August 8, 2001
Robert Schulz
We The People Foundation For
Constitutional Education, Inc.
2458 Ridge Road,
Queensbury, NY 12804

Dear Mr. Schulz,

I recently received an Internet press release from your organization concerning the recent agreement by members of the federal government to hold a two-day hearing in September to discuss the validity of the 16th Amendment to the United States Constitution. The hearing is sponsored by your organization. I understand your organization maintains that due to irregularities in the ratification process, the 16th Amendment is invalid. Further, I understand your organization maintains United States citizens are not obligated to pay income taxes because of constitutional questions surrounding the validity of the 16th Amendment.

While from a strictly personal point of view I would welcome not paying federal income tax, the fact is a recent federal court decision in which I was involved *completely refutes* any challenge to the legality of the 16th Amendment. In sum, this case, *Walker v United States*, in combination with other judicial rulings grants Congress complete control over the amendatory process of the Constitution and thus complete control of the entire Constitution itself. Specifically, the case addressed the convention clause of Article V of the United States Constitution, but due to the language of the ruling the power of Congress is now unlimited. A copy of this ruling is included with this cover letter.

There is a direct link between your organization's issue and *Walker v United States*. Long before your organization even existed the states were attempting to repeal the 16th Amendment by submitting applications for a convention as specified under Article V of the United States Constitution. In fact, the repeal of the 16th Amendment has received more applications for a convention from the states than any other subject in the history of this nation. In total, 39 states have applied to Congress for a convention to repeal the 16th Amendment. As Congress has not acted to accept any recessions of these applications, it is clear these applications remain in effect to this date. (Please see pages 689, 776 in the overlength brief referred to in the accompanying court order for more specific information. This brief can be downloaded at website www.article5.org.) The total of 39 states is at least one more state than is required for *ratification* of an amendment repealing the 16th Amendment and *five more states* that are required for a convention to be called for that purpose.

It cannot be overstressed that until the ruling by Chief Judge Coughenour in *Walker v United States* it was universal opinion, based on the language of Article V, *that it was obligatory Congress call a convention* if the proper number of states applied. Alexander Hamilton, the author of Article V, most forcefully expressed this in Federalist No. 85. (Please see pages 256-264 of the overlength brief for a more extensive discussion of Hamilton's writing.) However, because there had been a judicial ruling in this matter this universal opinion that was shared among constitutional scholars, attorneys and even members of Congress has now been replaced by an official government policy entirely contrary to that opinion.

That basic policy is Congress may ignore any directive of the Constitution imposed on it by the word "shall." In short, Congress or any agency created by it is not bound by the Constitution. In his ruling Judge Coughenour altered the meaning of the word "shall" from its previous obligatory meaning to that of an option on the part of the government. He did this by declaring Congress has discretion regarding whether to call a convention under the political question doctrine where the Founders intended no such discretion. (Please refer to the letter sent to members of Congress in April of this year for a further explanation of this assertion.) Judge Coughenour thus assumed the right of the judiciary to actually amend the Constitution by judicial decree. As to his cogitative reasoning in this regard, I suggest a careful reading of his order is appropriate. I especially direct your attention to paragraph two of his order where he discusses the overlength brief and "overlength motion". I remind anyone reading this letter there is no such thing as an overlength motion. If there were the local rules of the Court would address it and they do not. Regardless of his reasoning, the ruling by Judge Coughenour is now the prevailing law of the land as it is the latest ruling determining who controls the amendatory process of the Constitution. Obviously whoever controls this process controls the Constitution and thus the nation. This is why the Founders never intended such power rest with a single political body but Judge Coughenour's decision has accomplished exactly that.

It is an infinitesimal step from this ruling to the heart of your issue. Clearly if Congress is now in complete control of the amendatory process, it certainly possesses the power to determine whether an amendment regardless of its ratification history, or even if it was ratified at all as in the case of the 14th Amendment, is an amendment to the Constitution. (Please see pages 395, 401 (footnote 917), 461 (footnote 1079), 463 (footnote 1080) of the overlength brief for a discussion of the questionable ratification history of the 14th Amendment.) Indeed, under the *Walker v United States* ruling, there is nothing to prevent Congress from passing an "amendment" to the Constitution *with the issue never even being submitted to the states or people for ratification.*

Therefore, if the IRS states the 16th Amendment is legal, that agency as a representative of Congress is correct regardless of any facts to the contrary. The IRS nor any other agency of national government need no longer worry about the expressed

language of the Constitution or its intent. As part of a dictatorship, the IRS free to do whatever it pleases. Thus, whatever level of participation in this hearing the IRS or Congress chooses make will be for public relations purposes only as they have no other legal obligation to this nation in regards to satisfying the language of the Constitution.

The best can be said of Judge Coughenour's ruling is that it created an oligarchy of the national government removing the sovereign power of this nation entirely from the people and placing that sovereign power totally in the hands of the national government. Thus, any "right" granted to the people in the Constitution from voting, to free speech, to trial rights are totally at the discretion of the government as they all are expressed by the word "shall" in the Constitution and thus are now merely options controlled entirely by the national government.

In his press release to your organization Congressman Ron Paul said, in part, "…[T] he right to a formal response is inherent in the constitutional right to petition the government." In order to verify whether or not Congress truly participated and desired the dictatorial powers granted them by Judge Coughenour, I sent a letter (copy enclosed) by certified mail (copy of certified mailing enclosed) to key members of Congress describing the case and its effect. In sum my letter accused Congress of desiring to become a dictatorship by assuming complete control of the amendatory process contrary to the expressed plan of the Founders and that Congress knew a favorable decision in *Walker v United States* would achieve this goal. Further, Congress approved of the legal tactics used by the local United States Attorney to achieve this goal. None of the officials contacted have refuted a single allegation made in that letter.

I doubt any government official who receives this letter and its accompanying material will refute any allegation made here or in my other letter. Hence, there will be no formal response from Congress. The problem is, as noted in my longer letter, their silence and inaction in regards to calling a convention as specified under the terms of Article V of the Constitution only serves to prove these allegations true and thus becomes their formal response. As noted in my first letter to Congress, there either is a convention or there is not a convention. The Constitution is either obeyed or it is not obeyed. The states have applied in sufficient number to cause a convention and thus repeal the 16th Amendment. Congress has chosen not to obey the Constitution and thus prevents the repeal of that amendment. The judiciary has affirmed this decision. In doing so, the judiciary has also negated any challenge to the 16th Amendment by use of the same logic it employed to defeat the obligatory language of Article V. The Coughenour ruling establishes the fact even if your organization is correct about the validity of the 16th Amendment it is immaterial. Your position will simply be ignored by the national government and such action is entirely legal.

Hence, based on the decision in *Walker v United States*, Congress, and the IRS, may tax as they please regardless of whether the 16th Amendment was legally ratified or not.

I have elected to send this information via certified mail to both sides of the issue of the legality of the 16th Amendment and to other interested parties. Thank you for your time.

Sincerely,

Bill Walker

Cc: Dan Bryant, DOJ
Charles Rossotti, IRS
Connie Brod, C-Span
Roscoe Bartlett, U.S. Congress
Ron Paul, U.S. Congress