

Holder Begins Criminal Investigation Regarding Congressional Refusal To Call Article V Convention

By Bill Walker

On January 17, 2012 at 8:48 am, local time, the Department of Justice received the John Guise Federal Criminal Complaint against members of Congress for failure to obey their oaths of office and call an Article V Convention. Under federal law Eric H. Holder, Jr. Attorney General of the United States has 30 days from the time of receipt of the complaint, January 17, to conduct a preliminary investigation and determine whether to act on the complaint or close it.

This means he must decide the issue by February 21, 2012. (The 30th day is February 20, a national holiday). Under the law, the attorney general is limited in his preliminary determination solely to the creditability of the evidence of the complaint, which, in this case, is the official record of the Congress of the United States, the Congressional Record. According to federal law, Attorney General Holder must determine whether it is in "the public interest" to require members of Congress to obey the Constitution. If the attorney general decides it is not in the public interest that Congress obeys the Constitution, his official decision will likely serve as an official model for future constitutional disobedience by the government.

On February 10, 2012 word was received from Mr. John Guise that Attorney General Eric Holder Jr. has referred the matter to the criminal division of the Department of Justice for further investigation. Under federal law, the attorney general acting through the criminal division has 90 days to complete a preliminary investigation and determine whether further investigation is warranted. Under the law the attorney general must base his determination solely on the evidence originally presented and is forbidden from convening a grand jury, conducting any form of plea bargaining, granting any immunity or issuing any subpoenas. The attorney general is specifically forbidden from refusing to investigate based on any state of mind issues either of the parties involved or of the reporting party, Mr. John Guise. In other words, the decision, by federal law, must be based solely on the evidence presented. Further the law requires the attorney general notify the federal court which is assigned by federal law to supervise such investigation of the date of commencement of the investigation. He has 90 days from that date to either notify the court to proceed as specified by law or decline further action. As the exact date the complaint was referred to the criminal division is not known, but such action had already occurred as of February 10, 2012, this means the attorney general must make a decision no later than May 9, 2012.

More details will be forthcoming as they become available.