

TESTIMONY OF MARK MECKLER, J.D.

NORTH DAKOTA SENATE COMMITTEE ON GOVERNMENT AND FEDERAL AFFAIRS

SCR 4004 - JANUARY 28, 2021

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

Back in 2017, the North Dakota legislature passed HCR 3006, applying for an Article V Convention to propose amendments that would impose fiscal restraints on the federal government, limit its power and jurisdiction, and set term limits for federal officials.

Convention of States Action is a grassroots organization with around five million supporters nationwide. We have volunteer leaders and teams in all 50 states, and as of today we have passed applications substantially similar to North Dakota's HCR 3006 in 15 states.

With our federal government now poised to implement more radical, socialist policies than ever before, the structural solution to federal overreach--provided by Article V--is needed more than ever. But the resolution before you would have you *stand down* from the neverending flood of federal usurpations of the powers reserved to the states under the Constitution. Now is not the time to retreat from using your constitutional power as a state legislature; now is the time to advance.

The rationale this resolution offers for rescinding your extant Article V applications demonstrates a very basic, fundamental misunderstanding of the Article V process and constitutional law. It suggests that because the Declaration of Independence recognizes the basic right of people to alter or abolish a government that fails to secure their rights, an Article V convention would have "inherent power" to deny limitations imposed upon it by the states and "impose sweeping changes" to the Constitution. This is utter nonsense.

There is no link between those two ideas. Article V doesn't authorize a convention to form a new government. If you just read it, you see that it authorizes a convention only to propose amendments to "this" Constitution—the one we already have. An Article V convention called pursuant to your 2017 application would have no more legal power to abolish the government than you have as you sit here today.

As for convention delegations disregarding the limitations placed on them by their state legislatures, that is also nonsense. Every law student learns that pursuant to the principles of basic agency law, an agent cannot simply disregard the instructions and limitations of his or her



principal. Commissioners sent to act as agents of their state legislatures in an interstate convention cannot ignore the state legislature's instructions and limitations. And if they did, their actions would be legally void.

Finally, SCR 4004 claims that you don't ever *need* to use your power under Article V because we can all just rely on Congress to propose needed amendments. I submit to you that a quick read of the daily news is all it takes to see that this plan of relying on Congress to do what the nation needs is not working.

Now, more than ever before, the nation needs you to use the constitutional authority the Founders gave you to intervene on behalf of the people and stop federal overreach. Please oppose SCR 4004.

Thank you for allowing me to testify today.