



To the offices of:
Speaker of the House, John Boehner
H-232 The Capitol
Washington, DC 20515

July 22nd, 2014

US House Parliamentarian, Tom Wickham
H-209 The Capitol
Washington, DC 20515

Clerk of US House, Karen Haas
U.S. Capitol, Room H154
Washington, DC 20515-6601

RE: Request sent to Clerk of House Karen Haas by Dan Marks for verification and tabulation of applications from state legislatures for an Article V convention to propose amendments

Greetings,

We are writing today in regards to the April 15, 2013 request sent to Clerk of House Karen Haas by Dan Marks for verification and tabulation of applications from state legislatures for an Article V convention to propose amendments.

In light of the recent and similar request by the Honorable Duncan Hunter from California to the Speaker of the House for a tabulation of States applications for a convention to propose a balanced budget amendment as well as the claim made by the state of Michigan that they are the 34th state to apply for a balanced budget amendment; we also discovered a possible inadvertent error in process when the Speaker of the House referred our request to the Judiciary Committee on Oct 24th, 2013.

Recently the Congressional Research Service agrees that a critical mass may have been reached, "the legislatures of Ohio, in November 2013, and Michigan, in March 2014, applied to Congress for an Article V Convention to consider a balanced federal budget amendment; these are the first new state applications since 1982 and are also the 33rd and 34th applications for the balanced budget amendment convention. If all 32 previous related state applications are valid, it is arguable that the constitutional requirement for requests from two-thirds of the states has been met, and that Congress should consider calling a convention."

The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress by Thomas H. Neale, Specialist in American National Government
<https://www.hsdl.org/?view&did=752285>

Congressional Record Entry Oct 24th, 2013,
"PETITIONS, ETC. Under clause 3 of rule XII, 55. The SPEAKER presented a petition of Dan Marks, Hilo, HI, relative to a letter regarding methods for proposing amendments; which was referred to the committee on the Judiciary."

The Speaker's presentation to the Judiciary Committee was improper and the request should have been directed back to the Clerk of House with the authority to tabulate these applications as a requirement under House Rule 2 (j) which specifies that "In addition to any other reports required by the Speaker...the clerk shall report to the Committee on House Administration..."

In addition, Dan Marks' letter contained a tabulation and scanned copies of 42 applications from the Congressional Record for verification more than one year ago. Dan Marks has the right to assume a duty that is unassigned under the 10th Amendment which affords the People a right to assume powers that are not delegated. This collection of records should be simple to verify legally and by inquiry with the state of origin.

Legal Counsel to the Clerk of House, Kirk Boyle, clearly stated that the duty is not assigned and sent the request to the Speaker of the House.

"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."

June 7th, 2013 letter from Kirk Boyle, Legal Counsel, Office of the Clerk to Dan Marks

This request should have never been sent to a committee which would have discretion over the applications of state legislatures. The lack of action on the part of the committee is sufficient proof to demonstrate why Congressman James Madison stated in the matter of a convention call Congress shall have "no vote, debate or committee."

As shown by material already sent the Speaker, according to the May 5, 1789 Congressional Record Congressman James Madison (author of Article V at the 1787 convention) stated during discussion of how to process the first application for an Article V Convention by the state of Virginia received by the house that Congress shall have 'no vote, debate or committee' regarding state applications. A convention call (it was repeatedly stated) is based on the **number** of submitted applications by the states. The House that day agreed with Madison and voted to have all applications 'lie on the table until a sufficient number of states shall have applied at which time Congress shall have no option' on a call. Neither the house nor senate has ever altered the affect or effect of this vote. The states having long since satisfied the number needed for a call. We ask all applications be taken off the table and a count made of them by use of House Rule (2) j as there is no constitutional basis for the Speaker to do otherwise.

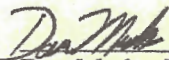
United States v. Sprague, 282 U.S. page 716 (1931), the Supreme Court stated:

The United States asserts that article 5 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

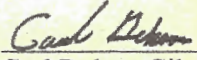
propose them by a vote of two-thirds of both houses, or, on the application of the legislatures of two-thirds of the States, must call a convention to propose them.

Since the Judiciary Committee failed to take action, the conditions to call a convention seem to have been met, and the process to verify the applications on record is otherwise non-existent; we formally demand the immediate tabulation of the applications on record from state legislatures by the Office of Clerk of House, Karen Haas as prescribed in House Rule 2 (j).

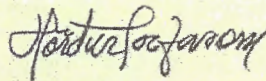
Sincerely,



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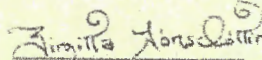
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