A Petition for Commencement of Rule Making Activities by the National Archives and Records Administration

Proposed Regulations for the Preservation and Public and Constitutional Presentation of State Applications for an Article V Convention

Submitted By

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The purpose for this rule making proposal is to correct the abysmal record of the NARA in its blatant disregard in the preservation and presentation of state applications for an Article V Convention call submitted to Congress. These applications are allegedly stored in NARA facilities. However as the NARA has no policies regarding them their actual status is unknown. As mandated by the United States Constitution, congressional resolution and federal statute these applications must be catalogued for immediate and ongoing constitutional and public use. The present non-policies of the NARA make such use impossible. This non-policy to properly catalogue the applications falls far short of record keeping standards federal statute and regulation establish for the NARA. NARA officials have admitted their failure in writing. Despite statutory mandates requiring redress by the NARA to correct this situation, NARA has taken no action whatsoever to address this failing. This NARA failure to apply otherwise universal standards of record keeping to all public records possessed by the NARA to convention applications has resulted in gross violation of federal statute and the Constitution by Congress and the NARA.

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Letter to Amy Bunk, Acting Director, Office of the Federal Register

Ms. Amy Bunk, Acting Director
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The National Archives and Records Administration
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Dear Acting Director Bunk,

Pursuant to 5 USC 553(e) and 44 USC 1503 the material submitted in this booklet together with two copies of this booklet is intended to constitute a Petition for the Commencement of Rule Making Activities for the National Archives and Records Administration (NARA) requesting implementation of federal regulations regarding the preservation and public presentation of certain public records entrusted to NARA custody. The complete lack of record keeping management by the NARA in regards to these records violates the Constitution, federal statutes and federal regulations. Evidence proves these statutes and regulations, which impose a high level of standard of record keeping on the NARA, have been deliberately disregarded in this instance despite the issue having already been brought to the attention of NARA administration.

This Petition addresses the admitted failure by the NARA, despite statutory and regulatory mandate, to catalogue for constitutional and public purposes state applications now in their custody submitted by the several state legislatures to Congress for a convention for proposing amendments to the United States Constitution as authorized by Article V of the Constitution. Evidence demonstrates the NARA is so lax in its records maintenance procedures it cannot even accurately describe where in the NARA these public records exist let alone satisfy the statutory requirement of making such records available for immediate constitutional and public use. The NARA cannot even state whether it may have disposed of parts of this public record. If such action has occurred the NARA is guilty of unconstitutional usurpation by initiating a term of effectiveness for these public records without constitutional or statutory authorization.

This violation of public statute and federal regulation by the NARA which otherwise deserves a sterling reputation of record keeping, has detrimentally effected not only a mandated constitutional procedure (described as “peremptory” by Founder Alexander Hamilton) but is responsible for members of Congress violating federal criminal statutes. Any excuse by the NARA that Congress has neglected to instruct the NARA that these records be catalogued so as to make them immediately available for constitutional and public use is refuted by accompanying evidence. Despite clear statutory and regulatory language the NARA has failed to adhere to the most basic standard of records keeping management—complete and accurate records.

Due to the poor record keeping of the NARA, as authorized by 44 USC §2906(a)(1) and 36 CFR 1239.20 an inspection of specific public records is requested in order to determine their location, number, accuracy and integrity. As 44 USC 2906 permits inspection by the Administrator of General Services, Acting Administrator Denise Turner Roth, a copy of this Petition is being forwarded to her office requesting the GSA conduct the inspection of NARA records to avoid any conflict of interest.

Further documentary evidence herein irrefutably demonstrates as of Friday, March 13, 1908 the state legislatures first time in United States history satisfied the two thirds peremptory standard set by Article V. Congress has not responded with a convention call as mandated by the Constitution. The current state of record keeping leads to one of two causes: willful criminal conspiracy by Congress or intentional disregard of federal statues and regulation by the NARA. This Petition addresses the latter issue leaving the former to be addressed by other means. For this reason a copy of this Petition is being sent to Attorney General of the United States Eric Holder Jr. together with a copy to President Barack Obama for his review. I am also including a copy of a proposed convention call for the reference and information of the President. This proposed call, while included with this material for purposes of full disclosure, is not intended as part of this rule making Petition.

36 CRF 1239.20 mandates inspection of federal records "when an agency fails to address specific records management problems involving high risk to significant records." These state applications are absolutely essential in order for Congress to obey the Constitution. Evidence shows Congress intended the archivist of the congressional record be responsible for notification to Congress, by means of proper record keeping management, such that the public record of applications would be immediately available in order for Congress to know when it was required to execute this peremptory constitutional requirement. Congress imposed this expectation on the archivist in 1789. It has remained unchanged ever since. Without such proper recordkeeping the precedent is established the Government can veto the Constitution. No more significant reason can be asserted than this—that this public record must be preserved and presented in such a manner as to facilitate a mandated constitutional act on the part of Congress in order to preserve the integrity of the Constitution. Failure to do this destroys that integrity.

All federal employees are mandated by statute (5 USC 3331) to take an oath of office which in part requires the employee will "…support and defend the Constitution of the United States [and] will bear true faith and allegiance to the same [and will] take this obligation freely without any mental reservation or purpose of evasion; and that [they] will well and faithfully discharge the duties of the office on which [they] about to enter." Failure to obey regulations intended to facilitate a "peremptory" constitutional requirement or obstructing a requested inspection is a clear violation of oath of office by the NARA demonstrating a blatant "mental reservation or purpose of evasion" regarding obedience to the Constitution, federal statutes and federal regulations specifically pertaining to NARA performance.

I have been involved in the Article V movement for 25 years. Beyond filing two federal lawsuits and using public record to correct numerous Article V Convention misconceptions my most important accomplishment is compiling, for the first time in United States history, a comprehensive list of applications by the states based on the actual texts of the applications found in federal public record. Prior scholarly articles presented simple tables listing the applications. Only one article listed applications by Congressional Record citation. My list shows these articles were incomplete. While my list may suffer deficiencies, it does comply with federal statutory and regulatory standards. The applications are in catalogue form, which is they are presented in a single location rather than buried among millions of pages of public record and are immediately available for public use. Given the sole constitutional requirement of two thirds application by the several state legislatures, a simple listing of which states have applied adequately satisfies any issue

of constitutional use. The NARA currently lists one state application. My record of 764 applications from 49 states conclusively demonstrates the NARA documentation of one application is neither complete nor accurate as mandated by federal statute.

It is from this perspective that I submit my Petition—that of a fellow record keeper. I do not believe it is the responsibility of a private citizen to do the job the federal Government should be doing. The Constitution mandates a convention call by Congress when a certain constitutional condition exists. The knowledge of when this event has occurred requires an accurate public record. The NARA as the assigned depository of public records has a constitutional and statutory responsibility to maintain this public record in order for Congress to comply with the Constitution. This means the NARA must maintain the public records of state applications in such condition as to be immediately available for constitutional and public use—a task they have utterly failed to do in violation of federal statutes and regulations.

For the reasons presented in this Petition I request the NARA adopt the proposed regulations regarding procurement, preservation and constitutional and public presentation of these applications. These proposed regulations will serve to make treatment of state applications equal to that of other public records in the custody of the NARA as required by current records management procedures, federal statutes, federal regulations and constitutional mandate as well addressing the special circumstances of state applications.

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Introduction to Rule Making Petition

The purpose for this rule making proposal is to correct the abysmal record of the NARA in its blatant disregard in the preservation and presentation of state applications for an Article V Convention call submitted to Congress. These applications are allegedly stored in NARA facilities. However as the NARA has no policies regarding them their actual status is unknown. As mandated by the United States Constitution, congressional resolution and federal statute these applications must be catalogued for immediate and on-going constitutional and public use. The present non-policies of the NARA make such use impossible. This non-policy to properly catalogue the applications falls far short of record keeping standards federal statute and regulation establish for the NARA. NARA officials have admitted their failure in writing. Despite statutory mandates requiring redress by the NARA to correct this situation, NARA has taken no action whatsoever to address this failing. This NARA failure to apply otherwise universal standards of record keeping to all public records possessed by the NARA to convention applications has resulted in gross violation of federal statue and the Constitution by Congress and the NARA.

The implementation of these proposed regulations does not constitute a call for a convention. Instead these proposed regulations are intended to bring the preservation and presentation of state applications in the custody of the NARA in line with the care and presentation afforded other public documents as mandated by statute, regulation and NARA records management practices while simultaneously addressing the special circumstances surrounding state applications. Such practices are currently absent in regards to applications. However with the implementation of these regulations, the public presentation of applications will enable Congress to perform its peremptory duty mandated by the language of the Constitution and enunciated by the Founders both at the 1787 Federal Convention, in the Federalist Papers and in the records of Congress. Whether Congress elects to perform its constitutional duty is the responsibility of Congress, not the NARA. The responsibility of the NARA is to obey statutes enacted by Congress and written evidence shows in regards to state applications for an Article V Convention the NARA is not presently doing this.

A Brief History of the Article V Convention Clause

Introduction

Article V of the United States Constitution states:

> The Congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate.[1]

For purpose of this Petition the phrase, "The Congress…on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments …" is most relevant. The language of Article V is unambiguous as the Supreme Court has stated in several decisions: if two thirds of the state legislatures submit applications to Congress, Congress must call a convention for proposing amendments, also known as an Article V Convention.[2]

An Article V Convention is not what is sometimes referred to as a constitutional convention. Article V is unambiguous; Congress is only authorized to call a convention to propose amendments "as part of this Constitution." A constitutional convention drafts a new constitution which obviously cannot be part of this Constitution. Hence the two names refer to different types of conventions. The Constitution does not describe a "constitutional convention" and therefore this kind of convention is unconstitutional. This Petition is only concerned with an Article V Convention which is constitutional.

By the Constitution mandating an exact numeric ratio of two thirds of the several state legislatures needing to apply to cause a convention call, this means if less than two thirds of the states apply, Congress cannot, under any circumstance, call an Article V Convention. Consequently, certain knowledge of the number of states which have submitted applications to Congress for a convention call and when such applications were submitted is absolutely essential in order for

[1] Source: National Archives website, http://www.archives.gov/federal-register/constitution/article-v.html.

[2] "The United States asserts that Article V is clear in statement and in meaning, contains no ambiguity, and calls for no resort to rules of construction. A mere reading demonstrates that this is true. It provides two methods for proposing amendments. Congress may propose them by a vote of two-thirds of both houses, or, on the application of the legislatures of two-thirds of the states, must call a convention to propose them. Amendments proposed in either way become a part of the Constitution '"when ratified by the legislatures of three-fourths of the several states or by Conventions in three-fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress. . . .'" United States v Sprague, 282 U.S. 716, 730 (1931). See also Dodge v Woolsey, 59 U.S. 331 (1855); Hawke v Smith, 253 U.S. 221 (1920); Dillon v. Gloss, 256 U.S. 368 (1921).

Congress to execute its assigned constitutional task of calling a convention the Constitution dictates it do so.

The 1787 Convention Record

As described in Max Farrand's book "The Records of the Federal Convention of 1787" the Founders in writing what ultimately became Article V of the Constitution went through several drafts of the article. Notably the Founders deliberately changed the language of the proposed Article V to: (1) eliminate Congress as the only constitutional entity empowered to propose amendments to the Constitution; (2) remove language allowing states to apply for an amendment directly by submission of identical applications on the same amendment subject to Congress and (3) replace that language with language mandating Congress call a convention for proposing amendments on the application of two thirds of the several state legislatures without regard to amendment subject.[3] By this change the basis of action by Congress in regards to state applications altered from action only on the submission of a simultaneous amendment subject by the states to a numeric count of applying states regardless of amendment subject.

As Farrand notes on page 629, Volume II of his book, the convention changed the language of the proposed Article V from "…or on the application of two thirds of the Legislatures of the several States [Congress] shall propose amendments to this Constitution" to its present language, "on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments." This was done after Colonel Mason (delegate from Virginia) expressed "the [present] plan of amending the Constitution exceptionable & dangerous." Mason stated "As the proposing of amendments is in both the modes [proposal by Congress and application by the states] to depend, in the first immediately, and in the second, ultimately, on Congress, no amendments of the proper kind would ever be obtained by the people…"

In response to Mason's comments, "Mr. Govr. Morris & Mr. Gerry moved to amend the article so as <u>to require a Convention on application of 2/3 of the Sts</u>." [Emphasis added]. As noted on page 630 of Farrand's book, "The motion of Mr. Govr. Morris & Mr. Gerry was agreed to nem: con." Thus the original intent of the Founders is explicit: Congress is required to call the convention when two thirds of the state legislatures apply for the call and therefore the purpose of the application is to cause a convention call not to propose an amendment.

Federalist 85

James Madison of Virginia proposed the language at the 1787 Convention which ultimately became Article V.[4] Alexander Hamilton, of New York, seconded Madison's proposal. Hamilton served on the Committee of Style which drafted the final language of the Constitution. This placed him in the perfect position to correctly understand the meaning and intent of Article V.[5] Later Hamilton wrote several essays attempting to gain support for passage of the proposed Con-

[3] Max Farrand, "The Records of the Federal Convention of 1787, Volume II, pp. 629, 630. See Appendix p. 1.
[4] Ibid. p. 559.
[5] Ibid. p. 553.

stitution. Collectively the essays are called the Federalist Papers. In Federalist 85, Hamilton stated,

> "In opposition to the probability of subsequent amendments, it has been urged that the persons delegated to the administration of the national government will always be disinclined to yield up any portion of the authority of which they were once possessed. … But there is yet a further consideration, which proves beyond the possibility of a doubt, that the observation is futile. It is this that the national rulers, whenever nine States concur, will have no option upon the subject. By the fifth article of the plan, the Congress will be obliged '"on the application of the legislatures of two thirds of the States (which at present amount to nine), to call a convention for proposing amendments, which shall be valid, to all intents and purposes, as part of the Constitution, when ratified by the legislatures of three fourths of the States, or by conventions in three fourths thereof."' The words of this article are peremptory. The Congress "shall call a convention." Nothing in this particular is left to the discretion of that body. And of consequence, all the declamation about the disinclination to a change vanishes in air. … If the foregoing argument is a fallacy, certain it is that I am myself deceived by it, for it is, in my conception, one of those rare instances in which a political truth can be brought to the test of a mathematical demonstration. [Emphasis added].[6]

That Hamilton understood the intent and meaning of the convention clause of Article V is established by his employment of the legal term "peremptory" in describing the level of obligation imposed on Congress to call a convention by the text of Article V.[7] Hamilton also understood this "peremptory" condition was initiated by a single circumstance: a numeric ratio of applying states that is, an actual count of how many states submitting applications for a convention call to Congress exist compared to the total of states in the Union. This ratio serves as a "mathematical demonstration" of the political truth Congress must call a convention irrespective of any other term or condition once the two thirds numeric ration is achieved. No other term or condition of call was discussed in the 1787 Convention or in Federalist 85 meaning no other condition or term may, in any manner, interfere in this "peremptory" requirement. Equally, as stated by the Supreme Court, no rules of construction, interpolation or addition is permitted regarding Article V. Therefore no term or condition other than a numeric count of applying states can be attached as a circumstance requiring satisfaction before Congress must call a convention.[8]

[6] Federalist 85, (Saturday, August 16, 1788), McLean's Edition, New York, Library of Congress.

[7] "Peremptory. Imperative; final; decisive; absolute; conclusive; positive; not admitting of question, delay, reconsideration or of any alterative. Self-determined; arbitrary; not requiring any cause to be shown." Black's Law Dictionary 10th ed. (West Group, 2014).

[8] "The Constitution was written to be understood by the voters; its words and phrases were used in their normal and ordinary, as distinguished from technical, meaning; where the intention is clear, there is no room for construction and no excuse for interpolation or addition. [Citations omitted]." United States v Sprague, 282 U.S. 716, 731-32 (1931).

The 1789 Congressional Decision

As proven in its first discussion of the convention clause on the occasion of the first submitted state application to Congress on May 5, 1789, Congress clearly understood the crux of Hamilton's statements—peremptory and numeric count.[9] Obviously as this was the first application submitted, there were not enough applications to cause a convention call. Until such event occurred, Congress decided to "enter the application at large upon the Journals, and do the same by all that came in, until sufficient were made to obtain their object and let the original be deposited in the archives of Congress." [Emphasis added].[10]

Despite this acknowledged mandate Congress has not called a convention as required by Article V. The responsibility for this inaction lies entirely with Congress. The responsibility for the preservation and presentation of state applications "until sufficient were made to obtain their object" was assigned to the congressional archivist in 1789 by Congress. All duties of the congressional archivist of that time were, by statute, eventually assigned to the NARA. The statute did not nullify prior congressional instructions regarding archiving.[11] Thus the fact the NARA did not exist until 1934 is irrelevant as the statutes creating it continued this previous obligation. Moreover subsequent federal statutes enacted by Congress remove any doubt of this NARA obligation.

An examination of congressional statements of May 5, 1789 reveals other facts relevant to this Petition. Most significant is the fact Congress has never varied from its instructions given to the congressional archivist that day. Congress' intent as to application preservation and availability to Congress for it, in turn, to execute its assigned constitutional task remains unchanged. Thus entering a state application into the minutes of the Journal (now the Congressional Record), tabling the application and referring the original application to the Archivist "until sufficient were made to obtain their object" remains the unaltered practice of Congress to this day.[12] The problem is the NARA has ignored the "until sufficient" instruction by failing to have the applications preserved such fashion that Congress knows when "sufficient" applications have been submitted "to obtain their object."

The fact Congress clearly understood a convention call was based on a numeric count of applying states is proven by the emphatic statement of Congressman Boudinot at the beginning of the discussion by members of Congress following the submission of the first state application for a

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[9] See generally, "Debates of Congress May 5, 1789, pp. 258-61, Appendix pp. 2-4.

[10] Gales & Seaton's History of Debates in Congress, May 5, 1789 p. 261. "Whereupon, it was ordered to be entered at length on the Journals, and the original to be placed on the files of Congress." See Appendix p. 4.

[11] "(a) All orders, determinations, rules, regulations, grants, contracts, agreements, permits, licenses, privileges, and other actions which have been issued, granted, made, undertaken, or entered into in the performance of any function transferred by this Act [Pub. L. 98-497] or the amendments made by this Act [Pub. L. 98-497] shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by any authorized official, a court of competent jurisdiction, or by operation of law." 44 USC 2101 Savings Provisions (Pub. L. 98-497, § 105) [Emphasis added].

[12] Congress has begun to tabulate the applications. See infra, "House Rule Regarding Tabulating AVC Applications," p. 57; see also: www.foavc.org/reference/file59.pdf and http://clerk.house.gov/legislative/memorials.aspx.

convention call on May 5, 1789. Boudinot states, "According to the terms of the Constitution, the business [referring to Congress calling a convention as requested in the just entered Virginia application] until a certain number of States have concurred in similar applications: … but if it is a business which we cannot interfere with in a constitutional manner, we had better let it remain on the files of the House until the proper number of applications come forward." [Emphasis added].[13]

James Madison (the author of Article V[14]) then stated he "doubted the propriety of committing it [referring the Virginia application to a committee of Congress for its consideration and disposal] because it would seem to imply that the House had a right to deliberate upon the subject. This he believed was not the case until two-thirds of the State Legislatures concurred in such application, and then it is out of the power of Congress to decline complying, the words of the Constitution being express and positive relative to the agency Congress may have in case of applications of this nature. [Madison then quoted Article V including that portion dealing with the Article V convention call]. From hence it must appear that Congress have no deliberative power on this occasion." Madison then concluded, "The most respectful and constitutional mode of performing out duty will be to let it [the Virginia application] be entered on the minutes, and remain upon the files of the House until similar applications come to hand from two-thirds of the States." [Emphasis added].[15]

Thus the peremptory requirement of a convention call and the fact it is based on a numeric count of applying states with no other terms or conditions has been known to the Archivist of congressional records since May 5, 1789. Equally known is the asterisk instruction attached by Congress that day to its archival instructions which require Congress, "enter the application at large upon the Journals, and do the same by all that came in, until sufficient were made to obtain their object and let the original be deposited in archives of Congress." Any doubt as to the meaning of the term "sufficient to obtain their object" is clarified by the comment that the application "can be called up when enough are presented to make two thirds of the whole States."[16]

The Colorado Application

Any doubt these 1789 instructions are clearly understood but ignored by the NARA is demonstrated by examination of the only state application which the NARA, for some unknown reason, separated from the mass of congressional records in which the NARA routinely buries all state applications. As evidence in this Petition demonstrates separation of state applications is not the usual practice of the NARA despite statutory requirements to the contrary.

The application, located at the NARA website, states "Article V of the Constitution provides that Congress must call a convention for proposing amendments to the Constitution if two thirds of

[13] See generally, "Debates of Congress May 5, 1789, pp. 258-61, Appendix pp. 2-4.
[14] See fn. 4.
[15] Ibid.
[16] See Appendix, "Debates of Congress May 5, 1789 p. 261," p. 4, comment by Congressman Huntington.

the state legislatures apply for one to Congress. [Emphasis added].[17] The use of the term "must call" clearly is an acknowledgment of the instructions the NARA, or its archival predecessors received from Congress in 1789. Equally, use of the term "two thirds" (and lack of any other conditional term) demonstrates acknowledgement of the numeric standard recognized in 1789 by Congress ("a certain number of States … "until the proper number of applications come forward").

Moreover the NARA takes the matter a step further by stating only a single application is required by each state to cause the required convention call. "This is the application for a constitutional conveniton from the state legislature of Colorado." [Emphasis added].[18] The words "the application" as used in the context of the sentence unmistakably indicates no other action is required by the state of Colorado to effectuate a convention call. As the NARA does not provide evidence to the contary the natural (and correct interpretation based on the statements of May 5, 1789) presumption is each state need only submit one application for an Article V Convention call in order to cause Congress to call an Article V Convention. According to the NARA statement Colorado has satisfied this constitutional requirement and thus need do no more toward the satisfaction of Article V. Hence, a state is only required to submit a single application for a single convention call meaning the two-thirds requirement is based the minimum number of applications necessary to accomplish the task rather than any standard of multiple submissions. From this fact it can be reasoned that based on the statements of the 1787 convention, Federalist 85, and the May 5, 1789 congressional discussion as well as the NARA statement, any further applications submitted by a state for a convention call must apply to future conveniton calls beyond that required by the first submitted application from each state (until the two thirds mark is reached). Nothing in Article V permits Congress to disregard any state application (and indeed the language of Madison on Mary 5, 1789 clearly proves this) so therefore in some manner, all state applications must "count" toward causing a convention call by Congress.

This Petition's request for regulations mandating continual presentation of the applications by the states for an Article V Convention call for constituitonal and public use are predicated on the statements by the Founders and in the Constitution. The NARA's own statement on its Colorado application lends weight to the interpretation Congress "must" call a convention. Obviously, if Congress can delay calling a convention once the states have applied then the term "peremptory" cannot be applied to this mode of amendment proposal, something, based on Mason's comments and subsequent unanimous vote by the convention the Founders obviously did not support.

Finally, the separation of the Colorado application from other congressional records demonstrates the NARA is fully capable of separating state applications. The NARA can present no argument a regulation requiring it do the same for all state applications is "impractical." The NARA notation under the Colorado application demonstrates full constituitonal comprehension

[17] http://www.archives.gov/legislative/features/17th-amendment/colorado.htm. See Appendix, "State of Colorado Application, April 1, 1901," p. 5.
[18] Ibid.

meaning the NARA cannot assert a technical issue or lack of knowledge as excuse not to impliment these proposed regulations.

The Constitutional Modes of Article V

As previously noted, on May 5, 1789, when discussing whether Congress had the option to deliberate a convention call James Madison stated, "he doubted the propriety of committing it because it would seem to imply that the House had a right to deliberate upon the subject. This he believed was not the case until two-thirds of the State legislatures concurred in such application, and then it is out of the power of Congress to decline complying, the words of the Constitution being express and positive to the agency Congress may have in the case of applications of this nature.'The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments.' From hence it must appear that Congress have no deliberative power on this occasion."[19]

Madison's comments denote two distinct constitutional modes—a lower mode consisting of a set of applications which number below the two thirds mark expressed in Article V in which case the Congress does nothing and an upper mode consisting of a set of applications that meet the two thirds requirement of Article V. Any excessive applications submitted beyond this two thirds mark must counted toward the next convention call as Congress has no authority to disregard any application. This upper mode of applying states, according to Madison (and the Supreme Court) means Congress must call a convention without any deliberation or delay. Due to this peremptory requirement a better term describing state applications is an enforceable agency instruction. The states entirely control the initiation of the action described in the instruction/application. As alluded to by Madision, in the instance of applications for a convention, Congress acts as an agent for the states with a predetermined mandate (or instruction) given in the Constituiton. Hence, the states do not "apply" for a convention call in the classic sense of the word—i.e., ask or request (with the petitionee reserving the right of refusal), but in the form of absolute command—there shall be a convention. When a sufficent number of states have agreed on this command, the Constitution demands execution by the agent—Congress. Hence an exact knowledge of how many states have applied to Congress is critcal for determining which constitutional mode Congress is presently situated.

As Congress is required to call "on the application" of the several states, equally paramount is determining not only whether a change in constitutional mode between the lower, non-peremptory state and upper peremptory state has transpired but knowing exactly when this event occurrs in order to satisfy the "on the application" command of Article V. As the Constitution places no limit on when a state may submit an application or how many times it may submit applications and as only one application per state is required to cause a convention call the point of transition is obviously mobile. Thus it requires constant monitoring to be constitutionally correct. In order to satisfy this mobile constitutional demand of varying state submissions and

[19] See fn. 13.

number, a proactive continually updated catalogue of all applications available for immediate constituitonal use by Congress must exist allowing Congress to fulfill its agency role.[20]

Supreme Court Rulings regarding Article V

While the Supreme Court of the United States has issued several decisions regarding various aspects of Article V, relative to the issues raised in this Petition only one Court ruling has any bearing regarding a potential NARA refusal to implement the proposed regulations of this Petition.

The argument for refusal is lack of statutory authorization by Congress. The argument goes as follows: as Congress has never statutorily instructed the NARA to catalogue state applications the NARA is under no obligation under current federal statutes to initiate such a catalogue. Discussion of federal statutes and regulations which do, in fact, mandate cataloguing will be presented later in this Petition. This section of this Petition discusses why Congress cannot enact such a statute and why the absence of such statute does not let the NARA off the hook.

This argument was employed by Mr. Kirk Boyle, Legal Counsel of the House of Representatives. Mr. Boyle presented this position apparently to deny the request by Mr. Dan Marks of the state of Hawaii that he be furnished "verification and tabulation of State applications for an Article V Convention."[21] The argument of Mr. Boyle can be summarized as follows: (1) the Constitution mandates Congress obey the Constitution; (2) Congress has never consented to obeying this specific clause of the Constitution by empowering anyone to obey its provisions therefore; (3) Congress doesn't actually have to obey this part of the Constitution because it has never actually consented to do so by appointing someone to perform the task of tabulation hence; (4) Congress doesn't have to obey the Constitution even though they've sworn an oath to do so because they've never actually consented to obeying that specific constitutional provision.[22]

The error of this argument is the Legal Counsel of the House of Representatives appears to believe constitutional obedience can be delegated thus leaving those who the Constitution specifies are responsible free of any responsibility to obey the Constitution themselves. This is clearly false. Article V mandates "Congress" shall call a convention. Thus if Congress fails to designate an individual to execute the task of tabulating applications so Congress can then issue the call based on these applications, then by constitutional default the task remains with Congress en

[20] A list of the public record of applications is presented at the end of this Petition. These applications (which include the Colorado application) prove the necessary two thirds submission requirement to cause a convention call was achieved on Friday, March 13, 1908. (See: http://www.foavc.org/reference/AVC_Apps_and_summary.pdf). On that date the state of Washington became the 31st state to submit an application. As the Constitution bases the two thirds requirement on the total number of states in the Union at the time of submission, this date is accurate. In 1908 there were only 46 states in the union. A simple mathematical calculation reveals two thirds of 46 equals 30.666 or rounded to the next highest number, 31.

[21] See Appendix, "Dan Marks Letter to Clerk, April 15, 2013," p. 6. For full contents of letter including all submitted applications see http://www.foavc.org/reference/Senate_Request.pdf. For the purpose of public disclosure Petitioner aided Mr. Marks in the composition of his letter by providing the list of applications referred to in the letter and providing editorial comments regarding its content. The word "apparently" is significant as it now appears the Marks letter was responsible for Congress beginning a tabulation of state applications. See fn. 12, infra "House Rule Regarding Tabulating AVC Applications," p. 57.

[22] See Appendix, "Response by Mr. Kirk Boyle to Dan Marks, June 7, 2013," p. 7.

masse. Hence as all of Congress is mandated by oath to "support" the Constitution, all obey its provisions and face penalty for failure to do so. Congress cannot shirk from that responsibility by claiming a duty assigned the group can be ignored because the group failed to delegate the duty to an individual to perform it for the convenience of the group particularly when Article V assigns no such immunity to Congress.

While Congress can attempt to shirk from its constitutional responsibilities by asserting a form of laches, this excuse cannot be employed by the NARA. Congress has statutorily delegated responsibility for cataloguing state applications (along with all other public records) so they are available for constitutional and public use. A new statute specifically dealing with state applications is therefore unnecessary as reasonable interpretation of present legislation suffices to resolve the matter.

The argument Congress specifically has not instructed the NARA to catalogue applications is meritless given already existing statutes and federal regulations demonstrate congressional intent. These laws specifically mandate this precise action by the Archivist. Obviously key to this argument of refusal by the NARA is the proposition Congress must pass a statute specifically instructing the NARA to specifically store a particular public record in a specific manner when, in fact, Congress has already addressed issue of storage of all such records with generalized as well as specialized statutes applying to all public records which includes state applications. The argument for this kind of legislation being required for each type of public record the NARA stores is ludicrous. If true, the NARA (and logically every other bureaucracy in the government) would be required to get assigned specific statutory instructions from Congress for every action expressly not addressed by statute.

Such argument renders the entire process of federal regulation and reasonable bureaucratic autonomy meaningless. Within certain prescribed statutory limits a bureaucracy must have the authority to "connect the dots." It cannot shirk from this responsibility by saying it doesn't want to do this. This is the purpose of an enabling statute creating the bureaucracy in the first place—allowing Congress to create a bureaucracy for an assigned task and delegating certain powers and assignments to that bureaucracy. The concept of federal regulation is for the bureaucracy to execute the task assigned it without Congress having to do its job with passage of legislation for every minutia the bureaucracy encounters. In executing its assigned statutory function Congress allows the bureaucracy authority to enact regulations addressing minutia which statutes, no matter carefully crafted, simply cannot encompass. In short a statute is not designed to cover every eventuality a bureaucracy might encounter. Thus if evidence exists that current statutes address the specific issue if reasonably applied to that issue by judicious use of regulation, the bureaucracy must connect the dots. In the matter of peremptory applications where functions assigned by Congress to the NARA come into play, the NARA is as equally peremptorily bound as Congress to take whatever bureaucratic actions are necessary to facilitate the tabulation of state applications by executing their regulatory responsibilities as Congress is in executing its constitutional responsibilities.

This peremptory requirement on Congress permeates the intent of all statutes enacted by Congress even if such statute doesn't specifically describe state applications. The effect of constitutional provisions can never be disregarded. If Congress must call a convention then the intent of

any statute which facilitates such a call (even though that statute or regulation does not actually cause the call to occur) must be viewed in the light of this peremptory requirement. Hence no excuse or interpretation which thwarts or otherwise obstructs this peremptory requirement can be preferred. Any objection by the NARA therefore is automatically nullified by this peremptory constitutional requirement. Congress cannot be thwarted in its peremptory duty because the NARA refuses to provide the means of cataloging of applications according to state and number of applications whereby Congress can, based on this information, issue a convention call. The NARA has no more right to veto the Constitution by deliberately obstructing Congress in the performance of its mandated duty than does Congress.

Hollingsworth v Virginia

There is another issue with the argument of specific legislation being required before the NARA can catalogue applications. A Supreme Court ruling precludes the President from any participation in the amendment process meaning there can be no legislation enacted by Congress in regards to the amendment process as the President is constitutionally unavailable to review it. In Hollingsworth v Virginia, 3 U.S. 378 (1798) the Supreme Court separated the ordinary legislative functions of Congress and the President from the "substantive act" of amendment of the United States Constitution—in other words established two form of law in the Constitution—legislative and amendatory. In that historic case the Supreme Court considered two questions regarding the newly passed 11th Amendment one of which is relevant to the issues of this Petition. The specific question before the Court was whether a presidential signature was required on any proposed amendment made by Congress just like any other ordinary legislation passed by Congress thus allowing the President to veto the proposal. This veto would occur before the proposal would be sent to the states for ratification consideration.

In his Hollingsworth arguments, United States Attorney General Charles Lee stated, "And the case of amendments is evidently a substantive act, unconnected with the ordinary business of legislation, and not within the policy, or terms, of investing the President with a qualified negative on the acts and resolutions of Congress."[23] In a footnote to the case, Associate Justice Samuel Chase agreed with Lee stating, "There can, surely, be no necessity to answer that argument. The negative of the President applies only to the ordinary cases of legislation: He has nothing to do with the proposition, or adoption, of amendments to the Constitution."[24] In its unanimous decision the Supreme Court affirmed the statement by Attorney General Lee.

The Role of the President in Article V

The Hollingsworth ruling is unambiguous. The President shall have no part of the amendment proposal process. The Court expressly excluded the President from use of his legislative veto power granted him in the Constitution by the simple act of recognition that the amendment proposal process is a "substantive act, unconnected with the ordinary business of legislation." Thus

[23] Hollingsworth v Virginia, 3 U.S. 378, 381 (1798).
[24] Ibid. p.382.

amendment proposal and legislative proposal are two distinct constitutional functions. The powers granted in one function cannot be applied in the other function as the Constitution provides no means whereby such crossover is permitted.[25] When Congress operates in its legislative function it operates under authority of Article I; thus Congress proposes a bill or resolution. However when Congress operates in its amendatory function it operates under authority of Article V; thus Congress proposes an amendment or issues a call. Neither of these are legislative functions and therefore are not subject to legislative veto by the President described in Article I.[26] This constitutional separation means only broad general legislation applying to all public records in the custody of the NARA can be employed to cause the NARA to catalogue state applications as these general laws do not specifically relate to the amendment process.

As a result of this unequivocal separation of legislative and amendatory functions presidents have scrupulously observed the Hollingsworth decision: whenever Congress in obedience of the Constitution is involved in the amendatory process, the President has had no part in it.[27] A critical point however is the Court predicated its ruling on the premise of congressional obedience to the provisions of Article V, not congressional disobedience to those provisions.

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[25] Any argument that the "necessary and proper" clause (Article I, § 8, Clause 18, U.S. Const.) of the Constitution permits such crossover is defeated by the fact the legislative power "to make all laws" described in Article I [see fn. 26] is a "foregoing power." The clause reads (in part): "The Congress shall have Power…To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers…" As the power discussed in this case is legislative passage of a statute described in Article I, § 7, Clause 2, it is regulated by the word "foregoing" meaning its power cannot be extended beyond that of those clauses preceding Article I, §8, Clause 18.
Thus the Constitution limits the "necessary and proper" proposal of legislation to those powers described in Article I (primarily Article I, § 8, U.S. Const.) to that section and not to any portion of the Constitution that follows such as the convention call described in Article V. If this were not true the Supreme Court would have no basis for separation of legislative and amendment function as the "necessary and proper" clause would extend congressional legislative power to every section of the Constitution with no limit thus defeating entirely the concept of separation of powers. Instead specific sections of the Constitution which follow Article I specifically grant Congress legislative powers. Others do not. It is for this reason all amendments in the Constitution (all of which follow Article I) which require further legislation on the part of Congress to effect the purpose of the amendment contain a provision extending such authority to Congress. If legislative authority was already extended as a result of the "necessary and proper" clause, such extension of authority would not be required. See generally 13th, 14th, 15th, 16th, 19th, 20th, 23rd, 24th, 25th, 26th amendments to the Constitution.

[26] "Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to the House in which it shall have originated, who shall enter the Objections at large on their Journal and proceed to reconsider it. If after such Reconsideration, two thirds of that House shall agree to pass the Bill, it shall be sent together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. … If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return in which Case it shall not be a Law." Article I, §7, Clause 2, U.S. Const. [Emphasis added].

[27] The only modern exception to this obedience occurred on July 12, 1978 when President Jimmy Carter sent a letter in support of extension of the ratification deadline for the proposed Equal Right Amendment (ERA) and later signed the legislation extending that deadline. Even then President Carter expressed procedural concerns over his signing such legislation. See: Jimmy Carter: "Equal Rights Amendment Letter to members of the House Judiciary Committee.," July 12, 1978. Online by Gerhard Peters and John T. Woolley, "The American Presidency Project." http:www.presidency.ucsb.edu/ws/?pid=31062.

What if Congress is not in obedience of the Constitution when involved in the amendatory proposal process? Does Hollingsworth preclude the President from employing other presidential powers found in Article II but not addressed by Hollingsworth in order to "preserve" the constitutional proposal process of Article V where Congress either affirmatively or by laches has failed to obey Article V which is "clear in statement and in meaning"?[28] Is the President precluded, for example from "preserving" the Constitution as demanded by his oath of office particularly when the Supreme Court has relegated itself to that of "advisory" opinions "given with any constitutional authority" in regards to Congress obeying Article V?[29] Must the President sit ideally by while Congress flaunts the words of the Constitution by refusing to call an Article V Convention when the express words of Article V state Congress must do so because a court ruling states the President shall have no part of the amendment process but does not state the President is prevented from enforcing the amendment process should it be disobeyed if such occasion arises? Even a cursory examination of Article II shows the President is not restricted in this manner.

It is absurd to suggest the "preserve" power of the President's oath can be construed narrowly—applying only to the actual physical preservation of the printed document called the Constitution—and that otherwise "preserving" the Constitution is left only to the courts.[30] While some have suggested the President's oath has no constitutional significance as it gives the President no power beyond those itemized in Article II, the historic record of alleged violation of oath by a President disproves this.[31] That record establishes the oath has constitutional significance as its violation can result in presidential impeachment. Therefore enforcement of the Constitution under its provision (and it must emphasized the use of the "preserve" power can only be applied to preserve existing constitutional provisions not create new presidential powers) must have equal constitutional effect of that for its violation. If violation of oath has the constitutional effect of

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[28] See fn. 2.

[29] "The Constitution grants Congress exclusive power to control submission of constitutional amendments. Final determination by Congress that ratification by three-fourths of the States has taken place "is conclusive upon the courts." [Footnote omitted] In the exercise of that power, Congress, of course, is governed by the Constitution."… "Congress, possessing exclusive power over the amending process, cannot be bound by, and is under no duty to accept, the pronouncements upon that exclusive power by this Court or by the Kansas courts. Neither State nor Federal courts can review that power. Therefore, any judicial expression amounting to more than mere acknowledgment of exclusive Congressional power over the political process of amendment is a mere admonition to the Congress in the nature of an advisory opinion, given wholly without constitutional authority." Coleman v Miller, 307 U.S. 433, 457, 459-60 (1939) [Emphasis added].

[30] "Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to best of my Ability, preserve, protect and defend the Constitution of the United States." Art. II, §1, Clause 8, U.S. Const.

[31] "That the oath the President is required to take might be considered to add anything to the powers of the President, because of his obligation to "preserve, protect and defend the Constitution," might appear to be rather a fanciful idea. But in President Jackson's message announcing his veto of the act renewing the Bank of the United States there is language which suggests that the President has the right to refuse to enforce both statutes and judicial decisions on his own independent decision that they were unwarranted by the Constitution. [Footnote omitted]. The idea next turned up in a message by President Lincoln justifying his suspension of the writ of habeas corpus without obtaining congressional authorization. [Footnote omitted]. And counsel to President Johnson during his impeachment trial adverted to the theory but only in passing. [Footnote omitted]. Beyond these isolated instances, it does not appear to be seriously contended that the oath adds anything to the President's powers." See: http://www.law.cornell.edu/anncon/html/art2frag6_user.html.

impeachment (a massive constitutional power) then it follows obedience to oath must have equal constitutional power as the oath, at the minimum provides the "necessary and proper" clause for presidential power. Thus the terms "preserve" the Constitution "to the best of my ability" which are contained within his Article II powers, give the President authority to "preserve" the Constitution in those situations not contemplated either by the Founders or the courts by use of those Article II powers.[32] Moreover, as the Supreme Court has repeatedly stated, all words in the Constitution have constitutional significance and effect. None may be disregarded unless removed by amendment meaning the oath of office must have constitutional effect and significance.[33]

Therefore a refusal by Congress to call a convention when mandated by the language of the Constitution, where the President has constitutional mandate through his oath of office as well as textual presidential powers enabling him to cause a recalcitrant Congress to obey the Constitution vis-à-vis Article V is not a violation of the Hollingsworth doctrine as: (1) no actual amendment is being proposed; (2) Congress, by its refusal to call when mandated is in violation of several criminal statutes and (3) the President is exercising the same power of preservation of the Constitution in effectuating the amendment process that he is empowered to exercise over the preservation of any provision of the Constitution which is disobeyed by anyone subject to the jurisdiction of the Constitution. A sentence from a Supreme Court decision equally applies to the President: "The courts cannot rightly prefer, of the possible meanings of the words of the constitution, that which will defeat rather than effectuate the constitutional purpose."[34] Equally, the President cannot rightly prefer, of the possible meanings of the words of the Constitution, that which will defeat rather than effectuate the constitutional purpose. The Constitution states Congress shall call and if Congress refuses, the President has the constitutional right and sworn duty to require they do call.

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[32] A simple read of the articles of impeachment for each President demonstrates this point. In each case in which a President faced charges of impeachment brought by Congress (Presidents Johnson, Nixon and Clinton) the actual texts of the impeachment charges contained language accusing the President of "violation of his oath of office". While the circumstances of each impeachment varied, the "violation of oath of office" charge was consistent throughout. See generally: http://law2.umkc.edu/faculty/projects/ftrials/impeach/articles.html (President Johnson); http://watergate.info/impeachment/articles-of-impeachment (President Nixon); http://www.washingtonpost.com/wp-srv/politics/special/clinton/stories/impeachvote121198.htm (President Clinton).

[33] The Supreme Court has repeatedly stated all words of the Constitution have constitutional significance. See generally, Marbury v Madison, 5 U.S. 137 (1803); "It cannot be presumed that any clause in the constitution is intended to be without effect"; Martin v Hunter's Lessee, 14 U.S. 304 (1816); "Words of [the] Constitution are to be taken in natural and obvious sense, and not in sense unreasonably restricted or enlarged"; Ogden v Saunders, 25 U.S. 213 (1827); "Where provision in United States Constitution is unambiguous and its meaning is entirely free from doubt, the intention of the framers of the constitution cannot be inquired into, and the supreme court is bound to give the provision full operation, whatever might be the views entertained of its expediency"; Prigg v Commonwealth of Pennsylvania, 41 U.S. 539 (1842); "[The] Court may not construe Constitution so as to defeat its obvious ends when another construction, equally accordant with the words and sense thereof, will enforce and protect them"; Jarrolt v Moberly, 103 U.S. 580 (1880); "A constitutional provision should not be construed so as to defeat its evident purpose, but rather so as to give it effective operation and suppress the mischief at which it was aimed"; Wright v U.S., 302 U.S. 583 (1938); "In expounding the Constitution, every word must have its due force and appropriate meaning"; "The courts cannot rightly prefer, of the possible meanings of the words of the constitution, that which will defeat rather than effectuate the constitutional purpose." United States v. Classic, 313 U.S. 299 (1941).

[34] Ibid.

Some have suggested the phrase used in the oath to "preserve, protect and defend the Constitution" can only be construed to mean the President protects the people of this nation from a threat such as a terrorist attack. However historic record proves construing the oath this narrowly is incorrect. As described in McCulloch v Maryland, 17 U.S. 316 (1819) the people and the form of government they ordained are inseparable.[35] Thus the obligation of the President to "preserve" the form of government ordained by the people is inseparable from protecting, defending or preserving the people themselves. The tasks are simultaneous. By the act of approving a written Constitution containing a specific written form of government the people automatically excluded any other form of government from having authority over them. Thus, any deviation from that specific written form of government (unless altered by the amendment process) creates a new form of government not sanctioned by the people. To prevent this corruption the people authorized the President to preserve the specific form of government they approved and "to the best of his ability" take whatever action necessary to maintain that form of government and none other.

Therefore "preserving" the Constitution can mean no less than the President can and will use the powers assigned him in the Constitution to maintain and prevent deviation from the express written form of government the people created unless by their consent such form of government is altered by the amendment process described within the Constitution. No such circumstance of alteration exists regarding Article V. That which was originally ordained by the people in 1789 remains unchanged and in effect to this day. The President has the required constitutional duty to preserve that process of amendment expressed in Article V. He possesses the constitutional pow-

[35] "In discussing this question, the counsel for the state of Maryland have deemed it of some importance, in the construction of the constitution, to consider that instrument, not as emanating from the people, but as the act of sovereign and independent states. The powers of the general government, it has been said, are delegated by the states, who alone are truly sovereign; and must be exercised in subordination to the states, who alone possess supreme dominion. It would be difficult to sustain this proposition. The convention which framed the constitution was indeed elected by the state legislatures. But the instrument, when it came from their hands, was a mere proposal, without obligation, or pretensions to it. It was reported to the then existing congress of the United States, with a request that it might 'be submitted to a convention of delegates, chosen in each state by the people thereof, under the recommendation of its legislature, for their assent and ratification.' This mode of proceeding was adopted; and by the convention, by congress, and by the state legislatures, the instrument was submitted to the people. They acted upon it in the only manner in which they can act safely, effectively and wisely, on such a subject, by assembling in convention. It is true, they assembled in their several states-and where else should they have assembled? No political dreamer was ever wild enough to think of breaking down the lines which separate the states, and of compounding the American people into one common mass. Of consequence, when they act, they act in their states. But the measures they adopt do not, on that account, cease to be the measures of the people themselves, or become the measures of the state governments.

From these conventions, the constitution derives its whole authority. The government proceeds directly from the people; is 'ordained and established,' in the name of the people; and is declared to be ordained, 'in order to form a more perfect union, establish justice, insure domestic tranquillity, and secure the blessings of liberty to themselves and to their posterity.' The assent of the states, in their sovereign capacity, is implied, in calling a convention, and thus submitting that instrument to the people. But the people were at perfect liberty to accept or reject it; and their act was final. It required not the affirmance, and could not be negatived, by the state governments. The constitution, when thus adopted, was of complete obligation, and bound the state sovereignties." McCulloch v Maryland, 17 U.S. 316 402-04 (1819) [Emphasis added].

ers to do so. Therefore as long as the President remains within these express constitutional powers he is on solid constitutional ground.
Thus, where the President has express constitutional authority in the form of his oath as well as other assigned powers which can facilitate the clear intentions of the Founders, he is not exceeding his authority as President nor is in violation of the Hollingsworth doctrine if he acts affirmatively to enforce an express constitutional mandate, particularly one described by the Founders as "peremptory." It is a reasonable constitutional inference any "peremptory" requirement of the Constitution not only binds the branch of government at which it is directed but all other branches as well as to grant the contrary presents the opposing branches opportunity to overturn the peremptory requirement which, by definition, it is not if it can be ignored in any fashion. Given a fundamental principle of constitutional law is the government must obey all provisions of the Constitution (thus making all provisions "peremptory") violation of this basic principle means total invalidation of the Constitution.

Thus no individual (nor any group comprising those individuals) assigned constitutional duties may interfere in a peremptory constitutional requirement. All such individuals are obligated under their oaths to facilitate the peremptory requirement. If a branch tasked with the requirement however, fails to perform the duty assigned then by their oath of office all others in the government in order to comply with their oaths of office must use whatever powers constitutionally assigned them to facilitate the requirement. Otherwise they fail in their oath of office as they are not supporting the Constitution. These individuals may not perform the actual duty assigned as such an act violates separation of powers doctrine but neither can they ignore the agency relationship the Constitution has imposed on the responsible branch. Therefore the two other branches of government, being required, at the minimum "to support the Constitution" or in the case of the President to "preserve" the Constitution to the "best" of his ability" must use whatever constitutional powers they possess to require obedience of the third branch to perform an assigned peremptory duty of the Constitution.

Presidential powers are primarily described in Article II of the Constitution. One of the powers the President is "…he shall take Care that the Laws be faithfully executed…"[36] While various agencies have assumed control over various aspects of law in regards to ensuring federal law is "faithfully executed" like the convention call assigned Congress regardless of who may be delegated authority to tabulate applications the ultimate responsibility of faithful execution of laws (or execution of the call when required) still lies with the President (or in the case of a call, Congress). Relative to the discussion of this Petition are two presidential powers in Article II § 3 of the Constitution which permit the President "to the best of his ability" to enforce the provisions of Article V without violating the Hollingsworth doctrine of presidential exclusion from the amendatory process.

[36] "He [the President] shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the Officers of the United States." Article II, §3 U.S. Const. [Emphasis added].

One question in Hollingsworth was whether the President had constitutional authority to veto a proposed amendment as he would any proposed legislation emanating from Congress. The Court emphatically stated the President did not have such constitutional authority. But what of the situation regarding an Article V Convention call? If Congress is unable (due to proper cataloguing by the NARA so Congress is aware of when two-thirds of the states have applied) or is deliberately unwilling to call a convention when mandated by Article V, then the issue alters from amendment proposal and process to constitutional disobedience by a branch of government.

Obedience to the Constitution by all members of Congress is not only mandated by the Constitution but is codified under federal criminal statute making violation a criminal offense.[37] Clearly the constitutional requirement the President "shall take Care that the Laws be faithfully executed…" includes enforcement of the federal oath of office laws. Therefore the President has the constitutional as well as statutory authority to cause Congress to obey the provisions of Article V if Congress refuses to do so. He can do this (without violating the Hollingsworth doctrine) by exercise of a second presidential power that the President "…may on extraordinary Occasions, convene both Houses or either of them…"[38] Failure of Congress to obey the Constitution and thus violate their collective oaths of office certainly constitutes an extraordinary occasion. Therefore under authority of this presidential power the President can convene Congress for the purpose of tabulating applications in order bring Congress in compliance with Article V and the constitutional oath of office clause if evidence exists that the states have met the two thirds requirement of Article V.

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[37] Constitutional obedience is addressed in Article VI, §3 of the Constitution which reads, "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution…" The oath of office has been codified in United States Code. See generally, 5 USC 3331, 5 USC 3333, 5 USC 7311 and 18 USC 1918. The right of the President to enforce oath of office standards set by federal statute is established by Executive Order 10450 (issued Apr. 27, 1953, codified 18 FR 2489 18 FR 2489, 3 CFR, 1949-1953 Comp., p. 936) which describes the circumstances by which an individual (or individuals) in the government can be investigated for violation of oath of office. Executive Order 10450 §8 (a) (1) (ii) (iii) and (4) mandates a FBI investigation "to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security." Such information shall relate, but shall not be limited, to the following: (1) Depending on the relation of the Government employment to the national security: (ii) Any deliberate misrepresentations, falsifications, or omissions of material facts. (iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, sexual perversion. … (4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconstitutional means." [Emphasis added].

As will be described in greater detail later in this Petition, in 2004 all members of Congress joined in a federal lawsuit to oppose obeying the Constitution and call a convention as mandated by Article V. In doing so the members of Congress advocated alteration of the form of government of the United States by unconstitutional means in that they opposed obeying the peremptory requirement of Article V to call a convention when required to do so by the terms of the Constitution. The violation occurred when members of Congress instead of proposing an amendment to effectuate their position, instead publicly joined in a lawsuit opposing constitutional obedience. The Constitution does not permit alteration of the amendment process by court order. "It is not the function of courts or legislative bodies, national or state, to alter the method which the Constitution has fixed." Hawke v Smith, 253 U.S. 221, 227 (1920).

[38] See fn. 36.

Beyond convening Congress in extraordinary session for Congress to perform a required peremptory duty, the President can take no further part in the proceedings as an actual physical tabulation of applications (the second step in the process of amendment proposal by a convention, cataloguing being the first in order to allow Congress to be able to tabulate) is assigned by the Constitution to members of Congress. However, members of Congress include the Vice President of the United States who, as President of the Senate (together with the Speaker of the House) supervises the tabulation of applications and of course acts under instructions of the President.[39] Acting through this constitutional surrogate the President thus ensures a tabulation of applications. The President fulfills his constitutional duty to "preserve" the Constitution by calling Congress into special session but is not involved in the actual process of amendment proposal thus avoiding any conflict with Hollingsworth.[40] If the President fails enforce the "peremptory" mandate of a convention call by failing to cause Congress to call when Congress refuses to do so he violates his oath as well as the Hollingsworth doctrine in that his failure to act when he has constitutional authority, duty and obligation to do so constitutes an obstruction by the President of the amendatory process. It is a de facto veto of that process. Under these circumstances the matter becomes an impeachable offense as the President has violated his oath of office, not by affirmative but passive act risking constitutional sanction.[41]

Such obstruction includes vetoing legislation associated with the proposition of amendments. This includes legislation instructing the NARA to catalogue applications. If the applications are not gathered together and catalogued they cannot be tabulated. If a President desires a convention not to be held he simply vetoes the legislation mandating cataloguing by the NARA and thus prevents any possibility of tabulation.[42] Thus by use of his veto the President prevents execution of the convention mode of amendatory proposal and is therefore is directly involved in the "proposition" of amendments to the Constitution by denying a convention the ability to propose them. Such veto is clearly unconstitutional.[43]

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[39] "For the purpose of this title, "Member of Congress" means the Vice President, a member of the Senate or the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico." 5 USC 2106.

[40] Of course should Congress attempt to thwart this constitutional sleight of hand the President still retains the right of criminal prosecution against members of Congress for violation of oath of office for alteration of the form of government as well as deliberate omission of a material fact (failure to call when mandated to do so) should they refuse to count the applications [See fn. 37]. In this event, the President would employ his "…take Care that the Laws be faithfully executed…" power. Clearly this is an example of the "walk softly but carry a big stick" approach to the presidency.

[41] See fn. 32.

[42] However the effect of this presidential veto is uncertain. Congress can circumvent the veto. As illustrated by Congress' current tabulation of applications, Congress if it desires, can operate under existing congressional rules (not subject to presidential veto) and request the applications which currently reside with the NARA be returned to Congress temporarily. The problem of course, is the NARA has no idea where the files are located. What a veto cannot thwart bureaucratic incompetence can by depriving Congress of the full record of applications. See infra, "House Rule Regarding Tabulating AVC Applications," p. 57; "NARA Response to Record Keeping Issues Regarding Applications," p.63.

[43] The Supreme Court has made it clear constitutional words (and powers) must be interpreted so as to effectuate not defeat the Constitution. See fn. 33.

Moreover the Hollingsworth decision makes it clear any government act related to amendment proposal is not a legislative function. Hence the act of government (such as cataloguing state applications) cannot be legislatively proposed by Congress as Congress could just as easily propose legislation instructing the NARA not to catalogue the applications thus entirely defeating the peremptory amendment requirement. Thus cataloguing and tabulation of state applications are part of the amendment proposal process which means these processes cannot be held to the legislative requirements specified in Article I as this act of government cannot be presented to the President for his possible veto and permits Congress the opportunity to legislatively overturn the Constitution. Thus requiring specific legislation from Congress instructing the NARA to catalogue state applications before the NARA can perform this necessary constitutional task of cataloguing applications so Congress knows when it must call a convention is not constitutionally permissible.

Thus the argument the NARA requires specific legislation before it can catalogue applications by the states for a convention call is meritless and needless. As will be shown later in this Petition, the necessary legislative authority requiring such cataloguing already exists. Second express legislation subject to presidential veto directly involves the President in the amendment proposal process contrary to constitutional text and Supreme Court ruling and therefore is unconstitutional. Further such legislation gives Congress the opportunity to veto the Constitution. Hollingsworth therefore precludes both Congress from proposing such legislation and from the President considering such legislation. Such legislation ultimately creates the situation whereby the President is empowered to decide whether or not a constitutional requirement is executed. This is contrary to the President's oath of office which permits only affirmative action on the part of the President to effectuate, not defeat, constitutional provisions. An action which does not effectuate the Constitution is grounds for impeachment. If the legislation discussed were proposed guaranteed passage would require the President being deprived of his constitutional power of veto. Denying the President the right of veto of a proposed piece of legislation is unconstitutional. Legislation providing specific cataloguing instructions for applications is therefore unconstitutional. The NARA cannot require an unconstitutional act be performed by Congress or President before it chooses to perform an already assigned constitutional and legal statutory duty.

Relevant Supreme Court Rulings Regarding Agency Rule Making

The Supreme Court, and federal appellate courts, has addressed creation of government regulations in numerous rulings. One of the most important is American Mining Congress v MSHA, 995 F.2d 1106 (D.C. Circ. 1993) (American Mining) establishing standards to determine whether a petition for rule making submitted to a federal agency is an interpretive or substantive petition. The difference between an interpretive and substantive petition is an interpretive petition can be dismissed by an agency without formal hearing or the process of public comment. An interpretive petition simply purports to interpret already existing agency regulations differently than currently interpreted by the federal agency. A substantive petition on the other hand, creates new regulations and thus requires the statutory process of publication in the Federal Register followed by public comment prior to agency determination. It is sometimes referred to as a legislative rule. This Petition is a substantive petition. Fortunately the NARA does not have to rely on Petitioner's opinion to determine whether his Petition is substantive or interpretive. The NARA's interpretation of 5 USC 553 does that for him.[44]

Another important decision, Chevron U.S.A. Inc. v Natural Resources Defense Council, Inc., 467 U.S. 837 (1984) (Chevron) is considered the benchmark ruling regarding regulatory authority of federal agencies. This Supreme Court ruling established the criteria of regulatory authority for federal agencies and what standards agencies must meet in administering those criteria.

American Mining Congress v MSHA, 995 F.2d 1106 (D.C. Circ. 1993)

The test created by the Circuit Court in American Mining determining whether a petition was substantive or interpretive has been adopted by at least seven other federal circuits.[45] In that decision, the Court established four criteria to decide whether a propose regulation was interpretative or substantive. The Court said:

> "Accordingly, insofar as our cases can be reconciled at all, we think it almost exclusively on the basis of whether the purported interpretive rule has '"legal effect,"' which in turn is best ascertained by asking (1) whether in the absence of the rule there would not be an adequate legislative basis for enforcement action or other agency action to confer benefits or ensure the performance of duties, (2) whether the agency published the rule in the Code of Federal Regulations, (3) whether the agency explicitly invoked its general legislative authority, or (4) whether the rule effectively amends a prior legislative

[44] See infra 5 USC 553—Rule Making p. 28.

[45] Hemp Industries Association v Drug Enforcement Administration, 333 F.3d 1082, 1087 (9th Cir. 2003); Warder v Shalala, 149 F.3d 73 (1st Cir. 1998); Mission Group Kansas v Riley, 146 F.3d 775 (10th Cir. 1998); Appalachian States Low-Level Radioactive Waste Commission v O'Leary, 93 F.3d 103 (3rd Cir. 1996); Hoctor v U.S. Department of Agriculture, 82 F.3d 165 (7th Cir. 1996); Chen Zhou Chai v Carroll, 48 F.3d 1331 (4th Cir. 1995); New York City Employees' Retirement System v Securities Exchange Commission, 45 F.3d 7 (2nd Cir. 1995).

> rule. If the answer to any of these questions is affirmative, we have a legislative, not an interpretive, rule."[46]

The courts later abandoned the third criteria and therefore it will not be discussed.[47] In sum this Petition affirmatively meets two of the three remaining criteria. Given the Court mandates only one criterion be met, this is sufficient to show the Petition is substantive. Obviously this Petition cannot meet the second criterion of publication in the Federal Register since the matter has never been submitted to the NARA for consideration.

In regards to the first criterion that "[in] the absence of the [proposed] rule, there would not be an adequate legislative bases for … agency action…to ensure the performance of duties," documentary evidence in this Petition shows the NARA is not presently performing the required duties under current regulations even though those regulations require the NARA to do so. The only explanation is either the NARA is deliberately disregarding federal law or in absence of the proposed regulations there is not an adequate legislative base for agency action to ensure the performance of duties required toward cataloguing state applications.

All federal employees (and therefore the agencies which they comprise) are required to obey the Constitution meaning performing their duties in compliance with the Constitution. The Constitution mandates obedience to laws made in "pursuance" of the Constitution. Congress has passed statutes demanding a level of performance in regards to record keeping by the NARA. It gave specific instructions regarding storage and availability of state applications in 1789. The NARA has not obeyed these statutes or the instructions.

Given these facts it cannot be said absent these proposed regulations an "adequate legislative basis" exists "to ensure the performance of duties" because if the regulations now in place were "adequate" the NARA already would be performing the duties described in these proposed regulations. Since it is not, and in order to ensure the "performance of duties" mandated by Constitution, statutes, regulations, oath and congressional order that state applications be immediately available for constitutional and public use additional regulations are required to ensure that level of performance by the NARA.

Regarding the third criterion, "whether the rule effectively amends a prior legislative rule" the answer is clearly affirmative. The proposed regulations amend prior NARA regulations by establishment of special standards for a specific set of records which, due to their constitutional significance, require special treatment. The evidence is clear: the NARA has dumped vital constitutional records into a heap of records and can't even state for certain where those records are among the millions of records kept by the NARA. The proposed regulations amend prior legislative rules allowing for correction of this inadequacy.

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[46] See American Mining Congress 995 F.2d at 1112. The third criterion, agency invoking its legislative authority, was abandoned in Health Insurance Association of America, v Shalala, 23 F.3d 412 (D.C. Cir. 1994). The other criterions remain intact.

[47] Ibid.

The proposed regulations satisfy two criterions of American Mining establishing whether a petition is interpretive or substantive. According to Court ruling, the proposed regulations of this Petition are substantive and must be addressed under the appropriate sections of 5 USC 553 dealing with substantive rule making.[48]

Chevron U.S.A. v NRDC, 467 U.S. 837 (1984)

Having established this Petition is substantive, it is now appropriate to discuss one of the most cited Supreme Court rulings dealing with administrative law—Chevron U.S.A. v NRDC, 467 U.S. 837 (1984).[49] The Court's opinion, written by Justice Stevens, states (in part):

> "When a court reviews an agency's construction of the statute which it administers, it is confronted with two questions. First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.

[48] "(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—(1) a statement of the time, place and nature of the public rule making proceedings; (2) reference to the legal authority under which the rule is proposed; and (3) either the terms or substance of the proposed rule or a description of the subjects and issues involved. (c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. (d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date… (e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule." 5 USC 553.

[49] "*Chevron* is one of the most influential administrative law cases decided by the Supreme Court in the past half-century. It provides principles to determine the extent to which a court reviewing agency action should give deference to the agency's construction of a statute that the agency has been delegated to administer. … In the course of the opinion, the Court stated that when a court reviews an agency's construction of the statute it administers, that court must first determine whether Congress 'has spoken to the precise question at issue.' If so, the inquiry ends, because the courts and agencies must 'give effect to the unambiguously expressed intent of Congress.' If the statute is silent or ambiguous regarding the specific point, the court decides whether the agency interpretation is 'based on a permissible construction of the statute.'

When Congress explicitly left a gap in a program to fill, the agency's regulations are given controlling weight unless arbitrary, capricious, or manifestly contrary to statute. When such a gap is implicitly left by Congress, the court is not to substitute its own construction of the statute as long as the agency's interpretation is reasonable. *Chevron* has become one of the most-cited cases on the basic standards of review of agency statutory interpretation." United States Department of Justice Environment & Natural Resources Division, http://www.justice.gov/enrd/3591.htm.

> The power of an administrative agency to administer a congressionally created … program necessarily requires the formulation of policy and the making of rules to fill any gap left, implicitly or explicitly, by Congress. Morton v Ruiz, 415 U.S. 199, 231 (1974). If Congress has explicitly left a gap for the agency to fill, there is an express delegation of authority to the agency to elucidate a specific provision of the statute by regulation. Such legislative regulations are given controlling weight unless they are arbitrary, capricious, or manifestly contrary to the statute. Sometimes the legislative delegation to an agency on a particular question is implicit rather than explicit. In such a case, a court may not substitute its own constructions of a statutory provision for a reasonable interpretation made by the administrator of an agency.
>
> We have long recognized that considerable weight should be accorded to an executive department's construction of a statutory scheme it is entrusted to administer, and the principle of deference to administrative interpretations has been consistently followed by this Court whenever decision as to the meaning or reach of a statute has involved reconciling conflicting policies, and a full understanding of the force of the statutory policy in the given situation has depended upon more than ordinary knowledge respecting the matters subjected to agency regulations. [Citations omitted] '"…If this choice represents a reasonable accommodation of conflicting policies that were committed to the agency's care by the statute, we should not disturb it unless it appears from the statute or its legislative history that the accommodation is not one that Congress would have sanctioned."' United States v. Shimer, 367 U.S. 374, 382, 383 (1961)." [Emphasis added].[50]

The general practice of NARA is to make congressional records easily available for public (and in some cases) constitutional use. This is not the case with state applications. To determine whether this NARA action is one "that Congress would…sanction" the four criteria established in Chevron must be examined to determine if Congress intended this discrimination. If any permit such discrimination then the current practice is permissible.

The criteria [and action required] are: (1) has Congress directly spoken to the precise question at issue [mandating an examination of relevant statutes and regulations affecting the NARA regarding proper record keeping management with particular attention to any exemption from these record keeping standards for state applications]; (2) is the NARA's actions based on a permissible construction of a statute [requiring examination of whether Congress has ever spoken directly on the precise question of availability, care and handling of state applications]; (3) is the NARA choice not to properly catalogue state applications a "reasonable accommodation of conflicting policies…committed to the agency's care by the statute unless [such] accommodation is not one that Congress would have sanctioned" [requiring an examination of congressional statements vis-à-vis state applications]; (4), is the NARA failure to catalogue applications "arbitrary, capricious, or manifestly contrary to the statute [requiring examination of whether NARA treatment of state applications the similar to its treatment of other public records and whether such treatment is manifestly contrary to the discussed statutes].

[50] Chevron U.S.A. Inc. v Natural Resources Defense Council, Inc., 467 U.S. 837, 842-45 (1984).

A Discussion of 5 USC 553—Rule Making

The statutory process for formulation of regulations governing agency practices is described in the Administrative Procedure Act 5 USC 553 (APA).[51] The NARA is not excluded from this statue as the NARA does not qualify under 5 USC 553 (a) (1) or (2) of the APA.[52] As described by several government agencies two types of rules (or regulations) are permitted by the APA—legislative (or substantive) and interpretive rules.[53] Several federal agencies have discussed the difference between the terms "interpretive" and "substantive" in some detail.[54]

5 USC 553 exempts a notice or a hearing on a petition for rule making in the case of interpretative regulation where the statute gives preference to the interpretation by the agency over that of proposed interpretation by an outside source.[55] This exemption does not apply in the case of this Petition as it is not interpreting an existing regulation. Therefore any recourse allowing the NARA to continue ignoring statutory law and regulation is closed. It is impossible for the NARA to "interpret" a regulation which does not exist.

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[51] See: Title 5 Government Organization and Employees, Part I, The Agencies generally, Chapter 5 Administrative Procedure, Subchapter II, Administrative Procedure, 5 USC 553 Rule Making.

[52] "This section applies, according to the provisions thereof, except to the extent that there is involved (1) a military or foreign affairs function of the United States; or (2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts." 5 USC 553(a).

While the NARA may store military records and records dealing with foreign affairs functions of the United States, neither is the subject of this Petition. Therefore the NARA cannot claim exemption under these provisions. While this Petition is critical of agency mismanagement the proposed regulations have no effect on current management practices of the NARA. This Petition describes no specific NARA employee. Therefore the personnel exemption does not apply. The terms "public property, loans, grants, benefits, or contracts as used in their common meaning" have no bearing on this Petition. The terms do not describe state applications for a convention call. Applications are in fact public record. The statute does not provide an exemption to an agency in matters relating to public record. Therefore these sections of 5 USC 553 have no bearing on this Petition.

[53] For purposes of uniformity, this Petition will henceforth refer to "rules" as "regulations" and employ the use of the word "substantive" meaning "legislative"—creating legally binding rights and obligations on the NARA and "interpretive"—meaning "non-legislative" non-binding rights and obligations on the NARA.

[54] "Rulemaking is a process for developing and issuing rules. The rulemaking process can lead to the issuance of a new rule, an amendment to an existing rule, or the repeal of an existing rule. There are three basic types of rules (Rules are also sometimes called "regulations"). They are: a. Legislative (sometimes called "Substantive" Rules. These rules create legally binding rights and obligations for the agency and the public. … b. Non-legislative Rules. These rules are of two subtypes: i. Interpretive Rules. As the name suggests, these rules interpret the meaning of statutes or legislative rules that the Commission [in this case the FCC] administers. ii Policy Statements. These tell the public how the agency plans to exercise some discretionary power that it has. … c. Organization and Procedural Rules. These rules describe the agency's structure and the way in which its determinations are made." Source: www.fcc.gov/encyclopedia/rulemaking-process-fcc.

[55] "Except when notice or hearing is required by statute, this subsection [5 USC 553 (b)] does not apply—(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or (B) when the agency for good cause find (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 USC 553 (b) (A) (B).

The same logic of chicken preceding egg can be applied to the other exemptions allowed under APA. The NARA has never issued a statement of policy regarding state applications. There are no rules of agency organization involved in this Petition. As this Petition implements rules of procedure where none now exist, obviously no rules of procedure are involved. The NARA has no rules of procedure as to how state applications are displayed or even a policy stating where they can be located in the piles of records in the NARA. The display of a single application by the NARA when public record demonstrates hundreds of state applications exist can hardly be described as a "procedure" or "practice" but more like an "accident."[56]

This leaves 5 USC 553 (b) (B) that "notice and public procedure…are impracticable, unnecessary, or contrary to the public interest." "Impracticable" is defined as "incapable of being performed or accomplished by the means employed or at command."[57] As is demonstrated in this Petition, Petitioner with extremely limited personal funds, little access to original documentation, and limited research skills managed to catalogue nearly all state applications, at present, 764 applications from 49 states into a single reference source. The work involved research of hundreds of thousands of pages of Congressional Record and ancestry publications to locate these applications. If the Petitioner can do this with his limited resources, so can the NARA. With thousands of college trained NARA employees skilled in the latest research techniques having full access to all original material and a budget of millions of dollars for the NARA to conclude it is "incapable" of performing the research necessary to gather the applications into a single catalogue is laughable.

Moreover, the hard work of location of the applications is already been done by the Petitioner. It only remains for the NARA to follow the lead of the Petitioner. What required months for him to accomplish now that the location of the applications is known, can be accomplished by NARA employees in days.[58] The agency cannot hide behind a refusal to address this issue based on the conjecture of impracticability as it has been shown already the collection of state applications is clearly achievable.

The terms "unnecessary or contrary to the public interest" are equally without merit. The peremptory constitutional requirement mandating a convention call on a numeric tabulation of applying states eliminates any suggestion cataloguing the applications so this constitutional requirement can be satisfied is "unnecessary." The fact the Constitution is directly involved eliminates this excuse. All in government are bound by oath to obey the Constitution. Compliance with constitutional command requires action by government officials which facilitate rather than

[56] See Appendix "State of Colorado Application, April 1, 1901," p. 5.
[57] Webster's Third New International Dictionary of the English Language (Unabridged). 2002.
[58] As will be discussed in further detail later, the applications are contained within committee records of Congress and publication of these applications occurs in the Congressional Record. Congressional rules require the Clerk of the House of Representatives (and Senate) turn these records to the NARA Archivist each year. Presumably these records are catalogued by Congress already making research easy. To suggest otherwise leads to visions of congressional committee records heaped together in the Clerk's office, thrown in the back of a dump truck, hauled over to the NARA, dumped on a warehouse floor, scooped up by a front end loader, piled in a warehouse corner then later buried by the next year's pile of records. Evidence will show the NARA has admitted in writing this description is not that far off the mark.

obstruct obedience. These actions are therefore "necessary." It is "necessary" to know when Congress must call a convention in order to obey that provision of the Constitution. Obviously the fact the Constitution may face amendment certainly qualifies as a subject of "public interest" as is the fact of knowing whether or not Congress is obeying the Constitution and calling a convention when it is required to do so.

Congress has not only implicitly addressed the issue of cataloguing applications with statutory instructions but explicitly addressed this precise issue. It has given explicit instructions regarding recordkeeping of state applications and the condition of such recordkeeping within months of the ratification of the Constitution.[59] This being the case, according to Chevron, this Petition need proceed no further except to present its proposed regulations.[60] However the NARA has failed to obey these congressional instructions with its failure to catalogue the applications so as to make them immediately available for constitutional and public use indicating the NARA is disinclined to obey these instructions. As written proof of this refusal by NARA officials exists, this statement is hardly a giant leap of conclusion. Given this circumstance therefore, Petitioner believes a complete examination of relevant law is required, presenting the evidence "in terms so plain and firm as to command the assent" of the NARA thus making refusal on its part impossible.[61]

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[59] "Equally known … is the instruction attached by Congress that same day [May 5, 1789] to its archival instructions to, "enter the application at large upon the Journals, and do the same by all that came in, until sufficient were made to obtain their object and let the original be deposited in archives of Congress." Any doubt as to what the term "sufficient to obtain their object" is clarified by the comment that the application "can be called up when enough are presented to make two thirds of the whole States." See Appendix, p. 9.

[60] "First, always, is the question whether Congress has directly spoken to the precise question at issue. If the intent of Congress is clear, that is the end of the matter; for the court as well as the agency, must give effect to the unambiguously expressed intent of Congress." Chevron, 467 U.S. 837, 842 (1984). See fn. 50.

[61] Like Thomas Jefferson in a letter to Henry Lee of Virginia, dated May 8, 1825 Petitioner intends to justify his presentation with an irrefutably conclusive demonstration of evidence. In describing why the Declaration of Independence was written Jefferson replied, "But with respect to our rights, and the acts of the British government contravening those rights, there was but one opinion on this side of the water. All American whigs [sic] thought alike on these subjects. When forced, therefore, to resort to arms for redress, an appeal to the tribunal of the world was deemed proper for our justification. This was the object of the Declaration of Independence. Not to find out new principles, or new arguments, never before thought of, not merely to say things which had never been said before; but to place before mankind the common sense of the subject, in terms so plain and firm as to command their assent, and to justify ourselves in the independent stand we are compelled to take. Neither aiming at originality of principle or sentiment, nor yet copied from any particular and previous writing, it was intended to be an expression of the American mind, and to give to that expression the proper tone and spirit called for by the occasion." [Emphasis added].

Given the actions and history of the United States Government in regards to state applications, it is clear to the Petitioner only the presentation of evidence "in terms so plain and firm as to command their assent" will suffice in this case. Anything less will be ignored. Thus a single reference to a court ruling and use of historic record is inadequate even though under most circumstances such evidence would be conclusive. The bottom line is this: if the Government were inclined to obey the Constitution in regards to a convention call, which it can be shown it is not, then the Government would have effectuated the necessary rules to do so resulting in several conventions already being called by Congress.

Federal Statutes and Regulations Relative to This Petition

Having presented evidence of the peremptory requirement on Congress of an Article V convention call and established a convention call is mandated on the occasion of a two thirds numeric tabulation of applying states and having established this Petition is substantive, this Petition will now discuss applicable federal statutes and regulations relative to this Petition mandating the NARA catalogue state applications.

Based on already presented documented material, apparently Mr. Kirk Boyle, Legal Counsel for the House of Representatives believes as Congress has never officially designed any individual to "tabulate" the applications, Congress is absolved of any duty to do so.[62] Therefore according to Mr. Boyle, apparently Congress can simply ignore the constitutional requirement of Article V.[63] Congress does not have the right to veto the Constitution. This proposition has been affirmed by so many Supreme Court decisions and is so fundamental to our form of government that it can be described as self-evident.

While clearly the NARA cannot be substituted in place of Congress to "call" a convention nevertheless the NARA is statutorily mandated to catalogue applications to make them available for immediate constitutional and public use. This means presenting the applications in such fashion as to permit so Congress use of this catalogue to tabulate the applications whenever mandated by the Constitution.

Evidence already presented in this Petition proves NARA cannot refuse to catalogue the applications on the grounds they have received no specific instructions from Congress to do so. While Congress may be sloppy in its record keeping procedures in regards to state applications, this does not excuse the NARA from obeying federal statutes and regulations clearly intended cause the highest levels of record keeping management by the NARA. The proposition that specific legislation is mandated before the NARA can act has been refuted. Such legislation is unconstitutional as it permits the President to prevent a convention call by vetoing the ability of Congress to gather applications in order tabulate them as well as presenting Congress an opportunity to veto the Constitution.[64] While the President retains other constitutional options regarding enforcement of a convention call by Congress, the NARA cannot ignore its mandated statutory obligations with the expectation action by the President must occur before NARA need obey already existing federal statutes and regulations.

It has been established Congress expressly placed the responsibility of preservation of the applications on the archivist on May 5, 1789. This congressional practice has continued uninterrupted

[62] See fn. 22, Appendix, "Response by Mr. Kirk Boyle to Dan Marks, June 7, 2013," p.7.
[63] While the House of Representatives may have begun a tentative display of applications this hardly qualifies under the peremptory mandates of Article V as a convention call. Thus the actions of the House are yet to be determined. The committee, for example, has failed to post any application submitted to Congress prior to the current session of Congress. Article V does not give Congress the right to ignore any application submitted by a state. See infra, "House Rule Regarding Tabulating AVC Applications", p. 57.
[64] See supra, "The Role of the President in Article V," p. 15.

to present day.[65] Thus Congress established the terms of archival responsibility such that knowledge of the total number of applications and total number of applying states be available to Congress at all times allowing Congress to call whenever necessary. Contrary to this express instruction (as well as subsequent statutory instructions) the NARA has taken no such action to satisfy these congressional instructions. Therefore the failure of NARA to catalogue state applications means the NARA is in violation of federal statutes and regulations.

Any examination of the intent of a federal statute first requires examination of the definitions of the words used in the statute. This Petition proposes regulations for the management of certain public records in the custody of the NARA. Federal statute provides the legal definition of the word "record." The statute defines a "record" as "all…documentary material, regardless of physical form or characteristics…received by an agency of the United States Government under Federal law or in connection with the transaction of public business…" It further describes a "record" "as evidence of… activities of the Government or because of the informational value of data in them." [66] The statute's definition is clearly broad enough to include applications for a convention by the states. There is no discrimination in the definition (or the statute as a whole for that matter) of exclusion of the records of convention applications such that they are afforded any different treatment than any other record. Thus it may be stated the statute defining records applies to convention applications as with all other public records and does not permit discrimination of state applications by the NARA.

Unquestionably state applications for a convention call are public record. The receiving agency is the NARA which federal regulation[67] and federal statute mandate[68] is responsible for "records

[65] See supra, "The 1789 Congressional Decision," p. 9.

[66] "As used in this chapter, '"records"' includes all books, papers, maps, photographs, machine readable materials, or other documentary material, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of data in them." 44 USC 3301 Definition of Records.

[67] Any question that the NARA is ultimately responsible for government records including applications for an Article V Convention is dispelled by simply referring to the FAQ page of the NARA. This page clearly states who is responsible for government records management and lays out the responsibilities of the NARA. It is a restatement of 36 CFR 1220.10. The FAQ text immediately follows:

"Who is responsible for records management?

NARA is the independent Federal agency that helps preserve our nation's history by overseeing the management of all Federal records. The National Archives and Records Administration Act of 1984 amended the records management statutes to divide records management oversight responsibilities between the National Archives and Records Administration (NARA) and the General Services Administration (GSA). Under the Act, NARA is responsible for adequacy of documentation and records disposition (44 USC 2904(a)), and GSA is responsible for economy and efficiency in records management (44 USC 2904(b)). Federal agency records management programs must comply with regulations promulgated by both NARA (36 CFR 1220.2) and GSA. [Emphasis added].

What are Federal agency responsibilities?

Every Federal agency is legally required to manage its records. Records are the evidence of the agency's actions. Therefore, they must be managed properly for the agency to function effectively and to comply with Federal laws and regulations. Agency heads have specific legal requirements for records management which include:

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(1) Making and preserving records that contain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities (44 USC 3101). (2) Establishing and maintaining an active, continuing program for the economical and efficient management of the records of the agency (44 USC 3102). (3) Establishing safeguards against the removal or loss of records and making requirements and penalties known to agency officials and employees (44 USC 3105) (4) Notifying the Archivist of any actual, impending, or threatened unlawful destruction of records and assisting in their recovery (44 USC 3106). [Emphasis added].

What are Federal employee responsibilities? Federal employees are responsible for making and keeping records of their work. Federal employees have three basic obligations regarding Federal records: (1) Create records needed to do the business of their agency, record decisions and actions taken, and document activities for which they are responsible. (2) Take care of records so that information can be found when needed. This means setting up good directories and files, and filing materials (in whatever format) regularly and carefully in a manner that allows them to be safely stored and efficiently retrieved when necessary. (3) Carry out the disposition of records under their control in accordance with agency records schedules and Federal regulations." Source: http://www.archives.gov/records-mgmt/faqs/general.html. [Emphasis added].

36 CFR 1220.10—Who is responsible for Records Management—states (in part): "(a) The National Archives and Records Administration (NARA) is responsible for overseeing agencies' adequacy of documentation and records disposition programs and practices, and the General Service Administration (GSA) is responsible for overseeing economy and efficiency in records management. The Archivist of the United States and the Administrator of GSA issue regulations and provide guidance and assistance to Federal agencies on records management programs. NARA regulations are in this subchapter. … (b) Federal agencies are responsible for establishing and maintaining a records management program that complies with NARA and GSA regulations and guidance. Subpart B of this part sets forth basic agency records management requirements."

[68] As its title suggests, "General Responsibilities for Records Management, 44 USC 2904 [quoted in part immediately following] specifies which agency in the Federal Government is responsible for records management procedures. The statute states: "(a) The Archivist shall provide guidance and assistance to Federal agencies with respect to ensuring adequate and proper documentation of the policies and transactions of the Federal Government and ensuring proper records disposition. (b) The Administrator shall provide guidance and assistance to Federal agencies to ensure economical and effective records management by such agencies. (c) In carrying out their responsibilities under subsection (a) or (b), respectively, the Archivist and the Administrator shall each have the responsibility— (1) to promulgate standards, procedures, and guidelines with respect to records management and the conduct of records management studies; … (5) to direct the continuing attention of Federal agencies and the Congress on the need for adequate policies governing records management; … (7) to conduct inspections or surveys of the records and the records management programs and practices within and between Federal agencies; (8) to report to the appropriate oversight and appropriations committees of the Congress and to the Director of the Office of Management and Budget in January of each year and at such other times as the Archivist or the Administrator (as the case may be) deems desirable—(A) on the results of activities conducted pursuant to paragraphs (1) through (7) of this section, (B) on evaluation of responses by Federal agencies to any recommendations resulting from inspections or studies conducted under paragraphs (6) and (7) of this section …" [Emphasis added].

In addition 44 USC 3101—Records management by agency heads; general duties—place the responsibility of "adequate and proper documentation" on the "head" of "each" Federal agency. The NARA is not statutorily excluded by 44 USC 3101. Indeed, given the obvious intent of the statutes and regulations it can be stated the Archivist is not only responsible but the most responsible in the Federal Government for "adequate and proper documentation" of Government records.

"The head of each Federal agency shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed

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management" in the Federal Government. As the Constitution clearly is public record it is self-evident proposal of amendments to the Constitution are transactions of public business and therefore public record. Further the applications are "evidence of the activities of the Government" as they are part of the amendment process of the Constitution. By any reasonable definition, the calling of a convention, proposal of amendments, ratification of proposed amendments and the subsequent engrossment and enrollment of amendments into the Constitution certainly is an activity of Government. By definition therefore, "the informational value of the data in them" [the applications] certainly qualifies as a "record" as the applications provide constitutional instructions to Congress mandating constitutional action under a specified condition as well as providing vital information to the subsequent convention of the amendment subjects the states desire the convention consider. The need to know when the constitutional condition of Article V is met as well as knowing the public agenda of a convention is sufficient proof to demonstrate "the informational value of the data in them." Hence, applications are "records" and therefore come under the statutory definition of records needed to be kept and properly presented by the NARA.[69]

Federal statute 44 USC 2901—Definitions—defines several words and phrases used in several chapters of Title 44 United States Code relevant to this Petition. 44 USC 2901 states, "As used in this chapter [Title 44, Chapter 29] and chapters 21, 25, 31, and 33 of this title…" [The following definitions shall apply].[70] These definitions include defining "records", "records management", "records maintenance and use", "inspection", and "servicing".[71] Key among the statutory defini-

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to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities." 44 USC 3101 [Emphasis added].

[69] This demonstrated by the fact the NARA has on file one state application which can be described as being properly presented for immediate constitutional and public use. See supra, "The Colorado Application," p.10.

[70] Chapter 21 deals with statutory regulations regarding the National Archives and Records Administration. Chapter 25 contains statutory regulations of the National Historical Publications and Records Commission. Chapter 29 provides statutory regulations of Records Management by the Archivist of the United States and by the Administrator of General Services. Chapter 31 addresses statutory regulations of Records Management by Federal Agencies. Chapter 33 provides statutory regulations regarding disposal of records.

[71] (1) the term '"records"' has the meaning given it by section 3301 of this title [See fn. 66]; (2) the term "records management" means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations; (3) the term '"records creation"' means the production or reproduction of any record; (4) the term '"records maintenance and use"' means any activity involving— (A) location of records of a Federal agency; (B) storage, retrieval, and handling of records kept at office file locations by or for a Federal agency; …; (5) the term "records disposition" means any activity with respect to— …(C) transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; …; (7) the term '"records management study"' means an investigation and analysis of any Federal agency records, or records management practices or programs (whether manual or automated), with a view toward rendering findings and recommendations with respect thereto; (8) the term '"inspection"' means reviewing any Federal agency's records or records management practices or programs with respect to effectiveness and compliance with records management laws and making necessary recommendations for correction or improvement of records management; (9) the term '"servicing"' means making available for use information in records and other materials in the custody of the Archivist, or in a records center— (A) by furnishing the records or other materials, or information from them, or copies or reproductions thereof, to any Federal agency for official use, or to the public; (B) by making and furnishing authenticated or unauthenticated copies or reproductions of the records or other mate-

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tions is the term "records management." 44 USC 2901 defines the term "records management" as "the …organizing…with respect to…records and use…in order to achieve adequate and proper documentation… of the policies of the Federal Government." The word "policies" is undefined by statute leaving it to dictionary definition which, due to the peremptory nature of applications, results in use of a definition encompassing applications.[72] Therefore the only applicable definition of the word "policies" eliminates any possibility the term "records management" does not apply to state applications. Further the statutory definition of the term "records management" meaning the organization of "records to achieve adequate and proper documentation" addresses the goal of "records management" rather defining what records are managed. As the statute contains no limiting language the only possible conclusion is the term "records management" applies to all federal records including state applications.

44 USC 2902—Objectives of Records Management—establishes the minimum standards of records management for the NARA (as well as all other federal agencies).[73] These standards require records management to be "efficient" and "effective." This is not the case for state applications. As stated by one U.S. Senator, "The most startling finding is that, if put to the test, there is no guarantee that Congress could even properly count the existing applications and decide whether or not they are valid."[74] All but the most recent state applications are deposited with the NARA. NARA officials have admitted in writing they have no more idea as to the condition of state applications than does Congress. Clearly therefore the records management practices of state applications by the NARA is neither efficient nor effective.[75]

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rials; (10) the term '"unauthenticated copies"' means exact copies or reproductions of records or other materials that are not certified as such under seal and that need not be legally accepted as evidence; (11) the term '"National Archives of the United States"' means those official records which have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government, and which have been accepted by the Archivist for deposit in his custody; (12) the term '"Archivist"' means the Archivist of the United States; …; (14) the term '"Federal agency"' means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Supreme Court, the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol); and (15) the term '"Administrator"' means the Administrator of General Services." [Emphasis added].

[72] "Policies. The conduct of public affairs." Webster's Third New International Dictionary (Unabridged) (2002). A more general definition "A definite course or method of action selected (as by a government, institution, group, or individual) from among alternatives and in the light of given conditions to guide and usually determine present and future decisions," cannot apply to applications for a convention call as this definition allows for selection "among alternatives." A convention call is peremptory on Congress. There is no "alternative" available to Congress. The general definition of "conduct of public affairs" is therefore the correct definition. See supra, "Federalist 85," p. 7.

[73] "It is the purpose of this chapter [Chapter 29], and chapters 21, 31, and 33 of this title, to require the establishment of standards and procedures to assure efficient and effective records management. Such records management standards and procedures shall seek to implement the following goals: (1) Accurate and complete documentation of the policies and transactions of the Federal Government; (2) Control of the quantity and quality of records produced by the Federal Government." 44 USC 2902 [Emphasis added].

[74] Senator George McGovern, D-SD, November 2, 1977, Congressional Record, Volume 123, p.36534. See infra, "The Stasny Report," p. 42, Appendix pp. 8-13. As demonstrated by evidence of discrepancies between state and federal records shown in this Petition as well as evidence showing the government doesn't even know how many applications exist, it is clear the senator's comments are valid. See infra, "Request for Inspection and Audit of State Applications, p.51; Appendix pp. 21-34.

[75] See infra, "NARA Response to Record Keeping Issues Regarding Applications," p. 63; Appendix, "NARA Response Letter—First Page," p. 43.

The obvious intent of statutes and regulations governing the management of government records is that regardless of the condition the NARA receives these records, federal statutes do not relieve the NARA of its obligation to apply efficient, effective record management procedures to them. Thus the law requires the NARA to correct any errors of record keeping on the part of the government body submitting them to the NARA. Therefore the NARA can offer no statutory or regulatory excuse for not bringing the quality of the convention applications to the same standards afforded all other public records. Indeed federal law mandates just exactly that. The "records management" (if such term can be applied) of state applications is such the NARA cannot even describe where the applications are located. This condition cannot possibly meet even the minutest standard of "accurate and complete" documentation required under 44 USC 2902.[76] Equally, as the applications are not catalogued, there is no control of the quality of these records required by the statute. The word "control," to use a colloquium, means the NARA has "a handle on things." The NARA admits in writing it has no "handle" on anything regarding applications.

In addition to federal statutes, several federal regulations are being disregarded by the NARA. Located primarily in 36 CFR 1220 Subchapter B which specifies the "policies for records management programs relating to proper records creation and maintenance, adequate documentation and records disposition" for all federal agencies including the NARA, 36 CFR 1220.12 specifies the NARA is responsible for overall records management of all federal agencies.[77] Obviously the NARA cannot be permitted to have a lower standard of record keeping management for itself than it demands of all other federal agencies. Nevertheless this is the condition that exists when discussing state applications in the custody of the NARA. What the NARA would strenuously object to if such poor record keeping existed in another federal agency is totally ignored when same condition exists within the NARA.

36 CFR 1220.12 mandates the NARA, as well as all other federal agencies ensure "adequate and proper documentation of the "functions"…"procedures and essential transactions of the Federal Government."[78] All the Federal Government is regulated by the Constitution meaning any constitutional requirement is a "function" or "procedure" or "essential transaction" of the Federal Government. The agency, as part of the Federal Government, cannot disregard this requirement where its assigned bureaucratic duties are necessary to ensure execution of a constitutional requirement. Thus the term "adequate and proper documentation" established in 36 CFR 1220.12 applies not only to ordinary federal records such as payroll and purchasing but equally applies

[76] Indeed as evidence presented in this Petition will conclusively show the federal record of state applications is neither "accurate" nor "complete." See infra, "The Stasny Report," p. 42; "Request for Inspection and Audit of State Applications," p. 51; "NARA Response to Record Keeping Issues Regarding Applications." p. 63.

[77] 36 CFR 1220.12 defines "what are NARA's Records Management Responsibilities." The regulations state (in part): "(a) The Archivist of the United States issues regulations and provides guidance and assistance to Federal agencies on ensuring adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the Federal Government…" … (b) NARA establishes standards for the retention of records having continuing value (permanent records), and assists Federal agencies in applying the standards to records in their custody." [Emphasis added].

[78] "Adequate: equal to, proportionate to, or fully sufficient for a specified or implied requirement; … 3: legally sufficient: such as is lawfully and reasonably sufficient." Proper: "marked by rightness, correctness, or rectitude: as a: strictly accurate: precisely applicable or pertinent: entirely in accordance with authority, observed facts, or other sanction: CORRECT." Webster's Third New International Dictionary (Unabridged) (2002).

state applications. As federal statute mandates the NARA is the repository of federal records including state applications the effect of 36 CFR 1220.12 on the NARA in regards to state application is the NARA is mandated to ensure "adequate and proper documentation" of this constitutional procedure.

The definition of what is "proper and adequate" documentation is found in three federal regulations: 36 CFR 1220.18, 36 CFR 1220.30 and 36 CFR 1220.32. These federal regulations define the meanings of the phrases used throughout the regulations, what a federal agency's records management responsibilities are and what records management principles an agency must use to effectuate these responsibilities.

36 CFR 1220.18 defines the phrases and words used throughout the regulations.[79] The definition states documentation is considered "adequate and proper" if it will "protect the legal and financial rights of the Government and of persons directly affected by the agency's activities." As shown later in this Petition the lack of proper records management by the NARA has resulted in criminal complaints and admission of criminal guilt by "persons directly affected by the agency's activities." Specifically these persons are members of Congress who, because of improper NARA record keeping have not called a convention when required to do so. This has resulted in violation of oath of office and other criminal charges being made against those members.

Agency records management responsibilities are specified in 36 CFR 1220.30. This federal regulation specifically describes specific official within an agency (usually the head of the agency) that is responsible for the adequate and proper documentation of federal records.[80] In the case of the NARA, federal law assigns this task to the Archivist of the United States.[81]

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[79] *"Adequate and proper documentation* means a record of the conduct of Government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of the agency and that is designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities. [Emphasis added].

File means an arrangement of records. The term denotes paper, photographs, maps, electronic information, or other recorded information regardless of physical form or characteristics, accumulated or maintained in filing equipment, boxes, on electronic media, or on shelves, and occupying office or storage space.

Permanent record means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives of the United States, even while it remains in agency custody. Permanent records are those for which the disposition is permanent on SF 115, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973. The term also includes all records accessioned by NARA into the National Archives of the United States.

Series means file units or documents arranged according to a filing or classification system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind of transaction, take a particular physical form, or have some other relationship arising out of their creation, receipt, or use, such as restrictions on access and use. Also call a *records series*." 36 CFR 1220.18.

[80] "The head of each Federal agency must make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. These records must be designed to furnish the information necessary to protect the legal and financial rights of the Govern-

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The specific principles of records management are stated in 36 CFR 1220.32 which mandates a "comprehensive" records management program for record keeping.[82] Nothing in the Code of Federal Records exempts state applications from these "comprehensive" standards of records management. Therefore it is correct to state the "comprehensive" standards of 36 CRF 1220.32 apply equally to state applications and all other federal records.

36 CFR 1239.20 addresses under what circumstances an inspection of agency records may be instigated. An inspection shall occur when there is "high risk" to significant records.[83] Inspection may be caused by reports of "unauthorized destruction" where more usual means of record keeping standards have failed to "mitigate" the situation. Documentary proof shows the NARA doesn't know the location of state applications or their present condition. Evidence shows discrepancies between state and federal records of applications. Given these circumstances the possibility exists some applications have been destroyed or altered by the NARA or others in government.[84] The NARA has not "mitigated" these issues through normal agency procedures. Under the law, even the possibility of unauthorized record destruction justifies an inspection of all state applications with its results reported to Congress as mandated by 44 USC 2904.[85]

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ment and of persons directly affected by the agency's activities." 44 USC 3101. "The head of each Federal agency must establish and maintain an active, continuing program for the economical and efficient management of the records of the agency." 44 USC 3102.

[81] See generally 44 USC Chapter 21.

[82] "Agencies must create and maintain authentic, reliable and usable records and ensure that they remain so for the length of their authorized retention period. A comprehensive records management program provides policies and procedures for ensuring that: (a) Records documenting agency business are created or captured; (b) Records are organized and maintained to facilitate their use and ensure integrity throughout their authorized retention periods; (c) Records are available when needed, where needed, and in a usable format to conduct agency business; (d) Legal and regulatory requirements, relevant standards, and agency policies are followed; (e) Records, regardless of format, are protected in a safe and secure environment and removal or destruction is carried out only as authorized in records schedules …." 36 CFR 1220.32 [Emphasis added].

[83] "NARA may undertake an inspection when an agency fails to address specific records management problems involving high risk to significant records. Problems may be identified through a risk assessment or through other means, such as reports in the media, Congressional inquiries, allegations of unauthorized destruction, reports issued by the GAO or an agency's Inspector General, or observations by NARA staff members. Inspections will be undertaken when other NARA program assistance efforts (see § 1239.10) have failed to mitigate situation where there is a high risk of loss of significant records, or when NARA agrees to a request from the agency head that NARA conduct an inspection to address specific significant records management issues in the agency. NARA reports to Congress and the Office of Management and Budget on inspections in accordance with 44 USC 2904." 36 CFR 1239.20 [Emphasis added].

[84] See "NARA Response to Record Keeping Issues Regarding Applications," p. 63; Appendix (evidence of discrepancies), pp. 21-34.

[85] (a) The Archivist shall provide guidance and assistance to Federal agencies with respect to ensuring adequate and proper documentation of the policies and transactions of the Federal Government and ensuring proper records disposition. (b) The Administrator shall provide guidance and assistance to Federal agencies to ensure economical and effective records management by such agencies. (c) In carrying out their responsibilities under subsection (a) or (b), respectively, the Archivist and the Administrator shall each have the responsibility— (1) to promulgate standards, procedures, and guidelines with respect to records management and the conduct of records management studies; (2) to conduct research with respect to the improvement of records management practices and programs; (3) to collect and disseminate information on training programs, technological developments, and other activities relating to records management; (4) to establish such interagency committees and boards as may be necessary to provide an

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Having proven federal laws require state applications be treated by the NARA as that agency treats any other set of public records, discussion will now turn to the standards of treatment specified by federal statute. For the purposes of this Petition, these standards are found in 44 USC 2118, 44 USC 2109 and 44 USC 2113. The first statute, 44 USC 2118, mandates the Secretary of the Senate and the Clerk of the House of Representatives transfer all "noncurrent" records of Congress to the NARA for preservation.[86] This transfer of course includes all state applications for a convention call. Thus in combination with already described statutes, this means the applications ultimately come under the custody of the NARA which, by statute and regulation is to apply "adequate and proper" documentation standards to their preservation. As noted in the accompanying Stasny Report, Congress has done a terrible job of receiving applications and attending to their proper record keeping.[87] This fact does not relieve the NARA of its statutory responsibility to correct these record keeping errors by Congress.

The order instituted by Congress on May 5, 1789 as to the processing of state applications has never been countermanded. Indeed the practice established by Congress as to the disposal of state applications continues. Applications are received by Congress and tabled "until a sufficient number" occurs at which time Congress must call a convention. Further, the applications are archived in the records of Congress meaning today they are stored with the NARA. 44 USC 2118 is simply a modern restatement of the 1789 congressional order expanded to include all congres-

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exchange of information among Federal agencies with respect to records management; (5) to direct the continuing attention of Federal agencies and the Congress on the need for adequate policies governing records management; (6) to conduct records management studies and, in his discretion, designate the heads of executive agencies to conduct records management studies with respect to establishing systems and techniques designed to save time and effort in records management; (7) to conduct inspections or surveys of the records and the records management programs and practices within and between Federal agencies; (8) to report to the appropriate oversight and appropriations committees of the Congress and to the Director of the Office of Management and Budget in January of each year and at such other times as the Archivist or the Administrator (as the case may be) deems desirable— (A) on the results of activities conducted pursuant to paragraphs (1) through (7) of this section, (B) on evaluations of responses by Federal agencies to any recommendations resulting from inspections or studies conducted under paragraphs (6) and (7) of this section, and (C) to the extent practicable, estimates of costs to the Federal Government resulting from the failure of agencies to implement such recommendations. … (d) In addition, the Administrator, in carrying out subsection (b), shall have the responsibility to promote economy and efficiency in the selection and utilization of space, staff, equipment, and supplies for records management." 44 USC 2904 [Emphasis added].

[86] "The Secretary of the Senate and the Clerk of the House of Representatives, acting jointly, shall obtain at the close of each Congress all the noncurrent records of the Congress and of each congressional committee and transfer them to the National Archives and Records Administration for preservation, subject to the orders of the Senate or the House of Representatives, respectively." 44 USC 2118 [Emphasis added]. House Rule VII—Records of the House; Archiving—reiterates 44 USC 2118 and specifies that any record that "was previously made available for public use" by the House shall be "immediately made available" by the NARA when the records are transferred to the NARA. See Appendix, "House Rule 7—Records of the House—First Page, p. 35, Rule VII, 3(b) (1). As shown by hundreds of references in the Congressional Record, both houses of Congress have made state applications "available for public use." Thus by congressional rule, when transferred to the NARA, state applications must be made "immediately available for public use" by the NARA. See "NARA Obligation of "Immediate" Use under Congressional Rules," p. 56.

[87] See infra, "The Stasny Report," p 42; Appendix pp. 8-13.

sional records including state applications for an Article V Convention call. The statute is reinforced by House and Senate rules which provide no exemption for state applications.[88]

While several federal statutes and regulations by implication address the issue of cataloguing applications, "44 USC 2109—Preservation, Arrangement, Duplication, Exhibition of Records" directly addresses cataloguing and presentation of state applications for constitutional and public use. The words of this statue are explicit: "The Archivist shall provide for the preservation, arrangement…of records or other documentary material transferred to him as may be needful…including the preparation and publication of inventories, indexes, catalogs and finding aids or guides to facilitate their use." [89]

In light of the May 5, 1789 instructions and statutory language of 44 USC 2109 the term "needful arrangement…to facilitate their use" can only be interpreted as meaning arrangement of applications by means of files and record series allowing Congress to easily determine the number of applying states and thus be able to fulfill their constitutional obligation to call a convention "on the application" of two-thirds of the several state legislatures.[90] Permitting the applications to remain scattered among hundreds of thousands of pages of records does not satisfy this statute. This statute provides direct statutory instructions mandating state applications be catalogued in order to make them available for constitutional and public use. The statute demands the documentary material be "cataloged"…"to facilitate their use." The NARA currently does not do this. It is therefore in violation of this statute.

44 USC 2113—Depository for Agreement between States—addresses NARA preservation of agreements between the states. Clearly the act of submission of an application is a state power authorized under the Constitution.[91] In order for a convention to be called, a certain numeric ratio of states must apply for a convention call. In performing this constitutional act of application the applying states are mutually agreeing that a convention must be called.[92] Obviously if an insufficient number of states fail to apply for a convention call then the states agree a convention call is unwarranted. Thus only by agreement between the states can a convention be called.

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[88] If anything Congress has demonstrated with the passage of a new House rule dealing expressly with state applications of its commitment to accurately and correctly record applications. See infra, "House Rule Regarding Tabulating AVC Applications," p. 57, Appendix, pp. 35-42.

[89] "The Archivist shall provide for the preservation, arrangement, repair and rehabilitation, duplication and reproductions (including microcopy publications), description and exhibition of records or other documentary material transferred to him as may be needful or appropriate, including the preparation and publication of inventories, indexes, catalogs and other finding aids or guides to facilitate their use. He may also prepare guides and other finding aids to Federal records and, when approved by the National Historical Publications and Records Commission, publish such historical works and collections of sources as seem appropriate for printing or otherwise recording at the public expense." 44 USC 2109 [Emphasis added].

[90] See fn. 79.

[91] While the Courts have ruled that states operate under the federal Constitution when involved in the amendment process, the act of decision to submit an application to Congress clearly is reserved exclusively to the states. See Hawke v Smith, 253 U.S. 221, 230 (1920) "…the power to ratify a proposed amendment to the federal Constitution has its source in the federal Constitution."

[92] "Agreement. An arrangement (as between two or more parties) as to a course of action…b: a compact entered into by two or more nations or heads of nations." Webster's Third New International Dictionary (Unabridged) (2002).

Clearly therefore under the terms of 44 USC 2213 applications qualify as "agreements" between the states.

44 USC 2213 mandates the NARA shall receive state agreements and "take the necessary actions for their preservation and servicing."[93] The term "servicing" is defined by federal regulation and clearly calls for public use and knowledge of these agreements.[94] Obviously federal statutes and regulations, particularly where they do not conflict but instead complement one another cannot be viewed disjointedly. Thus the obvious intent of Congress when viewing all the cited statutes is that the NARA maintains the records of the states in such manner by such means of record keeping standards as established in federal statute so as to make them available for public use whenever required. Unquestionably there is statutory and regulatory evidence proving the proposed regulations of this Petition are mandated by existing statutes and regulations which the NARA has not applied to state applications. In addition as demonstrated by relevant court rulings, it is clear the Court expects the NARA "to connect the dots" in regards to record keeping standards for the federal government. To do this requires the NARA above all keep its own house of record keeping in order which it has not done in regards to state applications for an Article V Convention call.

All this evidence leads to the final answer of determining whether the NARA has "arbitrarily, capriciously or in manifest contradiction to statutes" violated the standard established in Chevron.[95] The NARA, as required by statute, catalogues hundreds if not thousands of other public records and has them available for immediate public use. The NARA cannot even say for certain where state applications for a convention call are located. Federal statutes, regulations and congressional rules describe record keeping standards employing such words as "accurate", "complete" and "comprehensive." Evidence shows none of these terms can be applied to state applications in the custody of the NARA. The actions of the NARA in regards to the preservation, maintenance and public availability of state applications is therefore clearly arbitrary, capricious and manifestly contrary to statute. Given this fact there is no legal basis by which the NARA can refuse to implement the proposed regulations contained in this Petition.

[93] "The Archivist may receive duplicate originals or authenticated copies of agreements or compacts entered into under the Constitution and laws of the United States, between States of the Union, and take necessary actions for their preservation and servicing." 44 USC 2113 [Emphasis added].
[94] See fn. 71. "The term '"servicing"' means making available for use information in records and other materials in the custody of the Archivist, or in a records center— (A) by furnishing the records or other materials, or information from them, or copies or reproductions thereof, to any Federal agency for official use, or to the public." 44 USC 2901 [Emphasis added].
[95] See fn. 50.

The Stasny Report

On November 2, 1977, Senator George McGovern, (D-SD) introduced to the United States Senate a report written by Jim Stasny concerning the processing of applications for a convention by Congress.[96] The report described the complete chaos of record keeping procedures for state applications to Congress for an Article V Convention call primarily due to the fact Congress had no record keeping procedures regarding Article V applications.[97] As noted in several prior government reports, applications were shuttled to various committees, published more than once in the Congressional Record or frequently not published at all despite evidence of state records proving an official state document was sent to Congress.[98] Despite this report of shortcomings of congressional record keeping management statutorily demanded by Congress for all in the Government, but ignored by Congress itself, the record conclusively shows Congress' record keeping management as far as processing state applications is a disgrace which has only very recently begun to be addressed by Congress.[99]

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[96] Congressional Record, November 2, 1977, 95th Congress, Volume 123, pages 36534-39. See Appendix, pp. 8-13.

[97] Mr. Stasny is currently an independent writer/editor at Verb River Guild, (February 2011- Present) Falls Church, Virginia specializing in preparing speeches, articles, editorials and testimony with a current emphasis on commercial space transportation and the Article V constitutional amendment process. Prior to his position at Verb River Guild, Mr. Stasny was Special Assistant for External Affairs, Office of Commercial Space Transportation at the Federal Aviation Administration (2005-2010); Director of Executive Communications for the president of Federal National Mortgage Association, (1988-2005); and Chief Writer for the Chairman/Ranking Member, United States Senate Committee on the Budget, (1982-1988). He is a graduate of Harvard University Kennedy School of Government with a Master of Public Administration (MPA) and John Carroll University with a Bachelor of Arts (BA) in political Science and Government.

[98] See "Amending the U.S. Constitution: by Congress or by Constitutional Convention, Thomas M. Durbin, Legislative Attorney, American Law Division, Congressional Research Service, May 10, 1995, 95-589 A, p. 22: "Once a state legislature has passed a resolution petitioning Congress to call a constitutional convention, the state must make application to Congress for such a convention by sending the petition or application to Congress. Presently, the transmission of state applications for a constitutional convention is a confusing process. … Publication in the Congressional Record serves as a type of official notice to the Congress, the states, and the public that an application has been received by Congress, but the process is confusing because there are no guidelines under Article V as to where and to whom in Congress such state applications are to be sent."

See also "The Article V Convention for Proposing Constitutional Amendments: Historical Perspectives for Congress" Thomas H. Neale, Specialist in American National Government, Congressional Research Service, October 22, 2012, R42592, p.20 (citing U.S. Congress, House, Committee on the Judiciary, Is There a Constitutional Convention in Our Future? 103rd Cong., 1st sess., committee print, serial no. 1 (Washington: GPO, 1993) p. 12): "The final action by a state legislature that has approved an application for an Article V Convention is to transmit news of its action to the appropriate authorities. The Constitution offers no advice on this question, and in fact, the House Judiciary Committee's 1993 report noted that states had sent applications for a balanced budget convention to a wide range of congressional officials, including the Clerk of the House, the Secretary of the Senate, The Speaker of the House, the President of the Senate, the President pro tempore of the Senate, both sets of congressional officials, other officials, the Library of Congress, and 'to no one in particular.' According to the report there were even instances in which applications were *not* forwarded by the states."

[99] See infra, "House Rule Regarding Tabulating AVC Applications," p.57.

As stated by Senator McGovern in his opening remarks presenting the Stasny Report to the Senate, "The most startling finding is that, if put to the test, there is no guarantee that Congress could even properly count the existing applications and decide whether or not they are valid."[100]

The fact of nonexistent congressional record keeping management as described in the Stasny Report does not excuse the NARA from its unequivocal statutory requirement to organize these public records in such form as to "facilitate their use." Complete organization as called for in the proposed regulations of this Petition is the only way to address Senator McGovern's concern of Congress not being able to properly tabulate the applications, a circumstance which is more true today than it was in 1977, given the massive increase in the number of applications.[101] Instead, as evidence will show, the current condition of state applications is nothing more than a transfer of shambles from the halls of Congress to the warehouses of the NARA.

The purpose of presenting the Stasny report in this Petition is to establish the mishandling of official state documents by both Congress and the NARA is long standing. Despite the NARA being notified of this issue nothing has done to correct the slipshod recording keeping by Congress and NARA despite statutes which require professional record keeping. It is a sad but true commentary on the NARA to note if that agency had any pride in their record keeping duties it would have long ago implemented the regulations sought by this Petition instead of having to be forced to do so by implementation of new regulations. This complete contempt for the Constitution and one of its most important processes by the national legislature and its record keeping agency is inexcusable. In combination with the evidence contained in this Petition the Stasny Report proves in spite of the May 5, 1789 congressional order to "treat the application[s]…with respect" Congress and the NARA have done and continue to do no such thing.

[100] See Appendix, "Stasny Report, Congressional Record, Vol. 123, p. 36534 (1977)," p. 8.

[101] See Appendix, State Applications 1971-1977 #448-527, p. 53 showing 514 submitted applications versus 764 applications in 2015, "State Applications 2014-2015 #763-764," p. 57. This is an increase of 250 applications, or 33 percent of all applications on record.

The Issue of Legal Liability Due to NARA Oversight

The obligation imposed by federal statute and regulation on all federal agencies, including the NARA, to maintain their records to preclude legal liability on those directly affected by such records is emphatic.[102] Federal statutes grant no exemption to any agency from this absolute requirement of records maintenance. Consequently, for the purposes of this Petition to prove violation of these statues and regulations, it is only necessary to demonstrate the failure of the NARA to properly catalogue state applications has resulted in legal liability to affected individuals where proper record keeping methods would have resulted in no liability. The Petitioner is not required to prove the legitimacy of the legal liability—that is the job for the federal courts. Petitioner need only provide demonstrative evidence of improper record keeping procedures by the NARA which resulted in legal liability.[103]

Evidence of NARA Violation of Legal Liability Laws

In December, 2000 Petitioner filed a federal lawsuit against the United States regarding the failure of Congress to call a convention as mandated by Article V of the United States Constitution.[104] During the course of that lawsuit, the government stated as part of its response that, "Neither the Complaint nor the Motion for Declaratory and Injunctive Relief readily identifies those states that plaintiff alleges have applied to Congress to call a Convention, the dates of such applications are alleged to have been made, nor the subject matter, if any of those applications."[105]

A convention call by Congress is "peremptory."[106] Congress has no "vote, debate or committee" regarding the call.[107] Therefore Congress must call a convention except under one constitutional circumstance: that an insufficient number of states have applied to cause the convention call. That circumstance was the basis of the government's comment in Walker v United States; that no documented evidence proving Congress was obligated to call a convention was submitted in

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[102] See supra, discussion of 44 USC 3101 and 36 CFR 1220.18, fn. 66, 68, 79, 80.

[103] This does not mean the affected individuals are not legally liable on some other legal basis outside the federal statutes and regulations in question. For example if a record exists showing a particular legal action is mandated by an individual or group of individuals and those individuals choose not to act to as mandated then they becomes liable under a different set of laws. The existence of a properly maintained system of record means the record keeper, in this case the NARA, is no longer responsible for the legal liability of the individuals because, due to their proper record keeping practices they have satisfied both statute and regulation. Thus they are immunized from further responsibility. What the individuals in question do with the information the properly maintained system of record keeping provides becomes the responsibility of the individuals, not the NARA. Only when the NARA fails to provide proper record keeping management of records can it be held responsible for the actions of others affected by incompetent record keeping.

[104] Walker v United States, United States District Court Western District of Washington At Seattle No. COO-2125C (2000).

[105] See Appendix, excerpts from "United States Memorandum in opposition to Plaintiff's Motion for Declaratory and Injunctive Relief and in Support of Cross-Motion to Dismiss,", "United States Memorandum Walker v United States (2000) Page 1" p. 14; "United States Memorandum Walker v United States (2000) Page 9" (fn. 2), .p. 15.

[106] See fn. 6.

[107] See fn. 10.

the lawsuit.[108] Therefore, the government asserted no liability was attached to Congress as evidence was not produced proving Congress had to call a convention.

[108] A comprehensive discussion of the rules of evidence used by the federal courts is beyond the scope of this Petition. However excerpts from the Federal Rules of Evidence (See: https://www.law.cornell.edu/rules/fre) demonstrates the principle of law in question and establishes NARA responsibility for the lack of acceptable court evidence as all but the most recent applications are in NARA custody. Therefore the only possible source of court evidence must come from the NARA as the records necessary to prove an insufficient number of states have applied to cause a call reside with the NARA rather than Congress. Without proper record keeping procedures, production of this evidence is impossible, leaving members of Congress exposed to legal liability.

Rule 902—Evidence That Is Self-Authenticating—of the Federal Rules of Evidence (FRE) states (in part), "The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted: (1) Domestic Public Documents That Are Sealed and Signed. A document that bears: (A) a seal purporting to be that of the United States; any state, district, commonwealth, territory, or insular possession of the United States; …a political subdivision of any of these entities; or a department, agency, or officer of any entity named above; and (B) a signature purporting to be an execution or attestation. (2) Domestic Public Documents That Are Not Sealed but Are Signed and Certified. A document that bears no seal if: (A) it bears the signature of an officer or employee of an entity named in Rule 902(1) (A): and (B) another public officer who has a seal and official duties within that same entity certifies under seal—or its equivalent—that the signer has the official capacity and that the signature is genuine." [Emphasis added].

As described in 44 USC 2910 and the Federal Rules of Civil Procedure (FRCP) Rule 44—Providing an Official Record—authorizes an official record be provided as evidence. The rule states (in part): "(a) Means of Proving. (1) Domestic Record. Each of the following evidences an official record—or an entry in it—that is otherwise admissible and is kept with the United States, any state, district, or commonwealth, or any territory subject to the administrative or judicial jurisdiction of the United States: (A) an official publication of the record; or (B) a copy attested by the officer with legal custody of the record—or by the officer's deputy—and accompanies by a certificate that the officer has custody. The certificate must be made under seal… (ii) by any public officer with a seal of office and with official duties in the district or political subdivision where the record is kept." [Emphasis added].

Under section (4) of Rule 902—Certified Copies of Public Records, "A copy of an official record — or a copy of a document that was recorded or filed in a public office as authorized by law [may be submitted as evidence] — if the copy is certified as correct by: (A) the custodian or another person authorized to make the certification; or (B) a certificate that complies with Rule 902(1),(2), or (3), a federal statute, or a rule prescribed by the Supreme Court." Finally under section (5) of Rule 902—Official Publications—evidence is acceptable if it is contained within "A book, pamphlet, or other publication purporting to be issued by a public authority."

However as the NARA does not catalogue state applications there is no "book, pamphlet, or other publication" to provide as evidence. Nor can the NARA provide copies of applications as it has stated in writing it doesn't know where the applications are located thus raising questions as to any certification by the Archivist. This leaves official publication of the records as the only source of evidence. The problem is the NARA doesn't even have an official compilation of this official record let alone individual copies of the official record as it routinely refers inquiries to view this source to a private collection. See fn. 154.

Thus, under federal law the Archivist can provide official records as evidence in a federal court but has no official record to provide to the court as the NARA has never kept the record of applications in an acceptable condition allowing it to provide the necessary evidence in a court of law. Without such evidence it cannot be proved members of Congress are exempt from legal liability by proving an insufficient number of states have submitted applications for a convention call. This fault of legal liability lies entirely with the NARA.

While the Petitioner was unable to provide evidence of "those states [and] the dates of such applications… [having] been made" it is equally true (and more significant to the point of this Petition) the government was unable to provide evidentiary proof Congress was not obligated to call a convention under its single constitutional exemption of an insufficient number of applying states.

Whether the Petitioner prevailed in his lawsuit is irrelevant to the issue of this Petition. The outcome of the case does not relieve Congress of its ongoing constitutional obligation to call a convention if a sufficient number of states have applied. Failure to do so when mandated by the Constitution is grounds for legal action. The only way such action can be resolved in favor of Congress is by presentation of evidence the NARA cannot provide. While other standards of justice may get Congress "off the hook," the fact remains only evidence can prove Congress has no legal liability. The legal circumstance under which Congress must call is exclusively dependent on a circumstance of public record—an exact knowledge of how many states have submitted applications for a convention call. Without an accurate public record Congress is denied the ability to refute any legal liability for failure to call a convention by assertion of its one constitutional exception. The NARA has failed to apply record keeping standards mandated by statute and regulation to state applications. This absence of a public record being available for public and constitutional use is the absolute difference between members of Congress (who are the only members of the federal government directly affected by this record) being liable for criminal or civil prosecution and being immune from liability.

In 2004, the Petitioner filed a second lawsuit, Walker v Members of Congress.[109] The suit was appealed to the Supreme Court of the United States.[110] In his writ of certiorari to the Supreme Court the Petitioner affirmatively stated as a matter of fact and law the failure of Congress to call a convention violated federal criminal law.[111]

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[109] See Walker v Members of Congress, United States District Court Western District of Washington at Seattle, Case C04-1977RSM (2004).

[110] See United States Supreme Court, Case No. 06-0244 (2006). See Appendix, "United States Memorandum Walker v United States (2000) Page 1," p. 16.

[111] The writ of certiorari stated members of Congress violated their oath of office required by the Constitution and federal statutes by not calling a convention when mandated to do so by the Constitution. See Appendix, "United States Memorandum Walker v United States (2000) Page 9," p. 17. The Constitution states, "The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution;…" Article VI § 3. Supporting federal statues describe the precise language of the oath, the terms and conditions of the oath, criminal penalties for violation of the oath and as described in an Executive Order, under what circumstances an investigation of alleged violation of oath of office by federal officials must be conducted.

The relevant portion of the federal statutes are as follows:
"An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." 5 USC 3331.

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Under Supreme Court Rule 15.2 prior to the Supreme Court determining whether to grant certiorari the respondent (the members of Congress represented by the Solicitor General of the United States) was required to "address any perceived misstatement of fact or law in the petition that bears on what issues properly would be before the Court if certiorari were granted." The rule further states, "Counsel are admonished that they have an obligation to the court to point out in the brief in opposition, and not later, any perceived misstatement made in the petition. Any objection to consideration of a question presented based on what occurred in the proceeding below, if the objection does not go to jurisdiction, may be deemed waived unless called to the Court's attention in the brief in opposition."[112] In short, unless counsel for the members of Congress raised objection all statements made by the plaintiff in his writ of certiorari in regards to asserted fact and law under court rule the statements are considered by the Court as correct.

The Solicitor General of the United States, who acted as attorney of record for all members of Congress, did not refute any statement of fact or law made by the Petitioner in his writ of certiorari. Instead the United States waived its right to respond with a brief in opposition to any statement of fact or law made in the Petitioner's writ of certiorari.[113] Under the terms of Rule 15.2

"(a) Except as provided by subsection (b) of this section, an individual who accepts office or employment in the Government of the United States or in the government of the District of Columbia shall execute an affidavit within 60 days after accepting the office or employment that his acceptance and holding of the office or employment does not or will not violate section 7311 of this title. The affidavit is prima facie evidence that the acceptance and holding of office or employment by the affiant does not or will not violate section 7311 of this title." 5 USC 3333.

"An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—
(1) advocates the overthrow of our constitutional form of government;" 5 USC 7311.

"Whoever violates the provision of section 7311 of title 5 that an individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—
(1) advocates the overthrow of our constitutional form of government…
shall be fined under this title or imprisoned not more than one year and a day, or both." 18 USC 1918.

"Sec. 8(a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but not be limited to, the following:
(4) Advocacy…of the alteration of the form of the government of the United States by unconstitutional means. …"
"(d) There shall be promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information…relating to any of the matters described in subdivision (2) through (8) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation." Executive Order 10450—Security Requirements for Government Employees [Emphasis added].

[112] See Appendix, "Supreme Court Rule 15.2—First Page", "Supreme Court Rule 15.2—Second Page," pp. 18-19.

[113] Petitioner stated seven facts in his writ of certiorari in Walker v Members of Congress regarding the obligation of Congress to call a convention. By waiving response under Supreme Court Rule 15.2, the United States Solicitor General admitted all seven statements were correct as to fact and law. The stated facts or law were: (1) that under Article V of the United States Constitution, Congress is required to call an Article V Convention if two-thirds of the state legislatures apply for one; (2) that the Article V Convention call is based on a numeric count of applying states with no other terms or conditions [such as contemporaneous, same subject matter of application, rescission of applications by any state or group of states]; (3) that all 50 states have submitted 567 applications for such a convention [subsequent research reduced this number to 49 states, Hawaii the one exception]; (4) that an Article V Convention

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this meant was no "perceived misstatement of fact or law" in his writ of certiorari to the Court.[114] Therefore it is a correct statement to declare that as a matter of fact and law members of Congress have criminally violated their oath of office and this admission has been acknowledged by their attorney of record as a matter of public record before a federal court. This admitted violation opened the members of Congress to legal liability as well as an ever growing number of legal complications ever since.[115]

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call is peremptory on Congress; (5) that the political subject matter of an amendment application is irrelevant to Congress' obligation to call an Article V Convention; (6) that the refusal of the members of Congress to obey the law of the Constitution and immediately call a convention violates their oath of office as well as well as federal criminal law and; (7) that by joining a lawsuit to advocate in open public court they can ignore, veto, disobey or otherwise thwart a convention call, the members of Congress violated federal criminal law in that they advocated the overthrow of our constitutional form of government by publicly asserting refusal to obey one of its provisions namely the convention clause of Article V.

[114] See Appendix, "United States Wavier of Response Walker v Members of Congress," p. 20.

[115] This is not the only example of legal liability by members of Congress as a result of failure by the NARA to maintain the records of state applications according to proper record keeping standards. As summarized in recent comments Petitioner submitted to the Federal Elections Commission on a proposal to modify 11 CFR 100.4 (a request to modify the regulation describing federal office to include delegates to an Article V Convention, FR Doc. 2014-23443, 79 FR 59459, see: http://www.foavc.org/reference/FEC/File1.pdf, pp.12-17) several criminal complaints against members of Congress and other government officials have occurred. These include:

--A 2012 criminal complaint based on the admission of the Solicitor General in Walker v Members of Congress Mr. John Guise of the state of Texas filed a criminal complaint with U.S. Attorney General Eric Holder against the members of Congress. Under Executive Order 10450 §8(d) the attorney general was required to refer such complaint to the FBI for a "full field investigation," who are mandated by federal law to conduct the investigation. According to Mr. Guise, Attorney General Holder referred the complaint to the FBI. It is pending, awaiting completion of the required FBI field investigation.

--A January, 2015 criminal complaint by Mr. Guise. Having determined the FBI, in contradiction of federal statute, refused to conduct a full field investigation of his complaint, Mr. Guise attempted to report his complaint to the Grand Jury Foreman of the United States District Court for the Northern District of Texas. Mr. Guise cited 18 USC 4 as the basis for his doing so which states, "Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both" as justification for his grand jury presentation.

Part of Mr. Guise's brief to the Grand Jury states, "Petitioner has, in his possession for submission as evidence, copies of documentation which shows that as early as the year of 1908 there was a sufficiency of applications from the several states to require the execution of the Congressional duty imposed by Article V [issuing a convention call]. Such convention was not called. Irrespective of any ancient history Petitioner is now in possession of a report from the Congressional Research Service of the Library of Congress which shows that of as of April of 2014, [footnote omitted] there were 36 applications which had been submitted to Congress calling for the Convention required by Article V. Congress, at the time of this writing, has not responded to any of the 36 states known to this Petitioner." Notably, Mr. Guise's evidence is based on the same collection of applications to which the NARA routinely refers citizen inquiries regarding state applications thus, whether intended or not, has become a de facto public record of those applications. See infra, "NARA Response to Record Keeping Issues Regarding Applications," p. 63, fn. 154.

Thus the gist of Mr. Guise's complaint is a compilation of applications and a statement by the Congressional Record Service (CRS) (also relating to the compilation of applications) describing the record of applications submitted by the states for a convention call. The government, having no record of applications from the NARA, cannot confirm

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nor deny Mr. Guise's assertions or the statements of the CRS. Thus lack of records means no legal immunity for the government in regards to Mr. Guise's complaint.

--A complaint filed against the U.S. Attorney's office. According to Mr. Guise, on January 20, 2015 he was instructed by "Mike" [no full name provided to Mr. Guise by "Mike"] of the US Attorney Office, Northern District of Texas, to mail his complaint to "the foreperson of the Grand Jury" at 501 W. 10th Street, Fort Worth, Texas. Mr. Guise did as instructed and sent his documentation via restricted certified mail. According to the United States Post Office Mr. Guise's letter was "refused" by an unidentified employee of the Grand Jury and never opened. According to federal law Use of United States mails in the perpetration of a crime; (violation of 18 USC 3332(a)—refusal to inform a grand jury of a crime and name of the person filing the complaint) is a crime. [See also 18 USC 371—Conspiracy to Defraud the United States—"creating an offense "[i]f two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose." [Emphasis added]. According to Mr. Guise the actions of "Mike" and the unidentified grand jury employee satisfy the terms of 18 USC 371 of conspiracy against the United States.

18 USC 3332(a)—Powers and Duties of a Federal Grand Jury states: "It shall be the duty of each such grand jury impaneled within any judicial district to inquire into offenses against the criminal laws of the United States alleged to have been committed within that district. Such alleged offenses may be brought to the attention of the grand jury by the court or by any attorney appearing on behalf of the United States for the presentation of evidence. Any such attorney receiving information concerning such an alleged offense from any other person shall, if requested by such other person, inform the grand jury of such alleged offense, the identity of such other person, and such attorney's action or recommendation." [Emphasis added].

As stated in the US Attorney Criminal Resource Manual, "Although this language is very broad, cases rely heavily on the definition of "defraud" provided by the Supreme Court in two early cases, *Hass v. Henkel*, 216 U.S. 462 (1910), and *Hammerschmidt v. United States*, 265 U.S. 182 (1924). In *Hass* the Court stated: "The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of government . . . (A)ny conspiracy which is calculated to obstruct or impair its efficiency and destroy the value of its operation and reports as fair, impartial and reasonably accurate, would be to defraud the United States by depriving it of its lawful right and duty of promulgating or diffusing the information so officially acquired in the way and at the time required by law or departmental regulation." [Emphasis added]]. The conspiracy by "Mike" and others clearly "defeats" the lawful function of the federal grand jury in that it "deprives" the jury of knowledge of admitted criminal actions on the part of members of the government according to Mr. Guise not to mention depriving the United States Government of its lawful duty of promulgating information officially acquired in the way and at the time required by law. In this instance the "law" in question is the Supreme Law of the land—the Constitution and the promulgation of information and duty is, of course, a convention call based on a catalogue of applications required by federal statute.

Mr. Guise has filed a complaint against "Mike" and the unnamed federal grand jury employee with the Postmaster General regarding the use of United States mails to perpetrate a fraud on the United States and has announced other legal actions may follow. He states he believes the deliberate act by "Mike" to prevent his bringing to the attention of the grand jury facts which believes prove criminal violations of law violates 18 USC 3332(a) which mandates that "any attorney receiving information…[of] an alleged offense from any other person shall, if requested inform the grand jury of such alleged offense…". An examination of whether Mr. Guise's complaint in regards to Congress or against "Mike" has legitimacy is beyond the scope of this Petition. The fact this criminal complaint is based on records which can neither be confirmed nor denied by the Government as their source of federal records, the NARA, has failed to provide a record of applications available for constitutional and public use as mandated by federal statute and regulation is however within the scope of this Petition as it serves as another example for the need of the proposed regulations.

--The FEC Response by this Petitioner referred to at the beginning of this footnote describe other legal liabilities for federal and state officials arising as a result of an inaccurate, incomplete record of state applications. For example,

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If a public record were available at the time of the Walker lawsuit proving the states had not applied in sufficient number to satisfy the two-thirds requirement of Article V, Congress would have absolute legal immunity.[116] As no public record existed, the members were deprived of this immunity as a result of the failure of the NARA who is statutorily required create the record and make it "available for public use." Whether this public record provides legal immunity is irrelevant to this Petition as determination of that is reserved to other legal processes. Nevertheless it is worth nothing the evidence is overwhelming: the states have satisfied the two-thirds requirement. As of January, 2015 the only comprehensive record of state applications (composed of photographic copies of the Congressional Record) recognized by the NARA as a reliable source of public record lists 764 applications from 49 states well in excess of the 34 applications from 34 states required to satisfy the two thirds requirement of Article V.[117]

Mr. Guise describes in his grand jury information the failure of the Speaker of the House and the Clerk of the House of Representatives to properly compile a list of applications so Congress is aware of the number of applying states thus enabling Congress to call a convention when required as a violation of 18 USC 371—Conspiracy to Defraud the United States—in that by failing to have this information available and acting upon it when required a "legitimate official action and purpose [is] defeated by misrepresentation, chicane or the overreaching of those charged with carrying out the governmental intention…by means of deceit."

The FCC Response discusses a recent criminal complaint lodged with the Department of Justice against officials in six states for the passage of state laws intended to "regulate" an Article V Convention by: (1) disenfranchising all voters in those states denying them the right to vote for delegates to an Article V Convention in contradiction of 18 USC 601 which states convention delegates must be elected and; (2) establishing felony arrest of any delegate "appointed" by state officials who fails to follow "instructions" given him by a small select group in the state legislature. Political groups behind this effort to dictatorially control a constitutional process in part base their actions on the belief a sufficient number of applications have yet to be submitted by the states and therefore these state laws concern a future event (and thus politically safe to support) rather than, as the public record shows, an already occurred event (submission of sufficient applications to cause a call). As no record from the NARA, exists, this belief cannot be officially refuted even though the NARA routinely refers citizens to a private collection which does refute this belief. See infra, "NARA Response to Record Keeping Issues Regarding Applications," p. 63. Information regarding this criminal complaint against state officials can be obtained by contacting Ms. Sandra Hill of the Department of Justice (202) 305-7734 or (202) 307-2767. See also www.foavc.org/reference/file58.pdf. See Appendix, "State Applications for an Article V Convention Call," pp. 46-57.

[116] Naturally this legal immunity cannot be obtained by Congress tinkering with the applications such as "rescinding" them. While it would provide evidence of lack of applications to cause a call, it would open Congress to criminal charges of evidence tampering. Thus, to preserve any legal immunity Congress cannot affect any state application. This is another reason Congress cannot "rescind" state applications. See fn. 144.

[117] See infra, "NARA Response to Record Keeping Issues Regarding Applications," p. 63; "List of State Applications for an Article V Convention," Appendix pp. 46-57.

Request for Inspection and Audit of State Applications

As noted in the Letter to NARA Acting Director Bunk, under authority of 44 USC §2906(a) (1) and 36 CFR 1239.20 a request to Acting Administrator Roth, U.S. General Services Administration for an inspection of state applications for a convention call currently in the custody of the NARA has been requested by the transmission of this Petition to her office. This section of the Petition discusses the reasons for the inspection.[118]

Under these statutes and regulations inspection of records may occur if evidence suggests any federal agency has not complied with record keeping procedures prescribed by federal law. The law prescribes if inaccurate or incomplete records exist as a result of inadequate record keeping and the agency has done nothing to redress this issue an inspection is warranted. Documented evidence proves such conditions exist in the NARA regarding state applications for a convention call.[119]

Clearly the NARA is capable of cataloguing state applications for a convention call as demonstrated by its presentation of the Colorado application.[120] The NARA plainly understands the constitutional significance of state applications based on language it attached to the Colorado application. Therefore the NARA is capable of redressing the issue and understands the reason for redressing the issue of properly cataloguing applications in order to make them available for constitutional and public use. Yet the NARA has done nothing. It has ignored statutory mandates of proper record keeping procedures. Documented evidence proves the NARA has failed to obey prescribed federal record keeping procedures in regards to applications. Further this evidence proves the NARA records are inaccurate and incomplete.

This incomplete and inaccurate record renders applications constitutionally uncertain. Even if the NARA catalogued applications under its present regulations, evidence shows discrepancies between federal and state records exist. Thus current NARA records do not present a complete or accurate record of state applications. Current regulations provide no means to redress these discrepancies. Given the constitutional purpose of applications is to cause a convention call "on the application" of two thirds of the states, unless the record is 100% accurate, 100% complete and 100% compliant with state records meaning no discrepancies whatsoever, constitutional questions can arise as to the validity of any convention call. The errors of record in the NARA raise this issue: is the set of applications which cause a specific convention call <u>the accurate</u> set of applications required to cause that <u>specific</u> call?

Due to the Constitution's "<u>on</u> the application [Congress] shall call" requirement,[121] it is necessary not only to know <u>which</u> states have applied for a convention but <u>when</u>. The "on the applica-

[118] See fn. 68, 83, 85.
[119] See "NARA Response to Record Keeping Issues Regarding Applications," p. 63; Appendix pp. 21-34.
[120] See "The Colorado Application," p. 10; Appendix, "State of Colorado Application, April 1, 1901," p. 5.
[121] "On: Used as a function word to indicate a time frame during which something takes place; an <u>instant, action, or occurrence when something begins or is done; occurrence at the same time as</u>." Webster's Third New International Dictionary (Unabridged) (2002); "On: as soon as; contiguous to; at the time of." Black's Law Dictionary 10th ed. (West Group, 2014).

tion" requirement commands an immediate tabulation of specific states to cause an immediate convention call. Thus the tabulation for such call is created by a given set of applications. Therefore when the application is submitted becomes paramount to determine which group of state applications is attached to what convention call. The immediacy requirement of the Constitution automatically precludes all but those precise applications which, when grouped together, comprise the most immediate period of time between the submission of the first application by a state and the last submitted application by a state needed to cause that specific convention call.

Naturally applications excluded from this specific group of applications are not discarded. Instead as the Constitution mandates a convention call every time two thirds of the state legislatures apply and this group can comprise any of hundreds of different combinations of applying states, this means those applications not used in a specific call set are grouped under the same principle of most immediate time period between first and last submission and used in the calling of the next of however many conventions calls are required to constitutionally address all sets of two thirds of applying states whose applications have not already caused a convention call.[122] The term "on the application" as previously discussed, means a state need only submit one application per set of states to become a part of that two thirds group of applying states for that specific convention call.[123] If a state submits more than a single application, then each single application must be assigned to another set of applying states in order that each application is constitutionally valid and tabulated.

This most immediate period of submission time is the only time period constitutionally qualified under the term "on the application" as the response of Congress to call is always immediate and continuing as it is a peremptory requirement. To contemplate a longer period of time than that which is most immediate implies applications can be delayed giving Congress power to "delay" a call indefinitely. The language of Article V, "on the application" precludes such delay and is therefore unconstitutional. Thus it is constitutionally imperative to know precisely which applications comprise which group of states causing a call and in which order of time the applications were submitted so it can be irrefutably demonstrated what is the most immediate period of submission time for each set of applications causing a convention call. Only with this knowledge

[122] Any other interpretation would lead to nullification of Article V by establishing Congress can "rescind" an application. Thus a call is no longer "peremptory." Regardless of the reason, allowing Congress to nullify even a single application means Congress controls both proposal methods of Article V which clearly was not the intent of the Founders. The reason so many applications exist without having caused a convention is because Congress has not done its constitutional duty and called when mandated. Permitting Congress to call a single convention when many calls are required by the Constitution gives Congress a means to require the states submit an endless series of applications which Congress, may or may, ever respond to. The Constitution mandates a call "on the application" (singular) of two thirds of the several state legislatures meaning one applications from each of two thirds of the states, not on as many applications as Congress decides to ignore before it calls the convention. Only by an absolute strict interpretation of Article V can this constitutional destruction be avoided thus causing Congress to call a convention every time two thirds of the states submit applications. If this results in a large number of conventions at the initial phase of calling by Congress then adjustments to this fact will have to be addressed in the call. In any event, the fault lies with Congress for not calling a convention when it was supposed to, not the states, not the people and certainly not with the Constitution.

[123] See supra, "The Colorado Application," p. 10.

can it be established which set of applications is the correct set necessary to cause a specific convention call.

If this information is not readily available then it possible a convention may be called based on the wrong set of applications (or more likely not called when in fact a call is mandated) particularly if applications now "lost" by Congress are later "discovered." Does this mean the "lost" application can simply be ignored? Certainly not; an affirmative answer to this question indicates the call is not peremptory. Congress can avoid a call by means of an incompetent file clerk or government agency charged with categorizing the applications. If this situation if not addressed with proper cataloguing procedures Congress is just as open to legal liability if it fails to call a convention as it is if it calls a convention based on an improper set of applications provided by inaccurate or incomplete record keeping procedures.

Avoiding this Gordian knot of constitutional conundrum due to poor record keeping is the responsibility of the NARA.

As described in the Stasny Report applications have been scattered about the various congressional committee for years with no assurance whatsoever they have even been properly recorded by the various congressional committees.[124] If this was the only issue of record keeping a simple diligent search of committee records would be the obvious solution. However the inaccuracy of federal records is far worse than this. Even a cursory examination of a small sample of state records of applications versus the congressional record proves discrepancies. Thus records of applications sent by the states and records of applications received by Congress do not match.

For example, according to the Congressional Record there is only one application from the state of California for a convention call by that state between 1903 and 1913.[125] However according to California state records, during that time period California submitted four applications to Congress.[126] According to the state of Illinois a list of applications taken from the Congressional Record "differs somewhat" from the official state records.[127] The state of Wisconsin reports that, "…several of the entries on the list [the Congressional Record]…do appear to correlate to resolutions that were enrolled and adopted by the Wisconsin Legislature."[128]

According to the newly formed group Assembly of State Legislatures, an ad-hoc group of state legislators who have assumed, without official sanction from their various state legislatures (or the Courts or the Constitution) a right to compose "rules" for a convention, an investigation by one of their committees has revealed several "discrepancies" between state and federal records of state applications.[129] In an attempt to resolve the discrepancies between federal and state records the Idaho state legislature submitted a formal request to Congress in 2014 for a public tabulation of state applications. This was the second request submitted to Congress in two years for such

[124] See Petition, pp. 42-44, Appendix, pp. 8-13.
[125] See Appendix, "State Applications for an Article V Convention Call" application #120, p. 48.
[126] Ibid, "California State Applications," pp. 21-26.
[127] Ibid, "Response of State of Illinois—First Page," p. 27.
[128] Ibid, "Response of State of Wisconsin—First Page," p. 29.
[129] See http://www.theassemblyofstatelegislatures.org/.

tabulation.[130] [131] In response, the House of Representatives has taken the first tentative steps toward tabulation of applications.[132]

There is evidence suggesting entries of applications in the Congressional Record may be falsified. While the factual information contained in one suspect application is accurate, nevertheless state records do not support this 1929 application said to be from the state of Wisconsin as actually having been submitted by the Wisconsin state legislature.[133] Given the fact Congress issued a committee report correctly describing the conditions under which Congress is required to call a convention—a simple numeric count of applying states—and acknowledging a sufficient number of applications had been submitted by the states to cause a convention call which public record also supports, the matter is not trivial.[134] Despite this official congressional acknowledgment that the states had satisfied the two thirds requirement of the Constitution, Congress did not issue a convention call thus violating their oaths of office and the Constitution.

Given these circumstances it is clear an inspection of NARA records by a neutral party is warranted.[135] The lack of California applications, for example, suggests some of their applications may have been disposed of by persons unknown within the federal government. As there are state records of these applications replacement in the public record is more important than fixing blame in order to produce a complete, accurate record of state applications. Official responses to inquiries by the states of Illinois and Wisconsin make it clear it is impossible to have an accurate federal record without that record being compared to state records. The Petitioner recommends therefore any inspection of NARA records of state applications include a formal request by the General Services Administrator to each state legislature for a systematic and exhaustive examination of all state records in order to obtain an accurate record of all state applications so that they can then be compared to the federal record. The state response should include reproduction of the actual text of all state applications regardless of whether there is a discrepancy or not. Following receipt of these state records adjustments as necessary to bring state and federal records in harmony should occur within the federal records. Under federal law a report must then be fur-

[130] See Appendix, "State of Idaho—Application for Count of Applications," p. 32.
[131] See fn. 21, Appendix, "Dan Marks Letter to Clerk, April 15, 2013," p. 6.
[132] See "House Rule Regarding Tabulating AVC Applications," p.57, Appendix, pp. 38-41.
[133] See Appendix, "Response of State of Wisconsin—Third Page," p. 31 for list of state records showing dates and legislative notations of applications. Then compare Wisconsin Application SJR 83 (1929) #137 p. 33 to this list. The application in question clearly reads "SJR 83". The certified list supplied by the state shows no record of "SJR 83" in 1929 or anytime for that matter.
[134] Ibid, p. 34. Despite the fact application #137 may be falsified this does not mean a sufficient number of applications have not been submitted to cause a convention call. As is demonstrated by the state of California's applications and the Stasny Report, evidence suggests there are even more applications than the Congressional Record indicates. When finally sorted out this will mean it is even more obvious Congress is obligated to call a convention, indeed, several, as the language of Article V clearly mandates a call "on the application" of two thirds of the states. Thus whenever this constitutional condition is met by the states, Congress must call a convention based on that set of applications, at present 34 applications. The total number of applications, well in excess of 750, clearly shows several separate convention calls are required in order for Congress to entirely satisfy the convention call requirement of Article V. See "The Colorado Application," p. 10; fn. 16-18.
[135] See fn. 71, 82-85.

nished to Congress when the inspection is completed.[136] Under the regulations proposed by Petitioner, the means to address this issue is provided along with a regulatory system intended to address any future issues along these lines.

[136] 36 CFR 1239.20 mandates NARA send reports to Congress and the Office of Management and Budget on the results of inspection of federal records. See generally 44 USC 2904, fn. 85.

NARA Obligation of "Immediate" Use under Congressional Rules

Congressional rules regarding transfer of records to the Archivist of the United States are explicit. According to the Rules of the House of Representatives, 113th Congress (the latest version of House Rules published at the time of submission of this Petition) Rule VII specifies, "At the end of each Congress, the chair of each committee shall transfer to the Clerk any noncurrent records of such committee, including the sub-committees thereof. … "The Clerk shall deliver the records transferred under clause 1, together with any other noncurrent records of the Houses, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and any order of the House."[137]

The rule continues, "The Clerk shall authorize the Archivist to make records delivered under clause 2 available for public use subject to clause 4(b) and any order of the House." … "A record shall immediately be made available if it was previously made available for public use by the House or a committee or a sub-committee."[138] Finally the rule states, "A record (other than a record referred to in subparagraph (1), (2), or (3)) shall be made available if it has been in existence for 30 years."[139] These rules are plain in meaning: records from a congressional committee or Congress must be immediately available for public use when transferred to the Archivist.

Therefore, even if Congress fails to provide state applications in an orderly manner consistent with generally accepted record keeping practices as the Stasny Report describes, this lapse does not release the NARA from its statutory and congressionally assigned obligation to re-organize those records to provide a complete and accurate record of applications "immediately" available for public use. There is no equivocation in this rule or indication the House intends state applications be exempt from this House rule.

United States Senate Rule 11—Withdrawal, Printing, Reading of and Reference—restate 44 USC 2118.[140] In sum the rule states Senate records are transferred to the NARA for preservation subject to Senate and House rules. There is no Senate rule declaring state applications are anything but a public record. Nothing in Senate rules conflicts with House rules. As all state applications are published in the Congressional Record, which is a record of all congressional activities whose publication and status as a public record is required by the Constitution, it is impossible to consider state applications in that Record to be anything but public record. Thus both Senate and House rules demand "immediate" publication of all state applications published by Congress be immediately published by the NARA.

State applications are supposed to be archived for immediate public use. This has been the stated intent of Congress since May 5, 1789. Instead applications are not published, let alone catalogued by the NARA making public use impossible. In addition to violating statues and regula-

[137] Rules of the House of Representatives, 113th Congress, January 3, 2013, Rule VII (Archiving) 1(a), 2.
[138] Ibid, 3(a), (b) (1) [Emphasis added].
[139] Ibid, (4).
[140] See fn. 86, 88; Appendix, "Senate Rule 11—Papers—Withdrawal, Preservation—First Page," p. 37.

tions therefore, the NARA has ignored explicit congressional rules applying to state applications published in the Congressional Record. Congressional rules require an immediate solution—even if that solution is temporary—in order to bring the NARA into compliance with the "immediate" standard set by congressional rules. For this reason Petitioner, in his proposed regulations, requires the use of a private collection of applications by the NARA to satisfy the congressional requirement of applications being "immediately" available for public use until such time as the NARA can create a permanent public record, based on the other proposed regulations, to replace the temporary private collection.

House Rule Regarding Tabulating AVC Applications

On January 6, 2015, the House of Representatives passed H.Res.5—Adopting Rules for the One Hundred Fourteenth Congress. H.Res.5 contains rules of procedure describing the processing of applications for a convention call by the states by the House. The two section rule entitled "Providing for Transparency with Respect to Memorials Submitted Pursuant to Article V of the Constitution of the United States," is listed under Section 3(c) "Separate Orders."[141] The rule establishes a methodology for the collection and display of Article V Convention applications.

An analysis of the new rule published by the Congressional Research Service (CRS) states the new rule "clarifies the procedures of the House upon receipt of Article V memorials from the States by directing the Clerk to make each memorial, designated by the chair of the Committee on the Judiciary, electronically available and organized by State of origin and year of receipt."[142] According to CRS the rule applies to "any memorial presented under clause 3 of rule XII purporting to be an application of the legislature of a State calling for a convention for proposing amendments to the Constitution of the United States pursuant to Article V…"[143] Notably, while the rule mentions "a rescission of any such prior application" it does not describe such "rescission" as being in "pursuant to Article V" thus settling the question of the constitutionality of "rescissions."[144] Finally CRS states, "The chair of the Committee on the Judiciary shall, in the case

[141] See Appendix, "House Rule 3(c)—Transparency of Article V Applications—First Page," pp. 35-41.

[142] Ibid, pp. 40-41. The "state and date" provision of the new rule clearly reflects the May 5, 1789 decision by Congress to base a convention call on a numeric count of applying states. See supra, "The 1789 Congressional Decision," p. 9.

[143] See Appendix, "House Rule 3(c)—Transparency of Article V Applications—First Page," pp. 35-41

[144] Both the House and Senate have rules regarding the "withdrawal of papers" specifically memorials. See Appendix, "House Rule 7—Records of the House—Second Page," p. 36; Senate Rule 11—Papers—Withdrawal, Preservation—First Page," p. 37. The language of the provision (Rule XI §1, Senate; Rule VII § 7, House) is virtually identical. Neither the House nor Senate permits the "withdrawal" (i.e., rescission or nullification) of a memorial without the consent of the legislative body in question, meaning a vote on the question by that legislative body. Therefore, according to the rules of Congress, a state cannot unilaterally withdraw (i.e., rescind or nullify) any application (all of which have been listed by the Houses of Congress as memorials) without a vote of consent by both houses of Congress. Congress has never consented to the nullification of any state application in its entire history because as acknowledged on May 5, 1789 it is out of its power to do so. [See supra, "The 1789 Congressional Decision," p. 9.] Therefore, under the rules of Congress, rescinding or nullifying a state application requires the consent of Congress meaning the power of rescission lies not with the states, but Congress. However Congress has no power to "rescind" applications.

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Congressional rules do not require affirmative action by a party submitting the memorial to request "withdrawal." Under its rules Congress is free to "withdraw" any memorial regardless of whether the party who submitted the memorial desires that action or not. Thus, if the rules are applicable to applications for a convention call submitted by the states this means not only can Congress "withdraw" (i.e., rescind or nullify) those applications a state wishes to rescind but any other application Congress chooses to strike from its record. By such means therefore Congress can reduce the number of applications on record to a level below that necessary to cause a convention (or reduce them entirely if it chose) when in fact, the record, prior to such censorship, clearly proves Congress is required to call a convention. Thus, the entire premise of a second autonomous method of amendment proposal independent of Congress described in Article V is defeated: Congress must call a convention if the states apply and has "no option" in this regard. The use of the withdrawal rules cited in this footnote results in Congress having complete and total control of both amendment proposal processes. As stated by George Mason in the 1787 convention such a use of congressional rules would make "both…modes to depend, in the first immediately, and in the second, ultimately, on Congress [and therefore] no amendments of the proper kind would ever be obtained by the people, if the Government should become oppressive…" Given the peremptory status of state applications nullification by Congress, if this were to occur, opens Congress to criminal liability. See fn. 116. The fact is despite pressure from several conservative groups, Congress has never rescinded a single application. Such restraint lends weight to the premise Congress clearly understands the intent and meaning of Article V and therefore understands it has no power of rescission.

It is not an accident of language therefore, that the House rule requiring the collection of applications made "pursuant to Article V" does not state, "applications and rescissions made in pursuant to Article V." Article V does not permit "rescission" of an application once submitted to Congress by a state and therefore a "rescission" is not made "pursuant" to Article V or to any other clause of the Constitution for that matter. Nor does Article V permit Congress to "rescind" an application once Congress has received it. The Supreme Court has emphatically stated there are "no rules of construction, interpolation or addition" permitted in Article V. [United States v Sprague, 282 U.S. 716, 731-32 (1931) [Emphasis added]]. [See fn. 8]. In short, what Article V says is what you get. Article V describes an amendment process intended to process amendments in an orderly fashion. If this process is altered by addition without prior amendment, such addition would no longer be the process described in the Constitution. Therefore this new process is unconstitutional as it does not prescribe to the process set forth in the Constitution. The Courts have expressly ruled nothing can be altered in the Constitution except by process of amendment: "Nothing new can be put into the constitution except through the amendatory process, and nothing old can be taken out without the same process." Ullmann v United States, 350 U.S. 422 (1956). Further, such an addition to Article V is done by a simple majority vote in Congress. It establishes nullification of the Constitution by majority whim for reasons of political expediency. Such an event is too chilling to contemplate which is why the Supreme Court ruled as it did.

While Congress has erroneously listed state applications under "Memorials and Petitions" this act of misclassification does not alter the actual constitutional status of the state application. An application is an application not a memorial or petition. Thus the rules of rescission of memorials by either or both houses of Congress do not apply to the state applications because they decidedly not a memorial or petition which is defined as a request asking Congress to do something. An application is an instruction mandating Congress do something and more importantly, an instruction Congress has no constitutional authority to ignore. The fact these applications are misfiled by Congress under the wrong category in the Congressional Record merely demonstrates another example of congressional incompetence regarding state applications and the need for proper record keeping management under the proposed regulations of this Petition by the NARA.

While an in depth discussion of rescission/nullification of federal record is perhaps slightly beyond the scope of this Petition, a brief summary is in order. Beyond the federal statutes referred to previously requiring preservation of federal records which, evidenced by the Colorado application, includes applications by the states for a convention call, House rules address this matter in Rule VII (6) which describes a record as "any official, permanent record of the House" which according to the instructions given in 1789 by Congress (and not revoked by the new House rule) applies to state applications. See supra, "The 1789 Congressional Decision," p. 9; Appendix, "Debates of Congress May 5, 1789 p. 258," pp. 2-4; Appendix, "House Rule 7—Records of the House—Second Page," p. 36. No federal

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statute, regulation or congressional rule permits states to "rescind" any federal regulation, statute or record. The Supreme Court has repeatedly ruled throughout United States history states do not have the right to "nullify" federal record or law—under any circumstance. [See generally United States v. Peters, 9 U.S. 115 (1809); Ableman v Booth, 62 U.S. 506 (1859); Cooper v Aaron, 358 U.S 1 (1958)].

Among other provisions of the Constitution the Court has relied on the Tenth Amendment which states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." All applications are recorded in the Congressional Record or its ancestral records. The Constitution mandates Congress must maintain a "Journal of its Proceedings, and from time to time publish the same." See U.S. Constitution, Article I, §5, Clause 3. Therefore under the terms of the Tenth Amendment and as interpreted by the Supreme Court states do not have authority to "rescind" any record in the Congressional Record as that function is delegated exclusively to the United States by the Constitution and therefore control by the states is prohibited.

Such "rescission" would also involve the states "regulating" the NARA, a federal agency, as most of the applications that have been requested by the states to be "rescinded" are stored somewhere in NARA files. In some fashion therefore the "rescission" must possess legal authority instructing the NARA to remove the application in question from its files so as to purge the federal record entirely of the record of application. Above cited congressional rules clearly state these records are controlled by Congress, not the states. Therefore no such authority is granted to the states by federal law, congressional rule or the Constitution. Finally such authority could be extended by the states (or state) to encompass <u>all</u> federal records reducing federal records and authority to the whim of a single state.

As described in Federalist 85 the call and hence the applications causing such call are "peremptory." See supra, "Federalist 85," p. 7. As the term "peremptory" allows for no excuse not to execute that which is peremptory, a "rescission" is impossible. As described, on May 5, 1789, Congress shall have no debate, vote or right of committee in regards to the calling of a convention. See supra, "The 1789 Congressional Decision," p. 9; Appendix, "Debates of Congress May 5, 1789 p. 258," pp. 2-4. A rescission of an application, which congressional rules mandate must be voted upon by both houses of Congress is clearly unconstitutional as it would "imply that the House had a right to deliberate upon the subject… [which] was not the case [as it is] out of the power of Congress to decline complying, the words of the Constitution being express and positive relative to the agency Congress may have in case of applications of this nature. From hence it must appear, that Congress have no deliberative power on this occasion." If the call is peremptory meaning the applications which cause it must also be peremptory, then the same limitation must apply to the states. The states cannot present a "rescission" to Congress requiring deliberation (and vote) when the peremptory terms of the Constitution forbid deliberation (and vote) by Congress. Hence the states are equally forbidden from presentation of a "rescission" requiring deliberation (and vote) by Congress as Congress is from deliberating and voting on the "rescission."

While the rules of both houses permit Congress to vote to "withdraw" memorials, in the specific instance of applications by the states for a convention call erroneously labeled as memorials by the House and Senate, the rules do not apply to state applications for a convention call as it is: (1) a violation of the Tenth Amendment in that permits the states the right to nullify entries in a proprietary federal journal record mandated by the Constitution which the Tenth Amendment expressly denies states the authority to so regulate; (2) an action which violates Supreme Court rulings regarding the prohibition of "addition[s]" to the text of Article V without benefit of an amendment permitting such action; (3) a violation of the "peremptory" requirement of Article V vis-à-vis Congress and a convention call as it permits Congress discretion where no such authority is either expressed or was intended by the Founders; (4) an action which is also forbidden to the states as the peremptory requirement of Article V upon Congress equally applies to the states meaning as Congress cannot deliberate on an application so too are the states from presentation of an application requiring deliberation which the congressional rules, if they were effective, require; (5) the an act of "rescission" (i.e. nullification) of a federal record and therefore is a <u>congressional</u> power not a state power as congressional rules clearly specify it only requires the consent of both houses of Congress to "withdraw" a memorial once it has been submitted to Congress and does not describe or require state power to do so and; (6) a power which can be used by Congress to "rescind" (i.e. nullify) <u>any</u> application regardless of whether the applying state desires

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of such memorial presented in the One Hundred Fourteenth Congress, and my, in the case of such a memorial presented prior to the One Hundred Fourteenth Congress, designate any such memorial for public availability by the Clerk…"[145]

The CRS analysis states, "In carrying out section 3(c) of House Resolution 5, it is expected that the chair of the Committee on the Judiciary will be solely charged with determining whether a memorial purports to be an application of the legislature of a state calling for a constitutional convention. The Clerk's role will be entirely administrative. The chair of the Committee on the Judiciary will only designate memorials from state legislatures (and not from individuals or other parties) as it is only state legislatures that are contemplated under Article V of the Constitution." The analysis states the chair of the Committee on the Judiciary "will include a transmission letter with each memorial indicating it has been designated under section 3(c) of House Resolution 5."[146] According to CRS, "The Clerk will make publicly available the memorial and transmis-

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such rescission thus rendering the entire mode of amendment proposal entirely subject to congressional control and; (7) a misinterpretation of the rules of Congress in that the rules relate to "memorials and petitions" whereas a state application is an "application" and therefore not a memorial or petition and hence not affected by the rules in question. Therefore states may not unilaterally "rescind" (or nullify) an application for a convention call and indeed have no such constitutional authority whatsoever to do so and neither may Congress as such action is a violation of congressional rules as well as the Constitution.

[145] See Appendix, "House Rule 7—Records of the House—First Page," pp. 35-39.

[146] In practice the process has evolved into the House Committee on the Judiciary Chairman Bob Goodlatte transmitting a form letter (with electronic signature) to the Clerk of the House of Representatives Karen Haas. The letter (following the obligatory date and recipient address states, "Pursuant to section 3(c) of House Resolution 5 (114th Congress), I hereby designate the attached Memorial from the State of____, received by the House of Representatives in the year ___, as purporting to be an application of the State legislature calling for a convention for proposing amendments to the Constitution of the United States pursuant to Article V, and request that you make it publicly available. Sincerely, Bob Goodlatte, Chairman."

The problem is the intent of the word "purport" as used in the House committee letter. The dictionary defines "purport" with two distinct definitions. Webster's Third New International Dictionary (Unabridged) (2002) defines "purport" as, "1: to convey, imply, or profess outwardly (as meaning, intention, or true character): have the often specious appearance of being, intending, claiming (something implied or inferred): IMPART, PROFESS 'a letter that purports to express public opinion",' 'a law that purports to be in the interest of morality', 'men purporting to be citizens.' 2: to have in mind: INTEND, PURPOSE." The Unabridged Random House Dictionary (2015) defines "purport" as: "1. to present, especially deliberately, the appearance of being; profess or claim, often falsely: a document purporting to be official. 2. to convey to the mind as the meaning or thing intended; express or imply. 'It is the bringing forward something in writing or in print *purporting* to be of certain effect when it is altogether untrue.'"

The first dictionary definition can be summed as making a claim that generally is false. Such interpretation presents the House (and Congress) the ability to reject all applications by alleging they are "false" and therefore cannot be acted upon (i.e., call the convention) as federal law (see 18 USC 1001) prevents any official from publishing any record as official public record they know, in any way, is false. The second dictionary definition generally means expressing "the mind" of the thing "intended" that is, a written expression of a state to have Congress call a convention. Thus, how the House (and Congress) interprets the word "purport" relates to (1) whether Congress believes it is bound to the May 5, 1789 rule; (2) believes it can reject state applications for undisclosed reasons or (3) is bound to the intent of application as submitted and thus, when the "proper number to achieve their object" occurs, must call a convention. Other than rejecting an application as there is no evidence proving it was sent by a state legislature and thus is not in compliance with the mandate of Article V (or House rule), there is no basis for Congress to reject any application as all applications contain text "purporting" to represent the intent of the state legislature. As the Constitution only permits state legislatures to apply for a convention call, the fact the application was not sent by a state

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sion letter from the chair." Finally, CRS states, "The chair of the Committee on the Judiciary is also permitted to designate memorials from earlier Congresses to be made publicly available under the same procedure."[147]

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legislature is the only legitimate constitutional basis of rejection. As federal statute forbids Congress from publishing such an application unless it has already been established the application is genuine this is a non-issue provided a means of verification exists. Neither the new House rule nor NARA regulations provide for verification while the proposed regulations address this matter.

Petitioner recently sent a letter to the House committee chairman (and other government officials) pointing out 18 USC 1001 forbids Congress apply the word "purport" as defined by its first dictionary definition to describe state applications. That statute forbids publication of false records by government officials (or the covering up of records). The House Committee on the Judiciary is currently publishing state applications under the new House rule. Presuming members of Congress intend avoiding criminal charges for violation of 18 USC 1001 it is reasonable to assume Congress is not applying the first dictionary definition to state applications. USC 1001 states: "(a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully— (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism, imprisoned not more than 8 years, or both." [Emphasis added].

All of these possible criminal liabilities stem from the lack of an accurate, complete record of applications. Under the law it is as much a violation for Congress to publish a false record of application as it is for them to withhold publication of valid applications. The problem is, as there is no accurate, complete record of applications in the custody of the NARA, (or anywhere else in the government for that matter) and no means provided by law to verify the authenticity of applications, Congress finds itself legally exposed. Under the proposed regulations of this Petition a means of challenge and verification of authenticity is provided. But no such regulations currently exist and hence no way exists to protect Congress from liability. This is another example of the NARA's failure to provide a complete and accurate record of state applications on which Congress can reply to perform its necessary constitutional task has resulted in legal liability.

[147] See Appendix, "CRS Analysis of House Rule 3(c)—First Page," p. 40. Informal inquiries from interested citizens to the staff of the House Judiciary Committee regarding how far back in the records the staff intends to proceed in displaying state applications submitted to prior congresses as permitted by the new House rule have been inconclusive. According to one source, the staff "intends to go backwards for as long as staff time and resources allow." This answer is entirely inadequate given the constitutional task assigned Congress opening it further to legal liability. See supra, "The Issue of Legal Liability Due to NARA Oversight," p. 44.

The staff of any congressional committee is ill-equipped to deal with the massive number of state applications involved in a completely transparent presentation of state applications submitted to Congress since the founding of this nation. Their answer is therefore unconstitutional. The Constitution does not state "on the application…if the congressional staff has time and resources to gather the applications," thus permitting Congress not to call a convention due to lack of congressional staff time and resources. However the response graphically illustrates why a congressional committee should not be spearheading an effort to catalogue applications.

Gathering a complete collection of applications and matching which applications cause which convention call requires too much time and resources for a congressional committee staff whose responsibilities extend to multiple issues. As discussed, cataloguing public records is a job statutorily assigned to the NARA, not to a congressional committee staff except for the most immediate records submitted in the current congressional session. The NARA has the skills, personnel and availability of records to accomplish what a House committee is not equipped to do. Limited congressional resources and staff means correctly gathering state applications into a complete and accurate

Footnote Continued on Next Page

Under House Rule 7, clause 5(c) "A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist under this rule. Such a withdrawal shall be on a temporary basis and for official use of the committee."[148] The rule does not define what time period a "temporary" basis is and whether this will be a long enough period of time to ensure full collection of all application records. Petitioner can state from his own personal experience that the volume of applications involved means for Congress to properly list all state applications (not counting the verification time required to resolve discrepancies between state and federal records) will most likely involve months if not years of work by a dedicated staff. The fact the NARA presently does not catalogue state applications make the job more difficult and time consuming. Based on the experience of the Petitioner the only course open to the committee staff is to literally plow through every page of record of every congressional committee for the past 200 years to locate all the applications and even that is not a satisfactory solution.[149] Such diligence by a committee staff is hardly likely. Their work will therefore most likely be slipshod at best and therefore something which does not pass constitutional muster.

This new House rule places even more responsibility on the NARA. The rule permits publication of applications submitted to prior congresses. These records are currently in the custody of the NARA. When requested by the committee to provide these records for "temporary" use under Rule VII (7) the NARA will have no choice but to produce them. As admitted by the NARA however, the agency can't even state where the records are located or more importantly state if they are accurate and complete records despite federal statutes mandating the NARA must be able to do exactly that. The occasion of this new House rule requires new NARA regulations dealing with state applications so that when called on by Congress, the NARA can provide these applications in a professional manner as contemplated by law to the committee and the public for their use.

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record is unlikely particularly as the NARA doesn't even know where the records. Yet the Constitution demands a complete record. This is another reason for adoption of the proposed regulations in this Petition.

[148] See Appendix, "House Rule 7—Records of the House—Second Page," p. 36.

[149] See infra, "NARA Response to Record Keeping Issues Regarding Applications," p.63.

NARA Response to Record Keeping Issues Regarding Applications

The current state of maintenance state application by the NARA can be described succinctly: disastrous. Were the record not so sad of abysmal record keeping it would be laughable. The NARA cannot even answer the most basic information about state applications—who, what, when, where and how: WHO sent the application; WHAT is contained in the application; WHEN the application was sent; WHERE is it located; HOW many applications exist.

Based on evidence presented in this Petition it can be emphatically stated the NARA can't even assert their records are accurate let alone complete. State records document discrepancies between federal and state records.[150] There is another issue. While the Senate has published the full text of submitted applications over the years, the House has not. Instead the House has elected to make a single line notation of the application listing the state, general subject of the application and House committee to which the application was referred.

As discussed in the Stasny Report, there is no way to accurately compare the full text an application published in the Senate section of the Congressional Record with the abbreviated notation in the House section of the Record to determine matching notations. The times of publication of the notations do not coincide. Records of publication show it can be months or years between publication in Senate records and House records. During this time other applications may intervene. This means accurate information as to number of the state applications submitted by the states is impossible to determine based on the published record. Fortunately however, for purposes of issuing a convention call, the total number of submitted applications is irrelevant to Congress provided it consists of at least 34 applications from 34 states.[151]

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[150] See supra, "The Stasny Report," p. 42; "Request for Inspection and Audit of State Applications," p. 51; Appendix (showing examples of discrepancies) pp. 8-13, 21-31, 33-34.

[151] While the total number of applications remains unknown the precise number of states which have submitted applications is known. Both House and Senate notations provide this information. Thus it is easy to determine how many states, in total, have submitted applications. As a convention call is based on a numeric count of applying states, this is all the information Congress requires in order to issue a convention call. See supra, "The 1789 Congressional Decision," p. 9. Therefore, as far as the constitutional requirement for a convention call is concerned, the itemizing applications by state and date under the new House rule is more than sufficient to satisfy the constitutional needs of Congress. See supra, "House Rule Regarding Tabulating AVC Applications," p. 57. This also means the use of a private collection as temporary public record listing the applying states is also sufficient for constitutional use by Congress. The problem is this information alone does not answer the question of <u>how many</u> convention calls Congress must issue. That can only be answered by a complete and accurate record of applications. See "Request for Inspection and Audit of State Applications," p. 51.

The main reason for the proposed regulations of this Petition is not only to provide Congress a record equivalent to other records the NARA produces for public and congressional use but to provide necessary information <u>to the convention as well</u>. The convention will ultimately have to address these applications and dispose of them in an orderly manner. This cannot be done if the convention doesn't even know where the applications are located and thus what text they contain. Unlike Congress a convention must examine the text of the applications and consider the terms and conditions expressed within them by the states. The convention is not bound by the applications except to the extent that all requests by the states contained in the applications automatically become part of the convention agenda. The proposed regulations of this Petition allow for use by the convention as well as Congress thus simultaneously satisfying several constitutional needs.

In 2007, Mr. Steve Moyer of the state of Vermont sent a letter of inquiry to Senator Bernard Sanders (D-VT) inquiring as the condition of the applications in the custody of the NARA. Senator Sanders referred to the inquiry to Mr. Rodney A. Ross, Center for Legislative Archives, NARA. Mr. Ross stated, "There is no single category for petitions asking for amendments to the Constitution, let alone for amendments by the convention route." While Mr. Ross listed numerous volumes a person "would need to be read to see if a particular document mentioned the convention process" his letter of response makes it clear the NARA had absolutely no idea as to the location of state applications in NARA files. Mr. Ross confirmed this when he speculated in his letter, "The Center for Legislative Archives probably holds the kind of petitions in which Mr. Moyer is interested."[152] Therefore, according to Mr. Ross, the location of state applications could be anywhere in the NARA if they are there at all.

The NARA admission irrefutably demonstrates the NARA is in violation of several federal statutes and regulations regarding proper record keeping procedures, not the least of which is certain knowledge of where the files in question are actually located. "Probably" these files are in "The Center for Legislative Archives" is not an adequate answer. Despite the mandates of 44 USC 2109 and congressional rules, the NARA is, to use a modern phrase, "clueless."[153] The situation has not altered in the ensuing years. In order to assemble his list of applications, the first in United States history showing photographic evidence of the applications, Petitioner, who lives in the Western United States, was required to enlist the services of a private research firm NICOM, Inc. located near NARA facilities in Alexandria, Virginia in order to perform the actual physical location of records described in the Ross letter.

According to Dr. John Arnold, President and co-founder of NICOM, Inc., "I have spoken with archivists at NARA and, especially, the Center for Legislative Archives at Archives I. It does not appear that any database or cataloguing effort has been undertaken by NARA regarding the Article V Applications. The CLS, in fact, points to sites online, such as Friends of the Article V Convention, in regards to questions about the applications."[154]

The NARA has made no effort to redress the condition of the applications even after the issue was brought to their attention. Instead, the NARA routinely refers citizen inquiries about state applications to the FOAVC website, a private collection of applications. This is final proof the NARA has no catalogue of these applications despite the requirements of federal law. Petitioner believes this informal referral by the NARA proves the NARA believes Petitioner's collection is a reliable source of public record, albeit an unofficial source of public record. As the NARA is already referring citizens to this source of reference this proves the NARA has sufficient confidence in the information contained in the FOAVC collection to satisfy the requirements of public

[152] See Appendix, "NARA Response Letter—Second Page," p. 44 [Emphasis added].
[153] See supra, "Federal Statutes and Regulations Relative to This Petition," p. 31; "NARA Obligation of "Immediate" Use under Congressional Rules," p. 56; fn. 89.
[154] Text of email sent by Dr. Arnold to Petitioner dated Friday, January 16, 2015. Dr. Arnold has been active in archival research for over 20 years. In 2000 he co-founded NICOM, Inc., which stands for The National Information Company. The specialty of NICOM, Inc. is research in the "vast amount of information that is not online and requires extensive hands-on digging." The collection of applications Dr. Arnold refers to is the collection gathered by Petitioner and displayed in non-electronic form in the Appendix, pp. 46-57.

record. Therefore it is reasonable to state this collection can be used as a temporary source of official public record.

Proposed CFR Regulations Regarding Article V Convention Applications

The following proposed regulations are intended for inclusion in the Code of Federal Regulations (CFR) as Title 36—Parks, Forests, and Public Property, Chapter XII—National Archives and Records Administration, Subchapter B—Records Management, Part 1240 (currently in reserve). The title of the proposed regulations is "Records Management Procedures for Article V Applications." The proposed regulations are numbered according to CFR procedures. References to any CFR regulation or subsections of 36 CFR 1240 are made using CFR designations.

1240.10 Purpose and Definitions

1240.11 The purpose 36 CFR 1240 is to establish additional regulations under the administration of the Archivist of the National Archives and Records Administration (NARA) regarding the collection, recording, arrangement, storage, and immediate public and constitutional presentation of all state applications submitted to Congress for an Article V Convention call made under authority of Article V of the United States Constitution which are, or in the future may come, into the custody of the NARA.

1240.21 The need for additional regulations regarding records management maintenance for state applications as mandated by 36 CFR 1240 is state applications have a unique constitutional purpose requiring special treatment and processing above that usually associated with other federal records. While all regulations of 36 CFR Subchapter B, as applicable, shall apply to state applications, the Archivist of the United States, (Archivist) shall take care to apply not only those regulations found in 36 CFR Subchapter B as appropriate to state applications, but the regulations of 36 CFR 1240 as well. If there is a conflict between other federal regulations and the supplemental regulations of 36 CFR 1240, the Archivist shall favor the higher standard of care. Due to their critical constitutional role the Archivist shall apply all appropriate regulations associated with vital federal records as described in 36 CFR 1223.

1240.31 The unique constitutional purpose of state applications is they serve to cause a convention call by Congress for a convention for proposing amendments (Article V Convention) under the mandate of Article V of the United State Constitution (Article V). Thus these records serve a constitutional, rather than ordinary legislative, purpose. Article V mandates "The Congress … on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments..." The call is peremptory meaning Congress cannot refuse to call a convention under any circumstances. The Constitution specifies a specific numeric ratio of applying states to total number of states in the Union in order to cause Congress to call an Article V Convention. States may submit applications at any time. The Constitution imposes an immediate duty on Congress with the term "on the application… [Congress] shall call a convention for proposing amendments" to call the convention whenever the ratio of applying states is achieved. In order to satisfy this immediate constitutional demand Congress must, at all times, have a complete and accurate public record informing it of how many states have applied for a convention and how many applications have been submitted by the states. As the NARA is the official repository of these records, this fact imposes a special responsibility on the NARA to provide a continual, accurate, complete and immediately available catalogue of public record for constitutional use. The Archivist shall consider this responsibility as obligatory.

1240.40 The following definitions of terms and words shall apply to all sections of 36 CFR 1240 unless otherwise noted:

1240.41 The term “an Article V Application” shall mean any written document submitted under authority of Article V of the United States Constitution to Congress by a legislature of any state in the Union in which the language of that document states its intent under the authority of Article V of the Constitution is to cause Congress to call an Article V Convention [convention for proposing amendments] to the United States Constitution.

1240.42 “Authentic” as used in reference to an Article V Application, shall mean documented evidence either from official federal or state public records:

(A) Proving an application was proposed by the legislature of the state from which the text of the application states it originated or;

(B) Proving the application was submitted to Congress by a state legislature under the authority of Article V of the Constitution with the intent of tabulation as an application causing a convention call authorized by Article V of the Constitution.

1240.43 The term “complete and accurate record,” shall mean:

(A) The Archivist has publicly certified the NARA has exhausted all means of research to ensure the public record presenting all state applications in the custody of the NARA is correct and accurate as defined by 44 USC 2902 in that this record contains all state applications ever submitted to Congress or which exist in the public record of any state and;

(B) The Archivist has publicly certified the NARA has exhausted all means of research to ensure the texts of in its records are completely accurate when compared to any original text within state records such that the texts between the NARA records and state records agree in all aspects as to content.

1240.44 “Electronically stored” shall mean the recording and electronic storage of state applications in digital photographic form for public and constitutional use, in lieu of physical paper records for the purposes of public and constitutional presentation.

1240.45 “Electronic tier” means as the electronic storage of state applications whereby the records of the state applications are grouped electronically so as to represent one application from each of two thirds of the several state legislatures based on the alphanumeric label given each application.

1240.46 “Equal to the information” means any catalogue of state applications created by the NARA under the regulations of 36 CFR 1240, shall, at the minimum before becoming public record, contain the identical information of submitting states and applications as the private collection described in 36 CFR 1241.10:

(A) The NARA shall account for all discrepancies between its catalogue of applications and the private collection in an electronic report describing or explaining any discrepancies of record between the NARA catalogue and the private collection;

(B) The NARA catalogue shall account for all numeric notations of applications described in the private collection (meaning account for each numeric listing describing an application in the private collection) authorized in 36 CFR 1241.10;

(C) The NARA shall account for these notations by:

(1) Reproduction of the actual text of an application where the private collection only presents a notation of the application based on public record describing accurately in its electronic report which application text refers to which notation(s) in the private collection or;

(2) Presentation of a certificate of research specifying the numeric notation in private collection to be in error and briefly listing the reason(s) why the notation is incorrect (i.e., no such record can be found in either state or federal records or other similar reason).

1240.47 "Inaccurate" as used in reference to an Article V application, shall mean an error or mistake within the application not related to text of the application which shall include:

(A) Examination of the legal process by which the application was proposed by the state legislature for evidence of compliance to all applicable state laws;

(B) Examination of the signatories on the application to confirm all signatures required by appropriate state law are present and true;

(C) Examination for evidence of all state seals required to be on the application by appropriate state laws are present or;

(D) Examination of any issue which, if proven by documentary evidence, would lead to the conclusion the application was not properly proposed by the state legislature under appropriate state laws or;

(E) Examination of the process of recording employed in either House of Congress demonstrating such process contained any error of process such as duplicate publication of the application, failure to publish the application in the Congressional Record or its ancestral journals or any other failure of process the Archivist considers an error requiring correction to the state application.

1240.48 "Incomplete" as used in reference to an Article V application shall mean a discrepancy between the text of official state records of the application and the text of official federal records of the application. The discrepancy may either be:

(A) Missing text from the application otherwise shown in one or the other record or;

(B) Additional text in one record not found in the other record.

1240.49 "Physical record" means any paper copy of any state application which shall be in the possession or custody of the NARA, any committee of Congress, any federal agency or any state government agency including the state legislature of any state.

1240.50 "State application" (or "application") means any application submitted by a state legislature to Congress intended to as an Article V Convention application authorized under Article V of the United States Constitution.

1240.51 "Temporary use" describes that period of time that either Congress or an Article V Convention are permitted to have in their possession, care and custody copies, electronic or physical or both of state applications for official use.

1240.52 Any term of male or female gender (i.e., he or him, she or her) shall be construed to mean both genders.

1240.53 Any designation to a general CFR title referred in 36 CFR 1240 shall be construed to include all subsections of regulations found within or as part of that general CFR title or in 36 CFR 1240 as a whole.

1241.10 Use of Private Collection for Immediate Presentation

1241.11 Until Congress or the NARA shall have a catalogue of state applications which shall reproduce all records in the private collection herein described, the Archivist, under authority of 44 USC 2111 (2) shall consider it in the public interest to accept as temporary public record available for immediate public and constitutional use, the private collection of state applications electronically stored at http://www.article-5.org/file.php/1/Amendments/index.htm.

1241.21 The Constitution, mandating an immediate and peremptory action by Congress, that whenever two thirds of the several state legislatures shall apply, Congress shall call an Article V Convention. Congress, and the NARA, having no accurate or complete record of state applications currently in order to satisfy this constitutional requirement shall employ and use as a temporary public record the electronic collection of state applications described in 36 CFR 1241.11. The collection, consisting of photographic copies of pages of the Congressional Record, a recognized public record of federal public record shall be employed to fulfill for all intents and purposes, the constitutional requirement of a convention call authorized by Article V of the Constitution until such time as Congress or the NARA shall compile a complete and accurate catalogue of all state applications for a convention call.

1241.31 Upon completion of a complete and accurate catalogue of all state applications for a convention call by the Congress or the NARA equal to the information contained in the collection described in 36 CFR 1241.11, the Archivist shall announce the private collection described in 36 CFR 1241.11 as no longer being a temporary public record intended to fulfill for all intents and purposes the constitution requirement of Article V of the Constitution. The collection shall be then retired to the status of private collection and no longer have the effect of public or constitutional record. It shall be immediately returned to the exclusive ownership of the collector in the same condition and circumstance under which it was loaned to the government for use by the collection owner. Any additions, corrections and so forth made to the collection by the NARA as a consequence of any regulation in 36 CFR 1240 shall remain with the collection. It is understood that all times during its period of loan to the government the collector retains legal custody of the collection. If during the time of loan the collector shall die, he may assign custody to an heir who shall assume custody or, at the discretion of the collector or his heir, assign permanent custody to the NARA.

1241.41 The Archivist shall take such actions as he shall deem appropriate to record or otherwise electronically reference the private collection referred 36 CRF 1241.11 for use by the NARA and Congress during its tenure as a public and constitutional record. He may elect to preserve the collection for historic purposes if he desires when the collection is retired. The owner of the collection may, at his discretion, correct or otherwise update his collection during the tenure of public record provided such alteration reflects the use and intent of the collection and is based on photographic copies of public record or other public record which may be developed. Upon completion of the loan period of the collection specified in 1241.11, Section 36 CFR 1241 and all subsections thereof shall be considered null, void and terminated.

1242.10 Separation of Applications from other NARA Records

1242.11 All state applications shall be physically and electronically stored in files separate from all other records in the NARA. Appropriate designation of the physical location of these files together with appropriate labeling of all file boxes (or other appropriate storage devices the Archivist may designate) shall be employed to ensure proper accounting, tracking and storage of all state applications. All physical records of applications shall be stored in a single filing location within a single warehouse or other appropriate storage facility as designated by Archivist under the direct supervision of Archivist. The preservation of these applications shall be in compliance with standards of records storage described in 36 CFR 1242.24 together with other standards of proper record keeping maintenance as the Archivist may designate or that are specified in 36 CFR 1240.

1242.21 The physical record of a state application submitted to each House of Congress shall be stored together in a file folder (or other storage device as designated by the Archivist) intended for exclusive storage of that state application together with a physical record of any page of the Congressional Record noting submission of that application to either House of Congress. The volume, page number and date of the Congressional Record page shall be at all times visible and readable. If such information is not available on the page of the Congressional Record containing the record of the application such additional pages as are required to provide the information of volume, page number and date shall be stored with the state application. The physical record shall be labeled with the two letter Zip Code state designation of the submitted state followed by the four digit year, two digit month and two digit day (separated by hyphens) designation representing the earliest date of submission to Congress as noted in the Congressional Record or its ancestral journals. Text to text comparison of application text shall be employed as required to determine the required matching of state applications for a specific file.

1242.31 State applications whose texts do not match shall be stored separate files and receive a distinct alphanumeric designation as described in 36 CFR 1243.10. If such information is unavailable through the Congressional Record or its ancestral journals, the grouping shall be listed the submitting state, year, month and day as described in the text of application. The grouping of state applications files within the NARA shall be in such manner as to facilitate immediate public examination as to the location of the applications, the number of states submitting applications and the text of the applications.

1242.41 The Archivist shall formulate such rules of access for examination as he deems appropriate and necessary bearing in mind the need to preserve the physical record of state applications. The Archivist shall make all effort to ensure the physical record of applications are stored as concisely as possible meaning separate storage of unmatched or unaccounted applications shall be deemed temporary and all efforts to properly catalogue the applications shall occur.

1242.51 If the Archivist shall not designate another means of preservation of the physical record of state applications, then each paper application shall be sealed in a clear plastic wrapper of appropriate size and thickness to ensure quality and from which all air shall be withdrawn. The air shall be replaced with an inert gas in order to preserve the quality of the printing and paper on which the application is printed. All application files shall be protected from all forms of envi-

ronmental contamination such as dust, dirt, mildew, temperature extremes or sunlight which may threaten the quality of the original paper and printing on the state application. All state application shall be considered permanent public record by the NARA.

1242.61 The Archivist shall electronically photograph all state applications during the preservation process described in 36 CFR 1242.61 or at such time when the application is stored according to 36 CFR 1241.21. Such electronic preservation shall extend to all paper copies of the Congressional Record required in 36 CFR 1242.21. All electronic photographic copies of applications and Congressional Record pages shall be electronically reproduced and stored in the same manner and level of care afforded all other public records in the custody of the NARA.

1242.71 The electronic photographs described in 36 CFR 1241.61 shall be normally employed for use for all public and constitutional purposes and presentations. The Archivist shall designate these electronic photographs as official public record. Presentation of the physical records of applications shall be exclusively reserved to request by Congress or by an Article V Convention called by Congress or for examination by any official of any state from which the application originated. Either Congress or the Article V Convention may formulate rules for the acquisition of these physical records as temporary records for their official use. The Archivist may establish such rules of care, custody and length of use as he deems appropriate for these physical records during their temporary acquisition and for the transfer and return of all physical records to the NARA.

1242.81 Upon request of an officer from either House of Congress or by an officer designated by an Article V Convention empowered by the convention to make such request, the Archivist shall make available to either Congress or Article V Convention electronic copies of all state applications in the possession or custody of the NARA for their temporary official use. If the Archivist is aware of any application not in the possession or custody of the NARA, he shall notify Congress or the Article V Convention of this fact and make all efforts possible to obtain the application for use by Congress or the convention. If Archivist should come in possession of such application he shall provide an alphanumeric designation of the application, electronically photograph it, electronically store it and establish its correct place in the electronic tier system as required by appropriate regulations of 36 CFR 1240. If a state or individual who has possession of the application from whence the Archivist obtained it requires its return, the Archivist shall make such arrangements as shall be necessary and proper for the speedy return of the application to its rightful owner upon completion of the appropriate requirements of 36 CFR 1240. The Archivist shall establish such rules as he deems appropriate for the care, transfer and return to the custody of the NARA all electronic records transferred to Congress and/or the convention.

1243.10 Alphanumeric Designation of Applications

1243.11 Each state application in the custody of the NARA shall be assigned a permanent, unique alphanumeric designation intended to facilitate reference, storage, and file use as well as public and constitutional presentation. The alphanumeric notation shall be applied to all copies of a state application whether such application shall come from the House of Representatives, the Senate of the United States, the Congressional Record or its ancestral journals, state records or other source public or private.

1243.21 The alphanumeric designation of each state application shall consist of the Zip Code abbreviation of the submitting state, followed by the four digit year of submission of the state application to Congress based on the earliest publication date in the Congressional Record or its ancestral journals, followed by the two digit month of that submission followed by the two digit day of that submission. All notations shall be separated by a single hyphen (-) from each other but shall be spaced and written so as to form a continual alphanumeric designation. Separation of the alphanumeric designation on two or more lines of type on the file containing the state application is forbidden but is permitted in routine editorial use.

1243.31 For the purposes of illustration an application submitted to Congress by the state of Vermont published in the Congressional Record or its ancestral journals on April 12, 1883 as the earliest publication date would be: VT-1883-04-12. Later publication of the application in the Congressional Record or its ancestral journals shall cause that physical record to be stored in the file as described in 36 CFR 1242.21 but shall not cause the creation of a second alphanumeric designation reflecting later publication dates.

1243.41 If any of the information necessary to create the alphanumeric designation as required by 36 CFR 1243.11 as to state, year, month or day of publication of the application in the Congressional Record or its ancestral journals is unavailable, the alphanumeric designation shall be based on the information contained within the text of the application showing the state, year, month and day the application was transmitted to Congress by the state subject to proof the application was actually received by Congress.

1243.51 If later research discovers a more accurate date of publication of any state application (or receipt by Congress) a new alphanumeric designation may, at the discretion of the Archivist, be substituted for the original alphanumeric designation. A notation of this change showing the old alphanumeric designation, the date of change of designation and reason for change of designation shall remain permanently in the file of the application. The Archivist shall also release such public information as he deems appropriate to reflect this change of alphanumeric designation and shall alter the electronic tier system described in 36 CFR 1245.10 accordingly being at all times bound by all provisions of 36 CFR 1245.10.

1243.61 If two or more state applications from the same state are published in the Congressional Record or it ancestral journals on the same year, month and day then the required alphanumeric designation shall include a single capital surrounded by parentheses () beginning with the capital letter (A) and followed in alphabetical sequence (B), (C), (D) etc. until all state applications are individually designated. There shall be no spacing or hyphen between the final day digit and the

single capital designation. As example, two applications submitted by the state of Vermont whose earliest date of publication in the Congressional Record or its ancestral journals was April 12, 1883 would be designated VT-1883-04-12(A) and VT-1883-04-12(B).

1244.10 Records Procedure, Cataloguing and Public Presentation

1244.11 In accordance with 36 CFR 1220.18 all state applications are to be grouped physically and electronically into records series as described in 36 CFR 1242.10 for the following reasons:

(1) All applications relate to the function of calling of an Article V Convention under the terms specified in Article V of the Constitution;

(2) The applications document a specific constitutional transaction required to effectuate the calling of an Article V Convention;

(3) The applications have a particular physical form and relationship arising out of their creation by the several state legislatures in that the Constitution mandates two thirds of the several state legislatures must submit applications for a convention in order to cause Congress to call and therefore the number of applications is critical to determine whether Congress is obligated to call a convention or not;

(4) All applications have, or should have been or were intended by the submitting state to be recorded in the Congressional Record under the rules of one or both Houses of Congress and therefore record series grouping is necessary to determine whether such intent has been carried out.

1244.21 The Archivist shall maintain a paper catalogue of all state applications in the custody of the NARA together with at least two paper copies of the catalogue showing the location, and such other information as the Archivist deems appropriate for internal NARA use or necessary to facilitate other regulations of 36 CFR 1240. The paper catalogue shall be kept:

(1) In the office area of the warehouse where the state applications are stored;

(2) In the office of the Archivist and;

(3) In an area separate from the two locations described in this regulation so as to serve as a physical back up for the other two catalogues. The Archivist shall determine the separate location and, at his discretion, may designate further locations and provide for storage of additional copies of the paper catalogue.

Whenever required due to updates in the state applications the Archivist shall cause to be published a new paper catalogue which shall replace the former catalogues. The Archivist may elect to preserve former copies of the catalogue for historical purposes or may elect to dispose of old copies of the catalogue as he deems appropriate.

1244.31 The title of the paper catalogue is: “A Record of State Applications for an Article V Convention.” Underneath the title shall be the full date (month, day and year) the catalogue takes effect. The catalogue shall be printed on standard white typing paper (8 ½” by 11 ½”) of at least 20 pound paper weight or more. The Archivist shall designate the method of binding and details of cover and color of cover for the paper catalogue as he deems appropriate.

1244.41 The paper catalogue shall, at the minimum contain the following information for each state application:

(1) The alphanumeric designation of the state application as described in 36 CFR 1243.

(2) The physical file location of each state application including notation of the file box or other file storage unit the application is stored in and the position of the file in regards to bin location, shelf location or other pertinent physical information required in order to conclusively

establish the storage location of the file storage unit in the warehouse shelving in which the application is stored.

1244.51 The Archivist shall mandate and create such warehouse procedures as necessary to ensure appropriate NARA employees shall, not less than once a week, conduct a rotating physical cycle count of not less than 50 randomly selected state applications each time which shall be verified as to content and location within the warehouse where the state applications are stored. Employees shall be required to sign their names to the cycle count. Variances from the paper catalogue exposed during the cycle counts shall be immediately addressed by NARA supervisory personnel and all such variances shall be reported directly to the Archivist who shall immediately investigate and take such steps as necessary to resolve the variances.

1244.61 The Archivist shall create an electronic catalogue reflecting the records of state applications identical in information as is recorded in the paper catalogue required by 36 CFR 1244.21 and 36 CFR 1244.31. The title of the electronic catalogue is: "A Record of State Applications for an Article V Convention (Electronic Version)" followed underneath the title by the full date (month, day and year) the catalogue takes effect. The electronic catalogue shall list state applications in alphanumeric designation order. The electronic catalogue shall present state applications grouped by applications from each state. The electronic catalogue shall list applications by application tier as described in 36 CFR 1246.10. The electronic catalogue shall list all state rescission of applications under the terms described in 36 CFR 1247.10. The catalogue shall provide a fully linked cross-reference index for public use as well as a complete table of contents for the electronic catalogue. The electronic catalogue shall be updated at least once a year or the occasion that a new paper catalogue shall take effect. The Archivist may store the old electronic catalogue for historic purpose if he chooses.

1244.71 The Archivist shall publish the electronic catalogue in a prominent location on the NARA website. He shall provide download capacity for the electronic catalogue in both pdf and html formats. The Archivist may, under the terms of 44 USC 2109, apply for permission to print copies of the state applications in such volumes and time frame as he shall deem appropriate and may offer copies of these volumes to the general public under appropriate CFR regulations. Such volumes shall reflect in all respects the information found both in the electronic and paper catalogues but NARA is not obligated to provide updated copies of volumes already sold to the public if the record of state applications shall alter.

1244.81 The Archivist at all times shall make ready for immediate use by Congress or an Article V Convention the latest updated electronic catalogue of state applications available. He shall, on request by any member of Congress, or delegate to an Article V Convention, take such steps as necessary to verify that no further state applications have been submitted by any state to Congress or received by the NARA. If the Archivist shall discover any state application has been received by Congress or the NARA he shall immediately notify Congress by special letter to the Speaker of the House and the President of the Senate and immediately update his paper and electronic catalogues and electronic tiers to reflect this information. If a convention is in session he shall also notify the convention of this fact of record variance.

1245.10 Establishment of Applications into Constitutional Tiers

1245.11 An electronic tier system of state applications shall be established by the Archivist. Each tier of state applications shall consist, in sequential alphanumeric designation order from the oldest application submitted to Congress by each state legislature (based on the alphanumeric designation required by 36 CFR 1243.10) and published in the Congressional Record or its ancestral journals to the newest submitted application (based on alphanumeric designation required by 36 CFR 1243.10).

(A) The number of state applications in each electronic tier shall consist of one application from each applying state legislature until the total shall equal one application from two thirds of the several state legislatures in the Union at the time of publication of the latest application completing that tier. Each state in each electronic tier shall be assigned an ordinal designation for that tier. When the total of applying states for each electronic tier is achieved such that the number of applying states satisfies the two thirds requirement of Article V of the Constitution, the Archivist shall declare the tier constitutionally completed. This tier shall be designated as 1st Tier.

(B) As no state shall have two applications in the same electronic tier if two state applications exist with the same alphanumeric designation separated by a capital letter as required by 36 CFR 1243.16, the application with the lowest alphabet letter (capital A being the lowest possible alphabet letter) shall be placed in the lowest ordinal tier (1st tier being the lowest possible ordinal). The next state application from that state with the next lowest alphabet letter and next lowest alphanumeric designation shall be placed in the next highest ordinal tier.

1245.21 Beginning with the next oldest state application (based on the alphanumeric designation required by 36 CFR 1243.10) not included in the previous electronic tier, a new tier designated 2nd Tier shall be created. When that tier shall consist of one state application from each state legislature of two thirds of the several states in the Union at the time of publication of the latest application completing that tier thus satisfying the two thirds requirement of Article V, the Archivist shall declare that electronic tier constitutionally completed.

1245.31 The Archivist shall continue the process of creation of electronic tiers, designating ordinal positions for all states within that tier, assignment of a tier ordinal and declaration of constitutionally completed tiers based on the two thirds requirement of Article V of the Constitution starting from the next oldest application not part of the previous electronic tier until one state application from each of two thirds of the several state legislatures in the Union at the time of publication of the latest application completing that tier shall be established. He shall continue this process until all state applications in the custody of the NARA are assigned a tier and ordinal position.

1245.41 Any electronic tier not consisting of one application from each of two thirds of the state legislature in the Union at the time of publication of the latest application completing that tier shall be designated an “open tier.” Any state application received by the NARA following completion of tier assignment of all state applications under NARA custody shall be assigned an ordinal position in the open tier until that electronic tier shall satisfy the one application from each of two thirds of the state legislatures in the Union at the time of publication of the latest application standard set by at which time it shall be declared constitutionally completed by the Archivist

and a new electronic tier begun. The Archivist may create as many open tiers as necessary to accommodate all requirements of 36 CFR 1240.

1245.51 The Archivist shall assign any new applications not already in the possession of the NARA received either from Congress or by means of its own research to whatever appropriate tier its alphanumeric designation shall dictate. The Archivist shall make such adjustments required in the tiers to accommodate any older application which may, by its discovery, alter the linage of state applications of any tier. If no alternation is required the state application shall be added to the linage of state applications in whatever tier has not yet achieved a tabulation of one application from each of two thirds of the state legislatures in the Union at the time of publication of the latest application. Upon admission of additional states to the Union, the Archivist shall adjust the electronic tier as required to reflect the new two thirds ratio required by Article V and shall account for the total number of states in the Union at the time of submission in any electronic tier.

1245.61 The following language shall be electronically attached to the bottom edge of each state application with the blanks surrounded by parentheses () filled in with appropriate words relative to each individual state application: "Application of the (name of state) State Legislature for a Convention to Propose Amendments to the United States Constitution, (date of application followed by "Published in the Congressional Record" (or name of ancestral journal) date of publication in the Congressional Record or its ancestral journals, followed by its alphanumeric designation)." A second paragraph below this text shall read, "Article V of the Constitution provides that Congress must call a convention for proposing amendments to the Constitution if two-thirds of the state legislatures apply for one to Congress. This is the (ordinal designation of state and tier) for a convention for proposing amendments (also known as an Article V Convention) from the (name of state) legislature."

The Archivist shall designate the font, boldness and size of the type used in the text but at all times the text shall be easily readable from a distance of at least three feet.

1245.71 Above each state application shall be an electronic title in font, size and boldness deemed appropriate by the Archivist but which will be easily readable from a distance of at least three feet shall be the text: "Application of the (name of state) State Legislature for a Convention to Propose Amendments, (date of application)."

1245.81 The Archivist shall electronically post each electronic tier as a separate web page on the NARA website and provide appropriate and easy to locate links to the pages of the actual text of the applications available for public and constitutional use. As the Constitution mandates Congress shall call a convention "on the application of two thirds of the several state legislatures" the Archivist shall notify the Speaker of the House of Representatives and President of the Senate by certified letter of the number of electronic tiers which exist and the fact each tier contains one application from each of two thirds of state legislatures with the total number of state applications in each tier equal to two thirds of the state legislatures in the Union at the time of publication of latest application completing the electronic tier. He shall declare the tier constitutionally satisfies the numeric requirement for a convention call established by Article V of the Constitution and recommend Congress act upon the applications in a speedy manner. The Archivist shall

post this certified letter on the NARA website together with any response he shall receive from either Congress or each House of Congress.

1245.91 An example of the electronic tier system follows. If the state of Virginia submitted an application published in the Congressional Record or its ancestral journals on May 5, 1789, its alphanumeric designation would be: VA-1789-05-05. If no other state application was published prior to this would mean this application is assigned the ordinal designation of 1st state, 1st Tier. If the next state to submit an application was New York published on March 3, 1835, its alphanumeric designation would be: NY-1835-03-03. This application would become the second application in the 1st Tier, thus: 2nd state, 1st Tier. This process would continue until two thirds of the state legislatures in the Union at the time of publication of the latest application completing the tier are accounted for. If, for example, an application from the state of Washington published on March 13, 1908, designated WA-1908-03-13 was the 31st state to have an application published, then it would be 31st state, 1st Tier and the tier would be declared constitutionally completed as there were only 46 states in the Union as of March 13, 1908. Two thirds of the applying states legislatures of 46 states equal 31 states.

Thus, any state application published from March 13, 1908 onward would begin the creation of the 2nd Tier. Thus if the state of South Carolina had an application published on May 9, 1908, designated SC-1908-05-09 would become 1st state, 2nd Tier. The collection of applications would continue until two thirds of the applying state legislatures in the Union at the time of publication was reached which might be the state of Wyoming on June 2, 1929 designation WY-1929-06-02 at which time it would be 32nd state, 2nd Tier and be constitutionally complete as there were 48 states in the Union at the time of publication. Two thirds of 48 are 32 states. If Wyoming had submitted two applications on the same day (A) and (B) thus WY-1929-06-02(A) and WY-1929-06-02(B) application WY-1929-06-02(B) would be 1st state, 3rd Tier.

The process would continue again from June 2, 1929. If the two thirds number of applying states were achieved prior to 1959 when the dates when Alaska and Hawaii became states, the two thirds numbers would be based on 48 states or 32 applications. Following the dates of admission of Alaska and Hawaii the number of applying states would rise to 34 states to satisfy the two thirds requirement of the Constitution and remain at that number for each electronic tier established thereafter unless new states enter the Union at which time the Archivist would adjust the number of applying states necessary to satisfy this new two thirds standard based on the date of admission of the new state(s).

1246.10 Challenge to the Application Record

1246.11 A petition of Challenge to the Application Record (CAR) may be submitted to the Archivist by any citizen of the United States who has reason to believe any state application is:

(1) Inaccurate;

(2) Incomplete or:

(3) Not authentic.

(A) Upon receipt of the CAR petition, the Archivist shall commence an immediate investigation of the challenge raised in the CAR petition. The petition shall describe in full detail the basis of allegation that a state application is inaccurate, incomplete or not authentic. The petition may allege any or all errors of accuracy, completeness or authenticity. The Archivist shall establish such rules as he deems appropriate for the processing of a CAR Petition including its form and required documentation. All CAR Petitions together with any evidence submitted with the petition and any report, response or any other official action of the Archivist are public record and shall be electronically posted in full text on the NARA website as they become available.

(B) A citizen submitting a CAR Petition bears the burden of proof in his petition. Burden of proof shall only be satisfied by the presentation of state or federal public records or such other documented evidence as the Archivist may accept. The Archivist shall have sole authority of determination of whether the CAR Petition has met the required burden of proof requiring correction of the application record.

1246.21 A CAR Petition is limited to:

(1) Determination of discrepancy of text between application text in state public record and the application text in the federal record requiring correction to the text of the application;

(2) Determination state public record conclusively proving an application purportedly proposed by a state legislature origin was in fact not proposed by that state legislature and therefore should not be included in any tabulation or catalogue of applications or;

(3) Determination state public record conclusively proving an application not previously published in the Congressional Record or its ancestral journals was proposed by the state legislature and therefore should be included in any tabulation or catalogue of applications;

(4) Determination of any other fact of record relevant to a state application which during the course of the CAR investigation mandated by this regulation the Archivist shall determine warrants correction to that state application.

1246.31 The full text of a state application published in the Congressional Record or its ancestral journals is considered authentic and have full constitutional force unless investigation authorized in 36 CFR 1246.21(1), (2) shall prove otherwise. Notations of state applications without accompanying full text in the Congressional Record or its ancestral journals may be challenged as specified in 36 CFR 1246.21 on the basis the complete text of the application has not been published in the Congressional Record or its ancestral journals. Lack of full text publication shall be judged a discrepancy of federal record under 36 CFR 1241.21(4) but such CAR challenge is terminated if the full text of the state application in question is located either in state or federal archival records and confirmed as authentic according to process of challenge described in 36 CFR 1246.10.

1246.41 Any CAR Petition investigation shall conclude no later than 30 working days from the date of receipt of the petition by the Archivist unless the Archivist for good cause shall extend the date of conclusion. The Archivist shall issue a public report specifying the detailed reasons for such delay. Such extension shall be limited to no more than 60 working days past the original 30 day deadline. The Archivist shall be permitted to impose no more than a single delay for any CAR Petition. At the conclusion of the investigation the Archivist shall issue a public report presenting in detail the reasons for his determination and the basis of his conclusion as to the completeness, accuracy and authenticity of the state application record in question as well as describing what actions, if he any, he shall immediately implement to address the issues raised in the CAR petition.

1246.51 It shall be the responsibility of the Archivist during his investigation to compare any records of state applications in control of Congress with the information contain in a CAR Petition. If the Archivist, at the conclusion of his investigation, shall determine the CAR Petition has merit requiring correction to a state application he shall notify Congress by letter to the Speaker of the House of Representatives, the President of the Senate and the Clerk of the House of Representatives. The Archivist shall immediately implement such corrections to the state application as required.

1246.61 A state application shall be judged to be complete, accurate and authentic and have full constitutional force if, during his investigation, the Archivist determines any of the following conditions to be true:

(1) A text to text comparison between a paper copy of the state record certified by a state official qualified by state law to provide such certification said to be the text approved by the state legislature and the paper copy of the application in receipt by the Archivist matches in all details and in all respects;

(2) The printed copy of the state record certified by a state official qualified by state law to provide such certification as correctly and fully representing the text of the paper copy matches in all details and in all respects the paper copy of the application in receipt by the Archivist or published in the Congressional Record or its ancestral journals.

1246.71 If the Archivist shall discover a challenged state application is not authentic, complete or accurate he shall immediately remove the application from the physical files where applications are ordinarily kept and place it in a special location of his designation noting on the file the application is not an authentic, complete or accurate state application. He shall remove all electronic records of the state application from the NARA website and readjust the electronic tiers of state applications accordingly. He shall post a notification of removal specifying the reason for removal on the NARA website. The Archivist shall notify Congress as well as appropriate state officers of the unauthentic, inaccurate or incomplete state application.

1246.81 Any state legislature whose state application is determined by the Archivist in a CAR investigation not to be authentic, complete or accurate may challenge the determination of the Archivist by means of a second CAR challenge. No other party except a state legislature is permitted to challenge the final determination of a CAR Petition by the Archivist. If a state legislature challenges a final determination of the Archivist in a CAR Petition, the Archivist shall reopen the challenge treating it as a new CAR Petition. Upon request of the state legislature, the Ar-

chivist shall appoint a special investigator outside the NARA to conduct the second CAR investigation. The burden of proof of documentary evidence in the second CAR challenge lies with the state legislature and it shall be the responsibility of the state legislature to present documented evidence refuting the original CAR decision of the Archivist not originally presented in the first CAR petition. The state legislature may designate any state officer of its choosing to represent its interests in challenging a final CAR determination made by the Archivist. The state legislature shall not be permitted to submit as part of its burden of proof passage of the state application under challenge by the state legislature done after the date of submission of the original CAR petition challenging the state application.

1246.91 If the condition specified in 36 CFR 1246.21(3) shall be proved correct in a CAR petition the Archivist shall:

(1) Immediately present the state application to the Congressional Record and request full text publication of the state application;

(2) Electronically post the state application after assignment of an alphanumeric number based on the state, year, month and day the state application was passed by the state legislature in its appropriate electronic tier and ordinal position and;

(3) Make adjustments to the applications in the electronic tiers as is necessary to reflect the proper ordinal and tier position of the application. If the tier of applications in which the application would normally appear has been discharged, the Archivist shall assign the application to the next available tier assigning it to the position of first ordinal for that tier and adjust the electronic tiers accordingly.

1246.95 If the Archivist has reason, to believe, based on the evidence presented in a CAR Petition that petition has been submitted with intent to delay or otherwise thwart a required Article V Convention call he shall not act on the CAR Petition and shall inform the citizen of this belief together with the reasons for his belief. The citizen shall be given a period not to exceed 30 days from the date of transmission of the statement of Archivist denying the petition to respond to the Archivist. The response shall be limited exclusively to responding to those objections presented by the Archivist in his denial. The citizen who has submitted the CAR Petition shall bear the burden of proof of demonstrating the CAR Petition was not submitted with intent to delay or otherwise thwart a required Article V Convention call. The Archivist will make a final determination as to the disposition of the petition based on this response and notify the citizen of his final determination.

1247.10 Required Application Research by the NARA

1247.11 The Archivist shall direct a complete, page by page examination of all records of Congress in the custody of the NARA in order to obtain any record of a state application for an Article V Convention call. The Archivist shall issue periodic certifications of such research specifying what files have been examined, the date of examination, the name and title of the NARA employee making such examination and the results of the examination

1247.21 The Archivist shall transmit written inquires to all appropriate state agencies of each state of the Union regarding the status of all state applications for an Article V Convention call. The Archivist shall direct such actions as he deems necessary and proper to work with state archivists and other appropriate state officials for the full recovery of all state applications proposed by any state legislature.

1247.31 The Archivist shall cause examination of all references in any publication which shall refer to any state application and shall, determine the validity of such reference. The Archivist shall use his best efforts to locate the state application in question. If such state application is located, and is previously unknown to the NARA, the Archivist shall take such steps as necessary to secure the original paper copy of the state application (consistent with applicable state regulations regarding state records) and process the state application under the general applicable rules of 36 CFR 1240.

1247.41 The Archivist shall assign such NARA personnel as he deems necessary to execute any provision of 36 CFR 1240. The Archivist shall assign such managerial duties as he deems appropriate to NARA personnel for the execution of any provision of 36 CFR 1240. The Archivist may establish such departments within the NARA to execute any provision of 36 CFR 1240 as he deems appropriate. All such personnel, managers and departments are subject to all other statutes and regulations of federal law as they shall apply.

1247.51 The Archivist shall independently verify the authenticity of all state applications in the custody of the NARA and shall employ such means of verification as he shall deem proper provided that such verification shall, at the minimum, involve written contact with appropriate state officials from the state in question said to have submitted the application to Congress together with employment of other record keeping procedures described in either federal statute or regulation usually employed to established the authenticity of any record.

1248.10 Discharged and Rescinded State Applications

1248.11 State applications which shall cause Congress to issue an Article V Convention call shall, upon the issuance such call, be designated by the Archivist as Discharged Applications.

1248.21 The Archivist shall separate the paper copies of all Discharged Applications from other state applications into specified files which shall be kept in the same storage area as all other state applications but in a distinct filing area clearly marked. He shall electronically remove the entire tier of state applications which have caused Congress to call an Article V Convention and electronically store the state applications and tier for permanent preservation. All Discharged Applications shall be available for public inspection by electronic means but the Archivist shall make such statement as necessary to instruct the public the state applications on display no longer have constitutional effect as they have already caused a convention to be called. The ordinal designation of any electronic tier shall attach permanently to that tier and shall become its ordinal designation when that tier shall become a set of Discharged Applications.

1248.31 Any state application received by the Archivist which purports to a "rescission" by a state legislature of a previously submitted state application shall be stored in a distinct and separate section of files in the same area as which all state applications are kept. The Archivist shall not remove any state application from any paper file nor shall he alter any electronic record of any state application regardless of any instruction to do so within a state "rescission." The Archivist shall not electronically post any state application purporting to be a "rescission" by a state legislature of a previously submitted state application.

1248.41 The Archivist shall make such notation on the files of any state application purporting to be a "rescission" by a state legislature of a previously submitted application that shall state the following:

"While the rules of both houses permit Congress to vote to "withdraw" memorials, in the specific instance of applications by the states for a convention call erroneously labeled as memorials by the House and Senate, the rules do not apply to state applications for a convention call as it is: (1) a violation of the Tenth Amendment in that permits the states the right to nullify entries in a proprietary federal journal record mandated by the Constitution which the Tenth Amendment expressly denies states the authority to so regulate; (2) an action which violates Supreme Court rulings regarding the prohibition of "addition[s]" to the text of Article V without benefit of an amendment permitting such action; (3) a violation of the "peremptory" requirement of Article V vis-à-vis Congress and a convention call as it permits Congress discretion where no such authority is either expressed or was intended by the Founders; (4) an action which is also forbidden to the states as the peremptory requirement of Article V upon Congress equally applies to the states meaning as Congress cannot deliberate on an application so too are the states from presentation of an application requiring deliberation which the congressional rules, if they were effective, require; (5) the an act of "rescission" (i.e. nullification) of a federal record and therefore is a <u>congressional</u> power not a state power as congressional rules clearly specify it only requires the consent of both houses of Congress to "withdraw" a memorial once it has been submitted to Congress and does not describe or require state power to do so and; (6) a power which can be used by Congress to "rescind" (i.e. nullify) <u>any</u> application regardless of whether the applying state

desires such rescission thus rendering the entire mode of amendment proposal entirely subject to congressional control and; (7) a misinterpretation of the rules of Congress in that the rules relate to “memorials and petitions” whereas a state application is an “application” and therefore not a memorial or petition and hence not affected by the rules in question. Therefore states may not unilaterally “rescind” (or nullify) an application for a convention call and indeed have no such constitutional authority whatsoever to do so and neither may Congress as such action is a violation of congressional rules as well as the Constitution.”

1248.51 The Archivist may, at his discretion, or on the request of Congress or either House of Congress, or, on the request of any officer of a convention empowered by the convention to make such request, shall provide such reports describing such details as requested, or which the Archivist believes are necessary, regarding discharged applications or “rescinded” applications to the House of Congress (or both) or to the officer of the convention making the request.

1249.10 Public Reports to Congress; Commencement of Regulations

1249.11 The Archivist shall make such reports to Congress regarding state applications for an Article V Convention as are required by any provision of 36 CFR 1240.

1249.21 Upon request of any committee of Congress or as required by any other statutory provision or federal regulation, or on request by the President of the Senate, the Speaker of the House of Representatives or the Clerk of the House of Representatives, the Archivist shall make such reports regarding state applications for an Article V Convention as necessary to satisfy the request, regulation or statute.

1249.31 Notwithstanding any other requirement of law, the Archivist shall, at the commencement of each new session of Congress or at the beginning of each calendar year, deliver to the Speaker of the House of Representatives and President of the Senate and the Clerk of the House of Representatives a report describing: (1) the total number of state applications in the custody of the NARA; (2) the number of states which have submitted state applications to Congress; (3) the number of complete electronic tiers comprising two thirds applications by the state legislatures; (4) the number of Article V Conventions, (in the opinion of the Archivist, based on the number of completed electronic tiers) Congress is obligated to call; (5) such other information as the Archivist shall deem necessary and proper to include in the report or such information as shall be requested by the Speaker of the House of Representatives, the President of the Senate or the Clerk of the House of Representatives. The Archivist shall cause copies of all reports required or requested to be submitted to Congress or any member of Congress or staff thereof or which shall be requested by any member of an Article V Convention under authority of any subsection of 36 CFR 1240 to be transmitted to the secretary of state of each state in the Union and shall notify Congress of the transmission of these reports to the states.

1249.41 All reports by the Archivist in regards to state applications in the custody of the NARA are public record and, at the minimum, shall be posted electronically on the NARA website for public review.

1249.51 The Archivist shall urge Congress to pass such permanent rules as necessary in both the House and Senate as to direct the simultaneous publication of all state applications in the Congressional Record. He shall urge Congress establish rules to publish the full text of all state applications in both the House section and Senate section of the Congressional Record. He shall urge Congress to adopt the alphanumeric designation of applications as specified in 36 CFR 1243.10 for all applications submitted to Congress and urge this designation shall be required to remain with the state application. On the enactment by Congress of the proposals of this subsection of 36 CRF 1240 this subsection shall be null, void and terminated.

1249.61 The finding of any section or subsection of 36 CFR 1240 to be unconstitutional shall have no effect on the remaining sections of the regulation which shall remain in full legal force. 36 CFR 1240 and all subsections thereto shall take effect 30 days after publication in the Federal Register.

Conclusion and Request for Initiation of Rule Making Process

This Petition for Rule Making has unequivocally demonstrated the need for specialized rules of procedure in regards to state applications to Congress for an Article V Convention call. The current process, if it can be so described, is entirely inadequate primarily because there is no current process.

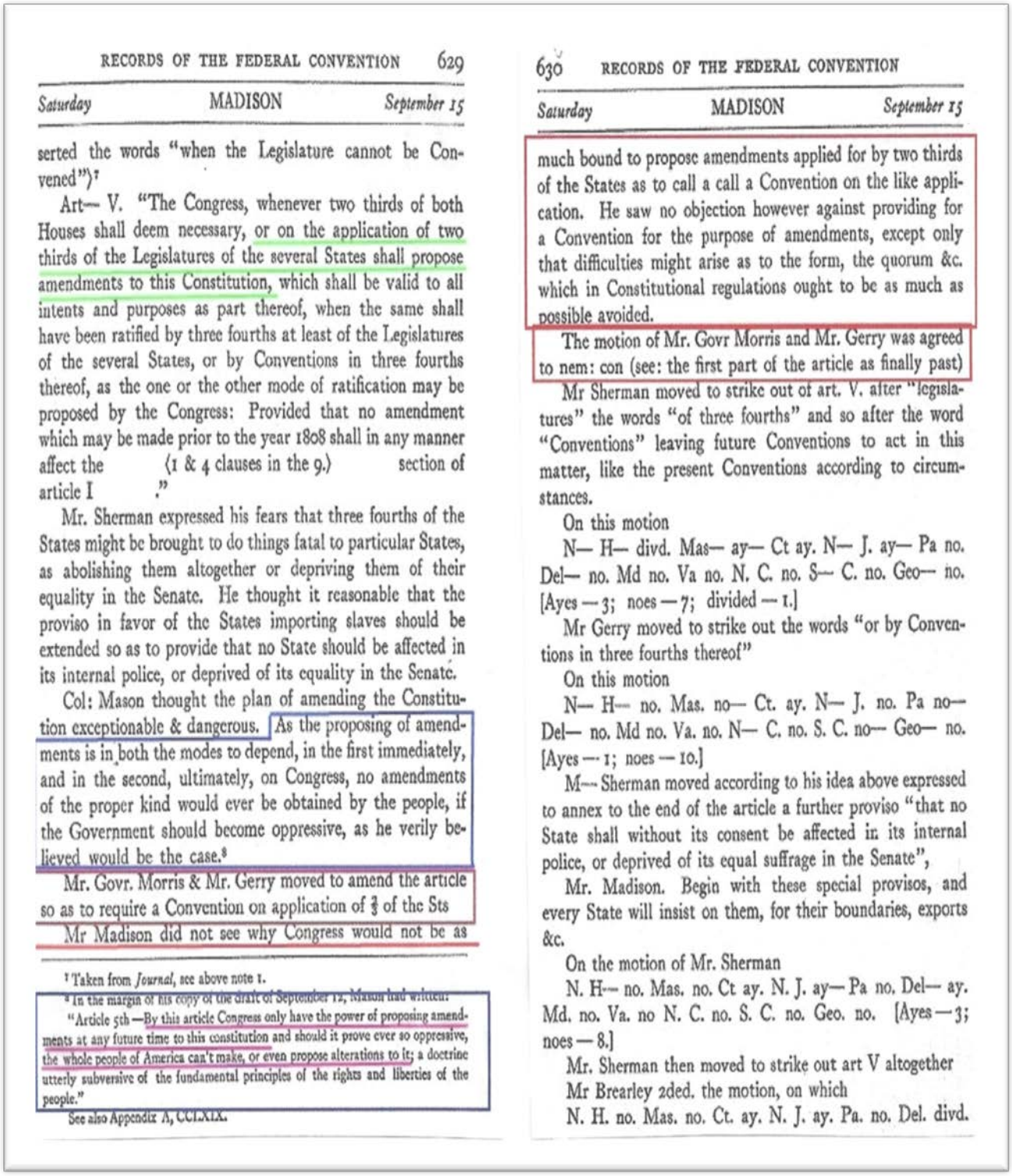
As has been demonstrated the NARA cannot even state with certainty where in its massive files the state applications are located using the word "probably" to describe a possible location and admitting that no conclusive record of location exists within the NARA. Documentary evidence has been shown demonstrating the NARA is so lax in its treatment of the state applications it has been reduced to reliance on a private collection in order to answer public inquires by those wishing to view the applications. Such procedure is totally contradictory to statutory requirements mandating the NARA maintain its files in such manner as to permit ready public access.

All this might be acceptable given the massive job of record keeping assigned the NARA were it not for the fact these applications fulfill a vital constitutional purpose and under the terms of the Constitution must be available for immediate public and constitutional service, a command echoed not only in the Constitution but stated emphatically in statute, regulation and congressional rule. The only fair statement possible given these facts is the NARA has blatantly ignored these laws and rules. The fact is, based on the evidence presented in this Petition, the NARA can no more state with certain accuracy how many state applications exist, where they are located or which state have submitted them. In short, the NARA cannot answer the ultimate question: have the states submitted a sufficient number of applications to satisfy the two thirds requirement of Article V of the United States Constitution thus mandating Congress call a convention for proposing amendments? While the public record emphatically answers the question as "yes" the fact remains the NARA, charged as official repository of all federal government records cannot begin to answer this question by means of its own resources.

Such a condition is intolerable. As proper presentation of the state applications is mandated by statute and regulation and demanded by the Constitution and as the NARA has not complied with these statutes and regulations or the Constitution, Petitioner demands the NARA immediately commence rule making procedures to implement the proposed regulations of this Petition in order to rectify the situation as quickly as possible.

Appendix

Records of 1787 Convention Volume II, pp. 629-30



serted the words "when the Legislature cannot be Convened")[7]

Art— V. "The Congress, whenever two thirds of both Houses shall deem necessary, or on the application of two thirds of the Legislatures of the several States shall propose amendments to this Constitution, which shall be valid to all intents and purposes as part thereof, when the same shall have been ratified by three fourths at least of the Legislatures of the several States, or by Conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: Provided that no amendment which may be made prior to the year 1808 shall in any manner affect the ⟨1 & 4 clauses in the 9.⟩ section of article I ."

Mr. Sherman expressed his fears that three fourths of the States might be brought to do things fatal to particular States, as abolishing them altogether or depriving them of their equality in the Senate. He thought it reasonable that the proviso in favor of the States importing slaves should be extended so as to provide that no State should be affected in its internal police, or deprived of its equality in the Senate.

Col: Mason thought the plan of amending the Constitution exceptionable & dangerous. As the proposing of amendments is in both the modes to depend, in the first immediately, and in the second, ultimately, on Congress, no amendments of the proper kind would ever be obtained by the people, if the Government should become oppressive, as he verily believed would be the case.[8]

Mr. Govr. Morris & Mr. Gerry moved to amend the article so as to require a Convention on application of ⅔ of the Sts

Mr Madison did not see why Congress would not be as

[7] Taken from *Journal*, see above note 1.

[8] In the margin of his copy of the draft of September 12, Mason had written:

"Article 5th —By this article Congress only have the power of proposing amendments at any future time to this constitution and should it prove ever so oppressive, the whole people of America can't make, or even propose alterations to it; a doctrine utterly subversive of the fundamental principles of the rights and liberties of the people."

See also Appendix A, CCLXIX.

much bound to propose amendments applied for by two thirds of the States as to call a call a Convention on the like application. He saw no objection however against providing for a Convention for the purpose of amendments, except only that difficulties might arise as to the form, the quorum &c. which in Constitutional regulations ought to be as much as possible avoided.

The motion of Mr. Govr Morris and Mr. Gerry was agreed to nem: con (see: the first part of the article as finally past)

Mr Sherman moved to strike out of art. V. after "legislatures" the words "of three fourths" and so after the word "Conventions" leaving future Conventions to act in this matter, like the present Conventions according to circumstances.

On this motion

N— H— divd. Mas— ay— Ct ay. N— J. ay— Pa no. Del— no. Md no. Va no. N. C. no. S— C. no. Geo— no. [Ayes — 3; noes — 7; divided — 1.]

Mr Gerry moved to strike out the words "or by Conventions in three fourths thereof"

On this motion

N— H— no. Mas. no— Ct. ay. N— J. no. Pa no— Del— no. Md no. Va. no. N— C. no. S. C. no— Geo— no. [Ayes — 1; noes — 10.]

M— Sherman moved according to his idea above expressed to annex to the end of the article a further proviso "that no State shall without its consent be affected in its internal police, or deprived of its equal suffrage in the Senate",

Mr. Madison. Begin with these special provisos, and every State will insist on them, for their boundaries, exports &c.

On the motion of Mr. Sherman

N. H— no. Mas. no. Ct ay. N. J. ay— Pa no. Del— ay. Md. no. Va. no N. C. no. S. C. no. Geo. no. [Ayes — 3; noes — 8.]

Mr. Sherman then moved to strike out art V altogether

Mr Brearley 2ded. the motion, on which

N. H. no. Mas. no. Ct. ay. N. J. ay. Pa. no. Del. divd.

Debates of Congress May 5, 1789 p. 258

States and other Powers who are not in treaty with her, and therefore did not call upon us for retaliation; if we are treated in the same manner as those nations we have no right to complain. He was not opposed to particular regulations to obtain the object which the friends of the measure had in view; but he did not like this mode of doing it, because he feared it would injure the interest of the United States.

Before the House adjourned, Mr. MADISON gave notice, that he intended to bring on the subject of amendments to the constitution, on the 4th Monday of this month.

TUESDAY, May 5.

Mr. BENSON, from the committee appointed to consider of, and report what style or titles it will be proper to annex to the office of President and Vice President of the United States, if any other than those given in the Constitution, and to confer with a committee of the Senate appointed for the same purpose, reported as followeth:

"That it is not proper to annex any style or title to the respective styles or titles of office expressed in the Constitution."

And the said report being twice read at the Clerk's table, was, on the question put thereupon, agreed to by the House.

Ordered, That the Clerk of this House do acquaint the Senate therewith.

Mr. MADISON, from the committee appointed to prepare an address on the part of this House to the President of the United States, in answer to his speech to both Houses of Congress, reported as followeth:

The Address of the House of Representatives to George Washington, President of the United States.

SIR: The Representatives of the People of the United States present their congratulations on the event by which your fellow-citizens have attested the pre-eminence of your merit. You have long held the first place in their esteem. You have often received tokens of their affection. You now possess the only proof that remained of their gratitude for your services, of their reverence for your wisdom, and of their confidence in your virtues. You enjoy the highest, because the truest honor, of being the First Magistrate, by the unanimous choice of the freest people on the face of the earth.

We well know the anxieties with which you must have obeyed a summons from the repose reserved for your declining years, into public scenes, of which you had taken your leave for ever. But the obedience was due to the occasion. It is already applauded by the universal joy which welcomes you to your station. And we cannot doubt that it will be rewarded with all the satisfaction with which an ardent love for your fellow citizens must review successful efforts to promote their happiness.

This anticipation is not justified merely by the past experience of your signal services. It is particularly suggested by the pious impressions under which you mean to commence your administration, and the enlightened maxims by which you mean to conduct it. We feel with you the strongest obligations to adore the invisible hand which has led the American people through so many difficulties, to cherish a conscious responsibility for the destiny of republican liberty; and to seek the only sure means of preserving and recommending the precious deposite in a system of legislation founded on the principles of an honest policy, and directed by the spirit of a diffusive patriotism.

The question arising out of the fifth article of the Constitution will receive all the attention demanded by its importance; and will, we trust, be decided, under the influence of all the considerations to which you allude.

In forming the pecuniary provisions for the Executive Department, we shall not lose sight of a wish resulting from motives which give it a peculiar claim to our regard. Your resolution, in a moment critical to the liberties of your country, to renounce all personal emolument, was among the many presages of your patriotic services, which have been amply fulfilled; and your scrupulous adherence now to the law then imposed on yourself, cannot fail to demonstrate the purity, whilst it increases the lustre of a character which has so many titles to admiration.

Such are the sentiments which we have thought fit to address to you. They flow from our own hearts, and we verily believe that, among the millions we represent, there is not a virtuous citizen whose heart will disown them.

All that remains is, that we join in your fervent supplications for the blessings of heaven on our country; and that we add our own for the choicest of these blessings on the most beloved of our citizens.

Said address was committed to a Committee of the whole; and the House immediately resolved itself into a committee, Mr. PAGE in the chair. The committee proposing no amendment thereto, rose and reported the address, and the House agreed to it, and resolved that the Speaker, attended by the members of this House, do present the said address to the President.

Ordered, That Messrs. SINNICKSON, COLES, and SMITH, (of South Carolina,) be a committee to wait on the President, to know when it will be convenient for him to receive the same.

Mr. CLYMER, from the committee appointed for the purpose, reported a bill for laying a duty on goods, wares, and merchandise, imported into the United States, which passed its first reading.

Mr. BLAND presented to the House the following application from the Legislature of Virginia, to wit:

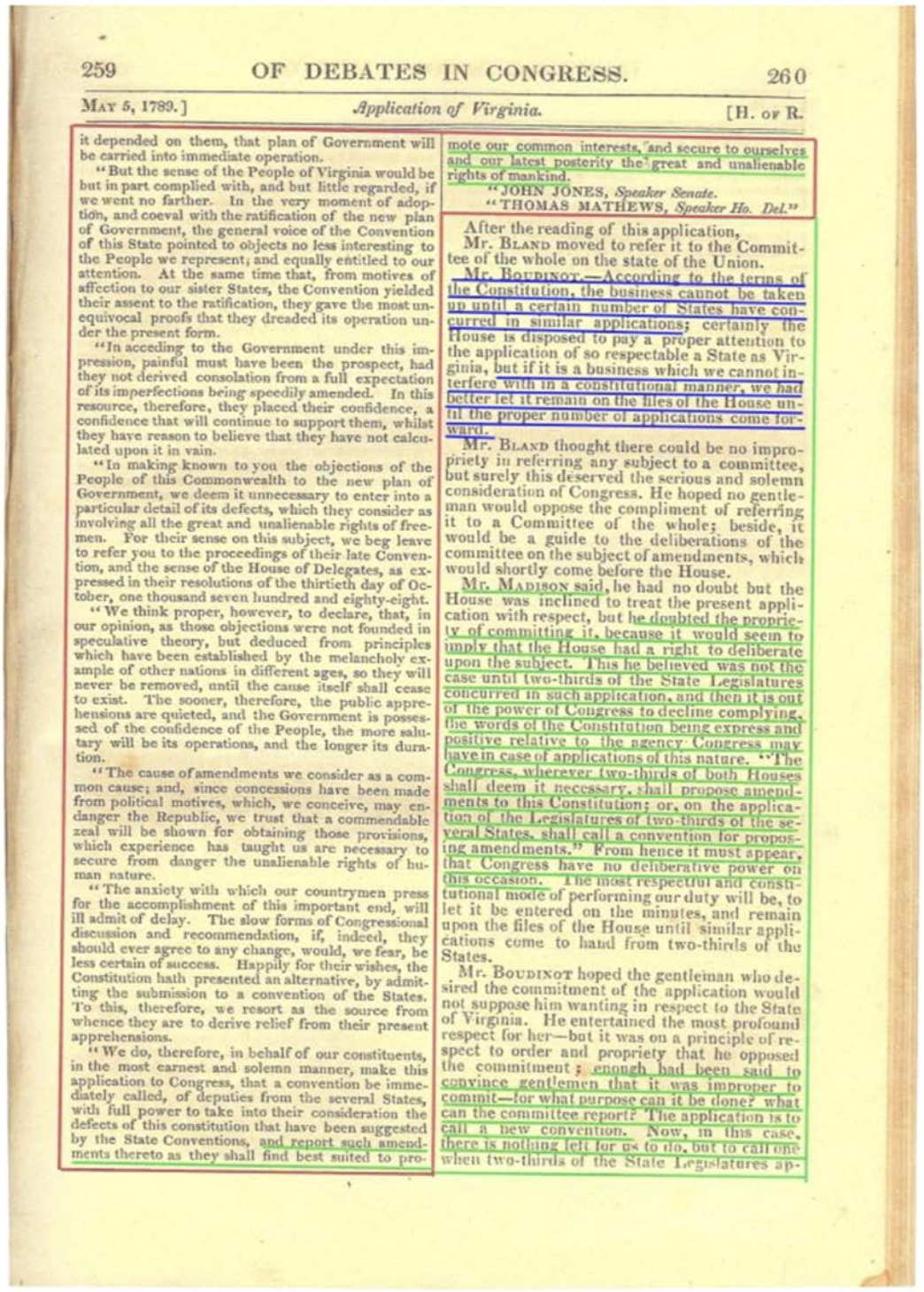
VIRGINIA, *to wit:*

IN GENERAL ASSEMBLY, Nov. 14, 1788.

Resolved, That an application be made in the name and on behalf of the Legislature of this Commonwealth to the Congress of the United States, in the words following, to wit:

"The good People of this Commonwealth, in Convention assembled, having ratified the Constitution submitted to their consideration, this Legislature has, in conformity to that act, and the resolutions of the United States in Congress assembled, to them transmitted, thought proper to make the arrangements that were necessary for carrying it into effect. Having thus shown themselves obedient to the voice of their constituents, all America will find that, so far as

Debates of Congress May 5, 1789 pp. 259-60



it depended on them, that plan of Government will be carried into immediate operation.

"But the sense of the People of Virginia would be but in part complied with, and but little regarded, if we went no farther. In the very moment of adoption, and coeval with the ratification of the new plan of Government, the general voice of the Convention of this State pointed to objects no less interesting to the People we represent, and equally entitled to our attention. At the same time that, from motives of affection to our sister States, the Convention yielded their assent to the ratification, they gave the most unequivocal proofs that they dreaded its operation under the present form.

"In acceding to the Government under this impression, painful must have been the prospect, had they not derived consolation from a full expectation of its imperfections being speedily amended. In this resource, therefore, they placed their confidence, a confidence that will continue to support them, whilst they have reason to believe that they have not calculated upon it in vain.

"In making known to you the objections of the People of this Commonwealth to the new plan of Government, we deem it unnecessary to enter into a particular detail of its defects, which they consider as involving all the great and unalienable rights of freemen. For their sense on this subject, we beg leave to refer you to the proceedings of their late Convention, and the sense of the House of Delegates, as expressed in their resolutions of the thirtieth day of October, one thousand seven hundred and eighty-eight.

"We think proper, however, to declare, that, in our opinion, as those objections were not founded in speculative theory, but deduced from principles which have been established by the melancholy example of other nations in different ages, so they will never be removed, until the cause itself shall cease to exist. The sooner, therefore, the public apprehensions are quieted, and the Government is possessed of the confidence of the People, the more salutary will be its operations, and the longer its duration.

"The cause of amendments we consider as a common cause; and, since concessions have been made from political motives, which, we conceive, may endanger the Republic, we trust that a commendable zeal will be shown for obtaining those provisions, which experience has taught us are necessary to secure from danger the unalienable rights of human nature.

"The anxiety with which our countrymen press for the accomplishment of this important end, will ill admit of delay. The slow forms of Congressional discussion and recommendation, if, indeed, they should ever agree to any change, would, we fear, be less certain of success. Happily for their wishes, the Constitution hath presented an alternative, by admitting the submission to a convention of the States. To this, therefore, we resort as the source from whence they are to derive relief from their present apprehensions.

"We do, therefore, in behalf of our constituents, in the most earnest and solemn manner, make this application to Congress, that a convention be immediately called, of deputies from the several States, with full power to take into their consideration the defects of this constitution that have been suggested by the State Conventions, and report such amendments thereto as they shall find best suited to promote our common interests, and secure to ourselves and our latest posterity the great and unalienable rights of mankind.

"JOHN JONES, *Speaker Senate.*
"THOMAS MATHEWS, *Speaker Ho. Del.*"

After the reading of this application,

Mr. BLAND moved to refer it to the Committee of the whole on the state of the Union.

Mr. BOUDINOT.—According to the terms of the Constitution, the business cannot be taken up until a certain number of States have concurred in similar applications; certainly the House is disposed to pay a proper attention to the application of so respectable a State as Virginia, but if it is a business which we cannot interfere with in a constitutional manner, we had better let it remain on the files of the House until the proper number of applications come forward.

Mr. BLAND thought there could be no impropriety in referring any subject to a committee, but surely this deserved the serious and solemn consideration of Congress. He hoped no gentleman would oppose the compliment of referring it to a Committee of the whole; beside, it would be a guide to the deliberations of the committee on the subject of amendments, which would shortly come before the House.

Mr. MADISON said, he had no doubt but the House was inclined to treat the present application with respect, but he doubted the propriety of committing it, because it would seem to imply that the House had a right to deliberate upon the subject. This he believed was not the case until two-thirds of the State Legislatures concurred in such application, and then it is out of the power of Congress to decline complying, the words of the Constitution being express and positive relative to the agency Congress may have in case of applications of this nature. "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments." From hence it must appear, that Congress have no deliberative power on this occasion. The most respectful and constitutional mode of performing our duty will be, to let it be entered on the minutes, and remain upon the files of the House until similar applications come to hand from two-thirds of the States.

Mr. BOUDINOT hoped the gentleman who desired the commitment of the application would not suppose him wanting in respect to the State of Virginia. He entertained the most profound respect for her—but it was on a principle of respect to order and propriety that he opposed the commitment; enough had been said to convince gentlemen that it was improper to commit—for what purpose can it be done? what can the committee report? The application is to call a new convention. Now, in this case, there is nothing left for us to do, but to call one when two-thirds of the State Legislatures ap-

ply for that purpose. He hoped the gentleman would withdraw his motion for commitment.

Mr. BLAND.—The application now before the committee contains a number of reasons why it is necessary to call a convention. By the fifth article of the Constitution, Congress are obliged to order this convention when two-thirds of the Legislatures apply for it; but how can these reasons be properly weighed, unless it be done in committee? Therefore, I hope the House will agree to refer it.

Mr. HUNTINGTON thought it proper to let the application remain on the table, it can be called up with others when enough are presented to make two-thirds of the whole States. There would be an evident impropriety in committing, because it would argue a right in the House to deliberate, and, consequently, a power to procrastinate the measure applied for.

Mr. TUCKER thought it not right to disregard the application of any State, and inferred, that the House had a right to consider every application that was made; if two-thirds had not applied, the subject might be taken into consideration, but if two-thirds had applied, it precluded deliberation on the part of the House. He hoped the present application would be properly noticed.

Mr. GERRY.—The gentleman from Virginia (Mr. MADISON) told us yesterday, that he meant to move the consideration of amendments on the fourth Monday of this month; he did not make such motion then, and may be prevented by accident, or some other cause, from carrying his intention into execution when the time he mentioned shall arrive. I think the subject however is introduced to the House, and, perhaps, it may consist with order to let the present application lie on the table until the business is taken up generally.

Mr. PAGE thought it the best way to enter the application at large upon the Journals, and do the same by all that came in, until sufficient were made to obtain their object, and let the original be deposited in the archives of Congress. He deemed this the proper mode of disposing of it, and what is in itself proper can never be construed into disrespect.

Mr. BLAND acquiesced in this disposal of the application. Whereupon, it was ordered to be entered at length on the Journals, and the original to be placed on the files of Congress.

DUTIES ON TONNAGE.

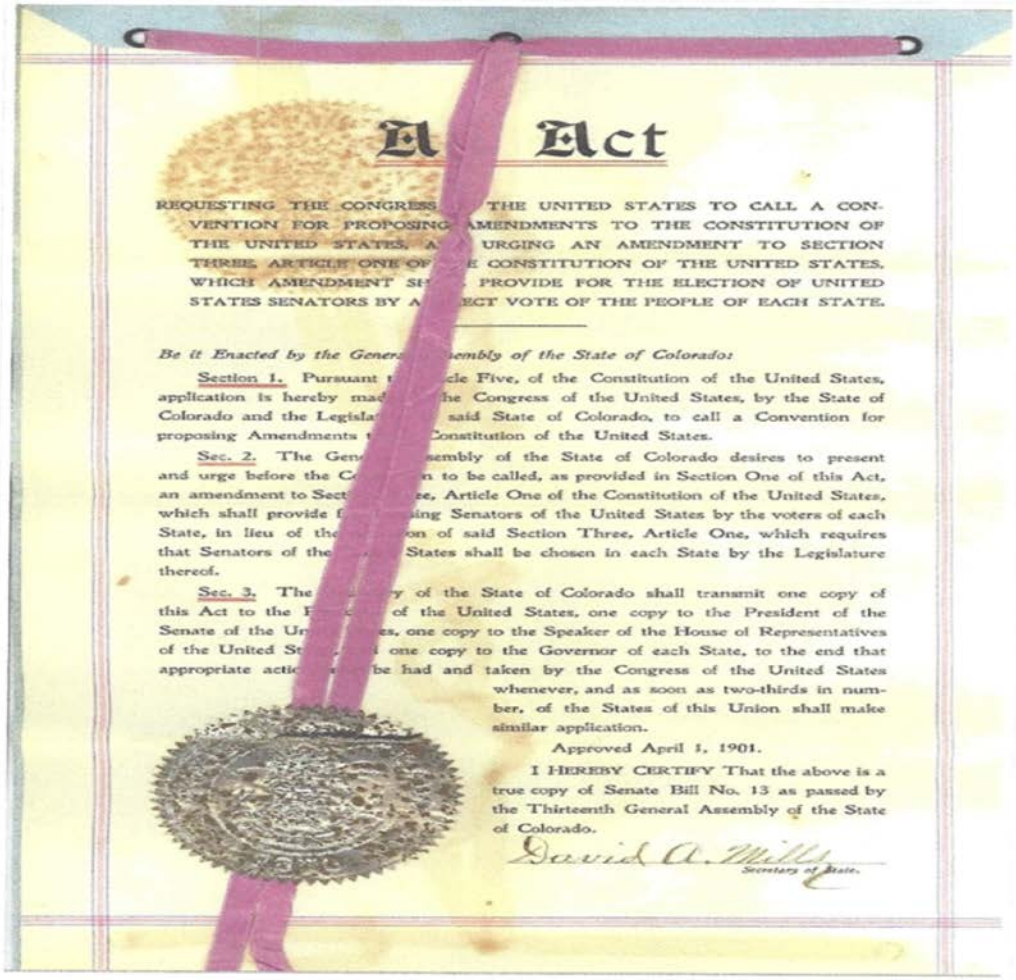
The House then resumed the consideration of the Report of the Committee of the whole on the state of the Union, in relation to the duty on tonnage.

Mr. JACKSON (from Georgia) moved to lower the tonnage duty from thirty cents, as it stood in the report of the committee on ships of nations in alliance, and to insert twenty cents, with a view of reducing the tonnage on the vessels of Powers not in alliance. In laying a higher duty on foreign tonnage than on our own, I presume, said he, the Legislature have three things in contemplation: first, The encouragement of American shipping; 2ndly, Raising a Revenue; and, 3dly, The support of light-houses and beacons for the purposes of navigation. Now, for the first object, namely, the encouragement of American shipping, I judge twenty cents will be sufficient, the duty on our own being only six cents; but if twenty cents are laid in this case, I conclude that a higher rate will be imposed upon the vessels of nations not in alliance. As these form the principal part of the foreign navigation, the duty will be adequate to the end proposed. I take it, the idea of revenue from this source is not much relied upon by the House; and surely twenty cents is enough to answer all the purposes of erecting and supporting the necessary light-houses. On a calculation of what will be paid in Georgia, I find a sufficiency for these purposes; and I make no doubt but enough will be collected in every State from this duty. The tonnage employed in Georgia is about twenty thousand tons, fourteen thousand tons are foreign; the duty on this quantity will amount to £466 13s. 4d. Georgia currency. I do not take in the six cents upon American vessels, yet this sum appears to be as much as can possibly be wanted for the purpose of improving our navigation.

When we begin a new system, we ought to act with moderation; the necessity and propriety of every measure ought to appear evident to our constituents, to prevent clamor and complaint. I need not insist upon the truth of this observation by offering arguments in its support. Gentlemen see we are scarcely warm in our seats, before applications are made for amendments to the Constitution; the people are afraid that Congress will exercise their power to oppress them. If we shackle the commerce of America by heavy imposition, we shall rivet them in their distrust. The question before the committee appears to me to be, whether we shall draw in, by tender means, the States that are now out of the Union, or deter them from joining us, by holding out the iron hand of tyranny and oppression. I am for the former, as the most likely way of perpetuating the federal Government. North Carolina will be materially affected by a high tonnage; her vessels in the lumber trade will be considerably injured by the regulation; she will discover this, and examine the advantages and disadvantages of entering into the Union. If the disadvantages preponderate, it may be the cause of her throwing herself into the arms of Britain; her peculiar situation will enable her to injure the trade of both South Carolina and Georgia. The disadvantages of a high tonnage duty on foreign vessels are not so sensibly felt by the Northern States; they have nearly vessels enough of their own to carry on all their trade, consequently the loss sustained by them will be but small; but the Southern States employ mostly foreign shipping, and unless their produce is carried by them to market it will perish. At this mo-

State of Colorado Application, April 1, 1901

Application of the Colorado State Legislature for a Convention to Propose a Constitutional Amendment, April 1, 1901



A Act

REQUESTING THE CONGRESS [illegible] THE UNITED STATES TO CALL A CONVENTION FOR PROPOSING AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES, A[illegible] URGING AN AMENDMENT TO SECTION THREE, ARTICLE ONE OF [illegible] CONSTITUTION OF THE UNITED STATES, WHICH AMENDMENT SH[illegible] PROVIDE FOR THE ELECTION OF UNITED STATES SENATORS BY A[illegible]ECT VOTE OF THE PEOPLE OF EACH STATE.

Be it Enacted by the Gener[illegible]embly of the State of Colorado:

Section 1. Pursuant t[illegible]cle Five, of the Constitution of the United States, application is hereby mad[illegible]he Congress of the United States, by the State of Colorado and the Legisla[illegible] said State of Colorado, to call a Convention for proposing Amendments t[illegible]Constitution of the United States.

Sec. 2. The Gen[illegible]sembly of the State of Colorado desires to present and urge before the C[illegible]n to be called, as provided in Section One of this Act, an amendment to Sect[illegible]e, Article One of the Constitution of the United States, which shall provide f[illegible]ing Senators of the United States by the voters of each State, in lieu of the [illegible]on of said Section Three, Article One, which requires that Senators of the [illegible] States shall be chosen in each State by the Legislature thereof.

Sec. 3. The [illegible]y of the State of Colorado shall transmit one copy of this Act to the P[illegible] of the United States, one copy to the President of the Senate of the Un[illegible]es, one copy to the Speaker of the House of Representatives of the United St[illegible] one copy to the Governor of each State, to the end that appropriate actio[illegible] be had and taken by the Congress of the United States whenever, and as soon as two-thirds in number, of the States of this Union shall make similar application.

Approved April 1, 1901.

I HEREBY CERTIFY That the above is a true copy of Senate Bill No. 13 as passed by the Thirteenth General Assembly of the State of Colorado.

David A. Mill[illegible]
Secretary of State.

Application of the Colorado State Legislature for a Convention to Propose a Constitutional Amendment, April 1, 1901

Article V of the Constitution provides that Congress must call a convention for proposing amendments to the Constitution if two-thirds of the state legislatures apply for one to Congress. This is the application for a constitutional convention from the state legislature of Colorado.

Petitions referred to the Committee on Privileges and Elections (SEN 57A-J59) Records of the U.S. Senate, RG 46

Return to 17th Amendment Documents

Next Document

Dan Marks Letter to Clerk, April 15, 2013

ArticleV.org
25-180 Pukana La St.
Hilo, HI 96720

Karen Lehman Haas
Clerk of the U.S. House of Representatives
Office of the Clerk
U.S. Capitol, Room H154,
Washington, DC 20515-6601

04/15/13

Subject: Requesting verification and tabulation of State applications for an Article V convention to propose amendments.

Greetings Ms. Haas,

I spoke with Kirk Boyle in your office and Tom Wickham, House Parliamentarian, and have been instructed to deliver this information to the Clerk of the House of Representatives. I am providing you with the attached documentation of 42 legal and standing State applications for an Article V convention for determination of their validity. The collection of all known applications on record may be found here: http://foavc.org/file.php/1/Amendments

We, involved with ArticleV.org, acknowledge the fact that the States have satisfied the required two-thirds numerical threshold to call for an Article V Convention under Article V of the US Constitution and Congress should call an Article V Convention to order. We make formal request for the Clerk of House of Representatives to verify and inform Congress of this matter.

The Congressional Research Service arrived at a similar conclusion. *"With well over a century of experience in proposing an Article V Convention, the states have arrived at certain precedents for the consideration of these applications."* from the Congressional Research Service Report by Thomas H. Neale, The Article V Convention for Proposing Constitutional Amendments: Historical Perspectives for Congress, October 22, 2012. http://www.fas.org/sgp/crs/misc/R42592.pdf

Those advocating for an Article V Convention from various groups often find ourselves in debate about what the current count is today. As the Congressional Research Service pointed out, there has never been an official tabulation to indicate which state applications would be valid toward the two-thirds threshold, and which would not. We truly desire an official verification and tabulation of these applications and any others we may have overlooked so there is an official number we may all reference.

Thank you for your time and diligence in this matter.

Sincerely,

Dan Marks
ArticleV.org
808-345-3990

Response by Mr. Kirk Boyle to Dan Marks, June 7, 2013

KAREN L. HAAS
CLERK

ROBERT F. REEVES
DEPUTY CLERK

H-154 THE CAPITOL

Office of the Clerk
U.S. House of Representatives
Washington, DC 20515-6601

June 7, 2013

Mr. Dan Marks
ArticleV.org
25-180 Pukana La St.
Hilo, Hawaii 96720

Dear Mr. Marks:

I am in receipt of your correspondence requesting that the Clerk of the House tabulate State applications for an Article V convention compiled by your organization.

The duties and responsibilities assigned to the Clerk of the House are generally established by statute and the rules and precedents of the House of Representatives. The Clerk has not been assigned the responsibility to tabulate State applications for an Article V convention by statute or the rules or precedents of the House. Accordingly, the Office of the Clerk is unable to fulfill your request.

However, I would be pleased to forward your correspondence to your Member of Congress or to the Committee on the Judiciary for further consideration if that would be of assistance to you. Under the rules of the House, the Committee on the Judiciary has jurisdiction over constitutional amendments and has a subcommittee dedicated to the Constitution. Please contact Jodi Detwiler at 202 225-7000 if you would like your letter forwarded.

Sincerely,

Kirk D. Boyle

Kirk D. Boyle
Legal Counsel
Office of the Clerk

this threat in return for concessions on the cruise missile.

In March the U.S. asked for a limit of 150 Soviet heavy missiles, asking them to tear down half the force. By May, the U.S. was willing to allow them to keep the whole force, provided only 190 heavy missiles carried multiple warheads (MIRV). Since this is about the current number of heavy missiles with MIRV, the U.S. in essence asked for a freeze on heavy missiles. When the Soviets rejected the 190 number, the U.S. tried a heavy MIRV limit of 220. With that rejected, it tried 250. Finally, when Mr. Gromyko arrived in town, the U.S. dropped the whole idea.

Similarly, in March the U.S. insisted on specific treaty provisions on how the Soviets could use their Backfire bomber, which they insist is not an intercontinental weapon though it can fly from the Soviet Union over the U.S. to Cuba without refueling. By September the U.S. agreed to keep Backfire out of the treaty if the Soviets would make a separate promise not to increase its production rate, even though they refuse to say what the current production rate is.

To buy the limits on heavy missiles and Backfire sought last March, the U.S. offered a cruise-missile concession limiting the range of air, land and ground-based cruise missiles to 2,500 kilometers. Bombers carrying cruise missiles would not have been counted against the agreed number of MIRV missiles. In the September agreements, if the U.S. builds more than about 120 such bombers it must tear down Minuteman or submarine MIRV missiles. And land-based and sea-based cruise missiles would be limited to a practically useless range of 600 kilometers. In return for scrapping the concessions asked of the Soviets, the Americans are giving larger concessions of their own.

The March proposals were in themselves open to serious question, so the September agreements are drawing serious opposition as they are explained to the Senate. But putting aside the effect on the strategic posture in 1985, the collapse of the American negotiating position raises dangers in 1977. The lack of resolution Mr. Carter displayed to the Soviets between March and September invites them to try pushing him around throughout the world.

A TRIBUTE TO SENATOR HUMPHREY

Mr. DECONCINI. Mr. President, I rise on this occasion to offer into the RECORD a letter to the Honorable HUBERT H. HUMPHREY from the Democrats of Pinal County, Ariz. I am doing so, Mr. President, because I believe that the letter, a tribute to Senator HUMPHREY, sets forth in very simple yet eloquent terms how much we, the people of Arizona, the people of the West, and the people of the United States, not just now, but for generations to come, are indebted to this outstanding gentleman and statesman.

I ask unanimous consent that this material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PINAL COUNTY DEMOCRATS,
Florence, Ariz., October 5, 1977.

Hon. HUBERT H. HUMPHREY,
U.S. Senator,
Senate Wing, U.S. Capitol,
Washington, D.C.

DEAR SENATOR HUMPHREY: As the beloved "Happy Warrior" of the Democratic Party, you have made great contributions to our country and to our party. It may require the perspective of years to truly assess the total impact of Hubert Humphrey.

For now, we can honestly say that you set an example for us to follow; we all feel a little more pride in being Americans and Democrats, because Hubert Humphrey is both of these.

We were happy to stand at your side in 1968, and you inspired us to greater efforts to attain our common goals. It now appears that you are facing an even more dangerous and implacable enemy. Please know that Hubert Humphrey is still our man; we remain at your side, and you are never far from our hearts and our prayers.

From the Democrats of Pinal County, Arizona.

CARL GUILLIAMS, *Chairman.*
MARLENE WHITE,
Vice Chairwoman.
VICTORIA ANA VILLA VERDE,
Secretary.
BOB BROWN, *Vice Chairman.*
JIM DON, *Treasurer.*

STATE MEMORIALS REQUESTING A CONSTITUTIONAL CONVENTION

Mr. MCGOVERN. Mr. President, last year I inserted in the record a historical survey of the convention method of amending the Federal Constitution. Today, I want to share with my colleagues a work which examines in more detail one aspect of the article V convention option, the actual State application process.

It is a troubling study.

It documents the fact that the applications are a tangle of differing State procedures and occasional oversights. The procedures used by the Congress in processing the applications are scarcely any better.

The study, written by Jim Stasny who prepared the earlier convention survey, shows that Congress simply has not acted to establish guidelines for a constitutional convention. The most startling finding is that, if put to the test, there is no guarantee that Congress could even properly count the existing applications and decide whether or not they are valid. My own State of South Dakota, submitted an application for a convention earlier in the year. The legislature followed solid, commonsense procedures and they were fortunate, besides: both the Senate and the House duly noted receipt of their applications. Not all States have been so fortunate and that is a source of real concern to me.

I am frank to say I do not necessarily agree with all the observations made in this study. It is not my present view that a convention would be to our national advantage. But there is little arguing with Mr. Stasny's assessment that the convention process stands "on the constitutional frontier of unanswered questions." At the very minimum, I believe the Congress needs to take immediate stock of its procedures for processing State applications. Those procedures need to be made more consistent and reliable.

Mr. President, I ask unanimous consent that the article on convention applications be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

STATE APPLICATIONS FOR A CONVENTION TO AMEND THE FEDERAL CONSTITUTION JANUARY 1974–SEPTEMBER 1977: COMPILATION AND COMMENT

I. INTRODUCTION

Article V specifies two methods of amending the Federal Constitution. The method under which all amendments have been adopted to date requires that both Houses of Congress, by a two-thirds vote, approve amendments for ratification by three-fourths of the state legislatures or by conventions called for that purpose. Through August of 1977, 9,210 amendments have been proposed through this procedure.[1]

The second method requires that, on the petition of two-thirds of the state legislatures, Congress "shall call" a convention for the purpose of amending the Constitution. The Constitution has never been amended through this process. As a consequence of its untested character, much speculation and uncertainty surrounds its use.[2] Even at the foundation level of counting the state applications themselves, problems have arisen because of the inconsistent procedures of the separate Houses of Congress and the unpredictable practices of the state legislatures in submitting their applications.

Since 1789, Congress has received 374 requests from the states for a convention.[3] But in the twenty years since 1957, Congress has received 191 such requests, more than fifty-one percent of the total. Sine January of 1974 alone, thirty-two memorials have been submitted.[4] Of those thirty-two, one dealt with the private ownership of gold (California 1974); one dealt with the use of public funds for secular education (Massachusetts 1974); one dealt with the tenure of Federal judges (Tennessee 1977); two with the item veto in appropriations bills (Virginia 1977 and Tennessee 1977); three concerned busing (Massachusetts 1974, Kentucky 1975, and Massachusetts 1976); three dealt with the coercive use of federal funds (Nevada 1975, Oklahoma 1976, and Tennessee 1976); ten were on the subject of abortion (Indiana 1974, Missouri 1975, Louisiana 1976, South Dakota 1977, Utah 1977, Rhode Island 1977, Arkansas 1977, Massachusetts 1977, New Jersey 1977, and Guam 1977); and eleven asked an amendment requiring a balanced federal budget (Arkansas 1975, Virginia 1975, Mississippi 1975, Louisiana 1975, Indiana 1976, Georgia 1976, South Carolina 1976, Delaware 1976, Virginia 1976, Arizona 1977 and Tennessee 1977).

The mechanism triggering efforts to summon a convention is frequently a dynamic social issue to which the Congress has not responded either through statute or the primary amendment mode. During such times, a frustrated segment of the public seems to sense more clearly the remoteness of Washington in general and Congress in particular. Anti-busing groups as well as pro-life forces (and, earlier in the century, proponents of the direct election of U.S. Senators) have marched on Washington only to find they were unable to convince two-thirds of the membership of each House to act favorably on their amendments. These groups have discovered Article V provides an alternative means of promoting amendments by lobbying legislators at the state rather than national level. State legislators are far more accessible to more people than a Member of Congress sealed tight in Washington ten months of every year. Moreover, in terms of the amendment process, state legislatures have a combined theoretical parity with the Congress.

The purpose of this paper is to provide a complete listing of the thirty-two applications submitted since 1974; compare House and Senate practices for handling the appli-

Footnotes at end of article

123 Cong. Rec. 36534 (1977)

Stasny Report, Congressional Record, Vol. 123, p. 36535 (1977)

cations and identify the characteristics of states when submitting their memorials; identify some of the problems attending the application process and list legislative proposals on the convention issue.

II. SENATE PRACTICES ON MEMORIALS AND PETITIONS

Rule VII of the Standing Rules of the Senate controls the manner in which the Senate deals with memorials and petitions.

Reception of memorials and petitions makes up part of the Morning Business.[4] While memorials and petitions are technically laid before the full Senate by the presiding officer,[5] he makes no formal announcement of their receipt. They are presented by bringing them to the Clerk's desk, or by delivering them to the Secretary of the Senate. With the approval of the presiding officer, they are entered in the Journal and the Congressional Record and appropriately referred.[7] Despite this practice, at least one application (California 1974) was noted in the House portion of the Congressional Record but failed to appear in either the Journal or the Record of the Senate. The Senate Judiciary Committee advises they have no record of ever having received such memorial.

The presentation of memorials and petitions follows the reading of the Senate Journal, the presentation of reports and communications from the heads of departments and such bills, joint resolutions and other messages from the House of Representatives as may remain on the table undisposed of from any previous day's session. Their reception precedes the reports of standing and select committees.[8]

Memorials from State legislatures are printed in full in the Senate section of the Congressional Record[9] and a memorial may not be received unless signed.[10] In the Senate, the practice is to list memorials from state legislatures under the heading "PETITIONS".

Until the start of the 95th Congress, the Senate had no orderly means of cataloguing memorials submitted by the States. But on December 16, 1976 in a memo from the Secretary of the Senate a new system of control numbers for petitions and memorials was announced to take effect January 4, 1977.

According to the memorandum, petitions and memorials are to be combined into one category and assigned numbers preceded by the initials "POM".[11] Under the new system petitions and memorials go first to the office of the President of the Senate who dates them. They are next sent to the Parliamentarian who assigns the control number and makes the appropriate committee referral.[12] The Official Reporter then inserts them into the Congressional Record and the Bill Clerk sees to it that the appropriate committee physically receives the memorial or petition. This provision appears to be in contravention of Rule VII, paragraph (6) which directs that memorials are to be kept in the files of the Secretary of the Senate.

The December 16, 1976 memo also specifies that the Journal Clerk is to receive a list of the "petitions placed before the Senate and printed in the Record each day."

The new system is an improvement over the previous procedure. Prior to its adoption the Senate had no numbering system whatever for these documents. Even the sharp-eyed had to read cautiously to detect in the Congressional Record where one petition ended and another began. Nevertheless, the new system is still less than adequate. For one thing, it is much too fragmented and involves too many processing steps. For another thing, petitions and memorials are still lumped together under the single heading, "PETITIONS". More importantly, there is still no separate category for distinguishing memorials which request Congress to summon a convention for the purpose of amending the Constitution.

Memorials from the State legislatures are, at best, political statements which have small impact and no binding effect on the Congress. However, the Article V applications for a convention are constitutionally authorized instruments which, in the aggregate, impose a specific duty on the Congress. There, at least, ought to be a separate means of counting and tracking the memorials from the States which request a convention.

III. HOUSE PRACTICES ON MEMORIALS AND PETITIONS

Under the Rules of the House of Representatives, Memorials are treated under Rule XXII, paragraph (4) and Petitions are treated under Rule XXII, paragraph (1). They are listed separately and numbered sequentially in the body of House portion of the Congressional Record following the introduction of bills and resolutions at the conclusion of the day's proceedings. It is the practice to have memorials brought to the attention of the House by the Speaker.

Resolutions of State legislatures and/or primary assemblies of the people are received as memorials.[13] They are filed with the Clerk of the House[14] but the office of the Clerk advises they do not, in fact, retain them. Rather, they are transferred to the Speaker who refers them (through the Parliamentarian) to the appropriate committee where they are filed.

Rule XXII, paragraph (4) of the House Rules specifies that memorials and their titles shall be entered on the Journal and printed in the Congressional Record of the next day. *In practice, however, the process is reversed.* According to the House Journal Clerk's Office, staff members clip memorials printed in the Record and subsequently enter them on the Journal.

The office of the Bill Clerk actually prepares the briefs of the memorials that appear in the Record. The Bill Clerk receives the memorials from the Parliamentarian's office and assigns them the number which appears in the Record.[15] He sees to it that the memorial is physically delivered to the committee to which it has been referred.[16]

IV. THE CONVENTION APPLICATIONS: ANOMALIES IN THE CONGRESS AND THE STATE LEGISLATURES

Of the thirty-two applications for a convention received by the Congress since 1974, the texts of all but one (California 1974) were located. Of the remaining thirty-one, sixteen were directed by the respective state legislatures to the Speaker of the U.S. House of Representatives and the President of the United States Senate.[17] Eleven applications were directed to the attention of the Secretary of the Senate and the Clerk of the House.[18] Of the remaining four applications, three were addressed to the Congress without specifying an officer of either House[19] and one was addressed only to the members of the state's congressional delegation.[20]

Of the sixteen applications directed to the President of the Senate and the Speaker of the House, eleven were noted in the Congressional Record by both Houses.[21] Four of the remaining five applications (Arkansas 1975, Tennessee 1976, Massachusetts 1976, and Tennessee 1977 on item veto in appropriations bills) were printed in full by the Senate. One, the 1976 Louisiana application on abortion was printed only by the House.

Of the eleven applications addressed to both the Clerk of the House and the Secretary of the Senate, all but one (the 1974 Indiana application on abortion) were noted in the Record by both the House and Senate. This suggests that when applications are directed to the Secretary of the Senate and the Clerk of the House, they are more likely to be properly received by both Houses of Congress than when they are sent to the presiding officer of each House.

Nevertheless, the principal convention procedure bills introduced in the Congress since 1953, specify that applications for a convention be addressed to the President of the Senate and the Speaker of the House.[22] This provision was included in both S. 215 which passed the Senate 84 to 0 on October 19, 1971 and in S. 1272 which passed the Senate without debate on July 9, 1973.

The provision directing memorials to the Speaker and the President of the Senate also appears to be at variance with established practice in the House of Representatives. Rule XXII of the House directs that memorials be delivered to the Clerk, a procedure dating from 1842.[23] Rule VII, paragraph 2 of the Standing Rules of the Senate similarly notes that Senators having memorials may deliver them to the Secretary of the Senate.

In sum, established procedures in the House and the Senate give to the Clerk and the Secretary the responsibility for the technical processing of the memorials. Moreover, the record shows that since 1974, the Clerk and the Secretary have been shown to be more reliable in handling state memorials than the Speaker and the Vice-President. The clear inference is that future legislation providing guidelines for a constitutional convention should direct that memorials be sent to the Secretary of the Senate and the Clerk of the House.

The question also arises as to whether memorials for a convention, in order to be valid, need to be recorded by both Houses in either the Journal or the Congressional Record. This is another of the myriad unresolved questions attending the convention process. Nevertheless, the legislative proposals on this subject offered in Congress over the years providing as they do for reference of applications to both Houses, imply that the validity of an application would at least be suspect if not officially received and noted by both Houses.

The State memorials received by Congress since 1974 illustrate a variety of problems. The two primary areas of concern are the inconsistent treatment accorded the memorials by both Houses of Congress and the occasional peculiar procedure followed by the state legislatures when submitting their applications. The following examples demonstrate some of those problems.

Guam

On July 1, 1977 the Senate formally acknowledged in the CONGRESSIONAL RECORD its receipt of a memorial from the Legislature of Guam calling for a constitutional convention to draft an amendment on abortion. Article V of the Federal Constitution specifies that ". . . on the application of the Legislatures of two-thirds of the several States Congress shall call a convention for proposing amendments . . ." The problem here, of course, is that Guam is not a State. It is an organized unincorporated territory with a non-voting delegate to the House of Representatives.[24] It is very likely its application would not survive a challenge to its claim to be a valid Article V memorial.

Indiana

In February of 1977 the Indiana legislature sent a memorial to the Congress dealing with abortion. In it, Indiana simply reminded the Congress that in 1973 their Legislature had requested that a constitutional convention be summoned to propose an abortion amendment. The 1977 reminder went on to note that, "thorough an oversight the earlier resolution was not transmitted to Congress". The fact is, there actually had been no oversight at all. The memorial had indeed been submitted at the end of 1973 and was printed in full in the CONGRESSIONAL RECORD of January 21, 1974.

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This is a case where a state legislature apologized for an oversight it had not committed. The only oversight in this instance is that the original Indiana memorial was not recorded in the House portion of the CONGRESSIONAL RECORD.

Rhode Island

The treatment of the Rhode Island memorial for a convention to propose an amendment on abortion vividly illustrates the kind of mechanical mix-ups that can plague the application process.

May 13, 1977 the House gave notice in the CONGRESSIONAL RECORD that it had received the Rhode Island memorial.[33] On May 19, 1977 the House printed another notice that Rhode Island had submitted a second memorial for a convention on abortion.[34] It was not possible to determine from the abbrievated notice in the RECORD whether these were, in fact, separate memorials or an accidental double entry of the same memorial. On May 26, 1977 the House Judiciary Committee advised (in a telephone conversation) that no cover letter accompanied either memorial. In fact, the memorials were in the form of two xerox copies of the *identical* document which came to be printed twice in the House section of the RECORD. There was no ready explanation of how this dual printing came about.

Rhode Island's problems, however, were not confined to the House of Representatives.

In the Senate, two identical Rhode Island memorials on abortion were not only printed on the *same day*; they were printed on facing pages (15808 and 15809 of the May 20, 1977, CONGRESSIONAL RECORD) and numbered POM–188 and POM–190. A phone conversation with personnel in the Secretary of the Senate's office revealed that the two copies were received on different days. It was their position that they are only obligated to submit memorials for the RECORD.

They felt it was up to the Judiciary Committee to see how they are counted. An aide in the Secretary's office suggested that if the memorials from one state were identical they would only be counted once even though they may have been printed more than once. Otherwise, he said, it might be possible for one State to submit 34 memorials and force a convention.

South Carolina, Arizona, Virginia

On February 26, 1976 the Senate printed in full the memorial of South Carolina requesting a convention to propose an amendment to balance the federal budget.[35] On February 26, they printed it again.[36] There are at least two possible explanations for why that took place. It may have been a simple oversight by the office of the Secretary of the Senate or the Public Printer.

The more likely explanation is that since the South Carolina Memorial requested that Congress submit an amendment and summon a convention, the memorial may have been printed twice to reflect both options under Article V. This, of course, raises the question of whether the South Carolina application qualifies as a valid convention request. It would have to be decided whether a memorial which requests both modes of amendment and which makes the convention method the section choice can be counted in the tally of states requesting a convention.

The same kind of question can be raised about memorials from Virginia and Arizona. In March of 1976, the Senate received and printed a memorial from Virginia regarding a possible constitutional amendment to require a balanced federal budget.[37] The primary intent of the memorial was to request Congress "to prepare and submit to the several states" an amendment on the subject. However the memorial also included the following paragraph:

Footnotes at end of article.

Resolved further, That, alternatively, this Body makes application and requests that the Congress of the United States call a constitutional convention for the specific and exclusive purpose of proposing an amendment to the Federal Constitution requiring in the absence of a national emergency that the total of all Federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated Federal revenues for the fiscal year . . ."

The June 14, 1977 memorial from Arizona poses a nearly identical dilemma. After requesting that Congress prepare and submit an amendment requiring a balanced federal budget, paragraph 2 provides, "That, in the alternative, the Congress of the United States call a constitutional convention to prepare and submit such an amendment to the Constitution."

It would appear that each of these three memorials from Virginia, Arizona, and South Carolina would at least be subject to challenge by *reason of their* dual requests. At the very least, it is another of those speculative questions that remains to be finally resolved.

Oklahoma

The House of Representatives on June 7, 1977 printed in the Congresional Record a notice that it had received a memorial from the Oklahoma State Legislature.[38] The memorial asked for a constitutional convention to propose an amendment prohibiting the federal government from imposing "coercive" restrictions as a precondition for receiving federal dollars.

No corresponding application was recorded in the Congressional Record by the Senate. However, a copy of the original application was obtained from the files of the House Judiciary Committee. The copy shows that the resolution was not directed to either the Speaker of the House, the President of the Senate, the Clerk of the House or the Secretary of the Senate. The memorial did, however, direct that copies be distributed to all the members of the Oklahoma Congressional delegation.

Since one member of the delegation at the time was House Speaker Carl Albert, that likely explains its appearance in the House Record. Had it not been for that coincidence it is highly probable that no record whatever would have been made in the Congress of this memorial.

Tennessee

Among the states submitting applications for a constitutional convention since 1974, no state has had greater misfortune than Tennessee.

On February 17, 1976 the complete text of their memorial requesting a convention to propose an amendment dealing with the coercive use of federal funds was printed in the Senate section of the Congressional Record.[39] No corresponding application ever appeared in the House Record as a memorial formally constituting an application from Tennessee for a constitutional convention on this topic.

The same thing happened to Tennessee again in 1977. The legislature memorialized Congress to summon a convention in order to propose an amendment giving the President an item veto in appropriations bills. The Senate printed the memorial in full in the Congressional Record of July 1, 1977.[40] The House did not record the receipt of a similar memorial despite the fact that the Tennessee legislature directed that a certified copy be sent to the Speaker of the House.

Tennessee submitted two other constitutional convention memorials in June of 1977. One requested a convention for the purpose of proposing an amendment to require a balanced budget.[41] The other asked for a convention for the purpose of proposing an amendment to fix the terms of federal judges.[42] Both memorials were noted in the Congressional Record by the House of Representatives on June 10, 1977.

In neither case, however, was a corresponding application recorded in the Congressional Record by the Senate. The omissions are the more peculiar in view of the following excerpt which appeared in both of the Tennessee memorials:

". . . it is requested that receipt of this application by the Senate and the House of Representatives of the Congress of the United States be officially noted and duly entered upon their respective records, and that the full context of this resolution be published in the official publication of both the Senate and the House of Representatives."

In both cases, however, the memorials were addressed to the Senate and the House of Representatives rather than to an official or the presiding officer of either House.

In addition to the memorials already mentioned, there were a number of others which ran into trouble. Arkansas in 1975 requested a convention for the purpose of proposing an amendment to require a balanced federal budget.[43] Masschusetts in 17976 wanted a convention to consider a busing amendment. In both cases, the memorials were printed in full in the Senate portion of the Congressional Record while no mention was made of either memorial in the House. The practical impact of not having the memorial noted in the Record by the House is that it is, therefore, not printed in the Journal since the Journal Clerk merely clips the Record as a source of information on memorials.

Utah experienced reverse treatment. The memorial of their state Legislature on abortion was noted twice in the House portion of the Record on May 3 and May 4, 1977. The Louisiana memorial dealing with abortion was recorded by the House of Representatives but no corresponding application was mentioned in the Congressional Record by the Senate.[44]

This brief survey of the thirty-two state memorials requesting conventions since 1974 indicates that sixteen of them either contained challengeable defects or were procedurally mishandled by either the state legislatures, the United States Senate or the House of Representatives.

But the questions do not end here.

Ten of the memorials received since 1974 specifically allow the state to later rescind its memorial. Although the American Bar Association believes the states should have the option, the opinion is by no means unanimous.[45] On February 15, 1977, Acting Assistant Attorney General John Harmon wrote to Robert J. Lipshutz, Counsel to the President on the power of a state to rescind its ratification of a constitutional amendment. This question of ratification is, obviously, much different from and of considerably more moment than the withdrawal of a memorial requesting a convention. Nevertheless, an excerpt from the letter illustrates that the overall issue of rescission is very much an open question:

"If the issue should arise in connection with the Equal Rights Amendment, it seems virtually certain that the question will be put to Congress again. The functions of the Secretary of State with respect to constitutional amendments have been statutorily conferred on the Administrator of GSA . . . However, the very fact that this function is vested in the GSA Administrator is indicative of its ministerial nature . . . In those circumstances, the Administrator would either have to follow the precedent established by Congress in 1868, i.e., that a State cannot withdraw its ratification, or submit the issue to Congress."

Beyond this question is still another of

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whether or not the states can limit the subject matter of a convention. Fifteen of the memorials received since 1974 direct that the convention would be for the "sole and exclusive" purpose of considering a particular amendment. The majority of the thirty-two memorials include the text of a proposed amendment.

The main problem with state applications specifying exact language is the objection that a convention called to consider a predetermined amendment would, in effect, become part of the ratifying process. Senator Robert Kennedy criticized the states' insistence on specificity as:

". . . an attempt by the various State legislatures to force Congress to call a convention which can only act mechanically to approve or disapprove a specific amendment. The attempt is to make the convention merely an intial step in the ratifying process instead of a deliberative meeting to seek out solutions to a problem. The word 'propose' cannot be stretched to mean 'ratify'. The Congres cannot properly accept and become part of any prepackaged effort to short cut the amendment process."[8]

But as in so many of the issues surrounding the Article V convention process, there is no agreement on this issue. The legislation passed by the Senate in 1973, S. 1272, did, however, direct that a convention can be called only when at least two-thirds of the state submit applications dealing with the same subject.

V. MAJOR LEGISLATIVE PROPOSALS DEALING WITH THE ARTICLE V CONVENTION PROCESS AND THE HANDLING OF STATE MEMORIALS

Since the initiative for a convention is lodged in the state legislatures, an imminent convention could easily catch the nation by surpriss. The confusion would be compounded if there were no adequate guidelines for the conduct of a convention. Yet, despite the fact that the issue stands on the constitutional frontier of unanswered questions, Congress has still to enact convention legislation.

The Senate has twice passed convention procedure bills without comparable House action. The following measures deal generally with the convention procers and the excerpts shown deal generally with the handling of the memorials.

A. Constitutional Convention Act of 1953 (Appears in Staff Report to the House Committee on the Judiciary, "Problems Relating to State Applications for a Convention to Propose Constitutional Limitations on Federal Tax Rates", 82d Congress, 2d Session, 1952, pages 21-24.)

Section 2(C)

"Within sixty days after a resolution is adopted by a state legislature under subsection (b) the Secretary of the State shall transmit to the Congress two petitions . . . one addressed to the President of the Senate (or to the Secretary of the Senate if the Senate is not in session) and one to the Speaker of the House (or the Clerk of the House if the House is not in session) . . .

Section 2(D)

"Each petition and notice received under subsection (c) shall be referred to the Committee on the Judiciary of the Senate, if addressed to the President or Secretary of the Senate, or to the Committee on the Judiciary of the House of Representatives, if addressed to the Speaker or Clerk of the House. At the beginning of each session of Congress, the Chairman of the Committee on the Judiciary of the Senate shall report to the Senate and the Chairman of the Committee on the Judiciary of the House shall report to the House, concerning the petitions and notices received under subsection (c) within the preceding seven years, and shall cause to be printed in the Congressional Record the text of such petition and notice which has not previously been so printed. Such report shall state the total number of such petitions calling for a convention to propose a general revision of the Constitution; the total number of such petitions calling for conventions to propose amendments of a limited nature (together with the total number received with respect to each such amendment); the date of receipt of each such petition; which, if any such petitions have been rescinded; and such other information as the Chairman considers appropriate.

B. Brickfield Proposal (Appears in *Problems Relating to a Federal Constitutional Convention*, House Committee on the Judiciary, 85th Congress, 1st Session, 1957, page 75.)

Section 2. The legislature of a State, in making application for a constitutional convention under Article V of the Constitution of the United States, shall, after adopting a resolution pursuant to this Act, petition the Congress stating, in substance, that the legislature favors the calling of constitutional convention for the purpose of—

(a) proposing a general revision of the Constitution of the United States; or

(b) proposing one or more amendments of a particular nature of the amendments to be proposed.

Section 3

(a) For the purpose of adopting a resolution pursuant to section 2, the State legislature shall adopt its own rules of procedure.

(b) Questions concerning the State legislative procedure and the validity of the adoption of a State resolution cognizable under this Act are determinable by the State legislature and its decisions thereon are binding on all others, including State and Federal courts and the Congress of the United States.

(c) A State resolution adopted pursuant to this Act is effective without regard to whether it is approved or disapproved by the Governor of the State.

Section 4

(a) Within 60 days after a resolution is adopted by the legislature of the State the secretary of state of the State, or if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate, and one to the Speaker of the House.

(b) Each copy of the application shall contain—

(1) the title of the resolution,

(2) the exact text of the resolution, signed by the presiding officer of each House of the legislature, and

(3) the date on which the legislature adopted the resolution and shall be accompanied by a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution.

C. S. 215. Federal Constitutional Convention Procedures Act (Introduced by Senator Ervin; passed the Senate October 19, 1971 by a vote of 84 to 0).

Section 2. The Legislature of a State, in making application to the Congress for a constitutional convention under Article V of the Constitution of the United States on and after the enactment of this Act, shall adopt a resolution pursuant to this Act stating, in substance, that the legislature requests the calling of a convention for the purpose of proposing one or more amendments to the Constitution of the United States and stating the nature of the amendment or amendments to be proposed.

Section 3

(a) For the purpose of adopting or rescinding a resolution pursuant to section 2 and section 5, the State legislature shall follow the rules of procedures that govern the enactment of a statute by that legislature, but without the need for approval of the legislature's action by the Governor of the State.

(b) Questions concerning the adoption of a State resolution cognizable under this Act shall be determinable by the Congress of the United States and its decisions thereon shall be binding on all others, including State and Federal courts.

Section 4

(a) Within thirty days after the adoption by the legislature of a State of a resolution to apply for the calling of a constitutional convention, the secretary of state of the State, or if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate, and one to the Speaker of the House of Representatives.

(b) Each copy of the application so made by any State shall contain—

(1) the title of the resolution;

(2) the exact text of the resolution signed by the presiding officer of each house of the State legislature; and

(3) the date on which the legislature adopted the resolution; and shall be accompanied by a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution.

(c) Within days after receipt of a copy of any such application the President of the Senate and the Speaker of the House of Representatives shall report to the House of which he is presiding officer, identifying the State making application, the subject of the application, and the number of States then having made application on such subject. The President of the Senate and Speaker of the House of Representatives shall jointly cause copies of such application to be sent to the presiding officer of each house of the legislatures of every other State and to each Member of the Senate and the House of Representatives of the Congress of the United States.

D. S. 1272 (Introduced by Senator Ervin; passed the Senate on July 9, 1973, it is identical in its provisions for applications for a convention to S. 215, above.)

E. Other notable legislative suggestions generally consistent with those already described in terms of the sections regulating the procedure for submitting memorials, include:

1. S. 1973, "The Federal Constitutional Convention Procedures Act" introduced by Senator Hathaway on June 11, 1973.

2. H.R. 7008 and H.R. 8560, identical bills entitled, "Federal Constitution Convention Amendment Act", introduced by Congressman Hyde on May 9, 1977 and July 27, 1977, respectively.

3. S. 1880, the "Federal Constitutional Procedures Act", (identical to H.R. 7008 and H.R. 8560 above) introduced by Senator Helms on July 18, 1977.

4. S. 1815, the "Federal Constitutional Convention Procedures Act", (identical to S. 1272 above), introduced by Senator Ervin on May 22, 1975.

5. H. Con. Res. 28, introduced by Congressman Pettis on January 14, 1975, calls for the convening of a convention but sets no guidelines for the state memorials.

6. H. Con. Res. 340, introduced August 5, 1977 (on request) by Congressman Lent, calls for a convention but does not set guidelines regulating the submission of memorials.

Note: The choice of a concurrent resolution for this purpose is questionable. Although concurrent resolutions are often used to authorize actions within the common ministerial orbit of both Houses, this mea-

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ure would have sizeable impact on State legislatures, as well. In any case, current resolutions "do not become law, are not used to enact legislation, and are not binding or of legal effect." (See generally, "Concurrent Resolutions: A Discussion of Their Force and Effect Beyond the End of the Congress by Which They Are Passed", by Jay Shampansky, Legislative Attorney in the American Law Division of the Library of Congress, June 9, 1976.)

VI. RECOMMENDATIONS

A. The House might reassess its procedure to make certain that when it receives a memorial from a state requesting amendment of the Constitution, the printing of the memorials by title in the Congressional Record include both the subject matter of the desired amendment and a specific notation that a convention is requested, if such be the case. Ideally, the House should also print in full each memorial requesting a convention.

B. The Senate might revise its procedures to require that on January 31 and July 30 of each year, it print in full a complete listing of citations to pages in the Congressional Record at which appeared memorials from the states requesting a convention since the last previous listing. Such listing would include the date, page number, state, subject matter of the memorial and a cross reference to the page number in the House section of the Congressional Record at which the House noted receipt of the identical application. The list would be prepared by the Secretary of the Senate.

3. Both Houses might note and reaffirm that the originals of all such applications are to be retained by the offices of the Secretary of the Senate and the Clerk of the House with copies to be filed with the Judiciary Committees of their respective Houses.

4. The Congress might direct that model guidelines for use by the states in submitting applications for a constitutional convention be prepared and distributed to the secretary of state of each of the states. The guidelines should not suggest any limits on the subject matter of such applications but deal only with ministerial questions such as:

a. to whom the applications should be sent in the Congress;

b. the signatures of state officers required on the application, and;

c. the number of days the legislatures have from the adoption of their resolutions until the time they must be submitted to the Congress.

VII. COMMENT

There has never been a constitutional convention called under Article V. But there have been some near misses. In 1967, for example, state memorials requesting a convention on the reapportionment controversy came within one of the total that, theoretically, would have required Congress to call a convention.

Just prior to the Civil War, a convention to amend the Constitution actually did assemble in Washington, D.C. By February 4, 1861, seven states had already seceded from the Union and their respesentatives were gathering in Montgomery, Alabama to form a Confederacy and draft a new constitution. Meanwhile, on the same day, delegates representing twenty-one states were meeting in Washington at the invitation of the State of Virginia. Known as the "Peace Convention", it was called to propose amendments which, in turn, were to be submitted to the Congress. The convention presided over by former President John Tyler, met for nineteen days and produced one amendment. The seven-section amendment, however, was rejected by the Senate while the House of Representatives refused to consider it. Among the amendment's several sections were provisions authorizing the continued existence of slavery south of the "parallel of 36° 30' north latitude" and generally prohibiting Congress from regulating, abolishing, or controlling slavery in those areas where it then existed.[9]

The convention was clearly not a gathering authorized by Article V of the Contitution. But it did illustrate two of the factors still associated with Article V applications for a convention. For one thing, the applications tend to become more frequent when Congress will not respond to an emotional national issue. Secondly, the application process under which states actually request a convention tends to hinge on grass-roots efforts.

Illustrations of the grass-roots character of the convention movement are plentiful. In 1899, for example, the drive was just beginning for an amendment providing for direct election of U.S. Senators. Faced with a Congress that would not submit such an amendment to the states, the Pennsylvania State Legislature created a standing committee "to confer with legislatures of other states regarding the election of United States senators by popular vote" by the passage of an amendment through a constitutional convention.

Today, there is evidence of a comparable grass-roots push for a convention. Of the thirty-two memorials submitted to the Congress since 1974, seventeen specified that copies of their memorials should be circulated in each of the other state legislatures.

Americans for a Constitutional Convention, based in New York, now publishes a monthly newsletter, "Convention Call", which charts the progress of convention applications on abortion and encourages other states to apply.

In 1972, with anti-busing sentiment at its height, the National Committee for a Constitutional Amendment to Prohibit Forced Busing was formed in Washington, D.C. Chaired by Wayne Connally, brother of former Treasury Secretary, John Connally, the Committee's goal was to get ". . . 34 state legislatures to approve to resolution calling for a constitutional convention to develop the desired amendment" on busing.[9]

Other cause-oriented groups also promote the idea of a constitutional convention as a means of furthering their goals. For example, Congressman McDonald of Georgia has proposed an amendment to the Constitution "which would put an end to the Government engaging in business enterprises that are not Constitutionally authorized." Among those unconstitutional businesses, Congressman McDonald lists TVA, the Commodity Credit Corporation, and the Federal Crop Insurance Administration. Backers of the amendment, according to Mr. McDonald, are engaged in an active campaign to lobby state legislatures to ask Congress for a convention at which the amendment could be considered.[11]

Aside from the grass-roots nature of the constitutional convention proposal, it also tends to reappear at times of national reaffirmation. Aside from the 1861 Peace Convention, calls for a convention accompanied both World War I and World War II. Near the end of World War I, articles appeared in national magazines favoring a constitutional convention to update and reform the system of American government.[12] During World War II it was suggested that a convention be summoned to sit throughout the war as a "democratic gathering to which would come all those who seek revision of our constitutional arrangements."[13]

In 1937 with war tensions growing the United States commemorated its 150th year of life under the Constitution. In an article for the *North American Review*, Malcolm R. Eiselen wrote, "Nothing worse could befall the nation . . . than to make this year's celebration merely a complacent eulogy and uncritical exaltation of the Constitution . . . How fitting it would be, on this anniversary occasion, to summon a second convention for an intelligent and comprehensive re-examination in the light of experience and altered conditions of the workings of the Nation's Charter."[14]

In 1887, the United States staged a three-day celebration in Philadelphia marking the Centennial of the Constitution[15] and with the Bicentennial only ten years away, proposals for constitutional review are already beginning to emerge.[16]

Senator Abourezk has recently called for a constitutional amendment providing for the initiative on a national scale. Although no one has publically raised the prospect of promoting the amendment through the state legislatures, the initiative concept of returning a stronger voice to the people is clearly compatible with the grass-roots character of the convention option. Moreover, Senator Abourezk, in 1975, introduced a constitutional convention procedures bill identical to the Senate-passed Ervin bill of 1971.

The point of this glance at convention history is that, while the idea has never really caught the public imagination, there always seems to be continuing support for it. For the last twenty-years, convention calls have generally issued on questions reflecting the conservative viewpoint. More important, however, than the philosophy behind the memorials is the fact that the Congress has yet to act on guidelines for a convention. When they did act during the emotionally charged battle over reapportionment, the Senate ruled out any court review of convention decisions and gave to the Congress final authority on questions surrounding an *individual state legislature's procedures* used to adopt a resolution forwarding a memorial to the Congress. Beyond that, the bill was so narrow it virtually banned the option of a general convention.

This is not to say that such a general convention is needed. It is to say, however, that it is time the Senate reconsider its earlier action and that Congress open to fresh hearings the entire question of a constitutional convention. It should be done at a time when passions are cool. It should certainly be done soon.

Footnotes at end of article

FIGURE 1

STATE MEMORIALS REQUESTING A CONSTITUTIONAL CONVENTION, JANUARY 1974 TO SEPTEMBER 1977

State	Subject	Noted in House	Received by Senate	Sent to:	Share with other State legislatures
Indiana	Abortion		Jan. 21, 1974, CR vol. 120, p. 14	Clerk and Secretary	No
Massachusetts	Use of public funds for secular education.	Mar. 18, 1974, CR vol. 120, p. 7014	Mar. 21, 1974, CR vol. 120, p. 7687	Speaker and President of Senate	No
Do	Busing	May 1, 1974, CR vol. 120, p. 12562	May 6, 1974, CR vol. 120, p. 13130	do	Yes.
California	Private ownership of gold	Sept. 11, 1974, CR p. 30714			

123 Cong. Rec. 36534 (1977)

Stasny Report, Congressional Record, Vol. 123, p. 36539 (1977)

State	Subject	Noted in House	Received by Senate	Sent to:	Share with other State legislatures
Arkansas	Balanced budget		Mar. 10, 1975 p. 5793	Speaker and President of Senate	No.
Virginia	do	Feb. 27, 1975, p. 4730	do	do	No.
Mississippi	do	Apr. 29, 1975, p. 12168	Apr. 29, 1975, p. 12175	Clerk and Secretary	Yes.
Missouri	Abortion	May 7, 1975, p. 13433	May 5, 1975, p. 12867	do	No.
Nevada	Coercive use of Federal funds	June 16, 1975, p. 19117	June 26, 1975, p. 21065	Speaker and President of Senate	No.
Louisiana	Balanced budget	July 23, 1975, p. 24412	July 28, 1975, p. 25311	Clerk and Secretary	Yes.
Kentucky	Busing	Sept. 22, 1975, p. 29630	Sept. 8, 1975, p. 27821	do	Yes.
Indiana	Balanced budget	Jan. 28, 1976, p. 1400	Jan. 26, 1976, p. 931	do	No.
Georgia	do	Feb. 16, 1976, p. 3161	Feb. 6, 1976, p. 2740	do	No.
Tennessee	Coercive use of Federal funds		Feb. 17, 1976, p. 3316	do	Yes.
South Carolina	Balanced budget	Feb. 23, 1976, p. 4090	Feb. 25, 1976, p. 4329 and Feb. 26, 1976, p. 4546	Speaker and President of Senate	No.
Delaware	do	Mar. 4, 1976, p. 5572	Feb. 25, 1976, p. 4329	Clerk and Secretary	Yes.
Virginia	do	Mar. 25, 1976, p. 8019	Mar. 29, 1976, p. 8336	Speaker and President of Senate	Yes.
Massachusetts	Busing		Apr. 7, 1976, p. 9735	do	No.
Oklahoma	Coercive use of Federal funds	June 7, 1976, p. 16816		State congressional delegation	No.
Louisiana	Abortion	July 22, 1976, p. 22550		Speaker and President of Senate	Yes.
Virginia	Item veto	Mar. 28, 1977, p. 9299		do	Yes.
South Dakota	Abortion	Apr. 18, 1977, p. 11041	Apr. 22, 1977, p. 11838	do	No.
New Jersey	do	Mar. 30, 1977, p. 9682	Apr. 5, 1977, p. 10481	do	Yes.
Utah	do	May 3, 1977, p. 13301 and May 4, 1977, p. 13471	May 2, 1977, p. 13057	Clerk and Secretary	Yes.
Rhode Island	do	May 13, 1977, p. 14649 and May 19, 1977, p. 15539	May 20, 1977, pp. 15808, 15809	Senate and House of Representatives	Yes.
Arkansas	do	May 16, 1977, p. 14825	May 20, 1977, p. 15808	Speaker and President of Senate	Yes.
Arizona	Balanced budget	June 14, 1977, p. 18863	June 14, 1977, p. 18873	Clerk and Secretary	Yes.
Tennessee	do	June 10, 1977, p. 18419		Speaker and President of Senate	Yes.
Do	Terms of Federal judges	do		Senate and House of Representatives	Yes.
Massachusetts	Abortion	June 23, 1977, p. 20659	July 1, 1977, p. 22002	do	Yes.
Guam	do	June 27, 1977, p. 20945	July 1, 1977, p. 22001	Clerk and Secretary	Yes.
Tennessee	Item veto		July 1, 1977, p. 22002	Speaker and President of Senate	Utah only.
				do	Yes.

FOOTNOTES

[1] *Proposed Amendments to the Constitution of the United States of America*, 91st Congress, 1st Session, Senate Document No. 91–38, page VII. See also, unpublished compilations of the Senate Library.

[2] See for example: Hearings Before the Subcommittee on Separation of Powers of the Committee on the Judiciary, United States Senate, on "S. 2307, Federal Constitutional Convention," 90th Congress, 1st Session, October 30 and 31, 1967; see also, *Michigan Law Review*, Vol. 66, No. 5, March 1968; see also: James N. Stasny, "Toward a Civically Militant Electorate: A National Constitutional Convention" (excerpts) appearing in the April 1, 1976, *Congressional Record*, Vol. 122, No. 48, page 5984.

[3] See for example: *State Applications Asking Congress to Call a Federal Constitutional Convention*, House Committee on the Judiciary, 87th Congress, 1st Session, July 1, 1961; see also, *Federal Constitutional Convention*, "States Ask for Federal Constitutional Convention," Senate Document No. 78, 71st Congress, 2d Session, February 1, 1930; Fred P. Graham, "The Role of the States in Proposing Constitutional Amendments," American Bar Association Journal, Vol. 49, December 1963, page 1175; "State Applications to Congress for Convention to Propose Constitutional Amendments," Congressional Research Service, June 12, 1973 and *Addendum*, July 2, 1974; "Amendment of the Constitution By the Convention Method Under Artile V," Final Report of the American Bar Association's Special Constitutional Convention Study Committee, Chicago, 1974.

[4] See Appendix for complete listing of the 32 memorials as they appeared in either the *Congressional Record* or in the original state resolutions.

[5] Floyd M. Riddick, *Senate Procedure*, page 542, *Rules of the United States Senate*, Rule VII, paragraph 1.

[6] *Rules of the United States Senate*, Rule VII, paragraph 1.

[7] Floyd M. Riddick, *Senate Procedure*, pages 781–82.

[8] Rule VII, paragraph 1.

[9] Riddick, *op. cit.*, page 328; Rule VII, paragraph 6.

[10] Riddick, *op. cit.*, page 275; Rule VII, paragraph 5.

[11] There are two other categories besides POM. One category is "Executive Communications" with the initials EC and the other category is "Presidential Messages" with the initials PM. Under each category the first item receives the number one with subsequent items numbered consecutively.

[12] Memorials from states requesting a convention to propose an amendment to the Constitution are always referred to the Judiciary Committee.

[13] Jefferson's Manual, page 183, Section XIX, paragraph 389.

[14] Rule XXII, paragraph 1.

[15] *Background Information on Administrative Units, Member's Offices, and Committees and Leadership Offices*. House Document No. 95–178, 95th Congress, 1st Session, page 9.

[16] Supra note 12.

[17] (1974) Massachusetts on busing and Massachusetts on public funds for secular education; (1975) Arkansas, Virginia, Nevada; (1976) Tennessee, South Carolina, Virginia, Massachusetts, Louisiana; (1977) Virginia, South Dakota, Rhode Island, Arizona, Guam and Tennessee on item veto in Appropriation's bills.

[18] (1974) Indiana; (1975) Mississippi, Missouri, Louisiana, Kentucky; (1976) Indiana, Georgia, Delaware; (1977) New Jersey, Arkansas, Massachusetts.

[19] (1977) Utah, Tennessee on balanced budget and Tennessee on Federal judges.

[20] Oklahoma 1976.

[21] (1974) Massachusetts in two instances; (1975) Virginia, Nevada; (1976) South Carolina, Virginia; (1977) Virginia, South Dakota, Rhode Island, Arizona, and Guam.

[22] See "Constitutional Convention Act of 1953" in Staff Report to the House Committee on the Judiciary, *Problems Relating to State Applications for a Convention to Propose Constitutional Limitations on Federal Tax Rates*. 82d Congress, 2d Session, 1952, pages 21–24; See also S. 1272 which passed the Senate July 9, 1973; S. 1973 introduced June 11, 1973; Cyril Brickfield, *State Applications Asking Congress to Call a Federal Constitutional Convention*, House Committee on the Judiciary, 87th Congress, 1st Session, July 1, 1961, page 34–36.

[23] Rules of the House of Representatives, page 561.

[24] By coincidence Guam is now in the midst of a constitutional convention of its own to draft a constitution for local self government.

[25] *Congressional Record*, May 13, 1977, page 14649.

[26] *Congressional Record*, May 19, 1977, page 15539.

[27] *Congressional Record*, February 25, 1976, page 4329.

[28] *Congressional Record*, February 26, 1976, page 4546.

[29] *Congressional Record*, March 29, 1976, page 8336.

[30] *Congressional Record*, June 7, 1976, page 16816.

[31] *Congressional Record*, February 7, 1976, page 2930.

[32] *Congressional Record*, July 1, 1977, page 22002.

[33] *Congressional Record*, June 10, 1977, page 18419.

[34] *Congressional Record*, June 10, 1977, page 18420.

[35] *Congressional Record*, March 10, 1975, page 5793.

[36] *See Congressional Record*, May 3, 1977, page 13301 and May 4, 1977, page 13471.

[37] "Amendment of the Constitution by the Convention Method Under Article V," Special Constitutional Convention Study Committee of the American Bar Association, page 33.

[38] *Congressional Record*, April 19, 1967, page 10116.

[39] See generally L. E. Chittenden, *Report of the Debates and Proceedings of the Peace Convention Held at Washington, D.C.*, February 1861, D. Appleton & Company, 1861.

[40] *Houston Chronicle*, January 15, 1973, page 4.

[41] *Congressional Record*, October 9, 1975, page 32625. For further discussion of citizen's role in promoting a convention, see John E. Bebout, "The Citizen as Institution Builder" in *National Civil Review*, V. 66, January 1977.

[42] See Bouck, White, *The Outlook*, August 22, 1917, page 613; See also Lewis Mayer, "Should We Remake the Constitution?" in *The New Republic*, August 17, 1918.

[43] Alexander Hehmeyer, *Time for Change*, pp. 6 and 34.

[44] Malcolm R. Eiselen, "Dare We Call a Federal Convention?", in the North American Review, Vol. 244, No. 1, 1937, page 27.

[45] *History of the Celebration of the One Hundredth Anniversary of the Promulgation of the Constitution of the United States.* (Philadelphia 1889.)

[46] Conley Dillon, "American Constitutional Review: Are We Preparing For the 21st Century?" in *World Affairs*, Summer, 1970, pages 5–24.

123 Cong. Rec. 36534 (1977)

Judge Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BILL WALKER, Plaintiff, v. UNITED STATES, Defendant	)	No. COO-2125C UNITED STATE' MEMORANDUM IN OPPOSITION TO PLAINTIFF'S MOTION FOR DECLARATORY AND INJUCTIVE RELIEF AND IN SUPPORT OF CROSS-MOTION TO DISMISS

COMES NOW the United States and files this Memorandum in Opposition to Plaintiff's Motion for Declaratory and Injunctive Relief and in Support of Cross-Motion to Dismiss.

Introduction

Plaintiff's lawsuit alleges that Congress has ignored Article V of the Constitution and violated his constitutional rights by failing to heed the call of two-thirds of the States to call a Constitutional Convention to consider proposed amendments to the Constitution. Specifically, plaintiff alleges that Congress' purported refusal to convene a Constitutional Convention has violated his right to seek elected office – *i.e.*, that of delegate to a Constitutional convention; his right to vote on any amendments that are ultimately the product of a such a Convention; and his "right of redress." Complaint at ¶ 4. the complaint seeks a Judgment against congress in the form of an Order compelling

when two thirds of the Legislatures of the "several States" apply to Congress to call a Convention to propose amending the Constitution. *See* **Section A**, *supra*. Ratification of any amendments so offered must be by either State Legislatures or by Conventions in three fourths of the states, as Congress, in its discretion, may prescribe. *Id.* While a total of thirty-three amendments to the Constitution have been proposed to the States pursuant to Article V, all of them arose out of a vote of the requisite majorities in Congress and none was the product of the Convention alternative. *See* United States Code (1994 ed.), Vol. 1 at LX-LXIX.

Because it has never successfully been invoked, the Convention method of amendment raises a host of fundamental and previously unanswered constitutional questions, answers to which are neither obvious nor unimportant to the very 'blueprint' of our Republic. Such questions include, but are no means limited to:

> Precisely when and how is a Constitutional Convention to be convened?
>
> Must the subject matter of the applications of the requisite number of States be identical, or request substantially the same amendment, or merely deal with generally related issues?
>
> Must the requisite number of applications be submitted together, substantially contemporaneous or within several years of one another?
>
> Can a Convention be limited to consideration of the amendment or general subject matter that the Convention was convened to consider?

These same questions are implicit in plaintiff's lawsuit, which alleges that, since the Constitution itself was ratified, the requisite number of States have cumulatively and in the proper manner applied to Congress to convene a Constitutional Convention.[2]

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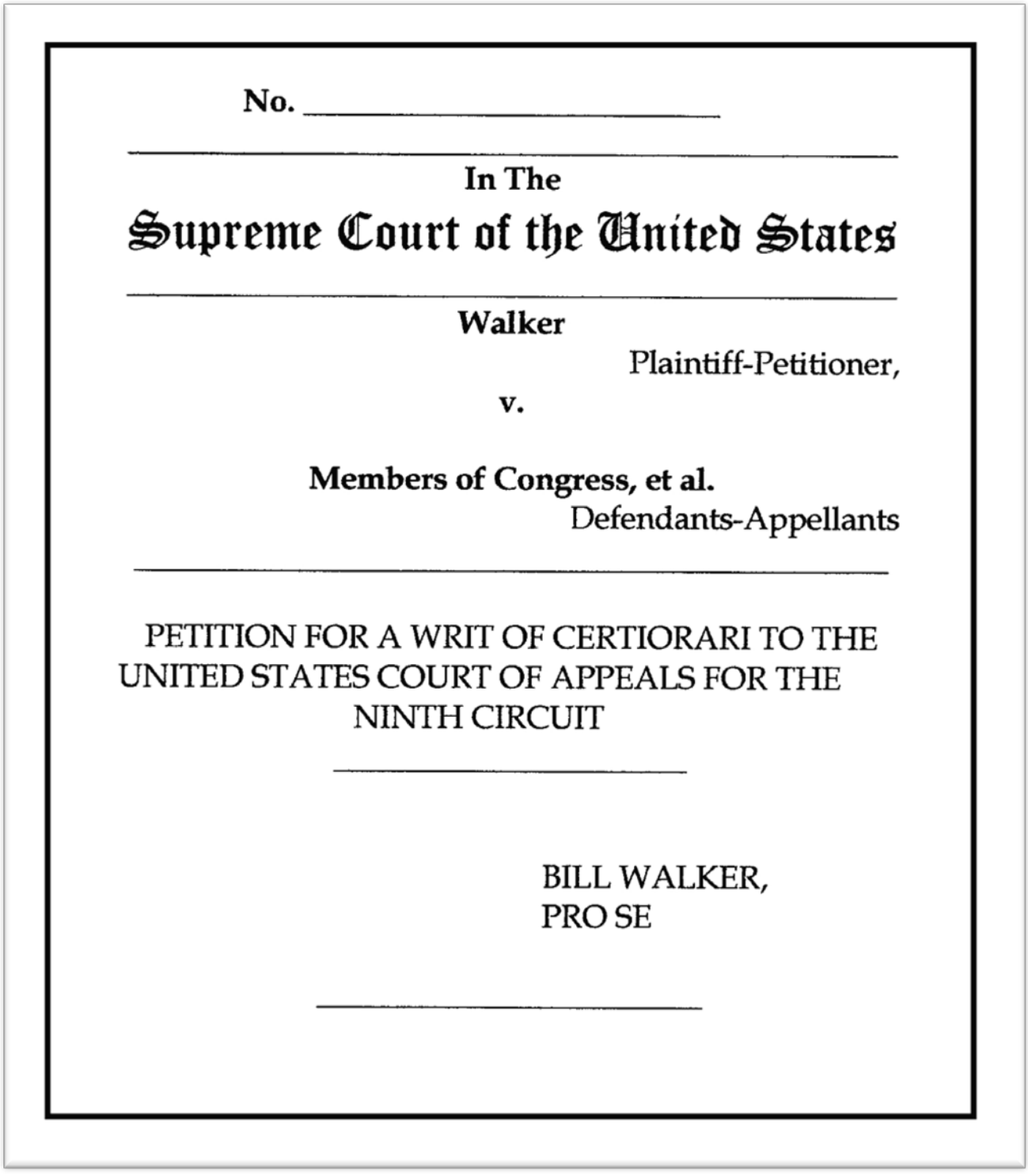
[2] Neither the Complaint nor the Motion for Declaratory and Injunctive Relief readily identifies those states that plaintiff alleges have applied to Congress to call a Convention, the dates of such applications are alleged to have been made, nor the subject matter, if any, of the applications.

Walker v Members of Congress Certiorari Title Page



No. _____

In The

Supreme Court of the United States

Walker

Plaintiff-Petitioner,

v.

Members of Congress, et al.

Defendants-Appellants

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BILL WALKER,
PRO SE

illegally collecting internal revenue by unconstitutional means and therefore makes the members liable for the above cited laws. In sum, refusal to call a convention to prevent an amendment from occurring while still collecting income tax because the states wish to repeal that tax is extortion.

Further this refusal to call a convention by the members of Congress violates their oath of office required under 5 U.S.C 3331, 5 U.S.C. 3333 and this, in turn, violates 5 U.S.C. 7311 (1), 18 U.S.C. 1918 and Executive Order No. 10450 thus constituting overthrowing our constitutional form of government. There is only one constitutional means by which the *form* of government of the United States may be altered, by formal amendment to the Constitution as specified in Article V. Ignoring a clause of Article V so as to gain exclusive control of that process where the Founders never intended such control is an "alteration of the form of government of the United States by unconstitutional means." Congress has never offered a formal amendment granting them exclusive control of the Constitution.

5 U.S.C. 7311 states that if the members even "advocate" i.e., declare their opposition to obeying the Constitution in a public record, that is sufficient to prove violation of their oath of office. By asserting their individual opposition to this suit in Appeals Court, by employing 2 U.S.C. 118, the members violated the above cited statutes. The statute provides no immunity for such public advocacy. This Court has stated that no constitutional immunity exists for anyone who attempts to overthrow the constitutional form of government without amendment. This Court has stated:

"Since there is no constitutionally protected right to overthrow a government by force , violence, or illegal or unconstitutional means, no constitutional right is infringed by an oath to abide by the constitutional system in the future." Cole v Richardson, 405 U.S. 676 (1972).

Congress has never offered an amendment to the states giving it absolute power over the entire amendment process

Supreme Court Rule 15.2—First Page

If the material required by this subparagraph is voluminous, it may be presented in a separate volume or volumes with appropriate covers.

2. All contentions in support of a petition for a writ of certiorari shall be set out in the body of the petition, as provided in subparagraph 1(h) of this Rule. No separate brief in support of a petition for a writ of certiorari may be filed, and the Clerk will not file any petition for a writ of certiorari to which any supporting brief is annexed or appended.

3. A petition for a writ of certiorari should be stated briefly and in plain terms and may not exceed the page limitations specified in Rule 33.

4. The failure of a petitioner to present with accuracy, brevity, and clarity whatever is essential to ready and adequate understanding of the points requiring consideration is sufficient reason for the Court to deny a petition.

5. If the Clerk determines that a petition submitted timely and in good faith is in a form that does not comply with this Rule or with Rule 33 or Rule 34, the Clerk will return it with a letter indicating the deficiency. A corrected petition received no more than 60 days after the date of the Clerk's letter will be deemed timely.

Rule 15. Briefs in Opposition; Reply Briefs; Supplemental Briefs

1. A brief in opposition to a petition for a writ of certiorari may be filed by the respondent in any case, but is not mandatory except in a capital case, see Rule 14.1(a), or when ordered by the Court.

2. A brief in opposition should be stated briefly and in plain terms and may not exceed the page limitations specified in Rule 33. In addition to presenting other arguments for denying the petition, the brief in opposition should address any perceived misstatement of fact or law in the petition that bears on what issues properly would be before the Court if certiorari were granted. Counsel are admonished that they have an obligation to the Court to point out in the brief in opposition, and not later, any perceived misstatement

Supreme Court Rule 15.2—Second Page

made in the petition. Any objection to consideration of a question presented based on what occurred in the proceedings below, if the objection does not go to jurisdiction, may be deemed waived unless called to the Court's attention in the brief in opposition.

3. Any brief in opposition shall be filed within 30 days after the case is placed on the docket, unless the time is extended by the Court or a Justice, or by the Clerk under Rule 30.4. Forty copies shall be filed, except that a respondent proceeding *in forma pauperis* under Rule 39, including an inmate of an institution, shall file the number of copies required for a petition by such a person under Rule 12.2, together with a motion for leave to proceed *in forma pauperis*, a copy of which shall precede and be attached to each copy of the brief in opposition. If the petitioner is proceeding *in forma pauperis*, the respondent may file an original and 10 copies of a brief in opposition prepared as required by Rule 33.2. Whether prepared under Rule 33.1 or Rule 33.2, the brief in opposition shall comply with the requirements of Rule 24 governing a respondent's brief, except that no summary of the argument is required. A brief in opposition may not be joined with any other pleading, except that any motion for leave to proceed *in forma pauperis* shall be attached. The brief in opposition shall be served as required by Rule 29.

4. No motion by a respondent to dismiss a petition for a writ of certiorari may be filed. Any objections to the jurisdiction of the Court to grant a petition for a writ of certiorari shall be included in the brief in opposition.

5. The Clerk will distribute the petition to the Court for its consideration upon receiving an express waiver of the right to file a brief in opposition, or, if no waiver or brief in opposition is filed, upon the expiration of the time allowed for filing. If a brief in opposition is timely filed, the Clerk will distribute the petition, brief in opposition, and any reply brief to the Court for its consideration no less than 10 days after the brief in opposition is filed.

United States Wavier of Response Walker v Members of Congress

IN THE SUPREME COURT OF THE UNITED STATES

WALKER, BILL
Petitioner

vs.

No: 06-0244

MEMBERS OF CONGRESS, ET AL.

WAIVER

The Government hereby waives its right to file a response to the petition in this case, unless requested to do so by the Court.

PAUL D. CLEMENT
Solicitor General
Counsel of Record

August 29, 2006

California State Applications—First Page

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grant should also influence the national government to buy and make free the toll roads which traverse the Yosemite National Park; and that our senators in congress be instructed, and our representatives be requested and urged, to take such action as shall result in the securing of proper appropriations at the present session of congress, in accordance with the report of said commission, for the purchase of these roads, to the end that said Yosemite National Park shall be made a park in fact, as well as in name, accessible to the people of the United States at all times.

Resolved further, That the chief clerk of the assembly be instructed to transmit by mail a copy of this resolution to the president of the senate and to the speaker of the house of representatives of the United States of America, and to each senator and representative of the State of California at Washington, D. C.

CHAPTER XXV.

Assembly Constitutional Amendment No. 17.—A resolution to propose to the people of the State of California an amendment to Article XIII of the Constitution of the State of California, by adding a new section thereto to be numbered section 10½, in relation to revenue and taxation.

[Adopted February 28, 1903.]

Resolved by the assembly, the senate concurring, That the legislature of the State of California, at its regular session, commencing on the fifth day of January, anno domini one thousand nine hundred and three, two thirds of the members elected to each of the two houses voting in favor thereof, hereby propose that article thirteen of the Constitution of the State of California be amended by adding a new section thereto to be numbered section 10½, to read as follows:

Personal property exempt from taxation.

Section 10½. The personal property of every householder to the amount of one hundred dollars, the articles to be selected by each householder, shall be exempt from taxation.

CHAPTER XXVI.

Assembly Joint Resolution No. 8, relative to requesting congress to call a convention for the purpose of submitting an amendment to the Constitution of the United States calling for the election of United States senators by the direct vote of the people.

[Adopted February 27, 1903.]

WHEREAS, A large number of state legislatures have at various times adopted memorials and resolutions in favor of election of United States senators by popular vote; and,

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WHEREAS, The national house of representatives has on four separate occasions within recent years adopted resolutions in favor of the proposed change in the method of electing United States senators, which were not adopted by the senate; and,

WHEREAS, Article five of the Constitution of the United States provides that congress, on the application of the legislature of two-thirds of the several states, shall call a convention for proposing amendments, and believing there is a general desire upon the part of the citizens of the State of California that the United States senators should be elected by a direct vote of the people; therefore, be it

Favoring election of United States Senators by popular vote.

Resolved, That the legislature of the State of California favors the adoption of an amendment to the Constitution of the United States which shall provide for the election of United States senators by popular vote, and joins with other states of the union in respectfully requesting that a convention be called for the purpose of proposing an amendment to the Constitution of the United States, as provided for in article five of the said Constitution, which amendment shall provide for a change in the present method of electing United States senators, so that they can be chosen in each state by a direct vote of the people, and the request of and consent to, the calling and holding of such convention, as hereby made and given, is limited to the consideration and adoption of such amendment to said Constitution as herein mentioned and no other.

Resolved, That a copy of this concurrent resolution and application to congress for the calling of a convention be sent to the secretary of state of each of the United States, and that a similar copy be sent to the president of the United States senate and the speaker of the house of representatives.

CHAPTER XXVII.

Assembly Joint Resolution No. 14, memorializing our senators and representatives in congress to secure a reconsideration of the order of the federal authorities, transferring the Spanish archives from San Francisco to Washington, and to secure if possible, the transfer of said archives to the State of California.

[Adopted February 27, 1903.]

WHEREAS, The secretary of the interior, through the U. S. land commission at Washington, has directed the U. S. surveyor-general at San Francisco to transfer the "Spanish Archives" from San Francisco to Washington, and,

WHEREAS, These archives embrace the records of the Spanish land grants which form the basis of most of the California land titles, military reports, records of the early missions, proceedings of the alcalde courts, and a vast number of valuable manuscripts bearing upon the government and the people of early California under Spanish and Mexican rule, dating back

California State Applications—Third Page

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CHAPTER 31.

Senate Joint Resolution No. 1, relative to requesting congress to call a convention for the purpose of submitting an amendment to the constitution of the United States calling for the election of United States senators by the direct vote of the people.

[Filed with Secretary of State March 3, 1911.]

WHEREAS, The legislatures of twenty-seven states have recently at various times adopted memorials and resolutions favoring the election of United States senators by popular vote; and

WHEREAS, The national house of representatives has on four separate occasions within recent years adopted resolutions in favor of the proposed change in the method of electing United States senators, which were rejected by the senate; and

WHEREAS, Article five of the constitution of the United States provides that congress, on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments, and believing there is a general desire upon the part of the citizens of the State of California that the United States senators should be elected by a direct vote of the people; therefore, be it

Election of United States senators by popular vote.

Resolved, That the legislature of the State of California favors the adoption of an amendment to the constitution of the United States which shall provide for the election of United States senators by popular vote, and joins with the other states of the Union in respectfully requesting that a convention be called for the purpose of proposing an amendment to the constitution of the United States, as provided for in article five of said constitution, which amendment shall provide for a change in the present method of electing United States senators, so that they can be chosen in each state by a direct vote of the people.

Resolved, That a copy of this joint resolution and application to congress for the calling of a convention be sent to the secretary of state of each state of the United States, and that a similar copy be sent to the president of the United States senate and the speaker of the house of representatives.

CHAPTER 32.

Senate Joint Resolution No. 10, relative to the establishment of a parcels post.

[Filed with Secretary of State March 3, 1911.]

WHEREAS, The establishment of a parcels post would be an inestimable benefit to the State of California and an incalculable stimulus to trade, both domestic and foreign, throughout the whole of the United States; and

WHEREAS, It has been found possible for the American ex-

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safeguarded that fraudulent divorces can not be secured; now, therefore, be it

Resolved, That we instruct our senators in congress and request our representatives at Washington to use their best endeavors to have congress propose an amendment to the constitution of the United States whereby the congress may pass laws regulating the subject of marriage and divorce throughout the United States.

Regulating marriage and divorce.

CHAPTER 72.

Senate Concurrent Resolution No. 30, relative to the consent of the legislature to the absence of certain members thereof, and of state officials, from the State of California for more than sixty days.

[Filed with Secretary of State March 28, 1911.]

Resolved by the senate, the assembly concurring, That the legislature of the State of California has consented, and does hereby consent, that Albert J. Wallace, John M. Eshleman, H. D. Loveland, Alex. Gordon, J. L. Avey, D. J. Beban, C. W. Bell, Chas. B. Bills, R. S. Birdsall, Marshall Black, A. E. Boynton, E. F. Bryant, Lester G. Burnett, A. Caminetti, A. E. Campbell, Geo. W. Cartwright, John J. Cassidy, J. B. Curtin, Charles P. Cutten, Miguel Estudillo, Thos. F. Finn, Lee C. Gates, George J. Hans, John P. Hare, Leslie R. Hewitt, James B. Holohan, H. M. Hurd, L. W. Juilliard, E. O. Larkins, John T. Lewis, E. B. Martinolli, D. P. Regan, Louis H. Roseberry, Benj. F. Rush, J. B. Sanford, T. W. H. Shanahan, John W. Stetson, Ed K. Strobridge, Newton W. Thompson, Edward J. Tyrrell, Geo. S. Walker, Richard J. Welch, Edward I. Wolfe, and Leroy A. Wright may absent themselves from the State of California at such times they may choose, or as necessity may require, during their term of office, for a period of more than sixty (60) days: *provided*, that the periods of such absence taken together as to any one person shall not exceed in any one calendar year the total period of five months.

Consent of legislature to absence of certain members and state officers from state.

CHAPTER 73.

Senate Joint Resolution No. 25, relative to election of senators of the United States by a direct popular vote.

[Filed with Secretary of State March 28, 1911.]

Resolved, by the senate of the State of California and the assembly, jointly, constituting the legislature of the State of California, that the legislature of the State of California does hereby make application to the congress of the United States, to call, in the immediate future, a constitutional convention of the people of the United States for the purpose of proposing, for

Amendment to United States constitution relating to election of senators by popular vote.

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ratification, amendments to the constitution of the United States, authorizing the several states to provide by law for the election of senators of the United States by a direct popular vote.

Resolved, That duly authenticated copies of these resolutions be duly and directly presented to the senate and house of representatives constituting the congress of the United States.

CHAPTER 74.

Senate Joint Resolution No. 27, relative to requesting secretary of interior to confirm selections of land to the State of California.

[Filed with Secretary of State March 28, 1911.]

WHEREAS, Applications have been made by the State of California, through the United States general land office, to the secretary of the interior for approximately three hundred thousand acres of indemnity school lands, which applications are still pending unexamined and unapproved; and

WHEREAS, It is admitted by the secretary of the interior that the State of California has complied with all requirements of law and with all rules and regulations of the United States general land office and of the secretary of the interior relating thereto; and

WHEREAS, Notwithstanding the larger portion of these applications have been pending for many years, it is represented by the secretary of the interior that such applications have not been approved, for the reason that the clerical force at his disposal has been insufficient to make the required examinations; and

WHEREAS, The United States general land office, in November, 1910, determined to make an examination in the field of all lands so applied for before approving the same, and the work of such examination in the field has not yet been commenced; and

WHEREAS, The failure to approve these selections has prevented the state and the citizens thereof from making any beneficial use of the lands so withheld and has resulted in the annual loss of many thousands of dollars in taxes; and

WHEREAS, The State of California having in all things complied with the law and with the rules and regulations of the United States general land office, and being admittedly entitled to action thereon by the federal government, the continued delay is unwarranted and is manifestly unjust to the state; therefore, be it

Indemnity school lands.

Resolved, by the senate and assembly, jointly, That we respectfully urge the honorable secretary of the interior that such action be taken by his department as shall result in an immediate examination and an early determination of the applications made by California for approximately three hun-

California State Applications—Sixth Page

1913

1676 STATUTES OF CALIFORNIA.

CHAPTER 42.

Assembly Joint Resolution No. 1, relative to requesting congress of the United States to call a convention for the purpose of submitting an amendment to the constitution of the United States calling for the election of president and vice president of the United States by a direct vote of the people.

[Filed with Secretary of State May 9, 1913.]

Amendment to U. S. constitution for direct election of president favored.

WHEREAS, The twelfth amendment to the constitution of the United States, provides for the election of the president and vice president by and through electors, selected by the people of the respective states, and such method of procedure is not satisfactory to the people of the State of California, and

WHEREAS, The present method of election of the president and vice president is not in accordance with a truly representative government of, for and by the people, therefore, be it

Resolved, That the legislature of the State of California at its fortieth session favors the adoption of an amendment to the constitution of the United States which shall provide for the election of the president and vice president by a direct and popular vote of the people;

Resolved, That a copy of this joint resolution and application to congress of the United States for the calling of a convention, for the above purposes be sent to the governor of each state of the United States, and a similar copy be sent to the president of the United States, the president of the United States senate and the speaker of the house of representatives, and to each member, in the senate and house of representatives, from the State of California.

CHAPTER 43.

Assembly Joint Resolution No. 13, a joint resolution asking the congress of the United States to enact the Hamill bill (H. R. 9242) known as "the straight pension" bill for the pensioning of civil service employees of the United States post office department.

[Filed with Secretary of State May 9, 1913.]

Pensions for post office employees favored.

WHEREAS, At a convention held in the city of Rochester, State of New York, in September, 1911, at which thirty thousand letter carriers employed by the United States post office department, including representatives of the letter carriers from nearly every city and town in California were represented resolutions were adopted asking congress to enact the Hamill "straight pension" bill (H. R. 9242) which provides for a pension to all the civil service employees of the United States post office department under conditions prescribed in the bill; and

Response of State of Illinois—First Page

ILLINOIS HOUSE OF REPRESENTATIVES

OFFICE OF THE CLERK

98TH GENERAL ASSEMBLY

TIMOTHY D. MAPES
CLERK

BRAD BOLIN
ASSISTANT CLERK

MICHAEL J. MADIGAN
SPEAKER

September 26, 2014

John Guise
102 Aquilo Court
Aurora, TX 76078

RE: Freedom of Information Act Request

Dear Mr. Guise:

I am writing in response to your correspondence requesting "any correspondence that the Illinois legislature initiated with the Congress, or any correspondence that was received concerning Article V," beginning in 1861 and ending in 1969.

In a conversation with Heather Wier Vaught on August 13, 2014, you clarified that you are not seeking copies of the applications for Constitutional Conventions Illinois submitted related to Article V, but rather any correspondence between the Illinois General Assembly and Congress that may have been journalized or retained by the chambers. Ms. Wier Vaught informed you that the General Assembly is not in possession of correspondence from individual members.

Nevertheless, my office has coordinated with several State agencies and attempted to determine whether any communications were journalized. Please understand that your request covers more than 100 years of records, and each year has many thousands of pages of Journals. In order to effectively search, my office compiled a list reflecting, to the best of my knowledge, all applications made to Congress calling for a Constitutional Convention or withdrawing a previous application. As it differs somewhat from the list you provided to us, please find it below.

Year	*General Assembly*	*Resolution*	*Topic*
1861	22nd	(not numbered)	Federal relations (apparently related to the impending Civil War)[1]
1903	43rd	SJR 5	Direct election of senators
1907	45th	HJR 12	Direct election of senators
1911	47th	HJR 9	Monopolies
1913	48th	SJR 12	Polygamy
1943	63rd	HJR 32	Limit income and estate taxes to 25% rate except in emergencies
1943	63rd	SJR 8	Limit Presidential tenure

[1] The 1861 resolution seems to have been conditional. Its first "Resolved" clause said "That if application shall be made to Congress [by other states for a constitutional convention], that the Legislature of the State of Illinois will and does hereby concur in making such application."

ROOM 420 STATE CAPITOL • SPRINGFIELD, ILLINOIS 62706 • TELEPHONE 217/782-8223

RECYCLED PAPER • SOYBEAN INKS

Response of State of Illinois—Second Page

1945	64th	HJR 7	Express opposition to HJR 32 from the 63rd
1953	68th	HJR 37	Amending U.S. Constitution
1955	69th	SJR 25	Authorize 2/3 of state to propose amendments to U.S. Constitution
1963	73rd	SJR 4	Eliminate national constitutional conventions; authorize 2/3 or states to propose amendments to Constitution
1965	74th	SJR 22	Refund 10% of federal taxes to states
1965	74th	SR 52[2]	Apportionment
1967	75th	HJR 32	Apportionment of state legislative seats; includes a clause rescinding the application if Congress itself proposes such an amendment by June 30, 1967
1967	75th	HJR 34	Apportioning each state's electoral votes; includes a clause withdrawing the petition if Congress proposes such an Article of Amendment
1967	75th	SJR 40	Refund 10% of federal taxes to states
1969	76th	HR 290[3]	Withdraws petition made by the 75th GA.

Please note that each resolution contains a clause directing the Secretary of State to transmit copies of each application, and specifies to whom those copies should be delivered. That record itself is the only record of such communications my office has been able to identify.

While the Illinois House of Representatives is not the custodian of those records, if you would like to receive copies of each resolution, I would be happy to provide them to you. Most are also available in the "Laws of the State of Illinois," which are published for each General Assembly and are accessible to the public at university, law school, and other libraries nationwide. In a few instances in which there were resolutions that only needed to pass one chamber of the Legislature, the "Laws of the State of Illinois" would not contain a copy of the text. In those cases, you can locate the relevant entries in the "Legislative Synopsis and Digest" and the House and/or Senate Journal concerning those legislative measures.

Please also be advised that my office is not required—nor permitted—to provide legal interpretation, assistance, or advice. If you need legal interpretation, assistance, or advice, I urge you to consult a licensed attorney. I am not serving as your attorney and this response does not serve as a substitute for the advice of an attorney.

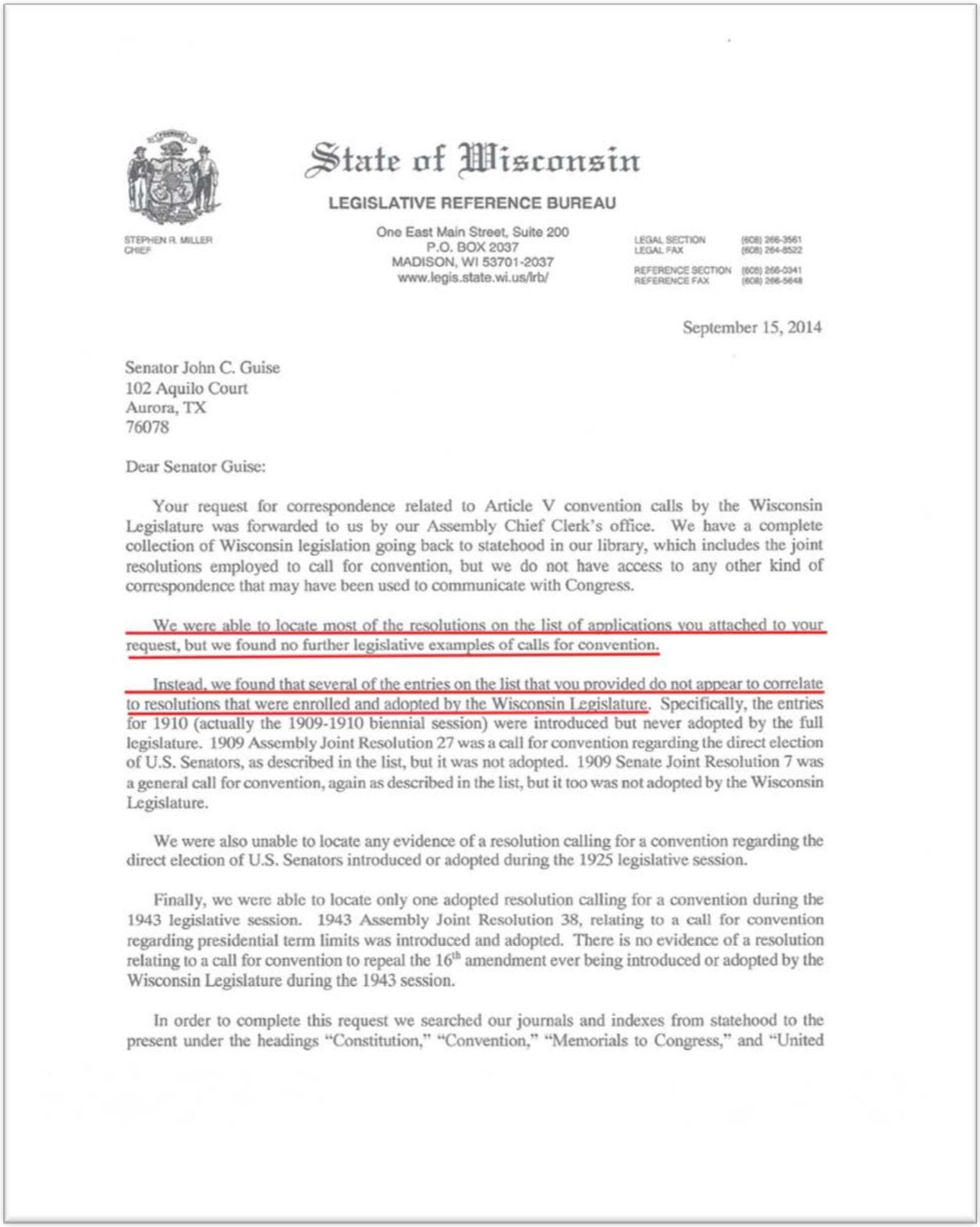
Sincerely,

Brad Bolin
Assistant Clerk
Illinois House of Representatives

BB:ss

[2] SR 52 is a Senate Resolution and was therefore passed by only one chamber of the Illinois General Assembly.
[3] HR 290 is a House Resolution and was therefore passed by only one chamber of the Illinois General Assembly.

Response of State of Wisconsin—First Page



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

STEPHEN R. MILLER
CHIEF

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LEGAL SECTION (608) 266-3561
LEGAL FAX (608) 264-8522
REFERENCE SECTION (608) 266-0341
REFERENCE FAX (608) 266-5648

September 15, 2014

Senator John C. Guise
102 Aquilo Court
Aurora, TX
76078

Dear Senator Guise:

Your request for correspondence related to Article V convention calls by the Wisconsin Legislature was forwarded to us by our Assembly Chief Clerk's office. We have a complete collection of Wisconsin legislation going back to statehood in our library, which includes the joint resolutions employed to call for convention, but we do not have access to any other kind of correspondence that may have been used to communicate with Congress.

We were able to locate most of the resolutions on the list of applications you attached to your request, but we found no further legislative examples of calls for convention.

Instead, we found that several of the entries on the list that you provided do not appear to correlate to resolutions that were enrolled and adopted by the Wisconsin Legislature. Specifically, the entries for 1910 (actually the 1909-1910 biennial session) were introduced but never adopted by the full legislature. 1909 Assembly Joint Resolution 27 was a call for convention regarding the direct election of U.S. Senators, as described in the list, but it was not adopted. 1909 Senate Joint Resolution 7 was a general call for convention, again as described in the list, but it too was not adopted by the Wisconsin Legislature.

We were also unable to locate any evidence of a resolution calling for a convention regarding the direct election of U.S. Senators introduced or adopted during the 1925 legislative session.

Finally, we were able to locate only one adopted resolution calling for a convention during the 1943 legislative session. 1943 Assembly Joint Resolution 38, relating to a call for convention regarding presidential term limits was introduced and adopted. There is no evidence of a resolution relating to a call for convention to repeal the 16th amendment ever being introduced or adopted by the Wisconsin Legislature during the 1943 session.

In order to complete this request we searched our journals and indexes from statehood to the present under the headings "Constitution," "Convention," "Memorials to Congress," and "United

Response of State of Wisconsin—Second Page

States Constitution." Unfortunately, the indexing, especially in the earliest years of statehood, was very inconsistent and potentially incomplete. It is possible that certain calls for convention were indexed under their particular subject rather than under any heading that would indicate a call for convention. So, for example, a call for convention on an anti-polygamy amendment may have been indexed under polygamy rather than anything related to the constitution. In such cases we would not be aware of the resolution because we lacked both the time and the resources to review every index entry from every session.

Because of the limitations of our search we cannot say that our response is exhaustive or definitive. Again, there could be resolutions that we missed simply due to a lack of adequate indexing.

We are enclosing certified copies of the nine resolutions that we located between 1903 and 1963, which are listed in the table below.

Year	Legislation	Description	Joint Resolution Number
1903	SJR18	Direct election of Senators	Joint Resolution 9
1907	SJR28	Direct election of Senators	Joint Resolution 28
1911	SJR15	General call	Joint Resolution 28
1913	SJR26	Anti-polygamy	Joint Resolution 6
1929	SJR65	General call	Joint Resolution 54
1929	SJR83	General call	Joint Resolution 51
1931	AJR17	Repeal 18th amendment	Joint Resolution 82
1943	AJR38	Presidential term limits	Joint Resolution 70
1963	AJR80	Presidential electors	Joint Resolution 46

If you have any questions about any of this information, or if you need anything further, just let us know.

Sincerely,

Wisconsin Legislative Reference Bureau

Enclosure

Response of State of Wisconsin—Third Page

STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

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LEGAL FAX (608) 264-8522
REFERENCE SECTION (608) 266-0341
REFERENCE FAX (608) 266-5648

I certify that the following are true and complete copies of Wisconsin Joint Resolutions calling for constitutional convention under Article V from the Wisconsin Legislative Reference Bureau's legislative library:

1) 1903 Wisconsin Joint Resolution 9

2) 1907 Wisconsin Joint Resolution 28

3) 1911 Wisconsin Joint Resolution 28

4) 1913 Wisconsin Joint Resolution 6

5) 1929 Wisconsin Joint Resolution 54

6) 1929 Wisconsin Joint Resolution 51

7) 1931 Wisconsin Joint Resolution 82

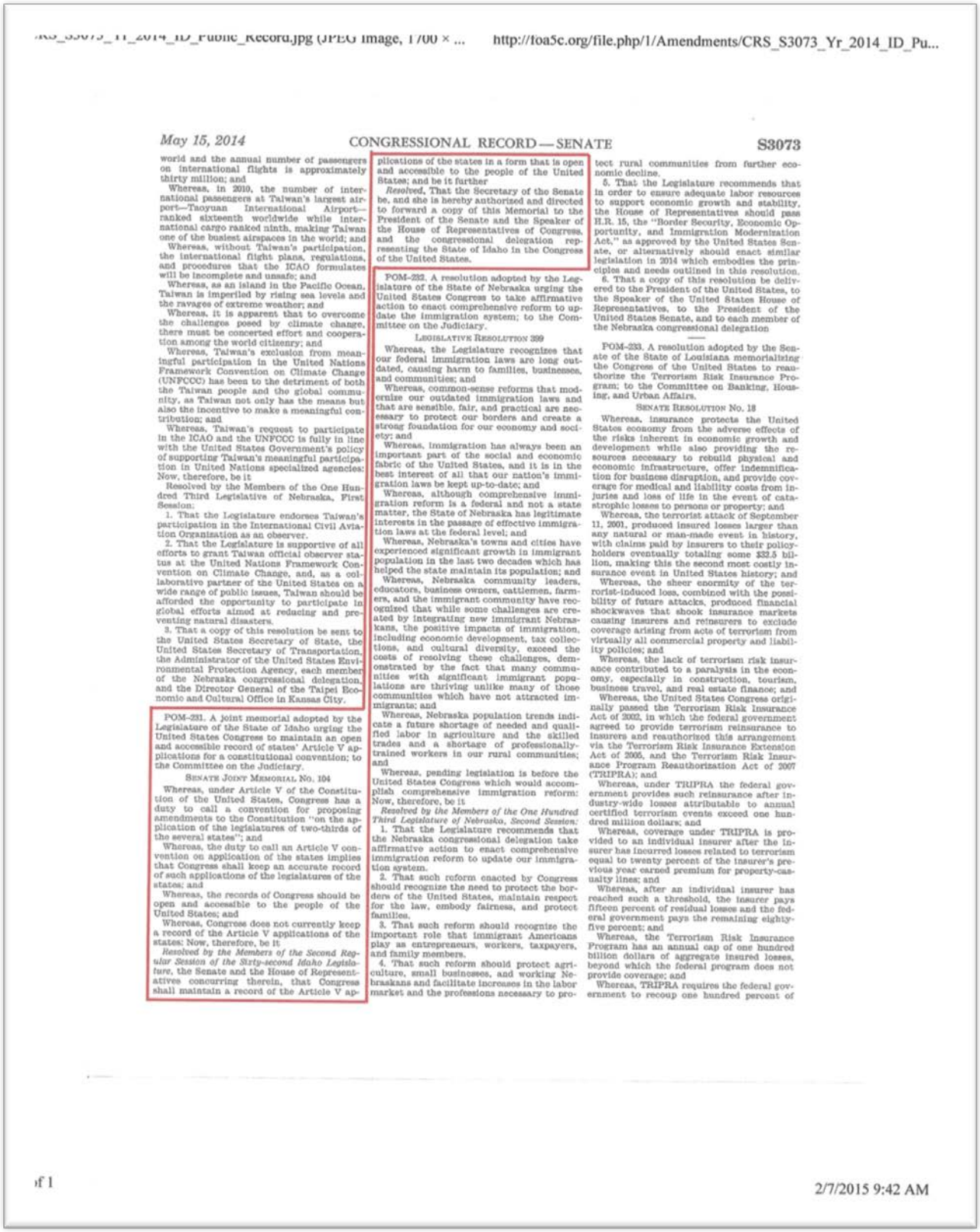
8) 1943 Wisconsin Joint Resolution 70

9) 1963 Wisconsin Joint Resolution 46

Stephen R. Miller — Sept. 15, 2014

Stephen R. Miller
Wisconsin Legislative Reference Bureau Chief

Date



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May 15, 2014 CONGRESSIONAL RECORD — SENATE S3073

world and the annual number of passengers on international flights is approximately thirty million; and

Whereas, in 2010, the number of international passengers at Taiwan's largest airport—Taoyuan International Airport—ranked sixteenth worldwide while international cargo ranked ninth, making Taiwan one of the busiest airspaces in the world; and

Whereas, without Taiwan's participation, the international flight plans, regulations, and procedures that the ICAO formulates will be incomplete and unsafe; and

Whereas, as an island in the Pacific Ocean, Taiwan is imperiled by rising sea levels and the ravages of extreme weather; and

Whereas, it is apparent that to overcome the challenges posed by climate change, there must be concerted effort and cooperation among the world citizenry; and

Whereas, Taiwan's exclusion from meaningful participation in the United Nations Framework Convention on Climate Change (UNFCCC) has been to the detriment of both the Taiwan people and the global community, as Taiwan not only has the means but also the incentive to make a meaningful contribution; and

Whereas, Taiwan's request to participate in the ICAO and the UNFCCC is fully in line with the United States Government's policy of supporting Taiwan's meaningful participation in United Nations specialized agencies: Now, therefore, be it

Resolved by the Members of the One Hundred Third Legislative of Nebraska, First Session:

1. That the Legislature endorses Taiwan's participation in the International Civil Aviation Organization as an observer.

2. That the Legislature is supportive of all efforts to grant Taiwan official observer status at the United Nations Framework Convention on Climate Change, and, as a collaborative partner of the United States on a wide range of public issues, Taiwan should be afforded the opportunity to participate in global efforts aimed at reducing and preventing natural disasters.

3. That a copy of this resolution be sent to the United States Secretary of State, the United States Secretary of Transportation, the Administrator of the United States Environmental Protection Agency, each member of the Nebraska congressional delegation, and the Director General of the Taipei Economic and Cultural Office in Kansas City.

POM-231. A joint memorial adopted by the Legislature of the State of Idaho urging the United States Congress to maintain an open and accessible record of states' Article V applications for a constitutional convention; to the Committee on the Judiciary.

SENATE JOINT MEMORIAL NO. 104

Whereas, under Article V of the Constitution of the United States, Congress has a duty to call a convention for proposing amendments to the Constitution "on the application of the legislatures of two-thirds of the several states"; and

Whereas, the duty to call an Article V convention on application of the states implies that Congress shall keep an accurate record of such applications of the legislatures of the states; and

Whereas, the records of Congress should be open and accessible to the people of the United States; and

Whereas, Congress does not currently keep a record of the Article V applications of the states: Now, therefore, be it

Resolved by the Members of the Second Regular Session of the Sixty-second Idaho Legislature, the Senate and the House of Representatives concurring therein, that Congress shall maintain a record of the Article V applications of the states in a form that is open and accessible to the people of the United States; and be it further

Resolved, That the Secretary of the Senate be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM-232. A resolution adopted by the Legislature of the State of Nebraska urging the United States Congress to take affirmative action to enact comprehensive reform to update the immigration system; to the Committee on the Judiciary.

LEGISLATIVE RESOLUTION 399

Whereas, the Legislature recognizes that our federal immigration laws are long outdated, causing harm to families, businesses, and communities; and

Whereas, common-sense reforms that modernize our outdated immigration laws and that are sensible, fair, and practical are necessary to protect our borders and create a strong foundation for our economy and society; and

Whereas, immigration has always been an important part of the social and economic fabric of the United States, and it is in the best interest of all that our nation's immigration laws be kept up-to-date; and

Whereas, although comprehensive immigration reform is a federal and not a state matter, the State of Nebraska has legitimate interests in the passage of effective immigration laws at the federal level; and

Whereas, Nebraska's towns and cities have experienced significant growth in immigrant population in the last two decades which has helped the state maintain its population; and

Whereas, Nebraska community leaders, educators, business owners, cattlemen, farmers, and the immigrant community have recognized that while some challenges are created by integrating new immigrant Nebraskans, the positive impacts of immigration, including economic development, tax collections, and cultural diversity, exceed the costs of resolving these challenges, demonstrated by the fact that many communities with significant immigrant populations are thriving unlike many of those communities which have not attracted immigrants; and

Whereas, Nebraska population trends indicate a future shortage of needed and qualified labor in agriculture and the skilled trades and a shortage of professionally-trained workers in our rural communities; and

Whereas, pending legislation is before the United States Congress which would accomplish comprehensive immigration reform: Now, therefore, be it

Resolved by the Memberrs of the One Hundred Third Legislature of Nebraska, Second Session:

1. That the Legislature recommends that the Nebraska congressional delegation take affirmative action to enact comprehensive immigration reform to update our immigration system.

2. That such reform enacted by Congress should recognize the need to protect the borders of the United States, maintain respect for the law, embody fairness, and protect families.

3. That such reform should recognize the important role that immigrant Americans play as entrepreneurs, workers, taxpayers, and family members.

4. That such reform should protect agriculture, small businesses, and working Nebraskans and facilitate increases in the labor market and the professions necessary to protect rural communities from further economic decline.

5. That the Legislature recommends that in order to ensure adequate labor resources to support economic growth and stability, the House of Representatives should pass H.R. 15, the "Border Security, Economic Opportunity, and Immigration Modernization Act," as approved by the United States Senate, or alternatively should enact similar legislation in 2014 which embodies the principles and needs outlined in this resolution.

6. That a copy of this resolution be delivered to the President of the United States, to the Speaker of the United States House of Representatives, to the President of the United States Senate, and to each member of the Nebraska congressional delegation

POM-233. A resolution adopted by the Senate of the State of Louisiana memorializing the Congress of the United States to reauthorize the Terrorism Risk Insurance Program; to the Committee on Banking, Housing, and Urban Affairs.

SENATE RESOLUTION NO. 18

Whereas, insurance protects the United States economy from the adverse effects of the risks inherent in economic growth and development while also providing the resources necessary to rebuild physical and economic infrastructure, offer indemnification for business disruption, and provide coverage for medical and liability costs from injuries and loss of life in the event of catastrophic losses to persons or property; and

Whereas, the terrorist attack of September 11, 2001, produced insured losses larger than any natural or man-made event in history, with claims paid by insurers to their policyholders eventually totaling some $32.5 billion, making this the second most costly insurance event in United States history; and

Whereas, the sheer enormity of the terrorist-induced loss, combined with the possibility of future attacks, produced financial shockwaves that shook insurance markets causing insurers and reinsurers to exclude coverage arising from acts of terrorism from virtually all commercial property and liability policies; and

Whereas, the lack of terrorism risk insurance contributed to a paralysis in the economy, especially in construction, tourism, business travel, and real estate finance; and

Whereas, the United States Congress originally passed the Terrorism Risk Insurance Act of 2002, in which the federal government agreed to provide terrorism reinsurance to insurers and reauthorized this arrangement via the Terrorism Risk Insurance Extension Act of 2005, and the Terrorism Risk Insurance Program Reauthorization Act of 2007 (TRIPRA); and

Whereas, under TRIPRA the federal government provides such reinsurance after industry-wide losses attributable to annual certified terrorism events exceed one hundred million dollars; and

Whereas, coverage under TRIPRA is provided to an individual insurer after the insurer has incurred losses related to terrorism equal to twenty percent of the insurer's previous year earned premium for property-casualty lines; and

Whereas, after an individual insurer has reached such a threshold, the insurer pays fifteen percent of residual losses and the federal government pays the remaining eighty-five percent; and

Whereas, the Terrorism Risk Insurance Program has an annual cap of one hundred billion dollars of aggregate insured losses, beyond which the federal program does not provide coverage; and

Whereas, TRIPRA requires the federal government to recoup one hundred percent of

of 1 2/7/2015 9:42 AM

Wisconsin Application SJR 83 (1929) #137

Whereas the governor of this State in his inaugural address called attention to the importance of the proposed canal across this State to link up the Delaware River with New York Bay; and

Whereas the State has spent thousands of dollars in a survey begun in 1911 and in monumenting the course of the canal; has appropriated $150,000 toward the cost of acquiring the right of way; and has practically pledged proceeds from the sale of the Morris Canal for the acquisition of such right of way; and

Whereas the Federal Government has practically completed its traffic survey and study of the proposed canal: Now, therefore, be it

Resolved by the senate (the house of assembly concurring), That we urge upon the Congress of the United States and the various departments connected with the inception and completion of this project to speed in every possible way the building of this important link in our great national system of waterways.

THOMAS A. MATHIS,
President of the Senate.

Attest:

ROBERT M. JOHNSTON,
Secretary of the Senate.

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of Illinois, which was referred to the Committee on Interstate Commerce:

Certificate No. 2398

STATE OF ILLINOIS,
OFFICE OF THE SECRETARY OF STATE.

To all to whom these presents shall come, greeting:

I, William J. Stratton, secretary of state of the State of Illinois, do hereby certify that the following and hereto attached is a true photostatic copy of Senate Joint Resolution No. 27, the original of which is now on file and a matter of record in this office.

In testimony whereof I hereto set my hand and cause to be affixed the great seal of the State of Illinois.

Done at the city of Springfield this 20th day of June, A. D. 1929.

[SEAL.] WILLIAM J. STRATTON,
Secretary of State.

STATE OF ILLINOIS,
FIFTY-SIXTH GENERAL ASSEMBLY.

Senate Joint Resolution 27

Whereas, In the absence of control, there has grown up a class of interstate motor bus operation which is entirely unregulated and altogether irresponsible and subject to the regulation of no State or Federal authority whatever; and

Whereas the traveling public is being constantly victimized by such operators crowding State lines between Illinois and neighboring States, and who resort to all sorts of illegitimate and unscrupulous activities at the expense of travelers who are unable to obtain redress; and

Whereas the bus lines operating under the regulation of the Illinois Commerce Commission are a source of large revenue to the State, and now constitute one of the State's major public utilities; and

Whereas the activities of the unregulated interstate "wildcat" operators subject both the legitimate stage lines and other forms of transportation to unfair, injurious, and unscrupulous competition; and

Whereas the present condition is highly detrimental to the interests of the State of Illinois, to the legitimate transportation interests, to the traveling public, and to the public generally; and

Whereas such conditions present an urgent need for adequate Federal regulation, at least as to proper certification and control: Now, therefore, be it

Resolved by the Senate of the Fifty-sixth General Assembly of the State of Illinois (the House of Representatives concurring herein), That the President of the United States, the Senate and House of Representatives of the present Congress, and the Interstate Commerce Commission be memorialized to take all possible and necessary action to provide proper legislation to control and regulate the activities of interstate motor-bus lines; and be it further

Resolved, That a copy of this resolution be forwarded to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives of the present Congress, and to each Senator and Representative therein from the State of Illinois, and to each member of the Interstate Commerce Commission.

Adopted by the senate June 4, 1929.

FRED E. STERLING,
President of the Senate.
JAMES H. PADDOCK,
Secretary of the Senate.

Concurred in by the house of representatives, June 8, 1929.

DAVID E. SHANAHAN,
Speaker of the House of Representatives.
GEORGE C. BLAKUER,
Clerk of the House of Representatives.

Filed 10 a. m., June 20, 1929.

WILLIAM J. STRATTON,
Secretary of State.

The VICE PRESIDENT also laid before the Senate the following joint resolutions of the Legislature of the State of Wisconsin, which were referred to the Committee on the Judiciary:

STATE OF WISCONSIN.

Senate Joint Resolution 83

Joint resolution memorializing the Congress of the United States to discharge the mandatory duties imposed upon it by Article V of the Constitution of the United States to call a convention to propose amendments to the Constitution

Whereas the legislatures of the following 35 States have filed a formal application with Congress to call a convention for the purpose of proposing amendments to the Constitution of the United States: Alabama, Arkansas, California, Colorado, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin; and

Whereas Article V of the Constitution of the United States reads as follows: "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress: *Provided*, That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate"; and

Whereas this article makes it mandatory upon the Congress of the United States to call a convention for the purpose of proposing amendments to the Constitution whenever two-thirds of the States shall have made application therefor: Now, therefore, be it

Resolved by the senate (the assembly concurring), That the Legislature of the State of Wisconsin respectfully requests that the Congress of the United States perform the mandatory duty imposed upon it by the above-quoted Article V and forthwith call a convention to propose amendments to the Constitution of the United States; be it further

Resolved, That properly attested copies of this resolution be transmitted to the presiding officers of both Houses of the Congress of the United States and to each Wisconsin Member thereof.

HENRY A. HUBER,
President of the Senate.
O. G. MUNSON,
Chief Clerk of the Senate.
CHAS. B. PERRY,
Speaker of the Assembly.
C. E. SHAFFER,
Chief Clerk of the Assembly.

STATE OF WISCONSIN.

Senate Joint Resolution 84

Joint resolution memorializing Congress to enact legislation requiring that all motor vehicles operated across State lines into States having compulsory automobile liability insurance be covered by liability insurance for damages to persons

Whereas it is a recognized fact that in a large number of cases persons injured by motor vehicles are unable to recover damages for the reason that the guilty party owns no property or carries no liability insurance: Now, therefore, be it

Resolved by the senate (the assembly concurring), That the Legislature of the State of Wisconsin does hereby urge Congress to pass legislation requiring that all motor vehicles operated across State lines into States having compulsory automobile liability insurance be covered by liability insurance for damages to persons; be it further

Resolved, That a copy of this resolution, properly attested, be sent to the President of the United States and to the presiding officers of both Houses and to each Wisconsin Member thereof.

HENRY A. HUBER,
President of the Senate.
O. G. MUNSON,
Chief Clerk of the Senate.
CHAS. B. PERRY,
Speaker of the Assembly.
C. E. SHAFFER,
Chief Clerk of the Assembly.

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the State of Wisconsin, which was referred to the Committee on Finance:

Document No. 78 United States Senate 71st Congress, 2d Session—First Page

71st Congress, 2d Session } SENATE { Document No. 78

FEDERAL CONSTITUTIONAL CONVENTION

Mr. Tydings presented the following

COMPILATION SHOWING THE APPLICATIONS MADE FROM TIME TO TIME TO THE SENATE BY THE LEGISLATURES OF VARIOUS STATES FOR THE CALLING OF A CONSTITUTIONAL CONVENTION FOR THE PURPOSE OF PROPOSING CERTAIN AMENDMENTS TO THE CONSTITUTION OF THE UNITED STATES

January 6 (calendar day, February 1), 1930.—Ordered to be printed

States Ask for Federal Constitutional Convention

A joint resolution of the Wisconsin Legislature has been received by the United States Senate, asking that a constitutional convention be called to consider proposing to Congress such amendments to the Federal Constitution as may be agreed upon, in accordance with Article V of the Constitution. Wisconsin is the thirty-fifth State whose legislature has requested such a convention to be called, and the Wisconsin resolution cites the mandatory provision of Article V that Congress "on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments."

The 35 States which have filed formal application with Congress constitute more than two-thirds of the States of the Union. They are: Alabama, Arkansas, California, Colorado, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, and Wisconsin.

The Wisconsin resolution does not cite any particular subject for amendment.

House Rule 7—Records of the House—First Page

on request of a Member, Delegate, or Resident Commissioner by card or in writing, may be admitted to the Hall of the House.

4. (a) A former Member, Delegate, or Resident Commissioner; a former Parliamentarian of the House; or a former elected officer of the House or former minority employee nominated as an elected officer of the House shall not be entitled to the privilege of admission to the Hall of the House and rooms leading thereto if such individual—

(1) is a registered lobbyist or agent of a foreign principal as those terms are defined in clause 5 of rule XXV;

(2) has any direct personal or pecuniary interest in any legislative measure pending before the House or reported by a committee; or

(3) is in the employ of or represents any party or organization for the purpose of influencing, directly or indirectly, the passage, defeat, or amendment of any legislative proposal.

(b) The Speaker may promulgate regulations to carry out this rule including regulations that exempt ceremonial or educational functions from the restrictions of this clause.

5. A person from the staff of a Member, Delegate, or Resident Commissioner may be admitted to the Hall of the House or rooms leading thereto under clause 2 only upon prior notice to the Speaker. Such persons, and persons from the staff of committees admitted under clause 2, may not engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended. Such persons shall remain at the desk and are admitted only to advise the Member, Delegate, Resident Commissioner, or committee responsible for their admission. A person who violates this clause may be excluded during the session from the Hall of the House and rooms leading thereto by the Speaker.

Gallery

6. (a) The Speaker shall set aside a portion of the west gallery for the use of the President, the members of the Cabinet, justices of the Supreme Court, foreign ministers and suites, and the members of their respective families. The Speaker shall set aside another portion of the same gallery for the accommodation of persons to be admitted on the cards of Members, Delegates, or the Resident Commissioner.

(b) The Speaker shall set aside the southerly half of the east gallery for the use of the families of Members of Congress. The Speaker shall control one bench. On the request of a Member, Delegate, Resident Commissioner, or Senator, the Speaker shall issue a card of admission to the family of such individual, which may include their visitors. No other person shall be admitted to this section.

Prohibition on campaign contributions

7. A Member, Delegate, Resident Commissioner, officer, or employee of the House, or any other person entitled to admission to the Hall of the House or rooms leading thereto by this rule, may not knowingly distribute a political campaign contribution in the Hall of the House or rooms leading thereto.

RULE V

BROADCASTING THE HOUSE

1. The Speaker shall administer, direct, and control a system for closed-circuit viewing of floor proceedings of the House in the offices of all Members, Delegates, the Resident Commissioner, and committees and in such other places in the Capitol and the House Office Buildings as the Speaker considers appropriate. Such system may include other communications functions as the Speaker considers appropriate. Any such communications shall be subject to rules and regulations issued by the Speaker.

2. (a) The Speaker shall administer, direct, and control a system for complete and unedited audio and visual broadcasting and recording of the floor proceedings of the House. The Speaker shall provide for the distribution of such broadcasts and recordings to news media, for the storage of audio and video recordings of the proceedings, and for the closed-captioning of the proceedings for hearing-impaired persons.

(b) All television and radio broadcasting stations, networks, services, and systems (including cable systems) that are accredited to the House Radio and Television Correspondents' Galleries, and all radio and television correspondents who are so accredited, shall be provided access to the live coverage of the House.

(c) Coverage made available under this clause, including any recording thereof—

(1) may not be used for any partisan political campaign purpose;

(2) may not be used in any commercial advertisement; and

(3) may not be broadcast with commercial sponsorship except as part of a bona fide news program or public affairs documentary program.

3. The Speaker may delegate any of the responsibilities under this rule to such legislative entity as the Speaker considers appropriate.

RULE VI

OFFICIAL REPORTERS AND NEWS MEDIA GALLERIES

Official reporters

1. Subject to the direction and control of the Speaker, the Clerk shall appoint, and may remove for cause, the official reporters of the House, including stenographers of committees, and shall supervise the execution of their duties.

News media galleries

2. A portion of the gallery over the Speaker's chair as may be necessary to accommodate representatives of the press wishing to report debates and proceedings shall be set aside for their use. Reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may prescribe from time to time. The Standing Committee of Correspondents for the Press Gallery, and the Executive Committee of Correspondents for the Periodical Press Gallery, shall supervise such galleries, including the designation of its employees, subject to the direction and control of the Speaker. The Speaker may admit to the floor, under such regulations as the Speaker may prescribe, not more than one representative of each press association.

3. A portion of the gallery as may be necessary to accommodate reporters of news to be disseminated by radio, television, and similar means of transmission, wishing to report debates and proceedings, shall be set aside for their use. Reputable reporters and correspondents shall be admitted thereto under such regulations as the Speaker may prescribe. The Executive Committee of the Radio and Television Correspondents' Galleries shall supervise such gallery, including the designation of its employees, subject to the direction and control of the Speaker. The Speaker may admit to the floor, under such regulations as the Speaker may prescribe, not more than one representative of each media outlet.

RULE VII

RECORDS OF THE HOUSE

Archiving

1. (a) At the end of each Congress, the chair of each committee shall transfer to the Clerk any noncurrent records of such committee, including the subcommittees thereof.

(b) At the end of each Congress, each officer of the House elected under rule II shall transfer to the Clerk any noncurrent records made or acquired in the course of the duties of such officer.

2. The Clerk shall deliver the records transferred under clause 1, together with any other noncurrent records of the House, to the Archivist of the United States for preservation at the National Archives and Records Administration. Records so delivered are the permanent property of the House and remain subject to this rule and any order of the House.

Public availability

3. (a) The Clerk shall authorize the Archivist to make records delivered under clause 2 available for public use, subject to clause 4(b) and any order of the House.

(b)(1) A record shall immediately be made available if it was previously made available for public use by the House or a committee or a subcommittee.

(2) An investigative record that contains personal data relating to a specific living person (the disclosure of which would be an unwarranted invasion of personal privacy), an administrative record relating to personnel, or a record relating to a hearing that was

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closed under clause 2(g)(2) of rule XI shall be made available if it has been in existence for 50 years.

(3) A record for which a time, schedule, or condition for availability is specified by order of the House shall be made available in accordance with that order. Except as otherwise provided by order of the House, a record of a committee for which a time, schedule, or condition for availability is specified by order of the committee (entered during the Congress in which the record is made or acquired by the committee) shall be made available in accordance with the order of the committee.

(4) A record (other than a record referred to in subparagraph (1), (2), or (3)) shall be made available if it has been in existence for 30 years.

4. (a) A record may not be made available for public use under clause 3 if the Clerk determines that such availability would be detrimental to the public interest or inconsistent with the rights and privileges of the House. The Clerk shall notify in writing the chair and ranking minority member of the Committee on House Administration of any such determination.

(b) A determination of the Clerk under paragraph (a) is subject to later orders of the House and, in the case of a record of a committee, later orders of the committee.

5. (a) This rule does not supersede rule VIII or clause 11 of rule X and does not authorize the public disclosure of any record if such disclosure is prohibited by law or executive order of the President.

(b) The Committee on House Administration may prescribe guidelines and regulations governing the applicability and implementation of this rule.

(c) A committee may withdraw from the National Archives and Records Administration any record of the committee delivered to the Archivist under this rule. Such a withdrawal shall be on a temporary basis and for official use of the committee.

Definition of record

6. In this rule the term "record" means any official, permanent record of the House (other than a record of an individual Member, Delegate, or Resident Commissioner), including—

(a) with respect to a committee, an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee or a subcommittee thereof); and

(b) with respect to an officer of the House elected under rule II, an official, permanent record made or acquired in the course of the duties of such officer.

Withdrawal of papers

7. A memorial or other paper presented to the House may not be withdrawn from its files without its leave. If withdrawn certified copies thereof shall be left in the Office of the Clerk. When an act passes for the settlement of a claim, the Clerk may transmit to the officer charged with the settlement thereof the papers on file in the Office of the Clerk relating to such claim. The Clerk may lend temporarily to an officer or bureau of the executive departments any papers on file in the Office of the Clerk relating to any matter pending before such officer or bureau, taking proper receipt therefor.

RULE VIII

RESPONSE TO SUBPOENAS

1. When a Member, Delegate, Resident Commissioner, officer, or employee of the House is properly served with a judicial or administrative subpoena or judicial order directing appearance as a witness relating to the official functions of the House or for the production or disclosure of any document relating to the official functions of the House, such Member, Delegate, Resident Commissioner, officer, or employee shall comply, consistently with the privileges and rights of the House, with the judicial or administrative subpoena or judicial order as hereinafter provided, unless otherwise determined under this rule.

2. Upon receipt of a properly served judicial or administrative subpoena or judicial order described in clause 1, a Member, Delegate, Resident Commissioner, officer, or employee of the House shall promptly notify the Speaker of its receipt in writing. Such notification shall promptly be laid before the House by the Speaker. During a period of recess or adjournment of longer than three days, notification to the House is not required until the reconvening of the House, when the notification shall promptly be laid before the House by the Speaker.

3. Once notification has been laid before the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall determine whether the issuance of the judicial or administrative subpoena or judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House. Such Member, Delegate, Resident Commissioner, officer, or employee shall notify the Speaker before seeking judicial determination of these matters.

4. Upon determination whether a judicial or administrative subpoena or judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall immediately notify the Speaker of the determination in writing.

5. The Speaker shall inform the House of a determination whether a judicial or administrative subpoena or judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House. In so informing the House, the Speaker shall generally describe the records or information sought. During a period of recess or adjournment of longer than three days, such notification is not required until the reconvening of the House, when the notification shall promptly be laid before the House by the Speaker.

6. (a) Except as specified in paragraph (b) or otherwise ordered by the House, upon notification to the House that a judicial or administrative subpoena or judicial order described in clause 1 is a proper exercise of jurisdiction by the court, is material and relevant, and is consistent with the privileges and rights of the House, the Member, Delegate, Resident Commissioner, officer, or employee of the House shall comply with the judicial or administrative subpoena or judicial order by supplying certified copies.

(b) Under no circumstances may minutes or transcripts of executive sessions, or evidence of witnesses in respect thereto, be disclosed or copied. During a period of recess or adjournment of longer than three days, the Speaker may authorize compliance or take such other action as the Speaker considers appropriate under the circumstances. Upon the reconvening of the House, all matters that transpired under this clause shall promptly be laid before the House by the Speaker.

7. A copy of this rule shall be transmitted by the Clerk to the court when a judicial or administrative subpoena or judicial order described in clause 1 is issued and served on a Member, Delegate, Resident Commissioner, officer, or employee of the House.

8. Nothing in this rule shall be construed to deprive, condition, or waive the constitutional or legal privileges or rights applicable or available at any time to a Member, Delegate, Resident Commissioner, officer, or employee of the House, or of the House itself, or the right of such Member, Delegate, Resident Commissioner, officer, or employee, or of the House itself, to assert such privileges or rights before a court in the United States.

RULE IX

QUESTIONS OF PRIVILEGE

1. Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; and second, those affecting the rights, reputation, and conduct of Members, Delegates, or the Resident Commissioner, individually, in their representative capacity only.

2. (a)(1) A resolution reported as a question of the privileges of the House, or offered from the floor by the Majority Leader or the Minority Leader as a question of the privileges of the House, or offered as privileged under clause 1, section 7, article I of the Constitution, shall have precedence of all other questions except motions to adjourn. A resolution offered from the floor by a Member, Delegate, or Resident Com-

may be requested; and the Secretary shall also certify and deliver to the President of the United States all resolutions and other communications which may be directed to him by the Senate.

RULE X

SPECIAL ORDERS

1. Any subject may, by a vote of two-thirds of the Senators present, be made a special order of business for consideration and when the time so fixed for its consideration arrives the Presiding Officer shall lay it before the Senate, unless there be unfinished business in which case it takes its place on the Calendar of Special Orders in the order of time at which it was made special, to be considered in that order when there is no unfinished business.

2. All motions to change such order, or to proceed to the consideration of other business, shall be decided without debate.

RULE XI

PAPERS—WITHDRAWAL, PRINTING, READING OF, AND REFERENCE

1. No memorial or other paper presented to the Senate, except original treaties finally acted upon, shall be withdrawn from its files except by order of the Senate.

2. The Secretary of the Senate shall obtain at the close of each Congress all the noncurrent records of the Senate and of each Senate committee and transfer them to the General Services Administration for preservation, subject to the orders of the Senate.

3. When the reading of a paper is called for, and objected to, it shall be determined by a vote of the Senate, without debate.

4. Every motion or resolution to print documents, reports, and other matter transmitted by the executive departments, or to print memorials, petitions, accompanying documents, or any other paper, except bills of the Senate or House of Representatives, resolutions submitted by a Senator, communications from the legislatures or conventions, lawfully called, of the respective States, shall, unless the Senate otherwise order, be referred to the Committee on Rules and Administration. When a motion is made to commit with instructions, it shall be in order to add thereto a motion to print.

5. Motions or resolutions to print additional numbers shall also be referred to the Committee on Rules and Administration; and when the committee shall report favorably, the report shall be accompanied by an estimate of the probable cost thereof; and when the cost of printing such additional numbers shall exceed the sum established by law, the concurrence of the House of Representatives shall be necessary for an order to print the same.

6. Every bill and joint resolution introduced or reported from a committee, and all bills and joint resolutions received from the House of Representatives, and all reports of committees, shall be printed, unless, for the dispatch of the business of the Senate, such printing may be dispensed with.

the ranking minority member of such committee, may order the taking of depositions, including pursuant to subpoena, by a member or counsel of such committee.

(2) Depositions taken under the authority prescribed in this subsection shall be subject to regulations issued by the chair of the Committee on Rules and printed in the Congressional Record.

(3) The committees referred to in paragraph (1) are as follows: the Committee on Energy and Commerce, the Committee on Financial Services, the Committee on Science, Space, and Technology, and the Committee on Ways and Means.

(c) PROVIDING FOR TRANSPARENCY WITH RESPECT TO MEMORIALS SUBMITTED PURSUANT TO ARTICLE V OF THE CONSTITUTION OF THE UNITED STATES.—With respect to any memorial presented under clause 3 of rule XII purporting to be an application of the legislature of a State calling for a convention for proposing amendments to the Constitution of the United States pursuant to Article V, or a rescission of any such prior application—

(1) the chair of the Committee on the Judiciary shall, in the case of such a memorial presented in the One Hundred Fourteenth Congress, and may, in the case of such a memorial presented prior to the

One Hundred Fourteenth Congress, designate any such memorial for public availability by the Clerk; and

(2) the Clerk shall make such memorials as are designated pursuant to paragraph (1) publicly available in electronic form, organized by State of origin and year of receipt.

(d) SPENDING REDUCTION AMENDMENTS IN APPROPRIATIONS BILLS.—

(1) During the reading of a general appropriation bill for amendment in the Committee of the Whole House on the state of the Union, it shall be in order to consider en bloc amendments proposing only to transfer appropriations from an object or objects in the bill to a spending reduction account. When considered en bloc under this paragraph, such amendments may amend portions of the bill not yet read for amendment (following disposition of any points of order against such portions) and are not subject to a demand for division of the question in the House or in the Committee of the Whole.

(2) Except as provided in paragraph (1), it shall not be in order to consider an amendment to a spending reduction account in the House or in the

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than previously appointed. This codifies separate orders from the 112th and 113th Congresses.

Providing Conference Committees with Time to Reach Agreement. Subsection (e) modifies clause 7(c)(1) of rule XXII by providing conference committees 45 calendar days and 25 legislative days after the formation of a conference to reach agreements before additional motions to instruct managers may be offered.

Contents of Committee Reports Showing Changes to Existing Law. Subsection (f) requires that a Ramseyer print to show the entire text of amended or repealed sections of a statute along with the proposed changes.

Mandatory Ethics Training for New Members. Subsection (g) requires that new Members of the House, in addition to employees, complete ethics training.

Technical and Conforming Changes. Subsection (h)(1) conforms the standing rules to reflect the name in statute of the Joint Committee on Taxation (JCT). Subsection (h)(2) updates an outdated statutory citation and removes a reference inadvertently left in place at the start of the 113th Congress, which is no longer necessary due to the enactment of the STOCK Act.

Section 3. Separate Orders.

Independent Payment Advisory Board. Subsection (a) eliminates provisions contained in the Affordable Care Act that limit the ability of the House to determine the method of consideration for a recommendation from the Independent Payment Advisory Board or to repeal the provision in its entirety.

Staff Deposition Authority for Certain Committees. Subsection (b) provides the Committees on Energy and Commerce, Financial Services, Science, Space, and Technology, and Ways and Means deposition authority to be conducted by a member or committee counsel during the first session of the 114th Congress. Depositions taken under this authority shall be subject to regulations issued by the chair of the Committee on Rules and printed in the Congressional Record.

Providing for Transparency with Respect to Memorials Submitted Pursuant to Article V of the Constitution of the United States. Subsection (c) clarifies the procedures of the House upon receipt of Article V memorials from the States by directing the Clerk to make each memorial, designated by the chair of the Committee on the Judiciary, electronically available and organized by State of origin and year of receipt.

In carrying out section 3(c) of House Resolution 5, it is expected that the chair of the Committee on the Judiciary will be solely charged with determining whether a memorial purports to be an application of the legislature of a state

CRS Analysis of House Rule 3(c)—Second Page

calling for a constitutional convention. The Clerk's role will be entirely administrative. The chair of the Committee on the Judiciary will only designate memorials from state legislatures (and not petitions from individuals or other parties) as it is only state legislatures that are contemplated under Article V of the Constitution.

In submitting the memorials to the Clerk, the chair of the Committee on the Judiciary will include a transmission letter with each memorial indicating it has been designated under section 3(c) of House Resolution 5. The Clerk will make publicly available the memorial and the transmission letter from the chair. Ancillary documentation from the state or other parties is not expected to be publicized.

The chair of the Committee on the Judiciary is also permitted to designate memorials from earlier Congresses to be made publicly available under the same procedure.

Spending Reduction Amendments in Appropriations Bills. Subsection (d) carries forward the prohibition from the 112th and 113th Congresses against consideration of a general appropriation bill that does not include a "spending reduction" account, the contents of which is a recitation of the amount by which, through the amendment process, the House has reduced spending in other portions of the bill and indicated that such savings should be counted towards spending reduction. It provides that other amendments that propose to increase spending in accounts in a general appropriations bill must include an offset of equal or greater value.

Budget Matters. Subsection (e)(1) provides that titles III, IV, and VI, of House Concurrent Resolution 25 (113th Congress), as well as the allocations, aggregates, and appropriate levels contained in the chair of the Committee on the Budget's statement submitted in the Congressional Record on April 29, 2014, as adjusted, will continue to have force and effect until a budget resolution for fiscal year 2015 is adopted. This subsection also provides that the chair of the Committee on the Budget may revise allocations, aggregates, and appropriate levels for measures maintaining the Highway Trust Fund, provided such a measure does not increase the deficit over the 11-year window and revise allocations, aggregates, and appropriate levels to take into account updated CBO baselines.

Subsection (e)(2) carries forward from the 113th Congress the requirement that prevents the Committee of the Whole from rising to report a bill to the House that exceeds an applicable allocation of new budget authority under section 302 (b) (Appropriations subcommittee allocations) as estimated by the Budget Committee and creates a point of order.

Continuing Litigation Authorities. Subsection (f) addresses continuing litigation in which the House is a party. Paragraph (1) authorizes the Committee on Oversight and Government Reform, through the House Office of General Counsel, to continue litigation to enforce a subpoena against the Attorney General related to the "Fast and Furious" investigation. This lawsuit was

House Rule XII (3)—First Page

the activities of committee members in connection with that hearing or meeting or in connection with the general work of the committee or of the House; or

(2) cast discredit or dishonor on the House, the committee, or a Member, Delegate, or Resident Commissioner or bring the House, the committee, or a Member, Delegate, or Resident Commissioner into disrepute.

(d) The coverage of committee hearings and meetings by audio and visual means shall be permitted and conducted only in strict conformity with the purposes, provisions, and requirements of this clause.

(e) Whenever a hearing or meeting conducted by a committee or subcommittee is open to the public, those proceedings shall be open to coverage by audio and visual means. A committee or subcommittee chair may not limit the number of television or still cameras to fewer than two representatives from each medium (except for legitimate space or safety considerations, in which case pool coverage shall be authorized).

(f) Each committee shall adopt written rules to govern its implementation of this clause. Such rules shall contain provisions to the following effect:

(1) If audio or visual coverage of the hearing or meeting is to be presented to the public as live coverage, that coverage shall be conducted and presented without commercial sponsorship.

(2) The allocation among the television media of the positions or the number of television cameras permitted by a committee or subcommittee chair in a hearing or meeting room shall be in accordance with fair and equitable procedures devised by the Executive Committee of the Radio and Television Correspondents' Galleries.

(3) Television cameras shall be placed so as not to obstruct in any way the space between a witness giving evidence or testimony and any member of the committee or the visibility of that witness and that member to each other.

(4) Television cameras shall operate from fixed positions but may not be placed in positions that obstruct unnecessarily the coverage of the hearing or meeting by the other media.

(5) Equipment necessary for coverage by the television and radio media may not be installed in, or removed from, the hearing or meeting room while the committee is in session.

(6)(A) Except as provided in subdivision (B), floodlights, spotlights, strobelights, and flashguns may not be used in providing any method of coverage of the hearing or meeting.

(B) The television media may install additional lighting in a hearing or meeting room, without cost to the Government, in order to raise the ambient lighting level in a hearing or meeting room to the lowest level necessary to provide adequate television coverage of a hearing or meeting at the current state of the art of television coverage.

(7) If requests are made by more of the media than will be permitted by a committee or subcommittee chair for coverage of a hearing or meeting by still photography, that coverage shall be permitted on the basis of a fair and equitable pool arrangement devised by the Standing Committee of Press Photographers.

(8) Photographers may not position themselves between the witness table and the members of the committee at any time during the course of a hearing or meeting.

(9) Photographers may not place themselves in positions that obstruct unnecessarily the coverage of the hearing by the other media.

(10) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(11) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery.

(12) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and their coverage activities in an orderly and unobtrusive manner.

Pay of witnesses

5. Witnesses appearing before the House or any of its committees shall be paid the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, Delegates, the Resident Commissioner, and employees of the House, plus actual expenses of travel to or from the place of examination. Such per diem may not be paid when a witness has been summoned at the place of examination.

Unfinished business of the session

6. All business of the House at the end of one session shall be resumed at the commencement of the next session of the same Congress in the same manner as if no adjournment had taken place.

RULE XII

RECEIPT AND REFERRAL OF MEASURES AND MATTERS

Messages

1. Messages received from the Senate, or from the President, shall be entered on the Journal and published in the Congressional Record of the proceedings of that day.

Referral

2. (a) The Speaker shall refer each bill, resolution, or other matter that relates to a subject listed under a standing committee named in clause 1 of rule X in accordance with the provisions of this clause.

(b) The Speaker shall refer matters under paragraph (a) in such manner as to ensure to the maximum extent feasible that each committee that has jurisdiction under clause 1 of rule X over the subject matter of a provision thereof may consider such provision and report to the House thereon. Precedents, rulings, or procedures in effect before the Ninety-Fourth Congress shall be applied to referrals under this clause only to the extent that they will contribute to the achievement of the objectives of this clause.

(c) In carrying out paragraphs (a) and (b) with respect to the referral of a matter, the Speaker—

(1) shall designate a committee of primary jurisdiction (except where the Speaker determines that extraordinary circumstances justify review by more than one committee as though primary);

(2) may refer the matter to one or more additional committees for consideration in sequence, either initially or after the matter has been reported by the committee of primary jurisdiction;

(3) may refer portions of the matter reflecting different subjects and jurisdictions to one or more additional committees;

(4) may refer the matter to a special, ad hoc committee appointed by the Speaker with the approval of the House, and including members of the committees of jurisdiction, for the specific purpose of considering that matter and reporting to the House thereon;

(5) may subject a referral to appropriate time limitations; and

(6) may make such other provision as may be considered appropriate.

(d) A bill for the payment or adjudication of a private claim against the Government may not be referred to a committee other than the Committee on Foreign Affairs or the Committee on the Judiciary, except by unanimous consent.

Petitions, memorials, and private bills

3. If a Member, Delegate, or Resident Commissioner has a petition, memorial, or private bill to present, the Member, Delegate, or Resident Commissioner shall sign it, deliver it to the Clerk, and may specify the reference or disposition to be made thereof. Such petition, memorial, or private bill (except when judged by the Speaker to be obscene or insulting) shall be entered on the Journal with the name of the Member, Delegate, or Resident Commissioner presenting it and shall be printed in the Congressional Record.

4. A private bill or private resolution (including an omnibus claim or pension bill), or amendment thereto, may not be received or considered in the House if it authorizes or directs—

(a) the payment of money for property damages, for personal injuries or death for which suit may be instituted under the Tort Claims Procedure provided in title 28, United

NARA Response Letter—First Page

BERNARD SANDERS
VERMONT

United States Senate
WASHINGTON, DC 20510–4502

COMMITTEES:
BUDGET
ENERGY AND NATURAL RESC
ENVIRONMENT AND PUBLIC \
HEALTH, EDUCATION, LAB
AND PENSIONS
VETERANS' AFFAIRS

March 22, 2007

Mr. Steve Moyer
42 Hall Road
South Hero, Vermont 05486

Dear Mr. Moyer:

Senator Sanders has asked me to send you a copy of the letter we recently received from the National Archives and Records Administration (NARA) in response to the inquiry that we had made on your behalf.

As you can see, Mr. Rodney Ross at the Center for Legislative Archives has responded to the questions you had raised regarding petitions submitted to Congress for an Article V convention. Mr. Ross has informed our office that although NARA is the likely repository for this information, there is no single storage facility or category for such petitions. He has, however, provided websites regarding the current, defined processing for archiving such documents. The enclosed letter is self-explanatory and provides further details regarding this matter.

In our initial conversation and in your e-mail correspondence to our office, you also suggested that we contact the Secretary of the Senate about this matter as well. Per your request, our office called the United States Senate Library, an office within the Secretary of the Senate which maintains a collection of Senate documents. The reference librarian with whom we spoke indicated that the Senate Library does not hold the requested petitions. She explained that NARA would be the office most able to respond to your request.

Although we understand that the enclosed may not be the response you had anticipated, we hope that this information will be helpful. Please note that Mr. Ross has provided his phone number and has indicated that he would be happy to speak with you if you have remaining questions or need further clarification regarding this issue.

Please let us know if you have questions or if Bernie may be of further assistance in the future.

Sincerely,

Geoffrey T. Pippenger
Constituent Advocate

Enc.

PRINTED ON RECYCLED PAPER

NARA Response Letter—Second Page

National Archives and Records Administration

700 Pennsylvania Avenue, NW
Washington, DC 20408-0001

March 12, 2007

MAR

The Honorable Bernard Sanders
United States Senate
1 Church Street, 2nd Floor
Burlington, VT 05401

Dear Senator Sanders:

Thank you for your inquiry of February 28, 2007, on behalf of Mr. Steve Moyer, who seeks information on petitions sent to Congress seeking amendments to the Constitution – by the convention process.

Of Mr. Moyer's three questions, the easiest to answer in his third. Access to House and Senate records at the National Archives is governed for the House by Rule VII and for the Senate by Senate Resolution 474 (96th Congress). These can be seen on the Center's web site at http://www.archives.gov/legislative/research/house-rule-vii.html and http://www.archives.gov/legislative/research/senate-resolution-474.html . The former explicitly has a section on "Archiving."

The Center for Legislative Archives probably holds the kind of petitions in which Mr. Moyer is interested. Researchers who are able to pinpoint file citations can request electrostatic copies of House and Senate records held by the Center. The charge is 50 cents per page, with minimum mail orders of $10.00.

Unfortunately there is no single category for petitions asking for amendments to the Constitution, let alone for amendments by the convention route.

The Center has much better intellectual control over House records than over Senate records. For House records, 1789-1946, there is a 587-page Preliminary Inventory. In the back of that volume there is an index. For Constitution-Amendment of-Petitions, there are listings on pages 84, 106, 111, 165, 167, 173, 180, 194, 201, 207, 253, 254, 260, 261, 268, 276, 284, 290, 324, 333, 334, 354, 360, 367, 382, 387, 392, 397, 408, 413, 420, 431 and 437.

For a particular file category, one would then need to go to the page in question. For page 84, from the 24th Congress (1833-1835) under "Other select committees," there's something for HR 24A-G22.1. For page 437, from the 79th Congress (1945-1946), under petitions referred to the Committee on the Judiciary there is a category for "constitutional amendments" under HR79A-H9.6.

Regretfully, all such categories are for the generic request for amending the Constitution. Each individual petition, within each category, would need to be read to see if a particular document mentioned the convention process.

NARA's web site is http://www.archives.gov

I hope this information is of assistance. Should Mr. Moyer seek further clarification, I would be pleased to help. My address is: Rod Ross, Center for Legislative Archives – Room 205, National Archives Building, Washington, DC 20408-0001. My direct phone number is 202-357-5253.

Sincerely,

Rodney A. Ross

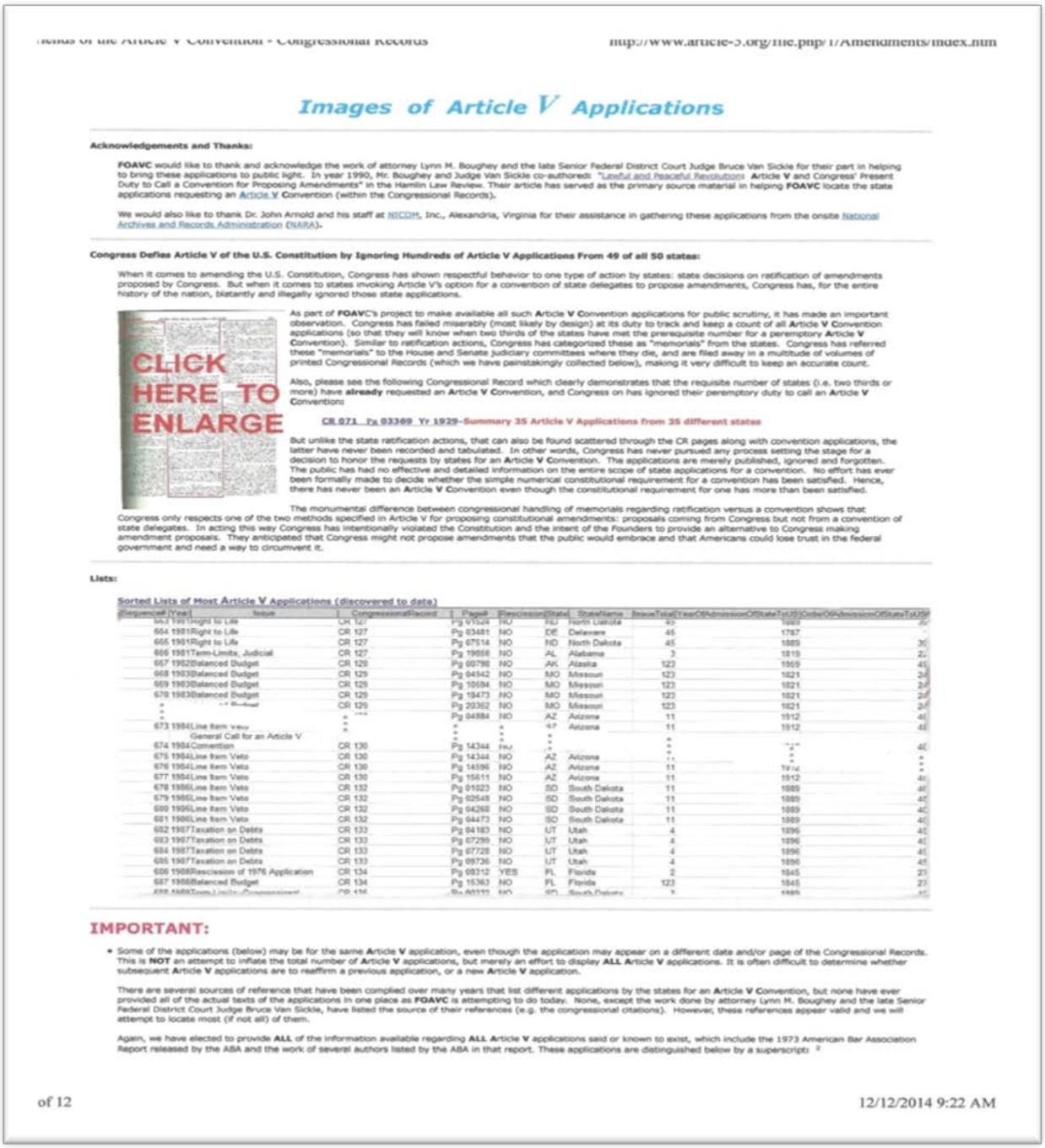
Rodney A. Ross
Center for Legislative Archives

NARA's web site is http://www.archives.gov

State Applications for an Article V Convention Call

Introduction

The following list of applications, 764 in all, is accurate as of January 16, 2015. The list consists of a series of links to photographic copies of pages of the Congressional Record. The address of the internet address is: http://www.article-5.org/file.php/1/Amendments/index.htm.



Images of Article V Applications

Acknowledgements and Thanks:

FOAVC would like to thank and acknowledge the work of attorney Lynn M. Boughey and the late Senior Federal District Court Judge Bruce Van Sickle for their part in helping to bring these applications to public light. In year 1990, Mr. Boughey and Judge Van Sickle co-authored: "Lawful and Peaceful Revolutions: **Article V** and Congress' Present Duty to Call a Convention for Proposing Amendments" in the Hamlin Law Review. Their article has served as the primary source material in helping **FOAVC** locate the state applications requesting an Article V Convention (within the Congressional Records).

We would also like to thank Dr. John Arnold and his staff at NICDM, Inc., Alexandria, Virginia for their assistance in gathering these applications from the onsite National Archives and Records Administration (NARA).

Congress Defies Article V of the U.S. Constitution by Ignoring Hundreds of Article V Applications From 49 of all 50 states:

When it comes to amending the U.S. Constitution, Congress has shown respectful behavior to one type of action by states: state decisions on ratification of amendments proposed by Congress. But when it comes to states invoking Article V's option for a convention of state delegates to propose amendments, Congress has, for the entire history of the nation, blatantly and illegally ignored those state applications.

CLICK HERE TO ENLARGE

As part of **FOAVC**'s project to make available all such **Article V** Convention applications for public scrutiny, it has made an important observation. Congress has failed miserably (most likely by design) at its duty to track and keep a count of all **Article V** Convention applications (so that they will know when two thirds of the states have met the prerequisite number for a peremptory **Article V** Convention). Similar to ratification actions, Congress has categorized these as "memorials" from the states. Congress has referred these "memorials" to the House and Senate judiciary committees where they die, and are filed away in a multitude of volumes of printed Congressional Records (which we have painstakingly collected below), making it very difficult to keep an accurate count.

Also, please see the following Congressional Record which clearly demonstrates that the requisite number of states (i.e. two thirds or more) have **already** requested an **Article V** Convention, and Congress on has ignored their peremptory duty to call an **Article V** Convention:

CR 071 Pg 03369 Yr 1929-Summary 35 Article V Applications from 35 different states

But unlike the state ratification actions, that can also be found scattered through the CR pages along with convention applications, the latter have never been recorded and tabulated. In other words, Congress has never pursued any process setting the stage for a decision to honor the requests by states for an **Article V** Convention. The applications are merely published, ignored and forgotten. The public has had no effective and detailed information on the entire scope of state applications for a convention. No effort has ever been formally made to decide whether the simple numerical constitutional requirement for a convention has been satisfied. Hence, there has never been an **Article V** Convention even though the constitutional requirement for one has more than been satisfied.

The monumental difference between congressional handling of memorials regarding ratification versus a convention shows that Congress only respects one of the two methods specified in Article V for proposing constitutional amendments: proposals coming from Congress but not from a convention of state delegates. In acting this way Congress has intentionally violated the Constitution and the intent of the Founders to provide an alternative to Congress making amendment proposals. They anticipated that Congress might not propose amendments that the public would embrace and that Americans could lose trust in the federal government and need a way to circumvent it.

Lists:

Sorted Lists of Most Article V Applications (discovered to date)

@Sequence#	Year	Issue	CongressionalRecord	Page#	Rescission	State	StateName	IssueTotal	YearOfAdmissionOfStateToUS	OrderOfAdmissionOfStateToUS
663	1981	Right to Life	CR 127	Pg 07514	NO	ND	North Dakota	45	1889	39
664	1981	Right to Life	CR 127	Pg 03481	NO	DE	Delaware	45	1787	1
665	1981	Right to Life	CR 127	Pg 07514	NO	ND	North Dakota	45	1889	39
666	1981	Term-Limits, Judicial	CR 127	Pg 19666	NO	AL	Alabama	3	1819	22
667	1982	Balanced Budget	CR 128	Pg 00790	NO	AK	Alaska	123	1959	49
668	1983	Balanced Budget	CR 129	Pg 04942	NO	MO	Missouri	123	1821	24
669	1983	Balanced Budget	CR 129	Pg 10684	NO	MO	Missouri	123	1821	24
670	1983	Balanced Budget	CR 129	Pg 18473	NO	MO	Missouri	123	1821	24
*	*	*	CR 129	Pg 20362	NO	MO	Missouri	123	1821	24
*	*	*	*	Pg 04884	NO	AZ	Arizona	11	1912	48
673	1984	Line Item Veto	*	*	*	AZ	Arizona	11	1912	48
*	*	General Call for an Article V	*	*	*	*	*	*	*	*
674	1984	Convention	CR 130	Pg 14344	NO	*	*	*	*	48
675	1984	Line Item Veto	CR 130	Pg 14344	NO	AZ	Arizona	*	*	*
676	1984	Line Item Veto	CR 130	Pg 14696	NO	AZ	Arizona	11	1912	*
677	1984	Line Item Veto	CR 130	Pg 15611	NO	AZ	Arizona	11	1912	48
678	1985	Line Item Veto	CR 132	Pg 01023	NO	SD	South Dakota	11	1889	40
679	1985	Line Item Veto	CR 132	Pg 02548	NO	SD	South Dakota	11	1889	40
680	1985	Line Item Veto	CR 132	Pg 04268	NO	SD	South Dakota	11	1889	40
681	1985	Line Item Veto	CR 132	Pg 04473	NO	SD	South Dakota	11	1889	40
682	1987	Taxation on Debts	CR 133	Pg 04183	NO	UT	Utah	4	1896	45
683	1987	Taxation on Debts	CR 133	Pg 07299	NO	UT	Utah	4	1896	45
684	1987	Taxation on Debts	CR 133	Pg 07728	NO	UT	Utah	4	1896	45
685	1987	Taxation on Debts	CR 133	Pg 09736	NO	UT	Utah	4	1896	45
686	1988	Rescission of 1976 Application	CR 134	Pg 08312	YES	FL	Florida	2	1845	27
687	1988	Balanced Budget	CR 134	Pg 15363	NO	FL	Florida	123	1845	27
*	*	*	*	*	*	*	*	*	*	*

IMPORTANT:

- Some of the applications (below) may be for the same **Article V** application, even though the application may appear on a different date and/or page of the Congressional Records. This is **NOT** an attempt to inflate the total number of **Article V** applications, but merely an effort to display **ALL Article V** applications. It is often difficult to determine whether subsequent **Article V** applications are to reaffirm a previous application, or a new **Article V** application.

There are several sources of reference that have been compiled over many years that list different applications by the states for an **Article V** Convention, but none have ever provided all of the actual texts of the applications in one place as **FOAVC** is attempting to do today. None, except the work done by attorney Lynn M. Boughey and the late Senior Federal District Court Judge Bruce Van Sickle, have listed the source of their references (e.g. the congressional citations). However, these references appear valid and we will attempt to locate most (if not all) of them.

Again, we have elected to provide **ALL** of the information available regarding **ALL Article V** applications said or known to exist, which include the 1973 American Bar Association Report released by the ABA and the work of several authors listed by the ABA in that report. These applications are distinguished below by a superscript: [2]

State Applications 1789-1907 #1-47

Another source of material is provided by references contained in the book, "Constitutional Brinksmanship, Amending the Constitution by National Convention" by Russell L. Caplan (1988).
These references are distinguished below by a superscript: [1]

Other applications which are believed to exist, but a copy of the application has not yet been found, are distinguished below by a superscript: [2]

In addition, there are no reliable references for any applications submitted by the states from the period of 1989 to the present. **FOAVC** is aware of reports of these applications but has no congressional reference at present to locate them. We will continue to try to locate these applications.

- The **MOST** important fact is **NOT** the total number of **A**rticle **V** applications (e.g. over 400, or more, etc.).
- The **MOST** important fact is that **ONLY ONE** Article **V** application is required from each of **34** different states to require Congress to call an **A**rticle **V** **C**onvention, and **49** of all 50 of the states have already filed at least **ONE** **A**rticle **V** application.
- And while there is nothing in the **143** words of the single sentence in Article V about recognizing rescissions, or any same-issue requirements, or any expiration time-limits, even **IF** rescissions are excluded, there are ***still*** **38** (or more) different states that have filed **A**rticle **V** Applications (which is more than the **34** states needed to require Congress to call an **A**rticle **V** Convention).
- Any question regarding the intent of the applications or the original interpretation of the obligation of Congress to call an **A**rticle **V** **C**onvention can be easily settled by simply reading the 1789 application from the state of Virginia: General Annals of Congress 1 (J. Gales Ed.) Pg 00257-258 Yr 1789 , Pg 00259-00259 , and Pg 00261-00262 The application clearly calls for proposing amendments (emphasis underlined in green) and the discussion by the members of Congress following the submission of the application afterwards is clear. Congress must call an **A**rticle **V** **C**onvention; it has no authority to even debate the issue and the basis of the call is a two-thirds application by the states.
- In some cases state applications have been lost or not recorded in the Congressional Record most likely because of poor recording practices on the part of Congress. Because their fate is inconclusive, FOAVC has not listed them with those below all of which are recorded in the Congressional Record. Because there is no conclusive proof these applications were actually recorded in the Congressional Record it is unclear whether or not they should be "counted" as valid applications. To avoid confusion, FOAVC is publishing these applications on a separate page.
- A recent political movement entitled "Convention of States" has begun efforts to have state legislatures submit applications to Congress for a "convention of states" under Article V. THE CONSTITUTION DOES NOT RECOGNIZE THIS TERM ANY MORE THAN IT RECOGNIZES THE EQUALLY INACCURATE TERM "CONSTITUTIONAL CONVENTION." While any application submitted by a state to Congress will be published on this website the term "convention of states" will not be used to describe the convention nor any subject within any application as it is an unconstitutional term and therefore such use is inaccurate. Political comments regarding the political organization "Convention of States" may be found elsewhere on this website.

Hundreds of Article V Applications from 49 of all 50 states (click on links below to view an image and click on the image to enlarge it (depending on browser); NOTE: CR=Congressional Record, Pg=Page, Yr=Year):

1. General Annals of Congress 1 (J. Gales Ed.) Pg 00029 Yr 1789-NY-General Call for an Article V Convention (continued to: Page 00030)
2. General Annals of Congress 1 (J. Gales Ed.) Pg 00257 Yr 1789-VA-General Call for an Article V Convention (continued 259, 261)
3. Journal HR 022 Pg 00227 Yr 1832-GA-Nullification Response to Application by State of Delaware (No convention of the states but of the people)
4. HRJ H219 YR 1833-SC-Nullification (continued to Page 220)
5. HRJ H361 YR 1833-AL-Nullification (continued to Page 362)
6. CG 07? Pg ????? Yr 1860-DE-Slavery [1]
7. CG 07? Pg ????? Yr 1860-AR-Slavery [1]
8. CG 07? Pg ????? Yr 1860-TN-Slavery [1]
9. CG 07? Pg ????? Yr 1861-KY-Slavery [1]
10. CG 036 Pg 00680 Yr 1861-NJ-Slavery
11. CG 037 Pg 00773 Yr 1861-KY-Slavery (see also senate message Page 751)
12. CG 07? Pg ????? Yr 1861-NJ-Slavery [1]
13. CG S1465 YR 1861-IN-Slavery (continued to Page 1466)
14. CG 07? Pg ????? Yr 1861-IL-Slavery [1]
15. CG 07? Pg ????? Yr 1861-OH-Slavery [1]
16. CG 036 Pg 01270 Yr 1861-KY-Slavery
17. CR 07? Pg ????? Yr 1863-DE-Peaceful Resolution to Civil War; [1]
18. CR 07? Pg ????? Yr 1863-KY-Slavery; Reaffirming Application of 1861 [1]
19. CR 07? Pg ????? Yr 1864-OR-Peaceful Resolution to Civil War [1]
20. CR 07? Pg ????? Yr 1867-NC-Reducing Effects of Emancipation [1]
21. CR 07? Pg ????? Yr 1893-NE-Direct Election of Senators [1]
22. CR 024 Pg 01603 Yr 1893-NE-Direct Election of Senators
23. CR 07? Pg ????? Yr 1899-PA-Direct Election of Senators [1]
24. CR 033 Pg 00219 Yr 1899-TX-General Call for an Article V Convention
25. CR 033 Pg 00930 Yr 1900-PA-Direct Election of Senators
26. CR 033 Pg 00971 Yr 1900-PA-Direct Election of Senators
27. CR 034 Pg 02560 Yr 1901-NH-Direct Election of Senators
28. CR 034 Pg 02615 Yr 1901-NH-Direct Election of Senators
29. CR 034 Pg 02680 Yr 1901-NH-Direct Election of Senators
30. CR 035 Pg 00113 Yr 1901-NV-Direct Election of Senators
31. CR 035 Pg 00117 Yr 1901-NI-Direct Election of Senators
32. CR 035 Pg 00117 Yr 1901-OR-Direct Election of Senators
33. CR 035 Pg 00208 Yr 1901-MI-Direct Election of Senators (continued to: Page 00209)
34. CR 035 Pg 01779 Yr 1901-NE-Direct Election of Senators
35. CR 035 Pg 02344 Yr 1902-TN-Direct Election of Senators
36. CR 035 Pg 02707 Yr 1902-IN-Direct Election of Senators
37. CR 037 Pg 00024 Yr 1903-NV-Direct Election of Senators
38. CR 037 Pg 00276 Yr 1903-WI-Direct Election of Senators
39. CR 038 Pg 04959 Yr 1904-IA-Direct Election of Senators
40. CR 039 Pg 02447 Yr 1905-MI-Direct Election of Senators
41. CR 040 Pg 00138 Yr 1905-MO-Direct Election of Senators
42. CR 041 Pg 02497 Yr 1907-SD-Direct Election of Senators
43. CR 041 Pg 03011 Yr 1907-DE-Anti-Polygamy
44. CR 041 Pg 03072 Yr 1907-KS-General Call for an Article V Convention
45. CR 042 Pg 00163 Yr 1907-NV-Direct Election of Senators
46. CR 042 Pg 00164 Yr 1907-IL-Direct Election of Senators
47. CR 042 Pg 00164 Yr 1907-NJ-Direct Election of Senators

State Applications 1907-1913 #48-127

48. CR 042 Pg 00359 Yr 1907-IL-Direct Election of Senators
49. CR 042 Pg 00894 Yr 1908-OK-Direct Election of Senators
50. CR 042 Pg 00895 Yr 1908-WI-Direct Election of Senators
51. CR 042 Pg 00895 Yr 1908-NV-Direct Election of Senators
52. CR 042 Pg 00895 Yr 1908-IA-Direct Election of Senators
53. CR 042 Pg 05906 Yr 1908-LA-Direct Election of Senators
54. CR 042 Pg 05906 Yr 1908-LA-General Call for an Article V Convention
55. CR 043 Pg 02025 Yr 1909-OR-Direct Election of Senators
56. CR 043 Pg 02065 Yr 1909-OR-Direct Election of Senators
57. CR 043 Pg 02071 Yr 1909-OR-Direct Election of Senators
58. CR 043 Pg 02115 Yr 1909-OR-Direct Election of Senators
59. CR 043 Pg 02667 Yr 1909-SD-General Call for an Article V Convention (continued: Page 02668)
60. CR 043 Pg 02668 Yr 1909-SD-Direct Election of Senators
61. CR 043 Pg 02670 Yr 1909-SD-Anti-Polygamy
62. CR 043 Pg 04339 Yr 1911-ME-Direct Election of Senators
63. CR 045 Pg 07113 Yr 1910-AR-Direct Election of Senators
64. CR 045 Pg 07113 Yr 1910-CO-Direct Election of Senators
65. CR 045 Pg 07113 Yr 1910-CO-General Call for an Article V Convention
66. CR 045 Pg 07114 Yr 1910-IA-Direct Election of Senators
67. CR 045 Pg 07114 Yr 1910-IA-General Call for an Article V Convention
68. CR 045 Pg 07114 Yr 1910-ID-General Call for an Article V Convention
69. CR 045 Pg 07114 Yr 1910-IN-Direct Election of Senators
70. CR 045 Pg 07114 Yr 1910-IN-General Call for an Article V Convention
71. CR 045 Pg 07114 Yr 1910-IL-Direct Election of Senators (continued: Page 07114)
72. CR 045 Pg 07114 Yr 1910-IL-General Call for an Article V Convention
73. CR 045 Pg 07115 Yr 1910-KY-Direct Election of Senators
74. CR 045 Pg 07115 Yr 1910-KS-Direct Election of Senators
75. CR 045 Pg 07115 Yr 1910-KS-General Call for an Article V Convention
76. CR 045 Pg 07115 Yr 1910-LA-General Call for an Article V Convention
77. CR 045 Pg 07115 Yr 1910-LA-Direct Election of Senators
78. CR 045 Pg 07116 Yr 1910-MN-Direct Election of Senators
79. CR 045 Pg 07116 Yr 1910-NE-Direct Election of Senators
80. CR 045 Pg 07116 Yr 1910-MI-Direct Election of Senators
81. CR 045 Pg 07116 Yr 1910-MO-General Call for an Article V Convention
82. CR 045 Pg 07116 Yr 1910-MO-Direct Election of Senators
83. CR 045 Pg 07117 Yr 1910-NC-Direct Election of Senators
84. CR 045 Pg 07117 Yr 1910-NJ-Direct Election of Senators
85. CR 045 Pg 07117 Yr 1910-NV-Direct Election of Senators
86. CR 045 Pg 07117 Yr 1910-OK-Direct Election of Senators (continued to: Page 07118)
87. CR 045 Pg 07117 Yr 1910-OK-General Call for an Article V Convention
88. CR 045 Pg 07118 Yr 1910-PA-Direct Election of Senators
89. CR 045 Pg 07118 Yr 1910-OK-Direct Election of Senators
90. CR 045 Pg 07118 Yr 1910-OR-Direct Election of Senators
91. CR 045 Pg 07118 Yr 1910-SD-Direct Election of Senators
92. CR 045 Pg 07118 Yr 1910-TN-Direct Election of Senators (continued to: Page 07119)
93. CR 045 Pg 07119 Yr 1910-IA-General Call for an Article V Convention
94. CR 045 Pg 07119 Yr 1910-IA-Direct Election of Senators
95. CR 045 Pg 07119 Yr 1910-LA-Direct Election of Senators
96. CR 045 Pg 07119 Yr 1910-LA-General Call for an Article V Convention
97. CR 045 Pg 07119 Yr 1910-TX-Direct Election of Senators
98. CR 045 Pg 07119 Yr 1910-UT-Direct Election of Senators
99. CR 045 Pg 07119 Yr 1910-WA-Direct Election of Senators
100. CR 045 Pg 07119 Yr 1910-WI-Direct Election of Senators (Continued to: Page 07120)
101. CR 045 Pg 07120 Yr 1910-WY-Direct Election of Senators
102. CR 045 Pg 07120 Yr 1910-WY-General Call for an Article V Convention
103. CR 046 Pg ????? Yr 1911-MA-Repeal of Prohibition; [2]
104. CR 046 Pg 00651 Yr 1911-WA-Anti-Polygamy
105. CR 046 Pg 02411 Yr 1911-MT-Direct Election of Senators
106. CR 046 Pg 02411 Yr 1911-MT-General Call for an Article V Convention
107. CR 046 Pg 03035 Yr 1911-WA-Direct Election of Senators (continued to: Page 03036)
108. CR 046 Pg 03035 Yr 1911-WA-General Call for an Article V Convention
109. CR 046 Pg 04280 Yr 1911-ME-Direct Election of Senators
110. CR 047 Pg 00085 Yr 1911-OH-Anti-Polygamy
111. CR 047 Pg 00098 Yr 1911-MT-Anti-Polygamy (continued to: Page 00099)
112. CR 047 Pg 00099 Yr 1911-NE-Anti-Polygamy
113. CR 047 Pg 00187 Yr 1911-TN-Anti-Polygamy
114. CR 047 Pg 00660 Yr 1911-OH-Anti-Polygamy (continued to: Page 00661)
115. CR 047 Pg 01298 Yr 1911-IL-Anti-monopoly
116. CR 047 Pg 01842 Yr 1911-WI-General Call for an Article V Convention
117. CR 047 Pg 01842 Yr 1911-WI-General Call for an Article V Convention, Initiative, Referendum, and Recall
118. CR 047 Pg 01872 Yr 1911-WI-General Call for an Article V Convention, Initiative, Referendum, and Recall (continued to: Page 01873)
119. CR 047 Pg 02000 Yr 1911-NE-Anti-Polygamy
120. CR 047 Pg 02000 Yr 1911-CA-Direct Election of Senators
121. CR 047 Pg 02000 Yr 1911-WI-General Call for an Article V Convention, Initiative, Referendum, and Recall
122. CR 047 Pg 02188 Yr 1911-WI-General Call for an Article V Convention, Initiative, Referendum, and Recall
123. CR 047 Pg 03087 Yr 1911-WI-General Call for an Article V Convention, Initiative, Referendum, and Recall
124. CR 049 Pg 01433 Yr 1913-VT-Anti-Polygamy
125. CR 049 Pg 02463 Yr 1913-OR-Anti-Polygamy
126. CR 049 Pg 02464 Yr 1913-VT-Anti-Polygamy
127. CR 050 Pg 00042 Yr 1913-WI-Anti-Polygamy (continued to: Page 00043)

State Applications 1913-1953 #128-207

128. CR 050 Pg 00116 Yr 1913-WI-Anti-Polygamy
129. CR 050 Pg 00120 Yr 1913-IL-Anti-Polygamy (continued to: Page 00121)
130. CR 050 Pg 02290 Yr 1913-MI-Anti-Polygamy
131. CR 050 Pg 02428 Yr 1913-MO-Manner of Determining Constitutionality of State Enactments
132. CR 053 Pg 00242 Yr 1916-SC-Anti-Polygamy
133. CR 060 Pg 00031 Yr 1920-LA-Popular Ratification Vote
134. CR 067 Pg 00458 Yr 1925-NV-Amend 18th Amendment
135. CR 067 Pg 00458 Yr 1925-WI-Direct Election of President, Vice President
136. CR 071 Pg 02590 Yr 1929-WI-General Call for an Article V Convention
137. CR 071 Pg 03369 Yr 1929-WI-General Call for an Article V Convention
138. CR 071 Pg 03856 Yr 1929-WI-General Call for an Article V Convention
139. CR 075 Pg 00045 Yr 1931-MA-Repeal of 18th Amendment
140. CR 075 Pg 00048 Yr 1931-NY-Repeal of 18th Amendment
141. CR 075 Pg 00057 Yr 1931-WI-Repeal of 18th Amendment
142. CR 075 Pg 00057 Yr 1931-WI-Repeal of 18th Amendment
143. CR 075 Pg 00664 Yr 1931-HA-Repeal of 18th Amendment
144. CR 075 Pg 03299 Yr 1931-NJ-Repeal of 18th Amendment
145. CR 079 Pg 10814 Yr 1931-CA-Taxation of Government Securities
146. CR 079 Pg 10814 Yr 1931-CA-Federal Regulation of Labor Hours and Wages
147. CR 084 Pg 00985 Yr 1939-OR-Townsend National Recovery Plan, General Welfare Act of 1937 (H.R.4199)
148. CR 084 Pg 02509 Yr 1939-WY-Repeal of 16th Amendment (continued to: Page 02510)
149. CR 084 Pg 03320 Yr 1939-MD-Repeal of 16th Amendment
150. CR 086 Pg 03407 Yr 1940-RI-Repeal of 16th Amendment
151. CR 087 Pg 03172 Yr 1941-IA-Repeal of 16th Amendment
152. CR 087 Pg 03370 Yr 1941-ME-Repeal of 16th Amendment (continued to: Page 03371)
153. CR 087 Pg 03812 Yr 1941-MA-Repeal of 16th Amendment (continued to: Page 03813)
154. CR 087 Pg 04537 Yr 1941-MI-Repeal of 16th Amendment
155. CR 087 Pg 08904 Yr 1941-MI-Repeal of 16th Amendment
156. CR 089 Pg 02516 Yr 1943-IA-Presidential Term-Limits
157. CR 089 Pg 02516 Yr 1943-IL-Presidential Term-Limits (continued to: Page 02517)
158. CR 089 Pg 02728 Yr 1943-IA-Presidential Term-Limits
159. CR 089 Pg 02944 Yr 1943-MI-Presidential Term-Limits
160. CR 089 Pg 03761 Yr 1943-NH-Repeal of 16th Amendment (continued to: Page 03762)
161. CR 089 Pg 04017 Yr 1943-DE-Repeal of 16th Amendment
162. CR 089 Pg 05690 Yr 1943-FL-Limited World Federal Government
163. CR 089 Pg 07523 Yr 1943-AL-Repeal of 16th Amendment (continued to: Page 07524)
164. CR 089 Pg 07524 Yr 1943-WI-Repeal of 16th Amendment
165. CR 089 Pg 07525 Yr 1943-WI-Presidential Term-Limits
166. CR 089 Pg 08220 Yr 1943-PA-Unconditional Federal Public Funds
167. CR 089 Pg 08220 Yr 1943-PA-Repeal of 16th Amendment
168. CR 090 Pg 04040 Yr 1944-KY-Repeal of 16th Amendment (continued to: Page 04041)
169. CR 090 Pg 06141 Yr 1944-NJ-Repeal of 16th Amendment
170. CR 095 Pg 04568 Yr 1949-CA-Limited World Federal Government (continued to: Page 04569)
171. CR 095 Pg 04571 Yr 1949-NJ-Limited World Federal Government
172. CR 095 Pg 05628 Yr 1949-MI-Repeal of 16th Amendment, Limited Federal Taxation (continued to: Page 05629)
173. CR 095 Pg 06586 Yr 1949-FL-Limited World Federal Government
174. CR 095 Pg 06587 Yr 1949-NC-Limited World Federal Government (continued to: Page 06588)
175. CR 095 Pg 07000 Yr 1949-FL-Limited World Federal Government
176. CR 095 Pg 07686 Yr 1949-CT-Limited World Federal Government
177. CR 095 Pg 07689 Yr 1949-CT-Limited World Federal Government
178. CR 095 Pg 07893 Yr 1949-NE-Repeal of 16th Amendment, Limited Federal Taxation (continued to: Page 07894)
179. CR 095 Pg 08285 Yr 1949-CT-Limited World Federal Government
180. CR 097 Pg 02936 Yr 1951-KS-Repeal of 16th Amendment
181. CR 097 Pg 03939 Yr 1951-IA-Repeal of 16th Amendment, Limited Federal Taxation (continued to: Page 03940)
182. CR 097 Pg 05155 Yr 1951-FL-Repeal of 16th Amendment (continued to: Page 05156)
183. CR 097 Pg 06033 Yr 1951-ME-Rescission of World Federation Amendment of 1949
184. CR 097 Pg 06033 Yr 1951-ME-Limited Federal Taxation (continue to: Page 06034)
185. CR 097 Pg 10716 Yr 1951-NH-Limited Federal Taxation (continued to: Page 10717)
186. CR 097 Pg 10973 Yr 1951-KY-Limited Federal Taxation
187. CR 097 Pg 10973 Yr 1951-KY-Limited Federal Taxation
188. CR 098 Pg 00742 Yr 1952-AR-Repeal of 16th Amendment
189. CR 098 Pg 00742 Yr 1952-AR-Limited Federal Taxation
190. CR 098 Pg 00742 Yr 1952-IL-Rescission
191. CR 098 Pg 00742 Yr 1952-IL-Repeal of 16th Amendment (continued to: Page 00743)
192. CR 098 Pg 00947 Yr 1952-UT-Repeal of 16th Amendment
193. CR 098 Pg 00947 Yr 1952-NH-Repeal of 16th Amendment, Limited Federal Taxation (continued to: Page 00948)
194. CR 098 Pg 01056 Yr 1952-IN-Repeal of 16th Amendment (continued to: Page 01057)
195. CR 098 Pg 01057 Yr 1952-GA-Limiting Treaty Making Power
196. CR 098 Pg 01225 Yr 1952-GA-Repeal of 16th Amendment
197. CR 098 Pg 01225 Yr 1952-GA-Limiting Treaty Making Power
198. CR 098 Pg 01496 Yr 1952-VA-Repeal of 16th Amendment
199. CR 098 Pg 04003 Yr 1952-CA-Motor Vehicle Taxes Directed to States (continued to: Page 04004)
200. CR 098 Pg 04641 Yr 1952-MA-Rescission
201. CR 099 Pg 00320 Yr 1953-LA-Repeal of 16th Amendment (continued to: Page 000321)
202. CR 099 Pg 04311 Yr 1953-ME-Rescission
203. CR 099 Pg 04434 Yr 1953-ME-Rescission
204. CR 099 Pg 06163 Yr 1953-NE-Rescission
205. CR 099 Pg 09180 Yr 1953-SD-Mode of Amendment (continued to: Page 09181)
206. CR 099 Pg 09864 Yr 1953-IL-Mode of Amendment
207. CR 099 Pg 10052 Yr 1953-IL-Mode of Amendment

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208. CR 100 Pg 09420 Yr 1954-LA-Rescission
209. CR 100 Pg 11943 Yr 1954-NJ-Rescission
210. CR 101 Pg 00099 Yr 1955-NJ-Rescission
211. CR 101 Pg 01532 Yr 1955-GA-Exclusive Power for States to Regulate and Operate State Schools
212. CR 101 Pg 02086 Yr 1955-GA-Exclusive Power for States to Regulate and Operate State Schools (continued to: Page 02087)
213. CR 101 Pg 02274 Yr 1955-GA-Exclusive Power for States to Regulate and Operate State Schools
214. CR 101 Pg 02770 Yr 1955-TX-Mode of Amendment (continued to: Page 02771)
215. CR 101 Pg 02840 Yr 1955-SD-Mode of Amendment
216. CR 101 Pg 02840 Yr 1955-TX-Mode of Amendment
217. CR 101 Pg 02861 Yr 1955-SD-Mode of Amendment (continued to: Page 02862)
218. CR 101 Pg 08397 Yr 1955-OK-Balanced Budget (continued to: Page 08398)
219. CR 102 Pg 07240 Yr 1956-MI-Mode of Amendment (continued to: Page 07241)
220. CR 102 Pg 07304 Yr 1956-MI-Mode of Amendment
221. CR 103 Pg 04831 Yr 1957-ID-Mode of Amendment (continued to: Page 04832)
222. CR 103 Pg 06471 Yr 1957-IN-Mode of Amendment (continued to: Page 06472)
223. CR 103 Pg 06472 Yr 1957-IN-Limited Treaty Making Power
224. CR 103 Pg 06472 Yr 1957-IN-Mode of Amendment (continued to: Page 06473)
225. CR 103 Pg 06473 Yr 1957-IN-Election of Presidential Electors
226. CR 103 Pg 06473 Yr 1957-IN-Mode of Amendment (continued to: Page 06474)
227. CR 103 Pg 06473 Yr 1957-IN-Limited Treaty Making Power (continued to: Page 06474)
228. CR 103 Pg 06474 Yr 1957-IN-Mode of Amendment
229. CR 103 Pg 06474 Yr 1957-IN-Repeal of 16th Amendment (continued to: Page 06475)
230. CR 103 Pg 06475 Yr 1957-IN-Mode of Amendment
231. CR 103 Pg 06475 Yr 1957-IN-Balanced Budget (continued to: Page 06476)
232. CR 103 Pg 10863 Yr 1957-AL-Selection of Federal Judges and Judicial Term-Limits
233. CR 103 Pg 12787 Yr 1957-FL-Senate as Appellate Court for Supreme Court Rulings
234. CR 104 Pg 08058 Yr 1958-CT-Taxation of Income of Resident of One State by Another State
235. CR 104 Pg 08085 Yr 1958-CT-Taxation of Income of Resident of One State by Another State (continued to: Page 8086)
236. CR 105 Pg 01709 Yr 1959-GA-Exclusive Power for States to Regulate and Operate State Schools
237. CR 105 Pg 01834 Yr 1959-GA-Exclusive Power for States to Regulate and Operate State Schools
238. CR 105 Pg 02793 Yr 1959-GA-Exclusive Power for States to Regulate and Operate State Schools
239. CR 105 Pg 03083 Yr 1959-AL-Validity of State Statutes Not Expressly Declared Invalid in Federal Law
240. CR 105 Pg 03085 Yr 1959-WY-Repeal of 16th Amendment, Limitation on Federal Enterprises (continued to: Page 03086)
241. CR 105 Pg 03220 Yr 1959-AL-Validity of State Statutes Not Expressly Declared Invalid in Federal Law
242. CR 105 Pg 03220 Yr 1959-AL-Validity of State Statutes Not Expressly Declared Invalid in Federal Law
243. CR 105 Pg 04329 Yr 1959-AR-Constitutionality of 14th Amendment
244. CR 105 Pg 04398 Yr 1959-AR-Constitutionality of 14th Amendment
245. CR 106 Pg 10749 Yr 1960-NV-Repeal of 16th Amendment, Limitation on Federal Enterprises
246. CR 106 Pg 14315 Yr 1960-LA-Repeal of 16th Amendment, Limitation on Federal Enterprises
247. CR 106 Pg 14401 Yr 1960-LA-Repeal of 16th Amendment, Limitation on Federal Enterprises
248. CR 107 Pg 02154 Yr 1961-AR-State Legislative Review of Supreme Court Rulings
249. CR 107 Pg 02742 Yr 1961-WY-Balanced Budget
250. CR 107 Pg 02759 Yr 1961-WY-Balanced Budget
251. CR 107 Pg 02799 Yr 1961-WY-Balanced Budget
252. CR 107 Pg 04484 Yr 1961-GA-General Call for an Article V Convention, State Legislative Review of Supreme Court Rulings
253. CR 107 Pg 04715 Yr 1961-GA-General Call for an Article V Convention, State Legislative Review of Supreme Court Rulings
254. CR 108 Pg 05051 Yr 1962-SC-Repeal of 16th Amendment, Limitation on Federal Enterprises
255. CR 109 Pg 01172 Yr 1963-OK-Mode of Amendment
256. CR 109 Pg 01172 Yr 1963-OK-Apportionment (continued to: Page 01173)
257. CR 109 Pg 02071 Yr 1963-FL-Court of the Union (continued to: Page 02072)
258. CR 109 Pg 02072 Yr 1963-FL-Mode of amendment
259. CR 109 Pg 02278 Yr 1963-FL-Court of the Union
260. CR 109 Pg 02278 Yr 1963-FL-Court of the Union
261. CR 109 Pg 02278 Yr 1963-ID-Apportionment
262. CR 109 Pg 02281 Yr 1963-ID-Apportionment
263. CR 109 Pg 02765 Yr 1963-ID-Apportionment
264. CR 109 Pg 02768 Yr 1963-AR-General Call for an Article V Convention
265. CR 109 Pg 02769 Yr 1963-AR-Apportionment
266. CR 109 Pg 02769 Yr 1963-AR-Presidential Electors
267. CR 109 Pg 02769 Yr 1963-KS-Mode of Amendment
268. CR 109 Pg 02769 Yr 1963-KS-Apportionment
269. CR 109 Pg 03274 Yr 1963-ID-General Call for an Article V Convention
270. CR 109 Pg 03274 Yr 1963-ID-Mode of Amendment
271. CR 109 Pg 03788 Yr 1963-IL-Mode of Amendment
272. CR 109 Pg 03854 Yr 1963-MT-Apportionment
273. CR 109 Pg 03855 Yr 1963-ID-Limitation on Federal Indebtedness
274. CR 109 Pg 03982 Yr 1963-IL-Mode of Amendment
275. CR 109 Pg 03982 Yr 1963-SD-Presidential Electors
276. CR 109 Pg 03982 Yr 1963-ID-Limitation on Federal Indebtedness
277. CR 109 Pg 03982 Yr 1963-IL-General Call for an Article V Convention
278. CR 109 Pg 04050 Yr 1963-ID-Limitation on Federal Indebtedness
279. CR 109 Pg 04050 Yr 1963-MT-Apportionment
280. CR 109 Pg 04457 Yr 1963-MT-Presidential Electors
281. CR 109 Pg 04469 Yr 1963-MT-Presidential Electors
282. CR 109 Pg 04778 Yr 1963-WY-Court of the Union (continued to: Page 04779)
283. CR 109 Pg 04779 Yr 1963-WY-Apportionment
284. CR 109 Pg 04779 Yr 1963-WY-Mode of Amendment
285. CR 109 Pg 04900 Yr 1963-WY-General Call for an Article V Convention
286. CR 109 Pg 05014 Yr 1963-WY-Mode of Amendment
287. CR 109 Pg 05014 Yr 1963-WY-Mode of Amendment

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288. CR 109 Pg 05014 Yr 1963-WY-Apportionment
289. CR 109 Pg 05014 Yr 1963-WY-General Call for an Article V Convention
290. CR 109 Pg 05250 Yr 1963-AL-Court of the Union
291. CR 109 Pg 05581 Yr 1963-AL-Court of the Union
292. CR 109 Pg 05867 Yr 1963-MA-Apportionment
293. CR 109 Pg 05868 Yr 1963-MD-Apportionment
294. CR 109 Pg 05868 Yr 1963-MD-Mode of Amendment
295. CR 109 Pg 05947 Yr 1963-UT-Presidential Electors
296. CR 109 Pg 06438 Yr 1963-UT-Presidential Electors
297. CR 109 Pg 06657 Yr 1963-CO-Presidential Electors
298. CR 109 Pg 06659 Yr 1963-CO-Presidential Electors
299. CR 109 Pg 06930 Yr 1963-WY-Apportionment
300. CR 109 Pg 06931 Yr 1963-CO-Limitation on Taxation
301. CR 109 Pg 07060 Yr 1963-CO-Limitation on Taxation
302. CR 109 Pg 07277 Yr 1963-CO-Limitation on Taxation
303. CR 109 Pg 09942 Yr 1963-NV-Apportionment
304. CR 109 Pg 10241 Yr 1963-NV-General Call for an Article V Convention
305. CR 109 Pg 10441 Yr 1963-SC-Apportionment
306. CR 109 Pg 10441 Yr 1963-SC-Mode of Amendment
307. CR 109 Pg 10441 Yr 1963-SC-Court of the Union (continued to: Page 10442)
308. CR 109 Pg 10442 Yr 1963-SC-Apportionment
309. CR 109 Pg 10442 Yr 1963-SC-Mode of Amendment
310. CR 109 Pg 10442 Yr 1963-SC-Court of the Union (continued to: Page 10443)
311. CR 109 Pg 11530 Yr 1963-TX-Presidential electors
312. CR 109 Pg 11530 Yr 1963-TX-Apportionment
313. CR 109 Pg 11852 Yr 1963-TX-Apportionment
314. CR 109 Pg 11852 Yr 1963-TX-Mode of Amendment
315. CR 109 Pg 11852 Yr 1963-TX-Presidential electors (continued to: Page 11853)
316. CR 109 Pg 14638 Yr 1963-SD-Mode of Amendment (continued to: Page 14639)
317. CR 109 Pg 14639 Yr 1963-SD-Apportionment
318. CR 109 Pg 14767 Yr 1963-SD-Mode of Amendment
319. CR 109 Pg 14767 Yr 1963-SD-Apportionment
320. CR 109 Pg 14779 Yr 1963-WI-Presidential Electors
321. CR 109 Pg 14808 Yr 1963-WI-Presidential Electors
322. CR 109 Pg 15105 Yr 1963-WI-Presidential electors
323. CR 109 Pg 15107 Yr 1963-WI-Presidential Electors
324. CR 109 Pg 15362 Yr 1963-WI-Presidential Electors
325. CR 110 Pg 05659 Yr 1964-VA-Apportionment
326. CR 110 Pg 05922 Yr 1964-VA-Apportionment
327. CR 110 Pg 07371 Yr 1964-MA-Reading of Bible in school
328. CR 110 Pg 07616 Yr 1964-MA-Reading of Bible in school
329. CR 110 Pg 09875 Yr 1964-MA-Pensions for Citizens
330. CR 110 Pg 10013 Yr 1964-MA-Pensions for Citizens
331. CR 111 Pg 00094 Yr 1965-LA-Exclusive Power for States to Regulate and Operate State Schools
332. CR 111 Pg 00094 Yr 1965-VA-General Call for an Article V Convention
333. CR 111 Pg 00164 Yr 1965-LA-Exclusive Power for States to Regulate and Operate State Schools (continued to: Page 00165)
334. CR 111 Pg 00880 Yr 1965-VA-Mode of Amendment
335. CR 111 Pg 00880 Yr 1965-VA-Apportionment (continued to: Page 00881)
336. CR 111 Pg 01216 Yr 1965-ID-Apportionment
337. CR 111 Pg 01216 Yr 1965-OK-Apportionment
338. CR 111 Pg 01229 Yr 1965-ID-Apportionment
339. CR 111 Pg 01402 Yr 1965-ID-Apportionment
340. CR 111 Pg 01437 Yr 1965-ID-Apportionment (continued to: Page 01438)
341. CR 111 Pg 02776 Yr 1965-MT-Apportionment (continued to: Page 02777)
342. CR 111 Pg 02948 Yr 1965-AZ-Apportionment
343. CR 111 Pg 03061 Yr 1965-AZ-Apportionment
344. CR 111 Pg 03061 Yr 1965-KS-Apportionment (continued to: Page 03062)
345. CR 111 Pg 03304 Yr 1965-SC-Apportionment
346. CR 111 Pg 03304 Yr 1965-SC-Exclusive Power for States to Regulate and Operate State Schools
347. CR 111 Pg 03304 Yr 1965-MD-Apportionment
348. CR 111 Pg 03714 Yr 1965-MD-General Call for an Article V Convention
349. CR 111 Pg 03714 Yr 1965-SC-General Call for an Article V Convention
350. CR 111 Pg 03722 Yr 1965-AL-Apportionment
351. CR 111 Pg 03722 Yr 1965-SD-Apportionment (continued to: Page 03723)
352. CR 111 Pg 03990 Yr 1965-SD-Apportionment
353. CR 111 Pg 04038 Yr 1965-MD-Apportionment
354. CR 111 Pg 04064 Yr 1965-SD-Apportionment
355. CR 111 Pg 04320 Yr 1965-UT-Apportionment
356. CR 111 Pg 04395 Yr 1965-MD-Apportionment
357. CR 111 Pg 05800 Yr 1965-MD-Apportionment
358. CR 111 Pg 05817 Yr 1965-GA-Exclusive Power for States to Regulate and Operate State Schools
359. CR 111 Pg 05820 Yr 1965-MD-Apportionment
360. CR 111 Pg 06175 Yr 1965-GA-Exclusive Power for States to Regulate and Operate State Schools (continued to: Page 06176)
361. CR 111 Pg 06183 Yr 1965-GA-Exclusive Power for States to Regulate and Operate State Schools
362. CR 111 Pg 06917 Yr 1965-AR-Apportionment (continued to: Page 06918)
363. CR 111 Pg 07259 Yr 1965-AR-Apportiontment
364. CR 111 Pg 07259 Yr 1965-NV-Apportiontment
365. CR 111 Pg 10016 Yr 1965-IL-Refund of Federal Taxes to States (continued to: Page 10017)
366. CR 111 Pg 10673 Yr 1965-NC-Apportionment
367. CR 111 Pg 10673 Yr 1965-MN-Apportionment

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368. CR 111 Pg 10922 Yr 1965-MN-Apportionment
369. CR 111 Pg 10922 Yr 1965-NC-Apportionment
370. CR 111 Pg 11163 Yr 1965-MN-Apportionment
371. CR 111 Pg 11488 Yr 1965-OK-Presidential Electors
372. CR 111 Pg 11802 Yr 1965-OK-Presidential Electors (continued to: Page 11803)
373. CR 111 Pg 12110 Yr 1965-LA-Apportionment
374. CR 111 Pg 12853 Yr 1965-NH-Apportionment
375. CR 111 Pg 14144 Yr 1965-IL-Refund of Federal Taxes to States
376. CR 111 Pg 14163 Yr 1965-FL-Apportionment
377. CR 111 Pg 14308 Yr 1965-FL-Apportionment
378. CR 111 Pg 14458 Yr 1965-FL-Apportionment
379. CR 111 Pg 15699 Yr 1965-MS-Apportionment
380. CR 111 Pg 15764 Yr 1965-MS-Apportionment
381. CR 111 Pg 15769 Yr 1965-MS-Apportionment (continued to: Page 15770)
382. CR 111 Pg 15770 Yr 1965-MS-Anti-Communism Amendment
383. CR 111 Pg 18171 Yr 1965-TX-Apportionment
384. CR 111 Pg 18476 Yr 1965-TX-Apportionment
385. CR 111 Pg 18999 Yr 1965-IL-General Call for an Article V Convention
386. CR 111 Pg 19379 Yr 1965-IL-Apportionment
387. CR 111 Pg 19534 Yr 1965-IL-Apportionment
388. CR 111 Pg 19740 Yr 1965-NE-Presidential Electors
389. CR 111 Pg 19775 Yr 1965-NE-Presidential Electors
390. CR 111 Pg 20839 Yr 1965-NE-Presidential Electors (continued to: Page 20840)
391. CR 111 Pg 21105 Yr 1965-NE-Presidential Electors
392. CR 111 Pg 24720 Yr 1965-NE-General Call for an Article V Convention
393. CR 111 Pg 24723 Yr 1965-NE-Apportionment
394. CR 111 Pg 25237 Yr 1965-OH-Refund of Federal Taxes to States
395. CR 111 Pg 26073 Yr 1965-KY-Apportionment (continued to: Page 26074)
396. CR 111 Pg 26127 Yr 1965-KY-Apportionment
397. CR 111 Pg 27482 Yr 1965-NE-Apportionment
398. CR 112 Pg 00043 Yr 1966-AL-General Call for an Article V Convention
399. CR 112 Pg 00044 Yr 1966-NM-General Call for an Article V Convention
400. CR 112 Pg 00044 Yr 1966-TN-General Call for an Article V Convention
401. CR 112 Pg 00199 Yr 1966-NM-Apportionment
402. CR 112 Pg 00199 Yr 1966-TN-General Call for an Article V Convention (continued to: Page 00200)
403. CR 112 Pg 00200 Yr 1966-TN-Apportionment
404. CR 112 Pg 00200 Yr 1966-AL-Apportionment (continued to: Page 00201)
405. CR 113 Pg 06384 Yr 1967-IN-Apportionment
406. CR 113 Pg 06766 Yr 1967-IN-Apportionment
407. CR 113 Pg 07126 Yr 1967-NV-Apportionment
408. CR 113 Pg 08004 Yr 1967-IL-Apportionment
409. CR 113 Pg 08496 Yr 1967-IL-Apportionment
410. CR 113 Pg 10117 Yr 1967-AL-Revenue Sharing (continued to: Page 10118)
411. CR 113 Pg 11175 Yr 1967-ND-Apportionment
412. CR 113 Pg 11743 Yr 1967-GA-Revenue Sharing (continued to: Page 11744)
413. CR 113 Pg 17634 Yr 1967-TX-Revenue Sharing
414. CR 113 Pg 17634 Yr 1967-IL-Revenue Sharing (continued to: Page 17635)
415. CR 115 Pg 11953 Yr 1969-IL-Rescission (but only by one house: Senate)
416. CR 115 Pg 11986 Yr 1969-IA-Revenue Sharing (continued to: Page 11987)
417. CR 115 Pg 12249 Yr 1969-IA-Apportionment
418. CR 115 Pg 18411 Yr 1969-NC-Rescission of Apportionment amendment (passed by only one house of state legislature)
419. CR 115 Pg 18714 Yr 1969-NC-Rescission of Apportionment amendment (passed by only one house of state legislature)
420. CR 115 Pg 19353 Yr 1969-IL-Rescission (passed by only one house of state legislature)
421. CR 115 Pg 24111 Yr 1969-IL-Revenue Sharing (passed by only one house of state legislature)
422. CR 115 Pg 24116 Yr 1969-FL-Revenue Sharing
423. CR 115 Pg 35587 Yr 1969-NH-Revenue Sharing
424. CR 115 Pg 36153 Yr 1969-NH-Revenue Sharing (continued to: Page 36154)
425. CR 116 Pg 05479 Yr 1970-LA-Attendance at Public Schools
426. CR 116 Pg 06097 Yr 1970-MS-Attendance at Public Schools
427. CR 116 Pg 06221 Yr 1970-MS-Attendance at Public Schools
428. CR 116 Pg 06877 Yr 1970-MS-Attendance at Public Schools
429. CR 116 Pg 06877 Yr 1970-TN-Taxation of interest paid on obligations
430. CR 116 Pg 06877 Yr 1970-TN-Attendance at Public Schools
431. CR 116 Pg 11548 Yr 1970-KS-Apportionment
432. CR 116 Pg 11548 Yr 1970-VA-Taxation of Interest Paid on Obligations
433. CR 116 Pg 11942 Yr 1970-KS-Rescission
434. CR 116 Pg 20672 Yr 1970-LA-Anti-subversion amendment (continued to: Page 20673)
435. CR 116 Pg 22778 Yr 1970-LA-Taxation of municipal bonds
436. CR 116 Pg 22906 Yr 1970-LA-Taxation of municipal bonds
437. CR 116 Pg 23765 Yr 1970-LA-Revenue Sharing
438. CR 116 Pg 41879 Yr 1970-NJ-Revenue Sharing
439. CR 117 Pg 00527 Yr 1971-WV-Revenue Sharing
440. CR 117 Pg 00541 Yr 1971-WV-Revenue Sharing (continued to: Page 00542)
441. CR 117 Pg 02789 Yr 1971-FL-Revenue Sharing
442. CR 117 Pg 03175 Yr 1971-DE-Revenue Sharing
443. CR 117 Pg 04632 Yr 1971-SD-Revenue Sharing
444. CR 117 Pg 05020 Yr 1971-MA-Revenue Sharing
445. CR 117 Pg 05303 Yr 1971-SD-Revenue Sharing
446. CR 117 Pg 11210 Yr 1971-ND-Revenue Sharing
447. CR 117 Pg 11841 Yr 1971-ND-Revenue Sharing

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448. CR 117 Pg 16574 Yr 1971-OR-Revenue Sharing
449. CR 117 Pg 19801 Yr 1971-LA-Revenue Sharing (continued to: Page 19802)
450. CR 117 Pg 21712 Yr 1971-OH-Revenue Sharing
451. CR 117 Pg 22280 Yr 1971-OR-Revenue Sharing
452. CR 117 Pg 30887 Yr 1971-MA-Financial aid to Private Schools
453. CR 117 Pg 30905 Yr 1971-MA-Financial aid to Private Schools
454. CR 117 Pg 41598 Yr 1971-MI-Attendance at Public Schools (continued to: Page 41599)
455. CR 118 Pg 05282 Yr 1972-IA-Revenue Sharing
456. CR 118 Pg 06501 Yr 1972-IA-Revenue Sharing (continued to: Page 06502)
457. CR 118 Pg 11444 Yr 1972-FL-Presiding Officer of Senate
458. CR 118 Pg 11445 Yr 1972-AZ-School Prayer
459. CR 118 Pg 11885 Yr 1972-AZ-School Prayer
460. CR 118 Pg 11885 Yr 1972-FL-Presiding Officer of Senate
461. CR 118 Pg 16214 Yr 1972-TN-Attendance at Public Schools
462. CR 118 Pg 33047 Yr 1972-NY-Financial aid to Private Schools (continued to: Page 33048)
463. CR 118 Pg 33259 Yr 1972-NY-Financial aid to Private Schools
464. CR 119 Pg 07282 Yr 1973-VA-Limitation on National Debt
465. CR 119 Pg 07282 Yr 1973-MS-Attendance at Public Schools
466. CR 119 Pg 08089 Yr 1973-MS-Attendance at Public Schools
467. CR 119 Pg 08091 Yr 1973-VA-Limitation on National Debt
468. CR 119 Pg 08550 Yr 1973-MS-School Prayer
469. CR 119 Pg 08689 Yr 1973-MS-School Prayer
470. CR 119 Pg 10675 Yr 1973-VA-Attendance at Public Schools
471. CR 119 Pg 11446 Yr 1973-AL-Limitation on lifetime judicial appointments
472. CR 119 Pg 11446 Yr 1973- NJ-Voluntary School Prayer
473. CR 119 Pg 11446 Yr 1973-TX-Attendance at Public Schools
474. CR 119 Pg 11515 Yr 1973-TX-Attendance at Public Schools
475. CR 119 Pg 11835 Yr 1973-MA-Secular School Funding
476. CR 119 Pg 12408 Yr 1973-MA-Secular School Funding (continued to: Page 12409)
477. CR 119 Pg 12409 Yr 1973-TX-Secular School Funding
478. CR 119 Pg 14234 Yr 1973-OK-Attendance at Public Schools
479. CR 119 Pg 14421 Yr 1973-MD-School Prayer
480. CR 119 Pg 14421 Yr 1973-OK-Attendance at Public Schools
481. CR 119 Pg 14428 Yr 1973-OK-Attendance at Public Schools
482. CR 119 Pg 16324 Yr 1973-NV-Attendance at Public Schools
483. CR 119 Pg 17022 Yr 1973-NV-Attendance at Public Schools (continued to: Page 17023)
484. CR 119 Pg 18190 Yr 1973-NE-School Prayer
485. CR 121 Pg 04730 Yr 1975-VA-Balanced Budget
486. CR 121 Pg 05793 Yr 1975-AR-Balanced Budget
487. CR 121 Pg 05793 Yr 1975-VA-Balanced Budget
488. CR 121 Pg 12168 Yr 1975-MS-Balanced Budget (continued to: Page 12169)
489. CR 121 Pg 12175 Yr 1975-MS-Balanced Budget (continued to: Page 12176)
490. CR 121 Pg 12867 Yr 1975-MO-Right to Life
491. CR 121 Pg 13433 Yr 1975-MO-Right to Life
492. CR 121 Pg 19117 Yr 1975-NV-Unconditional Federal Funds
493. CR 121 Pg 21065 Yr 1975-NV-Unconditional Federal Funds
494. CR 121 Pg 24412 Yr 1975-LA-Balanced Budget
495. CR 121 Pg 25312 Yr 1975-LA-Balanced Budget
496. CR 121 Pg 27821 Yr 1975-KY-Attendance at Public Schools
497. CR 121 Pg 28347 Yr 1975-AL-Balanced Budget
498. CR 121 Pg 29630 Yr 1975-KY-Attendance at Public Schools
499. CR 122 Pg 00931 Yr 1976-IN-Balanced Budget
500. CR 122 Pg 01400 Yr 1976-IN-Balanced Budget
501. CR 122 Pg 02740 Yr 1976-GA-Balanced Budget
502. CR 122 Pg 03161 Yr 1976-GA-Balanced Budget
503. CR 122 Pg 04090 Yr 1976-SC-Balanced Budget
504. CR 122 Pg 04329 Yr 1976-DE-Balanced Budget
505. CR 122 Pg 04329 Yr 1976-SC-Balanced Budget
506. CR 122 Pg 05572 Yr 1976-DE-Balanced Budget
507. CR 122 Pg 08019 Yr 1976-VA-Balanced Budget
508. CR 122 Pg 08335 Yr 1976-VA-Balanced Budget (continued to: Page 08336)
509. CR 122 Pg 09735 Yr 1976-MA-Attendance at Public Schools
510. CR 122 Pg 16814 Yr 1976-OK-Unconditional Federal Funds
511. CR 122 Pg 23550 Yr 1976-LA-Right to Life
512. CR 122 Pg ????? Yr 1975-FL-Balanced Budget; [3]
513. CR 122 Pg ????? Yr 1975-AL-Balanced Budget; [3]
514. CR 123 Pg 02545 Yr 1977-MD-Balanced Budget (continued to: Page 02546)
515. CR 123 Pg 04797 Yr 1977-IN-Right to Life, Reaffirming Application of 1973
516. CR 123 Pg 09289 Yr 1977-VA-Line Item Veto
517. CR 123 Pg 09603 Yr 1977-NJ-Right to Life
518. CR 123 Pg 10481 Yr 1977-NJ-Right to Life
519. CR 123 Pg 11041 Yr 1977-SD-Right to Life
520. CR 123 Pg 11048 Yr 1977-SD-Right to Life
521. CR 123 Pg 11888 Yr 1977-SD-Right to Life (continued to: Page 11889)
522. CR 123 Pg 13057 Yr 1977-UT-Right to Life (continued to: Page 13058)
523. CR 123 Pg 13301 Yr 1977-UT-Right to Life; [3]
524. CR 123 Pg 13471 Yr 1977-UT-Right to Life
525. CR 123 Pg 14649 Yr 1977-RI-Right to Life
526. CR 123 Pg 14825 Yr 1977-AR-Right to Life
527. CR 123 Pg 15539 Yr 1977-RI-Right to Life

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528. CR 123 Pg 15808 Yr 1977-AR-Right to Life (continued to: Page 15809)
529. CR 123 Pg 15809 Yr 1977-RI-Right to Life
530. CR 123 Pg 18419 Yr 1977-TN-Balanced Budget
531. CR 123 Pg 18419 Yr 1977-TN-Limited Judicial Terms
532. CR 123 Pg 18869 Yr 1977-AZ-Balanced Budget
533. CR 123 Pg 18873 Yr 1977-AZ-Balanced Budget (continued to: Page 18874)
534. CR 123 Pg 20659 Yr 1977-MA-Right to Life
535. CR 123 Pg 20659 Yr 1977-NH-Balanced Budget
536. CR 123 Pg 22022 Yr 1977-MA-Right to Life; [3]
537. CR 123 Pg 22022 Yr 1977-TN-Line Item Veto; [3]
538. CR 124 Pg 01292 Yr 1978-DE-General Call for an Article V Convention
539. CR 124 Pg 01662 Yr 1978-DE-General Call for an Article V Convention
540. CR 124 Pg 02193 Yr 1978-DE-Limited Judicial Terms [3]
541. CR 124 Pg 11103 Yr 1978-PA-Right to Life
542. CR 124 Pg 11437 Yr 1978-TN-Balanced Budget
543. CR 124 Pg 11437 Yr 1978-TN-Limited Judicial Terms
544. CR 124 Pg 11438 Yr 1978-PA-Right to Life
545. CR 124 Pg 11438 Yr 1978-TN-Balanced Budget
546. CR 124 Pg 12011 Yr 1978-PA-Right to Life
547. CR 124 Pg 12011 Yr 1978-NE-Right to Life
548. CR 124 Pg 12011 Yr 1978-OK-Balanced Budget
549. CR 124 Pg 12215 Yr 1978-NE-Right to Life
550. CR 124 Pg 12397 Yr 1978-OK-Balanced Budget
551. CR 124 Pg 12397 Yr 1978-NE-Right to Life
552. CR 124 Pg 12544 Yr 1978-NE-Right to Life
553. CR 124 Pg 12694 Yr 1978-NE-Right to Life
554. CR 124 Pg 14193 Yr 1978-KS-Balanced Budget
555. CR 124 Pg 14584 Yr 1978-KS-Balanced Budget
556. CR 124 Pg 14911 Yr 1978-SC-Balanced Budget
557. CR 124 Pg 17055 Yr 1978-DE-Right to Life
558. CR 124 Pg 19683 Yr 1978-DE-Right to Life
559. CR 125 Pg 00134 Yr 1979-TX-Balanced Budget
560. CR 125 Pg 00134 Yr 1979-TX-Balanced Budget, Reaffirming Application of 1979
561. CR 125 Pg 02109 Yr 1979-AL-Balanced Budget
562. CR 125 Pg 02109 Yr 1979-AZ-Balanced Budget
563. CR 125 Pg 02109 Yr 1979-CO-Balanced Budget
564. CR 125 Pg 02109 Yr 1979-DE-Balanced Budget
565. CR 125 Pg 02109 Yr 1979-FL-Balanced Budget (continued to: Page 02110)
566. CR 125 Pg 02110 Yr 1979-GA-Balanced Budget
567. CR 125 Pg 02110 Yr 1979-KS-Balanced Budget
568. CR 125 Pg 02110 Yr 1979-LA-Balanced Budget (continued to: Page 02111)
569. CR 125 Pg 02111 Yr 1979-MD-Balanced Budget
570. CR 125 Pg 02111 Yr 1979-MS-Balanced Budget
571. CR 125 Pg 02111 Yr 1979-MS-Balanced Budget (continued to: Page 02112)
572. CR 125 Pg 02112 Yr 1979-NE-Balanced Budget
573. CR 125 Pg 02112 Yr 1979-NM-Balanced Budget
574. CR 125 Pg 02112 Yr 1979-NV-Balanced Budget
575. CR 125 Pg 02113 Yr 1979-ND-Balanced Budget
576. CR 125 Pg 02113 Yr 1979-NM-Balanced Budget
577. CR 125 Pg 02113 Yr 1979-OK-Balanced Budget
578. CR 125 Pg 02113 Yr 1979-OR-Balanced Budget
579. CR 125 Pg 02113 Yr 1979-PA-Balanced Budget (continued to: Page 02114)
580. CR 125 Pg 02114 Yr 1979-SC-Balanced Budget
581. CR 125 Pg 02114 Yr 1979-TN-Balanced Budget
582. CR 125 Pg 02114 Yr 1979-TN-Balanced Budget (continued to: Page 02115)
583. CR 125 Pg 02115 Yr 1979-TX-Balanced Budget
584. CR 125 Pg 02115 Yr 1979-VA-Balanced Budget (continued to: Page 02116)
585. CR 125 Pg 02116 Yr 1979-WY-Balanced Budget
586. CR 125 Pg 02936 Yr 1979-MS-Right to Life
587. CR 125 Pg 03007 Yr 1979-FL-Balanced Budget
588. CR 125 Pg 03007 Yr 1979-NC-Balanced Budget
589. CR 125 Pg 03196 Yr 1979-MS-Right to Life
590. CR 125 Pg 03322 Yr 1979-NM-Balanced Budget
591. CR 125 Pg 03427 Yr 1979-SD-Balanced Budget
592. CR 125 Pg 03427 Yr 1979-FL-Balanced Budget
593. CR 125 Pg 03522 Yr 1979-ID-Balanced Budget
594. CR 125 Pg 03655 Yr 1979-FL-Balanced Budget
595. CR 125 Pg 03655 Yr 1979-FL-Balanced Budget (continued to: Page 3656)
596. CR 125 Pg 03656 Yr 1979-SD-Balanced Budget
597. CR 125 Pg 03656 Yr 1979-NM-Balanced Budget (continued to: Page 3657)
598. CR 125 Pg 03657 Yr 1979-ID-Balanced Budget
599. CR 125 Pg 03906 Yr 1979-AR-Balanced Budget
600. CR 125 Pg 04071 Yr 1979-UT-Balanced Budget
601. CR 125 Pg 04152 Yr 1979-NE-Balanced Budget
602. CR 125 Pg 04372 Yr 1979-AR-Balanced Budget
603. CR 125 Pg 04372 Yr 1979-GA-Right to Life
604. CR 125 Pg 04372 Yr 1979-UT-Balanced Budget
605. CR 125 Pg 04627 Yr 1979-PA-Balanced Budget
606. CR 125 Pg 04702 Yr 1979-GA-Right to Life
607. CR 125 Pg 04702 Yr 1979-NE-Balanced Budget

608. CR 125 Pg 04861 Yr 1979-AL-Balanced Budget
609. CR 125 Pg 05223 Yr 1979-TX-Balanced Budget (continued to: Page 05224)
610. CR 125 Pg 05368 Yr 1979-AL-Balanced Budget
611. CR 125 Pg 05368 Yr 1979-OR-Balanced Budget
612. CR 125 Pg 05368 Yr 1979-TX-Balanced Budget
613. CR 125 Pg 05450 Yr 1979-VA-Balanced Budget
614. CR 125 Pg 05953 Yr 1979-OR-Balanced Budget
615. CR 125 Pg 07920 Yr 1979-AZ-Balanced Budget (continued to: Page 07921)
616. CR 125 Pg 0???? Yr 1979-CO-Balanced Budget; [3]
617. CR 125 Pg 08108 Yr 1979-AZ-Balanced Budget
618. CR 125 Pg 09188 Yr 1979-IN-Balanced Budget
619. CR 125 Pg 09368 Yr 1979-IN-Balanced Budget
620. CR 125 Pg 10144 Yr 1979-ND-Balanced Budget
621. CR 125 Pg 11203 Yr 1979-NH-Balanced Budget
622. CR 125 Pg 11583 Yr 1979-WA-Balanced Budget (continued to: Page 11584)
623. CR 125 Pg 11584 Yr 1979-NH-Balanced Budget
624. CR 125 Pg 12888 Yr 1979-NH-Balanced Budget (continued to: Page 12889)
625. CR 125 Pg 13387 Yr 1979-MO-Balanced Budget
626. CR 125 Pg 15227 Yr 1979-IA-Balanced Budget
627. CR 125 Pg 15792 Yr 1979-IA-Balanced Budget
628. CR 125 Pg 16350 Yr 1979-NV-Right to Life
629. CR 125 Pg 16351 Yr 1979-IA-Balanced Budget
630. CR 125 Pg 19359 Yr 1979-LA-Balanced Budget
631. CR 125 Pg 19470 Yr 1979-LA-Balanced Budget (continued to: Page 19741)
632. CR 126 Pg 00909 Yr 1980-NV-Balanced Budget
633. CR 126 Pg 01104 Yr 1980-NV-Balanced Budget (continued to: Page 01105; also see summary: CR 127 Pg 21538 Yr 1981)
634. CR 126 Pg 05768 Yr 1980-ID-Right to Life
635. CR 126 Pg 06172 Yr 1980-ID-Right to Life
636. CR 126 Pg 08305 Yr 1980-SD-Right to Life (continued to: Page 08306)
637. CR 126 Pg 08360 Yr 1980-SD-Right to Life
638. CR 126 Pg 08972 Yr 1980-OK-Right to Life
639. CR 126 Pg 09337 Yr 1980-TN-Right to Life
640. CR 126 Pg 09765 Yr 1980-TN-Right to Life
641. CR 126 Pg 10650 Yr 1980-AL-Right to Life
642. CR 126 Pg 10790 Yr 1980-AZ-Unconditional Federal Funds
643. CR 126 Pg 11389 Yr 1980-AZ-Unconditional Federal Funds
644. CR 127 Pg 00761 Yr 1981-DE-Right to Life; [3]
645. CR 127 Pg 01524 Yr 1981-ND-Right to Life; [3]
646. CR 127 Pg 03481 Yr 1981-DE-Right to Life
647. CR 127 Pg 07514 Yr 1981-ND-Right to Life
648. CR 127 Pg 19856 Yr 1981-AL-Limited Judicial Terms
649. CR 128 Pg 00798 Yr 1982-AK-Balanced Budget
650. CR 129 Pg 04942 Yr 1983-MO-Balanced Budget; [3]
651. CR 129 Pg 10594 Yr 1983-MO-Balanced Budget; [3]
652. CR 129 Pg 18473 Yr 1983-MO-Balanced Budget
653. CR 129 Pg 20352 Yr 1983-MO-Balanced Budget
654. CR 130 Pg 04884 Yr 1984-AZ-Line Item Veto; [3]
655. CR 130 Pg 06892 Yr 1984-AZ-Line Item Veto; [3]
656. CR 130 Pg 14344 Yr 1984-AZ-General Call for Article V Convention
657. CR 130 Pg 14344 Yr 1984-AZ-Line Item Veto
658. CR 130 Pg 14956 Yr 1984-AZ-Line Item Veto
659. CR 130 Pg 15611 Yr 1984-AZ-Line Item Veto
660. CR 132 Pg 01023 Yr 1986-SD-Line Item Veto; [3]
661. CR 132 Pg 02548 Yr 1986-SD-Line Item Veto; [3]
662. CR 132 Pg 04268 Yr 1986-SD-Line Item Veto
663. CR 132 Pg 04473 Yr 1986-SD-Line Item Veto (continued to: Page 04474)
664. CR 133 Pg 04183 Yr 1987-UT-Taxation on Debts; [3]
665. CR 133 Pg 07299 Yr 1987-UT-Taxation on Debts
666. CR 133 Pg 07728 Yr 1987-UT-Taxation on Debts
667. CR 133 Pg 09736 Yr 1987-UT-Taxation on Debts
668. CR 134 Pg 08312 Yr 1988-FL-Rescission of 1976 Application; [3]
669. CR 134 Pg 15363 Yr 1988-FL-Rescission
670. CR 062-2000 Pg H05485 Yr 1989-AL-Rescission of Balanced Budget Application
671. CR 070-2000 Pg H03528 Yr 1989-NV-Rescission
672. CR 135 Pg 00232 Yr 1989-SD-Congressional Term-Limits; [3]
673. CR 135 Pg 00998 Yr 1989-ID-Limited Federal Taxation; [3]
674. CR 135 Pg 03528 Yr 1989-NV-Rescission of Application; [3]
675. CR 135 Pg 05395 Yr 1989-SD-Congressional Term-Limits (continued to: Page 05396)
676. CR 135 Pg 05485 Yr 1989-AL-Rescission of 1976 Application; [3]
677. CR 135 Pg 05895 Yr 1989-ID-Limited Federal Taxation
678. CR 135 Pg 14017 Yr 1989-NV-Limited Federal Taxation
679. CR 135 Pg 14573 Yr 1989-NV-Rescission of Balanced Budget Application (passed by one house only)
680. CR 135 Pg 19782 Yr 1989-AL-Rescission of Balanced Budget Application
681. CR 135 Pg 20052 Yr 1989-AL-Rescission of Balanced Budget Application
682. POM 181 Pg S07911 Yr 1989-FL-Rescission of previous Balanced Budget Applications; submission of new Balanced Budget Application
683. POM 311 Pg S10817 Yr 1989-AL-Rescission of Balanced Budget Application
684. CR 136 Pg 04663 Yr 1990-AL-Rescission of Balanced Budget Application
685. POM 433 Pg S02776 Yr 1990-AL-Rescission of Balanced Budget Application

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686. POM 434 Pg S02776 Yr 1990-AL-Rescission of Balanced Budget Application
687. CR 084-2000 Pg S02136 Yr 1991-LA-Rescission
688. CR 084-2000 Pg S02136 Yr 1991-GA-Flag Desecration
689. CR 137 Pg 08085 Yr 1991-GA-Flag Desecration (continued to: Page 08086)
690. Senate Resolution 105 Pg 00231 Yr 1991-GA-Flag Desecration
691. CR 138 Pg 16552 Yr 1992-CO-Balanced Budget
692. CR 139 Pg 05905 Yr 1992-SD-Unfunded Federal Mandates
693. POM 288 Pg S00529 Yr 1992-LA-Rescission (POM 288 Pg S00699 Yr 1992 House, Senate)
694. POM 428 Pg S05350 Yr 1992-CO-Unconditional Federal Public Funds
695. CR 139 Pg 14565 Yr 1993-MO-Limited Taxation
696. POM 050 Pg S03362 Yr 1993-SD-Unconditional Federal Public Funds
697. POM 175 Pg S08228 Yr 1993-MO-Flag Desecration
698. Senate Concurrent Resolution 009 - U.S.SenateJournal - 29-JUNE-1993-MO-Limited Federal Taxation
699. CR 140 Pg 14718 Yr 1994-DE-Limited Taxation
700. CR 140 Pg 15072 Yr 1994-MO-Unfunded Federal Mandates (continued to: Page 15073)
701. House Concurrent Resolution 056 Pg 00443 Yr 1994-DE-Limited Federal Taxation
702. POM 554 Pg S07781 Yr 1994-DE-Limited Federal Taxation
703. POM 575 Pg S07985 Yr 1994-MO-Unconditional Federal Public Funds
704. POM 580 Pg S07958 Yr 1994-MO-Limited Federal Taxation
705. CR 142 Pg S03012 Yr 1996-AZ-Unfunded Federal Mandates (continued to: Page S03013)
706. CR 142 Pg S03013 Yr 1996-SD-Unfunded Federal Mandates
707. POM 523 Pg S03012 Yr 1996-AZ-Unconditional Federal Public Funds (continued to: Page S03013)
708. State Constitution Pg 02262 Yr 1996-NV-Congressional Term-Limits
709. CR 001-2000 Pg H06759 Yr 1999-OR-Rescission
710. CR 145 Pg H06795 Yr 1999-OR-Rescission of Balanced Budget amendment
711. CR 146 Pg S00084 Yr 2000-OR-Rescission of Balanced Budget amendment
712. CR 146 Pg S00739 Yr 2000-OR-Rescission (continued to: Page S00740)
713. POM 393 Pg S00084 Yr 2000-OR-Rescission of Balanced Budget amendment (continued to: Page S00085)
714. POM 409 Pg S00739 Yr 2000-ID-Rescission (continued to: Page S00740)
715. Senate Concurrent Resolution 129 Pg 00132 Yr 2000-ID-Rescission of Application
716. Senate Joint Memorial 009 Pg 00042 Yr 2000-OR-Rescission of Balanced Budget amendment (continued to: Page 00043)
717. CR 147 Pg S03704 Yr 2001-ND-Unfunded Federal Mandates (continued to: Page S03705)
718. CR 147 Pg S03705 Yr 2001-ND-Rescission
719. CR 147 Pg S03991 Yr 2001-UT-Rescission (continued to: Page S03992)
720. CR 147 Pg S10387 Yr 2001-UT-Rescission
721. POM 008 Pg S03705 Yr 2001-WY-Rescission
722. POM 022 Pg S03991 Yr 2001-UT-Rescission (continued to: Page S03992)
723. CR 149 Pg S06977 Yr 2003-AZ-Rescission
724. CRH H3974 Yr 2003-AZ-Rescission
725. CRH H4580 Yr 2004-VA-Rescission
726. CR 349 Pg H03605 Yr 2004-GA-Rescission
727. CR 150 Pg S08690 Yr 2007-MI-Rescission
728. POM 329 Pg S03504 Yr 2008-LA-Posse Comitatus
729. CRH H4687 Yr 2009-WY-Rescission
730. CRH H9548 2009-OK-Rescission (Senate only)
731. CRH H4877 Yr 2010-FL- Balanced Budget
732. CRH H8089 Yr 2010-SD-Rescission
733. CRJ H8264 Yr 2010-TN-Rescission (Senate only)
734. CRJ H8264 Yr 2010-TN-Rescission (House only)
735. CRH H3805 Yr 2011-ND-Balanced Budget (House only)
736. CRH H3869 Yr 2011-ND-Unspecified (House only)
737. CRH H3910 Yr 2011-ND-Unspecified (House only)
738. CRH H5147 Yr 2011-AL-Balanced Budget (continued to: Page H5148, Page H5149)
739. CRS S1459 Yr 2012-ND-National Debt Relief Amendment
740. CRS S2242 Yr 2012-LA-National Debt Relief Amendment
741. CRH H3869 Yr 2012-ND-General Call for Article V Convention to avoid "runaway Convention (See also: CRH H3910 Yr 2012, CRH H3805 Yr 2012)
742. CRH H5009 Yr 2012-CO-General Call for Article V Convention
743. CRS S367 Yr 2014-SC-Rescission (Requires approval by Governor not noted in application)
744. CRS S1174 Yr 2014-OH-Balanced Budget
745. CRS S2238 Yr 2014-VA-Rescission
746. CRS S3073 Yr 2014-ID- Request for Congress to "maintain an open and accessible record of states' Article V applications"
747. CRS S3666 Yr 2014-AL- Balanced Budget (continued to: CRS S3667 Yr 2014)
748. CRS S3667 Yr 2014-SD- Rescission (State declares it determines whether a convention is called)
749. CRS S3667 Yr 2014-OK- Rescission (State requests all 49 states which have made applications for a convention call rescind them. Ed. note: Applications reached required two-thirds mark on Friday March 13, 1908 43 years before any state submitted any rescission of any application. See applications 137, 183)
750. CRS S3667 Yr 2014-GA- Renewed application for Balanced Budget (continued to: CRS S3668 Yr 2014) (See also: CRH H6216 Yr 2014)
751. CRS S3668 Yr 2014-GA- Balanced Budget (separate application)
752. CRS S4331 Yr 2014-VT- Limitation of influence of money in electoral process (See also: CRH H6216 Yr 2014)
753. CRS S4332 Yr 2014-GA- Balanced Budget (separate application) (See also: CRH H6216 Yr 2014)
754. CRS S4332 Yr 2014-GA- Balanced Budget (separate application) (continued to: CRS S4333 Yr 2014) (See also: CRH H6216 Yr 2014)
755. CRS S4332 Yr 2014-FL- Impose financial restraints on federal government, limit the power and jurisdiction of the federal government, term limits (See also: CRH H5830 Yr 2014)
756. CRS S4333 Yr 2014-FL- Balanced Budget, limit ability of Congress and federal executive agencies to dictate expendures of federal funds (See also: CRH H5830 Yr 2014)
757. CRS S4333 Yr-2014-FL- Single Subject Federal Law (See also: CRH H5830 Yr 2014)
758. CRH H6814 Yr 2014-CA- Amendment relative to limitation of money in electoral process (AJR No. 1) (continued to: CRH H6815 Yr 2014); (See also CRS S5507 Yr 2014)
759. CRH H7246 Yr 2014-LA- Balanced Budget; (See also CRS S5563 Yr 2014)
760. CRS S5562 Yr 2014-WV-Limitation of money in electoral process (continued to CRS S5563 Yr 2014)
761. CRS S5563 Yr 2014-FL-Balanced Budget; limitation on Congress to dictate expenditure of federal funds by states; rescission of all previous applications; (See also CRS S5564 Yr 2014)
762. CRH H7887 Yr 2014-MI-Balanced Budget

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763. CRS_S6021_Yr_2014-**AL**-Limited Federal Government (See also: CRS_S6094_Yr_2014 , continued: CRS_S6095_Yr_2014)
764. CRS_S150_Yr_2015-**LA**-Balanced Budget

NOTE: Last updated on 16-JANUARY-2015
The list above may not be complete, because there may be some missing applications.
Please contact us at Questions@FOAVC.ORG if you find any errors, duplicates, or know of any missing applications.
Thank you!