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WOULD A CON CON BECOME A RUNAWAY CONVENTION?

If two more state legislatures pass resolutions asking Congress to call a Constitutional Convention (Con Con) to consider a Balanced Budget Amendment, Congress will be obliged to issue the call. Could the Con Con then be limited to consideration of a Balanced Budget Amendment, or might it become a runaway convention that could junk our entire Constitution and substitute an entirely different one?

Con Con advocates claim there are eight checks on a runaway convention. Examination shows that none of these "checks" stands up as a safeguard in which we can place any confidence. Let's consider them.

1. "Congress could avoid the Con Con by acting itself." The authors must not have read the U.S. Constitution. Congress does NOT have this option. Article V imposes the obligation on Congress to call a Con Con if 34 states request it.

The Con Con advocates also base their #1 argument on speculation that Congressmen would rather live with a Balanced Budget Amendment which they drafted than one drafted by a Con Con. But those are not the alternatives. Since Tip O'Neill's Congress does NOT want a Balanced Budget Amendment at all, it would make more sense for him to plunge us into the uncertainties of Con Con, where the emergence of a Balanced Budget Amendment would be uncertain, than to send the Balanced Budget Amendment out to achieve probable speedy ratification by the states.

2. "Congress establishes the Con Con procedures." It is true that Congress has the power to pass a law limiting Con Con to one topic, but nobody knows if Congress has the right to limit Con Con or if this would be upheld by the Supreme Court.

No one can assure us what the Con Con agenda, procedures, or method of election would be. Would the Con Con, for example, be able to propose amendments by a simple majority vote instead of by the 2/3rds majority required in Congress? Nobody knows.

3. "The delegates would have both a moral and legal obligation to stay on the topic." That assertion is false. There is no legal obligation whatsoever. The anti-tax groups

have no mandate to determine the moral obligations of others. Other people have different ideas of what their moral obligations are.

4. "Voters themselves would demand that a Con Con be limited." On the contrary, it is far more probable that voters would demand that the Con Con agenda be opened up to other issues. How could a Human Life Amendment be barred when some 20 states have passed a Con Con resolution on that very issue?

What about a School Prayer Amendment, which polls have consistently shown is supported by enormous majorities? Other constitutional amendment issues that could be demanded by the voters include forced busing, abolishing the Electoral College, reapportioning state legislatures, and limiting the life tenure of Federal judges.

5. "Even if delegates did favor opening the Con Con to another issue, it is unlikely that they would all favor opening it to the same issue." Maybe that is true, but it sets the stage for a very practical compromise -- "You vote to open up Con Con to consider my amendment, and I'll vote to open it up to consider yours." That type of bargaining would put many amendments out on the table to be wrangled about.

6. "Congress would have the power to refuse to send a nonconforming amendment to ratification." It could, but the Con Con by this time might have produced several amendments, or an entirely new Constitution, agreeable to Tip O'Neill's Congress and the liberal media. So this is no safeguard at all.

7. "Proposals which stray beyond the Con Con call would be subject to court challenge." That's the understatement of the year. The Con Con route plunges us into a hundred constitutional uncertainties, all of which would require decisions by the Supreme Court. One of the real defects of the whole idea is that it injects the Supreme Court into the middle of the amendment process.

8. "Thirty-eight states must ratify." That is true, but it doesn't have to be 38 State Legislatures. If the liberal machinery in Congress by this time had pinned its sails to the Con Con idea, Congress can specify that state ratifications must take place by conventions, too, thereby bypassing the State Legislatures altogether.

The U.S. Constitution has served us well for nearly 200 years. It doesn't deserve the risks of a Con Con. The Balanced Budget Amendment and all other proposed amendments should be debated on their own merits.