Steer clear of constitutional convention

By ARTHUR J. GOLDBERG

As we look forward to celebrating the bicentennial of the Constitution, a few questions are often asked, “Why not another constitutional convention?”

I would respond by saying that one of the most serious problems Article V poses is the unrealistic expectation that a convention could put a runaway convention in the hands of single-issue groups whose self-interest may be contrary to our national well-being.

A constitutional convention could lead to sharp confrontations between Congress and the states. For example, Congress may frustrate the states by treating some state convention applications as invalid, or by insisting on participation by a number of states before convening. A convention, including or mandating a restricted convention agenda. If a convention did run away, Congress might decline to forward the states for ratification.

In Response

Former U.S. Supreme Court Justice Arthur J. Goldberg, a member of the Advisory Board of Citizens to Protect the Constitution, wrote this article for The Herald in response to an article by Arthur S. Miller, “Why not another constitutional convention?” (Viewpoint, July 6).

The Miami Herald Sunday, Sept. 14, 1986

Despite its limited mandate, history has established that the Philadelphia Convention was a success, but it cannot be denied that it broke every restraint intended to limit its power and agenda. Logic therefore compels one conclusion: Any claim that the Congress could, by statute, limit a convention’s agenda is pure speculation, and any attempt at limiting the agenda would almost certainly be unenforceable. It would create a sense of security where none exists, and it would project a false image of unity.

Opposition to a constitutional convention at this point in our history does not indicate a distrust of the American public, but in fact recognizes the potential for mischief. We have all read about the various plans being considered for constitutional change. Could this nation tolerate the simultaneous consideration of a parliamentary system, returning to the gold standard, gun control, ERA, school prayer, abortion vs. right to life and anti-public interest laws?

As individuals, we may well disagree on the merits of particular issues, but would likely be proposed as amendments to the Constitution; however, it is my firm belief that no single issue or combination of issues is so important as to warrant jeopardizing our entire constitutional system of governance at this point in our history, particularly since Congress and the Supreme Court are empowered to deal with these matters.

James Madison, the father of our Constitution, recognized the perils inherent in a second constitutional convention when he said Article V national convention would “give greatest exposure to the public mind; election into it would be courted by the most violent partisans on both sides; it would probably consist of the most heterogeneous characters; would be the very focus of that flame which has already heated too much men of all parties; would no doubt contain individuals of individual views and under the mask of seeking alterations popular in some parts but Inadmissable in other parts of the Union might have a dangerous opportunity of sapping the very foundations of the fabric. Under all these circumstances it seems scarcely to be a matter of doubt that the deliberations of the body would 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 would tremble for the result of the second.”

Let’s turn away from this risky business of a convention, and focus on the enduring inspiration of our Constitution.

The bicentennial should be an occasion of celebrating that magnificent document. It is our basic law; our inspirational chart, the opinion of our minds and spirits; it is our defense and protection, our teacher and our continuous example in the quest for equality, dignity and opportunity for all people in this nation. It is an instrument of practical and viable government and a declaration of faith — faith in the spirit of liberty and freedom.