

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

STATE GOVERNMENT COMMITTEE
JOINT PUBLIC HEARING

ROOM B-31
MAIN CAPITOL BUILDING
HARRISBURG, PENNSYLVANIA

TUESDAY, OCTOBER 22, 2019
9:00 A.M.

BEFORE:

HONORABLE GARTH D. EVERETT, HOUSE MAJORITY
CHAIRMAN

HONORABLE KRISTIN PHILLIPS-HILL, SENATE MAJORITY
CHAIRWOMAN

SENATORS PRESENT:

HONORABLE KIM WARD
HONORABLE MARIA COLLETT

REPRESENTATIVES PRESENT:

HONORABLE STEPHANIE BOROWICZ
HONORABLE RUSS DIAMOND
HONORABLE CRIS DUSH
HONORABLE MATTHEW GABLER
HONORABLE SETH M. GROVE
HONORABLE DAWN KEEFER
HONORABLE JERRY KNOWLES
HONORABLE ANDREW LEWIS
HONORABLE BRETT MILLER
HONORABLE FRANCIS RYAN
HONORABLE LOUIS SCHMITT, JR.

Pennsylvania House of Representatives
Commonwealth of Pennsylvania

1 (continued)

2 REPRESENTATIVES PRESENT:

- 3 HONORABLE CRAIG STAATS
- 4 HONORABLE JOSEPH CIRESI
- 5 HONORABLE PAMELA DELISSIO
- 6 HONORABLE ISABELLA FITZGERALD
- 7 HONORABLE JOSEPH HOHENSTEIN
- 8 HONORABLE MALCOLM KENYATTA
- 9 HONORABLE BRIAN SIMS
- 10 HONORABLE WENDY ULLMAN
- 11 HONORABLE JOSEPH WEBSTER

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1 COMMITTEE STAFF PRESENT:

2 REPUBLICAN CAUCUS:

3 SUSAN BOYLE

4 EXECUTIVE DIRECTOR,
5 STATE GOVERNMENT COMMITTEE

6 MATT RINDFUSS

7 RESEARCH ANALYST,
8 STATE GOVERNMENT COMMITTEE

9 MELANIE DONNELLY

10 RESEARCH ANALYST,
11 STATE GOVERNMENT COMMITTEE

12 CHANIN ZWING

13 LEGISLATIVE ADMINISTRATIVE ASSISTANT,
14 STATE GOVERNMENT COMMITTEE

15 CONNOR GRAF

16 INTERN
17 STATE GOVERNMENT COMMITTEE

18

19 DEMOCRATIC CAUCUS:

20 NICK HIMEBAUGH

21 EXECUTIVE DIRECTOR
22 STATE GOVERNMENT COMMITTEE

23 MATT HURLBURT

24 RESEARCH ANALYST
25 STATE GOVERNMENT COMMITTEE

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I N D E X

TESTIFIERS

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SUBMITTED WRITTEN TESTIMONY

* * *

(See submitted written testimony and handouts
online.)

P R O C E E D I N G S

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3 MAJORITY CHAIRMAN EVERETT: If we could
4 get our seats, we'll get started.

5 I'm State Representative Garth Everett,
6 the Chairman of the House State Government
7 Committee. We have Representative -- Senator,
8 former Representative Phillips-Hill with us, who
9 is the Chairman of the Senate State Government
10 Committee. And we're here today to take
11 testimony on the Article V convention of the
12 States, both pro and con.

13 And I think everybody that's in the room
14 is familiar with the issue, so I won't bother to
15 frame it. So I will just -- I would like to
16 first have Representative Russ Diamond, who is
17 here, and who has some special guests, I will let
18 Russ introduce his guests.

19 REPRESENTATIVE DIAMOND: Thank you,
20 Mr. Chairman.

21 I would like to recognize some students
22 from Northern Lebanon High School who have come
23 to see state government in action today. They
24 are mostly juniors and seniors, a few sophomores.
25 They are students of my old friend, Steven

1 wending [phonetic], and Jerry Stoller
2 [phonetic]. If you students would like to just
3 raise your hand and be recognized as good
4 stewardship here.

5 (Applause.)

6 welcome to Harrisburg, and I hope you
7 enjoy finding out how government works.

8 MAJORITY CHAIRMAN EVERETT: Well, you're
9 going to see that up close and personal today. I
10 guarantee you that.

11 Senator Phillips-Hill, you have some
12 opening comments, I believe. Go ahead.

13 SENATE MAJORITY CHAIRWOMAN PHILLIPS-HILL:
14 Chairman Everett, I want to thank you and the
15 members of the House State Government Committee
16 for extending an invitation to the Senate State
17 Government Committee to participate in today's
18 hearing. And I'm honored to serve as the prime
19 sponsor of the Senate version of Representative
20 Gabler's bill, that's SR 234. And I look forward
21 to today's conversation.

22 welcome to our students. It's always
23 wonderful to see young people interested and
24 ready to learn more about their government, and
25 we look forward to you getting involved. So

1 thank you very much.

2 MAJORITY CHAIRMAN EVERETT: Thank you.

3 Representative Gabler, you have some
4 comments as prime sponsor of the House version.

5 REPRESENTATIVE GABLER: Thank you.

6 First, I want to thank our chairs,
7 Chairman Everett and Chairman Kristin
8 Phillips-Hill from the Senate and the House for
9 allowing us to have this hearing. This is such
10 an important conversation to have. Most
11 importantly, I want to thank everybody who's
12 actually taken the time out of your day to show
13 up here.

14 Regardless of which side of this
15 resolution you're on, I know that our Founding
16 Fathers would be happy to see what is happening
17 here. We are having a discussion, an informed
18 discussion, about the proper bounds and limits of
19 Federal power in our State Capitol. That is a
20 great thing.

21 So today, we're going to be talking about
22 both SR 234 and HR 206, which proposes a
23 convention that would be called under a little
24 known power reserved by our Founding Fathers to
25 State legislatures in our Constitution, which

1 would allow for states to convene a meeting that
2 would allow for the proposal of language to
3 strengthen our U.S. Constitution, and that whole
4 process is able to be generated outside of
5 Washington D.C., which is why I think it's so
6 important.

7 As State legislators, often I think we
8 hear questions from our constituents. And
9 sometimes people don't know the difference
10 between a State Representative and a Congressman,
11 but other times maybe they were more insightful
12 than they know because sometimes I do get
13 questions from constituents that say, what are
14 you going to do to fix that mess in Washington?

15 And usually my response is, well, I work
16 in Harrisburg, so there's a little bit of a limit
17 there, but our Founding Fathers were very smart.
18 Our framers of our Constitution were very smart.
19 They included language in Article V of the U.S.
20 Constitution that said that State legislators who
21 first consented and first conceived -- or first
22 ratified our U.S. Constitution have the power and
23 the authority to propose and to start this
24 conversation about how we should strengthen the
25 limits and bounds on Federal power, which is

1 exactly what the U.S. Constitution does.

2 The U.S. Constitution does not grant a
3 single right. It preserves those rights already
4 possessed by human beings and it guarantees that
5 the U.S. Federal government will not take those
6 away. And so, if there is concern that the U.S.
7 Federal government is maybe beyond its charter,
8 beyond its means, then this conversation is worth
9 having.

10 So with that, I know we only have an hour
11 here -- it is a crowded day in the Capitol. I'm
12 looking forward to hearing our testimony. And I
13 just want to say, regardless of which side of the
14 issue we're on, we are doing what we should do,
15 and that is we should have this conversation. We
16 owe it to our constituents. We owe it to our
17 fellow citizens. And we owe it to the framers of
18 the Constitution who gave us an incredible
19 document. I'm looking forward to having this
20 conversation.

21 Thank you, Mr. Chairman.

22 MAJORITY CHAIRMAN EVERETT: Thank you,
23 Representative Gabler.

24 To start off, we -- as I said, we'll have
25 pro and con today. And we flipped a coin and

1 we're going to go con and pro, actually. So I
2 believe our first testifier would be Mr. Andy
3 Schlafly, and if you would jump up and grab a
4 mike there and sort of introduce yourself. I
5 would encourage all of our testifiers today to
6 not read us your testimony. We've got that right
7 here. Sort of summarize it, and then I think the
8 valuable part will be Q and A.

9 And I would point out that we were -- we
10 had other panelists that were going to be on the
11 con, Mr. Kim Stoner from the Firearms Owners
12 Against Crime would have been here, except he's
13 had some medical problems and is unable. I would
14 point out to the members that his testimony is
15 towards the back of your packet. So we've got
16 that in the record.

17 And Andy, if you want, go ahead.

18 MR. SCHLAFLY: Thank you, Chairman,
19 members of these distinguished committees. I'm
20 Andy Schlafly. I'm testifying here against the
21 resolutions, HR 206 and SR 234, on behalf of
22 Pennsylvania Eagle Forum, which is a volunteer
23 grassroots organization in this State which holds
24 annual dinners attended by prominent elected
25 officials.

1 We are very much against these
2 resolutions sometimes called the convention of
3 States. The number one reason we're against them
4 is that an Article V convention cannot be limited
5 in scope. And there's a great deal of language
6 in HR 206 that attempts to limit the scope of
7 this convention, but it cannot be done. All one
8 simply needs to do is look at Article V in the
9 Constitution itself.

10 We have many students here -- and you
11 brought your pocket copy of the Constitution with
12 you, right? It's good to carry that with you at
13 all times.

14 And you read Article V and it says,
15 Congress shall call a convention for proposing
16 amendments. There's no limit on it. You can't
17 limit these things. And it's like playing with
18 matches in a dry forest and the people who are
19 playing with matches don't intend to start a
20 wildfire, but often a wildfire results. And
21 unfortunately, that is what would happen if we
22 had a Constitutional convention under Article V.

23 So the former Chief Justice of the United
24 States, Warren Burger -- no less authority than
25 that, right at the top of the legal pyramid said,

1 quote, there is no effective legal way to limit
2 or muzzle the actions of a constitutional
3 convention. The convention can make its own
4 rules and set its own agenda. And he goes on.
5 I've put that in my written testimony. I don't
6 need to read his entire quote. At the end, he
7 says a constitutional convention today would be a
8 free-for-all for special interest groups,
9 television coverage, and press speculation.

10 My mother, Phyllis Schlafly, was always
11 against Article V constitutional convention, even
12 though many of them were proposed by
13 conservatives. She said it doesn't matter. It
14 doesn't matter whether the motivation is
15 conservative or liberal, it's a bad idea.

16 And I looked recently at testimony she
17 gave 30 years ago in Oregon -- which is available
18 on YouTube -- and she said in her colorful
19 Lancaster, frankly, I don't see any James
20 Madisons, George Washingtons, Ben Franklins, or
21 Alexander Hamiltons around today who could do as
22 good a job as they did in 1787. And I'm not
23 willing to risk making our Constitution the
24 political play thing of those who think they are
25 today's Madisons, Washingtons, Franklins or

1 Hamiltons.

2 And that's the problem, it's just too big
3 a risk. You can't restrain it. The limits in HR
4 206 are ineffective. Nobody would enforce it.
5 No court of law would enforce these limits.
6 There's a great deal of provisions here that try
7 to limit the delegates from Pennsylvania, but
8 that doesn't limit the delegates from other
9 States.

10 And where are you going to go to enforce
11 this if the delegates from Pennsylvania decided
12 to ignore some of these limits? Who's going to
13 enforce it? No court of law is going to
14 intervene and enforce any of these limitations.
15 Here, let's try to protect the Bill of Rights,
16 and says, well, if the Constitutional convention
17 amends, modifies or appeals any provision of the
18 Bill of Rights, then this application is void ab
19 initio.

20 It's too late. The horse is out of the
21 barn. The wildfire has already been started.
22 You can't stop it at that point. Congress has
23 already called the convention. They've convened.
24 They're rewriting the Constitution. There's no
25 way to stop at that point.

1 Now, some promoters of a convention of
2 State say don't worry about it, because whatever
3 comes out of the convention still has to be
4 ratified by 38 States. Well, first of all, it's
5 a freight train at that point. It's a runaway
6 fire. There's no way to stop it.

7 And if you look at how the 17th Amendment
8 was ratified, which took power away from the
9 State legislatures, there was so much momentum
10 behind it that all the State legislatures rolled
11 over immediately and passed that thing, some
12 virtually unanimously passed it, even though the
13 17th Amendment, which calls for direct election
14 of senators, took power away from the State
15 legislature.

16 But even more importantly, the convention
17 could set its own rules for ratification. It's
18 not constrained by the procedures we've been
19 using over 200 years. They could define how the
20 thing is going to be ratified. They don't have
21 to go -- they don't have to require 38 States.
22 They don't have to require State legislatures.
23 They can call for conventions in each State.

24 You're shaking your head. Yes, they can.
25 Look at Article V. Article V expressly says that

1 ratification can be by conventions in States. It
2 doesn't have to go through the State legislature,
3 so the amendments may not even come back to
4 Pennsylvania State legislature. It may go to a
5 convention that this Constitutional convention
6 sets up its own process for ratification.

7 Let me hit on a couple more high points,
8 then I know you might have some questions. I
9 want to leave time for that.

10 The Constitution is not the problem. I
11 mean, we do have problems; everybody does.
12 Families have problems, okay. And a lot of us
13 have financial problems. Well, when you have a
14 financial problem in a family, you don't take
15 everything you have and bet it on the roulette
16 wheel at a casino thinking that's going to solve
17 your problems. Taking a huge risk does not solve
18 problems, and the Constitution is not our
19 problem.

20 Some of the leaders of the Convention of
21 States Project -- very well funded; and I'll get
22 to that in a second -- some of these leaders are
23 Senators who left their offices before their term
24 was up. Tom Coburn, he left. He was elected for
25 a six-year term. He quit early. Jim DeMint, he

1 quit early. That's not the way we're going to
2 solve our problems.

3 when people are elected, you need to
4 serve the term of office and people -- the rest
5 of us who are grassroots, not in office, we need
6 to get more active to solve our problems of debt
7 and so on, but changing the Constitution is not
8 going to help. The Constitution is on our side.
9 It's what we need to help solve our problems.

10 Now, let me talk about the funding for
11 Convention of States. And we're going to have
12 some people who testify for it. They look like
13 fine people, but ask them, who's funding them?
14 Where's the money coming from? There's a lot of
15 money behind this and they're not disclosing
16 where the money behind this push to change the
17 Constitution is coming from. That should scare
18 everybody in this room.

19 who are these people who are pushing to
20 rewrite the Constitution? well, I suspect some
21 of them are globalists, but ask them. See if
22 they will tell you; I don't think they will.
23 It's not disclosed. And I'm certainly not in
24 favor of allowing billionaires who don't disclose
25 their identity, don't disclose the real agenda --

1 allow them to rewrite our Constitution. That's
2 not a good idea.

3 A fiscal note should be attached to these
4 resolutions. This will be my final point, then I
5 will open up for questions. Legislation has
6 physical notes and there should be a fiscal note
7 attached to this. There isn't yet. One of the
8 things that's at risk is the money that
9 Pennsylvania receives from the Federal
10 government. That's at risk.

11 You call a constitutional convention,
12 that money may stop. There really should be a
13 fiscal note in the amount of billions of dollars.
14 And as other States have considered these
15 resolutions, some have thought about putting
16 fiscal notes on them. Many States have rejected
17 this. Last year, every State that considered
18 this rejected it. Conservative States rejected
19 this. South Dakota rejected this. A whole list
20 of States rejected it.

21 This year, a few small states have
22 enacted it, but if you look at how that process
23 went, it was not something that was transparent
24 as it should have been. It's not a procedure
25 that's anything to be proud of. So here in

1 Pennsylvania, the birthplace of the Constitution,
2 we're not far from Gettysburg where the
3 Constitution was defended. I urge this honorable
4 committee to defend our Constitution, defend the
5 civil rights that are protected in it and reject
6 these resolutions. Thank you very much.

7 MAJORITY CHAIRMAN EVERETT: Thank you.
8 Representative Dush.

9 REPRESENTATIVE DUSH: Thank you,
10 Chairman. A couple of things.

11 You keep saying a constitutional
12 convention, but this is not a constitutional
13 convention. This is -- there's a distinction,
14 and it is with a difference. It is a convention
15 for the purpose of proposing amendments. And it
16 is a distinction with a difference, and it is
17 specifically worded that way within the
18 Constitution.

19 Our founders specifically decided that
20 they wanted the States, whenever the States come
21 to the point where the Federal government is
22 usurping the State's authority or it is usurping
23 the rights of the people, that the States should
24 be able to come together and propose those
25 amendments to the Constitution. Otherwise, it

1 wouldn't be in there.

2 If it were such a draconian thing as you
3 and your mother have been saying, it would have
4 never been put into the Constitution. Those
5 founders that she quoted were thoughtful men, and
6 they put these things in place for a reason.
7 Now, I think it was 1864, there was an attempt.
8 We had a pre-convention in an attempt to stop the
9 civil war from happening. At that convention,
10 there were rules set forth in order to follow
11 again with the -- here last year, in Arizona,
12 States came together on the balanced
13 budget amendment to set rules for a convention
14 ahead of the actual convention.

15 There are ways and methods to get this
16 done properly and in order to ensure the rights.
17 And I'm also the author of the resolution to
18 control the delegates within the Commonwealth of
19 Pennsylvania. There are ways to control the
20 delegates that the States can possess and keep
21 control of them.

22 So I'd like to ask you, first of all, why
23 do you keep saying constitutional convention?
24 And secondly, how do you answer those controls
25 and the fact that we've actually gone down the

1 road of trying to get this thing started before?

2 MR. SCHLAFLY: Those are excellent
3 questions. Thank you.

4 It's in Article V, convention. And HR
5 206 uses the word Article V and that is the only
6 article in the Constitution that allows changing
7 the Constitution. So constitutional convention,
8 we can debate what that is, but this would be a
9 convention to change the Constitution. So that's
10 fine. If you want to object to the terminology
11 of constitutional convention, that's fine, but it
12 is an Article V convention that's sought here.

13 REPRESENTATIVE DUSH: For the push of
14 proposing amendments.

15 MR. SCHLAFLY: Right.

16 REPRESENTATIVE DUSH: And I believe that
17 is a distinction with a difference. And the fact
18 that people keep saying it's a constitutional
19 convention that throws the whole thing open, I
20 think, is being done purposely in order to create
21 an element of fear that we're going to trash the
22 whole Constitution.

23 MR. SCHLAFLY: With all due respect, the
24 Chief Justice of the United States says there's
25 no effective way to limit this. And the text of

1 Article V itself says proposed amendments,
2 plural, and there's no limitation there.
3 Whatever Pennsylvania does in trying to limit its
4 own delegates, first of all, ask yourself, who is
5 going to enforce that, but even if someone
6 enforces it, it's only with respect to
7 Pennsylvania delegates. It's not going to
8 restrain California delegates, New York
9 delegates.

10 Everyone else at the convention is not
11 going to be restrained by what you do to try to
12 restrain your own delegates.

13 REPRESENTATIVE DUSH: Most of the other
14 States that are involved right now on several of
15 these amendment resolutions have delegate
16 resolutions in the process of being adopted.
17 It's something that we've -- several of us in
18 several States have come together and decided
19 that we need to do this, just in order to allay
20 the fears. And then, those delegates are
21 controlled by the State legislature because the
22 State legislature is the one which appoints --
23 when we do the convention, then our -- the States
24 are the ones who send the delegates if the States
25 are the ones that do the petitions.

1 MR. SCHLAFLY: But with all due respect,
2 if it got into litigation --

3 MAJORITY CHAIRMAN EVERETT: I will just
4 -- I'm sure we'll get back into this.

5 MR. SCHLAFLY: That's fine. Yeah.

6 MAJORITY CHAIRMAN EVERETT:

7 Representative Kenyatta.

8 REPRESENTATIVE KENYATTA: Thank you for
9 being here and for your testimony.

10 Knowing a little bit about you -- I did
11 my homework -- I would come to expect that there
12 are a lot of issues we might not agree on, but on
13 this issue, I think you're exactly right.

14 Can you talk a little bit more about this
15 process and what you would foresee, looking at
16 this, the impact of the billionaires and
17 millionaires that you talked about, the special
18 interest groups that would be directly impacting
19 this process?

20 Right now in Pennsylvania, we already do
21 not have effective campaign finance limits if --
22 there are no limits at all, frankly. And there's
23 already an issue and a concern of people in
24 Pennsylvania and across the country that
25 millionaires and billionaires and special

1 interest groups have too much impact already on
2 our politics.

3 Can you talk about what you would foresee
4 their impact in an Article V convention?

5 MR. SCHLAFLY: That's an excellent point.
6 I agree with that completely.

7 These billionaires would take over the
8 convention. They'd be throwing money around. I
9 know in this resolution it says that a delegate
10 himself would not be allowed to receive money,
11 but what about his spouse, what about his family
12 members? I mean, these billionaires, they know
13 how to get around the rules and regulations.

14 And you'll see, by the end of this
15 hearing, we still won't know who is financing
16 this big push to change the Constitution. We
17 still won't know, and that's scary. That's
18 really scary because to most of us, when someone
19 starts throwing a million dollars in our
20 direction, it affects almost all of us, doesn't
21 it? I mean, let's be honest about it. And to
22 have these delegates susceptible to that
23 influence of big money without any effective
24 safeguard against that, imagine how much is at
25 stake in rewriting the Constitution. I mean, we

1 spend billions of dollars on the presidential
2 election now, but to rewrite the Constitution,
3 that's a trillion dollar issue.

4 MAJORITY CHAIRMAN EVERETT: Thank you.
5 Representative Diamond.

6 REPRESENTATIVE DIAMOND: Thank you,
7 Mr. Chairman. And thank you, sir, for your
8 testimony. I want to tell you, I was -- over
9 here --

10 MR. SCHLAFLY: Okay.

11 REPRESENTATIVE DIAMOND: -- I'm a great
12 fan of your mother's work.

13 MR. SCHLAFLY: I thought it was coming
14 from up there.

15 REPRESENTATIVE DIAMOND: well, it could
16 be. I don't know. I've not been appointed to
17 Heaven yet, but we hope soon. I did want to just
18 comment a little bit because in the past, I have
19 led a popular movement to change government, and
20 I have also been a supporter of a limited State
21 constitutional convention, which I think can be
22 limited, but I'm in agreement with you 100
23 percent. I'm not sure that this can be limited
24 when you're talking about an Article V
25 convention.

1 I also wanted to comment a little bit. I
2 see there's a sign in the back. And it says COS,
3 Convention of States, at the top. And the first
4 item on it is term limits. And I get that -- I
5 get that argument a lot of times when people say
6 you guys need term limits. Here's the problem.
7 And I will agree 100 percent with my good friend
8 from Philadelphia who talked about the special
9 interests who will be involved here.

10 You could term limit us or congressmen
11 all you want, but special interested don't have
12 term limits. They never have term limits. They
13 never go out of office. They never go out of
14 power. And I think that when we -- when we talk
15 about these issues that we want the, quote,
16 unquote, convention of States to address, I think
17 we have to talk about them fully and about --
18 that they don't exist in a vacuum.

19 And although it's a great talking point,
20 we want term limits for congressman -- yeah, but
21 what's going to happen when a congressman is not
22 strong enough to stand up to a special interest
23 that does not have term limits. So I want to
24 just tell you that I appreciate your comments, I
25 appreciate your position, and I am -- I'm kind of

1 leaning on your side here on this one.

2 so thank you so much for your testimony
3 and God bless you.

4 MR. SCHLAFLY: Thank you. And I just
5 want to mention, you don't have term limits in
6 Pennsylvania. That's a decision the legislature
7 has made. You don't have term limits. And yet,
8 here's something someone is going to call an
9 Article V convention that is going to impose term
10 limits. What's the logic in that?

11 And in fact, it says in here that they
12 would limit the terms of office for its officials
13 and for members of Congress. I'm not sure who
14 its officials refers to. They're going to like
15 force the Pennsylvania legislature to have term
16 limits when you've decided not to have term
17 limits. That doesn't make any sense.

18 MAJORITY CHAIRMAN EVERETT: Chairman
19 Phillips-Hill.

20 SENATE MAJORITY CHAIRWOMAN PHILLIPS-HILL:
21 Mr. Schlafly, thank you so much for being here
22 today. I appreciate your testimony very much.

23 So at the risk of offending some of my
24 colleagues, I want to consider how much
25 government is in our lives today. From the day

1 we're born we're born and we receive that
2 government-issued birth certificate, until the
3 day that we die and we've -- our family members,
4 our loved ones, receive a government-issued death
5 certificate. Sometime after we die, time is
6 determined by the National Institute of Standards
7 and Technology, government, not parents, decide
8 where children go to school using
9 government-established ZIP codes. Many
10 occupations and functions require government
11 licenses, certifications.

12 when you marry, when you want to drive,
13 when you want to hunt, when you want to fish, if
14 you want to adopt a dog, you need a license. So
15 permits are needed for new constructions and new
16 renovations. We could go on and on, right? And
17 so all of this leads to some of the questions
18 that I have. And given the amount of government
19 involvement, some would say intrusion, depending
20 on how you look at it.

21 what do you believe is the best way to
22 address the size, scope, and breadth of
23 government?

24 MR. SCHLAFLY: That's an excellent
25 question and that's a big problem. I mean, I

1 agree with everything you're saying. These are
2 big problems, but I -- I think the Constitution
3 is on our side in addressing problems. So that's
4 where, I guess, I differ with the people who are
5 pushing these resolutions and then I see the
6 Constitution as our friend to solve the problems
7 that we have and to solve the intrusions. We've
8 got the 4th Amendment, for example, that stands
9 there to protect against unauthorized searches
10 and seizures. We've got the 14th amendment.

11 And by the way, this concurrent
12 resolution doesn't say anything about protecting
13 the 14th Amendment. It says protect the Bill of
14 Rights, but it doesn't say protecting -- there
15 are other things the Constitution protects, too,
16 the right to a jury trial. That's in the
17 Constitution itself for certain crimes. So the
18 Constitution is really on our side for our
19 liberties.

20 And so I would use the Constitution more,
21 rather than talk about changing it.

22 SENATE MAJORITY CHAIRWOMAN PHILLIPS-HILL:
23 So do you think, or don't you think, that
24 amending the Constitution is a better way to
25 define the role of government?

1 MR. SCHLAFLY: I think specific
2 amendments that we can agree on should be
3 proposed and considered, just the amendment
4 itself, without throwing the whole thing open to
5 a convention to do whatever mischief they want to
6 do or they might end up -- they might start out
7 with good intentions, but who knows where that
8 thing is going to end up. So I'm find with
9 specific proposed amendments, an amendment to
10 protect our liberties more than they're protected
11 would be fine.

12 SENATE MAJORITY CHAIRWOMAN PHILLIPS-HILL:
13 So you do support amending the Constitution. And
14 those amendments, how would you recommend
15 pursuing those changes?

16 MR. SCHLAFLY: With the process that
17 we've used over the years, where it's a specific
18 amendment so we know exactly what we're talking
19 about. And that amendment is then added to the
20 Constitution, rather than a convention to
21 consider undefined amendments, plural.

22 SENATE MAJORITY CHAIRWOMAN PHILLIPS-HILL:
23 Very good. Thank you very much.

24 Chairman, thank you.

25 MAJORITY CHAIRMAN EVERETT: You betcha,

1 Chairman.

2 And we have about two minutes left, so
3 Representative Hohenstein, if you want to try and
4 get your comment or question in in two minutes,
5 go for it.

6 REPRESENTATIVE HOHENSTEIN: Thank you,
7 Mr. Chairman. I will try.

8 I just want to ask you about process. So
9 you're talking about how if we implement or
10 invoke Article V, there's certain barn doors that
11 can't be closed afterwards, basically, right?

12 MR. SCHLAFLY: Right.

13 REPRESENTATIVE HOHENSTEIN: What exactly
14 are you talking about with that, because they are
15 trying to structure this particular resolution --
16 and the plan does seem to have a particular list
17 of very specific amendments that are considered.
18 Why is it that you are afraid that this is going
19 to be something that goes beyond the stated
20 scope?

21 And can't they be -- can it be
22 controlled? I mean, it seems to be there, I just
23 am wondering what the mechanism is going to be to
24 control it or what's the lack of a mechanism that
25 you see?

1 MR. SCHLAFLY: Right. And I sympathize
2 with the question. It's an excellent question.
3 It's frustrating, isn't it? I mean, it's
4 frustrating.

5 Article V says that the process is to
6 apply to Congress and then Congress calls the
7 convention, and then the convention can propose
8 amendments, plural, anything they want. So that
9 is the three-step process. So it cannot be
10 controlled. I mean, there are some things you
11 just can't control.

12 And playing with matches in a dry forest,
13 you just -- look at the laws. It's okay to play
14 with matches in a dry forest if you make sure
15 there's like, you know, a water hose nearby or
16 there's some grassland. You just can't do it.
17 Don't play with matches in a dry forest.

18 REPRESENTATIVE HOHENSTEIN: But it does
19 seem like it's designed to come back to us at
20 some point. Why wouldn't it?

21 MR. SCHLAFLY: It isn't though because
22 they can bypass the legislatures with the
23 amendments. They can set their own process. And
24 in fact, that is what the glorious Constitutional
25 Convention of 1787 did, didn't it? It set its

1 own process for ratification. The Articles of
2 Confederation required unanimous consent. The
3 Constitutional Convention of 1787 set its own
4 process. So this convention could set its own
5 process. And with so much at stake, they
6 probably would, wouldn't they?

7 MAJORITY CHAIRMAN EVERETT: Thank you.
8 And we are sticking on time here, so I appreciate
9 your presentation and your Q and A. There are a
10 -- I know there are a couple members that didn't
11 get to ask questions. I'm sure that they will
12 get to direct those questions to a slightly
13 different angle on the pro side. So thank you
14 very much.

15 MR. SCHLAFLY: Thank you so much,
16 Mr. Chairman, and members of the Committee.

17 MAJORITY CHAIRMAN EVERETT: Okay. Next,
18 we have Mr. Mark Meckler and Mr. Steve Davies
19 from the Convention of State's organization.

20 You're both going to come up or -- okay.
21 I mean, you both can come up and sit, if you
22 want, or however you want to do it. There's two
23 mikes up there, however you want to do it.

24 And again, I would encourage you to keep
25 maybe your comments brief because I think you'll

1 see there's a lot of things that will get fleshed
2 out in the Q and A. Go ahead.

3 MR. DAVIES: Very good. Chair Everett
4 and Chair Phillips-Hill, thank you very much for
5 your interest in this issue. It's a critically
6 important issue, and I would argue that from the
7 perspective of the young people that are here in
8 the room, the most important issue that's facing
9 them in the future that they're going to have
10 with their families as they grow older.

11 Last week, I got copies of a lot of
12 e-mails that I know you guys all got that
13 expressed a lot of opposition to the Commission
14 of State's resolution. And you would have read
15 about the process being uncontrollable, that it's
16 dangerous, Congress is going to set the rules, it
17 will be a runaway convention. And when you slice
18 through all of that, what's at the core of this
19 is a question that there are two different
20 answers to.

21 And the question is, who called the
22 convention in 1787 and for what purpose? The
23 first answer to that question is the convention
24 was called by Virginia in November of 1786. And
25 in the six months after that, 11 other States

1 also passed and took actions to commission
2 delegations to go to Philadelphia in May of 1787.
3 And the scope of the convention for 10 of those
4 State charters -- there's 10 of those State
5 commissions was not specific to just amending the
6 Articles of Confederation.

7 That was not the case for New York and
8 Massachusetts. But if you go back and look at
9 the resolution that the General Assembly of
10 Pennsylvania passed in December of 1786, it was
11 broad. It talked about rendering the
12 Constitution adequate for of the exigencies of
13 the republic. So that's the answer. That's one
14 answer, and that's the answer that I believe is
15 correct, is that the convention was called by the
16 States and it was not limited by at least 10 of
17 the State delegations to just talking about
18 amendments to the articles. The second answer is
19 that, no, the convention was called by Congress.
20 There was a resolution that Congress passed in
21 February of 1787, three months after Virginia
22 took their action, two months after Pennsylvania
23 took theirs, that established a convention that
24 was limited to just amending the Articles of
25 Confederation.

1 So this debate fundamentally hinges
2 around what you believe is the answer to that
3 question. And I would encourage the committee
4 members to take a very close look at the record,
5 step away from what you're hearing from both
6 sides and go back and hear the resolution, go
7 back and read the context of what happened in the
8 General Assembly in December of 1786 and then
9 also why Congress passed that resolution of 1787.
10 There's a reason why they did that, and it's not
11 because they were necessarily trying to call the
12 convention. It was really an endorsement, but
13 there were other reasons why they took that
14 action.

15 So the convention was convened for four
16 months in 1787. The convention was fundamentally
17 a conversation. It was a serious adult
18 conversation about what to do about a big problem
19 that we were having with respect to how the
20 States were organized in a government structure
21 that benefitted everyone.

22 They met for four months. And the work
23 products that came out of the convention were the
24 Constitution. There was a ratification and
25 transition plan, and then there was a letter

1 signed by George Washington that transmitted
2 everything to Congress. And when they were done
3 with that, they all went home. Nothing changed.
4 The Articles of Confederation were still in full
5 force and effect and remained so for another nine
6 months. So it was up to the States to take an
7 action. That's what changed the form of
8 government we had. The convention didn't change
9 anything. They wrote some stuff down on paper,
10 but then they were done and they went home.

11 And so the notion that the convention in
12 1787 ignored their charter and ran away and did
13 whatever they wanted, new ratification process,
14 that's just not the case. And again, I encourage
15 you to read the record and take a look at what
16 actually happened.

17 The next step that Pennsylvania took, it
18 was on September 28th and 29th of 1787. The
19 General Assembly at the time was a single chamber
20 General Assembly. There were 69 members. There
21 were two resolutions that were passed in late
22 September that established the ratification in
23 Pennsylvania. The thing that's interesting about
24 that is Pennsylvania was the first large State to
25 deal with ratifying the Constitution. And I will

1 tell you, if you go back and take a look at the
2 record -- and it's fascinating. We have a
3 fascinating history in the State. There was
4 intense opposition to the Constitution. There
5 was bitter opposition across the Commonwealth,
6 predominantly west of the Susquehanna; east of
7 the Susquehanna, a little bit different view,
8 kind of like today, I think.

9 And so there was a massive debate about
10 this thing. After the resolutions were passed,
11 there was a minority opinion that was written by
12 the members that objected to a ratification of
13 the Constitution. And what's interesting about
14 that is that document was the basis and formed
15 the ratification in other States. And the reason
16 why we have a Bill of Rights today is because of
17 those ratification discussions and all that was
18 preceded by a group of men here in Pennsylvania
19 that had an objection and itemized it and sent it
20 out.

21 So again, Pennsylvania is at the point of
22 the spear for all of this stuff, and it's a
23 fascinating read and I encourage you to take a
24 look at it when you get a chance. The
25 ratification convention here in Pennsylvania

1 convened from November -- mid November to mid
2 December of 1787. The opposition was bitter. It
3 continued on even though -- even after the
4 convention voted for the resolution. There was a
5 big riot in Carlisle.

6 The proponents wanted to have a parade.
7 The antis took it over and -- a lot of people got
8 thrown in jail. So I mean, it's fascinating what
9 went on around this thing, you know, in the
10 State, in this State. And you can drive around
11 and see the names and places where a lot of these
12 things happened.

13 There was a massive petition drive, both
14 for and against the Constitution. And Saturday
15 night, when I was going through all of this stuff
16 trying to make sure I had all of my facts
17 straight, I ran across a petition that was
18 written by a group of men in Wayne Township,
19 Cumberland County. And this attachment deed on
20 my testimony -- and in flipping through this
21 thing, they listed the reasons why they thought
22 that the Constitution should be ratified.

23 And one of the things that they said was
24 the proposed Federal Constitution cannot be very
25 dangerous while the legislatures of the different

1 States possess the power of calling a convention,
2 appointing the delegates, and instructing them in
3 the articles they wish altered or abolished.

4 I have asked on social media numerous
5 times, what was the intent of the framers when
6 they wrote the words a convention for proposing
7 amendments. And it's difficult to get an answer
8 to that, but 31 men in Wayne Township, Cumberland
9 County had it exactly right. You guys call the
10 convention. You guys select the delegates. And
11 you tell them what you want changed in the
12 Constitution.

13 That's what Article V is all about, and
14 it was very clear to them back then and it should
15 be very clear to us right now. The people that
16 don't understand that in many cases will say
17 another four words in the Constitution shall not
18 be infringed. We know exactly what the framers
19 meant by that. Well, I would submit we also know
20 exactly what the framers meant by a convention to
21 propose amendments.

22 So it appears to me or occurs to me now
23 that what you have are people that are trying to
24 rewrite Article V of the Constitution kind of
25 realtime. That's what going on with all these

1 e-mails and things that you guys are getting.
2 And the sad part of it is, the same thing has
3 been happening for the last 100 years to the rest
4 of the Constitution because of amnesia, because
5 of apathy, because of judicial activism,
6 significant portions of the document have been
7 effectively rewritten. And I believe what needs
8 to happen is the same thing that happened in
9 1787. We need to have an adult national
10 conversation about what to do about a big problem
11 we have in Washington D.C.

12 That conversation starts here in this
13 hearing room. It starts on the floor here in
14 this Capitol Building and in the other capitol
15 buildings across the nation. It's a discussion
16 we have got to have and not just kick the can
17 down the road to these young people for them to
18 deal with it in 20, 30, 40 years.

19 The final comment I'll make is that there
20 were more signers of the Declaration of
21 Independence and the Constitution from
22 Pennsylvania than any other States. There were
23 69 members of the General Assembly at that point
24 in time and there were 69 members of the
25 ratification convention. There was overlap

1 there.

2 And if you add that up, there were
3 probably 125, give or take, men that took action
4 specifically to get the Constitution ratified and
5 in effect here in Pennsylvania. And there's no
6 doubt in my mind. I'm not a native
7 Pennsylvanian, but I suspect there are thousands
8 of descendants of those men across this
9 Commonwealth.

10 And some of them may even be in this
11 room. So I urge you to think very seriously
12 about this issue and about the role that this
13 committee and this body needs to play. You need
14 to take the lead like you did back in 1787 and
15 make this thing happen. So that's it. I'll take
16 any questions.

17 MAJORITY CHAIRMAN EVERETT: Yeah,
18 Steve -- if you could just add -- if you have a
19 few comments to add and then we'll get to the Q
20 and A.

21 MR. MECKLER: Yeah, very briefly, my name
22 is Mark Meckler. I'm the President of the
23 Convention of States Project. I'm actually based
24 in Austin, Texas. I escaped the people's
25 Republic of California. I had to move last year.

1 It's an honor to be here with you today.
2 And I do say that in every committee I have the
3 opportunity to testify in, by it's a particular
4 honor to be here for me because this is the
5 birthplace of Liberty. We are here in
6 Pennsylvania where it all began. And we are here
7 because we aim to save this experiment, this
8 incredible unique experiment of a republic that
9 was given to us.

10 And Dr. Franklin famously stated when
11 asked what the people had been given, he said a
12 republic, if you can keep it. And when he said
13 you, he didn't mean the elite. He didn't mean
14 politicians in a city far away. He meant you,
15 specifically you. He meant us, but specifically,
16 he meant you sitting here before me today.

17 There's something very unique about your
18 role in our system of governance. I travel all
19 over the country. I ask state legislators this
20 question regularly. I ask what is your role in
21 the United States Federal government? And I will
22 tell you, the answer that I most often get from
23 state legislators is a blank stare.

24 When you -- after you take your oath of
25 office and you come here for your orientation and

1 they show you where the restrooms are and the
2 cafeteria and the caucus rooms, nobody tells you
3 what your role is in the United States Federal
4 government. I've never met a State legislator
5 that's been taught this. And the answer is, you
6 actually have the singular most important --
7 most powerful role of anybody in the United
8 States government.

9 Now, if that sounds like hyperbole, I'm
10 going to back it up. I'm going to remove that
11 for you because you are the only people in our
12 entire system of governance that actually possess
13 the power to call a convention, to propose
14 amendments, and to ratify amendments, thereby
15 changing the structure of our system of
16 governance.

17 The President doesn't have that power.
18 Congress wasn't given that power. The courts,
19 though they sometimes usurp that power, were
20 never really intended to have that power, but you
21 were given that power. The question I've asked
22 myself many times, why -- why you of all people?
23 And again, when I say you, I'm referring to you,
24 specifically, sitting here in this room. Why
25 were you given that power?

1 And I think if you look at our history,
2 the answer is fairly obvious because the men who
3 crafted this Constitution were you. They sat in
4 your seats. They sat in State legislatures.
5 They sat on city councils and county boards.
6 They knew government close to the American people
7 and they designed a system with a fail-safe that
8 involved you because they knew you would be close
9 to the American people.

10 Did they think that you would be better
11 than the folks in the Federal government? No.
12 Did they think that people were going to be
13 perfect at the State level? Absolutely not. But
14 did they prefer government close to the people?
15 Of course. They absolutely did. And the entire
16 system of governance was designed to put the
17 ultimate power in your hands. Why? Because they
18 me predicted the future. Not because they had a
19 crystal ball, but because they understood human
20 nature and they understood that when you
21 centralize power, power will always excrete power
22 to itself.

23 That's human nature for all of human
24 history. It didn't begin with Washington D.C.
25 and it doesn't end there. Human beings, when

1 they have power, they bring more power to
2 themselves. And they knew that the central
3 government would become more and more powerful
4 and they had to create a mechanism, whereby you,
5 on behalf of the American people, could take that
6 power away. You know, in that room in
7 Philadelphia in that steamy summer on September
8 15th, two days before the end of the convention,
9 September 15th, 1787, Colonel George Mason stood
10 and he addressed the men that were assembled in
11 that room.

12 I want you to imagine yourselves. I
13 mean, you've heard the story, it's hot, it's
14 steamy. The windows are boarded up. They don't
15 have air-conditioning. They're ready to go home.
16 It's two days before the end of convention, and
17 Mason says we have a terrible problem with the
18 document we've drafted. We've given the power to
19 the Federal government to propose amendments.
20 We've not given the same power to the people
21 acting through the States.

22 And then he asked a question, and I think
23 that question has to be asked today. Are we so
24 naive that we believe that a Federal government
25 that becomes a tyranny will propose amendments to

1 restrain its own tyranny. I hear people chuckle.
2 I see people up there smile. I'm pretty sure
3 that we don't have videotape that they laughed
4 and smiled, probably slapped their foreheads
5 there in 1787. And there's a reason I'm so sure
6 about it. I'm not just surmising.

7 Madison's notes are extraordinary. If
8 you've read them, they're incredibly detailed.
9 Everything that was said in that room is
10 discussed in Madison's notes. And Madison's
11 notes at this place reflect two very short words
12 in Latin, *nin com*. In Latin, that means no
13 comment. There's no debate.

14 If you've read the debates, they debated
15 every -- everything was debated, right? How the
16 debates should be conducted is debated. But on
17 this point, there is no disagreement. All of the
18 delegates present agree that we have to give the
19 power to the States, and that proposition is made
20 to add the second clause of Article V, giving you
21 the power to act on behalf of the people of your
22 State to take power away from the Federal
23 government, should it become tyrannical.

24 And then there 's a vote taken and that
25 vote is unanimous. The only thing with no debate

1 that makes it into the Constitution unanimously
2 is the idea that you, sitting here today, will
3 have the power to take power away from the
4 Federal government. I think it's extraordinary.

5 That's the history. Fast forward to
6 today. We all know the Federal government is out
7 of control. Whatever your party is, whatever
8 your ideology is, we're not happy with what's
9 going on in Washington D.C. Their approval
10 rating is somewhere around typhoid, right?

11 And so we know we have to do something
12 about it, and you've been given the power to do
13 something about it. There's a couple things that
14 I want to address before we close that came up in
15 Mr. Schlafly's remarks. The first is, I have to
16 speak on behalf of my very dear friend, Senator
17 Tom Coburn. Senator Coburn was supposed to be
18 here today. He's suffering from advanced cancer,
19 he couldn't make it today, unfortunately. And I
20 hope you will keep him in your prayers, as we do.
21 I think he's the greatest living American
22 statesman today. He's a man who had the
23 strongest conservative rating of any Senator in
24 the Senate for his entire tenure in the Senate.

25 And the idea that he was somehow

1 slandered here today because he left office two
2 years early is an outrage that I can't leave
3 unanswered. He's a great American hero and has
4 given most of his adult life to the service of
5 this country and he left the Senate two years
6 early because he did not believe he could fix the
7 problems that ail the country from the Senate.
8 He chose to engage in something that he believed
9 was for posterity, which was the Convention of
10 States project, so he could actually do something
11 useful instead of participating in the noise that
12 is Washington D.C. today. So I stand in defense
13 of Dr. Coburn.

14 (Applause.)

15 Thank you. If Dr. Coburn were here
16 today, he would tell you this. The Federal
17 government now on book is roughly \$40 trillion
18 dollars in debt. It's over \$140 trillion dollars
19 in debt if you look at the off-book liabilities.
20 And we are going to crash this country, end of
21 story, we are going to crash this country into
22 the abyss and they are not going to do anything
23 about it in Washington D.C.

24 There are a lot of attacks on us made.
25 I'm going to answer two more of the attacks and

1 then I'll take questions. One is who is funding
2 this. Any of you at any time are welcome to
3 visit our very fancy corporate offices in my
4 house in Texas, in my personal home office off
5 the kitchen, where all the billionaires
6 apparently come visit me. It's an outrage and a
7 slander and this kind of slanderous politics
8 takes this discussion to someplace it should not
9 go, which is frankly, it's just slander and
10 innuendo. It's gutter politics and I don't
11 believe in it.

12 I'm not going to challenge what Andy's
13 motivations are. I think Mr. Schlafly's
14 motivations are pure and good. I can tell you
15 who my donors are. See, because the person that
16 raises the money for the organization in this
17 organization is my wife of 26 years who works in
18 the office next to mine, who has raised money
19 from over 80,000 individual grassroots patriots
20 all over this country.

21 So if those are the millionaires and
22 billionaires that Mr. Schlafly's is afraid of,
23 well, he might want to talk to the grandmas who
24 send me checks and say it's \$5 a month out of my
25 fixed income and I'm sorry I can't afford

1 anymore. Again, an outrageous slander on the
2 tens of thousands of people supporting this
3 movement.

4 And the last is this, he read testimony
5 from his mother, who I think was one of the
6 greatest women ever in American politics, Phyllis
7 Schlafly, an incredible woman. She said
8 something very wrong and I think very demeaning
9 to the people of this country in the testimony
10 that he read, that there are no Madisons and
11 Adams and Washingtons. That is a lie.

12 I travel this country. I've been in 47
13 States in the last two years. I meet them
14 everywhere I go. Sometimes they're a checker in
15 a grocery store. Sometimes they're a fireman.
16 Sometimes they're a scholar at a university.
17 Often, they're sitting in committees like this
18 all over the country. The people I've met, I'd
19 put them in a room with the founders any day.
20 And by the way, I would include Mrs. Schlafly
21 among them, were she still alive.

22 So I think it's outrageous and offensive
23 to say that we the American people can no longer
24 handle our own government. I believe we can. I
25 believe in the American people.

1 MAJORITY CHAIRMAN EVERETT: Thank you.
2 Representative Gabler.

3 REPRESENTATIVE GABLER: Thank you so
4 much. I wish we did have six hours for this
5 testimony, but unfortunately, we only have 10
6 minutes left so I'm going to be quick. I've got
7 four questions; I'm going to ask one.

8 I wanted to ask something that I think
9 goes to the core of the question as to are we
10 playing with fire because the argument as it goes
11 is a convention cannot be limited, the opposition
12 argument. So if a convention cannot be limited,
13 then the subject matter of an application, which
14 is what HR 206 and SR 243 are, are applications
15 to Congress, then the subject matter of those
16 applications don't matter. And in that case, we
17 already have, I believe, on the books over 12,000
18 applications that have been sent to Congress on
19 different specific little subjects over the
20 years.

21 So my question is, if the subject matter
22 of an application doesn't matter, then why don't
23 we already have a convention?

24 MR. MECKLER: Yeah. I think that's a
25 fantastic question that goes to the heart of the

1 matter. The actual number of official
2 applications to Congress for convention of States
3 is in excess of 400 that have actually been
4 submitted.

5 REPRESENTATIVE GABLER: 12,000 proposed;
6 400 submitted. My apologies.

7 MR. MECKLER: There you go. Yep.

8 And so I just wanted to clarify that
9 because those are the ones that have been
10 submitted and Congress gets to look at those and
11 decide if we have a convention. And obviously,
12 it takes 34 to get to convention. If there's
13 only 400, why aren't we at convention. And the
14 answer is because it is unequivocally decided
15 that there is a limiting factor, according to
16 Congress itself, according to the courts, that
17 these applications have to match.

18 In other words, they have to aggregate.
19 They have to be close enough that it's clear that
20 two-thirds of States wish to call a convention.
21 On the same subject matter, and that is the
22 limiting subject matter of the convention.

23 REPRESENTATIVE GABLER: And if I may add
24 one more detail, could you address the difference
25 between Warren Burger, William Rundquist, and

1 John Roberts, because we had some discussion
2 about the chief justice, which was one specific
3 chief justice.

4 MR. MECKLER: Right.

5 REPRESENTATIVE GABLER: And maybe address
6 how the courts, based on who may be sitting in
7 that chair, may look at the question of limiting
8 a convention a little differently and maybe what
9 the motivations might have been for someone in a
10 specific point in history to take the view that
11 he did.

12 MR. MECKLER: Yeah, I think this is
13 really interesting. I've studied the letter from
14 Chief Justice Warren Burger. I have respect for
15 every person who's ever achieved that seat,
16 anybody on the Supreme Court, and especially a
17 chief justice. But it's important to understand
18 the judicial ideology of the person who is
19 writing a letter and where it comes from.

20 There's an irony here. Phyllis
21 Schlafly's, probably the greatest fighter for the
22 right to life in American history, certainly one
23 of the pioneers of that, Chief Justice Warren
24 Berger, though, the chef justice who signed and
25 delivered to us Roe v. Wade. These two people

1 stand, obviously, philosophically as the
2 antithesis of each other in their political
3 philosophies. And he's being asked this question
4 at a time when many States have proposed an
5 Article V convention specifically for the purpose
6 of overturning Roe v. Wade, the seminal decision
7 of his entire career.

8 And he is asked, what do you think about
9 the idea of the convention. Well, he is going to
10 protect the legacy rationally of his own court
11 and say that would be a terrible idea. Why would
12 we want to hold a convention. So I think it's
13 important. Context is important here. And so to
14 me, that letter from what I would consider one of
15 the most wildly progressive interpretationist
16 ever to sit on the Supreme Court, I think we
17 should look at who it comes from, and I think it
18 tells us the truth about his opinion.

19 Chairman, thank you.

20 MAJORITY CHAIRMAN EVERETT:

21 Representative Webster.

22 REPRESENTATIVE WEBSTER: Thank you,
23 Mr. Chairman.

24 I'm going to say a couple of words. And
25 I'm very nervous or uncomfortable with the idea,

1 but I'm going to express some -- maybe some
2 political philosophy here because the idea in
3 front of us is that we would be voting for a
4 convention. And I know there's a list of some
5 things against the wall there.

6 without having really agreed on the
7 philosophy of those things themselves, and term
8 limits is one of those. So you know, we're -- 88
9 plus 22 to get to my house, so do the math on
10 that. And I won't do math in public, but that's
11 how far we are from Independence Hall, and they
12 didn't set term limits.

13 So if you're going to go through the
14 political philosophy of that, you know, I happen
15 to think that Chairman Everett is the best guy in
16 the room. In two years, I'm going to vote for
17 him. And two years after that, you're going to
18 tell me I can't vote for the best guy in the
19 room. So I can't vote for him; I've got to vote
20 for somebody else. We haven't in Pennsylvania
21 determined that we want term limits.

22 why would we create a delegation in
23 Washington to enforce something we're not clear
24 on from a political philosophy? You know, I
25 think the same thing is true about whether it's a

1 Federal control of an issue, like the environment
2 or gun control or opioid epidemic or housing
3 crisis or all those, you know. The budget and
4 the debt or State control. Or we frequently in
5 this building vote to tell Philadelphia, you
6 know, that we're going to exempt their right to
7 vote on something because we think it should be
8 done here. And the point of that is that we're
9 not, as a representative democracy, we're not
10 absolute yet in what we think of all these big
11 issues.

12 So the last thing I'll throw into this,
13 and it's a shot, I'm really impressed you have
14 80,000 donors playing into that. And the
15 population in the United States of America is
16 330,000 [sic]. That's less than one-tenth of a
17 percent. It's a very small number telling us
18 we're going to vote for term limits, telling us
19 we're going to constrain certain things, when I
20 don't think that's settled.

21 So I would -- I would, you know, just
22 expressing my opinion, I'm very concerned that it
23 is a brush fire. We haven't decided yet whether
24 or not we should do this. And to enact a
25 constitutional convention when, you know -- if we

1 were in the high school talking representative
2 democracy in the history of the United States, we
3 don't know that these issues really should go in
4 that direction or another direction yet. That's
5 why we vote on everything independently, not at a
6 constitutional convention.

7 MAJORITY CHAIRMAN EVERETT: Thank you.
8 And I'm going to turn it over to Chairman
9 Phillips-Hill to wrap things up. I just want to
10 say I appreciate everybody coming out today. I
11 think this was an excellent discussion, and as we
12 said, an excellent discussion for the students
13 here to see. It's at the heart of many things
14 that we're dealing with in the country.

15 And Chairman Phillips-Hill to wrap it up.

16 SENATE MAJORITY CHAIRWOMAN PHILLIPS-HILL:
17 Chairman, thank you so much.

18 Gentlemen, thank you for being here. The
19 biggest concern that we've heard raised today is
20 that an Article V convention of the States could
21 become a runaway convention. What I've heard
22 most often as a concern is potential changes to
23 the Second Amendment.

24 Can you concisely explain how we can
25 address the fears of those who believe an

1 Article V convention of States would become a
2 runaway convention?

3 MR. MECKLER: Sure. The simplest way is
4 through the ratification process. And it's just
5 math. And you've got to forgive me, I'm a lawyer
6 so I'm not great at math, but I can go this high.
7 It takes 38 States to ratify any amendment
8 proposed by the convention. And contrary to what
9 Mr. Schlafly said, yes, they absolutely could put
10 it to State ratifying conventions, which would be
11 designed by you as the State legislature.

12 So ultimately, the State legislatures
13 control the ratification process. If you flip
14 that math on its head, it takes only 13 States to
15 stop the ratification of any amendment that the
16 American people don't like. And I could tell you
17 this because I've run the math on every possible
18 amendment you can imagine, whether it could come
19 from the left, from the right, whether it could
20 be down the middle. It's pretty easy to find 13
21 States to stop almost anything.

22 And I do not mean this -- and I hope you
23 won't take offense to this, but as you know, in a
24 legislature, the easiest thing for a legislature
25 to do is nothing, is to not do something, right?

1 That's the least controversial position. And the
2 way to not ratify an amendment is to do nothing.
3 And so, specifically to the Second Amendment --
4 because I hear this one all the time, and I've
5 heard it a lot here in this State, sitting on my
6 board is Chuck Cooper, who is Reagan's personal
7 constitutional attorney. He has litigated the
8 Second Amendment for the NRA all the way up to
9 the level of the Supreme Court for 30 years, and
10 he says there cannot be a runaway convention.
11 The Second Amendment is not at risk, but
12 ratification is the protective process.

13 SENATE MAJORITY CHAIRWOMAN PHILLIPS-HILL:

14 And I know we're really short on time -- I have
15 so many questions I'd love to ask you, but I
16 just, to sort of close things up, what are your
17 thoughts on the Countermand amendment to the U.S.
18 Constitution, which if approved would give States
19 the ability to override Federal legislation,
20 executive orders, court orders whenever 30 States
21 agree to such a vote.

22 Have you any thoughts on that?

23 MR. MECKLEY: On a personal level, I like
24 the idea that the States get some sort of
25 override. I don't know what the right balance is

1 between the number of States versus the Federal
2 government. The Countermand or some kind of a
3 Countermand amendment would be available for
4 discussion within our proposed convention.

5 SENATE MAJORITY CHAIRWOMAN PHILLIPS-HILL:
6 Very good. Thank you. Once again, Chairman
7 Everett, thank you so much for the opportunity to
8 participate in today's hearing.

9 we've heard a lot of very good
10 information today. We've received copious
11 amounts of information in the hearing packet. I
12 think it's about 130 pages. I'm looking forward
13 to reviewing all of the information and
14 continuing the conversation. To everyone who's
15 here today, it's really wonderful to see a packed
16 hearing room. We really appreciate your interest
17 in our State government. So thank you very much.

18 MR. DAVIES: Thank you.

19 MR. MECKLEY: Thank you.

20 (Whereupon, the hearing concluded at
21 10:00 a.m.)
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C E R T I F I C A T E

I hereby certify that the proceedings are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.

Tiffany L. Mast

Tiffany L. Mast, Court Reporter

Notary Public

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