

**STATE OF NEW HAMPSHIRE
BALLOT LAW COMMISSION**

Decision BLC 2022-7

Appeal of Karen Steele

BACKGROUND

Karen Steele submitted a request to the Ballot Law Commission, by e-mail to the Secretary of State on August 20, 2022, that those representatives to the General Court, who had sponsored or voted against a finding of “Inexpedient to Legislate” for CACR 32 in the 2022 session of the House of Representatives, which legislation proposed to submit a Constitutional Amendment seeking the secession of New Hampshire from the United States, be removed from the ballot under the provisions of the Fourteenth Amendment to the Constitution of the United States, Section 3. Seven representatives sponsored the legislation and thirteen voted against finding it Inexpedient to Legislate.

Section 3 of the Fourteenth Amendment, reads as follows: “No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.”

Ms. Steele presented testimony and materials from legal scholars on the meaning of the provision, and how it has been applied in the past, citing arguments that the provision was not limited to those in the Confederacy after the Civil War, which led to the Fourteenth Amendment. It was her contention that in proposing secession, and voting not to find such a proposal “Inexpedient to Legislate,” the representatives, now candidates, fit into Section 3, and forfeited their right to run for state office.

The Commission previously referred this question to its counsel in the Office of the Attorney General. Advice given the Commission in open hearing was that there was no precedent finding that either proposing or voting on legislation can constitute a violation of Section 3. Further, counsel advised that the jurisdiction of the Commission may not extend to deciding Federal Constitutional questions such as this. Members pointed out that the statutes governing the Commission’s jurisdiction and scope do not appear to extend to deciding questions such as presented in this case.

DECISION

The Ballot Law Commission finds that the actions about which the complaint is aimed, the sponsoring of a constitutional amendment and voting on it in the New Hampshire House of

Representatives, involve determining whether there is a violation Section 3 of the Fourteenth Amendment to the United States Constitution, and, further, that its jurisdiction to decide such matters is in question, so that it may not have the authority to decide such questions. Therefore, the request of Karen Steele that certain candidates for the office of representative to the General Court be removed from the ballot, is dismissed.

So ordered:

Bradford E. Cook, Chairman
David Campbell
Michael Eaton
Robert Letourneau
Eugene Van Loan, III