

U.S. stumbles perilously to a constitutional convention

"The prospect of a second [constitutional] convention would be viewed by all Europe as a dark and threatening cloud hanging over the Constitution."

— James Madison

By Melvin Laird

James Madison, the father of the U.S. Constitution, wrote those words in 1787 upon the adjournment of our nation's only federal constitutional convention. Although Madison, as it turned out, worried needlessly over the possible disruptive impact on our foreign relations of a constitutional convention in the 1700's, "all Europe" — certainly the free nations of Europe — would have cause to worry in 1984.

And so should America. In fact, most Americans would be surprised to learn that we may be on the verge of convening the Second Constitutional Convention.

As a former member of both the legislative and executive branches, I'm concerned — particularly as we move toward elections in November — about the drastic and divisive consequences of action that would lead to the call for a constitutional convention.

Under Article V, there are two procedures for amending the U.S. Constitution. Under the only procedure used in our history, Congress considers, passes, and submits a proposed amendment to the states for ratification. If ratified by three quarters of the states, the amendment becomes part of the Constitution. That has proved to be a responsive and orderly procedure.

The second procedure requires the convening of a full constitutional convention whose scope and authority aren't defined or limited by the Constitution. If 34 states submit valid petitions to Congress for a convention, it must be convened. Any and all amendments that are considered and passed by such a convention are then forwarded to the states for ratification.

Our citizens understandably have been wary of a constitutional convention, and there's little or no historical or constitutional guidance about its proper powers and scope. The Constitution doesn't spell out, for example, how delegates would be chosen. It says nothing about a convention's time limits or payment of costs.

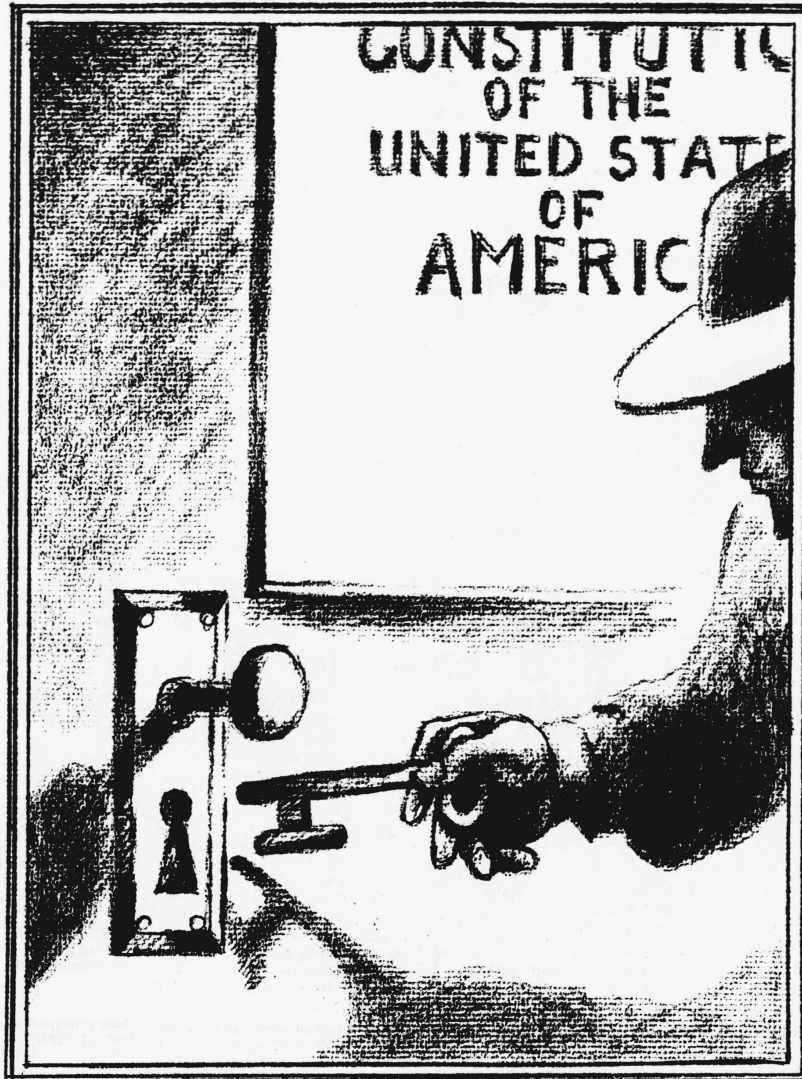
The only precedent we have for a constitutional convention took place in Philadelphia in 1787. That convention, it must be remembered, broke every legal restraint designed to limit its power and agenda.

It violated specific instructions from Congress to confine itself to amending the Articles of Confederation and instead discarded the Articles and wrote our present Constitution. That convention acted in violation of the existing Articles of Confederation by devising a new method for ratifying the proposed Constitution, specifically prohibited by the Articles.

Scholars have recently grappled with these complexities. But there's no certainty that our nation would survive a modern-day convention with its basic structures intact and its citizens' traditional rights retained. The convening of a federal constitutional convention would be an act of the greatest magnitude for our nation. I believe it would be an act fraught with danger and recklessness.

Today, 32 of the required 34 states have petitioned Congress for a convention to draft an amendment requiring the federal government to maintain a balanced budget. Well-meaning and learned people differ on the desirability of mandating a balanced federal budget. I favor the adoption of an amendment through the traditional congressional procedure that would require the federal government to live within its means.

Nevertheless, I'll oppose any attempt to force this



Staff illustration by William B. Hogan

issue upon Congress through petitions for a convention.

Ironically, while a constitutional convention could totally alter our way of life, the petitions for a convention regrettably have often been acted upon by state legislatures in a cavalier manner. Over half of the states calling for a convention have done so without the benefit of public hearings, debate, or recorded vote. This momentous decision, in other words, is being made surreptitiously, as if it cannot withstand the scrutiny and discussion of a concerned and intelligent citizenry.

In addition to its perils for the internal workings of

our nation, a constitutional convention would have serious, frequently overlooked, international repercussions. The United States is the oldest, largest, and most stable republic in the world. It's also the cornerstone of the economic life of the Western world and a significant factor in the economy of almost every country on the globe.

If Madison was justifiably concerned over the foreign-policy implications of a U.S. Constitutional Convention in the 18th Century, our concern should be multiplied by the infinitely more prominent world role our

country plays in the 20th Century. The potential disruptions to our vital foreign-policy interests — NATO is an example — are disturbing to contemplate.

If a convention were called, our allies and foes alike would soon realize the new pressures imposed upon our republic. The mere act of convening a constitutional convention would send tremors throughout all those economies that depend on the dollar. It would undermine our neighbors' confidence in our constitutional integrity and would weaken not only our economic stability but the stability of the free world. That's a price we cannot afford.

The domestic and international instability engendered by a convention cannot be justified by the prospect of a balanced federal budget. Even if the convention passed a balanced-budget amendment in short order and then disbanded, the ratification process would take years.

In addition, it's unlikely that an amendment would require a balanced budget in its first effective year. Each of the drafts historically considered to date has allowed a multiyear phasing in of the limitations.

So even in the best case, a convention wouldn't cure our budget-deficit problems quickly. And the price for a long-term solution achieved through a convention would be incalculable domestic and international confusion.

The concept that a constitutional convention would be harmless isn't conservative, moderate, or liberal philosophy. That concept is profoundly radical, born either of naiveté or the opportunistic thought that the end justifies the means.

Our duty as citizens of this nation is to guard and protect our Constitution, to uphold its integrity, and to weigh the impact not only of proposed revisions but also of the means suggested to adopt them. We must work

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together to preserve all that's good in our system and to resolve problems by rational means.

This nation certainly doesn't need a constitutional crisis. It shouldn't take the first steps toward a possible wholesale revision of its Constitution. It must not, by moving closer to a constitutional convention, engender crippling domestic and international uncertainty.

Especially now, when international relations are precarious and global economies are struggling to regain the momentum of growth, a convention would divert our domestic attentions from pressing national problems while focusing global attention on what would certainly appear, to friends and enemies alike, as a profound weakness in our national fabric. To say a constitutional convention should be called to balance the federal budget is a deception.

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.

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