

Testimony in Support of CACR 20

New Hampshire House Judiciary Committee

I want to cut through the noise and make a simple, straightforward case.

What This Actually Does

From a purely technical standpoint, CACR 20 does exactly one thing: it reverts this provision of the New Hampshire Constitution to its pre-1966 state regarding the Judicial Branch.

That's it. Nothing more, nothing less.

The Historical Reality

The New Hampshire Constitution is the oldest continuously operating state constitution in the nation, adopted in 1784. For 182 years – from 1784 to 1966 – it functioned exactly as the Founders intended, with the General Court retaining authority over the establishment of courts under Article 4.

To argue that this arrangement was somehow *wrong* for nearly two centuries is, frankly, absurd. New Hampshire had a functioning judiciary. It had a Supreme Court. It had a Superior Court. The courts operated. Justice was administered. The Republic endured.

The question before this Committee is not whether the pre-1966 Constitution was defective. It clearly was not.

The only question is whether the 1966 amendment was a good idea or a bad idea – viewed now with sixty years of hindsight. And hindsight, as they say, is 20/20.

Responding to the Opposition

The Deputy General Counsel for the Judicial Branch testified that a prior committee found this would “fracture the separation of branches.” With respect, this argument proves too much.

Was the separation of powers “fractured” in 1965? In 1900? In 1850? In 1784? Of course not. The separation of powers existed and functioned properly for 182 years under exactly the constitutional framework CACR 20 would restore. The Judicial Branch’s argument, taken to its logical conclusion, suggests that New Hampshire’s government was unconstitutionally structured from its founding until 1966. That position is untenable.

On the Merits

You heard testimony today from citizens who have experienced firsthand what happens when courts operate without meaningful legislative oversight. Family Court Rule 1.2 allows judges to waive virtually any rule “as justice may require.” Rules of evidence, rules of procedure, rules of due process – all waivable at judicial discretion.

This is not a hypothetical concern. This is the lived experience of New Hampshire citizens who came here today to tell you: the system is broken, and they have no recourse.

When the General Court cannot act as a check on judicial overreach, the people have no remedy. That is the core problem CACR 20 addresses.

The Article 10 Framework

Let me speak plainly about what this really is.

Part First, Article 10 of our Constitution states that when “the ends of government are perverted, and public liberty manifestly endangered,” the people have the right – indeed, the *obligation* – to “reform the old, or establish a new government.”

Article 10 has never been about revolution or violence. It is about the peaceful, lawful mechanisms by which the people of New Hampshire correct their government when it has gone astray.

And what is more peaceful, more lawful, more proper than a Constitutional Amendment Concurrent Resolution? We are doing this exactly the right way. We are bringing this question back to the voters – the same voters whose authority was quietly stripped in 1966 without full disclosure of what they were surrendering.

This is Article 10 in action. This is the remedy the Founders envisioned.

Conclusion

CACR 20 is not radical. It is restorative.

It returns to the people of New Hampshire – through their elected representatives in the General Court – the constitutional authority they possessed from 1784 until 1966.

It provides a lawful, peaceful remedy to sixty years of judicial drift.

And it trusts the voters to decide, in 2026, whether the 1966 experiment has served them well.

I urge the Committee to recommend Ought to Pass.

Thank you.

Respectfully submitted,

/s/ Dana Albrecht

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