

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

Dear Mr. Boyle,

I received your letter regarding my request for a copy of the response to Mr. Dan Marks by Karen L. Haas, Clerk for the U.S. House of Representatives. For your convenience, I am enclosing the first page of Mr. Mark's letter to Ms. Haas, your response to me and your response to Mr. Marks. Let me at the outset state I am not speaking for Mr. Marks in any capacity. I am however responding to your June 7, 2013 letter to him.

I am terribly disappointed, dismayed but frankly not surprised at your response to Mr. Marks. I suppose coming from a political body which now enjoys no more than ten percent support from the American people, you can expect no more. The idea of disobeying the Constitution should be so repugnant to those in elected federal office as well as those appointed or hired to work with these people that Mr. Mark's letter is entirely unnecessary. Congress should have long since addressed the matter and hence, called several conventions. Yet, here we are. In 20 years of involvement in the Article V Convention movement I have never received a single indication any member of Congress or employee of that body that it has the slightest intention of obeying the Constitution of the United States. Frankly, you should all be ashamed.

Succinctly your response to Mr. Marks is as follows. First, you state because there is no authorization either in statute or rule for the clerk to count the applications (including those presented directly to her in his original letter) she cannot count the applications. In other words, Congress has never consented by either rule or statute to obey Article V of the Constitution and therefore is under no obligation to do so. Second you suggest Mr. Marks consent to having his letter turned over to a committee of the House for its "consideration." It is obvious you overlooked, were unaware or deliberately ignored certain facts in making your response.

Regarding your suggestion Mr. Marks agree to forward his letter to a House committee for their "consideration." As Mr. Marks' notes in his letter James Madison, author of Article V and a member of the House of Representatives expressly stated in Congress applications by the states for a convention call were not to be submitted to a House committee. A copy of Mr. Madison's remarks in the House is included with this letter.

Beyond this historic record is the modern political record which leaves little doubt as to the fate of his request if submitted to a committee of the House of Representatives for their "consideration." The political facts are these: the House and therefore all committees are controlled the Republican Party. The Republican National Committee has, as a plank of its party platform, opposed calling a convention in direct opposition to the Constitution. I include a copy of the summer 2012 resolution from the Republican National Committee as well as a link to the GOP website should you wish to verify this information:

http://www.gop.com/wp-content/uploads/2013/04/2012_Summer-Meeting_Resolutions.pdf .

No doubt you realize it is political suicide for members of either party to oppose their own party. Hence, it is a foregone conclusion that what the Republican Party determines as party policy will be followed by party members—including those in Congress. Therefore any committee will ignore Mr. Marks' request if for no other reason but to satisfy the Republican Party. Obviously your suggestion is politically motivated and therefore must be rejected.

As to the first portion of your letter, asserting no statute or House rule designates the clerk count the applications and therefore the clerk is relieved of any obligation to do so, I must disagree. You have overlooked a statute which does authorize such action. For that reason, given all relevant statutory imperatives the question is not what rule or law authorizes the clerk to count the applications, but what rule or law forbids her from doing so? I have carefully researched the rules of the House of Representatives as well as U.S. Code. There is no law or rule which prevents the clerk from counting the applications. As no law forbids her from counting, nothing prevents her from doing so except a deliberate attempt on her part to avoid a constitutional mandate or a reservation on her part regarding constitutional obedience.

As I said there is statutory support mandating the clerk as well as you and any other employee or member of Congress immediately proceed to the task at hand, which is counting the applications. To do otherwise is a criminal offense. I refer to the oath of office required of all members of the government upon assuming their duties. I am sure you are familiar with its terms but allow me to quote it:

"I, [name], 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 U.S.C. §3331](#)

I think you see my point clearly. However to emphasize it I have placed the appropriate portion of the oath of office in italics. Under the oath of office all employees of the United States government are required to support the Constitution *without any mental reservation or purpose of evasion*. Obviously refusing to count applications is an evasion of the clear, unequivocal text of Article V of the United States Constitution. Such refusal demonstrates both a mental reservation at supporting the Constitution as well as an obvious evasion of its terms. As you have stated there is no rule mandating the clerk is to count the applications, *but equally important is the fact no rule or law exists that says she cannot*. Therefore while the oath mandates the clerk "well and faithfully" executes the duties of her office, the previous phrase, "without mental reservation or purpose of evasion" clearly places an even higher duty upon her as well as all government employees. If circumstances require she must perform a function *not* covered by law or rule which nevertheless effectuates the Constitution, that portion of the oath demands she do so in order to support the Constitution without any reservation or evasion. It effectively is the necessary and proper clause of the oath of office.

Therefore, under these circumstances, the rule of law expressed in the oath of office the clerk took upon assuming that office, apply. She is required to support the Constitution *without any mental reservation or evasion*. Using any excuse whatsoever with the obvious aim of not

ensuring the Constitution is fully executed where no rule or statute to directs otherwise is *obviously* a mental reservation and *obviously intended for the sole purpose of evading the terms and conditions of the Constitution*. Hence, if Congress or more specifically the House of Representatives has failed to act to specify a means of tabulation, certification and so forth for convention applications, then clearly, as custodian of the records of the House, (and the Congressional Record clearly proves the applications have been received and recorded by House action on repeated occasions) by reason of constitutional mandate as well as oath of office, the duty automatically falls to the clerk. Moreover it is obvious under the terms of oath of office the clerk is duty bound to inform all members of Congress regarding the count of applications she determines exist so as to avoid any mental reservation or evasion on their part and to absolve herself of any further responsibility in the matter. If the individual members of Congress wish to commit a criminal act by ignoring her determination and notification, that is their responsibility, not hers. She will have fulfilled her obligation fully under 5 U.S.C. 3331.

I should not need to remind you but I will again: failure to obey the oath of office is a criminal offense. It may be applied to anyone who has demonstrated either a mental reservation at supporting the Constitution or has in some manner demonstrated an act done for the purpose of evasion of the terms of the Constitution. It is a very serious matter and I trust upon receiving this letter you will view it in the same light.

I therefore suggest Mr. Boyle in the strongest terms before circumstances move to a formal complaint stage being lodged against one or more employees of the House that you reconsider your response to Mr. Marks. I strongly suggest that, as authorized and mandated by the Constitution and statutory requirements of oath of office you set about counting the applications. I remind you the Constitution only mandates the count of applications reach 34 individual state applications. Any other applications exceeding this number are irrelevant to the mandated issuance of convention call by the Congress of the United States. I also remind you Madison made it clear Congress was to have no vote or debate in this matter.

In so far as the specific circumstance of Mr. Marks' letter require therefore, the act of counting involves no more than the clerk verifying each record sent her in Mr. Marks' letter and counting the pages submitted until the 34th application is reached. For your information, that will be the state of Wisconsin.

Sincerely,

Bill Walker
PO Box 1242
Auburn, WA 98071

Attachments—6 pages



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

ArticleV.org

25-180 Pukana La St.
Hilo, HI 96720

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

KAREN L. HAAS
CLERK

H-154 THE CAPITOL

ROBERT F. REEVES
DEPUTY CLERK

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

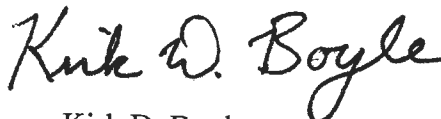
June 7, 2013

Mr. Bill Walker
Box 1242
Auburn, Washington 98071

Dear Mr. Walker:

Thank you for your letter requesting a copy of the response to Mr. Dan Marks regarding Article V. I would encourage you to ask Mr. Marks directly for a copy of the letter, in the event he wishes to share it with you.

Sincerely,



Kirk D. Boyle
Legal Counsel
Office of the Clerk

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

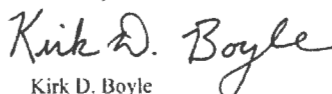
Dear Mr. Marks:

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
Legal Counsel
Office of the Clerk

MAY 5, 1789.]

Application of Virginia.

[H. OF R.]

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 pro-

mote 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-

RESOLUTION OPPOSING A CONSTITUTIONAL CONVENTION

WHEREAS, Article V of the Constitution of the United States authorizes the convening of a Convention for proposing Amendments, now frequently called a Constitutional Convention, "on the application of the Legislatures of two thirds of the several States"; and,

WHEREAS, the Constitution is silent as to the qualifications of the delegates to such a convention and how or by whom they should be selected; and,

WHEREAS, the Constitution is also silent as to the agenda of such a Convention and sets out no way to limit the agenda of such a Convention, and,

WHEREAS, former U.S. Supreme Court Chief Justice Warren Burger concluded that there is no effective way to limit or muzzle the actions of a Constitutional Convention after it is convened; and,

WHEREAS, a Constitutional Convention would attract a multitude of individuals and special interest groups with agendas that would alter our Constitution beyond recognition; and,

WHEREAS, well known Democrat members of the US Congress are currently advocating a Constitutional Convention to introduce a number of amendments that would enshrine and effectuate their liberal agenda; and

WHEREAS, the Constitution of the United States is a timeless document which, by limiting the powers of the government it created and guaranteeing the freedom and opportunity of the citizens for whom it was created, has produced the best and most productive nation in the history of the world; now be it

RESOLVED, that the Republican National Committee strongly opposes the convening of a convention for the purpose of proposing amendments to the Constitution of the United States for the reason that the risk of loss far exceeds the possibility of gain from such an uncontrolled and uncontrollable proceeding.