

OPINIONS OF INDIVIDUAL JUSTICES
IN CHAMBERS

MONTANANS FOR A BALANCED FEDERAL BUDGET
COMMITTEE ET AL. *v.* HARPER ET AL.

ON APPLICATION FOR STAY

No. A-245. Decided October 10, 1984

An application to stay the Montana Supreme Court's mandate prohibiting the placement on Montana's 1984 ballot of an initiative that would direct the Montana Legislature to apply to Congress pursuant to Article V of the Federal Constitution to call a convention to consider a federal balanced budget amendment, is denied. The state court's order, in addition to holding the initiative violative of Article V, was also based on the adequate and independent state-law ground that the initiative was invalid under the Montana Constitution.

JUSTICE REHNQUIST, Circuit Justice.

Applicants ask that I stay a mandate of the Supreme Court of Montana prohibiting the placement on Montana's November 1984 ballot of a "Balanced Federal Budget" initiative. If adopted by the voters, the initiative would direct the Montana Legislature to apply to Congress pursuant to Article V of the United States Constitution to call a convention to consider a federal balanced budget amendment. In addition to holding the initiative unconstitutional on its face, in violation of Article V, the Montana Supreme Court held it to be "independently and separately facially invalid under the Montana Constitution." The Montana court's *per curiam* order stated that an opinion would follow—an opinion which apparently has not yet been issued—but the order is sufficient to indicate an adequate and independent state-law ground for the decision. I am not persuaded by applicants' attempt to distinguish *Uhler v. American Federation of Labor-Congress of Industrial Organizations*, 468 U. S. 1310 (1984) (REHN-

QUIST, J., in chambers). The Montana Supreme Court has rested its decision on the Montana Constitution, and it is the final authority as to the meaning of that instrument. Accordingly, for the same reasons given in *Uhler*, the application for a stay is denied.