



TESTIMONY OF MARK MECKLER, J.D.

NORTH DAKOTA SENATE COMMITTEE ON STATE AND LOCAL GOVERNMENT

SCR 4012 - FEBRUARY 16, 2023

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. You had the privilege and honor of personally meeting and speaking with my friend and personal mentor the late Senator Tom Coburn, one of the greatest patriots and conservative Senators in modern American history.

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 19 states. Recent polling shows that nearly two-thirds of Americans—across party lines—support this effort.

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* and *surrender* to 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. Now is the time to stand strong in the fight.

I know that you frequently receive advice from self-described “scholars” who predict all sorts of horrible outcomes from an Article V Convention. They have no actual scholarly qualifications, and their reasons for opposing Article V are totally based on irrational fears. Their ramblings are completely at odds with the collective wisdom of the nation's top, peer reviewed, professors and scholars. These include Professor Robert Natelson (author of [The Law of Article V](#), whose works have been frequently cited by the U.S. Supreme Court); Michael Farris (former President of Alliance Defending Freedom, founder of Home School Legal Defense Association and Patrick Henry College, and author of a [Harvard Journal of Law & Public Policy article](#) debunking the “runaway convention” myth); Chuck Cooper (former top litigator for the NRA); Professor Randy Barnett, former deputy Attorney General Mark Levin, and many others.



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 and shows that those writing it don’t even understand the basic structure and operation of our governing charter.

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. People who make this argument are operating from fear alone, not an understanding of our most fundamental law, the United States Constitution.

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 4012 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. More importantly, it has *never* worked. When was the last time a government voluntarily limited its own authority? Such a suggestion is antithetical to human nature.

In 2017, when you passed HCR 3006, the federal debt was 19.9 Trillion Dollars. Today it is over 31 Trillion dollars. And in fact, when some of the proponents of this rescission resolution began their fight against the Balanced Budget Amendment, the federal debt was under 3 Trillion dollars. How much is enough? Must our government and our economy collapse into rubble like the Weimar Republic before these people will stand and fight? Or would they cower before their rulers in Washington, DC even then...allowing them to take more and more power?

In 1775, Patrick Henry stood before the House of Burgess in VA and said, “It is in vain, sir, to extenuate the matter. Gentlemen may cry, Peace, Peace-- but there is no peace. The war is actually begun! The next gale that sweeps from the north will bring to our ears the clash of

resounding arms! Our brethren are already in the field! Why stand we here idle? What is it that gentlemen wish? What would they have? Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take; but as for me, give me liberty or give me death!”

Calling out across the centuries, Patrick Henry is not alone in asking you to stand against the power of the federal government. Virtually every nationally known conservative figure who has commented on Convention of States has done so in favor of the idea; Sean Hannity, Mark Levin, Ben Shapiro, Gov. Ron DeSantis, Gov. Gregg Abbott are among many others. So have 18 other Republican state legislatures to date. And many are considering it this session. In fact, this resolution just passed in the Wyoming Senate. Just last year it passed in West Virginia, South Carolina, Nebraska and Wisconsin. With the movement to restrain Washington DC aggressively on the march, would you now stand with the radical left in America and back down?

Yes, I did ask “Would you now stand with the radical left and back down?” Because literally every national left-wing group in America has taken a public stand against Convention of States, in writing. Common Cause, MoveOn.org, DailyKOS, Planned Parenthood, and over 240 other radical left wing groups have attacked this movement because they are afraid that it would remove their power in DC, and return it to you, the state legislatures. Most recently, Convention of States was attacked by Media Matters, a left wing censorship group, after I appeared on Tucker Carlson’s show and explained what this is all about. We have been recently attacked by New Republic, and former Democrat Senator Russ Feingold wrote an entire book about how “dangerous” calling a convention of states would be to left-wing plans. Hillary Clinton has personally spoken out against calling a Convention of States.

History will judge one way or another. History will ask whether this body stood on the side of liberty and against those who would oppress us from Washington DC. History will ask what each of us did in the fight for liberty. History will ask how you personally voted when it came time to stand against DC tyranny.

Now is your moment to stand bravely against the leftists tearing apart the very fabric of our society and stalwartly say “NO.” In 2017 this very legislature demonstrated courage and did just that. I urge you to honor that courage today and vote against surrendering to the radical left. Please, fight for your state, and for your country. Fight for your children and grandchildren. The fight is on, and you are called to lead in that fight.

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 4012 and prevent this attempt at surrender. Thank you for allowing me to testify today.