

MINUTES OF THE MEETING  
STATE ADMINISTRATION COMMITTEE  
50TH LEGISLATIVE SESSION  
HOUSE OF REPRESENTATIVES

February 16, 1987

The meeting of the State Administration Committee was called to order by Chairman Sales on February 16, 1987 in the Old Supreme Court Chambers (Room 325) of the State Capitol at 10:00 a.m.

ROLL CALL: All committee members were present.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 10: Rep. Sands, House District #90 and sponsor of the bill stated HJR 10 is a resolution of fundamental importance to the state of Montana and to the nation. HJR 10 deals with generational conflict, family law, etc. If we spend more money now for federal programs than what we take in, that debt will eventually have to be paid and it can only be paid by children and grandchildren. That fundamentally is the issue before us today. This resolution calls for a Constitutional Convention for the sole purpose of proposing an amendment to the U.S. Constitution requiring a balanced federal budget. There are two parts to amending a constitution: the first part is the proposal that can be done in one of two ways. It can be done by a 2/3 vote of both houses of the U.S. Congress, which has not been accomplished. The second way to do it is through adopting a proposal through a Constitutional Convention requested by 2/3 of the legislatures of the states. Currently, 32 states have enacted such a resolution. We need two more. Montana would be #33. This is a very important issue. It has enormous significance for Montana and the nation. Our national debt now is about \$2.3 trillion. Slightly more than 10 years ago, the national debt was 1/3 of what it is today. The interest on the national debt is \$200 billion per year or 19% of the federal budget. The federal budget has been balanced once in the last 25 years. In the 1984-85 years when we had an economic robust growth in history, the deficit grew by \$400 billion. The national debt has grown more in the 1980s than it had in the previous 200 years of our government.

There definitely is a need for a balanced budget. The only fear we have to face is the fear of a runaway convention. I don't think that is a reasonable fear. It has not deterred Montana in the past. The overwhelming number of constitutional scholars indicate that a call for a convention could be limited to a single subject. Each of the 32 states that have passed a similar resolution has done so for the purpose of balancing the federal budget. The Constitutional Convention only proposes amendments to the Constitution which must be ratified by 3/4 of the states. This is a bipartisan effort to address a real problem.

PROPOSERS: Senator Dennis DeConcini, U.S. Senate, Washington, D.C., stated this is a Montana issue. It has been a dream of mine for 10 years that we would pass a constitutional amendment and not have this day on

which to present the arguments why we would hope that you would agree that the Constitutional Convention is the right step to take. I am here to ask you to help America to pull its fiscal house into shape. It is important that we move toward a Constitutional Convention called by 34 states. History demonstrates that we have had few constitutional petitions, and we have had only one Constitutional Convention. We need to move ahead in an area that is vital because our country has a federal deficit that is utterly irresponsible. His entire written testimony is submitted as Exhibit #1.

Senator Phillip Gramm, U.S. Senate, Washington, D.C., stated nothing I'm doing in Washington is more important to the future of the people of Texas, or to the people of America, than Montana's action on this important issue. Balancing the budget is like going to heaven. Everyone wants to do it, but they don't want to do what you have to do to make the trip. Deficits have reached the proportion where interest alone on the federal deficit today is higher than what the entire federal budget was when John F. Kennedy was president. We need a binding constraint to force Congress to make hard choices, to set priorities, to decide what is in the national interest and to decide what the people are willing to pay. If we do this, not only will we have a stronger economy, but we will eliminate the situation where the federal government is borrowing over \$.50 out of every dollar born, taking away money that could build homes and provide for education. High interest rates are drawing foreign capital into the country, raising the value of the dollar on a world market making it impossible for Montana farmers and ranchers to sell on the world market as they once did, making it impossible for us to compete in mineral resources. All of these things can be changed if we can force the federal government onto a budget.

Our Founding Fathers recognized that there might be times when Congress would be so dominated by special interests, that they would not reflect the public interest. That is why our Founding Fathers in their wisdom gave you the power on behalf of the people of your sovereign state to force Congress to act. The Montana Legislature has that power in adopting the Sands' resolution.

PROPOSERS: Rep. Dorothy Cody, House District #20, stated she has done some studying and thinking over the last two years and has come to the conclusion that something has to be done. HJR 10 seems to be the only way. Perhaps Congress will listen to how the people feel about our horrible deficit. She submitted written testimony from former Governor Lamm of Colorado (Exhibit #2).

Barney Olson, Jr., representing himself and the Missoula County Republican Central Committee, stated he wanted to go on record in support of a resolution for a constitutional amendment to have a balanced budget.

His written testimony is included as Exhibit #3. It is time for the representatives of the legislature to say no to further unnecessary spending and pass HJR 10. Make the change that will guarantee progress and prosperity.

Rep. Janet Moore, House District #65 and co-sponsor of HJR 10, stated she favored a balanced budget but opposed it being achieved by way of a Constitutional Convention. She submitted an amendment and handout to committee members (Exhibit #4). Montana will have four delegates at a Constitutional Convention as opposed to the dozens had by larger states. She quoted from former Chief Justice Burger that "there is no way to put a muzzle on a constitutional convention to narrow its work to force Congress to balance the federal budget".

Lewis K. Uhler, President of the National Tax Limitation Committee, stated it was his pleasure to attend the hearing today and to comment briefly on the resolution pending before us. Deficits are public enemy #1. In this bicentennial period, the gift to our people of a balanced budget will be in the grandest tradition of the Founding Fathers of this nation. HJR 10 is truly a bipartisan issue. Congress needs a shove. His written testimony is included as Exhibit #5. Anyone who does not accept the state resolution process for calling a Constitutional Convention must be prepared to accept blame for failure to achieve a balanced budget because the state process is essential to that success.

Jim Davidson, Chairman, National Taxpayers Union, stated there would not be any great crisis if a Constitutional Convention was held. It would be a proof that our constitution as our founders wrote it works. His written testimony is included as Exhibit #6.

Keith Anderson, President of the Montana Taxpayers Association, stated his support for HJR 10 and submitted written testimony (Exhibit #7). Congress is unwilling or unable to deal with the alarming growth of the federal deficit. Since 1950, there has been only five years during which the federal government has operated at a surplus. Since 1950, the federal debt has increased from \$255.9 billion to an estimated \$2.5 trillion dollars for 1987. It would be great if Congress had the fortitude to balance the budget on its own, but they aren't going to unless forced to. Congress lacks the internal discipline to govern this nation's fiscal affairs.

Roger Anderson, Mayor of Great Falls, stated the people of Great Falls and the U.S. have to balance their budgets. The City of Great Falls is fiscally responsible and has a balanced budget. Business and management are responsible for balancing their budgets. I urge that the federal government balance its budget. We can help America in many ways by supporting this resolution.

Mons Tiegen, representing the Montana Stockgrowers Association, stated strong support. It makes no sense for the Federal Congress to not have to meet the same fiscal requirements that this legislature imposes on itself. This amendment will provide all Americans some protection against unlimited spending, taxes and public debt. (Exhibit #8).

Robert Holding, representing the Montana Association of Realtors, submitted written testimony (Exhibit #9) and stated support for HJR 10. Montana should be the 33rd state that can lead the way to fiscal sanity at the federal level.

Stuart Doggett, Montana Chamber of Commerce, stated the importance of this resolution is unquestioned. A move to balance the budget would produce a much needed psychological signal to consumers and investors that the U.S. is putting its own fiscal house in order.

Written testimony in support of HJR 10 was received from several individuals. They are listed here and included together as Exhibit #10: Larry and Laura Risdahl, Julie Hacker, Vera Cahoon, Lorna Frank, John Olsen, Carol Mosher and Griffin Bell.

OPPONENTS: Margaret Davis, volunteer lobbyist for the Montana League of Women Voters, stated the League has studied deficit spending on a nationwide level as well as fiscal policies of the U.S. Government. The federal deficits are indefensible, but the League opposes a balanced budget amendment because there are circumstances, such as national emergencies, when deficit spending would be necessary and acceptable. Her written testimony is included as Exhibit #11.

Kelly Hencz, Helena citizen, stated opposition for HJR 10 and submitted written testimony (Exhibit #12). We are obligated to be loyal to our constitution. We, the people for whom our constitution is written, will not tolerate any change in it whatsoever.

Jim Murry, Executive Secretary of the Montana AFL-CIO, stated HJR 10 would, by means of a Constitutional Convention, or through amendment by Congress submitted to the states for ratification, amend the U.S. Constitution to require a balanced federal budget. Our huge federal deficit, combined with outrageously high trade deficits, have contributed tremendously to the severe economic problems facing Montana and thirty other states across the nation. However, we contend that a Constitutional Convention is not the answer to balance the federal budget. His written testimony is included as Exhibit #13.

Dorothy Trazler, former social studies teacher, stated opposition to HJR 10. Montana can and should send a strong resolution to Congress regarding a balanced budget, but a Constitutional Convention would only open a can of worms. Her written testimony is included as Exhibit #14.

Herb Jacobson, Director of the Americanism Program for the Exchange Club, stated his opposition. I believe it is totally inappropriate. The federal budget should be balanced but not by means of a Constitutional Convention.

Jack Traxler, representing himself, expressed his opposition to HJR 10. Our U.S. Constitution has been rightly called "the most perfect instrument for the governance of man". A Con-Con cannot be restricted to one item. He urged the committee not to rush into any hasty decision on this matter. His written testimony is submitted as Exhibit #15.

Mary Doubek, representing Helena Eagle Forum Pioneer's Chapter, stated she supports the concept of a balanced budget but opposes a federal Constitutional Convention to achieve this. Her written testimony is submitted as Exhibit #16.

Betty Johnson, wife, mother and businesswoman, spoke in opposition to HJR 10 and submitted written testimony (Exhibit #17). I honestly and most sincerely believe there simply is not one shred of evidence to support the position that a convention would limit itself to one amendment. Article V of the Constitution clearly says "AMENDMENTS" (plural) are to be considered when a convention is called.

Robert Lee, representing himself from Bigfork, Montana, stated we do not need a Con-Con to balance the federal budget. This is a plan by internationalists to gut our constitution. If you can balance the budget, why doesn't Montana do it by this simple but sinister method. HJR 10 is trashcan stupidity. (Exhibit #18).

Pat Ries, a Helena citizen representing herself and her family, stated she supports a balanced budget but opposes a Con-Con. Her written testimony is included as Exhibit #19.

Carl Tady, representing himself and other Sovereign Citizens for Honest Government, stated opposition to HJR 10. He is in favor of a balanced budget amendment but not through a Con-Con. The Constitution was written to contain government and to protect the people from usurpation and abuse by those who would like to enslave us. His written testimony is included as Exhibit #20.

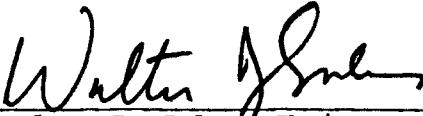
Henry Tady, representing himself, stated opposition to HJR 10 and submitted written testimony (Exhibit #21).

Written testimony in opposition to HJR 10 was received by the following individuals and is included together as Exhibit #22: Beverly Glueckert, Dan Burdick, Dick Bridegroom, Cecil Storms, Karen Larson, Kim Wilson, Naomi Powell, Wally Wlaysewski, Julie Burk and Terrence Carmody. These individuals were present at the hearing, but due to time constraints, did not get the chance to testify verbally.

Further written testimony in opposition to HJR 10 was received by the following individuals and is included together as Exhibit #23. These individuals were not present at the hearing: Duella Tippetts, Kalispell; Mrs. Curtis Durham, Kalispell; John & Georgia Reading, Kalispell; Charles Rudie, Kalispell; Jeanette & Marvin Jones, Kalispell; Jane Otten, Bigfork; Connie Vautis, Bigfork; Cerilda Ellis, Kalispell; Brett Parmenter, Sidney; Pendelope & Arthur Matson, Polson; Thomas Joytun, Kalispell; Linda Woytus, Kalispell; Melvin, Edna, Oscar and JoAnn Oftedahl, Kalispell; Arzell Klinger, Kalispell; Janice Sommers; Jerry Sommers; Mr. & Mrs. Don Denning, Kalispell; Timothy Hill, Kalispell; Deborah Hill, Kalispell; Linda Hicklund, Kalispell; William Wickes, Kalispell; Melba Wickes, Kalispell; A. L. LaBar, Bigfork; Conn Latum, Kalispell; Don Garner, Kalispell; Ted & Denise Parmentes; Jonnie Davis, Kalispell; Stan & Irene Flagg, Kalispell; Michael & Shane Flagg, Kalispell; Kathy Stillman, Kalispell; Ron Stillmont, Kalispell; Maybelle Stillman, Kalispell; John & Marlene Mathison; Maynard Denna, Kalispell; Jack Herron, Kalispell; Bonnie Herron, Kalispell; John & Lorna Tatum; Maryann Head, Kalispell; Grant Head, Kalispell; Walt Dupea; Don Henkel, Kalispell; Gigi Henkel, Kalispell; Eric Perkovich, Kalispell; Katherine Perkovich, Kalispell; Shirley Rudie, Kalispell; and Mary & Adolph Smith, Kalispell.

DISCUSSION OF HOUSE JOINT RESOLUTION NO. 10: Rep. Roth asked Mr. Davidson to respond to the information brought out by the American Bar Association. Mr. Davidson stated there is unanimous agreement among a group of distinguished bipartisan individuals that a Con-Con could be limited. They studied legal documents produced by law schools since the founding of the republic. Rep. Fritz asked Rep. Sands why the resolution reads that Congress is responsible for the federal deficit and wondered why the President was not included in this resolution since he plays an important role in the budget process. Rep. Sands replied that the reason Congress is in there is because the President proposes but the Congress disposes, and it is the Congress that has to enact the legislation that does or does not balance the budget. Rep. Sands stated he had no objection to having language included that makes reference to the President. Rep. Jenkins asked Rep. Sands how many amendments were acted upon by Congress after 33 states asked for a Con-Con. Rep. Sands stated he was not sure. He further stated that Congress has never allowed a Con-Con to take place because whenever we've come within one state of triggering a convention, the Congress has acceded to whatever the states were asking for and proposed the amendment on its own. Rep. Nelson asked Rep. Sands if he knew what other states might be considering a similar resolution to HJR 10, and he replied that he thought Connecticut, New Jersey, Michigan and Kentucky were considering such a resolution.

ADJOURNMENT: There being no further business to come before this committee, the hearing adjourned at 12:00 noon.

  
Walter R. Sales, Chairman

DAILY ROLL CALL

State Administration COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2/16/87

NAME	PRESENT	ABSENT	EXCUSED
Walt Sales	✓		
John Phillips	✓		
Bud Campbell	✓		
Dorothy Cody	✓		
Duane Compton	✓		
Gene DeMars	✓		
Harry Fritz	✓		
Harriet Hayne	✓		
Gay Holliday	✓		
Loren Jenkins	✓		
Janet Moore	✓		
Richard Nelson	✓		
Helen O'Connell	✓		
Mary Lou Peterson	✓		
Paul Pistoria			
Rande Roth	✓		
Tonia Stratford	✓		
Timothy Whalen	✓		

NEWS

From U.S. Senator

Arizona

**DENNIS DeCONCINI**

Hart Senate Office Building, Washington, D.C. 20510

Contact: Bob Maynes  
Lynn Levins  
Tim Carlsgaard  
202/224-7454  
224-4521

FOR IMMEDIATE RELEASE:

Monday, February 16, 1987

Following is the text of a speech delivered by Senator Dennis DeConcini before the House State Administration Committee of the Montana State Legislature, on Monday, February 16, 1987 at 8:00 A.M.

Mr. Chairman, Members of this distinguished committee, thank you for inviting me to appear before you today to share with you my thoughts on the need for a balanced budget amendment to the Constitution and whether Montana should add its name to the list of States calling for a constitutional convention on the subject of a balanced budget amendment.

I want to emphatically state that the addition of a balanced budget/spending limitation/fiscal responsibility amendment, call it what you will--to the Constitution, is the single most important thing that could be done to the Nation's domestic policy and economic policy. Which constitutional mechanism is used to accomplish this result is unimportant - just that the goal is reached.

I also want to emphasize that what Montana decides to do on the issue of whether to make an application to the Congress for a constitutional convention on the subject of a balanced budget will have a substantial impact on the Congress. If Montana becomes the 33rd of the required 34 states necessary to call a constitutional convention, I believe the Congress will respond to this pressure and submit an amendment to the States for ratification. If Montana does not act, the likelihood is great that Congress also will not act in the near future on a balanced budget amendment.

I would like to comment briefly on why a balanced budget amendment is needed, what it would do, and what has happened recently in the Congress on this subject.

-MORE-



prepared statement. To reach any other conclusion requires a leap of logic that would conclude that the participants in such a convention would be unfaithful to the mandate with which they were charged by the States and Congress. It also assumes Congress would concur with a far flung rewrite of the Constitution and transmit the proposed amendment to the States. It also assumes that three-fourths of the States would concur. None of these are rational possibilities. There is no reasonable fear of a runaway convention.

Attached to my statement as appendix D and E are copies of legislation and a report creating the framework for a limited constitutional convention that were adopted by the Senate Committee on Judiciary last year. Montana's action on an application would spur action again this year on this legislation.

We need to add a balanced budget amendment to the basic law of the land. Such an amendment will not be a panacea for all our fiscal problems. It is not a cure-all and has never been advertised as such. What adoption of such an amendment would achieve is the creation of a fiscal environment in Congress in which more responsible budget-making decisions can be made. An amendment will not alleviate the need to send to Washington individuals committed to principles of fiscal responsibility; it will, however, give those persons the ability to be more effective than is currently the case.

We are all under pressures from worthy groups to support worthy causes. With a balanced budget amendment in place, I as a legislator can point to the highest law of the land as a mandate that receipts and outlays of the Government must be kept in general equilibrium. Such an amendment will give me - and my colleagues - an added ability to say "No".

It has become painfully clear to me and to all Members of Congress that something drastic and dramatic is needed to shake some fiscal sense into ourselves and the President. Congress can't do it alone. I'm sure we all recall the statements by the President that he felt he could achieve a balanced budget by the mid-80's. Well, despite his intentions, his actions and the reality of the political and fiscal world we all live in has driven the national debt past the \$2 trillion dollar point and saddled us with yearly deficits that have exceeded \$200 billion.

A great effort was undertaken last year with the passage of the Gramm/Rudman/Hollings deficit reduction proposal. It was a sincere approach to our fiscal problems and I applaud the leaders of that effort. But more is needed. We need to make the mandate of a balanced budget a constitutional mandate. We need to make it a permanent part of the law and principles by which we live. By becoming the thirty-third State to make application to Congress for convening a constitutional convention, the State of Montana will play a pivotal role in securing the fiscal health of the Federal Government and the future of our Country.

EXHIBIT #2  
DATE 2/14/87  
HB 10

STATEMENT OF RICHARD D. LAMM

before the

STATE ADMINISTRATION COMMITTEE

MONTANA HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1987

I wish I could be with you today to talk about one of the most important issues facing our country today -- the federal deficit. Because a prior commitment prevents me from talking with you today, I have asked Representative Dorothy Cody to present my testimony.

For years, I was strongly against amending the U.S. Constitution to require a balanced federal budget. I was particularly against calling for a limited constitutional convention to draft a balanced federal budget amendment. But after careful study of this issue this summer, I am now convinced that this is our most effective option to control the federal deficit. If you agree that the federal deficit must be brought under control, you certainly have the right under the U.S. Constitution to act. I believe it is important to the nation's future that you do act.

Thirty-two of the required thirty-four states, including every neighboring state to Montana, have petitioned Congress for a limited constitutional convention to draft a balanced budget amendment. Passage of such a resolution by just one more state will set off a political earthquake in Washington -- it will shake things up and get something accomplished.

For each dollar we borrow today, future taxpayers -- my children,

your children -- will pay some \$11 in interest and principal over thirty years. Thus, last year's \$220 billion federal deficit has created an obligation of well over \$2 trillion.

The vast majority of the states in the country have constitutional restrictions limiting their deficits. These restrictions have served the states well. Interest payments are but a tiny fraction of most state budgets. While the federal budget deficit regularly sets new records, the state budgets remain virtually balanced.

How can this difference be explained? Could it be that the voters regularly elect responsible state officials, but elect irresponsible federal officials? I don't think so. I'm convinced that the crucial difference is that the states are required to balance their budgets but the federal government is not.

Some people have expressed fear that somehow a constitutional convention could run away. I know, I once believed this myself. But my careful review of the process has convinced me that a runaway convention is nothing more than what Sam Ervin called a "constitutional ghost." I urge you to consider this:

It would be political suicide for Congress to allow a constitutional convention to draft a balanced budget amendment. Convention delegates would be elected from every congressional district in the country and many of these delegates would certainly run for election to Congress. Just as Congress acted when 31 states called for the direct election of Senators, Congress will finally act on the balanced budget amendment if for no other reason than to avoid rivals from emerging as viable challengers.

So, I believe a constitutional convention is very unlikely. But let's suppose a convention is called anyway. What protections do we have then? Plenty.

First, Congress has the power to stop any stray amendment from being sent to the states.

Second, in view of the tightly-worded balanced budget convention call resolutions passed by the 32 states, I think the Supreme Court may well prohibit a stray amendment from being sent to the states.

Finally, any amendment must be ratified by 38 of the states before becoming law. I trust the American people and their representatives on the state level. And I think you should, too.

Whatever dangers there may be in calling for a limited constitutional convention, they are extremely small. But continuing the reckless policy of high federal deficits is a clear danger to our nation.

Every year of political paralysis means that our children will have less money to spend on food, clothes, cars, houses, the education of their children and other elements we have come to equate with a decent standard of living.

We are fooling ourselves if we think we are borrowing from the bank. We are borrowing from our children and our grandchildren.

As a state legislator you are in the unique position of having the power to bring the federal deficit under control and protect our nation's future and our children's future.

NAME: B. A. (Barney) OLSON, JR. DATE: 2/16/87

ADDRESS: P.O. Box 7576 - MISSOULA, MT 59807

PHONE: 549-9701

REPRESENTING WHOM? Myself and MISSOULA COUNTY REPUBLICAN CENTRAL COMMITTEE

APPEARING ON WHICH PROPOSAL: CONSTITUTIONAL AMENDMENT - RESOLUTION TO BALANCE THE BUDGET

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENT:

SEE TESTIMONY NOTES

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Mr. Chairman, Ladies and Gentlemen:

My name is Barney Olson, I am here on behalf of myself as a 5<sup>th</sup> Generation Montanan and an independent small businessman, as well as the Missoula County Republican Central Committee.

I would like to go on record as being in support ~~of~~ a resolution for a Constitutional Amendment to have a balanced budget.

There is that old saying "that everyone wants Progress but none wants change. Ladies and Gentlemen it is time that you as our representatives of this state to be responsible and obligated for our State's future by <sup>making this change</sup> this means all people of the state and the United States, whether it be special interest, majority or minority, must be considered in your law making duties.

Every year that you deficit spend, you are spending your's and my children's money. You and I have the right to do that. Our responsibility and obligation to future generations is to insure that they can make their own spending decisions without affecting further future generations.

Everyone of us must prepare and maintain a budget individually, why can't you make the necessary adjustments to insure ~~the~~ a balanced state, as well as ~~the~~ national budget? It is time for you as representatives to learn to say no to unnecessary spending and pass

House Joint Resolution - 10, carried by  
Representative Sands and make that change  
that will guarantee progress and prosperity.

Testimony of B. A. (Barney) Olson, JR.

5/12/87

PROPOSED AMENDMENTS TO HOUSE JOINT RESOLUTION 10:

1. Title, line 5.

Strike: "PETITIONING"

Insert: "URGING"

2. Title, lines 6 and 7.

Strike: "CALL" on line 6 through "AN" on line 7

Insert: "ADOPT A PROPOSED"

3. Title, lines 9 through 12.

Strike: ", AND" on line 9 through "BALANCED" on line 12

4. Page 1, line 19.

Strike: "makes" through "to"

Insert: "urges"

5. Page 1, lines 20 through 21.

Strike: "call" on line 20 through "proposing" on line 21

Insert: "adopt"

6. Page 1, line 24 through line 8, page 2.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent section

7042a/CNCL87





From left, former Supreme Court Chief Justice Warren Burger, Wayne State University President David Adamany and Judge Damon Keith sing the National Anthem. Far right, Mayor Young reads a proclamation.

1-31-87

Detroit Free Press

WILLIAM ARCHIE/Detroit Free Press

GEORGE WALDMAN/Detroit Free Press

# Burger sings praises of Constitution during visit

By BILL MCGRAW  
Free Press Staff Writer

Warren Burger, former Chief Justice of the U.S. Supreme Court, was in Detroit Friday, and someone asked him which Supreme Court decisions most furthered the meaning of the U.S. Constitution.

Responded Burger: "None of them that I wrote."

Seriously, Warren Burger is a funny guy. The dignified, white-haired Burger might have seemed aloof during his 17 years in the high court's top job, but he was downright folksy at "We the People Day" in the Motor City.

He alternated as professor, cheerleader and comedian as he breezed through town exalting the Constitution, which turns 200 this year.

Burger, who surprised the nation when

he retired as chief justice on June 17, is crisscrossing the country as chairman of the committee to celebrate the bicentennial of the document he called "utterly unique in human history."

BEFORE a 700-person crowd at Wayne State University that ranged from a student dressed in camouflage fatigues to the dapper U.S. District Judge Robert DeMascio, Burger touched on Patrick Henry, Winston Churchill and Edwin Meese to explain the Constitution's birth and evolution.

Later, after a private lunch with General Motors Corp. Chairman Roger Smith, the Burger was a guest at a patriotic, 1,500-person gala Friday night at the Westin Hotel. Gov. Blanchard, Ohio Gov. Richard Celeste, Mayor Young, U.S. Sen. Donald Riegle and Michigan Supreme Court Chief

Justice Dorothy Comstock Riley also attended.

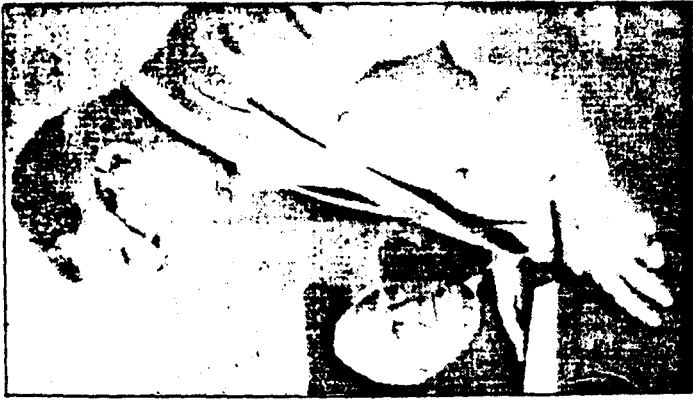
The Constitution's birth was not easy, Burger told the Wayne State audience. Even Ben Franklin opposed it at first.

The strength of the Constitution is the right to dissent, Burger said, even though dissent produces conflict and confusion.

He quoted Churchill on democracy — "a terrible form of government, terrible, but all the others are worse."

Said Burger: In the U.S. system, "everybody can talk, including those who have nothing to say."

ASKED ABOUT Attorney General Edwin Meese's call for a new Constitutional Convention, Burger noted Meese has the same First Amendment rights to express his opinions as any citizen, and he advocated public officials speaking out to raise



issues.

But Burger said, "There's no way to put a muzzle on a Constitutional Convention" to narrow its work to force Congress to balance the federal budget, as some have suggested.

"I would not favor... a Constitutional Convention to review the whole thing," said Burger, and called the plan "a grand waste of time."

The anniversary of the signing of the Constitution is Sept. 17, the date in 1787 that 39 of 55 delegates in Philadelphia affixed their John Hancock's to the document.

On Sept. 17, 1987, Burger will celebrate his 80th birthday.

He hopes to run the committee until 1991, when its mandate expires. And then?

"I'm going to take my wife to lunch."

EXHIBIT FS  
DATE 2/14/87  
HB 10

TESTIMONY OF  
LEWIS K. UHLER, PRESIDENT OF  
THE NATIONAL TAX LIMITATION COMMITTEE  
BEFORE THE LEGISLATURE OF THE  
STATE OF MONTANA  
FEBRUARY 16, 1987

Mr. Chairman, members of the committee:

I appreciate the opportunity to appear before you on the most important issue of our time - adoption of a Tax Limitation/Balanced Budget Amendment to the United States Constitution.

It might seem odd that the quest for a federal amendment to limit taxes and balance the budget would be fought not only on Capitol Hill in Washington but in state capitols, as well. Why is that being done?

When the Founding Fathers met in Philadelphia to shape the U.S. Constitution, they determined first that one of the fundamental flaws of the Articles of Confederation was that it required unanimity to amend the Articles. Recognizing that the people would want to correct the document from time to time, the Founders knew that they must provide for an amendatory process that was at once difficult, but not impossible. They wanted to assure the opportunity for amendment when the consensus for a particular change was high. They were equally intent on making sure that the amendment process was not so rigid that no changes, whether major or minor, could be made. That was the central

defect of the Articles of Confederation. Hence, they decided that approval or ratification of amendments would require only a three-fourths, rather than unanimous, vote of the states.

In addition to reducing the ratification rule, the Founders decided to provide two routes by which amendments could be proposed: (1) by a two-thirds vote of each body of Congress; and (2) through convention convened by Congress upon application of two-thirds of the states. Realizing that there may be some needed "corrections of errors" in the Constitution which sitting members of the U.S. Congress might resist, the framers provided co-equal authority to the states to force Congress to convene a constitutional convention for that purpose. Jefferson anticipated that the convention methods would be used with some frequency and considered the convention as a very important "safety valve" to protect the people from an abusive federal government.

Although we've not actually had a constitutional convention convened pursuant to Article V, the very fact that the procedure exists tends to keep Congress more honest and responsive. For example, early in this century - after years of resistance by the U.S. Senate to the direct election of U.S. Senators - states began to adopt resolutions calling on Congress to pass such an amendment or to convene a constitutional convention for the purpose of framing such an amendment. When the number of state resolutions was just one shy of the required two-thirds, the Senate finally capitulated, approved an amendment and sent it to the states for ratification. The Senators recognized that unless

they designed that amendment themselves, a convention might not "grandfather" them in for the balance of their terms.

Among the issues often raised are questions about Article V of the U.S. Constitution and its implications. To address these and other issues, I have selected a question-and-answer format:

Q. Opponents contend that there is no way to limit a convention; that the only kind of a constitutional convention that may be convened under Article V is an open convention that may consider all parts of the Constitution.

A. This claim is without foundation in terms of authority, historical precedent, common sense and political reality. The Founding Fathers intended to provide two co-equal methods by which amendments to the U.S. Constitution might be proposed. One was through Congress, and the other through the states. We know that Congress can and has proposed single, discreet amendments without opening up the entire Constitution to consideration of revisions. (Remember, whenever it is in session, Congress is a constitutional convention, since at any time that two-thirds of its members want an amendment, they can propose it.)

To be on an equal footing with Congress, the states must have the same discreet amendment authority. Furthermore, Article V refers specifically to the application of the various states as being the triggering device leading up to the convening of a convention: "... on the application of the legislatures of two-thirds of the several states, shall call a convention ...". Those resolutions are the very "foundation" upon which a convention would be constructed. If those resolutions say, as

they do in this instance, that the states want a convention for the "sole, limited and exclusive purpose of proposing a balanced budget amendment," the states are triggering a limited, not a general, convention. This is not to say that the states could not prompt the convening of a general convention, but they would have to do so pursuant to a convention call which explicitly states that objective.

It is clear that the Founders intended that the power to correct perceived errors be equal as between the federal government and the states. In the Federalist Paper #43, Madison states: "It [the power to amend the Constitution], moreover, equally enables the general and the state governments to originate the amendment of errors, as they may be pointed out by the experience on one side, or on the other."

Note that the key is "equally." The state route to constitutional change is a backstop, allowing the people to obtain amendments when Congress will not act. But historically, the state power that has been held in reserve fully matches the congressional power normally used.

Congress could rewrite the Constitution wholesale and submit it for ratification. So could a general convention called by the states. Congress could submit one or more discreet amendments. So can a limited convention called by the states.

There is a tremendous difference between a general convention and a limited one. Those who fear a balanced budget amendment deliberately confuse the two types of conventions. But anyone who approaches the subject with an open mind can see the

difference and recognize its importance, as described below.

Q. But what about the fact that Article V speaks of a convention to propose amendments (in the plural). Doesn't that support the idea that only an open convention is within the power of the states to call?

A. Note that the first portion of Article V speaks of amendments (in the plural), also. "The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution ..." Certainly no one would suggest that Congress may consider only multiple amendments at one time and not a single amendment. The use of the plural form was meant to accommodate multiple amendments, not command them. The use of the plural form with reference to a constitutional convention serves only to conform and make consistent the draftsmanship and to allow a convention to consider more than one amendment should that be the expressed desire of the states in their applications.

Alexander Hamilton's Federalist #85 sought to contrast the approval of the entire Constitution with the subsequent process of amending it after its adoption. He said, "But every amendment to the Constitution, if once established, would be a single proposition, and might be brought forward singly."

Q. Madison, who is believed by many to be the principal architect of the Constitution, is quoted as saying he would be fearful of any other constitutional convention. Did Madison really say that and feel that way?

A. Resorting to Madison's comments in this way is, at

best, misleading, at worst, deceitful. What is he quoted as saying? "It seems scarcely to be presumed that the deliberations of a new constitutional convention could be conducted in harmony or terminate in the general good. Having witnessed the difficulties and dangers experienced by the first convention, which assembled under every propitious circumstance, I should tremble for the results of a second."

The easiest way to misquote anyone is to use a correct quotation but deliberately ignore the context in which it was made. Madison made this statement, but he did so in direct reply to the anti-federalists who asked that the results of the Philadelphia convention be abandoned and a new convention be called. When a legislator moves to "recommit" a bill (to the committee from which it came), he often claims it is merely to "clean up" the bill or make improvements in it, but most often it is to kill the bill. So it is with the recommendation for a new convention, or "recommittal" of the Constitution. The proponents of that procedure knew it would kill the Constitution.

By quoting Madison out of context, the opponents of the balanced budget amendment make it appear that never again did he want the people to use their power to hold a convention. He did not say that; he did not mean that. Madison approved of the convention process as a means of amending the Constitution. He was speaking only about the proposal to abandon the original Constitution in favor of a new constitution.

Q. How can you stop a convention from having a broad scope, since the first convention was itself a "runaway"? It was

only supposed to revise the Articles of Confederation.

A. The first convention was not a "runaway" convention. Following the Annapolis convention of 1786, and pursuant to its recommendations, Congress convened another convention, resolving that such a convention appeared "to be the most probable means of establishing in these states a firm national government," and that a convention should be held "for the sole and express purpose of revising the Articles of Confederation and reporting to Congress and the several legislatures such alterations and provisions therein as shall, when agreed to in Congress and confirmed by the states, render the federal constitution adequate to the exigencies of government and the preservation of the Union."

The mandate to the convention was essentially wide open, as Madison himself argues forcefully and cogently in the Federalist #40. Furthermore, the convention reported its work back to Congress, which, in turn, submitted it to the states for ratification. Very clearly, the constitutional convention was convened purposely and explicitly as an "open convention," and it responded to that commission. Nevertheless, it did not presume to act independently of the body which commissioned it: the Congress. Rather, it urged Congress to make its handiwork the law of the land only following submission to and approval by three-fourths of the states.

Congress was at liberty to accept or reject the convention's recommendations in terms of both the substance of the changes and the procedure for their approval. Hence, it can



be safely said that the Founding Fathers themselves did not feel that they were somehow "above" or unrestrained by their convening authority. - Those who doubt this have not read George Washington's transmittal letter, nor the debate in the convention that led to that letter. There is simply no historical precedent whatever to suggest that a convention would seek to ignore its commission, run roughshod over its convening authority and arrogate unto itself the scope and authority beyond that possessed even by its creator.

There is a sound, clear historical reason for not calling the Philadelphia convention a "runaway." The records of that convention reveal that the delegates were well aware that the Articles of Confederation could not be amended by anything but unanimous consent of the states (that provision is found in Article XIII of the Confederation).

The delegates, therefore, decided after July 1787 that they would not even attempt to amend the Articles of Confederation. Instead, they wrote a new document in full recognition that if it were accepted, it would only apply "among the States so ratifying the same." Any states not ratifying would still be under the Articles of Confederation. And if too few states ratified, all of them would remain subject to the Articles of Confederation.

Remember, when the Constitution was written, it was possible for states to leave the Union of their own accord, whenever they chose to do so. It took the Civil War, almost a hundred years later, to settle the point that once a state joined

or process. I'm sure Jimmy the Greek could not begin to calculate how remote such odds might be.

Constitutional authority John C. Armor has summarized the process thusly:

"The sequence of events necessary for a 'runaway' Convention to occur, and for its rogue proposals to become law as part of the Constitution, require a long series of obvious failures by various parts of the governments of the United States. Critics on this point do not discuss these steps, because listing them makes the weakness of their argument apparent. Here are the necessary failures, in the necessary order, for a 'runaway' Convention to occur, and to have its proposals adopted as part of the Constitution:

1. Congress fails to act on the proposed amendment.
2. Congress calls for a Convention, but fails to limit its subject matter.
3. Any state, or possibly any individual, who feels that the Convention can and should be bound to limit, brings a legal challenge and the Supreme Court either fails to act, or rules that the Convention is unlimited.
4. The Convention actually passes proposed amendments that are beyond its subject matter.
5. Congress submits the excessive amendments for ratification.
6. Another Supreme Court challenge is brought and lost by a dissatisfied state or individual.
7. Three-fourths of the states, by either their

the United States, it could not later withdraw for any reason. The most authoritative study on the subject - done by the American Bar Association - concluded that a convention may be limited. Also, there have been over 200 constitutional conventions at the state level. Some state constitutions require conventions on a periodic basis. Delegates take their responsibilities seriously.

Opponents of the convention process have adopted a "Frankenstein-Monster" theory of constitutional conventions. Their fears are simply not supported by history, common sense or political reality. The specter of a runaway convention might make good science fiction copy and might feed some conspiratorial hankering, but where would a convention go with its work product if it "ran away?" Would it seek to ignore Congress and send its handiwork directly to the states for ratification? What state legislature is going to entertain seriously the ratification of some wild and woolly set of amendments that arrive in its chambers outside of the constitutionally-prescribed procedures? I believe that to state the proposition is to demonstrate its absurdity.

Those who are preoccupied with a "runaway convention" conveniently ignore the fact that the work product of a convention must be ratified by the legislatures of 38 states before it becomes law. So the "runaway convention" argument is very misleading. The dire results predicted by the purveyors of doom could not come from a "runaway convention" but from "runaway ratification" - a total failure of the entire amendatory system

legislatures or special conventions, as Congress has required, ratify the excessive amendments.

8. Another Supreme Court challenge is brought and lost by a dissatisfied state or individual.

"In short, for a new Convention to constitute a 'runaway,' and for those results to become effective parts of the Constitution, the following American political institutions have to fail their duties not once but repeatedly: both Houses of Congress, the Supreme Court, and the legislatures of three-fourths of the United States. The only group of political institutions which would not have to fail would be the Presidency and the governors of the various states, since these people are not part of the amendment or ratification processes.

"The question of whether it is theoretically possible for all of these failures to occur must be answered yes. But the question of whether it is likely, or even remotely possible, has a different answer. It is a firm no." (The Right of Peaceful Change: Article V of the Constitution, pp. 27, 28)

Q. There are those who claim that once 34 states petition Congress for a convention, Congress is obliged to convene it. Convening it is mandatory. There is no discretion, even though many of the resolutions expressly give Congress itself time to act on the amendment, and only if Congress fails to act do those resolutions call for a convention. How do you respond to this?

A. If a convention were automatically triggered by 34 resolutions, Congress long since would have had to convene a convention. Why? Because at the present moment there are

pending before Congress applications from 39 separate states calling for a constitutional convention. It just happens that only 32 of those applications are on the same subject - the balanced budget amendment. I believe the current situation demonstrates three important points:

\* First, the convention resolution process is not just a numbers game. You don't just count to 34. You must look at the resolutions and see what they say. To trigger the process, the applications must focus on the same issue or issue area. No one I know, even those who would love to see a wide open convention, have demanded that Congress convene a convention. This can mean only one thing: the subject matter of the resolutions does count.

What the states want, and how they frame their resolutions, is what triggers the process. The only thing Congress is "obliged" to do is to receive, peruse and be guided by the directives of the state resolutions. It is only the coincidence of 34 resolutions which refer to the same subject matter, the same timing and procedures that initiates the convention process.

\* Second, those who profess fear that a convention might "run away" are caught in a very uncomfortable contradiction. They certainly must acknowledge that Congress is under no duty to convene a convention until 34 resolutions on the same subject have been received. But once that threshold has been achieved, they contend, Congress can no longer be guided by those applications. Congress is obligated to convene a

convention that is entirely absent any guidelines as to subject matter or, for that matter, any rules as to its conduct, etc. While the Constitution is silent as to the details of a convention, it is very clear as to who has the responsibility to convene it and, therefore, to shape it - Congress. Congress, which has absolutely no institutional interest in convening a convention, let alone an open convention, will look to the resolutions and seek to make the scope of such a convention as narrow as possible.

The question of state calls for a constitutional convention goes to the heart of the difference between a general convention and a limited one. Clearly, the states have the power, if they so choose, to call for a general convention. It would be unlimited in subject matter and could do all that the Philadelphia convention did. Those who oppose the balanced budget amendment concede that the states can call for a general convention..

A limited convention, on the other hand, would be restricted to a certain subject. If, for instance, 34 states should decide that it was a good idea to reinstitute prohibition in the United States, they could call for a convention limited to the reconsideration of the 21st Amendment.

But, what if 210 states call for that, and 20 others call for a convention to reconsider the 19th Amendment, because they don't like the idea that women are able to vote? Can all those states be added together so a convention is therefore required?

The answer is absolutely not, and there are two ways to prove it.

In calling for a constitutional convention, the states are using an explicit power granted to them by the text of the Constitution. Acting in that way, the states are as much bound to obey the Constitution as are the President, the Congress, the Supreme Court, the Armed Forces, etc. They can only do what the Constitution allows them to do.

The power to call a convention is like the power to withdraw funds from a bank account. The owner can take all his money out, or only part of it. A total withdrawal is the use of the total power, meaning a general convention. But, if the states choose to use less than their total power, to make a partial withdrawal, unless 34 of them agree on the limits of what they are doing, nothing occurs.

The Senate has explicitly recognized the power of the states to call for a limited convention in its proposed Constitutional Convention Procedures Bill. This Bill specifies that Congress would first determine (as provided in Article V) that 34 states had requested a convention on a particular subject. Then, Congress would call the convention, limiting the delegates to the subject found in at least 34 state calls.

"The idea that the Congress, which does not want any amendments other than its own, would deliberately choose a process that was totally open, is theoretically possible, but politically frivolous." (The Right of Peaceful Change: Article V of the Constitution, p. 24)

\* Lastly, in reviewing the balanced budget amendment resolutions, Congress will find many of them an explicit grant of time (either specified or reasonable) following receipt by Congress of the 34 resolutions during which Congress may itself act on an amendment and obviate the need for a convention. If there were only one such "time capsule" resolution, it would have the effect of delaying the entire process, because there would not be 34 resolutions before Congress calling on it - now - to convene a convention. Once again, since the state resolutions are the engine that drives the convention process, the timing specified in those resolutions controls when Congress must act. And you can be sure Congress will not act before it must.

Q. Some people believe that in seeking a constitutional convention we are playing directly into the hands of a sinister, conspiratorial group, waiting in the wings for a constitutional convention. They plan to take charge of such a convention and use it to make massive fundamental changes in the structure of the U.S. Government, converting our Nation into a European parliamentary-style government.

A. These claims certainly bring the conspiracy theory behind a constitutional convention effort to new heights. If such a sinister plot existed, and if the people involved possessed the behind-the-scenes political clout suggested, they would long since have persuaded enough liberal state legislatures to approve the balanced federal budget state resolutions and would have manipulated the leadership of Congress to call an open convention with them in control.



From having been involved in the internal political combat in the legislatures of several states regarding the balanced federal budget resolution, I can assure you that the liberal forces are pulling all the stops in their efforts to prevent us from being successful. Now, either these liberal forces are unaware of the grand design for a formal reshaping of the government of the United States through a constitutional convention, or they don't believe it can happen. If this conspiracy were so well organized, deep rooted and politically powerful, certainly they could have arranged to have switched votes in our favor at the last minute, let us win in several more states so they could get on with their program to subvert a constitutional convention. From the results to date, it seems like a pretty ineffective conspiracy.

One of the many ways in which Washington, D.C., is not typical of the entire Nation nor of its citizens in general is the existence in the Capitol of an incredible variety of very small, very weak and very strange special interest groups. They all have letterheads; they all have offices; they all have conferences from time to time.

There are even groups in Washington who think that the United States should change its government to a constitutional monarchy. If one worries about strange proposals floating around Washington, one can waste a lifetime chasing ghosts. The key question is, which trees in this forest of odd ideas have anything remotely approaching the kind of support that history has demonstrated is necessary to amend the Constitution?

The latest experience with amendments that failed are the Equal Rights Amendment and the D.C. Representation Amendment. The latter failed so miserably that the press has not gotten around to reporting it in full. The former failed narrowly, but its history is very instructive.

Depending on the polls you consult, the E.R.A. had the support of upwards of 100 million Americans. Yet, it missed by several states from obtaining ratification. Something more than the support of 100 million Americans will be necessary to change the United States into a "parliamentary democracy." Those who advance the conspiracy theory can easily point to a few misguided eggheads and would-be scholars who favor the idea. They do have offices, and they have published a few papers.

But, this is the critical question: Where are the 100+ million supporters of this idea? Where are even a million? Even 100,000? The fact is, there aren't enough Americans who are dumb enough to favor such an idea to make even a tiny blip in the most biased public opinion poll.

Conspiracies without followers are like generals without troops. Even if they exist, they are irrelevant. At most, they are curiosities like the more exotic animals found in a zoo.

Q. If we succeed in getting resolutions from 34 states or maybe more, what would you expect Congress to do?

A. Initially, I suspect that some congressional leaders might try to "stonewall" the process by claiming that some of the resolutions are out of date, insufficiently precise, etc., trying

to make a case that there are not the necessary 34 valid applications. This would be a technical, legal response which might buy a little time. But in my judgment, political considerations and realities would soon dominate the action, giving the upper hand to those responsible members of Congress who want fiscal discipline and to other members who, though less concerned about true fiscal discipline, are very sensitive to the politics of the issue and would not want to be perceived by their constituencies as thumbing their noses at the will of the American people. Together they would bring pressure that would force Congress to take action.

Q. What action do you think Congress would take?

A. There isn't the slightest question that Congress, when actually confronted with the need to take action - either pass an amendment or convene a constitutional convention for that purpose - would opt for the former. After all, when push comes to shove, Congress would rather have a hand in shaping an amendment that will control its fiscal practices than turn that responsibility over to "mere" citizens. Congress' reaction to state resolutions regarding the direct election of U.S. Senators is very instructive here.

Those who are familiar with the thinking processes of legislators concur that Congress would dispatch the issue itself. It isn't a "runaway" convention that strikes terror in the hearts of legislators. It is the specter of a "roughshod" convention - one that might propose severe penalties for failing to balance the budget, such as deducting any deficit from the operating

budget of Congress, reducing congressional pay, slapping members in jail - or, worst of all, declaring all Senators and Representatives who presided over a deficit ineligible to run for re-election. I think the people of this country - and those elected to a convention - might be just angry enough to do something like this. The mere possibility that such might be the outcome assures that Congress itself would act.

The language of the Constitution itself contains the proof of this point. The third section of the 17th Amendment contains a grandfather clause to protect the incumbent, unelected Senators as long as possible against the ravages of facing the electorate. A convention to write the amendment would not have been so kind to the Senators as they were to themselves.

The very threat that Congress' failure to agree upon an amendment might necessitate convention is the best insurance that Congress will act. The real challenge to those of us fighting for the amendment will be to make sure that the design of the amendment is sound.

To repeat, I can't for the life of me see the U.S. Congress actually convening a convention on this issue, because we're talking about their life blood - money. They will dispatch the issue themselves.

#### CONCLUSION

Anyone who opposes the state resolution process must be prepared to accept blame for failure to achieve a balanced budget amendment, because the state process is essential to success. It is not enough to try to justify this opposition by claiming that

the convention process constitutes a risk. One must reject reason, precedent, common sense, the plain meaning of words, the intentions of the Founding Fathers, political reality, and enter a conspiratorial fantasyland to arrive at a scenario of risk. Concurrently, one must ignore a real risk - the risk that continued deficits, overspending and outlandish federal fiscal practices will permanently damage our Nation. It is time to join together to put an end to the real risk, rather than letting a phantom risk divide and conquer us.

Above all, we must remember that it was the Founding Fathers themselves who in their wisdom included in the Constitution the convention method of proposing amendments. They knew exactly what they were doing. They gave us the power to shape our own destiny. Why on earth should we reject it?



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STATEMENT OF  
JIM DAVIDSON, CHAIRMAN  
NATIONAL TAXPAYERS UNION  
on  
HOUSE JOINT RESOLUTION 10  
before the  
STATE ADMINISTRATION COMMITTEE  
MONTANA HOUSE OF REPRESENTATIVES

FEBRUARY 16, 1987

Mr. Chairman, and members of the Committee, thank you for the opportunity to testify on House Joint Resolution 10, a resolution which makes application for a limited federal constitutional convention to draft a balanced federal budget amendment. I appear on behalf of the 150,000 members of the National Taxpayers Union, including the 1,140 members who live in Montana. Since 1975, the National Taxpayers Union has been working on behalf of an amendment to require a balanced federal budget.

I would like to briefly review the status of the drive for a balanced budget amendment. Through the efforts of the National Taxpayers Union, concerned legislators and citizens, thirty-two state legislatures have passed resolutions which clearly call for a limited constitutional convention, if Congress fails to act, to propose a balanced federal budget amendment.

Resolutions similar to H.J.R. 10 are or will soon be pending in 17 of the 18 states that have not yet endorsed the amendment. (Kentucky is not in session in 1987.)

The national debt has now topped \$2,100 billion. Consider the following facts:

- \* The federal government has run deficits in 42 out of the last 50 years and 25 out of the last 26 years.
- \* The national debt has increased 632% since 1960, 292% since 1975, and 133% since 1980. The total debt now stands at 51.2% of our GNP.
- \* During the 1960's, deficits averaged \$6 billion per year. During the 1970's, deficits averaged \$35 billion per year. During the 1980's, deficits have averaged \$158 billion per year.

The 1986 deficit was \$220.7 billion. This was:

- \* the largest federal budget deficit in history.
- \* larger than the entire federal budget of 1971.
- \* 22.3% of federal spending.
- \* more than all the taxes collected by every state in the country in 1985.
- \* \$3,663 for each family of four.
- \* \$606 million per day.

In fiscal year 1986, interest payments for the national debt totalled \$190.2 billion. This was:

- \* the third largest item in the budget (19% of all federal spending).
- \* 96% of Social Security payments.
- \* \$3,155 per family of four.
- \* 70% of defense spending.
- \* \$362,000 per minute.

By restricting deficit spending, a balanced budget amendment would require Congress and the president to balance program benefits against tax costs. This will ensure that the president and Congress will make spending decisions in a neutral and accountable manner.

Approval of a balanced federal budget amendment would bring long-term federal fiscal responsibility. The effects of a constitutional amendment would be both real and symbolic. A heavy blow will be struck against high interest rates and unemployment.

The need for a balanced budget amendment.

Those who argue that deficits don't matter have failed to grasp the nature of our fiscal problem. It is not trivial. It is not self-correcting. It arises from the basic dynamics of the legislative process. Congressmen are rewarded for spending on behalf of small, organized constituencies at the expense of the large and unorganizable body of citizens. A program that takes a dime from every taxpayer could yield thousands of dollars to each member of a small group. That group will work hard to gain and keep the money. No one will work hard to save a dime.

Of course, the money to pay for this spending has to come from some place. Even nickels and dimes add up. The people who are asked to pay through ever-increasing taxes don't want to. The president and Congress attempt to resolve this hopeless contradiction by resorting to deficits. That's why we have a

\$2.1 trillion-dollar national debt and federal borrowing that absorbs the lion's share of funds raised in U.S. credit markets.

Deficits at the current level cannot continue without driving the nation into bankruptcy. Yet even the recognition that the system is headed for bankruptcy will not necessarily reduce the pressure to spend. To see why, consider this analogy. Simply give everyone in the hearing room an American Express card with the same account number. Every cardholder would evenly split the total bill each month. Under those circumstances, how would the rational person behave? He would buy everything in sight, even if he recognized that the whole group was headed for the poorhouse. Anyone who refrained from spending would gain nothing. He would be no less bankrupt than the others. He would have simply enjoyed fewer benefits along the way.

So it is in Congress. Any one member who votes to cut every spending program will probably not have an effect on the budget deficit. But that legislator will make virtually every special interest group mad. As long as congressmen respond rationally to incentives, overspending is the only outcome to be expected, with deficits mounting to disastrous levels.

Today you are considering whether to join the legislatures in 32 other states in demanding that Congress operate on a balanced budget. I cannot overstate the historic importance of this decision. It will shape the course of our Federal and State governments through the 1980's and beyond.

With the measure before you today, the people are once again asking for your help. The rest of the nation is watching to see whether you are listening.

The issue is whether the people of Montana, acting through their State Legislature, believe a constitutional amendment should be adopted requiring a balanced Federal budget.

As you know, Article V establishes two methods for proposing amendments to the Constitution. One method authorizes two-thirds of both houses of the Congress to draft amendments to be offered to the states. The second method allows the people upon application of two-thirds of the State Legislatures, or 34 states, to force Congress to convene a constitutional convention to submit an amendment for the states to consider.

#### A Limited Constitutional Convention: A Safe Way to Proceed

The Founding Fathers had no way of predicting the current irresponsible spending policies of Congress. Yet although they could not foretell the



future, they were men of great wisdom. They did foresee the possibility that Congress might fail the people. It is for that reason that Article V of the U.S. Constitution enables states to amend the Constitution--if Congress fails to act--by calling a limited constitutional convention, on a balanced federal budget amendment.

As the drive for a convention nears success, Congress will probably propose the amendment on its own, and no convention will be necessary. This has happened before. Congress proposed an amendment in 1912 to provide for the direct election of U.S. Senators only after 31 of the 32 states, then required, had called for a convention. Today it's clear that Congress will not propose a balanced budget amendment unless the states again call for a limited convention.

The Montana Legislature has, in fact, made at least thirteen requests, to date, for Congress to convene a constitutional convention. Montana was part of the historic drive for a convention to propose an amendment providing for the direct election of U.S. Senators.

You will undoubtedly hear claims that a constitutional convention could somehow "runaway."

What the opponents seldom say, however, is that most impartial experts see nothing to fear from a convention. A two-year special constitutional convention study committee commissioned by the American Bar Association, which included the Dean of the Harvard Law School and other leading constitutional experts, unanimously concluded that a convention could be limited. Former U.S. Attorney General Griffin B. Bell has said "I think the convention can be limited ... the fact is that the majority of the scholars in America share my view."

**There are eight checks on a constitutional convention.**

Before a limited constitutional convention could succeed in adding any amendment to the Constitution, eight things have to happen.

1. **Congress could avoid the convention by acting itself.** The Congress has the option of proposing such an amendment itself. The odds are overwhelming that the Congress would prefer to do so. Why? Because the Congress would rather live with an amendment which its members drew up themselves than one which was drafted by others. Furthermore, if a convention were successfully held, it would weaken the powers of the Congress. This is something which few of the members of Congress want. Congressmen do not want to see convention delegates elected from their home districts -- delegates who

might later decide to challenge them for reelection.

2. **Congress establishes the convention procedures.** Any confusion about how a convention would operate would be the fault of Congress. Congress has the power to determine exactly under what conditions the delegates would be chosen, when the election of delegates would be held, where they would meet, and how they would be paid. Congress can and will limit the agenda of the convention. All 32 state convention calls on the balanced budget issue are limited to that topic and no other.

3. **The delegates would have both a moral and legal obligation to stay on the topic.** There is a long history in the United States of individuals limiting their actions to the job for which they were chosen. Members of the Electoral College could, if they wished, elect anyone to be the President of the United States, even someone who was not a candidate and had received no popular votes. Yet this has never happened. There have been 19,180 electors since 1798 and only seven have voted for a candidate other than the one for whom they were elected. The odds against delegates to a convention behaving differently would be astronomical.

Legislation unanimously approved by the Senate Judiciary Committee in the last Congress would limit the convention to one subject. Similar legislation has been passed by the Senate twice on unanimous votes.

4. **The voters themselves would demand that a convention be limited.** Many groups say they oppose an unlimited constitutional convention. So do advocates of the balanced budget amendment. If this is the majority opinion, as it seems to be, it is reasonable to expect that delegates elected to a convention would reflect that view. Certainly if a convention were to be held, every candidate would be asked whether he favored limiting the convention to the subject of the call. Even if the voters in some areas did favor an open convention, or some candidates lied and were elected, it is still improbable that a majority of delegates would be elected who favored opening the convention to another issue when the majority of voters do not.

5. **Even if delegates did favor opening the convention to another issue, it is unlikely that they would all favor opening it to the same issue.** Opponents of the constitutional convention call on the balanced budget amendment have listed dozens of issues which they allege might be brought up at a constitutional convention. There have been allegations that the Bill of Rights would be tampered with, that amendments would be inserted banning abortion, or doing other things which polls show a majority of citizens oppose. Yet those

who raise these fears have never offered any analysis of where support for such propositions would come from. Consequently, even if it were true that some delegates to a convention would favor reviving the ERA, and others might favor banning abortion, that does not mean that either group would be likely to control a convention. The odds are against it.

**6. The Congress would have the power to refuse to send a nonconforming amendment to ratification.** As the American Bar Association indicated in its study of the amendment by the convention mode, the Congress has yet another way of preventing a runaway amendment. It could simply refuse to send such an amendment to the states for ratification.

**7. Proposals which stray beyond the convention call would be subject to court challenge.** Leaders in legislatures which have petitioned for a constitutional convention on the balanced budget issue have indicated that they would institute court challenges to any proposal which went beyond their original call. According to the American Bar Association, such challenges are possible to convention-proposed amendments, but not to those which originate in the Congress. There is an excellent chance that the Supreme Court would prohibit a stray amendment from being sent to the states for ratification.

**8. Thirty-eight states must ratify.** The final and greatest check against a runaway convention is the fact that nothing a convention would propose could become part of the Constitution until it was ratified by 38 states.

As I go around the nation, giving speeches and talking to people on this issue, the most misplaced argument against the balanced budget convention call resolutions is the claim that somehow this convention is an evil, malignant, malicious force that in and of itself can go to work and destroy the Bill of Rights or do other harmful things.

Never, never, ever do the opponents of the convention method level with the people and tell them of the excellent check and balance of ratification. People who have worked on the ERA and District of Columbia voting rights amendment know how difficult it is to get 38 states to ratify an amendment to the Constitution. So if I were to grant opponents the premise that the constitutional convention could run amuck, that it could do these terrible things, I would say to them that there's no way that 38 state legislatures would ratify the action of that convention.

In many respects, the convention method of amending the Constitution has far more safeguards than the congressional method. Congress is, after all, an unlimited constitutional convention. It can propose amendments at will. But

a convention cannot be called unless 34 state legislatures make a formal application. In this respect, the convention route requires true public support, while the congressional route does not.

However you calculate the odds, the danger of a convention "running away" is slight. Much less remote is the danger to our country of continued, runaway deficit spending. Staggering deficits stretch out on the horizon as far as the eye can see. Deficits which mean high interest rates. More inflation. Or both. We would be fools if we attempted to prove that America would be the exception to the rule that protracted financial turmoil weakens and eventually destroys free institutions. The best way to preserve our constitutional order which we all cherish is a constitutional amendment to bring runaway federal deficits under control.



# MONTANA TAX FOUNDATION, INC.

P.O. BOX 4909 1706 NINTH AVE. 406/442-2130 HELENA, MONTANA 59604

WILLIAM G. STERNHAGEN  
CHAIRMAN, BOARD OF DIRECTORS  
S. KEITH ANDERSON  
PRESIDENT

## FEDERAL BUDGET RECEIPTS OUTLAYS, AND SURPLUS OR DEFICIT 1929 - 1987

Fiscal Year	Receipts	Outlays	Surplus-Deficit	% of Receipts
1929	\$ 3,862	\$ 3,127	\$ 735	19.03
1930	4,058	3,320	738	18.19
1931	3,116	3,577	-461	14.79
1932	1,924	4,659	-2,735	142.15
1933	1,997	4,598	-2,601	130.25
1934	3,015	6,645	-3,630	120.40
1935	3,706	6,497	-2,791	75.31
1936	3,997	8,442	-4,445	111.21
1937	4,956	7,733	-2,777	56.03
1938	5,588	6,765	-1,177	21.06
1939	4,979	8,841	-3,862	77.57
1940	6,548	9,468	-2,920	44.59
1941	8,712	13,653	-4,941	56.71
1942	14,634	35,137	-20,503	140.11
1943	24,001	78,555	-54,554	227.30
1944	43,747	91,304	-47,557	108.71
1945	45,159	92,712	-47,553	105.30
1946	39,296	55,232	-15,936	40.55
1947	38,514	34,496	4,018	10.43
1948	41,560	29,764	11,796	28.38
1949	39,415	38,835	580	1.47
1950	39,443	42,562	-3,119	7.91
1951	51,616	45,514	6,102	11.82
1952	66,167	67,686	-1,519	2.30
1953	69,608	76,101	-6,493	9.33
1954	69,701	70,855	-1,154	1.66
1955	65,451	68,444	-2,993	4.57
1956	74,587	70,640	3,947	5.29
1957	79,990	76,578	3,412	4.27
1958	79,636	82,405	-2,769	3.48
1959	79,249	92,098	-12,849	16.21
1960	92,492	92,191	301	.33
1961	94,389	97,723	-3,334	3.53
1962	99,676	106,821	-7,145	7.17
1963	106,560	111,316	-4,756	4.46
1964	112,613	118,528	-5,915	5.25
1965	116,817	118,228	-1,411	1.21
1966	130,835	134,532	-3,697	2.83
1967	148,822	157,464	-8,642	5.81
1968	152,973	178,134	-25,161	16.45
1969	186,882	183,640	3,242	1.73
1970	192,812	195,649	-2,837	1.47
1971	187,139	210,172	-23,033	12.31
1972	207,309	230,681	-23,372	11.27
1973	230,799	245,707	-14,908	6.46
1974	263,224	269,359	-6,135	2.33
1975	279,090	332,332	-53,242	9.08
1976	298,060	371,779	-73,719	4.73
1977	355,559	409,203	-53,644	5.09
1978	399,740	458,729	-59,168	4.80
1979	463,302	503,464	-40,162	8.67
1980	517,112	590,920	-73,808	4.27
1981	599,272	678,209	-78,936	13.17
1982	617,766	745,706	-127,940	20.71
1983	600,562	808,327	-207,764	4.59
1984	666,457	851,781	-185,324	7.81
1985	734,057	945,987	-211,931	28.87
1986	769,091	989,789	-220,698	28.70
1987Est	842,390	1,015,572	-173,182	20.56

Source: Office of Management & Budget, Budget of the United States Government, Fiscal year 1987. Data for 1929-39 are from the Administrative Budget, and that for 1940-87 from the Unified Budget.

## FEDERAL, STATE, and LOCAL DEBT Selected Years - 1929 - 1987

Fiscal Year	Gross Federal Debt	Total State Debt	Total Local Debt	As a Percent of GNP		
				Gross Federal Debt	Total State Debt	Total Local Debt
	Amount (In Billions)			As a Percent of GNP		
1929	\$16.9	\$2.3	\$14.2	16.9	2.3	14.2
1939	40.4	3.5	16.6	46.1	4.0	18.9
1949	252.8	4.0	16.9	96.6	1.5	6.5
1954	270.8	9.6	29.3	74.5	2.6	8.1
1959	284.7	16.9	47.2	60.4	3.6	10.0
1964	316.8	25.0	67.2	51.4	4.1	10.9
1969	367.1	39.6	94.0	40.6	4.4	10.4
1970	382.6	42.0	101.6	39.8	4.4	10.6
1971	409.5	47.8	111.0	40.2	4.7	10.9
1972	437.3	54.5	120.7	38.6	4.9	10.7
1973	468.4	59.4	129.1	37.3	4.7	10.3
1974	486.2	65.3	141.3	35.2	4.7	10.2
1975	544.1	72.1	149.1	36.5	4.8	10.0
1976	631.9	84.4	155.7	38.7	5.2	9.5
1977	709.1	90.2	167.3	38.0	5.0	9.2
1978	780.4	102.6	177.9	38.2	5.0	8.7
1979	833.8	111.7	192.4	36.4	4.9	8.4
1980	914.3	122.0	213.6	36.2	4.8	8.5
1981	1,003.9	134.8	229.1	35.9	4.8	8.2
1982	1,147.0	147.5	251.8	38.1	4.9	8.4
1983	1,381.9	167.3	287.2	41.3	5.1	8.6
1984	1,576.7	186.4	318.7	42.8	5.2	8.7
1985	1,827.5	206.5	352.5	47.1	5.3	9.1
1986Est	2,129.6	229.2	391.3	51.9	5.6	9.5
1987Est	2,470.3	254.4	434.3	56.1	5.8	9.9

Source: Tax Foundation Inc.

## FEDERAL, STATE and LOCAL EXPENDITURES Per Capita and Percentage Distribution (a) Selected Fiscal Years 1950 - 1986

Year	Per capita				Percentage distribution			
	Total	Federal	State	Local	Total	Federal	State	Local
1950.....	\$ 468	\$ 298	\$ 85	\$ 85	100.0	63.7	18.2	18.1
1952.....	646	463	86	97	100.0	71.7	13.4	15.0
1953.....	700	509	90	102	100.0	72.7	12.8	14.5
1954.....	696	486	99	112	100.0	69.8	14.2	16.0
1955.....	679	451	107	122	100.0	66.3	15.7	18.0
1956.....	697	458	111	129	100.0	65.6	15.9	18.5
1957.....	742	484	121	138	100.0	65.2	16.3	18.6
1958.....	784	500	136	148	100.0	63.8	17.3	18.9
1959.....	833	534	143	155	100.0	64.2	17.2	18.6
1960.....	846	544	140	152	100.0	64.3	16.5	19.1
1961.....	908	577	155	175	100.0	63.6	17.1	19.3
1962.....	955	615	158	182	100.0	64.4	16.6	19.1
1963.....	988	634	170	184	100.0	64.2	17.2	18.6
1964.....	1,034	663	176	195	100.0	64.1	17.0	18.9
1965.....	1,069	676	186	207	100.0	63.3	17.4	19.4
1966.....	1,155	735	201	219	100.0	63.6	17.4	19.0
1967.....	1,311	849	229	233	100.0	64.7	17.5	17.8
1968.....	1,423	929	252	242	100.0	65.3	17.7	17.0
1969.....	1,538	978	282	277	100.0	63.6	18.3	18.0
1970.....	1,643	1,027	319	297	100.0	62.5	19.4	18.1
1971.....	1,801	1,102	370	328	100.0	61.2	20.5	18.2
1972.....	1,924	1,168	392	365	100.0	60.7	20.3	19.0
1973.....	2,089	1,304	419	366	100.0	62.4	20.1	17.5
1974.....	2,270	1,401	477	392	100.0	61.7	21.0	17.3
1975.....	2,639	1,604	576	459	100.0	60.8	21.8	17.4
1976.....	2,921	1,822	597	502	100.0	62.4	20.4	17.2
1977.....	3,156	1,997	639	520	100.0	63.2	20.3	16.5
1978.....	3,429	2,198	688	543	100.0	64.1	20.1	15.8
1979.....	3,797	2,444	769	584	100.0	64.4	20.3	15.4
1980.....	4,243	2,724	849	670	100.0	64.2	20.0	15.8
1981.....	4,860	3,142	966	753	100.0	64.6	19.9	15.5
1982.....	5,342	3,447	1,061	834	100.0	64.5	19.9	15.6
1983.....	5,772	3,729	1,127	918	100.0	64.6	19.5	15.9
1984.....	6,046	3,925	1,158	966	100.0	64.9	19.1	16.0
1985.....	6,622	4,315	1,281	1,027	100.0	65.2	19.3	15.5
1986.....	7,105	4,660	1,357	1,088	100.0	65.6	19.1	15.3

Source: Department of Commerce, Bureau of the Census; and Tax Foundation Inc.  
(a) Grants-in-aid and other intergovernmental payments are counted as expenditures of the first disbursing unit.

EXHIBIT #7  
DATE 3/16/87  
HB 10

WILLIAM G STERNHAGEN  
CHAIRMAN, BOARD OF DIRECTORS  
S KEITH ANDERSON  
PRESIDENT

# MONTANA TAXPAYERS Association



P O BOX 4909

1706 NINTH AVENUE

HELENA MONTANA 59604

406 442 2133

FEBRUARY 16, 1987

IN SUPPORT OF:

HOUSE JOINT RESOLUTION No. 10  
S. KEITH ANDERSON, PRESIDENT  
MONTANA TAXPAYERS ASSOCIATION

THE FIRST SENTENCE OF HJR 10 STATES THE MAJOR ECONOMIC ISSUE THAT FACES THIS NATION TODAY: CONGRESS IS UNWILLING OR UNABLE TO DEAL WITH THE ALARMING GROWTH OF THE FEDERAL DEFICIT.

DURING WORLD WAR II THIS NATION HAD BUDGET DEFICITS---SMALL COMPARED WITH THE BILLIONS OF TODAY. DURING A WAR FOR SURVIVAL, THIS COULD BE EXPECTED. FOLLOWING WORLD WAR II WE HAD THREE YEARS WITH A BUDGET SURPLUS. SINCE 1950, OR DURING THE LAST 36 YEARS, THERE HAS BEEN ONLY FIVE YEARS THE FEDERAL GOVERNMENT HAS OPERATED AT A SURPLUS. SINCE 1950 THE FEDERAL DEBT HAS INCREASED FROM \$255.9 BILLION TO AN ESTIMATED \$2.5 TRILLION DOLLARS FOR 1987.

THE FISCAL NORM OF A BALANCED BUDGET, ONCE AN UNWRITTEN PART OF OUR CONSTITUTION, NO LONGER OPERATES TO RESTRAIN FEDERAL SPENDING. TO MANY MEMBERS OF THE CONGRESS, WHO APPEAR TO BE REASONABLE AND FISCALLY SOUND PEOPLE AT HOME, ARE SWEEPED UP IN THE UNRELENTLESS DRIVE OF THE SPECIAL INTEREST GROUPS FOR MORE AND MORE FEDERAL SPENDING. THE INHERENT BIAS OF THE BUDGETING PROCESS TILTS IN FAVOR OF THE POWERFUL AND WELL FINANCED SPECIAL INTEREST GROUPS AND AWAY FROM THE GENERAL TAXPAYER. THE VOICES OF THE SPECIAL INTEREST GROUPS, MANY WHO ARE OPPOSING A MANDATED BALANCED FEDERAL BUDGET, DOMINATE WASHINGTON BUT

THE AVERAGE TAXPAYER, TRYING TO HOLD A JOB, EDUCATE A FAMILY AND PAY THE MONTHLY BILLS IS NOT IN A POSITION TO EXERT PRESSURE ON CONGRESS ON BEHALF OF FISCAL SANITY.

THE SITUATION THAT EXISTS TODAY ESSENTIALLY ENCOURAGES MEMBERS OF CONGRESS TO SATISFY THESE SPECIAL INTEREST GROUPS AT THE EXPENSE OF THE GENERAL TAXPAYER. THERE IS CLEARLY A FUNDAMENTAL AND SYSTEMATIC BIAS IN OUR POLITICAL SYSTEM IN FAVOR OF THE SPENDERS AND AGAINST THE TAXPAYERS. THIS BIAS IS ENCOURAGED BY THE FACT THAT IT HAS BEEN UNNECESSARY FOR THE CONGRESS TO MAKE EVIDENT THE CONSEQUENCE OF ITS AGGREGATE SPENDING DECISIONS BY STATUTORILY INCREASING TAXES AND FACING THE VOTERS DURING ELECTION TIME. AS IT IS, HIDDEN TAX INCREASES HAVE OCCURRED AUTOMATICALLY AS A RESULT OF THE PROGRESSIVE FEDERAL TAX STRUCTURE COUPLED WITH INFLATION. EVEN WITH THESE INCREASES THE CONGRESS HAS FAILED TO BALANCE THE BUDGET. FEDERAL REVENUE HAS INCREASED FROM \$94.4 BILLION TO \$769.1 BILLION IN THE LAST TWENTY-FIVE YEARS AND THERE HAS ONLY BEEN THREE YEARS WHEN THERE HASN'T BEEN A REVENUE INCREASE.

THE SPENDING BIAS SO INHERENT IN THE POLITICAL PROCESS CANNOT BE OVERCOME BY STATUTE. IT WOULD BE GREAT IF CONGRESS WOULD HAVE THE FORTITUDE TO BALANCE THE BUDGET ON THEIR OWN, BUT THEY AREN'T GOING TO DO SO UNLESS FORCED TO. CONGRESS, AS A BODY, LACKS THE INTERNAL DISCIPLINE TO GOVERN THIS NATIONS FISCAL AFFAIRS. AS A RESULT IT IS NECESSARY TO IMPOSE UPON CONGRESS A CONSTITUTIONAL REQUIREMENT THAT

THE FEDERAL BUDGET BE BALANCED WITH CERTAIN EXCEPTIONS AS MANDATED IN THE ACT.

MILTON FRIEDMAN, NOBEL LAUREATE ECONOMIST, PUTS IT THIS WAY:  
WE ARE FACING A FATEFUL CHOICE AS A NATION. IF WE CONTINUE ALONG THE PATH TO A BIGGER AND BIGGER GOVERNMENT THAT SPENDS MORE AND MORE OF OUR INCOME ON OUR BEHALF AND CONTROLS MORE AND MORE OF OUR LIVES, WE SHALL DESTROY THE FREEDOM AND THE PROSPERITY THAT HAVE MADE THE UNITED STATES A MAGNET TO THE POOR AND OPPRESSED OF THE EARTH.

I BELIEVE THAT THE ONE STEP THAT CAN DO MORE THAN ANY OTHER TO REVERSE THE TREND TOWARD BIGGER GOVERNMENT IS TO LIMIT THE AMOUNT THAT GOVERNMENT CAN SPEND. WE SHOULD GIVE GOVERNMENT A LIMITED BUDGET, JUST AS YOU AND I HAVE A LIMITED BUDGET. AND THE MOST PROMISING WAY TO DO THAT IS THROUGH A CONSTITUTIONAL AMENDMENT.

DR. FRIEDMAN CONCLUDES, I KNOW OF NO PUBLIC MOVEMENT THAT OFFERS GREATER HOPE THAT OUR CHILDREN WILL BE ABLE TO ENJOY AS FREE A SOCIETY AS WE WERE PRIVILEGED TO INHERIT. THAT MOVEMENT IS GAINING STRENGTH AS MORE AND MORE AMERICANS RECOGNIZE THAT BIG GOVERNMENT IS THE PROBLEM, RATHER THAN THE ANSWER. WE HAVE A RARE OPPORTUNITY TO ACHIEVE A REAL BREAKTHROUGH.

MONTANA, THROUGH HJR 10, HAS A RARE OPPORTUNITY TO SERVE THIS NATION BY HASTENING THIS BREAKTHROUGH.

I URGE YOUR SUPPORT OF THIS RESOLUTION.



NAME: Mavis Taylor DATE: 2/16/87

ADDRESS: Helena

PHONE: 442-3420

REPRESENTING WHOM? Nat. Stagnowers Assn.

APPEARING ON WHICH PROPOSAL: HSR-10

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENT: our association as well as our National organization, the National  
Cottlemans Assn. strongly supports this issue. The simple fact that  
this requirement would reduce the Federal government's presence in the  
money market will serve to reduce interest rates.

It makes no sense to us for the Federal Congress to not have to meet  
the same fiscal requirements that this legislature imposes on itself.

This amendment will provide all Americans some protection  
against unlimited spending, taxes and public debt by our Federal  
Government.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



MONTANA  
ASSOCIATION  
OF REALTORS®

EXHIBIT #9  
DATE 2/16/87  
HB 10

EXECUTIVE OFFICE  
910 HELENA AVENUE  
HELENA, MONTANA 59601  
TELEPHONE: (406) 443-4032  
IN MONTANA CALL TOLL FREE  
1-800-421-1864

Members of the State Administration Committee  
of the Montana House of Representatives

Testimony

January 16, 1987

The MONTANA ASSOCIATION OF REALTORS® supports HJR 10. We have attached a copy of the policy of the NATIONAL ASSOCIATION OF REALTORS® regarding the need for an amendment to the U.S. Constitution which would require a balanced federal budget.

We urge this committee and the Montana Legislature to join thirty-two other states in this call for a Constitutional Convention to accomplish this.

1987 STATEMENT OF POLICY  
and Position on Current Issues

adopted at the

NATIONAL ASSOCIATION OF REALTORS®  
Annual Convention November 11, 1986

PUBLIC POLICY - FEDERAL SPENDING

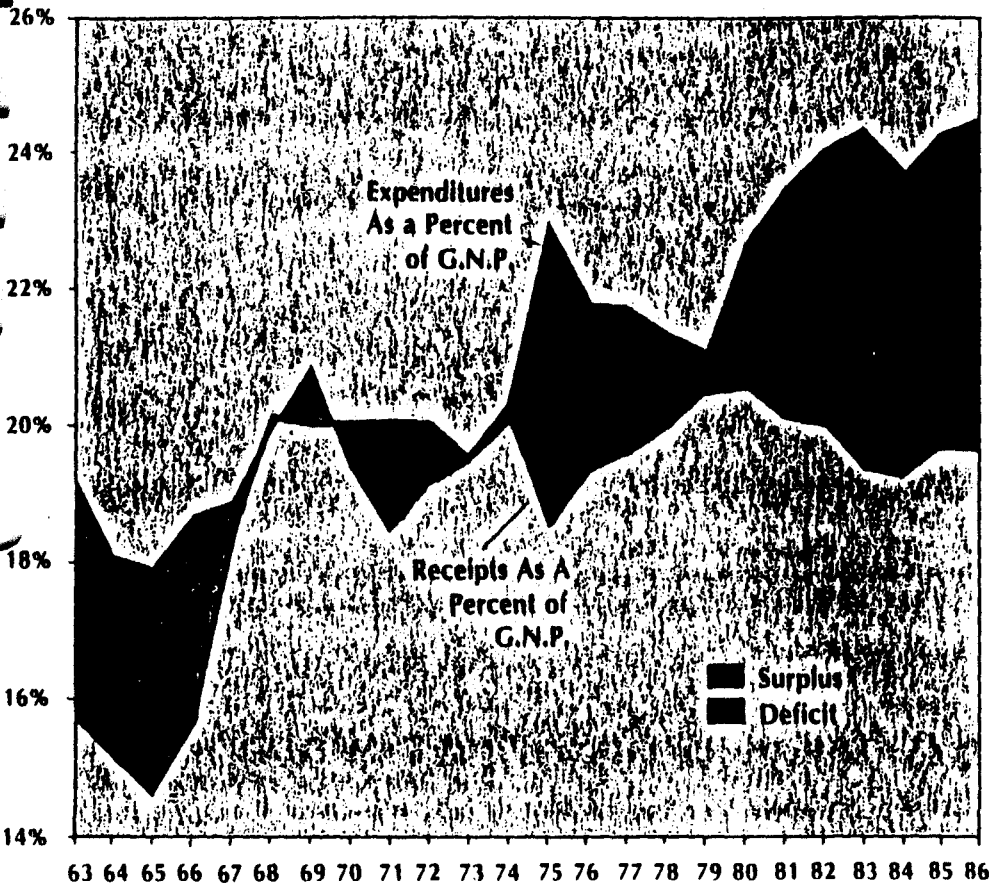
The Federal Budget

- The nation's economic health is threatened by a continuation of enormous deficits and the burden of servicing the expanding debt. This contributes to a fear of future inflation which keeps long-term interest rates higher than the current rate of inflation would indicate is necessary. This excessive demand for funds by the Federal government reduces savings available for private use thus inhibiting economic growth.
- The Administration and the Congress must emphasize restraint in the growth in all categories of federal spending to achieve eventually a balanced budget.
- Tax increases should be considered only if all spending reductions prove insufficient to reduce significantly deficits and any such increases must not create disincentives to savings and investment.
- A program to reduce the national debt must be formulated and implemented.
- Currently, Congress can ignore Presidential attempts to stop spending for programs the Administration feels are unnecessary. We believe Congress should be required to vote on these Presidential attempts by way of a workable line-item veto procedure.
- Achieving balance of trade is essential to a healthy economy if achieved through fair and equitable trade policies and practices.

Constitutional Amendment on the Budget

- In order to achieve and maintain necessary Federal spending restraint, we support the congressional initiation and the States' ratification of a Constitutional amendment.
- Such an amendment should require a balanced budget unless 60 percent of each House of Congress by a recorded vote allow a deficit. If possible, legislative revenue increases to balance the budget should also require a recorded vote by 60 percent of both Houses. To pressure Congress to pass a Constitutional amendment, states should be encouraged to pass resolutions calling for a Constitutional Convention for a Budget Amendment.

# Federal Receipts and Expenditures (As a Percent of the Gross National Product)



#10  
2/16/87  
0

# KING & SPALDING

1730 PENNSYLVANIA AVENUE, N. W.

WASHINGTON, D. C. 20006-4706

202/737-0500

2500 TRUST COMPANY TOWER

ATLANTA, GEORGIA 30303

404/572-4600

TELECOPIER: 202/737-5714

February 13, 1987

The Honorable Walter Sales  
Chairman  
State Administration Committee  
Montana House of Representatives  
Capitol Station  
Helena, MT 59620

Dear Mr. Sales:

I'm sorry I cannot attend the hearing on the proposed balanced federal budget amendment resolution (H.J.R. 10), which I strongly support. Please share this letter with your colleagues on the committee.

Like most Americans, I am deeply concerned about the federal government's continuing failure to control the budget. The gross interest payments on the federal debt in 1986 totalled 190 billion dollars -- larger than all the receipts collected by the federal government in 1971. The fundamental problem is that no counterforce exists, as it does in the states, against the special interest groups that are the driving force behind spending beyond what we can afford. I agree that we need a balanced budget amendment to institute long-term control over federal fiscal practices.

If you accept the need for a balanced federal budget amendment, then you, acting with your colleagues in the Legislature, have only one power to obtain it. That is by petitioning Congress to call a limited constitutional convention to draft a balanced budget amendment, as provided by Article V.

Writing in The Federalist No. 43, James Madison said that Article V "equally enables the general and the state governments to originate the amendments of errors as they may be pointed out by the experience on one side or on the other...." Certainly the states have had a long and successful experience with limitations on state deficits.

Opponents of balancing the federal budget have tried to raise fears about a runaway constitutional convention. These fears are groundless. A convention can and would be limited.

Applying to Congress for a convention on a balanced budget amendment is just the first of five steps. Each step has its own checks and balances.

First, two-thirds, or thirty-four, of the states must apply to Congress for a constitutional convention. All thirty-two resolutions adopted to date explicitly limit the scope of the convention to the sole and exclusive purpose of the balanced budget amendment.

Second, if the required number of states apply for a convention, Congress has the power to call and limit the convention to the subject of the states' request. In the last Congress, the United States Senate Judiciary Committee unanimously approved a bill to provide limits and procedures for a constitutional convention. The Committee report on the bill said that the Committee "adopts the view that a constitutional convention can be limited in its authority and these limits can be enforced by the Congress." Similar bills were unanimously approved by the U.S. Senate in 1971 and 1973, and were based upon the work of former Senator Sam J. Ervin, Jr.

The Senate Judiciary Committee also noted that section 10 of the bill makes the convention "subject to the limitations of its constitutional charter - the concurrent resolution by Congress - which itself merely reflects the intent of two-thirds of the states in applying for the convention in the first place."

Third, when the convention meets, there will be enormous pressure to stay on the subject. If the convention's proposal is to be ratified by the states, the convention must keep to the subject approved by the states and by Congress. Any other proposed amendments would generate intense controversy and doom the prospects for ratification.

Fourth, the Congress would review the convention's work. The Committee report notes that "a convention which proposed an amendment not within its charter...would be subject to the sanctions contained in section 11...."

Article V of the U.S. Constitution provides for two modes of ratification, either by state legislatures or by special conventions to be held in the states. The choice of the mode of ratification is left to Congress, not the convention. It is at this point that Congress would have the power to review the convention's work. The Committee says that if the convention does act beyond the scope of its authority, "the Congress may by concurrent resolution so state and refuse to direct the submission of any such amendment or amendments to the States."

As provided for by the Constitution, and by the Senate Judiciary Committee bill, the U.S. Supreme Court would have the power to review and set aside actions by the convention that were beyond the proper subject. Any state would have the power to bring an action in the U.S. Supreme Court.

These limitations are appropriate, adequate and responsible.

The fifth and final step in the process is ratification by three-quarters, or 38, of the 50 states. Thirty-eight states are not about to ratify any proposal that harms our fundamental constitutional protections and guarantees.

In our original Constitution, senators were appointed by the state legislatures rather than elected by the people. At the turn of the twentieth century, the people concluded that senators should be elected, not appointed. Even though the U.S. House of Representatives repeatedly

approved a constitutional amendment providing for direct election of senators, the Senate never acted.

The people then turned to their state legislatures and persuaded 31 states to act, one short of the number required at the time. At that point, the Senate read the handwriting on the wall and passed the amendment.

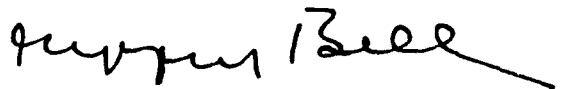
This is precisely what the Founding Fathers had in mind. They provided for amendment through action of the state legislatures to deal with those situations in which Congress was part of the problem and would not act. That situation prevailed in 1912. It prevails equally today.

Many of the other state resolutions note that if Congress passes the balanced federal budget amendment, then a convention is not needed. I don't think there will be a Balanced Budget Constitutional Convention. Congress is jealous of its power to amend the Constitution. It could not stand the thought of the states demanding and writing an amendment to limit its spending power. Congress knows that once that precedent has been set, there will be less reluctance among state legislators to use their Article V power again in the future.

Members of the U.S. House of Representatives especially fear the election of a convention delegate from their congressional district - someone who may challenge them for re-election.

I predict that, as it did on the issue of the direct election of senators, Congress will act when the overwhelming pressure from the states and people can no longer be ignored.

Sincerely,



Griffin B. Bell

WITNESS STATEMENT

NAME Louise Rischel BILL NO. HJ 10  
ADDRESS 2406 39<sup>th</sup> St DATE 2-16-87  
WHOM DO YOU REPRESENT? myself  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The unbridled behavior of The U.S. Congress concerning the U.S. Budget must be brought under control. They don't display a will to do so and an amendment to our constitution seems to be the only avenue left for the American people to bring the budget under control.

*Louise Rischel*



WITNESS STATEMENT

NAME Laura M. Risdahl BILL NO. HJ 10  
ADDRESS 2405 39th St. Missoula, MT DATE 2-16-84  
WHOM DO YOU REPRESENT? Myself  
SUPPORT yes OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This Nation, America, will not long endure under the present continuing deep debt under which it is staggering. There appears to be adverse forces working diligently to destroy our free way of life, and make the United States a nation beholden to other nations.

The first thing we must do is balance the budget. It can be done. Where are our loyal, intelligent men and women who love this nation?

WITNESS STATEMENT

NAME Julia Hacker BILL NO. HR 10  
ADDRESS PO Box 335 - Bonner DATE mt-  
WHOM DO YOU REPRESENT? self  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. A call for Const. Convention is the only way the people can force congress to take action & become fiscally responsible.
2. The Constitution of the U.S. is a living document designed to meet the need of the people. The time is now!
3. Please pass this resolution and force congress to pass a balanced budget.
4. We cannot afford to spend our country into oblivion.

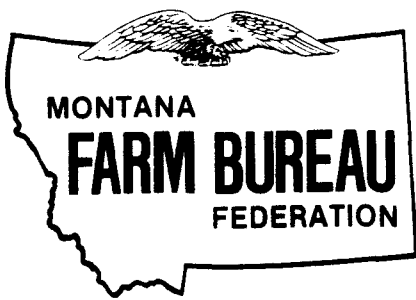
WITNESS STATEMENT

NAME Kesal Cahoon BILL NO. H.R. 10  
ADDRESS Star Pk. - Bonner DATE 2/16  
WHOM DO YOU REPRESENT? Self  
SUPPORT  OPPOSE  AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I support H.R. 10 on behalf of myself, my children & my grand children.  
Let us leave them a better legacy than a runaway federal debt or a bankrupt nation.  
Let common sense prevail & not "runaway hysteria"



P.O. Box 6400  
502 South 19th

Bozeman, Montana 59715

Phone (406) 587-3153

TESTIMONY BY: Lorna Frank  
BILL # HJR-10 DATE 2/16/87  
SUPPORT XXX OPPOSE           

Mr. Chairman, members of the committee, for the record my name is Lorna Frank, representing Montana Farm Bureau.

We support HJR-10 and believe that pressure should be kept on the Federal Government to get them to deal with the federal deficit. Inflation is a serious threat to our economic stability and the reason our economy is as bad as it is today. Deficit spending by government and programs which increase the supply of money and credit faster than production are basic causes of inflation.

Therefore, we urge this committee to pass HJR-10.

SIGNED: Lorna Frank

NAME: John W. Olson DATE: 2/16/87

ADDRESS: 501 S. 20<sup>th</sup>

PHONE: (406) 587-4000

REPRESENTING WHOM? State U. College Republicans

APPEARING ON WHICH PROPOSAL: HJR 10

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENT: We believe that deficit spending is wrong. We believe the future should not be mortgaged by the present.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

NAME Carol Mosher BILL NO. HJR 16  
ADDRESS P.O. Box 1679 Helena DATE 2-16-87  
WHOM DO YOU REPRESENT? Montana Cattle Women  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I supported this in the last session and we strongly continue to support this. It is very apparent that this resolution is an absolute necessity to tell Congress that we demand a balanced budget.

DATE: 2/16/87

HS: 12

NAME: Marianne S Davis DATE: 16 Feb 87

ADDRESS: 516 Florence Helena 59607

PHONE: 443-3487

REPRESENTING WHOM? League of Women Voters

APPEARING ON WHICH PROPOSAL: HJR 10

DO YOU: SUPPORT?            AMEND?            OPPOSE? X

COMMENT: The League recognizes that deficit spending in some times necessary and some times appropriate & therefore opposes a constitutionally mandated balanced budget for the federal government. The League could support deficit spending, if necessary, for stimulating the economy during recession and depression, meeting social needs in times of high unemployment, and meeting defense needs in times of national security crises.

In practice a required balanced budget would not necessarily clarify federal fiscal management.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

2/14/87  
9-16-87

NAME: KELLY HENCZ DATE: 9-16-87

ADDRESS: 418 5TH

PHONE: 3-2373

REPRESENTING WHOM? All UNITED STATES CITIZENS who believe in the U.S. CONSTITUTION

APPEARING ON WHICH PROPOSAL: HJR-10

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? XXX

COMMENT:  
STATEMENT ATTACHED

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



MAN

MR. Chairman ~~and~~ AND Committee members, my

name is Kelly Hencz and I am opposed to HJR-10

I am here representing my wife, my two yr. old son, and every American who believes in our UNITED STATES CONSTITUTION, which was written by the people, to govern the government.

Art 6, paragraph 2 and 3 of our CONSTITUTION STATES VERY CLEARLY THAT "THIS CONSTITUTION AND THE LAWS OF THE UNITED STATES ARE THE SUPREME LAWS OF THE LAND. THE SENATORS, REPRESENTATIVES, MEMBERS OF ALL THE STATE LEGISLATURES AND ALL EXECUTIVE AND JUDICIAL OFFICERS, BOTH OF THE UNITED STATES AND OF THE SEVERAL STATES, SHALL BE BOUND BY OATH TO SUPPORT THIS CONSTITUTION.

Every person here has taken such an oath.

I have taken time from my work to come here and remind you of this <sup>IMPORTANT</sup> fact, and the fact that 'we the People,' who our Constitution is written for, will NOT tolerate any change in it what so ever. We have educated our selves and know that it is our duty to be belligerent claimants of our rights.

I Kelly Hencz do solemnly swear that I will support and uphold the Constitution of the UNITED STATES and defend it against all ENEMIES foreign, domestic, and against such bills AS HJR-10, so HELP ME God... I hope you committee members will do the same.

OVER

~~XXXXXXXXXX~~

DEATH

EVERYONE has said that the problem is  
our NATIONAL Debt. INSTEAD of changing our CONSTITUTION  
to Bal. the budget, someone should come up with  
a <sup>RESOLUTION</sup> ~~idea~~ abolishing the FEDERAL RESERVE ACT.  
then ~~AND~~ <sup>AND</sup> then will we be free of our NATIONAL  
debt. THANK you and God Bless America



2/16/87  
10

Box 1176, Helena, Montana

JAMES W. MURRY  
EXECUTIVE SECRETARY

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY ON HJR 10 BEFORE THE HOUSE STATE ADMINISTRATION COMMITTEE,  
FEBRUARY 16, 1987

-----

GOOD MORNING. MY NAME IS JIM MURRY AND I'M HERE TODAY ON BEHALF OF THE MONTANA STATE AFL-CIO TO TESTIFY IN OPPOSITION TO HOUSE JOINT RESOLUTION 10.

HJR 10 WOULD, BY MEANS OF A CONSTITUTIONAL CONVENTION, OR THROUGH AMENDMENT BY CONGRESS SUBMITTED TO THE STATES FOR RATIFICATION, AMEND THE UNITED STATES CONSTITUTION TO REQUIRE A BALANCED FEDERAL BUDGET.

MR. CHAIRMAN, WE ARE NOT HERE TODAY TO STAND IN OPPOSITION TO A BALANCED FEDERAL BUDGET. IN FACT, WE CONTEND THAT OUR HUGE FEDERAL DEFICIT COMBINED WITH OUTRAGEOUSLY HIGH TRADE DEFICITS HAVE CONTRIBUTED TREMENDOUSLY TO THE SEVERE ECONOMIC PROBLEMS FACING MONTANA AND THIRTY OTHER STATES ACROSS THIS GREAT NATION. HOWEVER, WE DO CONTEND THAT A CONSTITUTIONAL CONVENTION IS NOT THE ANSWER TO BALANCE THE FEDERAL BUDGET.

THE UNITED STATES CONSTITUTION IS THE OLDEST SURVIVING FRAMEWORK FOR DEMOCRACY. IT CAN BE AMENDED IN ONE OF TWO WAYS: THROUGH THE TRADITIONAL CONGRESSIONAL METHOD WITH RATIFICATION BY THE STATES, OR BY CALLING A CONSTITUTIONAL CONVENTION BY TWO-THIRDS (34) OF THE INDIVIDUAL STATES. IT IS IMPORTANT TO NOTE THAT ALL TWENTY-SIX AMENDMENTS TO THE CONSTITUTION, FROM THE ABOLITION OF SLAVERY TO THE GRANTING OF WOMEN'S SUFFRAGE, HAVE BEEN ADOPTED BY THE CONGRESSIONAL METHOD. AMENDMENT BY CONVENTION HAS NEVER BEEN TRIED.

THE ONLY CONSTITUTIONAL CONVENTION EVER HELD WAS THE ORIGINAL DRAFTING CONVENTION IN 1787. THIS CONVENTION WAS NOT LEGALLY EMPOWERED TO DO WHAT IT ULTIMATELY DID, WHICH WAS THROW OUT THE ARTICLES OF CONFEDERATION AND ADOPT OUR PRESENT CONSTITUTION. NEVERTHELESS, NEITHER THE CONGRESS NOR THE ARTICLES OF CONFEDERATION NOR THE INDIVIDUAL STATES COULD PREVENT THIS ACTION. IN FACT, OUR CURRENT RATIFICATION PROCESS CALLING FOR APPROVAL BY 38 STATES WAS AMENDED DOWN FROM A UNANIMOUS STATES METHOD OF RATIFICATION WHICH CALLED FOR STATE RATIFICATION CONVENTIONS INSTEAD OF BY LEGISLATURE ONLY. THAT METHOD WAS USED TO GET AROUND STATE LEGISLATORS WHO OBVIOUSLY OPPOSED THE LOSS OF STATES' RIGHTS.

MEMBERS OF THE COMMITTEE, PROPONENTS OF CONSTITUTIONAL AMENDMENT BY CONVENTION TRY TO ASSURE US THAT SUCH A CONVENTION COULD BE INSTIGATED FOR "THE SOLE PURPOSE" OF ENACTING A SINGLE AMENDMENT. WE BELIEVE THAT THEY ARE WRONG. ARTICLE V OF THE UNITED STATES CONSTITUTION CLEARLY STATES, "THE CONGRESS . . . ON THE APPLICATION OF THE LEGISLATURE OF TWO-THIRDS OF THE SEVERAL STATES, SHALL CALL A CONVENTION FOR PROPOSING AMENDMENTS . . ." NOTICE THAT THE SPECIFIC REFERENCE TO "AMENDMENTS" IS IN THE PLURAL CASE, WHICH MEANS THAT ANY CONVENTION COULD CONSIDER NUMEROUS CONSTITUTIONAL AMENDMENTS.

IF A CONSTITUTIONAL CONVENTION WERE TO BE CONVENED, THE THREAT OF A "RUNAWAY" CONVENTION IS VERY REAL. MANY OF THE RIGHTS AND FREEDOMS THAT MONTANA CITIZENS CHERISH WOULD BE IN JEOPARDY. GUN CONTROL, DIVESTITURE OF PUBLIC LANDS, SO-CALLED RIGHT-TO-WORK LAWS, THE RIGHT OF MONTANA TO LEVY STATE TAXES, SUCH AS THE COAL SEVERANCE TAX, THE BILL OF RIGHTS, LINE ITEM VETO POWER AND OTHER ISSUES VITALLY IMPORTANT TO OUR DEMOCRACY COULD BE RADICALLY REVISED AT A CONSTITUTIONAL CONVENTION.

IN ACCORDANCE WITH CURRENT CONSIDERATION REGARDING ALLOCATIONS OF DELEGATES, MONTANA WOULD HAVE FEW REPRESENTATIVES AT A CONSTITUTIONAL CONVENTION. OUR STATE WOULD HAVE ONLY FOUR VOTES, WHILE CALIFORNIA WOULD HAVE 47 AND NEW YORK 36. IN FACT, CALIFORNIA WOULD HAVE MORE VOTES THAN ALL EIGHT ROCKY MOUNTAIN STATES.

HOWEVER, EVEN THIS PROPOSED METHOD OF DELEGATE REPRESENTATION IS CALLED INTO QUESTION BECAUSE IT MAY NOT MEET THE REQUIREMENT OF "ONE MAN, ONE VOTE" PROPORTIONAL REPRESENTATION RULE. IF THIS IS, IN FACT, THE CASE, REPRESENTATION AT A CONSTITUTIONAL CONVENTION WOULD LIKELY BE BASED UPON THE NUMBERS IN THE U.S. HOUSE OF REPRESENTATIVES. MONTANA WOULD HAVE TWO DELEGATES AND THE EIGHT ROCKY MOUNTAIN STATES WOULD HAVE A TOTAL OF TWENTY FOUR. CALIFORNIA WOULD DROP BY TWO TO 45 AND NEW YORK TO 34. OBVIOUSLY, THE PROPORTIONAL REPRESENTATION OF OUR STATE AND REGION WOULD BE SIGNIFICANTLY DIMINISHED.

IN FACT, THE VERY MAKE-UP OF CONGRESS FOLLOWING SUCH A CONVENTION FACES A VERY REAL THREAT OF CHANGE. WHAT CHANCE WOULD MONTANA'S DELEGATES HAVE AGAINST THOSE OF NEW YORK AND CALIFORNIA IN SUCH A SITUATION?

MR. CHAIRMAN, THE CAUSE OF OUR ENORMOUS FEDERAL DEFICIT LIES NOT IN OUR CONSTITUTION, BUT WITH AN INTRANSIENT PRESIDENT AND CONGRESS WHO ARE IN CONSTANT BATTLE OVER WHO IS TO BLAME FOR THIS MESS. IF, AND WHEN, THE PRESIDENT AND THE CONGRESS DECIDE TO WORK TOWARDS A BALANCED FEDERAL BUDGET, THEY MUST AGREE TO CONSIDER ALL REALISTIC OPTIONS.

THESE OPTIONS INCLUDE RAISING TAXES, CUTTING SPENDING, OR BOTH. TO RAISE DEFENSE APPROPRIATIONS DRAMATICALLY WHILE AT THE SAME TIME CUTTING TAXES IS NOT A REALISTIC MEANS TO BALANCE THE FEDERAL BUDGET. NOR IS LIMITING OURSELVES TO GUTTING ESSENTIAL FEDERAL PROGRAMS SUCH AS: SMALL BUSINESS ASSISTANCE, AGRICULTURAL SUBSIDIES, WORKER RETRAINING EFFORTS, SOCIAL SECURITY, MEDICARE, FEDERAL REVENUE SHARING FOR CITIES AND COUNTIES, EDUCATIONAL FUNDING AND OTHER NECESSARY PROGRAMS.

THE DECISION THAT WILL HELP BRING ABOUT A BALANCED FEDERAL BUDGET MUST BE FAIR AND EQUITABLE FOR ALL OUR CITIZENS. AND THESE DECISIONS MUST BE MADE BY THE PRESIDENT AND CONGRESS, AND NOT BY A CONSTITUTIONAL CONVENTION.

TO CONCLUDE, THE CONSTITUTION OF THE UNITED STATES FALLS IN THAT RARE CATEGORY OF "IF IT AIN'T BROKE, DON'T FIX IT." THIS EXTRAORDINARY DOCUMENT HAS SERVED THIS COUNTRY ADMIRABLY FOR 200 YEARS. IT WOULD BE THE SUPREME IRONY IF, DURING THIS BICENTENNIAL YEAR OF THE CONSTITUTION, THE MONTANA LEGISLATURE TOOK STEPS THAT COULD RADICALLY ALTER THIS MOST SACRED AMERICAN TREASURE.

WITNESS STATEMENT

NAME Dorothy J. Traylor BILL NO. H.R. 10  
ADDRESS 44036 Harrett DATE \_\_\_\_\_  
WHOM DO YOU REPRESENT? myself former SS teacher  
SUPPORT \_\_\_\_\_ OPPOSE  AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The United States House of Representatives Committee on the judiciary invited two distinguished constitutional lawyers to testify as to whether or not a convention could be limited to one issue.

Professor Gerald Gunther a Stanford Law School Professor who writes 75% of Constitutional Law Case Books used in Law Schools today called this scheme of telling people that a convention could be limited "snake oil". Professor Walter Dellinger of Duke University Law School called the scheme "Bait & switch" the bait being our wanting a balanced budget & the switch being opening up constitution to all sorts of special interest groups who have been frustrated by our separation of powers that have protected us for years. Montana can & should send a strong resolution to Congress asking them to balance the budget but not thru a constitutional convention

The legislators who are wise enough to  
not 'bite this bait' are to be commended.  
Thank you very much & I urge you not  
to open this can of worms.

Dorothy Sawyer

(This sheet to be used by those testifying on a bill.) #10

DATE: 2/14/87

NAME: Jack & Tralber HB: 10  
DATE: 2/16/87

ADDRESS: 4403 - Colburn Ave

PHONE: 1-251-2763

REPRESENTING WHOM? People of Montana & America

APPEARING ON WHICH PROPOSAL: NJD-10

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENT: MT attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

LADIES AND GENTLEMEN, MY NAME IS JACK TRAXLER AND I RESIDE IN MISSOULA, MONTANA. I AM NOT HERE SPEAKING FOR ANY ORGANIZATION OR GROUP, JUST MYSELF AND THE MANY OTHERS THROUGHOUT THE STATE OF MONTANA, WHO FEEL AS I DO.

I APPEAR BEFORE YOU TODAY ON WHAT I BELIEVE IS THE MOST IMPORTANT SINGLE ISSUE THAT WILL FACE YOU THIS SESSION. I, TOO, RISE IN OPPOSITION TO A CON-CON FOR A BALANCED BUDGET.

UNTIL 3 DAYS AGO, I WAS 100% ~~FOR~~ A CON-CON FOR A NUMBER OF REASONS. REASON #1--SENATOR BAUCUS AND REPRESENTATIVE WILLIAMS HAVE BOTH INDICATED THEY WILL NOT VOTE FOR A BALANCED BUDGET. REASONS #2--THE CONGRESS AS A WHOLE KNOWS THAT WE HAVE TO HAVE A BALANCED BUDGET BEFORE WE CAN EFFECTIVELY DEAL WITH THE ASTRONOMICAL DEBT WHICH OUR NATION IS SADDLED WITH NOW; AND COLLECTIVELY, THEY HAVE REFUSED TO ADDRESS THE PROBLEM, LET ALONE TAKE ACTION FOR THE CURE.

FOR THESE REASONS, I HAVE UNTIL 3 DAYS AGO BEEN URGING A CON-CON. THE MATERIAL I HAVE RECEIVED AND STUDIED HAS MADE ME CHANGE COURSE--NOT THAT I FEEL DIFFERENTLY ABOUT A BALANCED BUDGET-- I STILL THINK ITS IMPERATIVE THAT WE HAVE IT--MY CHANGE IS ONLY THAT I FEEL SURE THAT OPENING OUR CONSTITUTION IS NOT THE WAY TO GO.

THIS WONDERFUL DOCUMENT HAS BEEN CALLED, AND RIGHTLY SO, "THE MOST PERFECT INSTRUMENT FOR THE GOVERNANCE OF MAN."

REGARDLESS OF WHAT YOU MAY HAVE READ OR BEEN TOLD A CON-CON CANNOT BE CONTROLLED OR HELD TO ONE ITEM. JUST 2 WEEKS AGO, CHIEF JUSTICE WARREN BURGER, WHO RETIRED FROM THE BENCH IN JUNE, 1936, STATED IN REPLY TO A QUESTION ABOUT ATTORNEY GENERAL EDWIN MEESE'S CALL FOR A CON-CON, AND I QUOTE . . . ."THERE'S NO WAY TO PUT A MUZZLE ON A CONSTITUTIONAL CONVENTION, TO NARROW ITS WORK TO FORCE CONGRESS TO BALANCE THE FEDERAL BUDGET AS SOME HAVE SUGGESTED". "I WOULD NOT", HE CONTINUED, "FAVOR A CON-CON TO



REVIEW THE WHOLE THING. THE PLAN IS A GRAND WASTE OF TIME".

I WOULD, IF I MAY, ASK YOU TO REFLECT BACK TO 1972 AND THE NEW CONSTITUTION THAT MONTANA HAS. THE OLD ONE HAD SOME PARTS THAT RELATED TO THE 19TH CENTURY AND NEEDED CHANGING, BUT THE BASIC HEART WAS GOOD. MANY OF US WOULD HAVE WELCOMED CHANGES TO FIX THE OLD ONE, BUT THE RADICAL VIEW WAS TO TRASH IT AND START FRESH. IF YOU LOOK DOWN THE ROAD, WE CAN TAKE SOME OF THE PROBLEMS WE HAVE TODAY IN OUR STATE AND TRACE THEM RIGHT BACK TO 1972. LAWS THAT ARE CHOKING BUSINESS ARE JUST ONE PROBLEM--REGULATORY LAWS THAT AFFECT EVERYONE. CRIMINAL LAWS THAT HAVE BEEN SO LIBERALLY INTERPRETED THAT THE KILLER OR RAPIST, THIEF OR THUG, GET A SLAP ON THE WRIST, OR LESS, AND THE VICTIM IS THE LOSER ON ALL COUNTS.

WELL, IF THIS CON-CON THAT IS BEING PUSHED NOW GETS OPENED UP, AND IT CAN HAPPEN, I THINK THAT THE NEW AMERICA THAT WOULD EMERGE WOULD NOT BE THE AMERICA WE LOVE AND THAT HAS BEEN SO FREEDOM-GIVING TO ALL WHO LIVE HERE.

I WOULD BEG EACH OF YOU TO NOT RUSH TO ANY HASTY DECISION ON THIS MATTER. PLEASE STUDY IT AND IF YOU THINK THERE IS ANY MERIT TO MY FEARS, AND MINE ARE SHARED BY MANY OTHERS, THEN DO NOT LET MONTANA BE THE STATE THAT "OPENED PANDORA'S BOX OF HORRORS".

DO NOT FORCE YOUR CHILDREN AND GRANDCHILDREN TO ONE DAY ASK, "WHY DID YOU LET THIS HAPPEN TO US?" YOU AT THIS TIME ARE DETERMINING THEIR FUTURE AND THE CHOICE OF BEING FREE OR POSSIBLY SLAVES.

I THANK YOU AND MY PRAYERS WILL BE WITH YOU IN YOUR DELIBERATIONS.

# DECLARATION OF INTERDEPENDENCE

## SUBSCRIPTION BY MEMBERS OF CONGRESS

Seven United States Congressmen: Jonathan B. Bingham (D, NY); Cardiss Collins (D, IL); Robert W. Edgar (D, PA); Robert S. Nix (D, PA); Richard Nolan (D, MN); Henry S. Reuss (D, WI), and Paul Simon (D, IL), on 30 January, 1976 sardonically signed, for themselves and ninety-seven other members, "A Declaration of Interdependence," thus endorsing one world government and calling for ". . . one global community dependent on one body of resources, bound together by ties of a common humanity and associated in a common adventure on the planet earth."

Their affront to American dignity was accomplished in Independence Hall, Philadelphia, where, two hundred years earlier, America's founding fathers affixed their signatures to the Declaration of Independence.

Interdependence is a concept promoted by the World Affairs Council and their co-conspirators who seek to impose a world government, a dictatorship of the financial elite, upon the American people.

Few Americans are in agreement with a "common humanity" or a "common adventure on the planet earth." As contemporary history so clearly reveals, world government is by and for the few to the great detriment of the many.

"A Declaration of Interdependence" parodies the language of the Declaration of Independence in an attempt to camouflage its destructive purpose. This dreadful document suggests that national boundaries be erased, that American sovereignty be dissolved, and that the freedoms of person and property guaranteed to the people by the Constitution of the United States be eliminated. U.S. citizens, say propagandist for interdependence, should redistribute their wealth to the people who have suffered the "oppression of the rich."

Such a philosophy is ludicrous. "Interdependence" is a creature of private interests who created the United Nations World Bank, and multi-national corporations, to exploit the world's people and resources.

Subsequently, twenty-four U.S. Senators and eighty U.S. Representatives, flouting their oath of office, ". . . to defend and preserve this Constitution against all enemies, both foreign and domestic," subscribed to "A Declaration of Interdependence," in these words:

"We, the undersigned members of Congress support the principles embodied in the Declaration of Interdependence of the World Affairs Council of Philadelphia, and urge their study and discussion to promote American policy and initiatives which respond to new global conditions of interdependence."

Post of dishonor includes:

## U. S. SENATORS

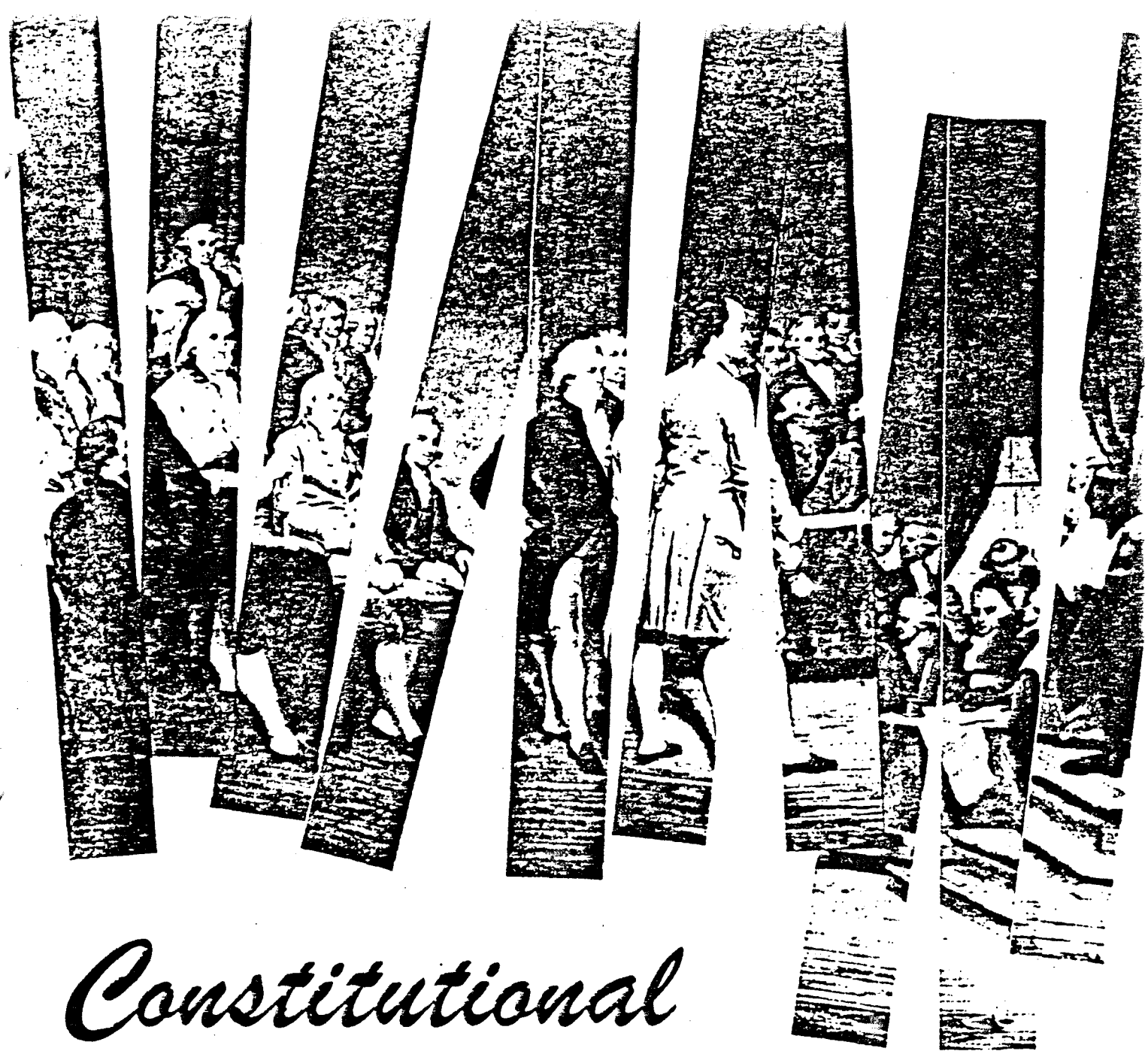
James Abourezk, (D, SD)  
Edward W. Brook (R, Mass)  
Dick Clark (D, Iowa)  
Alan Cranston (D, Cal)  
Frank Church (D, Idaho)  
Jacob Javits (R, NY)  
Mike Gravel (D, Alaska)  
-Mark Hatfield (R, Oregon)  
Hubert Humphrey (D, Minn)  
-Daniel K. Inouye (D, Hawaii)  
Spark M. Matsunaga (D, Hawaii)  
George McGovern (D, SD)  
Thomas J. McIntyre (D, NH)  
Charles McMathias (R, Md)  
~~Eric Metcalf (D, Montana)~~  
Gaylord Nelson (D, Wisc)  
Robert Packwood (R, Ore)  
James B. Pearson (R, Kan)  
Clairborne Pell (D, RI)  
William Proxmire (D, Wisc)  
Abraham A. Ribicoff (D, Conn)  
John Sparkman (D, Ala)  
Adlai E. Stevenson, III (D, Ill)  
Harrison A. Williams, Jr., (D, NJ)

## U.S. REPRESENTATIVES

John B. Anderson, (R, Ill)  
Les Aspin (D, Wisconsin)  
Herman Badillo (D, NY)  
Max S. Baucus (D, Mont)  
Berkeley Bedell (D, Iowa)  
Jonathan B. Bingham (D, NY)  
Edward P. Boland, Jr. (D, Mass)  
Richard Bolling (D, Missouri)

John Brademas (D, Indiana)  
George E. Brown, Jr. (D, Cal)  
William M. Brodhead (D, Mich)  
Yvonne B. Burke (D, Cal)  
Robert Carr (D, Mich)  
Cardiss Collins (D, Ill)  
Barber L. Conable (R, NY)  
Silvio O. Conte (R, Mass)  
John J. Conyers, Jr. (D, Mich)  
James C. Corman (D, Cal)  
George E. Danielson (D, Cal)  
Ronald V. Dellums (D, Cal)  
Christopher John Dodd (D, Conn)  
Robert F. Drinan (D, Mass)  
Robert B. Duncan (D, Ore)  
Robert W. Edgar (D, Penn)  
Don Edwards (D, Cal)  
Joshua Eilberg (D, Penn)  
Millicent H. Fenwick (R, NJ),  
James J. Floria (D, NJ)  
William D. Ford (D, Mich)  
Edwin B. Forsythe (D, Minn)  
Sam M. Gibbons (D, Fla)  
Thomas R. Harkin (D, Iowa)  
Michael Harrington (D, Cal)  
Agustus F. Hawkins (D, Cal)  
Elizabeth Holtzman (D, NY)  
Frank Horton (R, NY)  
Barbara Jordon (D, Tex)  
Robert W. Katsenmeir (D, Wisc)  
Martha E. Keys (D, Kan)  
Edward I. Koch (D, NY)  
John J. LaFalce (D, NY)  
Robert R. Leggett (D, Cal)  
Norman F. Lent (R, NY)

Clarence D. Long (D, Md)  
Paul N. McCloskey (D, NY)  
Matthew F. McHugh (D, NY)  
Lloyd Meeds, (D, Wash)  
Ralph H. Metcalf (D, Ill)  
Helen D. Meyner (D, NJ)  
Abner J. Mikva (D, Ill)  
Norman Y. Mineta (D, Md)  
Parren J. Mitchell (D, Md)  
John J. Moakly (D, Mass)  
William S. Moorhead (D, Pa)  
John E. Moss (D, Cal)  
Robert N.C. Nix (D, Pa)  
Richard Nolan (D, Minn)  
Richard L. Ottinger (D, NY)  
Edward W. Pattison (D, NY)  
Claud D. Pepper (D, Fla)  
Charles B. Rangel (D, NY)  
Henry S. Reuss (D, Wisc)  
Frederick W. Richmond (D, NY)  
Peter W. Rodino, Jr. (D, NJ)  
Fred B. Rooney (D, Pa)  
Benjamin Rosenthal (D, Cal)  
Edward R. Roybal (D, Cal)  
Leo J. Ryan (D, Cal)  
Fernand J. St Germain (D, RI)  
Patricia Schroeder (D, Colo).  
John F. Seiberling, Jr. (D, Oh)  
Paul Simon (D, Ill)  
Stephen J. Solarz (D, NY)  
Fortney H. Stark (D, Cal)  
Louis Stokes (D, Ohio);  
Frank Thompson, Jr (D, NJ)  
Paul E. Tsongas (D, Mass)  
Morris K. Udall (D, Ariz.)  
Lionel van Deerlin (D, Cal)



# *Constitutional Brinksmanship:*

## Stumbling toward a Convention

---

State legislatures are calling for a constitutional convention without comprehending the full dimensions of the risks.

---

By Gerald Gunther

MOST of us identify the United States Constitution with what the Supreme Court says it is. But the Court usually deals with only a very few provisions of the Constitution — the First Amendment, equal protection, and due process, for example. Yet the Constitution contains a lot more than that. Most of its provisions rarely get to the courts, yet many unsettled questions lurk in those unadjudicated clauses. The undecided issues often are merely of academic interest. But there are times when some of those problems emerge as a reminder that constitutional questions can be genuine and important, al-





though the courts may never speak to them.

Many of these issues are now before the public. May Congress eliminate the power of the federal courts to rule on voluntary school prayers? May the president abrogate the obligations of a treaty ratified by the Senate? May Congress use the legislative veto to control executive action? May federal judges be removed without resort to the impeachment process? All of these are truly constitutional questions, although they have not been illuminated by the nine oracles in the Marble Palace on Capitol Hill.

But perhaps the most perplexing unresolved issue that has surfaced is this: the convention route for amending the Constitution. It is an issue that has entered our consciousness through the efforts of an expert at consciousness-

raising. California's governor, Jerry Brown. Early this year Governor Brown announced his support for a drive to call the first constitutional convention since the one that drafted our Constitution in Philadelphia in 1787.

Our remarkably brief Constitution has had only 26 amendments in almost 200 years. All of them have been adopted by the use of only one of the two methods provided by Article V of the Constitution — proposal by a two-thirds' vote of Congress, followed by ratification by three fourths of the states. But Article V sets forth another method as well. It provides that "on the Application of the Legislatures of two thirds of the several States," Congress "shall call a Convention for proposing Amendments," which become part of the Constitution if they are ratified by three fourths of the states. The ongoing campaign to press for a balanced budget amendment is a threat to use that second, untried constitutional convention route.

The fact that we've never used the convention route doesn't make it illegitimate. But it is an uncertain route because it hasn't been tried, because it raises a lot of questions, and because those questions haven't begun to be resolved. If 34 state legislatures deliberately and thoughtfully want to take this uncertain course, with adequate awareness of the risks ahead, so be it. But the ongoing campaign has largely been an exercise in constitutional irresponsibility—constitutional roulette, or brinksmanship if you will, a stumbling toward a constitutional convention that more resembles blindman's buff than serious attention to deliberate revision of our basic law.

While Governor Brown is largely responsible for making people aware that the campaign is in fact under way, he didn't initiate it. When he got aboard last January, about two dozen state legislatures already had asked Congress to call a convention, although the public was largely unaware of that. Most astounding, the campaign had gotten that much support with the most remarkable inattention in those state legislatures to what they were really doing. I gather that not a single one of them had even held a committee hearing on the unresolved questions of Article V. The legislative debates typically were brief and perfunctory — essentially up-and-down votes for or against the balanced budget. Yet what typically was adopted was a resolution that, unless Congress submitted a

budget amendment of its own, the state was applying under Article V for a constitutional convention. It is fair to say that the questions of what a convention might do, and especially whether it could and would be limited to the balanced budget issue, were largely ignored.

When Governor Brown joined the campaign, the public began to take it more seriously. In February a committee of the California Assembly became the first state legislative body to hold extensive hearings on what this convention process really might look like. California rejected the convention proposal after those hearings. A good many people then assumed that the drive was dead. But it continues. New Hampshire recently became the 30th state to ask for a convention, and the issue is pending in several other legislatures.

If four more states join the campaign, I suppose everyone will become aware that a truly major constitutional issue confronts us, for Congress will then have to decide whether 34 valid applications are at hand. If there are, Congress will be under a duty to call a convention—a convention for which there are no guidelines as to what its scope shall be, as to how the delegates are to be selected, and as to how long it shall meet, among many questions.

I am a constitutional lawyer, not an economist. I don't want to be taken as addressing the question of whether a balanced budget mandate promises effective solution of our fiscal problems, or even whether that mandate belongs in a basic law largely concerned with permanent values and structures rather than transitory policy disputes. I am concerned about the convention process of amendment.

One way of looking at the issues is to examine the assurances by the advocates of the budget amendment—assurances that the convention process won't get out of hand. I perceive three major recurrent themes in their arguments. First, we are told that a constitutional convention is not likely to come about, since the real aim of the drive is to spur Congress into proposing a budget amendment of its own. Second, we are told that even if a convention is called, it will be confined to the budget issue. And third, we are told that even if the convention were to become a "runaway" convention (as the one in 1787 was) and even if it were to propose amendments going beyond the budget issue, those proposals would

never become part of the Constitution because three fourths of the states would never ratify them.

There is no adequate basis for those assurances, and certainly not for the confidence with which they are presented. The convention route promises uncertainty, controversy, and divisiveness at every turn. With respect to the central constitutional question — whether a convention could and would be limited to a single subject—there is a serious risk that it would not in fact be so limited.

The claim that seems to me the simplest to challenge is that the campaign is simply a device to press Congress into proposing a budget amendment of its own. If the movement is to be a spur to induce congressional action, it needs to be a credible threat. One of the very few issues about the convention route on which there is full agreement among scholars is that, once 34 proper applications for a convention are before Congress, Congress is under a duty to call a convention and does not have a legitimate discretion to ignore the applications. In short, a strategy that rests on the threat of a convention must surely take account of the possibility that a convention in fact will be convened.

The assurance that any convention would be limited to the subject matter of the state applications touches on the central constitutional problem, and it raises a number of questions for which there are no authoritative answers.

Recall the various steps spelled out in the Constitution. The first is "the Application of the Legislatures of two thirds of the several States" for a convention. After proper "Applications" are received, Congress, as the second step, "shall call a Convention for proposing Amendments." Then, as the third step, the convention meets. After the convention reports its proposals, Congress is called on to take the fourth step: to choose the "Mode of Ratification"—ratification either by the "Legislatures of three fourths of the several States" or by ratifying conventions in three fourths of the states. The fifth and final step is the actual consideration of ratification by the states.

With respect to the first step, there are some scholars who believe that the only valid "Application" is one calling for a general, unlimited convention. A larger number of scholars believe that applications that are somewhat limited can be considered valid, as long as they are not so narrowly circumscribed as to

deprive the convention of an opportunity to deliberate, to debate alternatives, and to compromise among measures. I do not know of any scholar who believes that a specific application—that is, to vote up or down on the text of a particular amendment—is the kind of "Application" contemplated by Article V. The typical budget amendment proposals adopted by the states so far are quite specific, and they are open to the charge that they are not proper "Applications" in the Article V sense.

But the question of what constitutes a proper "Application" is only preliminary. The main difficulties lie in what Congress and a convention could and would do. First, as to Congress, in the second step of the convention route: If it adopted the position that only unlimited applications are proper, it could simply ignore the limited ones, and the process would stop right there. Or, still acting on the belief that all conventions had to be general ones, it might disregard the specification of the subject matter in the applications and issue a call for a general convention.

### Could Congress stop a "runaway" convention?

I suspect that Congress would adopt neither of those alternatives. I think that the most probable congressional action would be to attempt to heed the limited concern that stirred the applications and call a convention with a scope broad enough to still the qualms about excessively narrow conventions. Congress might call a convention limited to the issue of fiscal responsibility, a convention that, for example, could consider the spending amendment supported by economist Milton Friedman as well as the balanced budget proposal supported by Governor Brown. If Congress took that route, it would probably enact—at least—some legislation to set up machinery for a convention.

But all that takes us only through the first two steps of the convention route. The uncertainties at those stages are grave enough, but they are as nothing compared to what confronts us at the all-important third stage: the convention itself. Even if Congress were satisfied that the specific balanced budget applications constituted valid "Applications" and that it had the power to confine a convention to the subject matter it defined (both debatable assumptions), that would not resolve the prob-

lem as to what might take place at the convention itself.

The convention delegates would gather after popular elections — elections in which the platforms and debates would be outside of congressional control, in which interest groups would probably seek to raise issues other than the budget, and in which some successful candidates no doubt would respond to those pressures. The delegates could legitimately speak as representatives of the people and could make a plausible case that a convention is entitled to set its own agenda. They could claim, for example, that the limitation in the congressional "call" was to be taken as a moral exhortation, not as a binding restriction on the convention's discussions. They could argue that they were charged with considering all the constitutional issues perceived as major concerns to the people who elected them. Acting on those premises, the convention might well propose a number of amendments—amendments going not only to fiscal responsibility but also to nuclear power, abortion, defense spending, mandatory health insurance, or school prayers.

If the convention were to report those proposals to Congress for submission to ratification, the argument would be made that the convention had gone beyond the bounds set by Congress. I have heard it said that Congress could easily invalidate the efforts of a "runaway" convention by simply ignoring the proposed amendments on issues exceeding the limits. I do not doubt that Congress could make a constitutional argument for refusing to submit the convention's "unauthorized" proposals to ratification, but that veto effort would run into substantial constitutional counterarguments and political restraints.

Consider the possible context—the legal and political dynamics—in which a congressional effort to veto the convention's proposals would arise. The delegates elected to serve at "a Convention for proposing Amendments" (in the words of Article V) could make a plausible constitutional argument that they acted with justification, despite the congressional effort to impose a limit. They could make even more powerful arguments that a congressional refusal to submit the proposed amendments to ratification would thwart the opportunity of the people to be heard through the ratification process.

In the face of these arguments, might

not Congress find it impolitic to refuse to submit the convention's proposals to ratification? It is not at all inconceivable that Congress, despite its initial belief that it could impose limits and its effort to do so, would find it to be the course of least resistance to submit all of the proposals emanating from a convention of delegates elected by the people to the ratification process, in which the people would have another say.

I am not reassured by the argument that if Congress attempted to submit "unauthorized" proposals to ratification, a lawsuit would stop the effort. There is a real question as to whether the courts would consider this an area in which they could intervene. Even if they decided to rule, there is the additional question of whether they would agree with the constitutional challenge. In any event, the prospect of litigation simply adds to the potential confrontations along the convention road.

That brings me to the third reassurance about the low-risk nature of the convention route. We are told that the requirement that three fourths of the states must ratify a proposed amendment guarantees that the convention won't run amok. There is a fatal flaw in that argument as well. It assumes that a convention would either limit itself to a narrow subject or "run amok" in the sense of making wild-eyed proposals. This overlooks a large part of the spectrum in between. Can there be confidence that there are no issues of constitutional dimensions other than a balanced budget that could conceivably elicit the support of the convention delegates and, ultimately, the requisite support in the states?

True, it can be argued that one should not worry about a method of producing constitutional amendments if three fourths of the states are ultimately prepared to ratify. But I am concerned about the process, a process in which serious focus on a broad range of possible constitutional amendments does not emerge until late in the process. Is it deliberate, conscientious constitution making to add major amendments through a process that begins with a mix of narrow, single-issue focus and of inattention and ignorance, that does not expand to a broader focus until the campaigns for electing convention delegates are under way, and that does not mushroom into broad constitutional revision until the convention and ratification stages?

It is a good deal easier to challenge

the reassurances of the proponents of the convention than to arrive at one's own understanding of how the process should work. I have examined the relevant materials with care, but neither I nor anyone else can make absolutely confident assertions about what the convention process was intended to look like.

My own best judgment is that "Applications" from the states can be limited in subject matter, so long as they are not too specific. I believe, moreover, that Congress can specify the subject for discussion at the convention in its "call." But I also believe that specification should be viewed as largely an informational device and as essentially a moral exhortation to the convention. Most important, I do not think that the convention can be effectively limited to that subject by Congress or by the courts. If the convention chooses to pursue a broader agenda, it has a persuasive claim to have its proposals submitted to ratification.

### Don't take risks without knowing the genuine hazards

That understanding can be attacked as making the convention route terribly difficult to use, because single issue applications may mushroom into multi-issue convention proposals. The understanding can be attacked, moreover, as construing the state-initiated amendment route as different from (as well as more difficult than) the congressionally initiated amendment process.

Those criticisms, however, overlook important historical lessons. It is true that the 1787 convention deliberately gave the states an opportunity to initiate the amendment process. But that convention did not make the state-initiated process nearly identical to the congressionally initiated one. The records of the 1787 convention are illuminating on this. The convention did not accept a proposal by James Madison to make two thirds of the states coequal with Congress in proposing amendments. Instead, it limited the states' initiative to one of applying for a convention, and it inserted the convention as the institution that would undertake the actual proposing. That convention step inevitably makes the state-initiated route a different, not a synonymous or even closely parallel alternative.

What the framers had in mind was that the states should have an opportunity to initiate the constitutional re-

vision process. If Congress became wholly unresponsive and tyrannical. But that was viewed as a last resort for truly major constitutional crises. The notion of a convention most familiar to the framers in 1787 was precisely the kind of convention then meeting in Philadelphia — one that undertook a major overhaul of an unsatisfactory basic document.

That does not mean that any convention called under Article V must be as far-reaching as the one in 1787. But I believe that the convention contemplated was one that would consider all major constitutional issues of concern to the country. If the balanced budget were the only major issue of concern today, a single-issue balanced budget convention might be entirely feasible. But the actual, unavoidable problem today is that there are other constitutional issues of concern. And if they are of concern, in my view the convention may consider them.

That is my best judgment, but it is by no means an authoritative one, no more so than that of anyone else who has made an effort to make sense of Article V. The ultimate reality is that there are many questions, many uncertainties, and no authoritative answers.

If the nation, with open eyes and after more careful attention than we have so far had in most state legislatures, considers a balanced budget amendment so important as to justify the risks of the convention route, that path ought to be taken. But surely it ought not to be taken without the most serious thought about the road ahead. It is a road that promises controversy, confusion, and confrontation at every turn, and that may lead to a general convention able to consider a wide range of constitutional controversies.

My major concern is to argue that, as we proceed along this road, we should comprehend the full dimensions of the risks ahead. It is that conviction which leads me to urge that state legislatures not endorse the balanced budget-constitutional convention campaign on the basis of overconfident answers to unanswered and unanswerable questions, or of blithe statements that inadvertently or intentionally blind us to the genuine hazards. ▲

(Gerald Gunther is William Nelson Cromwell Professor of Law at Stanford Law School. This article is adapted from an address Professor Gunther made to the Commonwealth Club of California.)

# Perspective

A forum—ideas, analysis, opinion

Chicago Tribune, Wednesday, May 2, 1984

Section 1 13

## Risking a constitutional crisis

By Samuel W. Witwer

No citizen can be complacent about huge federal budget deficits, now estimated in the range of \$300 billion, and reasonable steps certainly are in order to work toward balanced budgets. However, the method chosen by advocates of reform—the call for a federal constitutional convention—is dangerous to an extreme. It could be even more damaging to our national interests than budgetary imbalances.

America faces the possibility of holding a constitutional convention for the first time since 1787, when the U.S. Constitution was adopted. Such a startling development could result from the balanced-budget proponents' quiet, persistent campaign to obtain state petitions calling on Congress to "call" such a convention.

The proponents of reform, reacting to Congress' failure to submit to the states for ratification an amendment mandating a balanced budget, have chosen a "shotgun" approach instead of seeking to elect a Congress that would pass such an amendment. They are demanding a constitutional convention to achieve their budgetary objective, and therein lies the potential for a grave constitutional crisis of unprecedented dimensions.

Their legislative campaign has netted 32 state petitions of one sort or another, just two short of the magic number of 34 states required by the Constitution [Article V] to force Congress to call the proposed convention.

The degree of care given by many of the states in passing their critical convention-call resolutions may well be questioned. But aside from that factor, there are many additional reasons why a constitutional convention calling for a balanced budget amendment or, for that matter, any other "single issue," would be a grave error.

For one thing, there is general satisfaction with the existing Constitution as a document that has served our nation well. It is a document of principle, inspiration, equity and opportunity for all people. As needs for change became manifest, one of the two amendment methods provided in Article V—changes initiated by Congress—has proven responsive and effective on 28 occasions. So it is understandable that many citizens and legal scholars who hold the Constitution in high regard are becoming worried about the dangers of a second constitutional convention and the uncharted course upon which this nation would embark if such a convention were called for the ostensible purpose of mandating a balanced budget.

Moreover, leading proponents of the convention call have announced that such a convention, once assembled, would consider a variety of related issues such as a provision for vetoes of parts of bills (the so-

called "line-item" veto), for national referenda on budgetary questions, for return to the gold standard and presumably matters that would affect "fiscal aspects" of our domestic and foreign policy concerns.

Though the history of the 1787 convention and the wording of Article V suggest that a convention could either be limited or general in scope, legal scholars agree there can be no positive assurance that a convention could be limited to a particular amendment once the convention had convened. Thus, there is no assurance that all facets of American law, government and the civil rights of U.S. citizens could not be opened to debate and possible revision by a runaway convention.

The situation is unlike state constitutional conventions, more than 200 of which have been held. In the states, there is a literature of constitutional reform, numerous precedents, enabling acts and other traditions that throw a cloak of procedural certainty and order around the call of state constitutional conventions, most of which have been general and unlimited.

Although the question of whether a federal constitutional convention may be confined to a single subject is the major concern, other questions of great constitutional importance remain unanswered as well:

What constitutes a valid application which Congress must count? Who is to judge its validity? What is the length of time applications will be counted to determine if 34 are filed? What will be the procedures for selection of delegates? Would this be left to appointment by state legislatures or the one-man, one-vote electoral process? May a state legislature withdraw an application for a convention once submitted or rescind a previous ratification? Would issues arising in a convention be reviewable by the courts?

Prof. Lawrence H. Tribe of the Harvard Law School sees the primary threat imposed by an Article V convention as that of "a confrontation between Congress and such a convention," noting also that the dispute would inevitably draw into the confrontation the Supreme Court itself. The outcome could be constitutional upheaval at all levels. Thus, I cannot agree with James Davidson, chairman of the National Taxpayer's Union, the foremost group campaigning for a budget-balancing convention. He would justify that risky venture as a "fantastic national civics lesson, more exciting than 'Brideshead Revisited.'"

Considering the magnitude of our domestic problems, this is not the time to organize a "national civics lesson," which could be of unlimited scope once launched. Considering the instability, confusion and dangers abroad, the holding of a constitutional convention could be interpreted in other countries as a disintegration of our American institutions and a lack of high purpose, resolve and capacity to lead.

In three years our nation will celebrate the 200th anniversary of the adoption of its Constitution. Let us hope that meanwhile that historic event will not be marred by an imprudently called convention of unknowable authority and uncertain constraints.

Samuel W. Witwer is a Chicago attorney who served as president of the 6th Illinois Constitutional Convention, which drafted the state's present Constitution.



From left, former Supreme Court Chief Justice Warren Burger, Wayne State University President David Adamany and Judge Damon Keith sing the National Anthem. Far right, Mayor Young reads a proclamation.



WILLIAM ARCHIE/Detroit Free Press

1-31-87 Detroit Free Press

# Burger sings praises of Constitution during visit

By BILL MCGRAW  
Free Press Staff Writer

Warren Burger, former Chief Justice of the U.S. Supreme Court, was in Detroit Friday, and someone asked him which Supreme Court decisions most furthered the meaning of the U.S. Constitution.

Responded Burger: "None of them that I wrote."

Seriously, Warren Burger is a funny guy.

The dignified, white-maned Burger might have seemed aloof during his 17 years in the high court's top job, but he was downright folksy at "We the People Day" in the Motor City.

He alternated as professor, cheerleader and comedian as he breezed through town exalting the Constitution, which turns 200 this year.

Burger, who surprised the nation when

he retired as chief justice on June 17, is crisscrossing the country as chairman of the committee to celebrate the bicentennial of the document he called "utterly unique in human history."

BEFORE a 700-person crowd at Wayne State University that ranged from a student dressed in camouflage fatigues to the dapper U.S. District Judge Robert DeMascio, Burger touched on Patrick Henry, Winston Churchill and Edwin Meese to explain the Constitution's birth and evolution.

Later, after a private lunch with General Motors Corp. Chairman Roger Smith, the Burger was a guest at a patriotic, 1,500-person gala Friday night at the Westin Hotel. Gov. Blanchard, Ohio Gov. Richard Celeste, Mayor Young, U.S. Sen. Donald Riegle and Michigan Supreme Court Chief

Justice Dorothy Comstock Riley also attended.

The Constitution's birth was not easy, Burger told the Wayne State audience. Even Ben Franklin opposed it at first.

The strength of the Constitution is the right to dissent, Burger said, even though dissent produces conflict and confusion.

He quoted Churchill on democracy — "a terrible form of government, terrible, but all the others are worse."

Said Burger: In the U.S. system, "everybody can talk, including those who have nothing to say."

ASKED ABOUT Attorney General Edwin Meese's call for a new Constitutional Convention, Burger noted Meese has the same First Amendment rights to express his opinions as any citizen, and he advocated public officials speaking out to raise

issues.

But Burger said, "There's no way to put a muzzle on a Constitutional Convention" to narrow its work to force Congress to balance the federal budget, as some have suggested.

"I would not favor... a Constitutional Convention to review the whole thing," said Burger, and called the plan "a grand waste of time."

The anniversary of the signing of the Constitution is Sept. 17, the date in 1787 that 39 of 55 delegates in Philadelphia affixed their John Hancock signatures to the document.

On Sept. 17, 1987, Burger will celebrate his 80th birthday.

He hopes to run the committee until 1991, when its mandate expires.

And then? "I'm going to take my wife to lunch."

GEORGE WALDMAN/Detroit Free Press



■ Ruling due on theft victim's trial 5B

■ U.S. Justice Dept. sues Ferndale 10B

# Metro

The Detroit News  
Saturday, January 31, 1987..

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 Obituaries / 7B  
 Classified / 8B

Local news / 222-2300     Home delivery / 222-NEWS     Classified ads / 977-7500

## Burger brings the Constitution's birthday show to town

By N. Scott Vance  
News Staff Writer

Former Supreme Court Chief Justice Warren E. Burger Friday brought his promotional campaign for the Constitution's bicentennial and his quick wit to Detroit, where he was welcomed with a mayoral proclamation and an honorary university degree.

Burger outlined a new five-year plan for his Commission on the Bicentennial of the U.S. Constitution, calling on scholars and others to join him in giving the document a thorough checkup.

Burger called the Constitution,

signed in 1789, the "greatest organic document in the history of the human race," but said so much has changed since it was written that an intensive study of it is needed.

"WHILE THE Constitution remains a unique and wonderful instrument of government that is as alive and as sound as it was when written in 1787," Burger said, "a nation of 240 million in the 20th and 21st centuries has needs and problems different from a people of four million in the 18th century."

Burger's 23-member commission was created by Congress to oversee a national celebration of the Constitu-

tion's signing and to provoke interest in the document among scholars, students and the public.

He addressed a gathering of 1,500 Friday night in the Westin Hotel. Earlier Friday, Burger received an honorary doctorate at Wayne State University and Mayor Coleman A. Young proclaimed Friday "We The People Day," in recognition of the Constitution and the former chief justice's visit.

The crowd at the Westin included lawyers, judges and elected officials from the four states in the Sixth U.S. Appellate Circuit — Michigan, Ohio, Tennessee and Kentucky. But the chairman of the affair, U.S. Appeals

Court Judge Damon J. Keith noted that the crowd included 300 students from 45 public and parochial schools.

YOUNG CALLED the audience "a healthy slice of Detroit. We all know Detroit is much maligned, but tonight we see Detroit as it really is."

Burger was far more willing to talk about history than politics and received laughs with his artful dodging of some questions.

One man at WSU noted that Burger was not as conservative as President Richard Nixon might have wanted and asked whether he thought the new chief justice, Wil-

liam Rehnquist, would be conservative enough for President Reagan.

"You'll have to ask the respective presidents, a lot of law professors, lots of columnists and the anchor-men," Burger said. "There are the major authorities on questions."

BUT HE appeared happy to comment on a current political subject: a proposal to call the nation's second constitutional convention to write an amendment requiring a balanced federal budget.

"It would be a great waste of time," he said. "There is no way to put a muzzle on a constitutional convention" and the document

doesn't need wholesale change. "If you get a flat tire, you don't throw the car away."

In outlining his commission's five-year plan, Burger said it would devote 1987 to discussing the framing of the Constitution. Starting in 1988, the group will devote one year each to studying the three branches of government and the articles of the Constitution that created them. In 1991, the group will finish with the Bill of Rights and other amendments, he said.

Asked what he planned to do after completing the commission's work in 1991, Burger responded: "I'm going to take my wife to lunch."

(This sheet to be used by those testifying on a bill.)

714  
DATE 2/16/87  
HB 10

NAME: Mrs. Mary E. Drubek DATE: 2-16-87

ADDRESS: 7645 N. Montana Ave. - Helena Mt

PHONE: 458-9525

REPRESENTING WHOM? Helena Eagle Forum, Pioneers' Chapter (Helena Mt)

APPEARING ON WHICH PROPOSAL: HR 10

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?

COMMENT: I am for a Balanced Budget, but I oppose a Federal Constitutional Convention to achieve this

I think we should insist that Congress adopt the Balanced Budget that Congress missed, it by <sup>only</sup> vote

The 8 safeguards which Proponents of a Convention say confidently exist, in fact do not exist. Promises, Promises

Many people are unaware that changes in our U.S. Constitution are not only being contemplated but are completed. Note N.Y. Times Article enclosed

The 8 "Safeguards" are attached note please with comments revealing the answers

As Justice Stephen Burger stated - "You can't put a muzzle on a Convention & it's a good waste of time"

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Please don't make Mt. #33

over please

former Chief Justice Arthur Goldberg says one of the most serious problems is Art V. which poses a runaway convention. The single purpose for a specific amendment is not true

When catching a mouse one points to the cheese not to the trap. We are for a Bal Budget - We are against a Fed. Con Con. Please oppose H R 10

It has to be ratified by 3/4 of the States! True!  
But not 3/4 State Legislatures. It could be ratified by state Conventions — as written in Art V.

# Report Urges Changes In the Political Structure

Continued From Page 1

to "set reasonable limits on campaign expenditures" by overruling a 1976 Supreme Court decision that barred Congress from directly curbing private campaign spending.

Supporters of the report stressed that their main goals were to make the point that the political system has serious problems that cannot be attributed to particular politicians, and to stimulate debate on possible remedies, some of which they stress would not require the difficult step of amending the Constitution.

The proposed changes, the product of nearly five years of work and debate, stop short of a more pronounced shift toward a parliamentary system and away from strict separation of the executive and legislative branches. Some leaders of the committee such as Lloyd N. Cutler, former counsel to President Carter, have advocated the larger change.

The proposals reflect the lack of consensus on the committee and of significant support in society at large for such fundamental change, which critics say could lead to Presidential dominance over Congress and erode democracy by making the Government less responsive to public opinion.

Debate over such issues has intensified in scholarly circles in the past decade as complaints about governmental paralysis have grown and successive Presidencies have been widely perceived as ending in failure.

The loosely organized, self-created committee, with a 51-member board of directors and about 300 members, is headed by Senator Nancy Landon Kassebaum, Republican of Kansas; C. Douglas Dillon, who was Secretary of the Treasury under President Kennedy, and Mr. Cutler, a prominent Washington lawyer.

Mr. Dillon, a Republican, and Mr. Cutler, a Democrat, were the driving forces in organizing the committee, which includes present and former members of Congress, state officials, former Cabinet members and White House aides, party officials, labor leaders, lawyers and scholars.

Among those on the board were Senators Daniel Patrick Moynihan of New York and Charles McC. Mathias Jr. of Maryland; Robert S. McNamara, the former Secretary of Defense and Ford executive; Gov. Dick Thornburgh of Pennsylvania, and James MacGregor Burns, the political scientist and historian. The report did not indicate which board members supported which ideas; Senator Kassebaum, for example, said she backed only part of the report's analysis and proposals.

The report cites the chronic inability of the President and Congress to agree on common approaches to problems ranging from budget deficits to nuclear disarmament and routine trade and tax treaties as evidence of the present system's tendency to produce "stalemate and deadlock."

Because no coherent party or group

is in charge of the policy-making process, the report adds, it is easy for elected officials to "avoid accountability for governmental failures" by blaming one another.

Without mentioning the Iran-Nicaragua arms controversy directly, the report suggests that such episodes are made more likely by the "institutional contest of wills between Presidents and shifting, cross-party coalitions within the Congress."

"Presidential concern over 'leaks' and frustration with Congressionally imposed restrictions have led Presidents and their staffs to launch important diplomatic, military and covert activities in secret and without consulting Congress," the report says.

It also says the need for special-interest contributions to defray the rapidly rising cost of political campaigns has accelerated the decline of political parties while putting "a contested seat in Congress beyond the means of everyone who is not either personally wealthy or willing to become dependent on well-heeled special interest groups."

Senator Kassebaum said in an interview that while the report's "mixed bag" of remedies was worthy of debate, she did not agree that the separation of powers was to blame for governmental "gridlock."

She strongly supports only the proposals to restrict campaign spending and to extend House terms to four years, which she said might win broad public support, unlike some others in the report. Lyndon B. Johnson called for four-year House terms, and President Reagan has privately endorsed the idea in at least one meeting with a large number of people present.

## Return to 'Party Government'

Mr. Cutler said he hoped that limited changes in the constitutional structure, acts of Congress and party rules would lead to major improvements in the way the Government operates. The report's design is to return to what Mr. Cutler called the kind of "party government" that enabled Woodrow Wilson and Franklin D. Roosevelt to push their programs through Congresses controlled by their party.

The proposals would make the President and members of his party more dependent on one another politically, increase the likelihood that the party that wins the Presidency would win control of Congress, make it easier for Presidents and party leaders to push through coherent programs, and make it clear to voters who was responsible for the Government's successes and failures, Mr. Cutler said.

The committee's proposals to strengthen political parties and foster party loyalty would not require constitutional amendments.

They include changing party rules to give Congressional nominees a greater voice in choosing Presidential nominees, strengthening party caucuses in Congress, and requiring states to give voters the chance to cast a single, straight-line party ballot for all Federal election contests, as 19 states including New York do now.

## Other Points for Discussion

The proposal for partial public financing of Congressional campaigns would create a public fund to pay for broadcast advertising by nominees of major parties on the condition that they spend no other money for broadcasting. To strengthen party discipline, half the money would go to party leaders in Congress for allocation among the nominees.

Other proposals that the report said were supported by only a minority of the committee but "deserve further discussion" include "mandatory straight tickets," whereby voters would have to support a single party's nominees for all Federal offices; creating a "shadow cabinet" for the legislative opposition, and giving the President or Congress the power to call new elections in the event of governmental deadlock.

Senator Kassebaum said that she opposed mandatory straight tickets, that the idea of allowing members of Congress to serve in the executive branch was "way too far out," that it would be "hard to generate public support for public financing of campaigns" at a time of budgetary stringency, and that fundamental structural changes in the Constitution were not warranted.

# Citing Chronic Deadlock, Panel Urges Altering Political Structure

By STUART TAYLOR Jr.

Special to The New York Times

WASHINGTON, Jan. 10 — Amid the national celebration of the bicentennial of the Constitution, a group of prominent political figures and analysts here has concluded that the political structure the framers set up impedes solutions to many of today's problems and needs to be changed.

A draft report by the bipartisan group, the Committee on the Constitutional System, asserts that the separation of powers between the executive and legislative branches, while guard against tyranny and abuse of high office, has produced chronic "confrontation, indecision and deadlock" and diffused "accountability for results."

## Aggravating Factors

It says the decline of political parties, the increase in ticket-splitting and the rise of monied single-interest groups have aggravated those problems.

In a report to be published later this month, the committee proposes a number of changes in party rules and Federal law aimed at strengthening political parties, including partial public financing of Congressional campaigns in which party leaders in Congress would control half the funds.

In addition, the report, which was made available to The New York Times, says a majority of the commit-

tee's members supported these constitutional amendments to improve "collaboration between the executive and legislative branches":

¶ Extending the terms of members of the House of Representatives from two years to four and of Senators from six years to eight, and scheduling all Congressional elections in Presidential election years. In addition to linking the

## The Constitution 1787-1987



fortunes of Presidential and Congressional candidates, this would cut the cost and time devoted to campaigns.

¶ Allowing members of Congress to serve in the Cabinet and other positions in the executive branch. This proposal would be the most pronounced, although still modest, move in the direction of parliamentary government.

¶ Making it easier for the President to get treaties ratified, either by reducing to 60 percent the present requirement of approval by two-thirds of the Senate or by requiring only a majority vote of both the House and the Senate.

Another proposed constitutional amendment would authorize Congress

Continued on Page 10, Column 5

with your own...  
Many who  
received no popular votes. Yet this has never happened. There have been 19,180 electors since 1798, and only seven have voted for a candidate other than the one for whom they were elected. The odds against delegates to a convention behaving differently would be astronomical.

Also, legislation unanimously approved by the Senate Judiciary Committee in 1984 would enforce this limit by requiring that each delegate swear to an oath to limit the convention to the topic for which it was called. Similar legislation has been passed by the Senate twice on unanimous votes.  
*The idea of delegating's swearing an oath to limit the topic to one topic is probably unconstitutional & would be challenged*

#### 4. Voters themselves would demand that a convention be limited.

Many groups say they oppose an unlimited constitutional convention. So do advocates of the balanced budget amendment. If this is the majority opinion, as it seems to be, it is reasonable to expect that delegates elected to a convention would reflect that view. Certainly if a convention were to be held, every candidate would be asked whether he favored limiting the convention to the subject of the call. Even if the voters in some areas did favor an open convention, or some candidates lied and were elected, it is still improbable that a majority of delegates would be elected who favored opening the convention to another issue when the majority of voters do not.

#### 5. Even if delegates did favor opening the convention to another issue, it is unlikely that they would all favor opening it to the same issue.

Opponents of the constitutional convention call on the balanced budget amendment have listed dozens of issues which they allege might be brought up at a constitutional convention. There have been allegations that the Bill of Rights would be tampered with, that amendments would be inserted banning abortion, or doing other things which polls show a majority of citizens oppose. Yet those who raise these fears have never offered any analysis of from where support for such propositions would come. Consequently, even if it were true that some delegates to a convention would favor reviving the ERA, and others might favor banning abortion, that does not mean that either group would be likely to control a convention. The odds are against it.

#### 6. Congress would have the power to refuse to send a nonconforming amendment to ratification.

As the American Bar Association indicated in its study of the amendment by the convention mode, the Congress has yet another way of preventing a runaway amendment. It could simply refuse to send any amendment to the states for ratification.

#### 7. Proposals which stray beyond the convention call would be subject to court challenge.

Leaders in legislatures which have petitioned for a constitutional convention on the balanced budget issue have indicated that they would institute court challenges to any proposal which went beyond their original call. According to the American Bar Association, such challenges are possible to convention-proposed amendments, but not to those which originate in the Congress. There is an excellent chance that the Supreme Court would prohibit a stray amendment from being sent to the states for ratification.

#### 8. Thirty-eight states must ratify.

The final and greatest check against a "runaway" convention is the fact that nothing a convention would propose could become part of the Constitution until it was ratified by 38 states. It is by no means easy to obtain 38 states to ratify any controversial proposition. The fate of the ERA and the proposed amendment granting voting representation in Congress for the District of Columbia proves this point. If there are even 13 state legislatures in the country that are not convinced that any amendment proposed by a convention represents an improvement in our Constitution, that amendment would not be ratified.

#### 9. One Hundred Million To One

The odds against many of these events are remote. Even if you assume the odds of all eight of these possibilities are 30-50, the chance that all eight could happen and produce a runaway convention are only four in a thousand. But the odds against many of these events are remote. Even if you assume average odds of just 10-1, the chance of a runaway convention would fall to one in one hundred million.

simply refuse to send such an amendment to the states for ratification.

which might be available to the D.C. Times, the Washington Post and the TV network.

with con by majority in Supreme Court, con law will instigate the Supreme Court into the same mistake, & 38 states must ratify.

the 38 state legislatures see Amendment

Congress could specify

by Amendment by passing a separate act

the odds against many of these events are remote

the chance that all eight could happen and produce a runaway convention are only four in a thousand

Even if you assume average odds of just 10-1, the chance of a runaway convention would fall to one in one hundred million

However you calculate the odds, the danger of a convention "running away" is slight. Much less remote is the danger to our country of continued, runaway deficit spending. Staggering deficits stretch out on the horizon as far as the eye can see. Deficits which mean high interest rates. More high inflation. Or both. We would be fools if we attempted to prove that America would be the exception to the rule that protracted financial turmoil weakens and eventually destroys free institutions. The best way to preserve our constitutional order which we all cherish is a constitutional amendment to bring runaway federal deficits under control.

One Hundred Million To One

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February 16, 1987

Subject: House Joint Resolution #10

To: The Honorable Members of the Committee

Mr. Chairman and members of this Committee. My name is Betty Johnson I am a housewife, a mother, grandmother and a businesswoman. I rise in opposition to HJR #10.

A national organization has launched a massive campaign to lead the people of Montana to believe that their legislators can petition congress to call for a Constitutional Convention for the sole purpose of a balance budget amendment. I honestly and most sincerely believe there is simply not one shred of evidence to support the position that a convention would limit itself to one amendment (Article V of the Constitution clearly says AMENDMENTS (in the plural) are to be considered when a convention is called. There are many groups who would want their amendment proposed once a convention is held

and with a powerful press campaign could be justified in doing so!

When this movement started about ten years ago, it was taken so lightly that there was no public debate held in many states and many did not even record their votes. (Read letter from Gerald Gunther, Professor of Law at Stanford Law School).

Since States have started to take a serious look at the grave consequences at the calling of a Constitutional Convention, I would like to point out that since January 1, 1980 only three (3) states approved the call and since 1983 Michigan, Connecticut, Kentucky and California have all considered and rejected the call for a Constitution Convention, which they believe could not be limited to one issue.

Now that we are so seriously close to calling for a convention, we must take a serious look at the risks involved in putting our constitution out on the bargaining table. I am, as you all are, sincerely concerned for the huge deficit



our country is facing and frustrated by congress's failure to act to inforce Public Law 95-435, dated Oct. 10, 1978, Sec. 7 which states: "Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts."

Members of the Committee, I propose we invite this National organization to rather use their influence helping we Montanan's elect representatives to Congress who would vote for a balance budget amendment.

I close with these words from a man I greatly admire, JAMES MADISON, ". . . having witnessed the difficulties and dangers experienced by the first Convention, which assembled under every propitious circumstances, I WOULD TREMBLE FOR THE RESULT OF A SECOND."

Ladies and Gentlemen of the Committee, I urge you to vote NO to HJR #10.

"(m) No article, material, or supply, including technical data or other information, other than cereal grains and additional food products, subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, may be exported to Uganda until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights."

Presidential  
certification to  
Congress.

(e) The Congress directs the President to encourage and support international actions, including economic restrictions, to respond to conditions in the Republic of Uganda.

22 USC 2151  
note.

Sec. 6. The Secretary of the Treasury shall instruct the Executive Director of the United States to the International Monetary Fund to work in opposition to any extension of financial or technical assistance by the Supplemental Financing Facility or by any other agency or facility of such Fund to any country the government of which—

22 USC  
286e-11.

(1) permits entry into the territory of such country to any person who has committed an act of international terrorism, including any act of aircraft hijacking, or otherwise supports, encourages, or harbors such person; or

(2) fails to take appropriate measures to prevent any such person from committing any such act outside the territory of such country.

Sec. 7. Beginning with fiscal year 1981, the total budget outlays of the Federal Government shall not exceed its receipts.

31 USC 27.

Approved October 10, 1978.

C [

STANFORD LAW SCHOOL

Personal Statement, Professor Gerald Gunther

My major concern is with constitutional processes. [The convention method of amending the Constitution is a legitimate one under Article V: it is an appropriate method for proposing amendments when two-thirds of the state legislatures, with appropriate awareness of and deliberation about the uncertainties and risks of the convention route, choose to apply to Congress to call a convention. But the ongoing balanced budget convention campaign has not been a responsible invocation of that method. Instead, between 1976 and 1979, about half of the state legislatures adopted applications without any serious attention to the method they were using, in an atmosphere permeated with wholly unfounded assurances by those who lobbied for the convention route that a constitutional convention could easily and effectively be limited to consideration of a single issue, the budget issue.] In my view, a convention cannot be effectively limited. But whether or not I am right, it is entirely clear that we have never tried the convention route, that scholars are divided about what, if any, limitations can be imposed on a convention, and that the assurances about the ease with which a single issue convention can be had are unsupportable assurances.

I find it impossible to believe that it is deliberate, conscientious constitution-making to engage in a process that began in 1976 with a mix of inattention, ignorance and narrow, single-issue focus; that might well expand to a broader focus during the campaigns for electing convention delegates; and that would not blossom fully into a potentially broad constitutional revision process until the convention delegates are elected and meet. There is no denying the fact that, if the present balanced budget convention campaign succeeds in eliciting the necessary applications from 34 state legislatures, the convention call will be triggered by inadequately considered state applications, for the vast preponderance of the legislative applications rest on an entire absence of consideration of the risks of a convention route. In my view, that constitutes a palpable misuse of the Article V convention process. The convention route, as I have said, is legitimate when deliberately and knowingly invoked. The ongoing campaign, by contrast, has produced a situation where inattentive, ignorant, at times cynically manipulated state legislative action threatens to trigger a congressional convention call. I cannot support so irresponsible an invocation of constitutional processes.

Gerald Gunther,  
William Nelson Cromwell Professor of Law

Crown Quadrangle  
Stanford California  
94305



Nov. 17, 1983

Reprinted with permission from Citizens To Protect The Constitution

NAME: Del Lee DATE: 2-16-87

ADDRESS: P.O. B. 41 Bigfork Mont

PHONE: 837-6149

REPRESENTING WHOM? Myself

APPEARING ON WHICH PROPOSAL: H. J. R - 10

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENT: Do not need Con Con to balance

Fed Budget. This is a plan by internationalist

to gut our Const.

If you can balance budget why

doesn't Mont do it by this simple but

smarter method

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

717  
DATE 2/14/87  
HB 10

NAME Patricia Reis BILL NO. HR 10  
ADDRESS 6850 Green Meadow Ave. DATE 2/16/87  
WHOM DO YOU REPRESENT? Myself & family  
SUPPORT \_\_\_\_\_ OPPOSE ✓ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: I'm for a balanced budget but opposed to a Constitutional Convention.

Last Nov. Michigan rejected a Const. Convention resolution which like HR 10 contained a proposal to limit its scope. yet the argument that the safeguards could not be a guarantee against an out-of-control convention prevailed over the claim that the convention be limited. One Senator Akon said "Constitutional Conventions are by their very self-definition sovereign bodies". We know what such a body could do but nobody knows for sure what it would do."

Note ABA resolutions. If a constitutional convention were called one may see the Supreme Court being brought into the picture. I ask you to not throw "caution to the wind" but consider carefully the many unknown paths of HR 10. I urge a no vote.

Thank-you!

P.S. Note p 18 - but the ABA changed

their minds.

WITNESS STATEMENT

720  
2/16/87  
10

NAME Carl Jady BILL NO. HR-10

ADDRESS 4 Custer Ave W. DATE 2-16-87

WHOM DO YOU REPRESENT? Citizens for Honest Government

SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am opposed to HR-10 because I feel any measure designed which may allow the constitution to be tampered with is not in our best interest

NAME: Harvey Leroy DATE: 2-16-87

ADDRESS: 228 N DAVIS

PHONE: \_\_\_\_\_

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: H) B-10

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?

COMMENT: Statement attached;

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Chairperson, and Committee: For the record I,  
~~oppose this Bill~~ Henry Tadej ~~oppose this Bill~~

Chairperson, and Committee: For the record, I,  
Henry Tadej, a citizen of the United States of America  
a concerned Christian for Good Government oppose  
this Bill.

I speak to you from my heart as a Man who  
fears God, just as our fore-fathers be fore us also  
feared God. They came the long Journey to the United  
States to get away from treason subjected to them  
by the King as listed in the Declaration of Indep-  
-endence.

As God fearing Man in Committee Ben Franklin  
said to them, ~~like this~~ Like this: We need Help from a  
Supreme being to Help us in writing our constitution.  
And the Supreme being He was Referring to was God.

~~and~~ - and the next day the  
Constitution was written. God surely had His Hand in  
on the writing of our Constitution. It states, that all  
Men are Created equal, that they are endowed by their Creator  
with certain unalienable rights. It was also written as  
one Nation under God.

What God has helped Man write to protect His  
People. I feel it would be a disaster if opened up  
and Change by Government.

Justice Hugh L. Black SAID, Quote: Loyalty comes from Love  
of Good Government, Not fear of a bad one. UNQUOTE -

I am sure you all have said something like this: I do  
solemnly Swear that I will support and upheld the Constitution  
of the United States, and the Constitution of this State, and defend  
it against all enemies, foreign and domestic. But I do not



The Constitution reads also, Governments are instituted among Men, deriving their just powers from the consent of the Governed. That is us, We the People.

Abraham Lincoln said, Quote: We the People are the Rightful Masters, both of the Congress and Courts, Not to overthrow the Constitution, but to overthrow the men who prevent the Constitution. UNQUOTE-

PROVERBS 11: 14 - WHERE THERE IS NO GUIDANCE, THE PEOPLE FAIL,

I feel your position in Government whether it be Local, State or Nation should be considered a privilege and a great honor to serve the people of the United States whom voted or elected in and not treat it as a job or occupation for the Government and again I say, Its Service to We the People.

If we abide in the principles taught in the Bible, the Supreme Law of the Universe, follow the Constitution, the Supreme Law of the Land, We can restore God to His rightful throne of Supremacy, and this Great Country to One Nation Under God.

HEB. 10: 26 IF WE SIN WILLFULLY AFTER HAVING COME TO THE KNOWLEDGE OF THE TRUTH, THERE REMAINS NO MORE SACRIFICE FOR SIN.

God Bless you, THANK YOU FOR LISTENING.

EXHIBIT # 22  
DATE 2/16/87  
HB 10

WITNESS STATEMENT

NAME Beverly Gluebert - 4th generation Montanan BILL NO. HR 10  
ADDRESS 152 1/2 Chateau St. - Helena DATE Feb. 16, 1987  
WHOM DO YOU REPRESENT? Myself  
SUPPORT \_\_\_\_\_ OPPOSE  AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Balanced budget - Yes!  
Constitutional Convention - No!

Would urge this Committee to pick up and read a copy of "Constitutional Connections". This, and other materials, including two books, "Reforming American Government, The Bicentennial Papers of the Committee on the Constitutional System" edited by Donald L. Robinson Westview Press of Boulder, Colorado and London, The second book available also at our State Centennial office in the Capitol, "Constitutional Reform and Effective Government" by James S. Sunquist, published by the Brookings Institution in Washington, D.C. - Appears as though there has been some work already done to begin change our U.S. Constitution in Montana  
Thank you.

(This sheet to be used by those testifying on a bill.)

NAME: DAN BURDICK DATE: 2/16/87

ADDRESS: 801 Holten

PHONE: 447 4869

REPRESENTING WHOM? SELF

APPEARING ON WHICH PROPOSAL: HJR 10

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENT: NO need TO TOUCH THE  
CONSTITUTION -

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: DICK BRINEGREEN DATE: 2/16/87

ADDRESS: 1513 COLE

PHONE: 443-3137

REPRESENTING WHOM? MONTANA JAYCEES

APPEARING ON WHICH PROPOSAL: HJR 10

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENT:

MEMBERSHIP OF 2600 ; 58 CHAPTERS

ARE IN SUPPORT OF HJR 10

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

The following resolutions were approved by the American Bar Association House of Delegates in August, 1973, upon the recommendation of the ABA Constitutional Convention Study Committee.

WHEREAS, the House of Delegates, at its July 1971 meeting, created the Constitutional Convention Study Committee "to analyze and study all questions of law concerned with the calling of a national Constitutional Convention, including, but not limited to, the question of whether such a Convention's jurisdiction can be limited to the subject matter giving rise to its call, or whether the convening of such a Convention, as a matter of constitutional law, opens such a Convention to multiple amendments and the consideration of a new Constitution"; and

WHEREAS, the Constitutional Convention Study Committee so created has intensively and exhaustively analyzed and studied the principal questions of law concerned with the calling of a national constitutional convention and has delineated its conclusions with respect to these questions of law in its Report attached hereto,

NOW, THEREFORE, BE IT RESOLVED, THAT, with respect to the provision of Article V of the United States Constitution providing that "Congress . . . on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments" to the Constitution,

1. It is desirable for Congress to establish procedures for amending the Constitution by means of a national constitutional convention.
2. Congress has the power to establish procedures limiting a convention to the subject matter which is stated in the applications received from the state legislatures.
3. Any Congressional legislation dealing with

A {

B

While we believe that Congress has the power to establish standards for making available to the states a limited convention when they petition for that type of convention, we consider it essential that implementing legislation not preclude the states from applying for a general convention. Legislation which did so would be of questionable validity since neither the language nor history of Article V reveals an intention to prohibit another general convention.

In formulating standards for determining whether a convention call should issue, there is a need for great delicacy. The standards not only will determine the call but they also will have the effect of defining the convention's authority and determining whether Congress must submit a proposed amendment to the states for ratification. The standards chosen should be precise enough to permit a judgment that two-thirds of the state legislatures seek a convention on an agreed-upon matter. Our research of possible standards has not produced any alternatives which we feel are preferable to the "same subject" test embodied in S.1272. We do feel, however, that the language of Sections 4, 5, 6, 10 and 11 of S.1272 is in need of improvement and harmonization so as to avoid the use of different expressions and concepts.

We believe that standards which in effect required applications to be identical in wording would be improper since they would tend to make resort to the convention process exceedingly difficult in view of the problems that would be encountered in obtaining identically worded applications from thirty-four states. Equally improper, we believe, would be standards which permitted Congress to

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applications of this nature." The House thus decided not to refer the application to committee but rather to enter it upon the Journals of Congress and place the original in its files. 1 Annals of Congress, cols. 248-51 (1789). Further support for the proposition that Congress has no discretion on whether or not to call a constitutional convention, once two-thirds of the states have applied for one, may be found in IV Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution* 178 (2d ed 1836) (remarks of delegate James Iredell of North Carolina); 1 Annals of Congress, col. 498 (1796) (remarks of Rep. William Smith of South Carolina during debate on a proposed treaty with Great Britain); Cong Globe, 38th Cong., 2d Sess. 630-31 (1865) (remarks of Senator Johnson).

# THE ORDER OF AUTHORITY

**Our GOD Almighty  
And Son Jesus Christ**

Creator of man. Source of all rights.

**The Bible** Supreme Law Of  
The Universe

GOD's covenant with man.

**We, The People - The Body of Christ**

Sovereign Free Men - Creator And Master Party  
Of Government By Constitution For The United  
States Of America. Source Of All Government Rights.

**The Constitution** Supreme Law  
Of The Land

The People's Chain (Control) Of Our Government

**Peoples Enforcement Controis**

Electoral Vote Grand Jury Petit Jury

**Government** Servant Of  
We, The People

Sole Purpose Is Protection Of Individual Rights.  
Power And Authority Enumerated In And Restricted By Constitution.

The Seperate And Distinct Function Delegated To Governmental Representatives

**Executive**  
Law Enforcement

**Legislative**  
Law Making

**Judicial**  
Law Application

"Persons" Subject To Government Law And Regulation

**Corporations** (Government Created Persons),

And Sovereigns (Freemen) Who Exchange Their Birth  
Rights For Government Privileges And Become Servants  
Controlled By Government Rules And Regulations.

## Instructions:

Study carefully. Share with your family and friends. Make and distribute at least 100 copies, particularly to your christian leaders who continue to express dismay and inability to understand the U.S. Supreme Court decisions appearing to be contrary to the constitution for the United States of America regarding churches, church schools, banning of prayers in school, etc.

We Can! - Restore GOD to his rightful throne of supremacy; and this great country to 'One Nation, Under GOD'!

(This sheet to be used by those testifying on a bill.)

NAME: Coil Storms DATE: 2/16/87

ADDRESS: Trego Mont

PHONE: \_\_\_\_\_

REPRESENTING WHOM? Self

APPEARING ON WHICH PROPOSAL: HSR 10

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?

COMMENT: I favor a balanced budget but oppose  
the constitutional convention method. Throughout at  
least the past 50 years, certain groups have been  
working to support programs that were unconstitutional  
The work to create deficits, inflation, farm subsidies,  
housing subsidies and other wasteful projects, contrary  
to the U.S. constitution, then point to the problems created  
by such waste, to claim that the constitution isn't  
working. using such deliberately created crisis  
they try to convince the citizens that the constitution  
must be modified. what is needed is a return to  
true constitutional government - a republican form.  
a constitutional convention is too risky.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

If the congress won't follow the present constitution and its  
present amendments, why should we presume that congress  
will adhere to yet another amendment.



SAVE OUR WONDERFUL CONSTITUTION. For many years several groups of UN-Americans have been busy destroying the U.S. Constitution. The Congress, the Courts, the Bankers, the Council on Foreign Relations, the Tri-lateral Commission, the State Department—all have been involved in this activity. The U.S. Constitution, except for several amendments (most of which have never been legally ratified by the states) remains basically intact, but almost none of the individuals who swear to uphold and defend the Constitution (So Help me God) are following their oath of allegiance. Among other things the Constitution requires that we be on a gold monetary standard. No civilization who resorted to fiat money has ever survived. Many programs of the U.S. Congress are treasonous, according to the U.S. Constitution. We are not allowed to dispense Foreign Aid or Welfare programs, or join Communist Fronts such as the United Nations and its related agencies such as Nato, Unesco, Seato etc. It is unconstitutional to subsidize housing, farming, intrastate transportation, or communications, schools or to collect income taxes. The list is lengthy and would require pages to list all of the unconstitutional programs now in use and which We the People have allowed during this century. Previous to 1900 only a few programs did not follow the dictates of the Constitution. Many of these illegal practices are now being used to convince the citizens that the Constitution is not working and must be modified. The current trend is to gradually change our form of Government to a parliamentary type. Such penny-ante operations as Watergate, Irangate, the National debt, the trade deficit, various undeclared wars, high interest rates, inflation (some of these are not so penny-ante) while deliberately planned to subvert the Constitution, are now being trotted out to prove that the Constitution is not working.

England has a parliamentary form of Government. Those of us who have visited that country can testify that it cannot survive without transfusions of money from this country. England is proof positive that Socialism does not work. England has been destroyed by its own Government. It once was a great empire but has now lost all its colonies and couldn't lick the Boy Scouts in a war without the help of the United States. If we don't quit helping every Communist country in the world, we will be in the same condition.

Our forefathers did everything possible to separate our nation from the Socialist European nations and even to keep them out of this hemisphere. (the Monroe Doctrine).

Now we have the so-called Balanced-Budget Amendment. All we need to do to balance the budget is cut spending and balance it. As long as we can print worthless Federal Reserve Notes, there will be no balanced budget. Congress passed a balanced budget law in 1977 and it was signed by the President. Congress won't even follow its own laws.

The 14th, 16th and 17th amendments are three of the most destructive to a Republican form of Government. (what the Constitution guarantees to every state). None of these amendments actually received the approval of the required three-fourths of the states for approval.

All this nation needs is a return to the U.S. Constitution as originally ratified by the 13 colonies. Let's make this happen.

*J. Earl Starn*  
*Trego, Mt.*

TO: MEMBERS OF THE STATE ADMINISTRATION COMMITTEE  
FROM: KAREN LARSON  
DATE: FEBRUARY 16, 1987  
RE: HOUSE JOINT RESOLUTION # 10

I strongly favor a constitutional amendment for a balanced federal budget, however, the many unanswered questions involved in calling a Constitutional Convention make this a very undesirable way to achieve that end. Some of these questions are:

1. Do the states have the power to limit the convention to a "sole" issue when the Constitution clearly states in Article V that a convention shall be called for proposing amendments (plural)?
2. Who will the delegates be and how will they be chosen?
3. Will the states control their delegates?
4. Are convention issues reviewable by the courts?
5. How will the convention be financed?
6. How long are state petitions valid?
7. What determines the validity of a petition?
8. Would state legislatures or state conventions ratify?

No law exists to prescribe rules for a Con Con and, even if Congress passed one now it's constitutionality would be in question until it is reviewed by the Supreme Court.

We need a balanced budget now. Resolving the afore mentioned difficulties could delay the passage of specific amendments for years. Please vote NO on HJR 10.

 **COMMON CAUSE/MONTANA**

P.O. Box 623  
Helena, Montana 59624

(406) 442-9251

Mr. Chairman and members of the Committee, my name is Kim Wilson with Montana Common Cause. We are strongly opposed to a Constitutional Convention to balance the federal budget, and urge that you oppose HJR 10.

The first question to ask in examining the possibility of a Constitutional Convention to amend the Constitution requiring a balanced federal budget is whether this is an appropriate tool to balance the budget. There are several reasons why the answer is no:

- A balanced budget amendment will not balance the federal budget. It will divert public attention from the fundamental economic and political problems which have led, especially in recent years, to the enormous budget problem we now have. The issue needs to be addressed squarely by Congress and the Executive.
- Economic policy is incompatible with the content of our Constitution. That document:
  - a. Delineates and protects individual rights.
  - b. Allocates power among the branches of government.
  - c. Creates the mechanism for the federal government.Economic principles are too nebulous and uncertain to be carved in stone. They do not belong in the Constitution.

The more compelling question is whether we should be calling a Convention to alter our Constitution. The answer again is no.

- There is no guarantee that a Convention can be limited to one issue. Article V states that on the application of two-thirds of the states, Congress shall call a Convention for proposing amendments. We have no guarantee that the end result would not be a fundamental change in our form of government through a series of amendments not contemplated by the states making the call.
- History sets no precedent for what procedures will be used, how delegates will be called, how limits could be set to prevent a runaway Convention. It would create a legal nightmare.

In summary, a balanced budget amendment Constitutional Convention is fraught with uncertainty and danger to our current system. It also will not necessarily result in a balanced budget. To risk a great deal for an uncertainty would be foolish. Common Cause strongly urges you to vote do not pass on HJR 10.

## "A PHONY AND DANGEROUS QUICK FIX"

by Archibald Cox

Chairman, Common Cause

There is a right way and a wrong way to attack the alarming federal deficit. The right way is for the Congress and the President to make the tough political choices to address wasteful government spending responsibly and to construct a fair and equitable tax policy that reflects the nation's changing needs and priorities.

The wrong way is to require Congress to call a constitutional convention to propose a constitutional amendment requiring a balanced federal budget. Unfortunately, this is the path many states have chosen -- thirty-two state legislatures have already passed resolutions calling for a convention. That's just two short of the requisite two-thirds of the states spelled out in Article V of the U.S. Constitution. Calling for a constitutional amendment is wrong because it risks erosion of constitutional safeguards for the false appearance of effective action.

Basic questions must be asked about the appropriateness of the amendment itself.

First, the balanced budget amendment is undesirable because economic policy is too complex, uncertain, and variable to be incorporated in the Constitution. Nobel laureate Paul Samuelson has testified that: "Economics is so inexact a science and the future is so unpredictable that it is an act of arrogant folly to

try to specify constitutional formulas applicable for the indefinite future."

Second, serious questions have been raised about the effectiveness of a so-called balanced budget amendment. The language of such an amendment would either create an economic strait-jacket, severely limiting the government's ability to respond to economic crises, or be so ineffective as to encourage Congress to play games with the budget in order to obscure the true costs of government programs. Congressional Budget Office Director Rudolph Penner, formerly an economist with the American Enterprise Institute, has called the balanced budget amendment "so fraught with loopholes that it imposes little restraint."

Supporters of a balanced budget amendment often point out with pride that most state governments are required to have balanced budgets and have done so. What they fail to mention is that many states operate with two budgets -- one for operating funds, which must be balanced each year, and the other a capital budget for long-term construction. If the federal government adopted this two-tiered budget (a simple bookkeeping device) deficits would appear to plummet, but not a penny would actually be saved.

Third, because of the fundamental ambiguity of the amendment, the courts would suddenly be thrust into fiscal policy. This would threaten damage to the Judiciary by requiring judges and ultimately the Supreme Court of the United States to work out the specifics necessary to impose an ill-stated fiscal policy upon the Congress and the President without guidance from any

existing body of law. This inevitable judicial intervention could well bring criticism, resentment and resistance from the Congress and the President, who have long regarded fiscal policy as their exclusive domain.

Fourth, the so-called balanced budget amendment is wrong because it would introduce matter foreign to the Constitution's fundamental purposes: the creation of governmental structure and the establishment of individual rights. The balanced budget amendment serves neither of these purposes and none as fundamental. Although the amendment is characterized by supporters as a sign of fiscal responsibility, in truth the proposal is an act of constitutional irresponsibility because it trivializes our basic charter. Columnist George Will has called the amendment a "trivialization of the Constitution" and charged that its supporters "would graft something evanescent onto something fundamental."

Despite these troubling problems, proponents of the balanced budget amendment are suggesting that we use an unprecedented method of proposing such an amendment by calling a constitutional convention. Questions about such a convention have been debated for years by legal scholars and political commentators, without resolution.

Who would serve as delegates? What authority would they be given? Who would establish the procedures under which the convention would be governed? What limits would prevent a "runaway" convention from proposing radical changes affecting basic liberties?

It would be extraordinarily unwise to take on all of these issues for the purpose of promoting what is essentially an inappropriate constitutional amendment. With these thorny issues unsettled, it should come as no surprise that warning flags are being raised about a constitutional convention. Melvin R. Laird, a Republican Representative from Wisconsin from 1952 to 1969 and Secretary of Defense in the Nixon Administration, recently called the convening of a federal constitutional convention "an act fraught with danger and recklessness."

"To say a constitutional convention should be called to balance the federal budget is a deception," Laird wrote. "A convention cannot perform magic; at best, it could offer an over-the-horizon possibility of a balanced budget amendment, while creating the certainty of profound mischief."

The drive in Michigan and in other states to call a convention may give citizens a quick fix in venting their anger about the government's failure to respond to legitimate and deep-seated concerns about the federal deficit. But nobody should be fooled. Both the means -- a constitutional convention shrouded in uncertainty -- and the end -- an unworkable and inappropriate amendment -- are unjustified. There are no quick fixes to \$200 billion federal deficits. A constitutional convention to propose a balanced budget amendment would only compound the difficulties.

Our elected leaders can and should respond to concerns about the federal budget. But the notion of calling a convention to change the Constitution offers only a simplistic, ineffective, and dangerous solution.

WITNESS STATEMENT

NAME Naomi Powell BILL NO. HJR10  
ADDRESS 559 Willow Creek Rd DATE 2-16-87  
WHOM DO YOU REPRESENT? Friends of the Constitution  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We are not against balancing the budget.

we are against calling a convention.

The Legislature and Congress has that responsibility for this.  
Please don't amend the constitution.



WITNESS STATEMENT

NAME Wally Wlajewski BILL NO. HJR 17  
ADDRESS 601 So. Washington Butte DATE 2-16-87  
WHOM DO YOU REPRESENT? Montana Historians  
SUPPORT \_\_\_\_\_ OPPOSE  AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: We have to <sup>be</sup> Radical, - to the heart of the matter, <sup>the</sup> all encompassing <sup>truth</sup> historical background of most impending issues hold the key to success of National life. They didn't need Convention the few times around to amend <sup>USE</sup> Constitutional Amendment as in past Const. The Regulation theory is being practiced on us. Thesis (Anti Thesis), <sup>Synthesis</sup> Ford Foundation has spent many millions \$ to propose + write New States Const. The <sup>Interlocking</sup> <sup>(have you men or women ever read a copy?)</sup> directorate between them, the Trilateral Commission, Rockefeller Commission on Critical Choices for America, + the ACIR, are obvious.

the leaders of Congress had any real intention of balancing the budget, they would make headline public notice to show the people how the Federal Reserve Corp is monetizing foreign gov't debt and foreign private debt into our currency, fueling inflation and further destroying our economy.

History demonstrates the deception involved and promises negated in the past. History demonstrates the irresponsible actions of Congress in the past as regards to upholding the <sup>our</sup> present Const. one example ART sect 105 <sup>shall</sup>

make anything but gold + silver in payment for debts both private + public.

The reason the special interest groups need more welfare, whether blue collar or white collar, is the lack of upholding ART I Sect 10 which was never amended or repealed. This was the built in check in the mechanism of currency debauchment.

The State should act in its highest ~~sovereign~~ capacity, by upholding ART. I sect 10, and in the near future, force Congress to investigate the <sup>Federal</sup> Reserve Corporation, and realize that there is no money, or dollars, involved, only debauched paper currency, that hides what our National Gov't is doing ~~overseas~~, and in the country.

Mr. Graham - why not the same Const Amendment process as before, and not a Convention. There is a great movement all <sup>over</sup> the Nation, on the rebirth and reknowledgability of the U.S. Const of 1787. The age of which is 200 years, the life span of 2 100 yrs old people.

What about a Const Convention in Montana to balance our State budget. The people will do it next year, when C1-27 will come again.

The same people in Congress, who back this Convention fiscal grounds, have Constitutional, fiscally poor voting records. S. J. Wall, W. L. ...

please  
Note

The 17th Const Amend, was  
not ratified  
Has anyone seen a woman? !!!  
No other options

All the assurances of no runaway Comm  
said today,  
when will mean little, if the  
continued power of the Federal Reserve  
bring about enough economic disaster  
that they can during the Comm

We're just conspiratorial <sup>phantasy</sup>  
risk realm, we've already reached lunacy.

Our 1787 Constitution assured  
us a Republic, ART IV. sect IV,  
not a democracy majority vote  
situation, where someone's rights - to earn a  
living and not be debauched by paper constantly.

Why not allow or support a  
Const Amendment that would  
deny Congress the right to borrow  
money, <sup>to call it money</sup> but print our own U.S.  
Notes backed by Silver and or Gold  
as they should.

U.S. Gov's Office book of New States Const  
Fine, let's have a Const Amend,  
not a Convention.

134 Lawrence Lane  
Kalispell, MT 59901  
15 February 1987

The House Committee  
Washington, D.C.

Dear Fellow Americans:

I understand the bill designated as HRS 10 will come to a vote before the House on February 16th, 1987. I want you to know that as a tax-paying, voting American Citizen, I am extremely against this Bill. I am not in favor of changing our American Constitution. I feel that it is an inspired document and I do not believe any change is necessary at this time. My vote, if I were consulted, would be AGAINST HRS 10.

Sincerely,

*Melba J. Wickes*  
Melba T. Wickes

134 Lawrence Lane  
Kalispell, MT  
15 February 1987

The House Committee  
Washington, D.C.

Dear Fellow Americans:

I understand the bill designated as HRS 10 will come to a vote before the House on February 16, 1987, at 9:00 AM. I want you to know that as a tax-paying, voting American Citizen, I am extremely against this Bill. I am not in favor of changing our American Constitution. I feel that it is an inspired document and I do not believe any change is necessary at this time. My vote, if I were consulted, would be AGAINST HRS 10.

Sincerely,

*William A. Wickes*  
William A. Wickes

House Committee:

I am against HRS 10. I am  
against any changes to rewrite  
the constitution.

Our forefathers wrote the  
constitution for

"We the People .... by the  
people & for the people. Not  
the the Government. ... by the  
government & for the government  
or Not. We Big business; ...  
by big business for big business.

The constitution has worked  
for this long. If we as  
Americans would only follow  
it more closely there would  
never be any question as to  
re write it.

Vote **NO!** Please  
advise the rest of the house  
to also vote **NO!**

Thank you

Linda Hicklund  
PO Box 916

Kalispell, MT 59903  
(406) 257-8938

Dear House Committee :

I am against HR310. I am also against any constitutional changes of any kind. The constitution was written by our fore-fathers who were close enough to the needs of the people to know what was right for them and all future generations. I urge you to also vote against HR310.

Sincerely,  
Robish F. Hill  
1206 - 6<sup>th</sup> Ave. W.  
Kelley, Mt. 59901  
406-257-5411

please  
to hope

The 11th Const Amend, was  
not ratified  
because you men & women  
no other options !!!

All the assurances said today,  
of no runaway Convent.  
which will mean little, if the  
continued power of the Federal Reserve  
bring about enough economic disaster  
that they can during the Convention.

We're just conspiratorial <sup>phantom</sup>  
risk realm. we've already reached January.

Our 1787 Constitution assumed  
us a Republic, ART IV. sect IV,  
not a democracy majority vote  
situation, where someone's rights - to earn a  
living and not be debauched by paper constantly.

Why not allow or support a  
Const Amendment that would  
deny Congress the right to borrow  
money, <sup>(paper)</sup> but print <sup>it</sup> our own U.S.  
notes backed by Silver and or Gold  
as they should.

Let Convention's office book of New States Const  
Fund, let's have a Const Amend,  
not a Convention.



Feb. 15, 1987

Dear House Committee,

I send you this brief note to urge you to vote against H 5 R #10. The Constitution of the United States has weathered the storm for nearly 200 years and been the inspiration of freedom loving people the world over. I firmly believe it is an inspired document and hope that Montana doesn't jump on the bandwagon of thinking that some one or some group can come up with something better. Please, please look closely at what is at stake before you vote on this proposed legislation!

Sincerely,  
Don R. Garner  
Kalispell, Montana

WITNESS STATEMENT

NAME Terrence D. Connolly BILL NO. HJ-10  
ADDRESS Box 204, Townsend, MT 59644 DATE 3/14/89  
WHOM DO YOU REPRESENT? Mont Farmers Union  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Montana Farmers Union opposes the calling of a national Constitution Convention, limited or ~~other~~ otherwise, for any purpose.

*Terrence D. Connolly*

Mary Anne A. Head  
584 Willow Glen Drive  
Kalispell, Montana 59901  
February 15, 1937

House Committee  
Capitol Hill  
Helena, Montana

Committee Members:

I stand firmly against House Resolution #10. I know our present Constitution to be divinely inspired, and have the deepest conviction that it can and should continue to serve the best interests and needs of our country.

I urge you to seriously consider the gravity of your decision, and ask that you vote against House Resolution #10. Please do all within your power to urge your colleagues to do likewise.

Thank you.

Sincerely,

*Mary Anne A. Head*

Mary Anne A. Head

Grant R. Head  
534 Willow Glen Drive  
Kalispell, Montana 59901  
February 15, 1987

House Committee  
Capitol Hill  
Helena, Montana

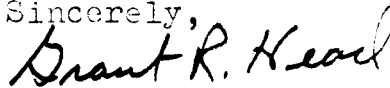
Committee Members:

I stand firmly against House Resolution #10. I know our present Constitution to be divinely inspired, and have the conviction that it will continue to serve the best interest and needs of our country.

I urge you to seriously consider the gravity of your decision, and ask that you vote against House Resolution #10.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Grant R. Head". The signature is written in dark ink and is positioned above the printed name.

Grant R. Head

NAME: Walt Dupes DATE: Feb 16, 1987

ADDRESS: 8585 Hwy 35

PHONE: 8375751

REPRESENTING WHOM? Self & Nancy

APPEARING ON WHICH PROPOSAL: HJR 10

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?

COMMENT: There are many proposals  
to change our present constitution  
and even some proposed New  
constitutions. Most of these proposals  
would weaken ~~our~~ present constitution  
or destroy it.

We have ~~now~~ on the books now  
to balance the budget. If the present  
constitution is followed we will have  
a balanced budget. We can't expect  
anyone adhere to a New one.  
I'm against HJR-10.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

House Committee

I am writing this letter to let you know, I am against H. S. R. - 10 calling for a Constitutional Convention and would urge you to please vote against this issue.

The present Constitution was made up by extremely patriotic individuals who were striving to create and keep a free Country.

The only problem present today is those individuals in the government who choose not to abide within the limits of the Constitution, and those others who refuse to uphold it. Once again please vote against this issue.

Thank you

John & Layna Latum

Mr. & Mrs. Conny Tatum  
1003 E. 2nd Ave.  
Kalispell, MT. 59909

House Committee  
Capitol Station  
Helena, Mt.

To Whom It May Concern,

We are writing to urge you to vote  
against HSR10 which would ratify  
Constitutional Convention.

We are proud to be Americans &  
very grateful for the wisdom of our  
founding fathers in framing this  
unique & precious document. We  
believe it was an inspired document  
of freedom & sincerely hope you  
will not discover it & all it stands  
for by voting in favor of this  
resolution.

Sincerely,

Mrs. Conny Tatum  
CJT

(This sheet to be used by those testifying on a bill.)

NAME: Julie Burk DATE: 2-16-87

ADDRESS: 901 Garfield Helena

PHONE: 442-9483

REPRESENTING WHOM? MEA

APPEARING ON WHICH PROPOSAL: HJR 10

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?

COMMENT: Proponents claim that a convention can be limited to a single issue by saying that state legislatures have called for a convention for the "sole & express purpose" of dealing w/ a particular issue. At the 1787 Convention, however, the express purpose was to rewrite the Articles of Confederation. As we know, the Articles of Confederation was not merely rewritten, but discarded. The U.S. Constitution was drafted despite the convention's limited mandate.

A constitutional convention would enable special interest groups to influence the outcome and would result in something that could easily be contrary to the national well-being.

MEA vehemently opposes HJR 10.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



To House Committee :

2-15-87

AGAINST H-R-5-10

SIRS;

I FEEL AS A PAIN DROP IN A FLOOD,  
BUT, I WOULD STILL EXHORT YOU WHO  
WE THE PEOPLE HAVE ENTRUSTED ~~WE~~ WITH  
A SACRED TRUST IN OUR FREEDOM TO  
VOTE DOWN THIS CONSPIRACY TO TAKE  
OUR FREEDOM. I'M REFERRING TO THE  
CALLING OF A CONSTITUTIONAL CONVENTION  
TO RE-WRITE OUR CONSTITUTION. IF  
WE FEEL WE CAN IMPROVE ON A DOCUMENT  
THAT WAS TRULY INSPIRED WITH DIVINE  
GUIDANCE TO PRESERVE A PLACE WHERE  
MEN COULD FREELY WORSHIP AND EXERCISE  
OUR GOD GIVEN RIGHTS AS A MAJORITY, THEN  
WE ARE IN GRAVE DANGER OF BEING  
CONTROLLED BY EVIL AND CONSPIRING MEN;  
AND ~~AND~~ LET ME SAY THEY ARE EVIL  
WHO WISH TO UNDO <sup>THE</sup> THINGS OF GOD.

Ted Parment

Doniso A. Parmenter

February 15, 1987

To Whom It May Concern:

I, Jonnie M. Davis, a registered voter in the State of Montana and a tax paying citizen, am writing this letter to urge the defeat of House Resolution #10, concerning the ratification for a Constitution convention. I am against anything that might lead to a change in our Constitution. I, again state that I am urging the defeat of the resolution.

*Jonnie M. Davis*

JONNIE M. DAVIS  
1700 STEEL BRIDGE ROAD  
KALISPELL, MONTANA  
59901

To: House Committee

Feb 15, 1987

Gentlemen,

We understand that there is a House Bill #10 to ratify a constitutional convention.

Please vote against this. Our constitution has been weakened by amendments and court decisions all ready. We do not want any more changes. Please help us save our constitution that has given us the finest country on earth.

Save our constitution,

Michael Flagg age 22  
Steve R Flagg age 18

John Flagg D.C.  
Gene Flagg

1200 Fogg Lake Road  
Kathleen, Mont.  
59901

To: House Committee  
Concerning Bill #RS10

I am against Bill #RS10. Please  
vote against this bill.

Thankyou,  
Kathy Sullivan  
Kalspell, MT.

to House Committee  
concerning Bill # HRS 10 -

I am against bill # HRS 10, please  
VOTE AGAINST!! this bill

Thank you  
Mr Ron P. Willmot  
390 Snowline Lane  
Kalispell, Mt. 59901

To House Committee,  
CONCERNING Bill # HRS10

Dam against bill # HRS10, Please  
vote against this bill

Thank you  
Mayhull E. Stillman  
390 Snowline Lane  
Kalispell, Montana  
59901

Jun. 15

Dear House Committee,

We feel strongly to urge you to vote against HSR 10, on ratifying our constitution!

The constitution is very special to us and we believe no changes are necessary!

Sincerely,

John Mathison  
Marlene Mathison

2/15/87

To House Committee:

We are very much against HSR10. We feel it would be very detrimental to our present form of government. We feel the Constitution is very sound, it is the interpretation of it that is at fault.

We urge you very sincerely to vote against this resolution.

Mr + Mrs. Lon Denning  
146 E. Emerson Dr.  
Harpell, Mt. 59901



Jul 15, 1987

To: THE HOUSE COMMITTEE:

PLEASE VOTE AGAINST  
HRS 10. THIS IS A DANGEROUS  
PIECE OF LEGISLATION, AND I AM  
VERY MUCH AGAINST IT.

THE CONSTITUTION HAS STOOD  
THE TEST OF TIME AND WE DO  
NOT NEED A NEW ONE.

Jerry L. Sommer

Feb. 15, 1987

To the House Committee:

Please vote against  
HRS 10. This is a  
dangerous piece of  
legislation, and I am  
very much against it.

As far as I am con-  
cerned, the Constitution  
has stood the test of  
time. There is no need  
for a new one.

Janice Sommers

I am against Resolution  
# 10.

Mrs. Arvilla Klingler  
1027 Laurel.  
Kalispell, Mt.  
59901

February 15, 1987

To House Committee:

Gentleman,

I understand that you are considering House Bill # 10 for ratification of a constitutional convention.

I urge you to do everything in your power to stop the passage of this bill!

Our constitution has helped our country become the greatest nation on earth and it would be a disaster to have it changed or done away with as we now know it!!

Sincerely,  
John Oftedahl  
2900 Boys Lake Rd  
Kalispell, mt. 59901

Feb 15, 1987  
House Committee

Gentleman,

I wish to let you know that  
my vote is against the house  
resolution bill # 10.

I feel that the constitution  
was divinely inspired and  
the reason we have become the  
greatest land on earth.

Melvin L. Oftedal  
2900 Foy's Lake Rd.  
Kalispell, Mt. 59901

Edna F. Oftedal  
2800 Foy's Lake Rd.  
Kalispell, Mont. 59901

Oscar L. Oftedal  
Foy's Lake Road  
Kalispell Mont

Feb. 15, 1987

Attn: House Committee

Please be advised of my  
strong opposition to HR 5-10.  
I absolutely do not want the  
U.S. Constitution changed - EVER!

This country is freer than  
any other is or ever will be -  
only due to the founding fathers  
insight.

Please vote no!

Sincerely —

Linda Hoytus

2725 Airport Rd.

Kalspell, MT 59901

2-15-87

Attn House Committee

Concerning HR S-10! Please  
vote against passage of that bill.

We do not need to convene to  
change our Constitution.

Please vote NO on HR S-10

Thomas J. Dwyer  
2725 August Rd.  
Kal. Mont. 59901

2-15-87

Attention House Committee

I am against HR-5-10 - we do not want redefinition of the Constitutional convention Bill. The Constitution of the United States has served us well - it is the People who need to change. I fear for America should a new Constitution be adopted. Please vote this bill down, let not Montana add to the downfall of America on this issue.

Sincerely

Arthur E. Matson

RT # Box 44c

Tolson WA 59860



2-15-87

Attn: House Committee

Against HR-5-10

I am against any Ratification  
of Constitutional Convention  
Bill.

I believe to vote for this  
bill would be a great mistake  
and would advise against any  
kind of change in our Constitution.

Sincerely

Sydney A. Penick

2/15/87

ATT: House COMMITTEE

Against H R-5-10

I do not want to see any changes made to the present constitution of the United States of America. It has stood the tests of time, was drawn up by men of God, and has protected individual freedom for many years. please defeat this attempt to allow uninspired men to change our constitution.

Sincerely yours,

Brett Parmenter

Feb. 1987

House Committee

Dear Sirs:

Please vote against HSR 10.

I am against it also.

Cerilda Ellis  
*Cerilda Ellis*  
PO Box 793

Kalispell, MT 59903

0807-11117, 1000000-17-20

Feb. 11, 1987

House Joint Resolution no. 10

I am opposed to calling  
a constitutional convention by the  
Congress of the United States -

I urge the members of the  
Montana Legislature to vote against  
this resolution # 10 -

Jane Otten  
695 Echo Lake Rd  
Bigfork, MT 59911

Carmie Curtis  
150 Alpine  
Bigfork, Mt. 59911

49 Preston Dr.  
Kalispell, MT 59901  
February 15, 1987

As citizens of the United States  
of America and the great State of Montana  
we respectfully request that you  
do NOT pass House Resolution  
#10.

We feel the present U.S. Constitution  
is God-inspired for our benefit  
and should stand as is. Do  
not let our great State give  
in to the pressure to rob  
its' citizens of this great  
document.

Thank you for your time -

Sincerely,  
Gayette K Jones  
Wannit Jones

Feb 15, 1987

Ladies and Gentlemen

I could not attend your hearing today, because of business obligations. Instead I have asked Mr. Walt Dupes to present this letter to you, my representatives, for your consideration.

Today you will consider a bill to call for a constitutional convention, under the cry for a balanced budget. Please do not be misled, the U.S. Congress can balance the budget anytime they firmly wish to do so. We do not need a constitutional amendment to do so.

You are about to make a recommendation which will affect the lives of every American living today and all those to be born in the future.

Our Constitutional Republic has allowed this nation to advance

2/15/87

To: House Committee  
Re: HRS-10

We are against bill  
HRS-10.

Vote against changing  
the U.S. Constitution!



Leg Henkel  
3349 Airport Rd.  
Kalispell, MT  
59901

To: House Committee!

Regarding: HRS-10

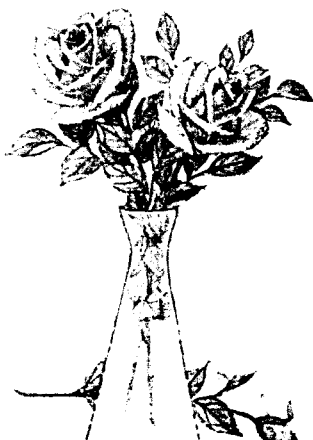
EXHIBIT 1493  
DATE 2/16/87  
HB 10

I am against Bill HRS-10.

Do NOT VOTE FOR HRS-10

Vote against Changing the  
Constitution I know and LOVE!

Don HENKEL  
3349 Airport Rd  
Kalispell, MT  
59901





2-16-87

House Committee,  
We are against H.S.R. #10 calling  
for Constitutional Convention, and  
we urge you to vote against this.  
Thank you


Maynard Denna  
121 N. Cedar Str.  
Kalispell, Mt. 59901

Phone 406-752-0815

22 West Evergreen Drive  
Kalispell, Montana 59901  
15 February 1987

TO: House Committee

Vote AGAINST House Resolution 10.



JACK R. HERRON

22 West Evergreen Drive  
Kalispell, Montana 59901  
15 February 1987

To: HOUSE COMMITTEE

AGAINST House Resolution 10.

A handwritten signature in cursive script, appearing to read "Bonnie L. Herron".

Bonnie L. Herron

# K. Russell Sias

149 Bernard Road  
Kalispell, Mt.  
59901

752-1531  
15 February 1987

Regarding:

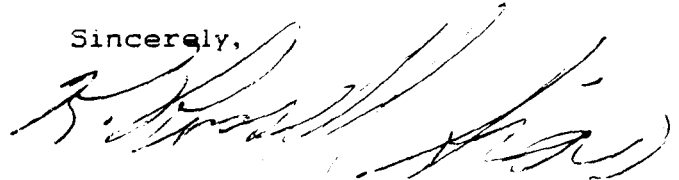
**HRS 10** (this bill requests a national constitutional convention)

Our constitution has withstood the tests of time and has allowed us as a nation to establish the strongest government on the face of the earth today. It does not need major revision. If we convene a constitutional convention we risk creating a larger mess of our laws than we know have. The US constitution is the basis of all our law, and as such we definitely do not want to change it.

Within the scope of change allowed by the constitution, just look at the mess we have made. It is the **ONLY** thing that maintains even what sanity there is in our governmental processes and I urge you to do what you can to defeat this bill. I feel our founding fathers had considerable more "common sense" than our contemporay government has now and any effort to change what they created on such a scale as this bill would allow could only lead to disaster for our country.

I feel that anyone who is for changing it is probably more interested in personal gain than anything else, including what is best for the nation.

Sincerely,

A handwritten signature in cursive script, appearing to read 'K. Russell Sias', written in dark ink.

K. Russell Sias

Dear House Committee:

I am against H.R. 510, I am against  
any constitutional changes of any kind.  
It was written by the people and for  
the people and lets keep it that way.  
The Government already has too much  
control over the people. I urge your  
constituants to vote likewise.

Sincerely,  
Timothy G. Hall  
1206 6<sup>th</sup> Ave. W.  
Kalispell, MT, 59901  
406-257-5411

Kalispell Montana  
Feb. 15. 1987

House Committee

Dear Sirs:

I am concerned about changing the  
Constitution of this Great U. S. A. I  
believe this document to have been  
inspired by our God. Therefore I  
urge you very strongly to oppose or  
vote against House Bill HRS 10.

signed sincerely,

John Reading  
Georgia Reading

Feb 11, 1

To House Committee,

Please vote against  
HRS 10. For 200 yrs our  
Constitution has been our  
Banner of freedom  
to all the world.

To change it would  
be a loss for + of the  
very purpose it was  
intended for.

Duella Toppo  
1520 5<sup>th</sup> Ave W.  
Kalispell, Mont  
59901

House Committee

Please vote against H.R. S. 10  
Our Constitution has been our guidance  
through all these generations. It was divinely  
inspired, and is as good today as it was  
when it was written. Do not waste it  
rewritten or changed in any way.

Sincerely,

Mrs. Curtis Buchanan

620 West 9th St.

Honolulu, West 5-921



Kalispell, Montana  
February 16, 1987

House Committee on Constitution  
Helena, Montana

Sirs:

we are against H.R.S. 10. Please vote against it.

Mary Z. Smith

*Mary Z. Smith*

Adolph G. Smith

*Adolph G. Smith*

19 W. Cottonwood Dr.  
Kalispell, Montana

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Marvin C. Douhak	Allen Eagle Forum Foundation	HJR 10		✓
Severly Gluckert	Myself	HJR 10		✓
Susan M. Getz	Self	HJR 10		✓
KELLY HENZ	ALL U.S. CITIZEN'S	HJR-10		✓
John W. Olson	MSU College Republicans	HJR 10	✓	
Dorothy S. Traylor	Myself former teacher	HJR 10		✓
Nadine Jensen	A.F.S.C.M.E	HJR 10		✓
Patricia Bean	Family	HJR 10		✓
Walt Daper	Family	HJR 10		✓
Paul Storm	"	HJR 10		✓
Robert Jones	"	HJR 10		✓
Stephen Ellis	Myself	HJR 10		✓
Walter W. Wagoner	Montana Historian	HJR 10		✓
Gregory (2nd)	Self	HJR 10		✓
Clarence	Self	HJR 10		✓
Kenell	MONTANA JAZZERS	HJR 10	✓	
Henry	Self	HJR 10		✓
Carl	Citizen for Honest Gov.	HJR-10		✓
Ray	Citizen for Honest Gov.	HJR 10		✓
Leslie Benjamin	SELF	HJR 10		✓
Jan Burdick	SELF	HJR 10		✓
Alonzo Terger	Int. Stamp Collectors Assn	HJR 10	X	
Stuart Dagg	Mt. Chamber of Commerce	HJR 10	X	
W. J. ...	...	HJR 10		✓
...	...	HJR 10	✓	

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Terry Carney	Mt. Finance N	HR-10		✓
Kim Wilcox	Common Law	HJR-10		✓
BOB HELDING	MT. ASSOC. OF REALTORS	HJR 10	✓	
Monty O'Connell	MONTANA TAXPayers	HJR 10	✓	
Sharon Larson	Montana Eagle Forum	HJR 10		✓
Oliver Rice	Self	HJR 10		✓
Lana Frank	Mont Farm Bureau	HJR 10	✓	
Werner De Concini	U.S. Senate ariz			
Werner De Concini	Arizona			
Keith Anderson	Mont. Taxpayers Assoc	HJR 10	✓	
R. S. Rice	Self	HJR 10		✓
CRY McRIPPA	Mont For BAC Real	HJR 10	✓	
J. Davidson	National Taxpayers Union	HJR 10	✓	
Ken Hooxstal	Self	HJR-10	✓	
Julie Hacker	Self	HJR-10	✓	
Theresa Howell	Self Friends of Constitution			
Ellen Imboden	Self	HJR 10	✓	
Eddie McQuinn	Self	HJR 10	✓	
Shirley McQuinn	Self	HJR 10	✓	
Werne Imboden	Self	HJR 10	✓	
Suzette Wittingberg	Self	HJR 10	✓	
Kara Cahoon	Self	HJR 10	✓	
Laura M. Riddick	Self	HJR 10	✓	
John K Wittingberg	Self	HJR 10	✓	





