

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 Action¹
Rita Dunaway, J.D., National Legislative Strategist for COS Action²
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.

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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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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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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

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From: Mark Meckler, J.D., President of COS Action¹
Rita Dunaway, J.D., National Legislative Strategist for COS Action²
Subject: Rebuttal to Common Arguments Against an Article V Convention
Date: April 12, 2019

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

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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 foederal 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 Pensylva 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 Gouverneur 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 Gouverneur 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 foederal 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 Excellency 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 be 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 March¹

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 sheweth,

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, FPL. 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 Federal 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 March¹

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 Elliot³, 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 *Vernon 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] Montgomery² 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