



AMERICAN CONSTITUTIONALISM
 VOLUME I: STRUCTURES OF GOVERNMENT
 Howard Gillman • Mark A. Graber • Keith E. Whittington

Supplementary Material

Chapter 3: The Founding Era – Federalism

OXFORD
 UNIVERSITY PRESS

Resolves of the Concord Town Meeting (1776)¹

Groups in the towns and counties of Massachusetts began calling for a new constitution even before independence was declared. When the upper chamber of the Massachusetts legislature balked at beginning the task of drafting a new constitution after the declaration of independence, the lower house requested that the towns resolve that the assembly could undertake the task immediately. Although most towns quickly passed the requested authorization, Concord instead called for a special constitutional convention, which was one of the first suggestions that this was the correct way to proceed with drafting new constitutions for the states. The legislature did draft a state constitution, but it failed to win ratification from the towns in 1778 (a ratification procedure that had been called for in many of the initial town resolutions). The legislature called a constitutional convention in 1779, which produced a constitution that won ratification in 1780. Must constitutions be adopted by special convention? What is the difference between a convention and a legislature?

At a meeting of the inhabitants of the town of Concord being free & twenty one years of age and upwards. . . .

Resolve 1st. That this state being at present destitute of a properly established form of government, it is absolutely necessary that one should be immediately formed and established.

Resolved 2. That the supreme legislative, either in their proper capacity, or in joint committee, are by no means a body proper to form & establish a constitution, or form of government; for reasons following. First because we conceive that a constitution in its proper idea intends a system of principles established to secure the subject in the possession & enjoyment of their rights and privileges, against any encroachments of the governing part. 2d because the same body that forms a constitution have of consequence a power to alter it. 3d because a constitution alterable by the supreme legislature is no security at all to the subject against any encroachment of the governing part on any, or on all of their rights and privileges.

Resolve 3d. That it appears to this town highly necessary & expedient that a convention, or congress be immediately chosen, to form & establish a constitution, by the inhabitants of the respective towns in this state, being free & of twenty one years of age, and upwards, in proportion as the representatives of this state formerly were chosen. . . .

Resolve 4th. That when the convention, or Congress have formed a Constitution they adjourn for a short time, and publish their proposed constitution for the inspection & remarks of the inhabitants of this state.

Resolve 5^{ly}. That the honorable house of assembly of this state be desired to recommend it to the inhabitants of the state to proceed to choose a convention or congress for the purpose abovesaid as soon as possible.

¹ Massachusetts Archives 156/182.