

March 7, 2015
Mr. Kirk D. Boyle
Legal Counsel
Office of the Clerk
U.S. House of Representatives
U.S. Capitol, Room H154
Washington DC 20515-6601

Dear Mr. Boyle,

No doubt you are aware the House Committee on the Judiciary has begun tabulating state applications for an Article V Convention call under HR 5 §3(c). I am sure you are equally aware, based on the obvious electronic signature of Chairman Bob Goodlatte; the House Committee on the Judiciary staff is actually performing this task.

As you may recall this event of the House officially commencing tabulation of state applications for an Article V Convention call for the first time in United States history began as a result of a letter of inquiry sent to Clerk of the House of Representatives Karen Haas in April, 2013 by Mr. Dan Marks of the state of Hawaii. You no doubt recall you responded to Mr. Marks' letter of inquiry by stating the official tabulation of applications was zero because no one "has...been assigned the responsibility to tabulate State applications for an Article V convention..." therefore implying Congress was not obligated to tabulate these applications since no one had been designated to do so.

Ignoring the obvious violation of oath of office contained in this response as well as prior lack of action on the part of Congress and despite the fact a House rule enacted on May 5, 1789 and still obeyed by Congress to this day clearly providing a convention call, based on a numeric count of applying states with no other terms or conditions, shall be called when the proper number of states submit applications, Mr. Marks, at your request, consented to his letter of inquiry being referred to the House Committee on the Judiciary. It should be noted the 1789 House rule expressly states a convention call shall not suffer debate, submission to a committee or even a vote by the House "as this would seem to imply the House had a right to deliberate upon the subject...which it does not." Further the rule states the applications shall be kept "until sufficient were made to obtain their object," that object of course being a convention call by Congress.

Included with Mr. Marks' letter were 42 photographic images of state applications taken from pages of the Congressional Record. The Constitution mandates a convention call if 34 states submit 34 applications. By publication of these (and hundreds more) applications in the Congressional Record Congress clearly demonstrates these applications are valid public record in all respects. I am sure you are aware it is a federal criminal offense for any government official to publish anything in the public record (including a public website run by Congress) if they are aware it is not a true document. Thus any document published by Congress cannot state it is a "purported" public record and be in compliance with federal criminal law. Either the document is a public record or Congress cannot publish it.

This is not the case with the 42 state applications sent in Mr. Marks' letter. Recent comments by individuals who have contacted the House Committee on the Judiciary staff indicate the staff intends only to publish such applications as "time and resources" permit. I put it to you sir: the Constitution does not describe any such condition for Congress regarding a convention call that it may delay a convention call due to limitations of staff "time and resources." Moreover the committee, having received the set of 42 already published state applications cannot possibly describe these applications as "purporting" to be applications for a convention call. As Mr. Marks furnished photographic copies of the actual text of the applications, and the committee staff, as evidenced by its presentation thus far clearly possessing the technical skills to transfer paper records into electronic data, can offer no excuse for not doing so with Mr. Marks' 42 applications and adding them to their electronic tabulation.

While the language of the HR 5 §3(c) states Chairman Goodlatte "may" publish applications submitted to prior Congresses (thus granting the chairman authority to refuse to tabulate prior applications and therefore avoid a convention call when in fact the states have so applied) no such authority is granted to him by Article V. Further this option is clearly contradictory to the House rule of May 5, 1789. HR5 §3(c) does not refute the May 5, 1789 rule as that rule was based on constitutional language still in effect to this day. Simply put: Congress is as peremptorily required to call a convention then as it is now and has no authority whatsoever to refuse to do so. Thus according to House rule and the Constitution tabulation of Mr. Marks' 42 state applications is mandated.

Given this circumstance I am informing you that in two weeks (allowing one week for delivery of this posted letter) from the date of this letter if the House Committee on the Judiciary has not published the 42 state applications submitted with Mr. Marks letter on its website I will file a formal complaint of violation of oath of office as well as violation of 18 USC 1001 against Chairman Goodlatte and the House Committee on the Judiciary staff with appropriate federal officials. The basis of 18 USC 1001 charges are: falsification to cover up a material fact, [that is the fact the states have submitted sufficient applications to cause a convention call and this fact is known to the House Committee on the Judiciary]; fraudulent representation, [representing in a formal public record issued by the Clerk of the House of applications "purporting" to be public record when such stipulation is prohibited by 18 USC 1001 forbidding publication of a record that is not a true document]; issuing a fraudulent statement of a document required by law, [in this case the law of the Constitution] to be submitted to the Congress [implying only the applications published by the committee exist when public record submitted to the committee proves otherwise, stating Congress has authority to designate a state application as "purporting" meaning Congress claims authority to refuse to tabulate a state application based on its designation of being a "purported" application when Article V gives no such authority to Congress and implying states can "rescind" prior applications when Article V gives no such authority to either Congress or the states].

Beyond the above stated reasons, the basis for the complaint is the obvious deliberate mental reservation by the above named individuals in supporting the Constitution. Clearly a refusal to publish existing public record submitted to the House Committee on the Judiciary sent them by written request of the House counsel combined with the fact the Marks letter was recently discussed in an open public meeting of the committee thus indicating receipt is clear evidence of

mental reservation to obey the Constitution. I remind you any such complaint received by the attorney general or the FBI requires a mandatory “full field” investigation under federal law. There is no exception in the law to this investigation.

Finally while I can understand hesitation on the part of some in Congress to proceed slowly in the matter of tabulating applications, the fact remains the current tabulation of applications stands at 49 applying states with 766 submitted applications. Further public record shows repeated occasions of tabulations by Congress of state applications in the Congressional Record. The issue is not inability to tabulate but unwillingness to obey the Constitution. Some hesitation stems from members of Congress not fully comprehending Congress’ role in calling a convention. Many presume it is a legislative function when, in fact, the Constitution clearly delineates legislative functions of Article I from the calling responsibilities of Article V. Thus Congress has no legislative authority in calling an Article V Convention.

Given the fact of a pending convention call, I am providing the electronic address of the proposed convention call in this letter with the request you forward it to Speaker of the House John Boehner requesting he direct its full textual publication in the Congressional Record. No member of Congress has ever proposed text for a convention call. Thus this mandated constitutional duty of Congress remains ignored in lieu of unconstitutional attempts of regulation of a convention by legislation. Given the standard of Article V requiring a call “on the application” of two thirds of the several state legislatures and the fact Congress has acknowledged receipt of sufficient applications to satisfy this requirement by your letter of response, Congress is currently obligated to call a convention. I am certain Congress will find the proposed convention call useful. The address is: www.foavc.org/reference/call.pdf.

For their reference and use I am including copies of this letter to Mr. Eric Holder Jr., Attorney General of the United States, Mr. James Comey, Director of the Federal Bureau of Investigation, Congressman Bob Goodlatte, Chairman of the House Committee on the Judiciary, Mr. Dan Marks, and Mr. John Guise who is presently in process of presenting testimony to a federal grand jury in regards to refusal of members of Congress to call an Article V Convention in violation of several federal statutes.

Thank you for your time in this matter.

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