

'Single Issue' Article V Countermand Amendment Convention

August 30, 2014

The Honorable State Legislator
Senator

Subject: Bi-partisan – Article V Countermand Amendment Convention – Making the States partners in government, not subjects to Federal mandates.

The Honorable State Senator:

What State Legislatures must retain is their Constitutional sovereign authority under Article V. If this nation has any hope of restoring our Republic, then State Legislatures must not allow Congress, the Courts, Executive Branch, delegates sent a Convention, or State Governors define their Article V sovereignty for them. Presently Article V groups are proposing convening a Convention for the Balanced Budget Amendment, the Convention of States, Compact for America, Term Limits, etc. They are all bent on finding political solutions with the Federal government. Citizen Initiatives is opposed to these compromises. We see the battle for our Constitutional Republic as a matter of State Legislative sovereignty under Article V. Sovereignty trumps political and legal precedence. When the Legislatures amend the Constitution through the Convention process, all branches of the government are subject to the Amendment's provisions. To argue that the State Legislatures can exercise their Article V authority only if the Federal government approves their *Applications* and deliberations at a *Convention* is absurd. In such a case the Article V process would be meaningless to the States. As long as the *Application* on Congress is for a Single Issue Amendment Convention, Congress will have no justification for refusing to convene the Convention.

In all the confusion and debate about Article V Conventions over the last several months, it will be easy for legislators to confuse the authority they have to make an *Application* directing Congress to convene a Convention, with the authority they have to control the deliberations at a Convention. **This is not a subtle point.** If the Legislatures allow delegates they send to a Convention to function as free agents and not Ambassadors, then they will have surrendered at least part of their sovereign authority to delegates and the Convention process will be forever mired in politics. For the first time since the Constitutional Convention, States have an opportunity to be respected partners in government, not subjects to Federal mandates. When Legislatures adopt the *Single Issue Amendment* process, the Convention will be safe, quick (maybe only one week) and successful. Legislatures alone have authority to control the *Amendment* process through to *Ratification*. Their sovereignty has been passed down to them from the Articles of Confederation through Article V in the United States Constitution. **It must not be abdicated.** State Legislatures are the final arbiters in all Constitutional matters.

Citizen Initiatives has been the leading authority on Article V *Amendments* through Congress and Conventions for 40 years. We are presently partnering with legislators in many State Legislatures to secure a Call for the *Single Issue Countermand Amendment Convention*. At this time there are 5 States with one or more sponsors directing Congress to convene the Article V Single Issue Countermand Amendment Convention. At least another 7 States are reviewing with interest the "Application". Individual Countermand Initiatives by the States could be starting by mid 2016. The *Amendment* restores sovereignty in the States by empowering Legislatures to *Countermand* any law or regulatory ruling that is burdensome to the States, their citizens, businesses or Industries. When 30 States exercise their *Countermands*, the law or ruling is rescinded. The Federal government will then have to decide if it wants to rewrite the law in a way more amenable to the States, or abandon it. The government will also have to consider that any rewrite can also be Countermanded. Most important is the empowerment clause in Section 5, 6. The States can prosecute intentional violators of the *Amendment* in the absence of Federal prosecution. Key sections of the *Countermand Amendment* follow:

Section 1. The Article restores State sovereignty in our Constitutional Republic by providing State Legislatures Countermand authority.

Section 2. State Legislatures in the several States shall have the authority to Countermand and rescind any Congressional Statute, Judicial decision, Executive Order, Treaty, government agency's regulatory ruling, or any other government or non-government mandate (including excessive spending and credit) imposed on them when in the opinion of 60 percent of State Legislatures the law or ruling adversely affects their States' interest. When the Countermand threshold has been reached, the law or ruling shall be immediately and automatically nullified and repealed. This Countermand authority shall also apply to existing laws and rulings.

Section 5. Any elected or non-elected government official, or any non-government individual or organization, who intentionally obstructs or prevents the implementation of any provision in this Article shall have committed a criminal offense and shall be subject to impeachment (when applicable) and criminal prosecution and upon conviction serve up to five years in prison.

Section 6. Individual States shall have authority to prosecute violators of this Article under State laws in the absence of Federal prosecution after 90 days from the date of the alleged violation. . .

We are asking you to sponsor the *Application* directing Congress to convene the *Countermand Amendment Convention* in your Legislature. Also, we are requesting that you sponsor the Delegate Resolution and text for the Countermand Amendment which is included in the Delegate Resolution.

When 34 Legislatures complete their *Applications* it automatically becomes a mandate on Congress to convene the Convention. Because the States making *Applications* for the *Single Issue Countermand Amendment Convention* will use the same *Application* on Congress with the same title and instructions, Congress will be required to convene the Convention. If Congress delays then the States, having met their obligations under Article V, will be Constitutionally authorized to convene the Convention on their own. After all, it was the State Legislatures who authorized the delegates at the Constitutional Convention to include the Article V process for proposing Amendments. Their primary concern was protecting the sovereignty of State Legislatures.

Comments made at the time the Constitution was adopted indicate that it was understood when the Constitution was drafted that Congress would have no discretion.

In *The Federalist*, Alexander Hamilton stated that when the proper number of applications had been received, Congress was "obliged" to call a convention and that "nothing is left to the discretion of Congress. James Madison also affirmed Hamilton's contention that Congress was obligated to call a convention when the requisite number of states requested it. In the North Carolina debates about ratifying the Constitution, James Iredell, who subsequently became one of the founding members of the Supreme Court, stated that when two-thirds of states have applied to Congress for a convention, Congress is "under the necessity of convening one" and that they have "no option." (Source: <http://en.wikipedia.org/>)

The purpose of Article V is to empower the Legislatures to address egregious wrongs suffered by the States and their citizens in the absence of Federal remedies. That sovereign authority is retained by our Legislatures today in Article V. In 1787 the Legislatures wanted a perpetual Constitution, but recognized the need future Legislatures would have to amend it. Under the Articles of Confederation a unanimous vote was needed to amend the Articles which meant that one State could hold the other 12 hostage. This almost cost us the Revolutionary War. The Founders found the solution to both States sovereignty and the legitimate role of the Federal government in Article V by requiring three quarters of the State Legislatures to ratify amendments to the new Constitution.

The Countermand Amendment will enable States to define their un-enumerated Rights in the 9th and 10th Amendment. In fact, the Amendment will allow the States to define issues that they would otherwise want to nullify without the risk of violence. Once a law or ruling is Countermanded it is automatically rescinded. Individual States, however, would still be able to employ nullifications on issues important to them independent of the Amendment.

There is a *Delegate Resolution* associated with the *Application* and it needs to pass as a separate Resolution in your Legislature. It should not to be sent to Congress with your *Application*. The *Delegate Resolution* is a contract between your Legislature and the delegates you send to the Convention. The *Delegate Resolution* instructs delegates on how to: 1) open the Convention; 2) organize the Convention; 3) require Article IV, 4 guarantees giving each State Delegation one vote at the Convention; 4) require a simple majority vote on all roll calls; 5) vote on the pre-approved *Amendment* text at the Convention; and more. When 26 or more State Legislatures pass the same or similar *Delegate Resolution* a successful outcome at the Convention is assured. Because it is not an Interstate Agreement, it won't violate prohibitions in Article I, Section 10 that require Congressional approval before States can enter into Interstate Compacts. To assure that the Legislatures' pre-approved text for the *Countermand Amendment* will be approved by the State Delegations, the *Delegate Resolution* is imperative.

State Legislatures are the sovereign deliberative body to decide these matters, not the delegates sent to an Article V Convention. There can be multiple *Single Issue Amendment Convention Applications* for different grievances advancing at the same time. Each one will have its own Convention requiring an *Application*, pre-approved *Amendment* and *Delegate Resolution*. It is not necessary to secure the Governor's signature for approval of the *Application* or *Delegate Resolution* because he has no Constitutional authority under Article V:

1. COUNTERMAND AMENDMENT <https://www.countermands.us/countermand-amendment.html>;
2. APPLICATION <https://www.countermands.us/countermand-application-on-congress.html>;
3. DELEGATE RESOLUTION <https://www.countermands.us/countermand-delegate-resolution.html>.

Resolutions addressing any issues relating to an Article V Convention fall under the authority of State Legislatures alone. Retaining that sovereign authority in State Legislatures is critical. Separate legislation ad-

dressing criminal penalties for violators of the provisions of the *Countermand Amendment* would, of course, need your Governor's signature.

The *Countermand Amendment* is advancing in State Legislatures and is expected to receive 34 or more *Applications* by the middle of 2015. Because the Convention is for a Single Amendment with a pre-approved *Amendment* text in the *Delegate Resolution*, it is anticipated that 38 ratifications could be secured by early 2016.

Citizen Initiatives is serving as the Facilitator for State Legislatures and will be working hard to achieve ratification as soon as possible. If you would have interest in joining our *Single Issue Amendment Planning Committee*, please advise. The purpose of this Committee is to evaluate and approve Single Issue Amendments and Countermand Initiatives that should be advanced in the States.

Please support this bi-partisan *Amendment*. Use the links above for copies of each document. Once the *Amendment* is ratified the **States will be recognized as partners in government, not subjects**. Citizen Initiatives will be monitoring each step in the Article V process and reporting back to you the results in the States and in Congress. This is truly a joint initiative for both the States and their citizens. **The Countermand Amendment is simply too important to the States to be ignored.** *Let's work together and amend the U.S. Constitution with the Countermand Amendment as quickly as possible.*

Finally, Citizen Initiatives produces a weekly national radio program called "**State Legislators Round Table**". The program allows State legislators to discuss issues of importance to them and their constituents. Each State Legislature is assigned an evening that centers around issues important to their State. This is not a gotcha format. We require civility and mutual respect by members of the Round Table and listeners who call in. During a recent broadcast we had over 50,000 listeners on our network, plus 55 affiliated radio stations around the country rebroadcasting the program live into their local markets. We would be honored if you would be our Special Guest during one of these Round Table broadcasts. For the dates assigned to each of the 50 States go to http://citizeninitiatives.org/Broadcast_Schedule/Legislator_Broadcast_Dates.pdf. We included suggested topics for each date, although, legislators are free to present and discuss other subjects of importance to them. Each weekly broadcast is on a Tuesday night. The first hour starts at 8:00 PM EST, the second at 9:00 PM EST and the third hour at 10:00 PM EST. You can confirm your State's date by calling me at (828) 783 0599 cell or by confirming your acceptance in an email to: director@countermands.us.

Yours respectfully,



Charles Kacprowicz,
National Executive Director

Countermand Amendment video for State Legislators: <http://youtu.be/4lqtADyUs14>
Sovereignty Amendment: <https://www.countermands.us/sovereignty-amendment.html> (To be announced soon.)