PS1 for 3/5/87#A CONSTITUTIONAL CONVENTION IN THE BICENTENNIAL YEAR?

Can you believe? Some people want to celebrate the Bicentennial of the United States Constitution by plunging us into the chaos and controversy of a new federal Constitutional Convention that could rewrite our nation's most precious document! As one witness said at a hearing on this proposal in Helena, Montana this month, ""that's like getting a divorce on your anniversary.''

Nevertheless, the Montana House of Representatives passed a resolution by 51 to 49 requesting Congress to call a federal Constitutional Convention (colloquially called Con Con). If this resolution is also passed by the Montana Senate, Montana will become the 33rd state out of the 34 needed to trigger the call.

Article V of the United States Constitution says that, upon the application of two-thirds of the state legislatures (34 states), Congress (BF)""shall''(end BF) call a Convention for proposing ""amendments.'' Note that the command to Congress is mandatory -- Congress is compelled to call a Con Con; Congress does not have a choice. Note that the Convention is ordered to consider ""amendments'' in the plural -- it is not limited to one amendment.

The engine of the political lobby group that has brought us so close to an unprecedented, uncharted convention that could disassemble and rewrite our Constitution is a couple of fund-raising organizations called the National Taxpayers Union and the National Tax Limitation Committee. They have raised vast sums of money by asking people to support a federal Balanced Budget Amendment, and then they turn around and use their funds to lobby state legislatures to pass Con Con resolutions.

It's a real bait and switch act. The advertising used by these organizations preaches the virtues of a balanced budget and the political desirability of mandating one; the groups do not tell their donors that their funds are being diverted along a circuitous route toward a Constitutional Convention that may never pass a Balanced Budget Amendment but could rewrite our entire Constitution.

The sensible way to get a Balanced Budget Amendment is for Congress to pass one and send it out to the states for ratification in the usual way. This proposed constitutional amendment to require a Balanced Budget failed to pass in the U.S. Senate last year by only one vote. The last time it came up in the House, several years ago, it failed to pass by only a couple dozen votes. Any organization worth its salt which made passage of a Balanced Budget Amendment its goal should be able to lobby Congress and win the extra votes needed for this popular objective.

But the Con Con fundraisers aren't doing that. Instead they are trying to get state legislatures to pass resolutions requesting Congress to call a national Convention to consider a Balanced Budget Amendment.

That's about like a New Yorker sailing east in a sailboat and telling people that his destination is Los Angeles. It's unlikely that he will get to L.A., and it's very unlikely that he will convince anyone he really wants to get there. It would look to observers like the purpose is the joy ride, not the destination; and that's exactly what the Con Con movement looks like.

The problem with a national Constitutional Convention is that there is no way to limit it to considering only a Balanced Budget Amendment. As former Chief Justice Warren Burger said in Detroit last month, ""There's no way to put a muzzle on a Constitutional Convention.''

A Constitutional Convention is a free agent, a loose cannon; once it is called by Congress, the Convention can do whatever it wants. A Convention's authority comes from the Constitution, and cannot be limited by Congress or by the naive, window-dressing language written into the various resolutions passed by state legislatures.

Of the 32 Con Con resolutions for a Balanced Budget Amendment that have passed state legislatures, seven were passed more than seven years ago, and only two were passed since Ronald Reagan became President. Seven years is generally considered the maximum number of years within which states can work to make one change in the Constitution.

On the other hand, three state legislatures, after spirited debate and weeks of study, defeated Con Con resolutions last year. Those states were Michigan, Connecticut and Kentucky.

The American people revere the Constitution and acclaim it as the fountainhead of our freedom. They don't want mail-order fundraisers playing games with the Constitution because the risk of losing many of our constitutional rights is too great.