

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

MONTGOMERY BLAIR SIBLEY,

PLAINTIFF,

VS.

THE HONORABLE MITCH MCCONNELL, AND
THE HONORABLE JOHN A. BOEHNER,

DEFENDANTS.

Case No.:Case 1:15-cv-00730 (JEB)

CLASS ACTION

**FIRST AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT AND
MANDAMUS**

ADVISORY JURY TRIAL REQUESTED

Plaintiff, Montgomery Blair Sibley (“Sibley”), sues Defendants, the Honorable Mitch McConnell and the Honorable John A. Boehner, and alleges as follows:

INTRODUCTION

By this suit, Sibley seeks:

- (i) A Declaratory Judgment that Sibley has the right, possessed by every United States Citizen, to require that the federal government be administered according to law; and
- (ii) A Declaratory Judgment that Applications to Congress have been made by the Legislatures of two-thirds of the several States for a Convention for Proposing Amendments to the United States Constitution thereby obligating Congress to Call such a Convention which, to date, Congress has failed to call; and
- (iii) A Writ of Mandamus directing Congress to carry out the affirmative action of Calling for a Convention for Proposing Amendments to the United States Constitution.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to the provisions of District of Columbia Statutes, §11-921.

2. Venue in this Court is proper under as a substantial part of the events or omissions giving rise to the claims herein occurred in the District of Columbia.

PARTIES

3. Plaintiff, Montgomery Blair Sibley, is a Citizen of the United States.

4. The Honorable Mitch McConnell is presently the Majority Leader of the United States Senate and is sued solely in that capacity.

5. The Honorable John A. Boehner is presently the Speaker of the United States House of Representatives and is sued solely in that capacity.

CLASS ACTION ALLEGATIONS

6. The named Defendants are proper representatives of a class within the meaning of Rule 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure.

7. The members of the class are so numerous that the joinder of all of them is impractical. Upon information and belief, the class consists of at least 100 United States Senators and 435 Members of the House of Representatives.

8. The members of the class are be readily identifiable.

9. There are questions of law and fact common to the class; their class claims predominate over any individual claims. Each class member shares the same federal protections.

10. The defenses of the named Defendants are typical of the defenses of the class. All Class Members are alleged to have violated Article V of the United States Constitution. The named

Defendants' status as members of Congress typifies the status of the Class Members generally.

11. The named Defendants will fairly and adequately protect the interest of the class. The named Defendants are represented by counsel experienced in litigating federal lawsuits. The named Plaintiff knows of no conflict of interest among Class Members. The named Defendants are and will vigorously defending this action.

12. The named Plaintiff does not propose class notice at this time, but believes that class certification and notice can and should be achieved promptly.

**FIRST CLAIM
DECLARATORY RELIEF**

13. The United States Supreme Court in *Fairchild v. Hughes*, 258 U.S. 126, 130 (1922) affirmed that Sibley, as a Citizen of the United States, possess the general right: "to require that the Government be administered according to law. . . .". Moreover, Sibley maintains that under the implied covenant in the social compact which is the United States Constitution, he additionally possess such general right for to hold otherwise would be absurd. Finally, Sibley additionally maintains that this general right was expressly reserved unto him by the Ninth and Tenth Amendments to the United States Constitution.

WHEREFORE, Sibley respectfully requests that this Court:

- A. Assume jurisdiction of this action;
- B. Declare that, notwithstanding the holding of *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992) and its noxious progeny which by judicial fiat declared that when government actors administer the government contrary to law that citizens do not have "standing" to "require" that the "Government be administered according to law", Sibley in this instance still possesses that "general right" as expressly recognized in *Fairchild v. Hughes* and retained though action of the Constitution

and the Ninth and Tenth Amendments.

C. Retain jurisdiction of this matter to enforce this declaratory degree if subsequently violated by Defendants; and

D. Enter such other and further relief as the Court deems just and proper.

**SECOND CLAIM
DECLARATORY RELIEF**

14. At least thirty-five (35) states have now made an “Application” pursuant to Article V of the United States Constitution for a “Convention for proposing Amendments” A list of those states with references to their respective “Applications” is attached as Exhibit “A” hereto. Accordingly, the ministerial duty imposed on Congress to call for such a Convention has been triggered.

15. On March 5, 2015, Sibley wrote Defendants the Honorable Mitch McConnell and the Honorable John A. Boehner a letter indicating that (35) states have now made an “Application” pursuant to Article V of the United States Constitution for a “Convention for proposing Amendments” and demanding that they make such a “call”. A copy of that letter is attached as Exhibit “B” hereto. Despite confirmation from the United States Postal Service of delivery of the March 5, 2015, letter, to date Sibley has not received any response to that letter from either of the Defendants nor have they made any such “call”.

WHEREFORE, Sibley respectfully requests that this Court:

- A. Assume jurisdiction of this action;
- B. Declare that: (i) two-thirds of the several states have called for a Convention to Propose Amendments and (ii) that Congress has failed to “call” for such a Convention;
- C. Retain jurisdiction of this matter to enforce its declaratory degree if subsequently

violated by Defendants; and

- D. Enter such other and further relief as the Court deems just and proper.

**THIRD CLAIM
MANDAMUS**

16. As a court established by Act of Congress, this Court is empowered to issue Writs of Mandamus by the All Writs Act found at 28 U.S.C. §1651(a): “The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.” A Writ of Mandamus: “. . .orders a person . . .to carry out some affirmative action.” *In re Grant*, 635 F.3d 1227 (D.C. Cir. 2011).

17. In *United States v. Sprague*, 282 U.S. 716 (1931) the Supreme Court unequivocally stated: “[A]rticle 5 is clear in statement and in meaning, contains no ambiguity and calls for no resort to rules of construction. . . . 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.”

18. Here, Congress has the duty to carry out the affirmative action of “calling” a Convention to Propose Amendments but has refused to do so.

WHEREFORE, Sibley respectfully requests that this Court:

- A. Assume jurisdiction of this action;
- B. Issue its Writ of Mandamus to compel the Defendants to carry out their duty by “calling” a Convention to Propose Amendments;
- C. Retain jurisdiction of this matter to enforce its Writ of Mandamus in this regard if subsequently violated by Defendants; and
- D. Enter such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. First class mail on (i) Peter R. Maier, Special Assistant United States Attorney, Counsel for Defendant, The Honorable Mitch McConnell, 555 4th St., N.W., Washington, D.C. 20530, Telephone: (202) 252-2578, (Peter.maier2@usdoj.gov) and (ii) William Pittard, Deputy General Counsel, Counsel for The Honorable John A. Boehner, Office of General Counsel, United States House of Representatives, 219 Cannon House Office Building, Washington, District of Columbia 20515, Telephone: (202) 225-9700, (William.Pittard@mail.house.gov) this July 1, 2015.

MONTGOMERY BLAIR SIBLEY
Plaintiff
402 King Farm Blvd, Suite 125-145
Rockville, Maryland, 20850
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montybsibley@gmail.com

By: _____
Montgomery Blair Sibley

Number	State	Exhibit Page #	Authority for Article V Convention Call
1	Alabama	1	113 CONG. REC. 10,117-18 (1967).
2	Alaska	3	ALASKA SENATE JOINT RESOLUTION NO. 18
3	Arkansas	4	121 CONG. REC. 11,218 (1975).
4	California	5	98 CONG. REC. 4003-04 (1952).
5	Colorado	7	113 CONG. REC. 18,007 (1967)
6	Connecticut	8	104 CONG. REC. 8085-86 (1958).
7	Delaware	10	124 CONG. REC. 19,683 (1978).
8	Florida	11	115 CONG. REC. 24,116 (1969).
9	Georgia	12	GEORGIA HOUSE RESOLUTION 1215
10	Idaho	14	111 CONG. REC. 1437-38
11	Indiana	16	122 CONG. REC. 931 (1976).
12	Iowa	17,18	115 CONG. REC. 12,249 (1969); 44 CONG. REC. 1620 (1909).

13	Kansas	19	97 CONG. REC. 2936 (1951).
14	Kentucky	20	121 CONG. REC. 27,821 (1975).
15	Maine	21	46 CONG. REC. 4280 (1911).
16	Maryland	22	111 CONG. REC. 5820 (1965).
17	Massachusetts	23	123 CONG. REC. 22,002 (1977).
18	Michigan	24, 25	89 CONG. REC. 2944 (1943); 87 CONG. REC. 8904 (1941).
19	Minnesota	26	34 CONG. REC. 2560 (1901).
20	Mississippi	27-28	125 CONG. REC. 2111-12 (1979)
21	Missouri	29	121 CONG. REC. 12,867 (1975).
22	Nebraska	30	111 CONG. REC. 24,723 (1965)
23	Nevada	31	121 CONG. REC. 19,117 (1975)
24	New Jersey	32	119 CONG. REC. 11,446 (1973);
25	New Mexico	33	112 CONG. REC. 199 (1966).
26	New York	34	40 CONG. REC. 4551 (1906).
27	North Carolina	35	45 CONG. REC. 7117 (1910).

28	Ohio	36	111 CONG. REC. 25,237 (1965)
29	Oregon	37	84 CONG. REC. 985 (1939).
30	Pennsylvania	38	89 CONG. REC. 8220 (1943).
31	Texas	39	113 CONG. REC. 17,634 (1967).
32	Vermont	40	49 CONG. REC. 1433 (1913) [1912].
33	Washington	41	109 CONG. REC. 5867 (1963).
34	West Virginia	42-43	1907 W. Va. Acts 433-34.
35	Wisconsin	44	109 CONG. REC. 14,808 (1963).
	Total States Calling for Article V Convention	35	Sources: A General Theory of Article V: The Constitutional Lessons of the Twenty-seventh Amendment, 103 Yale L.J. 677 (1993); How to count to thirty-four: the constitutional case for a constitutional convention, Harvard Journal of Law & Public Policy, Jun 22, 2011; both by Michael Stokes Paulsen
Retrieved from: www.MontgomeryBlairSibley.com/ArticleV.html			

MONTGOMERY BLAIR SIBLEY

March 5, 2015

Via USPS Signature Confirmation
The Honorable Mitch McConnell
United States Senate
317 Russell Senate Office Building
Washington, D.C. 20510-1702

Via USPS Signature Confirmation
The Honorable John A. Boehner
United States House of Representatives
1011 Longworth House Office Building
Washington, D.C. 20515-3508

Re: *Your Article V obligation to “call a convention for proposing amendments”*

Greetings:

I write to exercise “the right, possessed by every citizen, to require that the Government be administered according to law. . . .” *Fairchild v. Hughes*, 258 U.S. 126, 130 (1922). In particular, that you see that Congress promptly discharges its duty to call an Article V convention to propose amendments to the Constitution.

As you both well know, Article V of the Constitution states in pertinent part: “The Congress . . . 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.” Your attention is respectfully drawn to the decision in *United States v. Sprague*, 282 U.S. 716 (1931) in which the Supreme Court unequivocally stated: “[A]rticle 5 is clear in statement and in meaning, contains no ambiguity and calls for no resort to rules of construction. . . . 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.**” (Emphasis added). The math is simple: $50 \text{ states} * .66\% = 34 \text{ states}$ needed to “call a Convention”.

I write first to inform that in fact thirty-five (35) states have now made the “Application” for a such a Convention and thus Congress is obligated to discharge its

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Exhibit "B"

The Honorable Mitch McConnell
The Honorable John A. Boehner
March 5, 2015
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Constitutionally-imposed ministerial duty to “call” such a Convention. A list of those states with reproduced copies of their respective “Applications” is enclosed.

Hence, upon your Article VI “oath or affirmation, to support this Constitution”, you are now obligated to make the “call”. I trust you will. However, please be advised that your failure to make the “call” on or before April 15, 2015, will result in the filing by several different state officials of a Supreme Court Rule 17, Motion for Leave to File an Original Jurisdiction Action pursuant to 28 U.S. Code § 1251(b)(2) seeking a Writ of Mandamus to command Congress to perform the ministerial act of making the “call” that Article V recognizes as an absolute duty. I hope and trust that such an Action will not be necessary.

I close by reminding that no less than George Mason, a Virginia delegate to the Constitutional Convention, said that without providing the states a means of amending the document, “no amendments of the proper kind would ever be obtained by the people, if the [national] Government should become oppressive.”

I would expect the courtesy of an acknowledgment of your receipt of this letter. Of course, I am available to discuss this matter further.

yours,

A handwritten signature in black ink, appearing to read "Monty B. Sibley". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.