for a convention. When the number of resolutions passed by *state legislatures* on a given topic approached the required two-thirds (now 34 states) threshold to trigger a convention, *Congress* reacted and proposed the amendment itself. The power of that effect has been acknowledged even by some opponents of conventions.

The second is the danger of delegitimizing Article V. Some organizations try to raise fears that an Article V convention will somehow be dangerous. But our federalist form of government was brilliantly designed to operate with checks and balances, and the Article V convention process is our only constitutional check on an unresponsive Congress. We can't risk undermining that system by handing over the exclusive power of proposing amendments to Congress. To attack the Article V process is to attack the Constitution itself, a dangerous prospect that destabilizes the foundation of our democratic republic.

I'm not a lawyer. I'm a retired journalist who has for five years been volunteering in an effort for major campaign-finance reform. Along the way I have read authoritative, peer-reviewed reports on Article V (see below) and talked with lawyers who are experts on Article V. Here is some of what I've learned about the Article V process:

- A convention would primarily be a discussion of what to do about a given issue. The *only* official action a convention could legitimately take would be, as the plain language says, to *propose* amendments on a given subject. It cannot lower the threshold for ratification, which is 75% of the states.

- A convention can be limited to a single subject. All peer-reviewed legal reports on this topic conclude that the states have to the power to call such a limited convention, and that there are multiple ways to enforce the limitations.
- Those ways of enforcing the limitations are: (1) Congress — It can set limitations on the topic the states have specified. And it can refuse to submit for ratification proposals that stray from the subject-matter limitation. (2) Courts — There is ample precedent for judicial review of Article V matters. That review can serve as an important check on the convention process. (3) The delegates — They can be instructed by the states to respect the limits in the state applications. Also, the states or Congress could require delegates to take an oath of office. (4) The states — Three-fourths of the states [38] must ratify constitutional amendments proposed by either Congress or a convention. This is the ultimate and most important "check" on the amendment process. Neither a convention nor the Congress can accomplish any constitutional changes by itself.
- To amplify the previous point, it's obvious that a convention can be limited to a single issue, because if multiple issues could be mingled, we would have already had a convention! Explanation: Congress is required to call a convention upon the applications of at least 34 states. Since our republic's founding, there have been more than 400 applications for a convention, submitted from 49 states on a variety of issues. So, if Congress could have taken 20 applications from Issue A plus 10 from Issue B and 4 from Issue C and count them all together to reach 34, it would have already called a convention. But Congress hasn't done that because applications are counted in *separate categories* based on subject matter. No one subject or category has reached the two-thirds threshold. To be clear, because the federal-powers issues addressed by HR206 are different from the campaign-finance issue addressed by HR457, separate conventions would be required should both resolutions reach the 34-state threshold.
- To easily find the relevant, authoritative reports on Article V conventions by the U.S. Department of Justice, Congressional Research Service, and American Bar Assn., go to https://wolf-pac.com/about/resources/. (Wolf-PAC.com has nothing to do with Gov. Wolf.)

I'm glad to try to respond to any comments or questions you may have. Thank you for your attention to this vital matter.

Neil Goldstein
Organizing Director
Pennsylvania United to Amend
https://paunitedtoamend.wordpress.com
https://www.facebook.com/paunitedtoamend/
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Testimony against HR206 and SR 234 applications for an Article V convention

Hon. Garth Everett, Chair Hon. Kevin Boyle, Democratic Chair; and Members of the House State Government Committee; and Sen. Anthony H. Williams, Minority Chair; Sen. Kristin Phillips-Hill, Vice Chair; and Members of the **Senate State Government Committee**

This paper outlines why you should vote against all applications for an Article V convention.

WHO has the power to do **WHAT** under **Article V** of the US Constitution?

Article V, United States Constitution, says:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, ***or****, on the application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States [****Mode #1****], or by Conventions in three fourths thereof [****Mode #2****], as the one or the other Mode of Ratification may be proposed by the Congress..."*

So, there are two ways to propose Amendments to the Constitution:

1. Congress proposes them and sends them to the States for ratification or rejection; **or**
2. When 2/3 of the States (34) apply for it, Congress calls a convention.

All of our 27 existing amendments were proposed under the 1st method: Congress proposed them. We have never had a convention under Article V.

And there are two ratification methods in the Constitution:

1. By the Legislatures of three fourths of the States
2. By conventions in three fourths of the States

Note: It is also possible that the convention itself could write a new mode of ratification as was done in 1787.

The Constitution grants powers to four different bodies regarding an Article V convention:

The State Legislatures

The several State legislatures have the power to apply to congress for a convention and **if Congress chooses mode #1**, then they also ratify the amendments proposed by the convention. Regardless of what proponents tell you, the States cannot bypass Congress in the amendment process.

The States **do not set the rules** for a convention. The Constitution delegates to Congress the power to make the laws to organize and set up the Convention. But once the convention is convened, ***the Delegates are the Sovereign Representatives of the People and can make whatever rules they want.*** At the federal "amendments" convention of 1787, the Delegates made rules on **May 29, 1787** to make their proceedings secret.

The Congress

The Congress has the power to call the convention (per Article V) and to make all laws necessary and proper for calling a convention. (Article I, §8, last clause). Congress also chooses between the two modes of ratification. Proponents say Congress will play only a ministerial role in setting the time and place of the convention, but according to the Congressional Research Service Report (4/11/14) Congress "has traditionally asserted broad and substantive authority over the full

range of the Article V Convention's procedural and institutional aspects from start to finish." (p.18). Proponents have also assured some legislators that each State would get one vote in convention. This will be up to Congress, and Congress has already demonstrated its intent to make those rules. In 1983, when we were 2 states away from a convention, 41 federal bills were introduced; and although none passed, **apportionment of delegates was generally set by population, like the Electoral College, not by one state, one vote**.

Delegates to an Article V Convention

Delegates have the power to propose amendments. As representatives of the Sovereign will of the people they can also exercise their plenipotentiary power to write a new Constitution. This was done in 1787 and is supported by the Declaration of Independence when it states: "... Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is **the Right of the People to alter or to abolish it, and to institute new Government**, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

Nothing in Article V or the Constitution limits a convention to a single topic(s). The convention is the deliberative body! Under the supremacy clause at Article VI, clause 2, US Constitution, any State law which contradicts the Constitution is void. Proposed limits are a political ploy designed to mislead Legislators into a false sense of security and control over a process which will be totally out of their control. It is a trick to gain votes. Those who think State Legislatures will control the delegates should consider that: State law cannot control delegates to a convention because a convention is the highest authority in our Republic. It emanates directly from "We the People" and if Delegates **choose to meet in secret as they did in 1787**, the State Legislatures wouldn't know what the Delegates were doing.

Ratifying Conventions

If Congress chooses Mode #2, ratifying conventions in each state, the power to ratify proposed amendments lie entirely with them. Even if method #1 were chosen by congress, it would not guarantee protection against bad amendments. Consider that the 16th Amendment (Income Tax), the 17th Amendment (Direct Election of Senators) and the 18th Amendment (Prohibition) were ratified.

A precedent was set in 1787 when the "amendments" convention called "**for the sole and express purpose of revising the Articles of Confederation**" resulted in a new Constitution ***with an easier mode of ratification***; this could happen today.

Conclusion:

Once the General Assembly of Pennsylvania applies for a convention, it is out of their hands. At that point, the rights of the citizens of our Commonwealth are at the mercy of the remaining Legislatures. If enough follow course and apply for a convention, the entire federal system is in the hands of Congress and the Delegates. There is no guarantee that the results of a convention will be presented to the General Assembly of Pennsylvania for ratification. All applications for a convention pursuant to Article V of the United States Constitution should be rejected **and all pre-existing applications should be repealed**.

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Attached: (a) A Chart of the powers delegated by Article V; (b) List of Pre-Existing Applications To Be Repealed

A Chart of the Powers Delegated by Article V

BODY	POWER(s)
State Legislatures	• Apply to Congress for a convention • Ratify proposed Amendments, ***if Congress chooses mode #1***
Congress	• Calls the convention • Makes all laws necessary and proper for calling a convention. (per Article I, §8, last clause) • Selects Ratification mode #1 or #2
Delegates to Article V Convention	• Propose Amendments [assuming they don't exercise their plenipotentiary powers and write a new Constitution.]
State Ratifying Conventions	• Ratify proposed Amendments, if Congress chooses mode #2

List of Pre-Existing Applications To Be Repealed

Stated Issue	Date	Source
Direct election of Senators	02/13/1901	45 Cong. Rec. 7118 (1910)
Anti-polygamy	05/08/1907 & 07/21/1913	N42 1907 Pa. Laws 821-22 & JR 1913 Pa. Laws 869
Limited Funding Mandates, Various	05/27/1943	*Cong. Rec. Vol. 89, p. 8220 ("Joint resolution")*
Income Tax, Limit II	05/27/1943	*CR V.89 pp.8220-8221 ("[HCR [No. 50]"]*
Right to Life, Various	04/25/1978	*Cong. Rec. Vol. 124, p. 11438, POM-614 (House Bill No. 71--described as a "Joint Resolution")*
Balanced Federal Budget	03/12/1979	*Cong. Rec. Vol. 125, p. 4627-4628, POM-85 (House Concurrent "Resolution No. 236")*

Dear Sen Garth D. Everett, Chair; Sen. Kevin J. Boyle, Democratic Chair; and Members of the House State Government Committee:

I am going to express this as simply as possible. You are being misled to get all emotional about "AMENDMENTS " in order to OPEN UP OUR ENTIRE CONSTITUTION Via an Art. V Convention!
An Art V Convention is the "nuclear bomb" of our Constitution. (you are advised by the convention salesmen to stop reading right here--this is meant to "scare" you!!!) Isn't that what they say?
An Art V Convention CANNOT be limited to the subject matter of the state application! Check with the Congressional Records Service (CRS) if you have doubts. Find out! It is available to you!

Read, PLEASE, DOI, par.2, to learn WHY the states CANNOT control delegates with fines,
faithful delegate bills malarkey! You are being sold a falsity and if you don't KNOW better, you buy it.

"A convention of states" is a made up term by convention pushers, is found NOWHERE in Art V and nowhere in the Constitution! Stop "believing" Convention salesmen!
Start "KNOWING" for yourself for you are gambling with the bedrock of this country, the first and ONLY CONSTITUTION of its kind on the planet. For this, you need FACTS,
Critical thinking, not BELIEFS! For only YOU can open that Convention door by "applying" (congress CALLS, remember) and that alone is what you are being USED for--to get that now closed door OPEN!

<u>But if you want a new form of government by rewriting, deleting or abolishment of our Constitution,</u>
<u>then please go ahead and give the globalists what they are salivating for—a NEW CONSTITUTION. And, to Republicans this means COSP and ALEC.</u>

Getting an ART Convention,
the way is paved seamlessly for a NAU, a North American Union. And perhaps you should, <u>considering how well the EU is going!</u> Lol! An Art. V would be your GIFT to globalists.

Do not sell our Constitution.
COSP and ALEC are great salesmen.

Regrets will mean little to the American people AFTER the deed is done. And once fed. has enough states, Congress CALLS (meaning Delegate selection, rules, etc.,) it will be *too late* for regrets.

Our first constitution, the Articles of Confederation were abolished in the SAME MANNER you are being fooled into today!

Be a NO to FIVE. You are told: "Oh, don't listen to nay sayers , they are just trying to scare you. We are applying for a Constitutional Convention for the "SOLE PURPOSE " of adding a few amendments. It won't be Runaway!" *(Of course,* they neglect to tell you the-same *spiels* were given to the 13 Colonies which ABOLISHED our first Constitution and changed state ratification from 100% to NINE of the colonies — AND, that 1787 was a DEFINITE, by any stretch, Runaway)

And of course, again, you are TOLD "don't worry, states have to ratify whatever comes out of the Convention." Really? then check out NewStates Constitution, already on the shelf waiting, which calls for NO state ratification! It calls for Presidential Referendum!

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Do NOT "believe" even me--KNOW for yourself!
Study your history! Read Par.2, DOI.
Read Federalists 40, par 15.
At least you will be walking in KNOWING that you truly will be detonating the nuclear bomb within Art. V.
That is all I ask of you. (USA Constitution is the last ironclad document standing in the way of Globalists!) Do not reduce yourself to a rubber stamping parliamentary lackey like the EU/Brussels now have. In the near future, our states will again become more important, not less--as they currently are. The 10th amendment gives you the absolute right if you just stand square on it.

Respectfully,
Kay Causey—descendant of Edward and John Rutledge who signed the Declaration of Independence and our present constitution respectively—I add this for the sole purpose of letting you know I HAD to study the Constitution since a child, and know the suffering the founders endured for the sake of posterity—
and a 5,000 year miracle

Written Testimony in OPPOSITION to HR206 and SR234

Honorable Representatives Garth D. Everett, Chair; Kevin J. Boyle, Democratic Chair; and Members of the House State Government Committee; and
Honorable Senators Anthony H. Williams, Minority Chair; Kristin Phillips-Hill, Vice Chair; and Members of the Senate State Government Committee:

We are American citizens, born under the Rule of Law: the ***United States Constitution***, which guarantees us certain unalienable [God-given] rights:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."
http://www.archives.gov/exhibits/charters/declaration_transcript.html

And now, in the 50 states, we see **legislators** are being convinced **they** can **vote away** our constitutional compact with the *United States of America*!

How is it possible that our country, through its elected officials, has come to such a **gross misunderstanding** of the limits government was given over the rights of "We the People"?

Please listen to why on February 15, 2017, **Montana Representative Brad Tschida, a COS sponsor, testified against his own legislation after getting the facts:** https://www.youtube.com/watch?v=WmkbgmvRr4I

Where were we when 300 million people **asked** for state legislators to **take away** their birthright protections afforded by the *U.S. Constitution*? Asking citizens *hasn't* happen, and it *isn't* happening now!

Promoters of an Article V constitutional convention have created an ever growing **mirage** of excuses to justify opening our *U.S. Constitution*, saying edits and amendments can be safely made! The historic facts could not be further from the truth, as seen in the voiding of the *Articles of Confederation*, in order to replace it with the *U.S. Constitution in 1787*!!

WHAT is the "elephant in the room" about opening our *U.S. Constitution?* WHO are these "delegates", who will **by federal law** hold *plenipotentiary* powers within a constitutional convention?

ANSWER: The Article V constitutional convention "delegates" will exercise *sovereign power*, which is **superior to the states and the federal government**, to proceed with their **own rules of law**! Once called by the *U.S. Congress*, the constitutional convention "delegate body" is **unencumbered by government, thereby legally empowered to supersede all laws existing before its assembly**.

QUESTION: WHO will be "given the keys" to opening the *U.S. Constitution*? WHO will decide the persons, **now unknown to us,** who will be given the *most extraordinary powers on earth* over the American people?

WHO are YOU giving **all your rights** away to? WHO do YOU **trust** with the power to **irreversibly** change the rest of your life and that of generations to come? What **price** will YOUR freedom pay to chase the promised return for giving up your cherished constitutional compact with the *United States of America...?*

We implore you to carefully consider your position. Our children's future to live in a free society and the greatest nation on earth is in your hands.

"Abide By The Constitution, Not Change It"

Respectfully,

Betty Lucas
Mechanicsville, Virginia 23111
804-212-1165

Why OPPOSE an Article V Constitutional Convention?

"The fear that a constitutional convention could become a 'runaway' convention and propose wholesale changes in our Constitution is by no means unfounded. Rather, this broad view of the authority of a convention reflects the consensus of most constitutional scholars who have commented on the issue" - *Gerald Gunther* (Stanford Law Professor)

• During April 1788, our 1st US Supreme Court Chief Justice John Jay wrote that another convention would run an "extravagant risque."
• **In Federalist No. 49, James Madison said a convention is neither proper nor effective to restrain government when it encroaches.**
• In his Nov. 2, 1788 letter to Turberville, Madison said he "trembled" at the prospect of a 2 nd convention; and if there were an Article V convention: "the most violent partizans", and "individuals of insidious views" would strive to be delegates and would have "a dangerous opportunity of sapping the very foundations of the fabric" of our Country.
• In Federalist No. 85 (last para), Hamilton said he "dreads" the consequences of another convention because the enemies of the Constitution want to get rid of it.
• Justice Arthur Goldberg said in his 1986 editorial in the Miami Herald that "it cannot be denied that" the Philadelphia convention of 1787 "broke every restraint intended to limit its power and agenda," and "any attempt at limiting the agenda [at an Article V convention] would almost certainly be unenforceable."
• Chief Justice Warren Burger said in his June 1988 letter to Phyllis Schlafly: "…there is no effective way to limit or muzzle the actions of a Constitutional Convention… After a Convention is convened, it will be too late to stop the Convention if we don't like its agenda… A new Convention could plunge our Nation into constitutional confusion and confrontation at every turn…"
• Justice Scalia said on April 17, 2014, "I certainly would not want a Constitutional Convention. I mean whoa. Who knows what would come out of that?"
• Other eminent legal scholars have said the same – Neither the States nor Congress can control the Delegates.
Yet convention supporters ridicule these warnings as "fear mongering." And they quote law professor Scalia in 1979, before his decades of experience as a Supreme Court Justice, to "prove" otherwise. Ask yourself, "Is it possible that James Madison, Alexander Hamilton, Chief Justice Jay, Justice Goldberg, Chief Justice Burger and Justice Scalia understood something about the plenipotentiary powers of Delegates to an Article V convention which the pro-convention lobby hasn't grasped"?