CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of House Joint Resolution 1, which the clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 1) proposing a balanced budget amendment to the Constitution of the United States.

The Senate resumed consideration of the joint resolution.

Pending:

Reid amendment No. 236, to protect the Social Security system by excluding the receipts and outlays of Social Security from balanced budget calculations.

AMENDMENT NO. 236

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, what is the status of the Senate? Are we on the Reid amendment at this point?

The PRESIDING OFFICER. The Chair did not hear the Senator.

Mr. DORGAN. Is the Senate now considering the Reid amendment?

The PRESIDING OFFICER. Yes, we are under consideration of the amendment. There is no time controlled.

Mr. DORGAN. Mr. President, I come to the floor today to offer words of support for the Reid amendment. I intend to vote for it, and I hope the Senate will vote for it in sufficient numbers to add this to the constitutional amendment to balance the budget.

(Mr. KYL assumed the chair.)

Mr. DORGAN. Let me this morning begin by talking about a woman who many of you know; the story, of course, is legend. On December 1, 1955, in an Alabama city, a woman had just finished her work for the day. She was a seamstress. She was about 40 years old. She was tired, her feet hurt; she had worked a long day, and she was on the way home.

She went back and forth to her job by bus. And on this day, at the end of the workday, with tired feet, this woman boarded a bus and took the first available seat. And as the bus traveled down the avenue, the bus began to fill up. And on this day, December 1, 1955, as the last seat was taken on the bus, a white male passenger boarded the bus and looked at this woman, Rosa Parks, and said, ''You must leave your seat and move to the back.''

She refused to do so. At that point in the life of this country, she was required to ride in the back of the bus. Her dignity that day, as well as the fact that she had worked a long day and was tired, but her dignity especially, persuaded her to say, ''I'm not moving,'' and she remained in her seat. Others around her began to curse her, as the story is told. The bus driver stopped and refused to move the bus because this woman would not move to the back of the bus and give her seat to a white passenger.

The police were called, and Rosa Parks was arrested and thrown in jail. Her indiscretion? She refused to give up her seat and refused to move to the back of the bus.

Well, it is some 40 years later now, and I guess all of us would say we are proud to understand that the quiet dignity and strength of Rosa Parks lit a fuse that caused an explosion of understanding and, yes, tension—but most especially understanding—that has changed things in this country for the better. The avenue where that bus traveled on that December day in 1955, and where that arrest was made, is now named Rosa Parks Avenue.

Sometimes one can force change by simply refusing to move. Some say, ''Well, don't just sit there.'' Rosa Parks just sat there because she felt she was entitled to do that, and that single act by that courageous woman, who will live in our history, has caused substantial change in our country.

So when they say, ''Don't just sit there,'' I think sometimes on some issues some of us say, ''Well, wait a second; where we sit is important.''

On this issue today of Social Security, some of us believe that where we are in this country, with a program that is, I think, the most significant and the most remarkable program of its kind anywhere in the world, it is one that ought not be trifled with. It ought not be threatened. It ought not, in our judgment, be in any way changed so that the American people will not have confidence that Social Security will be there when they need it.

That is why many of us feel at this point in this debate on the constitutional amendment to balance the budget we ought not move forward on this issue without the Reid amendment. We should add the Reid amendment to the constitutional balanced budget amendment so that we do not jeopardize the Social Security trust fund.

Why is it important to us? Too many Americans do not even understand the consequences of the Social Security system or what makes it unique. We just take it for granted.

I told my colleagues before about an experience I had one day that I shall never forget. Some years ago, I ran out of gas in a helicopter. I quickly learned one of the immutable laws of flying: If you are in the air and you run out of fuel, you will land very quickly.

I, with a colleague of mine, landed in a helicopter in the jungle terrain between Nicaragua and Honduras. Congressman GEJDENSON, from Connecticut, and I were actually down in a Contra camp, and touring refugee camps in Central America.

We were traveling by helicopter one day. It was in August, and there were big thunderstorms. We were over mountains and jungles, and we were going down mountain passes, and then a big thunderstorm cell would loom up in front of us and we would backtrack and go down another valley, and we would backtrack again. We had been flying a long while, and the pilot had some lights go on and some bells go off and we were running out of fuel. They had to put the helicopter down, right now. There we were, out of radio contact, somewhere in the mountains and jungles of Honduras, right by the Nicaraguan border.

We were unhurt, but for a number of hours we did not know where we were. Nor did anyone else. Other Army helicopters eventually searched for us and found us. We were pulled out of there by other helicopters.

The point of the story is this. As we sat there on the ground, some of the campesino families and others began walking toward us. A group gathered to try to figure out who on Earth had come down here in this rural stretch, in the mountains of Honduras. We had an interpreter with us who spoke fluent Spanish. And as we were there—because no one knew where we were, we were going to be there for awhile, and we did not know exactly what was going to happen—we began, through the interpreter, to talk with these people who came around to figure out who had come down there. People I talked to—and this is something I discussed with the interpreter during this conversation—told me something I had never even thought about before.

I was visiting with a young woman, I guess probably 23 or 24 years old, who had come walking through the underbrush there with some children with her. We were just talking through an interpreter. There was kind of a little crowd, maybe six or eight people.

I said, ''How many children do you have?''

And this very young woman said, I believe, ''Only three. Only three.''

I said to the interpreter, ''Gee, she sounds disappointed. Lord, she cannot be over 22 or 23 years old, and she sounds disappointed she has only three children.''

The interpreter said, ''You do not understand. You come from a country that has all these things—Social Security. Down here, there is none of that. Down here there is no Social Security program. If you grow old in some of these countries, you want to have had as many children as you could have, so maybe enough of them will live so when you become old, if you are lucky enough to grow old, you will have some children surviving you who can help you in your old age. That is Social Security.''

It was the first time I had ever thought about it. I never thought about that before because I grew up in a country where Social Security was just there. It was a part of our lives. We understood: When you work, you pay in. The person who employs you pays in. And when you retire, it is

there. It is just taken for granted. We do not even think much about the connection. Who made it, who created it, who caused it, how it works—we do not think much about that. It is just part of American life.

I mention the story today simply because there are other parts of the world where this is a totally foreign notion. That you would have some basic device at the end of your working life that allows you to have a decent retirement is a novel idea in some places. That is what Social Security is. The Social Security system is the fabric of that guarantee.

How did we get it? How did we create it? Through a massive public debate, during which many people said: This is socialism, this is pure socialism. This is the worst instincts of the Democratic Party, this Social Security nonsense.

Of course, it was not. And it has always been there. It was a useful, necessary, important program for America's elderly that has, I think, grown in the right way. It is now a compact between those who work and those who retire, and it has made life in this country better for tens of millions of Americans, year in and year out. We ought to be proud of this program. This program works. This program worked in the past, and it will work in the future for this country. We always ought to understand that.

We come to this point in America's history after a couple of hundred years of self-government—and incidentally, a couple of hundred of the most successful years of any similar attempt at government known to humankind. There is no other reasonably similar approach to government that has been tried as successfully as this anywhere in human history.

In a couple of hundred years, we have had fights about public policy back and forth, and during this time we created some things, one of which was Social Security. During the last 15 or 20 years or so, this country's fiscal policy, that is the spending and taxing decisions and the system by which we decide how much to spend and how much to tax, has gotten off track and out of balance. And this country has begun to run up very large budget deficits. The budget deficits are not accidental. They are a function of the Congress and the President proposing to spend what the people largely want spent, and the Congress and the President being reluctant to tax what the people largely don't want taxed. So what has been the result?

The result has been that the Congress and the Presidents in about the first 200 years or so, up until 1980, had spent $900 billion more, over all of the years in this country's existence, $900 billion more than it had taken in. In other words, it charged to a charge account $900 billion, because it spent money that it did not have, starting with the beginning of the United States of America to the year 1980.

From the year 1980 to the year 1995, in the month of February, this country added to that charge account. It is not any longer $900 billion. It is now nearly $4.8 trillion. So in nearly 200 years, the country spent $900 billion it did not have and charged it to future generations. And then, in 15 years, it added somewhere around $3.9 trillion and said: By the way, charge this, too. Put it on the same account.

What do we face in the future? If you look at what the Government does—Medicare, Medicaid, and a whole series of spending decisions and revenues—and take a look at what the Congressional Budget Office says will be the consequence of the current system and the current spending levels, you will find that we will add, if nothing is done, about $4.4 trillion to the same charge account in the next 10 years. Except it will be more than $4.4 trillion, because we have some in this Chamber who say let us do two additional things. Let us increase defense spending and build star wars—which is one of the goofiest ideas I have ever heard in my entire life; that is now resurrected—let us resurrect the strategic defense initiative or star wars at a time when there is no Soviet Union. But leaving that aside, increase spending or cut revenue.

So it will not be $4.4 trillion added to this charge account, added to the already $4.8 or $4.9 trillion, so you are talking close to $10 trillion. It will be more than that. Does anybody think that represents the right future for this country? I do not. Most of the constituents I know do not believe it does.

So the question is, What will intervene to change it? Will it be six people of good will finding a vacant room back here with a clean sheet of paper and making plans, scurrying around making little plans on how to balance the budget? I do not think so. It has not happened in the past.

It will be people representing what their constituents are saying: Make sure you keep these programs, now. We do not want to lose programs. But we do not want to pay taxes, either. We do not want you to increase them. In fact, we would like you to cut taxes.

So we have the Republican Contract With America saying let us cut taxes. In fact, let us do it a little better; let us cut taxes mostly for the well-to-do. Then we have some Democrats saying, let us also have a middle-income tax cut, slightly less and differently targeted, but the same approach, basically. It is the same approach basically.

In the midst of all of this comes the notion that we should amend the U.S. Constitution to require a balanced budget. I did not come here thinking that was the necessary thing to do. I think it is pretty hard for us to improve on the work of Washington, Mason, Franklin, Jefferson, and others. So I did not think we should amend the Constitution for the first few years I came to Washington. But I have changed my mind about that. I do not think for a moment that it will cause one penny's difference in our future budgets by itself. It is a bunch of words that someone is going to write into the Constitution. Everybody here who will vote for this understands it will not cause one penny's difference in the budget deficit. It may ratchet up slightly more pressure for decision making in both the House and the Senate that will lead we hope toward a balanced budget. That may be what happens. If that happens, then I am for anything that turns up the heat, anything that ratchets up the pressure, because frankly, we cannot continue going down this road.

There must be a reconciliation in this country between what we spend and who we spend it for, and what this country is willing to pay for. You just cannot keep having Government that we are not willing to finance.

I know polls show the American people think half of the money spent by the Federal Government is wasted. It is not. This is not money someone buries in their backyard or puts in a sock under a mattress. Most of this money goes out in the form of entitlement programs one way or the other or goes to pay for defense. If you take Medicaid, Medicare, interest on the national debt, defense, and Social Security, you have three-fourths of every dollar the Federal Government spends. So we have to force a reconciliation of what we spend and what kind of resources we have so that we get back some notion of fiscal policy balance to assure this country's economic future.

Why is it important to put an amendment in this that says let us not raid the Social Security trust funds as we do that? For this simple reason: Not one penny of the Federal deficit has been caused by the Social Security system; not one. This year the Federal budget is going to have a significant deficit but the Social Security system is going to collect nearly $70 billion more than it spends. Why?

I was a part of the group that in 1983 wrote the plan that required this surplus. I helped write the Social Security reform plan. We wanted to enforce national savings so that when the baby boomers retire after the turn of the century we would have savings accumulated to deal with that. After the folks came home in the Second World War, not surprisingly, I guess, we had the biggest baby crop in the history of this country called the war babies. When that generation begins to retire, we will have maximum strain on the Social Security system.

The point of the 1983 reform bill was to force some national savings to be available for the baby boomers' retirement. If we do not put the Reid amendment in this constitutional amendment, the potential will exist that those who want to balance the budget by using the Social Security trust fund will simply raid the fund to balance the budget.

The problem about that is it breaks the fundamental promise, that we take the money from paychecks of the people who work, we put it in a trust fund dedicated for only one purpose. The tax is dedicated. The trust fund is dedicated, and that is to pay for the Social Security system. If we have to at some point adjust the Social Security system, it ought to be adjusted based on the internal mechanics of the system. Is it well financed or not? If not, let us deal with it based on the actuarial notion of the system. But let us not decide to raid this enormously successful program, which needs all these savings for the time when the baby boomers retire, and decide to use that money to balance the budget. That breaks the promise it seems to me that we have with the American people.

Let me mention one other thing because we talk about this always in such an antiseptic way. It is always policy and numbers. I mean, it sounds like it is all sterilized. This is about people. It is about how people live. Every single one of us have constituents who tell us stories that bring tears to our eyes as we leave a meeting or leave a discussion with someone.

I once spoke with a woman who is 82 years old, who has diabetes and heart trouble, and whose only revenue and only resource in life is the Social Security check she gets. The Social Security check is somewhere around $380, I think she told me. Then she has to buy a medicine to deal with her heart problem and her diabetes, pay rent, and buy groceries. She said to me, ''I cannot afford to buy the medicine for my diabetes and the heart trouble.'' So the doctor prescribed it. And she said, ''I have to take it. So I buy the medicine. Then I cut the pills in half and take half as much as he recommends so the medicine will last twice as long. It is the only way I can afford my medicine. Otherwise, I cannot eat.''

Your heart bleeds for someone who is 82 and finds herself in that circumstance. Think of how important that Social Security check is. It is her lifeline. It is the only thing she has. Before Social Security, people like her were just desperately poor, consigned to poorhouses or consigned to begging for food or shelter.

The Social Security system, as inadequate as it might be to deal with all the problems, is something that is enormously important in this country. And we must, all of us, make certain that system is protected and available with its resources for the future. I have heard dozens of times people say, ''The Social Security system will not be there when I retire.'' They have said that every decade since the 1930's. It has been there in every decade, and it will be there in every decade in the future. That is a plain fact.

I hope that, as we consider this amendment, we will have an up-or-down vote on the merits of this amendment. I am not asking for five reasons someone would want to vote against it. Just give me one good reason. There could only be one good reason that one would not want to support the Reid amendment, and that is because someone does not want to use those massive amounts of dollars we are accumulating to be available for the baby boomers. They want to use them for some other purpose. That is the reason this is a critically important amendment.

I know others want to speak. I have gone on at some length. I hope that we will have an up-or-down vote on this amendment, and I hope Members of the Senate will come to this Chamber and register yes or no. This is not rocket science. This question does not require a great deal of understanding to understand the implications.

Do you want to use the revenue that is in the Social Security trust funds to balance the budget? Do you want to break the promise? Do you want to raid the trust funds, or do you not? If you do not, then vote for the Reid amendment. If you do, then find devices to try to defeat this thing. But then understand what the purpose of trying to defeat it really is.

If you decide you want to keep a promise—and we should in this country—then let us pass the Reid amendment. Then let us pass this Constitutional amendment to balance the budget. I know it is not going to balance the budget. It will require more than that. But it if turns up the pressure some, I am for it. But let us do it the right way, and let us do it soon.

I hope when the vote is complete we will find in a bipartisan way Members who will answer this simple question with a simple answer. No. We do not intend to raid the Social Security trust funds to deal with this budget deficit because it will not be fair, and it will not be the right thing to do for this country's future.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I am moved by the eloquence of our colleague from North Dakota. He is talking about the way in which our elderly were treated prior to the establishment of programs such as Social Security and Medicare, programs that gave the elderly dignity and respect.

I was born in November 1936. My father was elected to the Florida State Senate in November 1936. The reason that he ran in that year was in large part because he had the occasion to visit some of the Florida State mental hospitals. The term mental hospital was a misnomer for those Florida institutions in the mid-1930's. They were really places where people put their aged, those who they could not afford to maintain, those who needed special help more than mental health concerns. They were warehoused in our State's mental institutions. The words ''snake pit'' were appropriately applied to those institutions.

One of his goals in running for the State Senate was to bring some greater degree of dignity to indigent older Floridians by providing them a somewhat adequate monthly stipend in their old age.

That limited effort was then subsumed in the national effort to create social security, which has, in a period of now almost three generations, given what had been the poorest group of Americans, older Americans, the ability to live the balance of their lives with some degree of dignity and respect.

We should be proud with what we have accomplished since 1935 in terms of making that kind of opportunity available for millions of Americans, and the prospect of it being available for millions of Americans in the future.

But before turning to the specific issues that I think are raised in this constitutional amendment as it relates to Social Security, I would like to make a few comments on the underlying amendment itself. I have in the past spoken and voted in favor of propositions which would provide for a constitutional requirement that there be a balanced Federal budget. I shall do so again with the same degree of disappointment that I have done in the past.

Passing a constitutional amendment to require us to balance the Federal budget is a blatant statement of failure. We are admitting our inability, without this type of discipline, without this constitutional shackle, to do what we should have done and what, frankly, most generations of Americans have done, and that is, to exercise fiscal responsibility.

Up until 1980, the U.S. Government had accumulated a national debt of slightly over $900 billion. We fought World War II, World War I, we lived through the Great Depression, just to mention three events of this century. We lived through all of these events and accumulated a national debt of $900 billion. Since 1980, we have added to the national debt approximately $4 trillion. We will soon be asked to vote on a national debt limit that would allow us to exceed the $5 trillion level in terms of national indebtedness. We have had a free-fall of excess in terms of our national fiscal policy. I wish I could say that I saw something on the horizon that indicated we were about to reverse that pattern, and that we would not need a constitutional amendment to require us to do what our forefathers had been able to do without a constitutional amendment. I am afraid, however, Mr. President, that I do not see any indication that we are about to reverse this policy of the last 15 years.

In fact, to the contrary, I see new evidences of irresponsibility. To mention one, the Contract With America contains provisions for a series of tax

reductions; each one of which is popular. Everyone would like to pay less toward the cost of Government. It has, however, been a pleasant period in the United States, in which Americans have experienced high levels of services, relatively moderate levels of taxation, and a series of tax cuts over the past 15 years, all while letting our grandchildren pay the bills. The Contract With America would continue that. It calls for over $700 billion of additional tax cuts in the next 10 years; $700 billion would be added to our already staggering estimated deficits for the next 10 years. To me, that is just one indication of the fact that we do not have any reason to believe that we are about to exercise voluntary discipline. Therefore, it will be necessary for us to impose upon ourselves and the future of America a constitutional requirement to do what we ought to be doing. It is a matter of our generation's responsibility.

I believe that there are several important objectives to be accomplished by this constitutional amendment. One of those is to reestablish the principle of generational responsibility. When I was born, we were not leaving to our future generations massive debts. Our parents and grandparents and great-grandparents had paid their own bills. They believed in the principle of generational responsibility. That will be reestablished with this constitutional amendment. We will also heighten our sense of accountability, that it is our responsibility to be accountable for how we handle the Nation's fiscal affairs.

How do these principles, these goals, relate to the issue of how Social Security should be treated in a balanced budget amendment? As previous speakers have so appropriately and eloquently stated, Social Security is a contract, a contract between the Government of the United States and the people of the United States. It is a very solemn trust that we hold. The lives of millions of Americans are affected very directly by their belief in our trusteeship and how, in fact, we carry out that trusteeship.

Giving Social Security special treatment within this constitutional amendment would be a statement to the American people of our understanding of that trusteeship.

Mr. President, there is also another factor—I apologize if what I am about to say is a little bit tedious and technical, but I think it bears repeating—and that is the special financial structure that we have created for Social Security and how that financial structure relates to the issue of the appropriateness of having Social Security excluded, treated separately, for the purposes of the balanced budget amendment.

Prior to 1983, Social Security was like most other trust funds in the United States. It was a pay-as-you-go system. As, for example, with the highway trust fund, dollars are collected each year based on the amount that is paid in gasoline tax. That money goes into a trust fund. Those trust funds are then appropriated to States or to specific transportation projects. There is an in-go and out-go that is balanced almost on an annual basis. That was the way Social Security was treated up until 1983.

In the years prior to 1983, there was a recognition that Social Security was facing some very serious financial problems. One of those problems was that the Social Security system was very much the captive of the change in the U.S. birthrate. I happen to have been born in 1936, a period of relatively low births in the United States. Not very many babies were born proportionately during the Depression. Therefore, as my generation enters the time when it will become eligible for Social Security benefits, we are not going to impose a very heavy burden on the Social Security system. Conversely, when my children, who were born in the 1960's, a time with a relatively high birthrate, enter Social Security, there will be a very heavy demand imposed on the system. And so the fundamental change made in 1983 was to move Social Security from a pay-as-you-go system to what is referred to as a surplus system, much like other forms of life insurance or annuities. That is, dollars were to be built up during the period of low demand on Social Security, so that when we reach the point that there would be heavy demand, there would be the resources available to pay those benefits.

This chart, Mr. President, illustrates how that Social Security surplus system is intended to work. Beginning with this year, 1995, we will have a surplus of something in the range of $70 to $80 billion. We have had a surplus built up since 1983 of approximately $400 billion. We are going to be adding substantially to that amount over the next 20 or so years, reaching a peak of having a surplus of approximately $3 trillion.

Then, in about the year 2019, we will start a rapid draw-down. In a period of a decade, we will deplete that $3 trillion of surplus and zero out the account to meet the demands of that large group of Americans who will reach retirement age in approximately 2019 forward.

Now what is the significance of this structure of Social Security financing, which represents approximately 25 percent of the expenditures of the Federal Government? What are the implications of this financing structure to the balanced budget amendment?

I describe the implication as being the mask and then the hammer. From now until the year 2019, because the way our deficit is reported, where annual surpluses constitute a subtraction from our stated deficit, the surpluses will mask the Federal deficit.

We talk about the deficit in the current budget as submitted by the President as being approximately $190 billion. That is not totally correct. Actually, the deficit for the Federal Government in 1995–96 will be $190 billion plus $80 billion, the Social Security surplus. Because the way we report under our accounting system, that $80 billion of surplus in the Social Security trust fund is subtracted from the overall deficit.

It would be somewhat like a family which had an income of, let us say $40,000, but had expenditures of $50,000. It would appear as if they were running every year $10,000 in the red. But they had a rich uncle who had died and left them a trust fund which each year gave them for the next 10 years $20,000 out of that trust. If they reported in their accounting that they made $40,000, spent $50,000, but had $20,000 in the trust fund, it would appear as if they actually had a $10,000 positive each year. Of course, the problem is, when the trust fund runs out in 10 years, they are going to be back to where they were initially, except probably worse off because they had become accustomed to having this $20,000 trust fund.

We are somewhat in that same situation. We are masking the real extent of our fiscal problem by every year pumping in the novocaine of a substantial Social Security surplus.

And what is the hammer? The hammer is what happens after the year 2019 when every year we are going to start our Federal accounts with a deficit of, in some years, in the range of $350 to $400 billion.

How would you like to be sitting here in the year 2023 with a constitutional amendment that says you have to balance your books every year and you begin the process with a deficit of $350 to $400 billion because of the enormous outflows from the Social Security trust fund?

I believe, Mr. President, that if we write into the Constitution that we must have a budget system that consolidates Social Security, representing 25 percent of our expenditures, into all the rest of the financial activities of the Federal Government, that under this structure, we are going to be leaving our future generations with an enormous, impossible task, particularly in these outyears.

And let me point out, this is not an aberration. This outline of surpluses and then deficits of Social Security is not a mistake. This is the way the system was planned to operate. It mirrors the demographics of the country—relatively low numbers of persons in retirement age at the beginning of the 21st century and large numbers of persons in retirement age in the second quarter of the 21st century. This is the way the system is supposed to work.

When you apply that against the mandate of a balanced budget, if Social Security is consolidated into every other account in the Federal Government, you will create a fiscal impossibility.

Next, if Social Security is on budget, it is going to create a temptation to

manipulate Social Security for the purpose of further masking the extent of our financial problems.

To use one example. It was only a couple of years ago that there was serious discussion in this Chamber of eliminating the cost-of-living adjustment for Social Security beneficiaries. I think, wisely, that proposal was rejected. But why was it being proposed? It was being proposed because, if you eliminated the cost-of-living adjustment, which amounts to approximately $20 to $30 billion a year in terms of Social Security expenditures, if you eliminated that cost-of-living adjustment, you would have artificially made the surplus appear that much larger.

If we did not pay a COLA out in 1995, we would not be talking about a surplus of $80 billion. We would be talking about a surplus of close to $100 billion. That would mean that our stated deficit would be $20 billion less.

So with that one action, we would have cut the reported Federal deficit, the deficit for purposes of meeting this constitutional requirement, by $20 billion.

That is the temptation that we are going to have because it is will be such an easy, disguised way, in which to meet the standard that we are setting for ourselves of a balanced Federal budget.

Next, I think that the consequence of what I just described—the temptation to use Social Security with this kind of a financing system to artificially reduce the stated Federal deficits—the consequence of that is to increasingly shift the cost of other areas of Federal responsibility to the Social Security financing system, which means shifting it to one of the most regressive sources of Federal revenue—the payroll tax.

The payroll tax is a straight tax on the payroll of most Americans, without regard to their ability to pay or other considerations. There are no deductions, there are no credits, there are no other recognition of special circumstances with the payroll tax. And as we give into the temptation to use Social Security as a means of meeting our other responsibilities, we continue to add to the extent by which Government is being financed by its most regressive form of revenue.

Next, I believe that one of the positive benefits of taking Social Security out of the general revenue budget of the United States—doing as Senator REID proposes—is that we will have the happy prospect of actually running a surplus in terms of our overall Federal condition once we are able to balance our general revenue books. Once we are able to get the rest of the Federal Government into a balance situation, with Social Security operating at a surplus, then we will be able to begin to reduce the amount of the national debt which is held by the general public.

We will begin to get some of those benefits that a positive surplus in our fiscal accounts will bring, such as lower interest rates, or stable interest rates, the benefits that will come in terms of stronger economic growth.

Finally, Mr. President, I believe it is important that we separate Social Security from the general revenue because we have a lot of work to do on Social Security. I have outlined briefly what the structure is.

There is an implicit assumption in that structure; that is, that the surplus funds that we are accumulating, what will eventually amount to $3 trillion of surplus, is being invested in an area that will be available for liquidation and used to pay these benefits that are going to be due after the year 2019, just as a private pension fund takes the money that it collects every year from employers and employees, however it is structured, and invests it in stocks, bonds, public instruments, or private funds so that when people retire there will be some real money there to pay their pension. The assumption is that something like that has happened with Social Security. Wrong. What is happening with the Social Security surplus is it is being used to finance the very deficits that we are trying to eliminate.

One of the benefits of having Social Security and the rest of the Federal Government's financial problems separated is it allows the Senate to focus attention on dealing with Social Security, making it the kind of solid, predictable, reliable, sustainable source of economic security for older Americans that we have represented it to be.

As long as the two are melded together, I think we will be constantly under the microscope of suspicion that we are doing it not to help Social Security but to raid Social Security.

We, as good physicians who need to make accurate diagnoses and prescriptions for Social Security, need to be in a surgery ward where we are not subject to the attack or criticism or suspicion that we are not doing this out of the desire to raid Social Security, that we clearly are doing it for only the purpose of making Social Security strong, healthy, vigorous, and able to carry out its contractual responsibilities.

Mr. President, I believe this is an extremely important issue that we are discussing and that it is imperative that we adopt the amendment as offered by the Senator from Nevada if we are to carry out our responsibilities not just for today, but particularly for the long future.

We have only amended the U.S. Constitution a few times in our 200-plus year history. It is interesting that only one of those amendments, once adopted, was repealed. That was the amendment on prohibition. Every other amendment, once adopted, has stayed in the Constitution and stayed in the original form. We are not doing this just for 1996 or 1997; we are doing this for the years 2096, 2097.

What is in the best interest of Americans over that long, indefinite future? I believe it is in the best interest of Americans to adopt the discipline of a balanced budget amendment, but to exclude the one-fourth of our Federal expenditures that represent Social Security, for the reasons that I have outlined, but particularly for the mask and the hammer we are about to leave for future generations if we require, constitutionally, that Social Security be consolidated with the rest of the Federal Government.

Let me conclude with a few recommendations. One, if we exclude Social Security from the consolidated budget, I think that we need to look at the question of whether the year 2002 is still an appropriate year for a mandated balanced budget. I believe that we should stretch that period out probably an additional 2 to 4 years, recognizing the fact that we are not going to have the Social Security surpluses as a means of offsetting deficits, and that we do not want to create an undue shock to our economic system and create the possibility of unintentionally putting the United States into a recessionary period.

If we do not adopt Senator Reid's amendment, I think we will need to think seriously about going back to the pay-as-you-go approach to Social Security that we had prior to 1983. I do not believe that the current system is sustainable within a consolidated Federal budget and a constitutional mandate that budget be balanced beginning in the year 2002.

Mr. President, I appreciate the opportunity to make these remarks. I commend the Senator from Nevada and also the Senator from California and others who have brought this matter so appropriately and so vigorously to our attention. It is an extremely important matter. It is not one that needs to be treated as if it can be dealt with by a cosmetic or other surface resolution.

This is a fundamental issue of our future ability to treat Americans who have relied upon the ''contract with America''—that is, Social Security—and to be able to give to our future generations a financial plan for which they will be able to achieve the objectives, including balancing the general revenue budget of the Federal Government, the benefits of having the surplus from the Social Security fund to be used to invigorate our economy rather than to mask our profligate spending, and to give Members an environment in which we can do those things which will be necessary to assure the long-term strength of Social Security.

Mr. President, I urge my colleagues to adopt the amendment.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, this constitutional balanced budget amendment is a very big issue. Its impacts are enormous. Its results, if passed and enacted, will be large and long remembered.

SUPPORT FOR A BALANCED BUDGET AMENDMENT

There are two reasons I want to vote for a balanced budget amendment. The first is my own life experience. I shared this once before and I will do it once again. The year I was born, 61 years ago, the entire Federal debt amounted to just $25 billion. When my daughter was born, the entire Federal debt amounted to $225 billion. And 2 years ago, when my granddaughter, Eileen, was born, the entire Federal debt was 150 times greater than when I was born. It was nearly $4 trillion at that time.

So my life experience shows me that with business as usual, the Congress is not going to be able to deal with the deficit unless it is forced to.

The second reason is my Senate experience. In 2 years in the Senate, through my observation of the budget's authorization and appropriation processes, I have become convinced that a balanced budget amendment is in order. In short, current operating procedures will not, in my view, produce a balanced budget. The amendment, therefore, is necessary to face reality and make the difficult decisions.

In a nutshell, those are the reasons I want to support a strong balanced budget amendment. But I want to support the right balanced budget amendment. And I have a hard time agreeing with those who have deemed it must have exactly only certain words in it; and only those words.

Last year, I supported the Reid balanced budget amendment on Social Security, as I am today.

Mr. REID. Mr. President, will the Senator from California yield for a brief question?

Mrs. FEINSTEIN. Yes, I will.

Mr. REID. Mr. President, I want to make sure that the RECORD is complete and my words are on the RECORD while the Senator from California is speaking.

The Senator has done a remarkably good job keeping this issue before the public. The Senator, as a member of the Judiciary Committee, singlehandedly brought this to the Senate a few weeks ago, where it was fully debated in the Judiciary Committee.

As a result of the work the Senator has done, my work here, and that of those other cosponsors, including the Senator from California, has been made a lot easier.

I wanted to publicly commend and applaud the Senator from California for her yeoman's work in regard to excluding Social Security from the balanced budget amendment.

Mrs. FEINSTEIN. I thank the Senator from Nevada for those very generous words. I appreciate them very much.

Mr. President, last year I supported both these amendments. In the ensuing year, I have come to think a lot about it. It is a long time before ratification, even if a balanced budget amendment is passed. And when people, beginning with 40 million and then 60 million, then 70 million, then 80 million Americans on Social Security understand what the impact of this amendment is, it is my very deep belief that it will not be ratified. I view the use of Social Security surplus revenues as a major flaw in the balanced budget amendment, but it is a flaw that can be corrected by this amendment.

In 1990, this very body, by a vote of 98–2, voted to take it off budget. They said:

> Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of
>
> (1) the budget of the United States,
>
> (2) the congressional budget, or,
>
> (3) the Balanced Budget and Emergency Deficit Control Act of 1985.

This body voted for it 98–2. And in the ensuing days, this body is going to reverse their opinion. One must ask why? Why are we doing this?

FICA TAXES

Let me talk for a moment about FICA taxes and what they are.

By the year 2017, $3 trillion of FICA tax reserves meant to pay for the retirements of American workers will be used instead to balance the budget. This is unconscionable.

If Congress is going to use FICA taxes that are meant for retirements for another purpose other than retirements, we should cut the FICA tax to eliminate the surplus so people do not see their FICA taxes misused.

FICA taxes were raised in 1977 and 1983 so the Social Security system would run surpluses. It was changed at that point from a pay-as-you-go system to a system that would bank surpluses for the future.

Why was that done? It was done because the actuarial tables showed there was going to be a major baby boomer generation retiring in the not to distant future and the revenues, as projected, would not be adequate to meet their retirements. Therefore, it was thought by this esteemed body that we should increase retirement taxes so that moneys could accrue and there would, therefore, be enough money to meet the retirement needs of the baby boomer generation.

What has changed is we found that even without this amendment, downstream, after the year 2018, the Social Security system will run into trouble. There still will not be enough money. But, if these dollars are used to balance the budget, the system is going to run into trouble much more rapidly. By 2002 nearly $1 trillion will be used and by 2017, nearly $3 trillion if we don't start saving these Social Security surpluses.

There are those who say, ''That's OK, we'll use the revenues. It will force us to make necessary changes in the system.'' I agree we have to make some changes in the system. If you raise FICA tax, if you means test it, whatever you do with it, some changes are going to happen.

But to use the reserves to fund health, to use FICA taxes to fund the Interior Department, the Agriculture Department, defense, and interest on the debt and other Government programs, is just plain wrong.

Over 58 percent of working Americans today pay more in FICA taxes if you put in the employer share than they do in Federal taxes. This is not a small amount. This tax is not adjusted by salary. Everyone pays a flat tax of 6.2 percent up to $61,200 of income and the employer matches it with 6.2 percent. For a worker who makes $25,000, his share is $1,550. Combined with the employer tax, it is $3,100. For a worker who makes $35,000, when you combine it with the employer's share, it is $4,340. Go up another $10,000 to $45,000 and combine it, it is $5,580. Go up another $10,000 to $55,000 and combine it and it begins to grow, it is $6,000 a year. And for every worker who makes more than $61,200, combined it is $7,588.

That is a lot of money at any income level. If it is being saved for retirement, then it is like an annuity: That's fine. You pay in funds and you get them out when you retire. But if it is being spent on Government, then it is just another expensive tax on working Americans, and then we ought to do the right thing and reduce the FICA tax if we are going to do this.

SOCIAL SECURITY AMENDMENT

The debate over this amendment to exclude Social Security from the constitutional balanced budget amendment is not complicated. It is very simple. The issue is: Does Congress want to take the funds generated by the FICA tax for Social Security, meant for a worker's future retirement, and use it to balance the budget? Or does Congress want to balance the budget honestly?

I hope that whatever else our disagreements are, we can all agree that Social Security revenues from the FICA tax should not be misused to balance the budget.

My problem with this constitutional amendment is that by including Social Security in the amendment, it does not only permit the use of the Social Security trust funds to balance the budget, but it mandates it by including those funds in the budget calculations. The amendment before us, in effect, enshrines the use of Social Security to balance the budget in the Constitution of the United States. Do we really want to do that? I think not.

So the debate really is not over who wants to protect Social Security and who does not. It is about who wants to be honest with the American people in our budgeting and our fiscal policy and who does not. Because to be honest, Social Security should remain off budget.

Ninety-eight Members of this very body voted to do that in 1990. Including it in the budget would be an enormous loophole. It is not the Federal Government's money, and it should not be used as if it were.

REBUTTALS

Let me respond to four arguments raised against this Social Security amendment.

CHARGE ONE

Excluding Social Security would make it harder to balance the budget.

That is true. Taking Social Security off budget does require more spending cuts, about $3 trillion of them by the year 2017, because all of this money will be used to balance the budget. But the alternative of leaving it on budget is basically stealing from Social Security to avoid spending cuts.

There is nothing magical, as the distinguished Senator from Florida pointed out, about the year 2002. Somebody just sat down and decided we have to do this by the year 2002. The Sun is not going to refuse to come up in the year 2003 or 2004 or 2005 or 2006 or 2007. If people are really concerned that we need to use Social Security revenues or you cannot balance the budget, then it is simple: Extend the time line out to 2005 or 2007 rather than loot Social Security.

If a man runs short on money one month, the law does not allow him to steal from his neighbor to make ends meet. But this amendment allows the Federal Government to steal from Social Security to meet its obligations. How is that right?

CHARGE TWO

It is unprecedented to put a statute in the Constitution of the United States.

I have heard that mentioned time and time again on this very floor.

Now, of course, it is true, it is unprecedented. It is also true that it is unprecedented to put the Nation's fiscal policy into the Constitution. And if we decide that this Nation needs the strong medicine of a balanced budget amendment, then we better be sure that the amendment is drawn deeply enough and widely enough to represent some of these concerns.

The legislation before you is narrowly drawn, and it specifies that only those funds used to provide old age and survivors and disabilities benefits are involved. So it is not a loophole.

The distinguished chairman of the Judiciary Committee, whom I deeply respect, has said, well, a game will be played if we put the words Social Security in the Constitution. Education moneys will be called Social Security moneys. The amendment is drafted to be specific, to prevent this from happening, and it does.

Now, Chairman HATCH has also said that no one wants to use Social Security revenues to balance the budget, and we could protect them in implementation legislation or by some other resolution.

I initially thought, well, maybe that is a great idea. If we can do it that way, why not do it. And so we asked the Congressional Research Service, if that could be done.

I wish to read the reply I received. This is what it says:

If the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security trust funds from the calculations of total receipts and outlays under section 1 of the balanced budget amendment.

Mr. President, I ask unanimous consent that the communication from the American Law Division of the Congressional Research Service be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, February 6, 1995.

To: Senator Dianne Feinstein (Attention: Mark Kadesh).

From: American Law Division.

Subject: Whether the Social Security trust funds can be excluded from the calculations required by the proposed balanced budget amendment.

This is to respond to your request to evaluate whether Congress could by statute or resolution provide that certain outlays or receipts would not be included within the term ''total outlays and receipts'' as used in the proposed Balance Budget Amendment. Specifically, you requested an analysis as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund could be exempted from the calculation necessary to determine compliance with the constitutional amendment proposed in H.J. Res. 1, which provides that total expenditures will not exceed total outlays.[1]

Section 1 of H.J. Res. 1, as placed on the Senate Calendar, provides that total outlays for any fiscal year will not exceed total receipts for that fiscal year, unless authorized by three-fifths of the whole number of each House of Congress. The resolution also states that total receipts shall include all receipts of the United States Government except those derived from borrowing, and that total outlays shall include all outlays of the United States Government except for those used for repayment of debt principal. These requirements can be waived during periods of war or serious threats to national security.

Under the proposed language, it would appear that the receipts received by the United States which go to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund would be included in the calculations of total receipts, and that payments from those funds would similarly be considered in the calculation of total outlays. This is confirmed by the House Report issued with H.J. Res. 1.[2] Thus, if the proposed amendment was ratified, then Congress would appear to be without the authority to exclude the Social Security Trust Funds from the calculations of total receipts and outlays under section 1 of the amendment.[3]

KENNETH R. THOMAS,
Legislative Attorney, American Law Division.

FOOTNOTES

[1] H.J. Res. 1, 104th Congress, 1st Sess. (January 27, 1995) provides the following proposed constitutional amendment—

Section 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

Section 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

Section 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year in which total outlays do not exceed total receipts.

Section 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

Section 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Section 7. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

Section 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

[2] House Rept. 104–3, 104th Congress, 1st Session states the following:

The Committee concluded that exempting Social Security from computations of receipts and outlays would not be helpful to Social Security beneficiaries. Although Social Security accounts are running a surplus at this time, the situation is expected to change in the future with a Social Security related deficit developing. If we exclude Social Security from balanced budget computations, Congress will not have to make adjustments elsewhere in the budget to compensate for this projected deficit * * *. Id. at 11.

It should also be noted that an amendment by Representative Frank to exempt the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund from total receipts and total outlays was defeated in committee by a 16–19 rollcall vote. Id. at 14. A similar amendment by Representative Conyers was defeated in the House, 141 Cong. Rec. H741 (daily ed. January 23, 1995), as was an amendment by Representative Wise. Id. at H731.

[3] Although the Congress is given the authority to implement this article by appropriate legislation, there is no indication that the Congress would have the authority to pass legislation which conflicts with the provisions of the amendment.

Mrs. FEINSTEIN. This means then that Congress does not have the option of later excluding Social Security in implementation language. We simply do not have it. Therefore, unless Congress enacts this amendment, Social Security funds will be used to balance the budget.

No other way around it. No talk is going to change it. No pounding the breast is going to change it. No vows taken with blood or wine or anything else is going to change it. It will be enshrined in the Constitution of the United States and $3 trillion of money paid in FICA taxes by young people in this country, working men and women, will be used to pay for agriculture, to pay for HUD, to pay for education, to pay for this highway project or that highway project.

I believe that is violative of a public trust, and I believe that what this amendment is all about should not be to gut Social Security, and that is exactly what we would be doing, if we don't exclude Social Security.

So we have taken care of that argument. Congress does not have the option of later excluding Social Security in implementation language.

It is very clear. A vote for a balanced budget amendment that does not have this amendment in it is clearly a vote that puts Social Security on budget and takes its surplus. Let there be no doubt about it.

CHARGE THREE

Exempting Social Security could create a Social Security deficit.

Actually, the exact opposite is true. Excluding Social Security from the balanced budget amendment protects it while including it in the balanced budget amendment guts it. If you put Social Security in the budget, it is not to protect it. It is to use its revenues and thus increase its insolvency.

In 60 years of Social Security history, the trust funds have never run a deficit. They cannot. If trust funds run out of money, benefits cannot be paid. It is that simple and straightforward.

CHARGE FOUR

Excluding Social Security would allow the Government to gamble with Social Security funds.

According to the Republican policy committee report, and I quote,

> Congress might stop using Social Security surpluses to buy Government securities and let the Social Security trustees try their hand in the private market. They could start gambling with trust fund reserves by acquiring industries, buying up real estate, taking a chance on cattle futures or speculating on foreign currencies.

Mr. President, to that I say nonsense. To that I say baloney. That is pure flimflam. Social Security is off budget today, and the trust funds are not allowed to be invested anywhere except U.S. Treasury bonds. And they are the safest investment in the world. If they go, our Government goes.

Social Security has never been allowed, nor will it ever be allowed under this amendment, to use trust fund reserves to buy up real estate or cattle futures or to speculate on foreign currencies. This charge is pure obfuscation. It is pure fantasy.

Under this amendment, Social Security would still be required to invest in U.S. Treasury bonds, and there is nearly $5 trillion today of Federal governmental debt. The U.S. Treasury will continue to issue bonds and Social Security will continue to purchase those bonds.

The biggest difference between the practice today and the practice if the balanced budget amendment excluding Social Security is adopted is that when the constitutional amendment takes effect, the U.S. deficit will actually shrink—shrink—for nearly the next two decades, not grow.

And to my mind that is fiscally prudent. As the debt shrinks, interest rates drop. This means businesses can expand and hire new workers, Americans can afford new homes and pay for college for their children. Shrinking the debt is the right objective, and that will happen under this amendment for the next two decades.

Mr. President, in conclusion. I have listened to all the arguments about what is wrong with our amendment to exclude Social Security, but they all boil down to one thing: Members of Congress simply want to use the money to balance the budget.

That is not a real argument. That is a failure to deal truthfully with the American people. To loot Social Security is morally wrong and I cannot support it.

I want to support, as I said before, a balanced budget amendment and I am prepared to do so if Social Security is excluded. Rather than argue about this amendment, my colleagues who support a constitutional balanced budget amendment as I do, why not do the right thing and accept this amendment to exclude Social Security? Then we can move forward in a bipartisan way and get this country back on the right track again.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, as I have heard my friend from Florida and the Senator from California make their arguments on this balanced budget amendment, if there is ever an argument that they have made that has been powerful it is this one, but it is an argument why we should have a balanced budget amendment so these trust funds can stay viable, so we can live up to our obligations. It was a wonderful argument for them. And I do not think we should lose the spirit of just exactly why we have to have it.

If we go far back in our history to the ratifying of our Constitution and read the argument that was made then, when we formed this country, there was a very deep concern from the Framers of this Constitution about our ability to create national debt. I think it was Thomas Jefferson himself who made the statement that still was one of his concerns when the Constitution was ratified. I know it was a concern of the first President of this United States, George Washington.

If we read our history, those concerns have lasted as long as our Constitution has lasted. So the argument they make is a very persuasive one for, and a good reason why we need, a balanced budget amendment at this time.

I yield the floor.

Mr. HATCH. Mr. President, opponents of House Joint Resolution 1, the balanced budget amendment, are expected to support an amendment unsuccessfully offered in the Judiciary Committee by Senator DIANNE FEINSTEIN to specifically exclude Social Security from the calculations used to determine if the Federal Government's budget is in balance. A slightly modified version of this amendment has been introduced on the floor by Senator HARRY REID.

The consequence of its passage would be cataclysmic for millions of middle-class Americans who are counting on Social Security to supplement their retirement income in the future. At best, the Reid amendment is a jobs program for constitutional lawyers who would keep the matter tied up in the courts for years, if not decades.

The Reid amendment is just the sort of protection today's senior and tomorrow's retirees don't need. By requiring the Government to ignore Social Security receipts and expenditures in balancing its books, the Reid amendment would threaten the future of a program on which tens of millions of Americans rely.

HOW SOCIAL SECURITY WORKS

Consider how the Government collects payroll or Federal Insurance Contribution Act [FICA] taxes and pays Social Security benefits. Social Security payroll taxes—like Federal income, corporate, and excise taxes—are collected by the U.S. Treasury. Unlike other Treasury receipts, however, FICA revenues are used to back monthly Social Security checks. The House Ways and Means Committee's Overview of Entitlement Programs [the ''Green Book''] describes the transaction this way:

> The trust funds are given IOUs when [FICA] taxes are received by the Treasury, and those IOUs are taken back when the Treasury makes expenditures on the program's behalf. This handling of [Social Security] finances goes back to the inception of the program and has not been altered by the inclusion or exclusion of the [Social Security] trust funds in or from the federal budget. [1994 Overview of Entitlement Programs, p. 91]

Throughout most of the program's history, the Treasury has collected more in FICA taxes than it has needed to pay Social Security benefits. The trust funds are thus stockpiling IOU's from the Treasury and are expected to do so for nearly two more decades. This year, for example, the Congressional Budget Office [CBO] estimates that Social Security receipts will exceed outlays by $69 billion. Over the 5-year period from 1996–2000, CBO projects that Social Security will take in $421 billion more than it will spend.

The Reid amendment would require Congress, when it hammers out annual Government budgets, to pretend that these billions of dollars simply do not exist. The Treasury would continue to collect hefty payroll taxes from working Americans, but these revenues could not be counted when determining whether the Federal budget was in balance.

WHAT THE REID AMENDMENT WOULD DO

The Reid amendment, as it was offered in—and tabled by—the Judiciary Committee, would add a new sentence at the end of section 7 of House Joint Resolution 1, the balanced budget amendment. The Nevada Senator's amendment reads:

> The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund used to provide old age, survivors, and disability benefits shall not be counted as receipts or outlays for purposes of this article.

In order to bring revenues into line with expenditures under the bizarre accounting system necessitated by this amendment, Congress would have to

choose from at least four major options, each of which would hurt the economy and imperil the Social Security system.

REID OPTION 1: RUN GOVERNMENT SURPLUSES

The first option would be for the Federal Government to run annual surpluses—collecting more in taxes than it spends—equal to the value of Government securities purchased by the trust funds.

This year, for example, the Social Security trust funds will buy $69 billion in Government securities from the Treasury. If a balanced budget amendment with the Reid provision were in effect, the Treasury would have to make believe that it never received this $69 billion. Thus, Congress would have to raise taxes or cut spending by $69 billion just to keep the deficit at its current level—$176 billion, according to CBO's most recent estimate. In order to balance the fiscal year 1995 budget under the Reid amendment, the Government would have to eliminate the $176 billion deficit and then come up with an additional $69 billion.

The Reid amendment thus would make it harder to achieve a balanced Federal budget, unless Congress resorted to one of the other options described in this paper. Ironically, many advocates of the Reid amendment oppose the balanced budget amendment because they believe that it would require tough decisions on cutting Federal spending. The balanced budget amendment with the Reid provision could actually make these decisions tougher than would an amendment without that provision.

REID OPTION 2: EXPAND THE DEFINITION OF ''SOCIAL SECURITY''

While Congress is unaccustomed to passing balanced budgets, much less running surpluses, the Reid amendment would present lawmakers with another option, one with which it is more familiar—spending taxpayers' money.

The Reid amendment would effectively create two Federal budgets: One bound by rules of sound fiscal discipline and another in which Congress could spend as it pleased. The former budget would include all non-Social Security programs; the latter, all programs defined as ''Social Security.''

It wouldn't take long before Congress started to redefine its favorite programs as ''Social Security.'' For example, the Supplemental Security Income Program [SSI], a welfare program for indigent aged, blind, and disabled people, is administered by the Social Security Administration, though it is financed by general revenues rather than through the payroll tax.

Spending on SSI has grown rapidly in recent years, and the program has been plagued by scandal. There has been a sizable increase in the number of alcoholics and drug addicts who qualify for benefits on the basis of their addiction. Critics also say that the steep rise in the number of children on the SSI rolls is due in large part to the mischaracterization of behavioral problems as disabilities. And many legal aliens have begun to collect monthly SSI checks when their sponsors—usually family members—withdraw financial support.

A balanced budget amendment would force Congress to take a hard look at the SSI Program and institute reforms to control costs. But if the Reid provision were added to the amendment, Congress could take the easy way out by using the FICA tax to pay SSI benefits. Other welfare programs—like Medicaid, food stamps, and scores of others—also could escape reform by being reclassified as ''Social Security.'' This would drain resources intended for seniors and impair Government's ability to pay retiree benefits.

REID OPTION 3: CREATE A SOCIAL SECURITY DEFICIT

The Reid amendment would require only part of the budget to be in balance—non-Social Security spending would have to equal non-Social Security revenues. But the Reid amendment would permit part of the budget to be wildly out of balance—the part that seniors rely on for their monthly Social Security checks.

Because Congress would be prohibited from counting revenues from FICA taxes as Government receipts in determining whether the budget is balanced, lawmakers could drastically reduce these taxes without increasing the deficit. Increases in income taxes, however, would reduce the deficit. Thus, even if revenues from Federal income taxes were increased by the same amount that revenues from FICA taxes were decreased, the deficit actually would be reduced under the Reid amendment's twilight zone accounting.

The Reid amendment thus would create a perverse incentive for Congress to create huge Social Security deficits in order to balance the Federal budget. Replacing FICA revenues with other Federal tax revenues would be an easy means of helping to balance the non-Social Security portion of the budget, which is all the amendment would require.

Of course, the FICA taxes would no longer fully fund Social Security benefits, threatening the program with bankruptcy. The Social Security trustees could borrow money from the public in order to cover monthly checks to retirees, a step unprecedented in the program's history. But these Social Security deficits wouldn't matter under the Reid amendment. In the twisted logic of the amendment, the Federal budget would be considered balanced as a matter of constitutional law, even as the Federal Government plunged deeper into debt, a debt that would fall on future generations.

REID OPTION 4: GAMBLE WITH SOCIAL SECURITY FUNDS

Congress could avoid these problems by changing the way that proceeds from the FICA tax are spent. Current law permits these funds to be used only to pay benefits and to purchase government securities. It also accounts for these intergovernmental transactions in a commonsense way: The Treasury is credited with the revenues not needed to pay benefits, and the trust funds receive an equal amount in Government securities. Since the Government is borrowing money from itself, this transaction has no net effect on the deficit.

The Reid amendment would change the way these transactions are accounted for. While the trust funds would continue to count their Government securities as assets, the Treasury would have to pretend that it received nothing of value in return. Thus, in the bizarre world created by the Reid amendment, every time the Treasury issued a Government security to the trust fund, the deficit would increase, just as the Government's debt increases when it sells bonds to the general public.

Since the Reid amendment would treat these intergovernmental transactions as it would public bond issues, Congress might stop using Social Security surpluses to buy Government securities, and let the Social Security trustees try their hand in the private market. They could start gambling with trust fund reserves by acquiring industries, buying up real estate, taking a chance on cattle futures, or speculating on foreign currencies.

HOW TO SAVE SOCIAL SECURITY

Far from saving Social Security, the Reid amendment would threaten the program, driving Congress to pursue policies that would bleed the system and damage the economy in the process.

It also would tie the hands of lawmakers who want to restore the Federal Government to fiscal soundness. Congressional Budget Office Director Robert Reischauer, during his January 26 appearance before the Senate Finance Committee, was asked by Senator DON NICKLES whether he thought a balanced budget amendment should include exceptions for Social Security or other Federal programs. Dr. Reischauer replied:

> I would say the most comprehensive treatment of the budget would be the most desirable. And what you want is a situation where all activities of the Federal Government are on the table to increase or decrease all of the time in the future. We do not know how this country is going to evolve. * * * In 1920, there was no such thing as Social Security. Now there is. Who knows what the world will look like in 2020?
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> If you are going to lock something into the Constitution, you want to do what our founding fathers did, which was provide guidance, general guidance, not nitty gritty specificity, so that the amendment will have enduring value.

The best way to assure that the Social Security system will have enduring value is for Government to get its own financial house in order. Rising Federal debt, and the interest payments it entails, threaten Social Security and stunt economic growth. Robert Myers, Social Security's former

chief actuary and deputy commissioner, has stated:

If we continue to run federal deficits year after year, and if interest payments continue to rise at an alarming rate, we will face two dangerous possibilities. Either we will raid the trust funds to pay for our current profligacy, or we will print money, dishonestly inflating our way out of indebtedness. Both cases would devastate the real value of the Social Security trust funds.

A government crippled by debt can't keep its promises. The balanced budget amendment—without the Reid provision—will help Congress make good on its pledge to seniors and to millions of working Americans to preserve Social Security.

Mr. President, I referred yesterday to a thoughtful article on this subject by Mr. David Keating, published in the Washington Times. I would ask that this be included in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Times, Feb. 8, 1995]

SOCIAL SECURITY AND THE BALANCED BUDGET

(By David Keating)

During the Vietnam war, an American officer was quoted saying we had to destroy the village in order to save it. Now the U.S. Senate may apply similar logic when it votes on a proposal to add a huge loophole to the Balanced Budget Amendment, supposedly to save Social Security.

Although the Social Security system currently collects more in taxes than it spends in benefits, this will change early in the next century. If Social Security is exempt, the balanced-budget rule would quickly become worthless. Consider this: In the year 2050, this exemption would legalize an annual total budget deficit of over $2 trillion. That $2 trillion annual deficit will occur under current Social Security policies as today's children retire. This loophole would give Congress yet another excuse to stall any action to address these huge Social Security deficits.

The balanced-budget amendment simply requires that Congress take a three-fifths vote in order to pass a bill to borrow more money. Excluding Social Security sounds nice. but it would actually create a huge flaw in the amendment. As Congress chafes under the balanced-budget rule, it would likely use the Social Security loophole to fund other programs, leading in turn to the destruction of Social Security as it works today.

Congress would probably first add other programs that aid the elderly into Social Security. Obviously candidates include veterans' benefits and pensions, which total more than $20 billion a year. Supplemental Security Income, which is used to aid the elderly poor and costs over $25 billion a year, is another likely candidate. Then there is the approximately $175 billion in Medicare and Medicaid spending that benefits the aged. A portion of funds spent on the retired poor by Food Stamps, low-income home energy assistance, housing subsidy and other social service programs might be transferred to newly exempt Social Security trust funds. Some or all of federal employee or military retirement programs may also become part of Social Security.

A future Congress that wished to bypass the balanced-budget amendment could also, by a simple majority vote, authorize deficits as large as current Social Security spending. How? By reducing Social Security trust-fund taxes and revenues and increasing ''operating'' fund taxes and revenues by an equal amount. This has the potential to be as much as a $330 billion loophole, the current cost of the Social Security program.

It also increases the danger of granting further ''exemptions'' to the provisions of a balanced budget amendment. If Social Security is declared exempt, advocates of other causes—from highway builders to teachers—would demand their own exemptions. Or, Congress could simply begin funding everyday programs under the guise of ''Social Security.'' Sound implausible? Who ever thought the Disability Insurance part of the Social Security System would pay benefits, as it does now, to young drug addicts and alcoholics who then use the money to sustain their habits?

There is nothing in the proposed exemption that would prohibit spending money from the Social Security trust funds for nonretirement programs. A future Congress and president that wished to circumvent the balanced-budget rule could do so simply by funding non-Social Security programs from trust fund accounts. A simple majority of Congress could thus effectively get around the balanced budget amendment and its limit on new debt.

In 1974, the federal debt was $483.9 billion. Today it's over $4.8 trillion, thanks to federal spending growth of twice the rate of inflation. Fifty-two cents of every personal federal income tax dollar now goes to pay interest on the national debt. Not only will interest begin to crowd out Social Security, but the continued buildup of debt will impair the ability of future taxpayers to refund moneys borrowed from the trust fund. Only an all-inclusive Balanced-Budget Amendment will force Congress to balance the budget and create a sound environment for the future of Social Security.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise today in support of the Reid-Feinstein amendment to exempt Social Security in any balanced budget amendment to the Constitution of the United States. I want to be absolutely clear. I will not vote for a balanced budget amendment to the Constitution that does not exempt Social Security. I will defend that principle in the Constitution. I will defend it on the Senate floor. And I will make sure to do all I can to exempt it in the balanced budget amendment.

Social Security is our primary contract with America. Social Security is a sacred and legal trust between the people and the U.S. Government. It is a social contract that was established more than 60 years ago and I believe promises made should be promises kept. We said to the American people if you practice self-help, if you contribute to a Social Security trust fund, we will make available to you a safety net and a floor on which you can build your retirement.

I believe this is a promise that needs to be kept. It was made in the New Deal. It was made in the Fair Deal. It was made in the New Frontier. It was made in the Great Society. It was reaffirmed by Ronald Reagan and George Bush and we should reaffirm it here. Social Security should be a sacred trust among the American people and should not be subjected to the vagaries of the U.S. Congress.

Republican colleagues say, ''Do not worry. We all like Social Security. It is probably the one thing the Democrats did that we really do like. We do not want to touch Social Security and we can balance the budget without it.''

That is like hearing somebody say, ''Do not worry, Honey, I will take care of you.'' But then we all know that does not happen.

If in fact my colleagues on the other side of the aisle believe that Social Security should not be touched, let us not wait, then, for some mysterious enabling legislation. Let us put it in writing now and then let us put it in the constitutional amendment.

We talk a lot about the Contract With America and there is much about it that I support: the Congressional Accountability Act, the unfunded mandate legislation, the fact that we need to reform welfare to make sure we reward work, support families, and move people to self-sufficiency.

I also want to go back to the original contract, which is the Social Security contract. We need to honor work. We need to honor sweat equity. We need to continue to give help to those who practice self-help, those people who put money into the Social Security trust fund, believing it would be there for them and not be subject to whatever the Congress wants to do on any given year with the budget.

My contract with the American people and the people of the State of Maryland is I will not vote to cut Social Security and I will not vote for a balanced budget amendment that does not exempt Social Security. I will not vote to balance the budget on the backs of the generation that saved Western civilization.

Right now we have wonderful, ordinary men and women who did extraordinary things during World War II who are now in their seventies and eighties, who absolutely rely on Social Security. Eleanor Roosevelt called that generation who mobilized for the war, for World War II, she called them to something, and said it was no ordinary time and no ordinary solutions would be sufficient to defeat those enemies of America and Western civilization.

Not only was it no ordinary time, they were no ordinary generation. Now we cannot make them pay for the red ink that has been run up in the Federal deficit.

Social Security is not the cause of the Federal deficit. It is an independent, self-financed and a dedicated fund. In the early 1980's we all took tough medicine in order to make the Social Security trust fund solvent. Today the Social Security has a reserve, it has a surplus because we anticipate the needs of an aging generation. Older Americans who survive on Social Security plus a small pension are not responsible for this Federal budget deficit and should not pay the price for the balanced budget amendment.

This is not just a senior citizen issue. This is a family issue. Right now there are many families in my age group who are called the sandwich generation. They are helping support their mother and father—or in many instances their family is self-sufficient because of Social Security combined with a private pension plan—but this sandwich generation is helping mom and dad and paying for the kids in college. They deserve the fact that their mother and father should get the Social Security check that they planned for and that they thought would be there for them.

I will not let those families down. I am on their side, standing up for the principles of family responsibility, self-help and believing when your U.S. Government makes a contract with you it will not change the rules of the game in the midst of debates on the budget.

Let us be clear. Social Security is not welfare. It is not a line item in the appropriations process. It is not something we decide on every year. It is an independent self-financed solvent trust—underline the word ''trust''—fund. It is the foundation of retirement security and family security.

If we do not exempt it from the balanced budget amendment I predict it will be cut. I predict it will be cut severely. This will mean that millions of families could see their incomes sink, and older Americans and disabled Americans will be placed at risk.

We hear a lot about angry taxpayers, but they are not angry at Social Security. Americans know that Social Security works, and 79 percent of the American people want to see Social Security exempted from the balanced budget amendment. I stand with those Americans. Count me as part of the 79 percent.

Count me as being 100 percent with that percentage of the American people who want Social Security exempted in the balanced budget amendment. Let us protect and preserve and defend that social contract with them and let us protect, preserve, and defend the Constitution of the United States of America.

Mr. President, I yield the floor.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Utah.

Mr. HATCH. Mr. President, I think this has been a reasonable debate. It has been civil. The debate has been so for both sides of this issue, and both sides have been well-represented. Naturally I feel our side is correct. I would not be here if I did not, working day in and day out. But the American people voted for change. They thought they were going to get it when they voted for President Clinton. And to a degree they have gotten change, but not the change they thought they were going to get. They thought he would lead the fight for a balanced budget. In a sense, with increasing taxes and doing some budgetary cuts in the last year, I guess you could give him some credit for that, except that under that budget that he passed with 100 percent Democrats and no Republicans, the Vice President having to break the tie, that budget has deficits shooting up in 1996 to as high as $400 billion-plus shortly after the turn of the century.

This year the President has brought his budget forward, and I really believe he has just thrown in the sponge because this year's budget has $200 billion deficits ad infinitum just on and on well into the next century, certainly for the next 12 years. And those are based on his rosiest assumptions. He just plain did not do anything about persistent yearly deficits. That is not change. That is business as usual. And $200 billion deficits are very, very high.

The American people voted for change, and the balanced budget is part of that change. I think we have to overcome this deficit problem.

This chart here shows the President's projections. Calculating the deficit under President Clinton, we started with a $4.8 trillion national debt, and between 1994 and the year 2000, 5 years, he will spend $1.39 trillion more than we are currently spending.

The deficits will be $103.2 billion for 1994; $129.5 billion in 1995. Then they go up from there. But they average well over $190 billion a year. This chart only shows projections to the year 2000. They have projected up to the year 2007. Every one of those years has $190 billion-plus deficits. That is assuming that the optimistic economic assumptions of the President will be valid, even though we may have some downturns and upturns and everything else during that time. I do not think that these optimistic assumptions will hold, especially if you do not have a balanced budget amendment to get the Government to live within its means.

The American people want change. They are not going to be satisfied with business as usual. What I hear from the opponents, sincere as they may be, is that we are going to have business as usual. They know full well the American people support a balanced budget amendment—and the other body passed this amendment overwhelmingly. It was kind of a miracle really because we have been fighting for the balanced budget amendment ever since I came here. We passed the balanced budget amendment in 1982 by the requisite 67 votes plus 2. We had 69 votes. It went to the House, and we got 60 percent of the House to vote for it but it was not the two-thirds. Tip O'Neill beat us over there. Then we were beaten again over there. But this year, in a vote of 300 to 132, I believe, they overwhelmingly passed the balanced budget amendment.

So for the first time in history, the Senate, which has a history of previously having passed the balanced budget amendment, has a chance to pass it on to the States and make this a very pivotal year in U.S. history by putting the discipline in the Constitution that will help us to get spending under control.

I think the people out there know full well that since the other body passed this amendment overwhelmingly with strong bipartisan support despite the President's opposition—I have to say that I do not think the President is opposing this very strongly. Sure, he does not want it to pass. His budget makes that clear. But I think deep down he probably wishes it would pass because then it would provide the fiscal discipline that his party and our party need in order to get spending under control.

I would like to take a few minutes to define some of the reasons the American people need a balanced budget amendment. The Tax Foundation, in its April 1994 special report, calculated that an American worker worked 125 days last year just to pay taxes. That means from January 1 to May 5, working Americans earned absolutely nothing for themselves. Every dime they earned—working Americans between January 1 and May 5—went to taxes for the Federal Government. Put another way, in an 8-hour day, a working American spends the first 2 hours and 45 minutes working for the Government. That is wrong. The hard-working Americans who grant us the privilege of serving them deserve better than this. The American people have earned this amendment. It would be a shame for us, after the House bit the bullet and passed this amendment and after they have taken the lead, to deprive our citizens any longer.

By the way, it was a bipartisan vote in the House, as it has to be in either body. It was not a Republican victory. This is not a Republican amendment. This is a bipartisan, consensus amendment. I know. I have worked on it and have helped write it now for all of these last 19 years, and certainly since 1982. And we have worked with our Democratic counterparts year in and year out, and 72 terrific, courageous Democrats voted for this over in the House of Representatives. It would not have passed without them. We all know that. So there is no reason for either side to claim victory here, if this passes, as I think it will. There is every reason for us to continue to work together.

Hard-working Americans who grant us the privilege of serving them deserve a better break than they are getting. The American people have earned this amendment. It would be a shame for us to deprive them of this.

Those of my colleagues who believe Americans are getting their money's worth for their tax dollars should oppose the balanced budget amendment. But if any of them believe that, I would be surprised. Those Senators who believe otherwise should support it.

Mr. President, the size of our bureaucracy is out of control, and wasteful spending continues. We are actually paying Federal bureaucrats to frustrate private initiative. Let me get into that in a minute. But before I do, let me go back to our balanced budget

debt tracker and the growth of the national debate as we debate.

Mr. President, when we started the debate on day one, the national debt was $4.8 trillion, and is represented by this red line. We are now in the 11th day. We are now up to $9,123,840,000 in increased debt just in the 11 days since we started this debate.

It is going up every day that we debate. We are standing here seeing the sinking of the *Titanic*, and just whittling—I guess fiddling would be a better word—while Washington is sinking American taxpayers deeper day in and day out. Just look at how the debt grows. That is going to go up every day this debate continues. It is time for us to do something about it. The bureaucracy is out of control. Wasteful spending continues. We are actually paying Federal bureaucrats to frustrate private initiative.

Let me mention some of the details of our current plight.

I am grateful for the National Taxpayers Union for compiling some of these points. No. 1, the fiscal year Federal budget deficit was $203.4 billion. No. 2, the Federal Government has run deficits in 33 of the last 34 years and has run a deficit every single year for the past 25 years. No. 4, last year, gross interest payments alone on the national debt were just under $300 billion. These gross interest payments were the second largest item in the Federal budget, and they were more than the total revenues of the Federal Government in 1975. In other words, what we are paying for interest, which just goes down the drain, totaled nearly $300 billion, and that figure is more than the total Federal budget was in 1975, just 20 years ago.

It took our Nation 205 years, from 1776 to 1981, to reach $1 trillion in national debt. It took only 11 years to reach $4 trillion. On the last day of 1994, the total Federal debt had reached $4.8 trillion. That means that I was a little wrong here when I started my chart behind me as having a $4.8 trillion national debt the day we began the debate. That was the debt January 1. So we were actually higher than that when we began the debate. But, having used that as a rounded baseline figure, we are now another $9 billion, going on $10 billion, in debt just in the 11 days this debate has been going on.

The country is suffering. I have to say that despite claims of drastic deficit reduction with the 1993 passage of one of the largest tax increases in American history, the Congressional Budget Office predicted deficits will exceed $300 billion in less than 10 years from now.

Mr. President, I understand the distinguished Senator from Wisconsin wants to speak. If I could take maybe a couple of more minutes, I will be glad to yield.

Even the President's budget, as I mentioned, just sent to Congress, as optimistic as it is, predicts about $200 billion in deficits every year through the year 2002 when our amendment will go into effect. This is another $1.4 trillion in debt over those 7 years. That is almost certainly a vast understatement. Think of the increase in yearly interest payments that will add to the Federal budget every year just from that.

The Washington Post headline on Saturday said a great deal about the President's budget proposal: ''New Budget to Continue U.S. Deficits; Clinton Proposal Due Monday Produced Amid Staff Doubts.'' The article reports that the President's budget ''left some administration officials doubting the President's commitment to his campaign vow to halve the deficit by 1996.'' The headline over the continuation of the Post story on page 4 aptly reads: ''Clinton's Proposed Budget Continues Deficits He Pledged to Cut.''

Some who are cynical believe he has done that so that the Republican Congress will have to make the cuts, and then they can criticize the Republican Congress for having done so. I hope that is not the case. Nevertheless, it is apparent that he has not been doing what he promised to try to do. Is there any doubt that we cannot keep spending this way and racking up these huge deficits? Is there any doubt that the politics as usual, represented by the President and his budget proposals, do not serve the best interest of our hard-working taxpayers? Federal spending and debt crowds out free enterprise. When the Federal Government spends and borrows, it soaks up resources that private business might otherwise use to build or expand factories, showrooms, and stores, and the ability to employ many Americans at better wages.

Deficit financing is hurting the chances that our children and grandchildren will have financial security. Each one of them owes $18,500 in national debt as of right now—in fact, each American citizen, man, woman and child. Each year we are going to add, under the President's budget, $200 billion to the national debt, from here on in, ad infinitum. Each year we do that, we cost the average child just over $5,000 in extra taxes over his or her working lifetime, just to pay interest costs.

The President is proposing to do just that, year after year. I know it is tough to be President and I know it is tough to make these decisions. But future generations are going to face higher interest rates, less affordable homes, fewer consumer conveniences, fewer jobs, lower wages, and a loss of economic sovereignty, unless our fiscal house is brought into order. So it is time we face these facts, Mr. President. It is time to make the commitment to balance the Federal budget, and we need this constitutional mandate.

So I urge my colleagues in the Senate to please consider this and please support us in fighting for and voting for the balanced budget amendment.

I have more to say, but I will say it at another time, because the distinguished Senator from Wisconsin desires to speak.

I yield the floor.

Mr. FEINGOLD. Mr. President, we are doing something very unusual here. We are working on a constitutional amendment. We know that has not happened many times in our history, and so when you deal with a constitutional amendment, you have to take an even tougher attitude about what you are doing. I think you have to consider that two different things can happen, obviously. One is that the amendment may be defeated which, in this case, I happen to prefer. As we go through the amendments, we also have to be responsible about the amendments we put on, because whether I like it or not, this may become the law of the land, part of the Constitution.

So the amendments that are offered become particularly important. What we are doing here is to decide whether or not this balanced budget amendment should become the law of the land and possibly a straitjacket and a problem for a Federal Government from which it will be very difficult to extricate ourselves. So it is in that spirit that I address the amendment of the Senator from Nevada.

I want to take this opportunity to commend the Senator from Nevada for his eloquent leadership on this issue of the Social Security aspect of the balanced budget amendment—his leadership last session and his leadership now. I also commend the senior Senator from California, who took the lead in the Judiciary Committee on which I serve in trying to provide at least this exemption for Social Security from the balanced budget amendment.

The Senator from California did such a good job, and I was happy to be able to help her. We had a very close vote; we were only one vote off in the Judiciary Committee from defeating a motion to table the amendment.

I see this amendment both in the committee and here on the floor as not only serious, but as a sincere and constructive amendment, even though I have reservations about the balanced budget amendment itself. I especially speak at this time because even though I think there is a chance the balanced budget amendment will not pass this body, and even though I think there is a possibility that even if it goes through the Congress it will not be approved by the States, the fact is that it may well do that.

We may well be faced with the possibility that the U.S. Constitution will have a balanced budget amendment that provides no protection for the Social Security program. Listening to the debate in committee and in listening to the debate yesterday on the floor, I realized again that when you look at the Social Security amendment, it really depends on how you look at the Social Security fund itself. How one

comes down on this amendment depends on how you look at the contributions people make to the Social Security system.

One group of people see the Social Security fund as a distinct and separate fund, based on a contract. They think they paid in the money, that a deal was made, that they are entitled to their Social Security benefits, and that it is not subject to congressional whim.

There is another group that sees this as just another program, albeit a worthy program. I know of no Member of the Senate or any Member of the other body who does not think Social Security is a worthy program. But this other group just sees it as a program, something that may make sense, something that is expensive, something that we may have to move around and take some money from, but something that is worthy nonetheless. Those are really the two different ways to look at Social Security. It is because of this distinction—the differences between the way people look at Social Security—that people come down on different sides on what the chairman of the Judiciary Committee called in the committee the loophole.

The chairman, the Senator from Utah, said that putting this amendment into the balanced budget amendment and into the Constitution would create a loophole; that the Members of Congress could take basically anything they wanted and label it Social Security and use it as a way to get out from under the amendment. That was the chairman's view of how this would create a loophole.

But I think I look at the Social Security fund a little differently than the chairman—and I acknowledge that a lot of people support him in his view. But I look at the Social Security system as a contract. And so for me, the loophole is not the amendment that the Senator from Nevada is proposing; the loophole is the past and inappropriate use of the Social Security fund to mask the deficit and the debt. That has been the loophole that has been used in the Congress.

We should not suggest even for a minute—and apparently it went a lot longer than that—that somehow the Social Security fund is part of that money that comes into the Federal Government and that we can use it in our budget calculations, as, in fact, it has been used in the past to mask just how big the deficit really is. I know that the Congress in recent years has recognized that this is inappropriate, but it was done—that is the dangerous loophole; that the Social Security fund can be regarded as a cookie jar, a slush fund, whatever you want to call it, to solve our problems that we have failed to solve. In my mind, that is the loophole, not the risk that the Constitution would say do not touch Social Security.

I think the amendment of the Senator from Nevada and the amendment in committee of the Senator from California are critical because they permanently close the loophole as we move in the balanced budget era.

In fact, I would say, based on a few years of listening to folks all over my State, that the use of the Social Security fund to mask the deficit and the debt is one of the really strong reasons people mistrust the Federal Government. They are troubled by their belief that we are willing to engage in gridlock and avoid solving our Nation's problems. But, they are also angry that we can be so arrogant as to consider Social Security system funds not to be part of a contract with the people who have paid into the system, but money that we can use to solve problems that we have not been willing to solve in the past.

The amendment of the Senator from Nevada is responsible as to the future, as well. It is highly responsible, because what it does is address the future solvency of the Social Security fund.

Just as the Social Security fund is not the reason we have a deficit today—we know that the fund is solvent—it is still the case that the Social Security fund faces an extremely likely, if not certain, strain in the future. It must remain intact as a separate system with a separate, credible, long-term financing plan so that Social Security will be there for those of us who come along in the future. Without the amendment of the Senator from Nevada, the balanced budget amendment becomes not a friend to the future, but a continuing threat to the integrity of the Social Security system.

Now, that is not to say—and I think this is important—that there cannot be changes on the table for Social Security. I think there should be. Everything needs to be improved over time and, especially when you are facing future insolvency, we have to consider some changes.

In fact, maybe we should look at some of the changes proposed by the so-called Entitlements Commission, the Kerrey-Danforth Commission. They put some ideas on the table that had to do with Social Security, such as whether or not we should raise the retirement age, whether or not there should be some different assumptions made in terms of how the Consumer Price Index is calculated as it relates to the cost-of-living increases.

I am willing to consider those changes, but only if those changes are used to make sure that the money goes into the Social Security fund to make sure it is solvent for the future. Without the amendment of the Senator from Nevada, these tough changes, which are going to be controversial no matter what, will be changes that the American people may see as ways not to make the fund solvent for the future, but to take care of pork projects somewhere else out of their State so that Members of Congress do not have to balance the budget directly. I think that is a valid fear, not only for seniors, but for all the people who come after them and who hope that they have not paid into the Social Security system in vain.

Mr. President, in this context, I am troubled not only by the notion that somehow we are creating a loophole in the Constitution, but I am especially troubled by the notion that I have heard expressed in committee and on the floor—I do not know whether it is a notion or a reassurance or a wish—which is this: The statement that somehow Social Security will compete well. It is going to do really well, we are told. It has a lot of support. There is nothing to worry about. Nobody is going to hurt Social Security.

That is what the proponents of the balanced budget amendment tell us. That is what people say when they say we do not need the amendment of the Senator from Nevada.

But I think that is troubling. I am afraid that the Social Security system may not fare so well in the brave new world of the balanced budget amendment or in this new marketplace of budgetary suitors. I think that the language of the marketplace in saying that Social Security will compete well is a direct breach of the whole concept of Social Security and the promise that was made to all those hardworking Americans who paid into the system over the years, understanding and believing in their Government that nobody would monkey around with their retirement money.

Mr. President, we are not talking here about just another kind of tax revenue. Nobody likes taxes. Nobody likes April 15. But the understanding is, when you send in that money on April 15, or you have to send in a little extra amount because your withholding was not quite right, that it goes into a big pot out here and these Members of Congress get to decide, along with the President, what is done with it. People do not like it, but they understand that is our system.

But that is not their understanding when it comes to Social Security. For 50 years, that is not what the American people have been told Social Security is all about.

To put it another way, I do not think the American people think they should be part of, in effect, a large block grant that the Federal Government has where they have to compete against other programs, and that they hope they do well in this new block grant after the balanced budget amendment, and they hope there will be enough money there so they can get their Social Security benefits. That is not the understanding.

Mr. President, words of ''competition'' and ''free market'' are almost always appropriate. That is what our system is based on. The words of ''free market'' and ''faring well'' and ''competing'' with other worthy programs are not appropriate when it comes to Social Security.

The final point I would like to make, because I think this is often overlooked in attempts to minimize the importance of this amendment, is that there is an implication that this is just about senior citizens. Somehow, this is pandering to older Americans who want their Social Security benefits, as if there was something wrong with that. There are constant references to the power of the senior lobby, how we are pandering to older people. This is what we hear all the time.

But I will say that I agree with the sentiments of the proponents of the balanced budget amendment who say that nobody is going to mess around with the seniors today. That is politically explosive. That is not going to happen. We are not going to take away from the benefits of senior citizens today. They are not, if you will, the at-risk population when it comes to the balanced budget amendment.

I would like to identify three generations that are far more at risk because of this constitutional amendment than the seniors of today.

The first generation is my generation, the baby boomers.

Do not accuse me of pandering to seniors. Accuse me, if you will, of worrying about my own Social Security benefits. I am concerned. I am concerned that, if this institution has the right to mess around with Social Security funds, when my wife and I get up to be that age, there is not going to be anything there. And there are a lot of us in our generation. You bet, we have a lot of votes. But we also have a right to the benefits that we paid for and we were told we were going to get by participating in this system. Clearly, my generation is concerned.

There is another generation that I know is concerned and they have become very vocal. They are called generation X, kids in their late twenties or early thirties. They actually have articulated a philosophy for which I do not pretend to be the spokesman. Obviously, I am too old. I have read the articles and heard the statements and seen them on TV. What they are saying is, we are not sure that the older folks—and now I am in that group—who are running the show in Washington care at all if Social Security is solvent when we get there.

They know there are seniors today. There is a huge group of baby boomers that will eat up all kinds of benefits when they get there. They, I think, kind of smell a rat. When they get there, they are very concerned that this system that they are now paying into in their younger years, when they would probably like to get a house, buy another car, they are worried we are spending.

There is a third generation, the age of my kids. People who are 14, 11, 9. People that do not understand this. Yet some are figuring out that we have an awful big Federal deficit here, and they will realize shortly as they graduate from high school and go into the work force, if we do not protect Social Security, they will be the ultimate victims of our fiscal irresponsibility of recent years.

I conclude, Mr. President, noting that the people that we are always talking about with regard to the deficit and the balanced budget amendment are the children and the grandchildren. Would it not be ironic if, in the name of helping the children and the grandchildren, we take away forever the possibility that those same people would have the opportunity to have Social Security? That is ultimately what is going on here. We are taking away potentially, without this protection, the same rights and privileges that so many of us hope to enjoy, because there just will not be any money left in the fund.

Mr. President, this is a sincere amendment. Whether the balanced budget amendment passes or not, it is absolutely essential that we keep it separate, that we keep our promise not only to those who have worked and paid in, but that we keep our promise to those who come after.

I urge my colleagues to regard this as an important amendment. I strongly urge support for the motion of the Senator from Nevada. I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from Kentucky.

Mr. FORD. Mr. President, I take the floor to join my colleague from Wisconsin and my other colleagues in support of their attempt to ease our seniors' fears and to help set some parameters for the debate on the balanced budget amendment.

The fact is, the Social Security system is not causing the deficit. Its revenues and surpluses should not be used to mask the deficit nor should its outlays be counted as part of expenditures. Because of these very compelling facts, it is clear to me that Social Security should be exempted from the balanced budget amendment.

Unfortunately, as has been pointed out by various Senators, there is a great deal of confusion in the country over what the balanced budget amendment will mean. The Members on the other side of the aisle have recently voted down the right-to-know amendment that would have gone a long way to answer these difficult and important questions that are confusing the American people. I think this is unfortunate. Throughout the debate in the House and here in the Senate, Members from the other side of the aisle have continued to say ''everything is on the table.'' Asked if that included Social Security, most have tried to be reassuring. Well, when someone tells me that everything is under consideration and then adds that we'll protect Social Security only after being prompted, forgive me for not being too heartened by their words.

I say as my father used to say, put it in writing. Put your money where your mouth is and continue to keep the Social Security system in its protected position as a trust fund, separate and distinct from the rest of the Federal budget.

The many proposals to balance the budget being circulated are scaring people living on Social Security and scaring those who expect the U.S. Congress, to abide by our contract, our promise, that the funds will be there when they need them. The conflicting statements in the press and the speculation on the political talk shows is feeding the confusion about what will happen to Social Security. So, Mr. President, I believe it is high time that Senators go on record stating flatly where we stand with respect to Social Security.

Oh, no, do not come up with this ''We will take care of it in the implementing language.'' That does not buy it. Trust, but verify. We heard that. I trust, but I want to verify it in writing.

I am not afraid to say where I stand. I think those who are supporting the balanced budget amendment are scared to death over this one. We have not had to have a caucus on what to do about the vote on Social Security. We have not had to have a caucus saying we want to develop a second-degree amendment or a substitute that puts Members in a position that when we get to the implementing language we cannot touch Social Security.

I have an answer for that one, I think. Many years ago our Nation made a pact with its people that their payroll contributions—and we make them pay—would be available when needed, whether in old age or because of disability.

When I say ''protect'' I mean protect, without a doubt. Some have advocated dealing with Social Security issues, as I say, in the implementing language of the balanced budget amendment. I say to my colleagues and the Nation that that will not cut it. Legislation can be changed at the whim of this Congress or the next Congress.

Our amendment is different. By actually writing the protection into the Constitution it truly protects the Social Security contract. We have heard a lot about contracts in the last 35 to 40 days. We had heard a lot of it last year. Now we have a contract we want to break.

''Oh, we are not going to break it. We are going to take care of it in implementing language.'' Well, how are we going to take care of it? We can change it any week we want to, any month we want to, any year we want to, any Congress we want to. So we do not take care of it. We can change it.

In fact, this amendment reinforces our position, makes it stronger, makes Social Security safer and more secure. Neither receipts nor outlays will be counted as part of the budget under this provision.

The facts in this case bear repeating, I think. The Social Security system is not causing the deficit. Our proposal

protects the sanctity of this most vital program.

I hope and trust that most of our colleagues will join in protecting Social Security. We need to go on record—not some vague time in the future—to put our seniors' fears to rest.

If we say we want to safeguard Social Security, remember that actions speak louder than words. Support the Reid-Feinstein amendment to the balanced budget amendment. Support this measure. Support for this measure is the only way to truly guard the trust fund. I hope my colleagues will support it.

Opponents argue on this issue that statutes never have been incorporated in the Constitution and this would be an unprecedented constitutionalizing of a statute.

The response to that is, this is the first time that we have ever tried to do an amendment to the Constitution fixing fiscal policy. So if this is the first time we have done that, we can do something else for the first time.

So if we are talking about fiscal policy, should we not be concerned about one of the largest fiscal elements of our society; namely, Social Security?

I know there are a lot of people here just as sincere about supporting the constitutional amendment as they can be. I support it. I voted for a constitutional amendment to balance the budget. You are going to need my vote, but you know, they say, whichever way it goes, Democrats lose on this. If you pass a balanced budget amendment, the Republicans win. If they lose, they beat the heck out of us for the next 2 years politically, and there will be fewer Democrats here 2 years from now than there are now. I see the President smiling. He would like that. That is all right. I am going to do what I think is best whether I get to come back or not, and I will defend my position with anyone on the other side any time you want to have that debate.

But there are some people around this Chamber I respect. I respect them personally and for their judgment and experience and knowledge. One of those is the distinguished Senator from Alabama, Senator HEFLIN. I do not think anybody in this Chamber disputes his legal and constitutional knowledge.

So let us just look at this for just a moment, where he is coming from. Opponents of this amendment argue that we will use implementing legislation to exempt Social Security from the Balanced Budget Act calculations. That is what we hear. We hear it every day from my learned friend from Utah—I heard it, he just keeps repeating it, and I almost believe it he has repeated it so much. But let us listen to the distinguished Senator from Alabama. This refutes the ability to do something about Social Security in the implementing language that we hear about.

Here is what Senator HEFLIN says:

> Attempts to protect Social Security through implementing language would be futile.

Futile, and I underscore that.

> Once the Constitution is amended to require that total outlays for any fiscal year shall not exceed total receipts for that fiscal year, Social Security is in danger.

That is what Senator HEFLIN says. And he goes further to say:

> This means that there will be a constitutional requirement that Social Security funds be considered on budget, because the language says all receipts, all revenues.

All receipts, all revenues. So when that balanced budget amendment is passed, that includes Social Security, and this is by a man I believe has as good a knowledge of the Constitution as anyone in this Chamber.

He goes on further to say:

> If the balanced budget amendment is adopted as presently worded, it would prohibit—

Let me repeat that.

> it would prohibit Congress from legislatively taking Social Security funds off budget

Because you have included them—

> and would nullify the provisions of the 1990 Budget Enforcement Act which requires Social Security funds to be considered off budget.

That balanced budget amendment says it is all receipts, all revenues, and here is a fellow I think you have to respect, a Senator, I better be careful. Senator BYRD will be up here in a minute if I call him ''fellow.'' He is a Senator. So I want to be sure I say it right.

Here is a Senator we all respect. He thought about this for weeks, and he would not have made that statement publicly if he did not believe he was legally and constitutionally correct. When he makes that statement, after thoughtful consideration, I have to believe it.

We have others from the American Law Division who agree with Senator HEFLIN. They put out their statements. Once you put ''all receipts'' in that amendment to the Constitution, you eliminate the ability under the legislative implementation of that budget of trying to exclude Social Security.

If you are willing to take that chance, and if you are willing to take that chance, go ahead and vote against it. But I will tell the Senate and the American people, here is one Senator who is not going to vote to include Social Security. I have too many in my State, and you have too many in your State and there are too many across this country who have a contract with us.

''Oh, it's all right, old FORD is down there flapping his lips. It's not going to make any difference, they already have the votes.'' They at least start out with 53—maybe 52. You did lose one. One on that side is all right, up until now.

But when it comes to the point of whether you want to believe the constitutional scholars that once you pass this balanced budget amendment Social Security is excluded from the implementation of that budget by this body, then you have said one thing and you are unable to do it.

I do not want the courts to start telling me to cut the budget, to raise the taxes, you cannot do this and you cannot do that. And we are getting very close to saying to the courts, ''You are going to run this country.'' I am not ready for the courts to tell me how to vote in the legislature, in the Congress, and I do not think you want to vote to give that much power to the courts.

We are on the verge of saying that the courts will be all powerful over our fiscal policy. Line-item veto—we are going to give that to the Executive. We can just get us a plastic card and vote from home, and a lot of people would probably like for us to do that. But we are slowly but surely saying to our forefathers that you made the best judgment of any country in the world when you put together the Constitution, but we are saying now we are going to give a piece of the legislative prerogative to the courts, we are going to give another piece of legislative prerogative to the President.

I believe Senator HEFLIN when he says that if you say ''all receipts'' and the constitutional amendment passes, you will not be able to get Social Security and those people out there now drawing Social Security will be in deep trouble. A $702 billion surplus in 2002 in Social Security. A $780 billion surplus in Social Security in 2002 and you want to take that and reduce the deficit.

Now, if I did not have to pay it, it might be a different deal, but I have to pay it. I look forward to it because it is a contract. How many people get out of paying Social Security? I do not know. Unless you do not make anything, you pay Social Security. It is planned to go up and have a surplus. That is the plan. We do not even have a means test. I have not even heard it suggested.

I see a lot of people taking notes while I am talking. Maybe they want to think about this constitutional question a little bit.

But I just say to my colleagues and to those who may be watching—once they started listening to me talk, they probably turned on the local news or something—but you better be careful about allowing the Social Security amendment to fail because if that balanced budget amendment passes—and I suspect it will and the States will ratify it—then Social Security is part of the deficit reduction, regardless of our implementing language.

Oh, I will hear good legal words. I am not a lawyer. Therefore, I am not a word merchant, and I cannot take my words and make it sound good. You have both sides. You have both sides. And it is good to argue that way.

But the only thing I know is I listen to people I trust, people I think are intelligent, people I think thought this part of the amendment through thoroughly and have now made their judgment. That judgment has been supported by the American Law Division of the Congressional Research Service. They all concur with Senator HEFLIN's statement. If that is true, all of us in

this Chamber better take a step back and look at where this has taken us, particularly as it relates to Social Security.

Mr. President, I say to my colleagues I hope that the 17,000 calls per minute being made around this country as it relates to Social Security begin to burn between now and the time that they have this vote, and that we can at least save Social Security in our haste to have a drag race and accomplish things and put it on the 30-second sound bite.

I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I agree with three-fourths of what Senator FEINGOLD said before and what Senator FORD has said. I believe we do have a contract with people who have signed up for Social Security. As a matter of fact, I do not remember when it was, but about 10 years ago, when I introduced a balanced budget amendment, I had an exemption for Social Security.

I finally withdrew that for two reasons. First, I believed that we better protect Social Security by not having it in, and I will explain that in a few moments. Second, we have a contract with a lot of other people, too. And if you put in this exemption for those on Social Security, what about Federal employees? What about veterans? What about railroad employees? What about other trust funds we have set up where we have a contract—for aviation, for highways, for other things?

Mr. FORD. Mr. President, will the Senator yield for a question?

Mr. SIMON. I will be pleased to yield.

Mr. FORD. I understand what the Senator is saying about these other contracts. But in the military, we appropriate funds every year for the retirement of the military. The airport improvement trust fund, if you fly an airplane, you pay the tax. If you do not fly, you do not. Then you are going to see that we can reduce those taxes. Therefore, you will not have a trust fund. Under the highway trust fund, you have gasoline taxes. If you reduce those taxes, you do not have a trust fund. Here it is mandatory that you pay under Social Security, and that is a trust fund with a contract. Will the Senator agree with that?

Mr. SIMON. I agree they are different. But what about railroad employees, if I may ask?

Mr. FORD. Railroad employees are under Social Security. They have been transferred to the Social Security. The railroad retirement system has been merged with Social Security, and Social Security is the railroad retirement fund.

Mr. SIMON. I differ with my colleague on that.

Mr. FORD. My father-in-law is a railroad retiree, and he gets his check from Social Security. Now, Mr. President, I do not know what it is, what kind of fund he has, but they did not have enough funds to take care of it and they turned it over to Social Security, and Social Security is now taking care of those retired railroad people.

Mr. SIMON. The Senator is partially correct in that.

Mr. FORD. At least that is better than being all wrong.

Mr. SIMON. Mr. President, let me just add, we have a contract not only with people who are on Social Security today. We have a contract with those three groups that Senator FEINGOLD mentioned in the future. And how is the Social Security trust fund protected? It is protected by U.S. bonds.

If you take a look at the history of nations, when nations get around 9, 10, or 11 percent of deficit versus national income, with the exception when you are in a war, then nations start printing money. What the economists say is they monetize the debt. The latest CBO projection is we are going to end up, in the year 2030, with 18 percent. That suggests that the only way we can protect Social Security is to make sure that debt does not rise, and that we do not monetize the debt, because if the dollar is only worth 25 cents, those bonds are only worth 25 cents on the dollar.

Senator FORD is correct. Social Security is not causing the deficit. I have voted for statutory provisions, and I will again as we move ahead. But we also have to recognize that if we separate Social Security and say this is not our direct responsibility, starting in the year 2012 or 2013, Social Security starts to go into a deficit situation.

What we ought to be doing, if this passes, is sitting down with senior groups right now and saying how do we plan for this? Do we have to have a half-percent increase in Social Security in the FICA tax to pay for it? Should we, over a period of 12 years, each month increase the retirement that you need to have?

I do not know what the answers are, but I know that if we just put this off and say this is not our direct responsibility, we are asking for trouble.

Here let me just add, we ought to be listening to Bob Myers, for 21 years the chief actuary of the Social Security System. He says it is absolutely essential for the future of our system that we pass the balanced budget amendment. I hope we do that.

Let me just add one other point. There are those who philosophically just are opposed to a balanced budget amendment, period. My friend, Senator BYRD, is one of those. Senator FEINGOLD is one of those. But let no one use the defeat—and I think this amendment will be defeated—let no one use that as political cover and say, well, I cannot do this because I want to protect Social Security recipients. The only sure way to protect Social Security recipients is, as Bob Myers has pointed out, to pass the balanced budget amendment. And that is what I hope we will do and do in a responsible way.

The Reid amendment, in my opinion, should be defeated. Then we should do the right thing by those who are on Social Security now and will be on Social Security in decades to come by adopting the balanced budget amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the distinguished Senator from Illinois has referred to Mr. Bob Myers on two or three occasions. On another day I will take the time to read into the RECORD what Mr. Robert Ball had to say about Mr. Myers' statement and had to say about Social Security and had to say about the balanced budget amendment, so that the record will be balanced.

I thank the Senator.

Mr. President, when former President John F. Kennedy wrote ''Profiles in Courage,'' I believe he wrote about Edmund G. Ross, of Kansas, during the debate in 1868 on the impeachment of Andrew Johnson. At the conclusion of the trial when the vote was taken, the first vote was on article 11. That was a test vote. The House managers felt that was kind of a catch-all provision on which the guilty verdict would most likely be rendered—would have its best chance. But on that vote, 7 Republicans voted with 12 Democrats to acquit President Andrew Johnson. Thirty-six votes were needed for a guilty verdict, for a conviction; 36 votes. The vote was 35 to 19. And so those who sought to convict President Johnson failed by one vote, and President Kennedy mentions the name, I believe, of Edmund G. Ross, of Kansas, who was one of the Republicans who cast a vote for acquittal and thus, apparently, sealed his political doom in so doing.

But there was another Senator who cast such a vote and that was Peter G. Van Winkel, of West Virginia. Peter G. Van Winkel was from Parkersburg, and he voted to acquit President Johnson. In so doing, Peter G. Van Winkel closed the escape door and sealed his doom politically. The West Virginia Senate, in that year of 1868, passed a resolution condemning—I believe the vote was 18 to 3—condemning Johnson. So the pressure was on because most of the West Virginians were Unionists. The pressure was on Peter G. Van Winkel to vote guilty. Waitman T. Willey, the other West Virginia Senator, voted guilty. But Peter G. Van Winkel voted not guilty.

Edmund G. Ross went on to switch from the Republican Party to the Democratic Party in later years. He, I believe, was Democratic candidate for Governor of his State later. He had a continuing political career as a Democrat.

But not so with Van Winkel. He was finished. He looked down into the open political grave and knew that was where he was going to his final rest.

So there were two profiles in courage.

I was visiting with Senator PELL recently and I saw on his office wall a

framed article, I believe it is from the New York Tribune. The headline was as follows.

Pell Will Vote Against Bonus; Means His End.

New York Representative Says Act Will Be Political Suicide But He Can See No 0ther Course.

And reading from that May 1 story of 1919 or 1920, I forget which it was, dateline Washington, May 1.

Representative Herbert C. Pell, Jr., Democrat, who was elected to the House from the Fifth Avenue District, (17th of New York), announced today in a speech on the floor that he would vote against the soldier's bonus bill despite his belief that to follow such a course would be political suicide.

Explaining his conviction later, Mr. Pell said that although most of his constituents might mildly approve his stand he believed several hundred returned soldiers of Democratic sympathies would cross the party line and assure his defeat in a district which was normally Republican.

''I intend to vote against the bonus,'' Mr. Pell said in his speech. ''I am doing this in the full realization that it means the end of my political career, and I can tell you frankly that it is a painful thing to commit suicide, but I do not think that honor will permit me to follow any other course.''

I will not read the rest of the article. But here was a profile in courage, Herbert C. Pell, Jr., father of our own illustrious colleague, CLAIBORNE PELL, who knew that he was closing the door forever to any future in politics but who stood upon principle. He put principle above party; principle ahead of expediency, and cast that vote. So I asked Senator PELL to give me a copy of that newspaper story.

I ask unanimous consent it be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Tribune]

PELL WILL VOTE AGAINST BONUS; MEANS HIS END

NEW YORK REPRESENTATIVE SAYS ACT WILL BE POLITICAL SUICIDE, BUT HE CAN SEE NO OTHER COURSE

TAX METHODS ASSAILED

WOULD PARALYZE INDUSTRIES AND CREATE THE WORST PANIC IN HISTORY; IS BELIEF

(From The Tribune's Washington Bureau)

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THINKS INDUSTRIES WOULD BE PARALYZED

''Of course I shall vote for the most generous treatment possible for men that have been injured in the service of the United States, and also for proper care of the dependents of those men who have been killed, but I cannot bring myself, merely for consideration of political advantage, to vote for a bill which would impose a tax of $20 a head on every man, woman and child in the country. There is no conceivable way, or at least no way has been suggested, by which such an amount of money could be raised which would not paralyze the industries of the United States and precipitate such a crisis as we have never seen in our history.

''Hard times unquestionably are coming, whatever we may do, but while we cannot avert difficulties we can tremendously aggravate them. So far there have been three plans suggested for raising the money.

''First, by the issue of $2,000,000,000 of bonds which, obviously could not possibly be marketed at a rate very much under 8 per cent, which would promptly knock twenty points off the price of Liberty bonds and make any private borrowing by business men practically impossible.

TAX METHODS ARE ASSAILED

''Second, a retroactive tax on incomes for at least three or four years. Ordinary common sense will show any man that this money has not been kept by the individuals who acquired it, in the form of cash in their stockings, but has been spent or invested, and to raise the tax money every business man in the country would be obliged to go into the money market and borrow on his own credit. This also would run the price of money up to such an extent that the permanent investment rate in the United States would remain somewhere around 8 per cent for a great many years. Of course, I mean non-speculative investments—the class of thing that before the war paid from 3½ to 4½ per cent.

''The third plan is a general sales tax of one-half of 1 per cent on all sales made in the country. The argument for this is that it would take the money from the people in such small installments that they would not notice it, but it would be impossible to take such an enormous sum from the community without very seriously affecting all business throughout the country, and, of course, it would wreck the financial district of New York, and with it the hope of commercial preëminence of the world.

MONEY WOULD DRIFT TO LONDON

''An American stock exchange would probably be opened in London, on which all stocks listed on New York would be dealt in. This would mean that London would become the great market of the world for call money, and would end any hope that we may have held in the past of New York becoming the financial capital of the world.

''Considering the low purchasing power of money to-day and also the general tendency of all classes toward extravagance, $500 means about as much to a man to-day as $75 or $100 used to mean to us, and we may rest assured that nine-tenths of the men receiving this money will spend it on a good time and not work until it is all gone. After that they will try to get back the jobs they held and find that they no longer exist, so that their last state will be worse than the first.''

Representative Johnson, of South Dakota, insisting that the bonus bill ''must pass,'' proposed in the House to-day the elimination of the tax on sales, which was criticized severely by Republican members in conference last night, and the substitution of a tax on war profits.

Chairman Fordney of the House Ways and Means Committee, announced that sessions of the committee would be held late next week, at which the elimination of the sales tax provision would be considered.

Mr. BYRD. Mr. President, earlier we witnessed here in the Senate one of those vital moments of historic drama for which the U.S. Senate was created, that moment during which our friend and colleague, Senator MARK HATFIELD from Oregon rose and announced his opposition to the proposed balanced budget amendment to the Constitution. When he did that he wrote on this very day his own profile in courage.

Senator HATFIELD and I are both standing in this debate on principles that transcend both party allegiances and personal quirks. Our position is against vilifying the sacred document on which this Republic is based with parochial conceits and economic policies that will surely be viewed in the future as an anachronism—if this amendment is ever adopted in the country.

Our position on this matter reflects a conservative stance on the Constitution, based on the ''strict constructionism.''

Where are all these conservatives we hear about? Like Disraeli, I am a conservative: To retain all that is good in the Constitution. And the radicals remove all that is bad. This position of strict construction is rooted in American history and in constitutional traditions.

But one thing highlights Senator HATFIELD's position and differentiates that position from my own position. Senator HATFIELD is swimming against the inclinations of the majority of his caucus. It may very well turn out to be almost a unanimous caucus except for his vote. Senator HATFIELD is swimming against the inclinations of the majority of his caucus and against the directives of the so-called Contract With America, of which the House Members of Senator HATFIELD's own party are so enamored.

Senator HATFIELD's stand on the issue of the balanced budget amendment is a stand which should make every Senator proud, even those who differ with Senator HATFIELD and with me on this issue. Senator HATFIELD's position on this matter suggests those instances —and I have referred to a few earlier—those instances of character and distinction cited in ''Profiles in Courage,'' one of those defining moments for which the Founding Fathers created the Senate as ''the place to send legislation so that it might cool down.''

Mr. President, I again commend my friend and colleague Senator HATFIELD for his courage and his demonstrated leadership on this issue, and in this body. He has stood on the unfailing foundation of principle.

He has lived up to his oath to support and to defend the Constitution of the United States against all enemies, foreign and domestic. He has put his vote behind reserving that grand document —and here it is, the Constitution of the

United States—for future generations. He has stood against the political winds of expediency, and the people of Oregon should be proud of him, and the American people should be proud of him. Regardless of their viewpoint on this particular issue, they should be proud of him.

Mr. President, it seems that we live in an age of little reverence and less patience. It is an era of fast food and slick advertising slogans, of instant analysis and rapid information. In politics, it is a time of sound bites and media men.

The practical application of democracy as it has evolved, with its condensed messages and its blow-dried candidates, stands in stark contrast to the carefully crafted, intricate, thoughtful system envisioned by the Framers and given form by the written document known as the Constitution of the United States of America.

Representative democracy is a slow, complex, and cumbersome way of governing. Its strong point is not speed, and not efficiency but stability. In a world enamored of instant gratification, 30-second political ads, 30-minute press conferences, rapid transit, fax machines, satellite communications, and a whole host of lifestyle subtleties that peddle speed and simplicity as invaluable commodities, I sometimes wonder if, as a people, we have somewhere lost the patience for representative democracy.

It is as if the perseverance to examine issues with meticulous care, considering and publicly debating all aspects until a solid consensus emerges, has gone out of style. Perhaps our ability to concentrate—the American attention span, if you will—has been shortened, rather like a child who has watched too much bad television. And there is all too much of that to watch.

Given our national fascination with time-saving devices that simplify our lives, it becomes easy to understand why intractable problems, without quick or obvious solutions, are especially frustrating to the American people. In many American families, both parents have to work just to make ends meet, and then struggle to parcel out any leftover time, if there is any left over, to raise their children. The American people, frankly, are distracted by their own overly busy, fractured lifestyles, and the simple, quick solution is currently at a premium value. The simple, quick solution is at a premium value.

Some in the political sphere have seized upon that distraction and have made hay out of offering one-liner solutions to the Nation's most complex problems. Some have discovered that the simple, the catchy, the obvious, the easy will sell like hot cakes to an American public frustrated by the demands of making a living and disappointed by a political system that no longer seems to matter in their own daily lives.

Is the American public weary of budget deficits? You bet they are. Well, then, pass a constitutional amendment to balance the budget; it is just that simple.

Our forefathers did not intend that the Constitution never be amended for all time. They provided an article, Article V, which provides for the amending of that document if two-thirds of both Houses and three-fourths of the States give their approval to amending the Constitution. It can be done; it has been done. We have 27 amendments, 17 since the original 10 that we refer to as the Bill of Rights. I, myself, voted for five of those amendments here in this body.

But here, we are talking about an amendment that would burst at their seams the very pillars on which this constitutional system rests: The separation of powers and checks and balances. That is what it amounts to. I will go into that with greater particularity on another day. But the Framers in writing the Constitution intended that it endure for ages to come, and that, consequently, it be adapted to the ''various crises of human affairs.'' Those of the words of John Marshall. So in the midst of all of this hustle and bustle, and the search for expediencies, easy answers, why do we not just throw out the Constitution and start all over? Or perhaps we should do it by stealth—do it by stealth—under the cloak of a balanced budget amendment to the Constitution.

Mr. President, that is why the American people have a right to know what this amendment will do. Let us take a close look at House Joint Resolution 1.

I want to appeal to that jury out there, that jury which during this debate is viewing the electronic eye. And among that jury, I am appealing to Senators, Senators perhaps in particular at this moment. I want to make my case before that jury, and I hope that with a little patience, because talk becomes tedious at times, especially on this occasion when I will be explaining the flaws in this amendment—it may become a little tedious. May I say to the men and women of the jury, please be patient, because I am going to prove beyond a reasonable doubt that this constitutional amendment to balance the budget is filled with flaws, that it will not work, that it cannot work and that the committee in its committee report admitted essentially that there were problems with it and sought to provide the escape doors through which we might run from that problem.

I am going to prove that beyond a reasonable doubt, for all those who will take the patience to listen. Bring on your ready response team. I saw on television one evening on the evening news that my friend, Mr. DOLE, had brought out, I believe, 9 or 10 Senators from the other side of the aisle—and maybe 1 from this side, I am not sure—and it was a ready response team. They were going to ''wear him out,'' talking about ROBERT BYRD. They were going to wear him out. Well, bring on your ready response team now, while I am speaking. Bring them on. I will yield for questions. I will yield for statements by unanimous consent. But do it now. You remember the little ad on TV, ''Do it here, do it now.'' Well, do it here, do it now. All right. To the ready response team I say, ''come on, do it here, do it now, while I am on the floor. Bring out your 9 or 10.

I want to focus on this measure, because just as Toto pulled back the curtain to expose the not-so-mighty Wizard of Oz, the curtain must be pulled back on this resolution so that the American people, too, can see that it is political sorcery, political witchcraft, political black magic.

Section 1 of the proposed constitutional amendment on this chart to my left, so that the jurors can read it for themselves, reads:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

I will speak at a later time about this clause which deals with the supermajorities that are built into this amendment. There are 9 supermajorities in the Constitution of the United States and the amendments thereto. Six supermajorities are provided for in the original Constitution, one supermajority is provided for in the 12th amendment, one in the 14th amendment, one in the 25th amendment, making a total of 9 supermajorities built into the Constitution and amendments thereto. I will talk about that.

I will repeat this first quote from Section 1: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *.'' That means that total Government spending for any fiscal year shall not exceed total receipts—''* * * shall not exceed * * *'' the money taken in by the Government.

That language probably sounds fairly straightforward. It should be easily understood: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *.'' But if we accept that requirement, if we rivet that quack nostrum into the Constitution of the United States, then the obvious question is, can we ensure that, in fact, outlays do not exceed receipts? That is what the mandate says here. How are we supposed to comply with that constitutional mandate? Simply stating that outlays shall not exceed receipts is nothing more than an empty incantation; just to say it is more than an empty incantation. Stating it will not automatically make it happen, any more than if we said there will be no more poverty, no more crime, or no more pollution. There would still need to be some sort of mechanism to carry out the goal. That, of course, is also true of balancing the budget.

Everyone should realize that there has to be a plan in order to actually get the budget into balance. That is what many of us have been trying to get the proponents of the amendment to tell us. Show us the plan. Let the American people see your plan for balancing the budget. The people have a right to know.

But, Mr. President, proponents of the amendment tell us not to worry. They say that a constitutional amendment is not the place to put the particulars, or details, or how we achieve a balanced budget. They say that section 6 of the proposed amendment requires Congress to develop its own enforcement mechanism by passing implementation legislation—by passing implementing legislation. Congress will enforce it, says section 6 of this constitutional amendment. If that is the case, then the American people have a right to know what that section says.

Section 6—here it is on the chart to my left—reads as follows: ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.''

For the public to understand what kind of wonder drug they are being asked to swallow, they need to fully understand that specific section of the resolution. And once they do understand it, Mr. President, I believe they will know that this amendment is nothing more than political witchcraft.

Section 6 of the resolution, of the balanced budget amendment, states that ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.''

Again, Mr. President, such language would appear rather uncomplicated. But if we take a closer look, especially at the latter half of that sentence, we will see that the entire premise of this amendment is as shaky as a house of cards. Indeed, in one single word—the word ''estimates''—we find the Achilles heel of the whole balanced budget amendment concept, be it House Joint Resolution 1 or some other version. The Achilles heel is the word ''estimates.''

Following that, let us zero in on the word ''estimates.'' If we follow the directive of section 6, then the central tenet of our enforcement mechanism, we would see, is to be based on ''estimates of outlays and receipts.'' Now get that. ''The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

What the public needs to know, but what they are not being told, is that, unlike most individuals who will receive a set salary or wage for the year and whose expenses are relatively stable, total outlays and total receipts of the Federal Government are never, never, never known—and in fact they cannot be known—at the beginning of any given fiscal year. It is impossible for the total receipts and the total revenues to be known at the beginning of any given fiscal year. All the President and Congress have to work with, when they begin to put the budget together, are estimates provided to them by the Office of Management and Budget and the Congressional Budget Office—estimates, nothing more.

If we have learned nothing else over the past 15 years, it is that actual outlays and actual receipts in any given year can, and generally do, vary from those estimates by billions of dollars—not millions, but billions of dollars. In fact, in most years, actual outlays and actual receipts do not even come close—do not even come close—to what the experts projected at the beginning of the fiscal year.

Estimates are not accurate. They never are. And if they ever will be, it will be pure happenstance and it will not happen often.

As these charts to my left will show, outlays, receipts, and deficits have consistently been misestimated in every one of the 15 years from fiscal year 1980 through fiscal year 1994, inclusive. No exception. In every one of those 15 years—from fiscal year 1980 through fiscal year 1994—the outlays, receipts and deficits have been misestimated.

Mr. President, before turning to the specifics of these charts, let me emphasize that the data presented here come from the independent and nonpartisan Congressional Budget Office. That office, created by the 1974 Congressional Budget Act, is charged with the job of assisting Congress in the preparation and analysis of the budget by providing us with the economic and budget data we need throughout the year. As part of those duties, they are responsible for closely monitoring the Government's deficits. But, as we shall see, despite all the expertise of the individuals who work in that office, they remain powerless—absolutely powerless—to provide the accuracy that would be required under this amendment. They are the best in the business, but they will never, never be able to produce what this amendment calls for.

Let us look at the first chart. This first chart shows the difference between revenues, as estimated in the first budget resolution for each of fiscal years 1980 through 1994, versus what those revenues actually turned out to be.

The estimate of the revenues versus what the revenues actually turned out to be.

Starting on the left, the viewer's left, on your left out there looking through that electronic eye, starting on your left with fiscal year 1980, we can see that actual revenues collected by the Federal Government were $11.1 billion more than what had been forecast in the budget resolution for that year. Eleven billion dollars, Mr. President. Then in fiscal year 1981, revenues fell short of the estimate by $11.3 billion. In fiscal year 1982, revenues fell short of the estimate by $40 billion. For fiscal year 1983, revenues fell short of the estimate—in other words, the income of the Government, the actual income of the Government for that fiscal year fell short of the estimate—by $65.3 billion.

Now I will not take each year, but the viewers can see that in only 1 year were the estimates really close. In that year, they missed the estimate by $1.7 billion. But look at the other wide ranges—$55 billion in 1991, $77.5 billion in 1992. The actual revenues missed estimated revenues by $77 billion in that year.

The point I am making here is that in no year, in no year, were the estimates accurate—not one year—and range as far off, as I say, as $65 billion in fiscal year 1983 and, in 1992, $77.5 million, the errors between the actual revenues and the estimates.

Now we are talking about the word ''estimates'' in this constitutional amendment, in this balanced budget constitutional amendment. I want to keep our attention on the word ''estimates'' and I am showing that the historical record here clearly, clearly, is convincing that estimates are always wrong. They have always been wrong.

So all in all, those who have done the estimating have not produced a very good record.

Now this next chart shows for the same 15 fiscal years the difference between estimated outlays—that is the money the Government spends out—the difference between the estimated outlays, as contained in the first budget resolution, and what those outlays actually were. In other words, the difference in what the Government actually spent, as against the estimates of what the Government would spend.

So what was estimated on the one hand and what the outlays were on the other hand was a vast difference.

So, starting again on the viewer's left, with fiscal year 1980, we can see that outlays were actually $47.6 billion more than what the budget resolution had estimated. If we were to pass a budget resolution, we should pass it by May of each year for the following fiscal year. This year, 1995, we should expect to pass a budget resolution by May for the next fiscal year, which begins on October 1 this year and goes through September 30 next year.

In fiscal year 1981, outlays were $47 billion greater; in fiscal year 1982, the outlays were $33 billion greater; And so on and so on.

The point I am making here, and the viewers can see for themselves from the chart the errors between the actual outlays, the actual spend-out by the Government as against the estimated outlays, the estimated Government spending, and the viewers will see, again, that in no year was there an accurate estimate.

The green line here, represented by ''0,'' represents a situation in which the estimates and the actual outlays would be right on, so that the ''zero miss,'' a ''zero miss'' estimate—because the estimate would be accurate—hit

the nail right on the head. That is the green line.

Therefore, the bars represent in each year how much the estimates were off, one way or the other. In some years, the actual outlays were more than the estimated outlays represented by the red line. In a few years, the actual outlays were less than the estimates; in one instance, $91.9 billion less than the estimates. That was in 1993, when we adopted the budget reduction package for which not a Member on that side, not one, not a Republican Senator, not a Republican House Member, voted for that budget deficit reduction measure.

The point again, as I say, looking at the zero line, meaning absolute accuracy, one can see how much in each year the estimate missed the point.

What I am showing here is, if we keep our eye on that word ''Estimates,'' we will see that the estimates are always off, one way or the other.

Now, chart 3 gives the differences between the actual budget totals and the first budget resolution estimates for fiscal years 1980–94, the same period that was addressed by the preceding two charts. The error between the actual and the estimated deficits in billions of dollars—again, the source of the information is the Congressional Budget Office, the office we depend upon here as we formulate our budget. Since the difference between the revenues and the outlays—one chart I have already shown dealt with revenues, the money taken in; the other chart I have used dealt with outlays, the money that the Government spent.

This chart, then, combines the two, in essence, and gives us the difference between the actual budget totals and the first budget estimated deficit for fiscal years 1980–1994—the actual deficits. Since the difference between the revenues and the outlays, the difference between what the Government takes in on one hand and what the Government has to spend on the other is what makes up the deficit, this third chart shows the difference between what the deficit was estimated to be and what it actually turned out to be for those fiscal years 1980–1994. Again, the green line represents ''zero miss,'' meaning the estimate was right on target, the actual was right on target with the estimate. It was not missed.

For fiscal year 1980, the deficit was $36.5 billion—$36.5 billion. Now, I see the response team gathering. I am glad. For fiscal year 1980, the deficit was $36.5 billion, greater than had been estimated. For the next year, 1981, the deficit was $58.3 billion larger than had been estimated. For fiscal year 1982, $73 billion larger. For fiscal year 1983, the deficit was $91.4 billion greater than had been estimated.

Keep your eye on the word ''Estimates.'' Skip over here to 1990; the budget deficit was $119.1 billion greater than had been estimated, and so on. Those who are viewing the chart to my left can see for themselves.

In 2 years, the deficit was less than the estimate. But the point is that in no year was there accuracy. Almost accuracy, very close, in 1984—missed by $3.7 billion. In 1987, it was missed by $6.2 billion. But look at the range: From $36 billion to $91 billion to $119 billion to $71 billion—off. That is not an inconsequential error. That is not an inconsequential figure.

So the point is that in all of these years covered by the chart, the estimates were off. The point of these charts is to show that all efforts to estimate outlays and receipts accurately have repeatedly failed—repeatedly failed. Every single year for the past 15 years, the estimators have failed to accurately estimate what the deficit would be.

In addition, I would also make the point that we do not know if the CBO's estimate is off, or if it is, by how much. Get this: We do not know if the CBO's estimate is off, or if it is, by how much until after the fiscal year has been completed. There is no way in God's Heaven, with all of His troops of angels that one—I should not say that about God. I suspect He can foresee these things. But there is no way on Earth that we can know what the revenues will be, that we can know what the outlays will be, until the fiscal year is over and gone, until after September 30. We will not know how much the outlays are off, how much the receipts are off about this particular fiscal year we are in, until after next September 30 is gone, gone with the wind, and we will not even know it then because the Treasury probably will not have its final receipts and outlays until October 15, or some such.

We simply cannot know with any exactitude what the deficit will be during that fiscal year. By the time we do know, though, it will be too late to correct the problem, at least under the balanced budget amendment. It will be too late to correct the problem, because what was the instruction in Section 1?

The instruction was, in section 1—the mandate:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.

We will not know what the total outlays are. We will not know what the total receipts are for this fiscal year until it is gone, until the fiscal year is gone, marked off the calendar. In other words, using estimates of revenues and outlays—the money that comes in and the money that goes out—it is virtually impossible to determine whether or not the budget will be in balance until after the fiscal year is over, after the horse is out of the barn; the doors are open and out go the horses. Too late. In 11 of the past 15 years, revenues have been lower than expected, and in 10 of the 15 years, outlays have been greater than expected.

Let me say that again. In 11 of the past 15 years, revenues have been lower than the estimates, and in 10 of the 15 years, outlays have been higher than the estimates. And there is nothing in this resolution—nothing in this resolution—or in any other resolution or in any other version of the balanced budget amendment that can correct that problem. Nothing. There is not one among the 100 Senators who can come up with a version that will correct it. Not one. Not 100 working together can correct, can find a way to accurately estimate what the revenues will be, what the outlays will be, what the deficit will be in any fiscal year. You cannot do it until the chapter is closed, the receipts and the outlays are in and, by then, the door on the fiscal year is gone, closed.

How then are we going to come forth with this mandate: ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *''?

Yet, Mr. President, despite knowing that the estimates we must work with will inevitably be in error—inevitably—they are exactly what this balanced budget amendment would have us rely on, the word ''estimates.'' Remember, it says, right there in section 6, that we ''may rely on estimates of outlays and receipts.''

Section 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates.

That is weak, it has no foundation.

may rely on estimates of outlays and receipts.

If you cannot rely on the estimates, then how can you help but violate this mandate? If estimates cannot be relied upon, then how can we avoid violating this section 1:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.* * *

It does not say ''may not.'' It says ''shall not.''

So it says there in section 6 that Congress ''may rely on estimates of outlays and receipts.'' That is it.

The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

Now, what does that mean? What are we talking about? As I say, section 1 states:

Total outlays for any fiscal year shall not—

Shall not, shall not, shall not—

exceed total receipts for that fiscal year.

No ifs, ands, buts or maybes—''shall not.''

Total outlays shall not exceed total receipts for that fiscal year.* * *

Then how will it be done? How will it be done? The magic incantation in section 6 is that the ''Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts'' even though we know, by the record, that the estimates we must work with will inevitably be in error. They are exactly what this balanced budget amendment would have us rely on. It says so. That is what it says. I did not say it. It says so. It says we may rely

on estimates of outlays and receipts in balancing that budget. We already have a process for estimating revenues, outlays, and deficits prior to each fiscal year, and as we have seen by the evidence that I have shown, it is far from perfect.

So what is Congress to do? It is ludicrous to think that just because we adopt this balanced budget amendment we will somehow come up with a new system that will accurately predict balanced budgets in advance of each fiscal year. As I say, it cannot be done. Einstein could not do it. Worse than that, Mr. President, is that we will never know if our estimates are off or how much they are off until it is too late to correct that problem. We will not know it, at least not in time to fix the imbalance. These revenue and outlay numbers cannot be calculated until after a fiscal year is over. Therefore, we have no way of knowing during the fiscal year whether or not outlays are going to exceed receipts until it is too late.

Yet, the clear language of the amendment states in no unmistakable terms, in simple, down-to-Earth English: Outlays ''shall not'' exceed receipts. That is what the amendment says. I did not write it. I did not write that amendment, but that is what it says: Outlays ''shall not.'' No ifs, ands, buts, maybes—outlays ''shall not'' exceed receipts.

Of course, it would be easy to say that all we needed to do to correct the dilemma is to find more competent budget analysts. Let us throw the rascals out and hire a whole new batch of analysts. Unfortunately, it is not that simple. The plain truth is that the men and the women who helped put these figures together each year are not at fault. They are not at fault. They are as good as one could find anywhere in the four winds.

If not the analysts, then who is this culprit? In simple terms, the miscalculations that we have seen displayed on these charts can be put into three categories: Policy miscalculations, economic miscalculations, and technical miscalculations. Those are the terms used by the Congressional Budget Office to explain the differences between the budget estimates and what actually occurred each year: Policy, economic, and technical.

The first of these terms, policy, refers to any portions of these differences that can be attributed to the Congress' passing legislation that was not accounted for in the estimates.

However, over the 15 fiscal years represented on these charts, policy differences accounted for the smallest amount of estimation error. In fact, enactment of legislation by the Congress since 1990 has been but a very small portion of the deficit error. The reason for that, Mr. President, is the pay-as-you-go requirement and the spending caps that were instituted with the 1990 Budget Enforcement Act—which I insisted on in talking to Mr. Darman right down in my office—the pay-as-you-go requirement, the spending caps that were instituted with the 1990 Budget Enforcement Act and extended in the summer of 1993 through the Omnibus Budget Reconciliation Act. Those caps are tough new requirements that have worked to restrain spending, because the only way around them is with the designation of an emergency.

The second reason for the difference between actual versus estimated revenues, outlays and deficits, is attributed to the failure of budget analysts to anticipate the actual performance of the economy.

I know that some Americans may not be aware of the fact that when the budget is put together, it is based on certain economic assumptions. Factors such as the gross national product, the unemployment rate, the inflation rate, and interest rates must be assumed for the upcoming year. They have to be assumed because they cannot be known.

Therefore, if more Americans are unemployed than had been anticipated, the Government will have larger outlays for unemployment insurance benefits, food stamps, and so on, than originally thought. This larger payout for these benefits would then be categorized as an economic error. Likewise, if interest rates unexpectedly go up, then the amount of interest we have to pay on the national debt would be higher. This, too, would be considered as an economic error. Nobody can help it, and no one could foresee it. It just happens.

Mr. President, to illustrate the point, we can look to the recent recession. Because that recession was deeper than expected, and the recovery weaker, revenues unexpectedly fell in fiscal year 1992. As a consequence, lower-than-projected revenues, due to the economy's failure to perform as expected, caused the fiscal year 1992 budget deficit to exceed the budget resolution's deficit estimate by $11.4 billion.

Finally, the third reason why estimates are inaccurate is due to what CBO calls technical differences. This category contains a number of items. Most notable among these are the miscalculations due to rising health care costs associated with the Medicare and Medicaid programs.

Mr. President, I know all of these explanations and numbers must be mind-numbing to the American people, but they should not be mind-numbing to Senators. The fact that this material may be dry does not make it any less true or important. What is most critical, though, is that the public understands that errors attributable to economic factors—things like higher-than-expected interest rates, or higher-than-expected unemployment—accounted for 64.2 percent of the $28 billion average error in the deficit projection. What that means, simply, is that of all of the factors that account for deficit estimates being out-of-sync with reality, nearly two-thirds of the average error over the past 15 years was due to factors that we will never be able to correct, unless, of course, someone has a crystal ball that can accurately tell us at the beginning of each year what the unemployment rate, the interest rate, the inflation rate, and the gross domestic product will be throughout that year. It cannot be done.

Mr. President, this is why I refer to the word ''estimates'' as being the Achilles' heel of the balanced budget amendment. On the one hand, under this resolution we would be constitutionally bound—bound—to balance the Federal budget every year.

That is what it says. I did not write it. That is what the amendment says. ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.''

But while we struggle with that difficult task, the economic information we have at our disposal will inevitably be in error, and two-thirds of that error will be due to factors beyond anyone's control.

Here comes the response team.

Is this the response team?

Here they are. All right, I am ready to yield any time any one of them wants to ask me a question or make a correction if I am wrong.

What a balanced budget amendment amounts to, then, is like telling someone that they must drive their car 100 miles, but only giving them 80 miles worth of gas. No matter how hard they try, or how well-intentioned they may be, there is just no way on God's green Earth that they can make up that last 20 miles.

If we know, then, that we must balance the budget—and that is what the balanced budget amendment says, we must balance it, no ifs, buts, whereases or why, no excuses. If we know that we must balance the budget, and we also know that it is impossible to know what it would take to do that at the beginning of the year, it should be obvious to everyone that Congress will be forced to pull out its old bag of tricks and bring back the same old smoke and mirrors and rosy scenarios and hidden asterisks to make this amendment appear to work. In other words, we will cook the numbers—cook the numbers—and massage the estimates in order to be able to try to live up to the new constitutional mandate. That will not make the new amendment work, but it may, for a little while, make it appear to work. Rather than rely on my own imagination, I would now like to read to the Senate and to the American people a few suggestions for getting around this amendment that come from the Senate Judiciary Committee's own report that accompanies Senate Joint Resolution 1, the balanced budget amendment.

So I have already shown beyond a reasonable doubt to those who have patiently listened that this constitutional amendment mandating a balanced budget every year cannot work, and it will not work because it is based

on an uncorrectable flaw, that flaw being the word ''estimates.'' And Congress is to enforce this amendment by relying on that Achilles' heel, that uncorrectable flaw, the word ''estimates.''

So beyond any reasonable doubt, to any reasonable man, it is obvious, it is plain as the nose on your face that it is flawed, that it cannot work, because it is based on the word ''estimates.''

So then what are we going to do? I said I would also prove beyond a reasonable doubt that the committee report recognizes this is not going to work. The committee report recognizes that. How many of you have read that report? Here it is. This is the committee report by the Committee on the Judiciary when it reported out Senate Joint Resolution 1. This is the committee report that accompanied the resolution, when the resolution was reported.

So the committee report itself comes up with some suggestions as to how we might get around it. Why would the committee do that? Why would the committee itself come up with some suggestions as to how we might avoid the strict mandate, if the committee itself did not recognize that there is an uncorrectable flaw? Why would the committee itself recommend certain suggestions by which we may have escape hatches—the committee itself?

So, rather than rely on my imagination, I would now like to read to the Senate and to the American people a few suggestions for getting around this amendment that come from the Senate Judiciary Committee's own report that accompanies Senate Joint Resolution 1—the balanced budget amendment.

Before proceeding, Mr. President, I want to explain that I am reading from the Senate Judiciary Committee's report on the balanced budget amendment. On page 19—I will even give you the page number, page 19. Hear me now. The response team—sit up in your seats. Listen. I am going to expect you to tackle me while I am on the floor, now. Look on page 19 of the committee report.

On page 19 of the Senate's report—get it and read it—Senate report 104–5, it is stated that this provision gives Congress—''this provision'' meaning section 6.

What does section 6 mean? ''This provision''—meaning section 6—''gives Congress an appropriate degree of flexibility in fashioning necessary implementing legislation.'' What is meant by ''flexibility?''

The report continues:

> For example, Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Read that again. For example, Congress could use estimates.''

There is that Achilles heel.

> . . . could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Does this mean that, if we pass a budget that is balanced at the beginning of the year, at least on paper, we need not worry if the budget becomes unbalanced during the course of the year? Is that the ideal we are supposed to include in our implementing legislation? Is that what the sponsors of this amendment have in mind? I think that is a very different approach than what the American people are expecting from a balanced budget amendment.

We have already seen that estimates of revenues and outlays are invariably wrong, and that is understandable, as we have explained. But the committee report says:

> Congress could use estimates of receipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied, so long as the estimates were reasonable and made in good faith.

Who knows what reasonable is? Who will be the judge? As Alexander Pope said, ''Who shall decide when doctors disagree?'' So, who shall decide what ''reasonable'' is? What may appear to be reasonable in my thinking may not appear to be reasonable in the next person's thinking. Who decides what is reasonable? Who will make that decision?

It goes on to say: ''* * * so long as the estimates were reasonable and made in good faith.''

Who knows what ''good faith'' is? How do we know whether the estimates were made in good faith? How do we know? Who is to say? Who is to know whether they were made in good faith? Who is the judge? This is plainly an escape hatch and it is in the committee report by the Judiciary Committee. Did the Judiciary Committee not know about the inconsistencies in the estimates between outlays and receipts? Was there not anyone on that committee who knew that estimates are invariably wrong when produced by the CBO, estimates of the revenues and receipts and deficit? Did anyone ever think of it?

The next sentence states: In addition, Congress could decide that a deficit caused by a temporary, self-correcting drop in receipts or increase in outlays during the fiscal year would not violate the article.

Congress could decide that. Mr. President, what that sentence says to me, is that, at the same time that the proponents of this amendment are telling the American people that a constitutional amendment will bring about balanced budgets, they are telling the Congress that they do not expect us to practice what we preach. That is just incredible. If we followed this advice and the Congress codified a broad definition of the words ''temporary'' and ''self-correcting,'' then we will have found another escape hatch—aha, there it is, this is another escape door that we all know will be needed under this amendment. But will that be what the American people expect from this amendment?

The proponents have trumpeted from the Atlantic to the Pacific, from the Canadian border to the Gulf of Mexico: This is the wonder cure. This is the wonder drug, a prescription for budget deficits. A politician appearing before an audience, can ask the question—I have been out there on those hustings a few times—''How many of you believe that we ought to have a balanced budget amendment to the Constitution?'' All hands will go up. ''Well, I want to tell you, ladies and gentlemen, you elect me, and I will vote for a constitutional amendment to balance the budget.''

Get your applause meters going. That is a sure way to ring the bell. This wonder drug is the way to get votes. It is not a sure cure—it may be a cure that kills—but it is a sure way to get votes.

Reading again from the committee report—that the Judiciary Committee wrote for our edification when it reported the constitutional amendment to balance the budget to the Senate floor—the next sentence states: ''Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1 .''

Now get that. Let us read that again.

''Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1''—which says total outlays, total Government spendout, shall not exceed total Government income in any fiscal year.

How small is small? How small is a negligible deviation? Is the term deficit now a variable which Congress can manipulate by saying that a deficit is not a deficit is not a deficit?

It reminds me of Abraham when he intervened on behalf of the city of Sodom. He asked God, if perchance there were 50 good men in Sodom, would God destroy Sodom. God said no. Well, perchance there were five less than 50, perchance there were 45, would God destroy Sodom. God said no. Well, perchance there were 40 good men, would God destroy Sodom. God said no. Perchance if there were 30? God said no. Well, even if there were just 20? God said no, he will not do it. Well, even if there were just 10? God said no, if there were just 10, he would not destroy Sodom. So God answered that if there were 10 righteous men in Sodom, he would spare the city.

This is the same thing in a reverse sort of way.

If Congress could state that very small, or negligible, deviations from a balanced budget would not represent a violation of section 1, how small is small? Is it $5 billion? Will you spare us if it is just $5 billion? Well, they will spare it. Well, what if it is $10 billion? Will you spare us? May we consider that we balanced the budget if we only

miss it by $10 billion? Well, we may. How about $20 billion? How about $30 billion? How about $50 billion? What is wrong if it is $11 billion? How about $12 billion? If $12 billion is only a ''negligible'' deviation, how about $20 billion, $30 billion, $50 billion? Is $75 billion a negligible deviation? How about $175 billion?

So here, Mr. President, one has to ask the question. Where do we stop? What is ''negligible?'' What is ''small?''

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes. I will be glad to.

Is the Senator from one of the renowned ''special response'' teams?

Mr. SANTORUM. I am not sure. I asked to come to the floor—

Mr. BYRD. Now is a good time to find out.

Mr. SANTORUM. To listen and to learn. I was just questioning—

Mr. BYRD. I wonder if the Senator would wait until I finish, if we could.

Mr. SANTORUM. You said ''interrupt me'' any time for questions. So I thought I was free to do so.

Mr. BYRD. This is really one of the ''ready response'' teams.

Mr. SANTORUM. I was just questioning. Are you suggesting that negligible amounts could mean rather extraordinary amounts? You are not suggesting that a Member of the Senate would violate his constitutional oath of office to uphold the Constitution which requires a balanced budget? You would not be suggesting that someone would deliberately violate their oath of office by allowing a large deficit to occur when the Constitution says that cannot occur?

Mr. BYRD. It depends on what the Senator means. When he said would a Senator ''deliberately violate his oath of office,'' I am looking at what the amendment says. I did not write it, Senator. I did not sign onto that Contract With America. I have not gone around the country saying that the answer to our deficit problem is a constitutional amendment to balance the budget. You perhaps did. I did not.

I am pointing out that that constitutional amendment to balance the budget, which you swore to vote for, probably has flaws. Unless you rewrite that language that is in that constitutional amendment, which I did not write, you are not going to correct that flaw, and it is going to be based on estimates which I have already said are invariably wrong. It is not whether a Senator would knowingly violate his oath. It is what the amendment says, that your party for the most part wrote. I did not write it. I am looking at the language. It is plain, unmistakable, clear English language.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for an additional question?

Mr. BYRD. Yes.

Mr. SANTORUM. Mr. President, does the plain, unmistakable, clear language say the budget ''shall'' not? I mean, is not that very clear from the language, that it ''shall'' not be?

Mr. BYRD. Read it, in case the Senator has not read it.

Mr. SANTORUM. I have read it on many occasions, just here today.

Mr. BYRD. The Senator has not read it all. It says ''shall not exceed total outlays for any fiscal year—''shall not.'' It does not say ''may not.''

Let me respond. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year. That leaves no wiggle room. You ought to read that. You and your colleagues who are proponents of this language ought to take a microscope and look at that language.

Mr. SANTORUM. If the Senator from West Virginia will yield.

Mr. BYRD. It is plain, it is simple.

Yes.

Mr. SANTORUM. That is exactly my point. It is very clear that it says it ''shall not exceed'' and the suggestion that you have made is that a $75 billion deficit would be permitted under the Constitution, it seems to me.

Mr. BYRD. No. No. I did not say it would be permitted. I did not say it would be permitted. I said under the Constitution no missed estimates would be permitted. It says what it says. The total outlays for any fiscal year shall not exceed total receipts for that fiscal year. I did not say we would permit $5 billion, permit $10 billion or $75 billion. The Senator was not listening to me. I was talking about Abraham, and how he approached God, and said, well, if there are 50 men, righteous men, in Sodom, would you spare them? God said yes. What about 45? Yes. What about 50? Yes. What about 35, 30, 20, 10?

So where do we stop here? That is what I am saying. If you are going to say in this section 6, the Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts, and if you are going to say in the committee report, the Congress could state that very small or negligible deviations from a balanced budget would not represent a violation, what is ''small?'' What is ''very small?'' I was saying is 75 very small? Is that negligible? Is 50 small? So you tell me. What is small in that context? What is small?

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will yield for a question.

Mr. BYRD. Yes. I yield.

Mr. SANTORUM. My question to you, Senator, is the language from the constitutional amendment is very clear, that at the end of the fiscal year revenues will not exceed—excuse me. Expenditures will not exceed revenues. That is very clear.

Mr. BYRD. It does not say ''at the end.'' You might want to read what the constitutional amendment says. ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year.'' How are you going to know until the fiscal year is behind you?

Mr. SANTORUM. That is exactly right. That was my point. You will not know whether you have met the charge of the constitutional amendment until the end of the year.

Mr. BYRD. Until the end of the year.

Mr. SANTORUM. That is correct. At that point we will have to have satisfied that condition. Correct?

Mr. BYRD. The year is gone.

Mr. SANTORUM. That is correct. I am sure the Senator knows that does not mean that all expenditures or outlays have been in fact expended. So we could rescind. We could, as has been done here, retroactively tax. There are all sorts of options available to satisfy that amendment after the fact.

Is not that the case?

Mr. BYRD. No. Let me finish, will you?

Mr. SANTORUM. You asked me. You permitted me to ask questions. So I was complying.

Mr. BYRD. I want to answer your question.

Mr. SANTORUM. Thank you.

Mr. BYRD. You stay around.

Mr. SANTORUM. I am not moving.

Mr. BYRD. Mr. President, we have the suggestion that the Congress could just stand up and declare that certain amounts of the deficit, as long as we determined them to be ''negligible,'' they are not in violation of the amendment.

A $25 billion deviation—Congress could say it is OK. It is small. It is small in comparison to what? When considered in the context of a budget that is $1.5 trillion, it is negligible. But if we were to constitutionalize the mandate that outlays must not exceed receipts—outlays must not exceed receipts, let me say that to my friend—if we were to constitutionalize the mandate that outlays must not exceed receipts, a congressional attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. I will say that again. If we were to constitutionalize a mandate that outlays shall not exceed receipts—that is what the amendment says. I did not write it. I do not subscribe to it.

Mr. CRAIG. Will the Senator from West Virginia yield?

Mr. BYRD. It does not say ''may not.'' The amendment mandates that outlays ''shall not exceed receipts.'' If we were to constitutionalize the mandate, any attempt to deviate from that requirement would bring the moral authority of the entire Constitution into question. If the Congress can violate this amendment with impunity, then what other provisions of the Constitution might be in peril?

Finally—and then I will be glad to yield; we now have two members of the response team here, and I see another one on the far side of the enemy territory—if Congress can violate this amendment with impunity, then what other provisions of the Constitution

might be in peril? Finally, the last sentence in this paragraph states, ''If an excess of outlays over receipts''—I think this gets to the question of the Senator from Pennsylvania [Mr. SANTORUM]—''were to occur, Congress can require that any shortfall must be made up during the following fiscal year.''

So there you have it. Now I will take the question of the Senator. But, you see, this is the final escape hatch that I will mention today:

If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

Mr. SANTORUM. If the Senator will yield, in the last sentence, the operative underlined that I see is the word ''can'' require. They do not have to do so. But they can. They also have the option, if I understand, to rescind, retroactively tax, or ''by a three-fifths vote''—and you did not read the rest of that, but ''by a three-fifths vote impose a balanced budget.''

So there are options available, are there not, to the Congress and to the President under the balanced budget amendment?

Mr. BYRD. There we have it. A member of the response team is saying, ''There are options, are there not?'' Let us read this first paragraph of the balanced budget amendment:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .

It does not give you any option. It does not give me any option. The American people out there can read and they can understand.

Senator, you can say all you want to, and you can weasel around the word ''can.''

If an excess of outlays over receipts were to occur, Congress can require . . .

Well, that is an escape hatch. It can require——

Mr. SANTORUM. Will the Senator yield for a question?

Mr. BYRD. Mr. President, I will yield to the Senator, but I do not want to be interrupted in the middle of a sentence. I will read it again:

If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

That is an ''option,'' the Senator says. The American people out there who are reading do not see that option. In the plain, simple English words of the constitutional amendment to balance the budget:

Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .

It does not say anything about an option.

I yield.

Mr. SANTORUM. There is a dependent clause after ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year . . .''

It then says '' . . . unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.''

So there is an option clearly stated in the constitutional amendment; is there not?

Mr. BYRD. The Senator was not here when I said earlier that at a later date, I will talk about the supermajorities. I read it when I first brought the chart out. The Senator was not here. I first brought this out, and I read the entire thing, laid it all out. Every time I raised it to the public view, they could all see the remaining clause. I said that I will only deal with this first clause.

Yes, it provides for an additional supermajority in the Constitution, which will raise to 10 the total number of supermajorities that are in the original Constitution and the amendments thereto. It will be raised to a new level when we get down to the raising of the statutory debt limit. So much for supermajorities today. The Senator may say what he wishes about the supermajority.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. BYRD. Yes, I yield.

Mr. SANTORUM. I would like to refer to your charts talking about the deficit estimates and that they are unreliable. You say they are estimates at the beginning of the fiscal year. By the Congressional Budget Office?

Mr. BYRD. Yes.

Mr. SANTORUM. When you say at the beginning—my understanding is that the Congressional Budget Office issues two reports, one in August and one in January. Which one does that refer to?

Mr. BYRD. You are talking about the midsession review, the one in August. But, Senator——

Mr. SANTORUM. Is this the January report you are referring to?

Mr. BYRD. It has to be, which you will learn after a while. I welcome this exchange. I think that is what has been missing in so much of this. We all get on the floor and make our speeches, but we do not debate. So I welcome this exchange and I congratulate the Senator and commend him. But I happen to be on the Appropriations Committee, so I know a little about what I am saying. I helped to write the 1974 Budget Act.

The resolution on the budget should be enacted by May of each year. And it is only after that budget resolution is enacted that the chairmen of the Appropriations Committees of the two Houses allocate those funds to their subcommittees. And it is only after that that the appropriations bills start coming through.

But prior to the budget resolution in May, the Congressional Budget Office prepares its estimates of revenues and receipts and deficits for the forthcoming fiscal year and projects those 5 years down the road.

What I have been saying is that, in addition to the flaw, the word ''estimates,'' which by these charts—and which you are going to ask me about in a moment—have been shown to be invariably wrong. The Congress, the House, and the Senate have to depend on those CBO estimates in enacting the budget resolution, after which, as I say, the allocations of funds and then the appropriations of moneys come to pass. But all that is in advance of the fiscal year. It is in advance of the beginning of the next fiscal year. And we have shown by the charts that those estimates are invariably wrong.

Now the question.

Mr. SANTORUM. If I may, my question is—and I think you have answered it in part—that these estimates on your chart reflect an estimate that was done some 6 months prior to the fiscal year; is that correct?

Mr. BYRD. Yes.

Mr. SANTORUM. Are there not subsequent updates by the Congressional Budget Office, the Office of Management and Budget, and reports from the Treasury as to actual receipts and revenues that one could, if one were in Congress or the Senate, adjust to meet the updated projections so we would have a better idea where we were going to be by the time we reach the end of the year?

Mr. BYRD. There is the midsession review. But, I say to the Senator, that midsession review still is going to be based on estimates. It cannot actually foresee what the revenues will be for the remaining months, or what the outlays will be.

Mr. SANTORUM. Mr. President, will the Senator yield further for a question?

Mr. BYRD. Besides, the nearer we get to the end of that fiscal year, the greater is the pain if one tries to make a correction in the remaining 6 months, 5 months, 4 months, 3 months, 2 months, 1 month.

Mr. SANTORUM. Mr. President, will the Senator continue to yield for a question?

Mr. BYRD. Yes.

Mr. SANTORUM. Is it not possible, under implementing legislation, for us to require the Congressional Budget Office or the Office of Management and Budget to put forth a monthly calculation of what the deficit will be so we have our finger on the pulse of what the revenues and outlays will be so that, in fact, farther out from that final end of fiscal year, we might be able to adjust if we see from those estimates that we are going to run into trouble? In fact, is that not one of the problems now that we do not do that; we do not react based on what we know from continuing estimates?

Mr. BYRD. I have two or three things I would like to say in response to that question. Is the Senator suggesting monthly budget resolutions?

Mr. SANTORUM. No, I am not. I am suggesting that the Congressional Budget Office could do monthly estimates as to what the deficit will be for that fiscal year so we might have a better understanding of what we are going

to be faced with at the end of that fiscal year.

Mr. BYRD. It is going to be pretty difficult for the Congressional Budget Office to anticipate what interest rates may be a month from now, 2 months from now. We do not know what Mr. Greenspan is going to say. The Senator knows that.

Mr. SANTORUM. Mr. President, if the Senator from West Virginia would yield, they do that now as part of the estimate process.

All I am suggesting is they do it every month as opposed to twice a year so we have a better idea what we will be facing at the end of that year.

Mr. BYRD. Once the Senator has been here to see and hear the prolonged and sometimes bitter debate on the budget resolution—I hope he would not be suggesting that we are going to have subsequent budget resolutions every month or so. There can be a substitute one under law. But here he comes talking about implementing legislation. Who is going to pass the implementing legislation? Congress, right?

Now, how can the Senator say that 10 years out implementing legislation will do thus or so, or it will not do thus and so? He may be here. I doubt that I will be.

Mr. SANTORUM. I hope so.

Mr. BYRD. But nobody can promise what implementing legislation will do or what it will not do. Nobody can say ''Well, this is not the intention.'' ''This is not the intention.'' ''That is not the intention.''

Those are the words of a Senator at a given time here during this debate. That is not his intention, but nobody can say what the intention of Senators will be 10 years from now. We are talking about implementing legislation.

Here we are talking about a Constitution that does not change from month to month or year to year. It may be here for decades or centuries if it is not repealed.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes, I yield.

Mr. SANTORUM. Is it not customary that constitutional amendments, after the passage of that amendment, there is usually some legislation enacted to implement that legislation? Is that normally the course?

Mr. BYRD. Some constitutional amendments state that.

Mr. SANTORUM. It is not unprecedented that we would have an implementing piece of legislation.

Mr. BYRD. It is not. Some amendments, especially those that were passed during the Civil War and the Reconstruction era, specifically provide for implementing legislation.

Mr. SANTORUM. In fact, would you not suggest that with this constitutional amendment it would be incumbent upon us to pass some sort of implementing legislation?

Mr. BYRD. Well, it says that Congress shall enforce the act in section 6, Congress shall enforce it by appropriate legislation.

Mr. SANTORUM. So would you suggest that requires us to pass an implementing piece of legislation?

Mr. BYRD. I am suggesting that that legislation may rely on estimates of outlays and receipts, and I am saying that the estimates are invariably wrong. Consequently, it is an uncorrectable flaw in the amendment. Consequently, the American people cannot depend upon this amendment to balance the budget.

And I am saying also that the Judiciary Committee must have known that when they wrote the committee report to give us several scapegoats.

Mr. SANTORUM. If I could reiterate my question, does section 6, in your opinion, require us to pass some sort of implementing legislation?

Mr. BYRD. I will read you what it says. ''Congress shall''—not maybe, but shall—''enforce and implement this article by appropriate legislation which may rely on estimates of outlays and receipts.''

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a further question?

Mr. BYRD. Yes.

Mr. SANTORUM. The next chart that you brought up after those was the committee report which talked about implementing legislation.

Mr. BYRD. Yes.

Mr. SANTORUM. And from what you read in the plain language of the constitutional amendment, we are under some obligation to implement this act by some form of implementing legislation.

Mr. BYRD. We are under an obligation to make that amendment work. And I am saying we cannot, do not have any intention of making it work, because the committee is giving us a way out when it says we can rely on estimates.

Mr. SANTORUM. Would we not have the opportunity to require the Congressional Budget Office, the Treasury Department, the Office of Management and Budget, whatever, to come up with more current monthly, maybe even more often, deficit projections to guide the hand of the Congress in trying to meet the stated purpose of the constitutional amendment, which is that expenditures do not exceed revenues? Could we not do that?

Mr. BYRD. Yes, I hope we would. I hope we would.

Mr. SANTORUM. Would that not at least ameliorate the problem of an estimate 6 months prior to the fiscal year, fully 18 months before the end of that fiscal year, which arguably is not going to be exactly accurate? But, as we all know, as we get closer to the fiscal year and in the fiscal year, we would have a much better idea of what the final outcome of that year would be. So we would be able to react.

Mr. BYRD. Senator, it will not work.

Suppose you have a disaster in June, July, August, September, a disaster that costs $10 billion? You cannot foresee that. You cannot depend on estimates, if you want to be accurate. And the first section, section 1, does not give you any room to be inaccurate.

Mr. SANTORUM. Mr. President, will the Senator from West Virginia yield for a question?

Mr. BYRD. Yes.

Mr. SANTORUM. I go back to this clause, ''unless three-fifths of the whole number.''

I was looking the other day at the emergency supplemental appropriations that we have passed in this Congress that violate the caps, and I noticed an amazing thing. That almost all of them passed by more than three-fifths of the whole number of the House and Senate. So we seem to be able to, when faced with some structure of the budget, to come to a consensus and pass it, in very large numbers, with very large pluralities, to respond to a national emergency.

(Mr. GRAMS assumed the chair.)

Mr. BYRD. Senator, we do. Sometimes we do not.

But you still add to the deficit, no matter whether you call it an emergency or not.

I am glad the Senator raised that point, because it does raise some questions in my mind as to whether that is actually going to be the case.

Let me read a letter to the President, dated February 7, signed by the leadership of the other body, NEWT GINGRICH, Speaker of the House; RICHARD ARMEY, majority leader of the House; JOHN KASICH, chairman of the Committee on the Budget; and BOB LIVINGSTON, chairman of the House Committee on Appropriations. Here is what it says:

> DEAR MR. PRESIDENT: The fiscal year 1996 budget which you transmitted to Congress contains an additional $10.4 billion in supplemental budget requests for fiscal year 1995. Your budget submission further reflects only $2.4 billion in rescissions and savings for FY 1995. Most of these requests are for emergencies.
>
> The House Appropriations Committee will proceed to review and act on these requests but highest priority will be given to replenishing the accounts in the Department of Defense badly depleted by contingencies in the Persian Gulf, Somalia, Rwanda, Haiti and other activities. The committee and the House, in turn, will act only after offsets for these activities have been identified. However, we will not act on the balance of the request until you [meaning the President] have identified offsets and deductions to make up the balance of the funding. Whether these activities are emergencies or not [this is the House leadership writing to the President] it will be our policy to pay for them rather than to add to our already immense deficit problem.
>
> We therefore ask you to identify additional rescissions as soon as possible so we can move expeditiously on your supplemental request.

Now, there is no guarantee there. There is no guarantee as I read there from the letter written by the leadership of the other body, no guarantee that they will agree that such expenditures for disasters will be considered as

emergencies and, therefore, not charged against the budget caps.

Mr. REID. Mr. President, would the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield.

Mr. REID. Mr. President, I have been listening to the conversation between the Senator from West Virginia and the Senator from Pennsylvania, and I would be interested in whether or not the statement I am making is true. It is my understanding that interest rates have been raised the past year six or eight times. Does the Senator from West Virginia know that to be accurate?

Mr. BYRD. Mr. President, they have been raised several times.

Mr. REID. Would that have some bearing on making estimates?

Mr. BYRD. Mr. President, there is no question.

Mr. REID. Mr. President, in fact, as the Senator from Nevada, it is my understanding, if we were going to make estimates a year ago not knowing if the interest rates would be raised, they would be totally off base as to the estimates because they have been raised a significant number of times this past year, is that not right?

Mr. BYRD. Absolutely.

Mr. REID. Now, it is my understanding the interest on the debt yearly payment is over $300 billion a year; is that about right?

Mr. BYRD. About $235 billion.

Mr. REID. And going up as the Fed raises interest rates, so that would affect your estimates, would it not?

Mr. BYRD. That would.

Mr. SANTORUM. Mr. President, will the Senator yield?

Mr. BYRD. Mr. President, I ask unanimous consent that I, who hold the floor, may ask the Senator a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, can the Senator—he was talking about disasters and how normally there are the votes here in the House and Senate to respond to supplemental requests for disasters and thereby waive this deficit requirement as it would appear in the new constitutional amendment. Does he feel he can assure the Senate that the House leadership will back off in this statement that they made to the President in the letter which I read?

Mr. SANTORUM. Mr. President, as the Senator from West Virginia knows and as we discussed, the three-fifths override provision in the constitutional amendment is but an option available to this body to fund emergencies.

Another option that is available is the one that is detailed in that letter which is to rescind obligated moneys from the prior year.

So that is what they have suggested in that letter, which I think, given our deficit state at this point, is the most responsible way to do it. I wholeheartedly support that effort, and I think it is the responsible way to do it. It can clearly continue to be an option under the constitutional amendment.

Mr. BYRD. Does the Senator feel that with the House majority leadership taking a clear and strong position against supplemental appropriations for this purpose, is the Senator about to tell me that three-fifths of the House would vote to waive it, with the Republican majority over there against such a waiver?

Mr. SANTORUM. Mr. President, I suggest to the Senator from West Virginia that the majority of the Members of the House would vote for a rescission package to fund it, which would accomplish the same thing.

Mr. BYRD. The Senator is not talking about a majority. He earlier was talking about a supermajority.

Mr. SANTORUM. I was talking options available. One is a supermajority, one is a simple majority of rescissions.

Mr. BYRD. I go back to this plain and simple language, Senator. You can argue with me as long as you want to argue, until you are blue in the face, but your argument does not, in plain, simple English language—and that is your amendment; that is the amendment which you told the voters of Pennsylvania you would support.

Mr. SANTORUM. I suggest that that is exactly what they are doing.

Mr. BYRD. Wait, just wait, Senator. I was not born yesterday.

I am directing your attention to this language. This is the language. This is what we will vote on. Not what somebody is talking about in West Virginia or Pennsylvania or anywhere else.

This is the language. ''Total outlays for fiscal year shall not''—shall not—''exceed total receipts for that fiscal year.'' There is no option mentioned in that amendment. The option is mentioned in the committee report.

Mr. SANTORUM. Are we still under the unanimous consent which he has yielded to me so I can respond, or do I need to ask?

Mr. BYRD. You do not have to ask unanimous consent to ask me a question.

Mr. SANTORUM. So we are past the point in which you asked me a question.

Mr. BYRD. Oh, yes, you are on the response team. I am just going to try to answer your question.

Mr. SANTORUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Mr. President, I yield.

Mr. SANTORUM. You held up the letter from the House Republican leadership talking about an emergency supplemental appropriation. That would be an appropriation above what is normally budgeted for?

Mr. BYRD. That is right.

Mr. SANTORUM. What the House leadership responded was, they would be happy to comply with the request but we want to find other measures within that budget to offset those expenditures.

Mr. BYRD. As I read, they said they would be happy to comply with the request as it pertains to defense.

Mr. SANTORUM. But they also said—did they not ask the President to find rescissions to offset those expenditures?

Mr. BYRD. They did.

Mr. SANTORUM. Which would then comply with the balanced budget amendment, would it not?

Mr. BYRD. The balanced budget amendment does not say anything about that.

Mr. SANTORUM. Mr. President, would it not be in keeping with the balanced budget amendment that they would offset so that the deficit would show zero based on that particular transaction?

Mr. BYRD. The balanced budget amendment requires a balanced budget, no matter how you reach it. Got to hit it on the head. There is no wiggle room, Senator.

Mr. SANTORUM. I am not suggesting there is. I am suggesting what they are doing is the responsible thing.

Is it not your understanding that what they are saying is that they want to offset new expenditures with spending cuts from someplace else in the budget?

Mr. BYRD. That is what they are saying with respect to the disaster or to those parts of the supplemental requests that do not deal with defense.

I am not arguing whether they are reasonable or whether they are not.

Mr. SANTORUM. Are you arguing that is outside the purview of the balanced budget amendment—what they are doing is outside? That would be violative of the balanced budget amendment.

Mr. BYRD. No, I am not arguing that at all. This is my argument. I want the Senator to keep in view in his mental vision what the amendment says. ''Total outlays shall not exceed total receipts for any fiscal year.''

Mr. SANTORUM. If the Senator from West Virginia will yield for a question, Mr. President, does that letter that you read to me as an example violate the constitutional amendment?

Mr. BYRD. Mr. President, no, no.

Does the Senator think it does?

Mr. SANTORUM. I do not.

Mr. BYRD. I do not either, but that is beside the point, as to whether it violates the Constitution.

Does the Senator have any further questions?

Mr. SANTORUM. I am sure I will. Thank you.

Mr. BYRD. I thank the Senator for his question. I would much rather have an exchange out here than just standing and reading a speech. I really mean that. I would like to see more of an exchange rather than just written speeches. So I am not perturbed by it. I am encouraged by it. At least somebody is listening.

At least somebody is paying attention, and that somebody is giving me a chance to answer some questions. I

would be happy if the response team would continue to gather. Let us have more of an exchange. I apologize to other Senators who may want to speak.

So there you have it. What a prescription for a balanced budget. That is a massive loophole. Let me read it again. ''If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.''

Now, there is another scapegoat. That is a loophole that, if adopted by the Congress as part of its implementing legislation, would be big enough for Attila, the king of the Huns, and the scourge of God, to drive his 700 Scythian horsemen through.

What the sponsors of the amendment are telling us is that, if Congress cannot figure out what to do, if Congress runs into options too difficult to swallow, Congress can just require that the shortfall be made up the next year. Just put it off until the next year.

Now what kind of fiscal shenanigan is this? If you cannot balance one year, just roll it over to the next? That is not what that constitutional amendment mandates in the first section; that is not what the American people are being told. Just roll it over until the next year. Mr. President, what kind of fiscal witchcraft is this?

Let me emphasize again, these suggestions for dealing with the deficit under a balanced budget amendment come from the committee's report. Every Senator, every Senator's office should get that report. Read the escape hatches for yourselves, and then ask yourself, am I going to vote for that kind of a sham? Am I going to fool the American people when they can read, they can see, they can know that amendment has uncorrectable flaws in it. And the Judiciary Committee must have understood that when it came through with its committee report providing for some escape hatches.

As such, these suggestions in the committee report would not become part of the underlying resolution if it were to pass. They are not going to be incorporated into the constitutional amendment. They would not have any force of law. But, nevertheless, they give the American people some idea of the kinds of gimmicks and evasions the people can expect to see if this constitutional amendment is adopted by the Congress and ratified by three-fourths of the States.

The American people are being sold a bag of budget tricks. Is this what the American people want? Is that what you want, Mr. and Mrs. America? Are the American people being told about the realities of what it would take to balance the budget each and every year? The people have a right to know these things.

As I listen to those who speak in favor of a balanced budget amendment, I do not hear them telling the public that we really intend just to carry the deficit over into the following year.

Let us take a look at that chart again. What this committee report is telling us is that Congress may roll over this deficit from one year to the next.

If an excess of outlays over receipts were to occur, Congress can require that any shortfall must be made up during the following fiscal year.

That means taking the year 1980, for example, when there was a shortfall between the actual and estimated deficit of $36 billion. So what this committee report is saying is, ''Senators, just vote it over to the next year, don't worry about it.''

The next year, we see that it misses by $58 billion and the next year by $73 billion and the next year over $91 billion.

Mr. SANTORUM. Will the Senator from West Virginia yield for a question?

Mr. BYRD. Will the Senator allow me to finish? I do not have much further to read, and I will be happy to yield.

So what they are saying is, ''Roll it over, roll it over to the next year, that is OK.'' That is not what the American people out there are expecting from those who are the proponents of this balanced budget amendment.

The proponents are saying, ''Let's have a constitutional amendment to balance the budget. Let's do it like you do, Mr. and Mrs. America, you and your families, you do it every year. We ought to have to do it.''

That is saying we ought to do it like the States have to do it. They have constitutional amendments to balance their budget. Well, I will talk more about those pretenses at some other point. But this is what you are being told; the American people are being told that if there is an excess in the deficit one year, it can be rolled over to the next.

Senators ought to read this constitutional amendment. They ought to read the committee report by the Judiciary Committee in the Senate which accompanied the resolution when it was reported to the floor. They ought to read it. It will not work. The Judiciary Committee knows it will not work. One only needs to read the report to understand that the Judiciary Committee saw there were going to be problems with it.

You will not hear the proponents telling the public that the Congress will just stand up and declare the deficit ''negligible,'' and so we are not going to deal with it.

I do not hear them telling the American people that, if this measure is passed and ratified, the implementing legislation will only require that the budget be balanced on paper at the beginning of the year. That is not what the American people are being told.

Tell them the truth. And Senators know they are not being told that. Senators know or ought to know what this amendment says, what the words plainly state.

Senators ought not be willing to hoodwink the American people into supporting something that the American people can read and can understand. And it is not going to work. The committee report just as plainly states that.

Mr. President, if this matter were not so serious, if it were not so dangerous to the delicate separation and balance of powers that were put in place more than 200 years ago, and if it would not have such cataclysmic effects on the economic well-being of the American people, what we have seen today, with respect just to section 6 would be laughable. It would be laughable. But it is really not laughable. And the sooner the American people begin to understand that, and the sooner the Members of this body understand that, the sooner we will realize the serious policy choices that must be made if we are to put our fiscal house in order.

Mr. President, how much confidence do even the authors of this amendment have, if right in the committee report, they start figuring out ways to get around this amendment? How much confidence do the proponents have—the sponsors of the amendment—if right in the committee report they start figuring out ways to get around the amendment? No, Mr. President, this amendment is not worthy of being enshrined in our Constitution. It is little more than political catnip offered to disguise the real difficulty of getting our budgets in balance. I do not think we should perpetrate this charade upon the American people. That is what it is.

I want to see our deficits reduced as much as any Senator here wants to see them reduced. I voted for a package to reduce them in 1990. I voted for a package to reduce the budget deficits in 1993. So I believe we ought to get control of them. But not a single Republican Senator, not one of those who are proponents of this constitutional amendment to balance the budget voted for that budget deficit reduction measure in 1993. Not one Member of the House, not one Republican Member did that. And yet today they say we need a balanced budget amendment to the Constitution.

If it were simply a political sham, which it is, if it were just a political dodge, which it is, it would be regrettable and unwise to adopt. But it is much, much worse than those things.

This proposal is dangerous. Within its murky appeal and unsound formula for budget balance lie the seeds for the further diminishment of the trust of the people in their Government. They do not trust the Government much now. They do not trust politicians much now. They do not trust Members of Congress much now. The legislative branch can ill-afford any more cynicism and loss of trust. And this Senator worries as much about the trust deficit as he does about the budget deficit.

Often Members believe that doing what seems to be the safe thing—in other words, the popular thing—will prove also to be the right thing. Political correctness is supposed to be the order of the day, I guess. I believe that endorsing this balanced budget amendment has taken on the aura of a politically correct act. It has become a litmus test of sorts—the right choice to make the political proprietary meter register 100 percent in one's favor.

But whether or not we amend the Constitution in this damaging way is far too important for us to take the temporarily easy way out. The American people must be made to understand that once they take a closer look at this amendment—and I believe that Senators, once they take a closer look at the amendment and once Senators read the committee report—they will find that this amendment is far from what it seems.

I hope each Senator will carefully study this amendment before voting on it. I believe close and open-minded scrutiny of this proposal shreds it—cuts it to pieces; it will not work; it is quack medicine—reveals its many shortcomings and unmasks its benign countenance to reveal the sinister seeds of a constitutional crisis in the making.

Surely we will not travel this road if we are fully aware of where it may lead. In the days ahead, let us be very sure of just what it is we propose to do to our country and to our Constitution before we act.

Now, I understand the Senator from North Carolina, my friend from the State in which I was born, wants to make a speech as soon as I finish. But before he does, the distinguished Senator from Pennsylvania [Mr. SANTORUM] had asked me to yield. I asked that he wait until I finish my speech, and I thank him for that. I am glad to yield to him.

Mr. SANTORUM. I thank the Senator from West Virginia.

I wish to go back to that chart and again try to find out specifically what data the Senator is referring to there. I just had someone look up the 1974 Budget Act and the 1985 Gramm-Rudman-Hollings Budget Enforcement Act to find out what the timeframe was for estimates to be given. And my understanding is that—I am sure the Senator knows the 1974 Budget Act; he was one of the principal writers of it—the Office of Management and Budget submits a beginning-of-the-year budgetary assessment on February 1, which just occurred the other day. They make a midseason review in July or August. That is under the Budget Act of 1974. The Congressional Budget Office makes a beginning-of-the-year—which is the end of January—assessment after OMB makes its assessment and then an end-of-July reassessment.

My question is, the Senator referred to this data being May, roughly May, springtime, after all the budget resolutions were passed. I do not see any requirement for a report here, and I am wondering if in fact this data is not February data as opposed to May or June data.

Mr. BYRD. Yes, it is.

Mr. SANTORUM. It is February.

Mr. BYRD. It is not May. What I said about May was that under the 1974 act, Congress is supposed to pass a budget resolution which lays out the anticipated outlays, the anticipated receipts and the anticipated deficits, and then, only after then can the Appropriations Committee of the Senate—the House committees can go before that, but only after that budget resolution is passed and sent to conference and agreed upon can the Senate appropriations committees begin their work. Sometimes, I guess, we complete the budget resolution perhaps before May, sometimes we may not, but that was what I alluded to in the case of May.

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will continue to yield for a question, so the numbers that the Senator is saying are in error, the inaccurate estimates, are estimates that were made 21 months prior to the end of the fiscal year, correct?

Mr. BYRD. Whatever, 21 or 20 or 18 or 19. The point I am saying is the estimates simply do not work out. They are always wrong. And in this constitutional amendment here, that is the Achilles' heel. The word ''estimates'' is the Achilles' heel. They are always wrong. Consequently, we can never base our actions on those estimates and expect to balance that budget.

Mr. SIMON. Would my colleague from West Virginia yield for a question?

Mr. BYRD. Yes, I will be glad to.

Mr. SIMON. First of all, as he knows, I have great respect for him. He is an extremely valuable Member of this body.

I will tell you what I think is the error of the Senator's assumption here. First, we can build in, as has been recommended by former Assistant Secretary of the Treasury Fred Bergsten, among others, about a 2-percent surplus. That on a $1.6 trillion budget would be about $32 billion.

Second, because we do have to rely on estimates somewhat, we have talked about having a 3-percent leeway so that you could go 3 percent below and then that would automatically transfer to the next fiscal year. That would be $48 billion. Right now, the combination of those two things would be $80 billion. That would take care of all but two fiscal years the Senator has on the board there. In those two fiscal years——

Mr. BYRD. What does the Senator mean by saying it would take care of all of them, all but two? What does the Senator mean?

Mr. SIMON. Every one of those except two is less than $80 billion.

Mr. BYRD. What is the Senator saying?

Mr. SIMON. Let me go over this again. The recommendation of several people, including Alan Greenspan and former Assistant Secretary of the Treasury Fred Bergsten, a recommendation that I concur in, is that we build in about a 2-percent surplus when we put together a budget. In terms of our $1.6 trillion budget, that would be about a $32 billion surplus. Then because no one, as the Senator points out, can know for sure down to the dollar or even the $1 billion where we are going to come out, we have made clear in committee that there can be up to a 3-percent deficit that would be transferred to the next fiscal year. That would be $48 billion. The $32 billion and the $48 billion combine to $80 billion. That, every one of those, is less than an $80 billion differential except for 2 years.

In those 2 years, the procedure would be for Congress to say we can either, with 60 votes, create a small deficit—but it would be small indeed, compared to the deficits today—or we could authorize putting it in the next fiscal year.

It is something that we would have to face. But it is a practical way of facing this problem.

Mr. BYRD. The Senator said ''something we would have to face?'' The Senator will not be around here after next year to face it. And I will not be around here many more years to face it. How do we know what future Congresses will say? We say we will say that. We say it is not the intention to do thus and so. How do we know what the intention of a future Congress will be?

Also, may I say this?

Mr. SIMON. You have the floor.

Mr. BYRD. Please take a look at the amendment which you are supporting. It does not say anything about building up a surplus in 1 year. It does not say anything about 3 percent or 2 percent or 10 percent or 20 percent. It says, ''Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *''

Napoleon said that on his council there were men who were far more eloquent than he, but he always stopped them by saying 2 and 2 equals 4.

So I am going to say to you, Senator—and I say this with great respect, and the Senator from Pennsylvania, and any other Senators on the response team—2 and 2 makes 4.

Read it. Read what your amendment is saying. ''Total outlays for any fiscal year shall not * * *.'' It does not say may not. ''* * * shall not exceed total receipts for that fiscal year.''

Now, 2 and 2 makes 4. Do not come at me with all implementing legislation, ''We might build up a surplus.''

We will not be around here. How do we know what a future Congress will do?

''We will do this and we will do that in implementing legislation. We will build up a surplus. We can roll that over if we hit a year in which there is

a deficit. We can just roll it over next year.''

Suppose there is a deficit next year? ''Well, we can roll it over.''

Suppose there is a deficit next year? ''Well, we can roll it over.''

That is not what those people over there are being told. And you know it. And you know it, Senator. We all know it. Read it for yourselves. I did not write it. I am not going to support it.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. I support getting to a balanced budget. But not this. Not this way.

Yes, I yield.

Mr. SIMON. Mr. President, I thank him for yielding.

You have to put that together with the language about estimates, together.

Mr. BYRD. That is just what I did just earlier. I put them together and came out wrong every time.

Mr. SIMON. All right. And the reality is we do not know—when we come to September 30, we do not know what the deficit is, or what it is precisely.

Mr. BYRD. We will not know it.

Mr. SIMON. We do not know that until sometime later. That is why we make this adjustment. And that is when we will make the adjustment.

I think—and I respect——

Mr. BYRD. This does not say anything about an adjustment.

Mr. SIMON. Pardon?

Mr. BYRD. This amendment? What are we talking about here? I thought we were debating a constitutional amendment to balance the budget. It does not say anything about an adjustment.

Mr. SIMON. We are. Well, what I am simply saying is we have built into this the flexibility to take care of the kind of unknown kind of situations that you are talking about.

Mr. BYRD. Senator, you say ''we have built into this.'' Where does it say that in the amendment? Where does it say it?

Mr. SANTORUM. Mr. President, if the Senator from West Virginia will yield for a question?

Mr. BYRD. I am yielding right now to the Senator. Then I will be glad to yield.

Mr. SANTORUM. I was going to answer his question.

Mr. SIMON. Just a response to this question, and then I will yield to my friend from Pennsylvania.

Mr. BYRD. I know what the Senator from Pennsylvania is going to say. He will say look at that supermajority we provide in there. That is what he was going to say? Was that not what you were going to say?

Mr. SANTORUM. I would suggest to the Senator from West Virginia he read section 2 of the article, which requires a three-fifths vote to increase the debt limit.

Mr. BYRD. Yes, another supermajority. That is the 11th one.

Mr. SANTORUM. That is the safeguard against deficits. We cannot just incur a deficit because we have to raise the debt limit. We cannot raise the debt limit without a three-fifths majority. Thereby we are bound to do something about the deficit. So we will be forced, as the Senator from Illinois was saying—here is the enforcement. Here is the teeth right within the constitutional amendment. Section 2 requires us to have a vote on debt limit increase, and when we get to zero we will have the debt limit and we should not have to change it ever.

That is the enforcement mechanism. That makes us come here and do something about it to comply with section 1 of the constitutional amendment.

Mr. BYRD. The Senator is now talking about providing for a minority veto, a minority veto. The Framers provided for a majoritarian, democratic rule. The Senator is now talking about reverting to nondemocratic supermajority rule.

I was going to wait until another day to talk about these supermajorities.

Mr. SIMON. Will my colleague yield?

Mr. BYRD. And I will. But what he is saying here is that any Senator can, as a ticket for his vote—as a ticket for his vote to raise the debt limit, as a ticket for his vote to waive the deficit requirements—may say to the majority, ''I want mine. I want my special project. I want my special program. That is my ticket, Mr. Majority. I will give you my vote and help you get that two-thirds, but I want mine.'' As a consequence, we will end up adding to the deficits rather than reining them in.

Is it a little hard to understand? Maybe.

Mr. SIMON. Will my colleague yield on that question, on that point?

Mr. BYRD. Oh yes, yes.

Mr. SIMON addressed the Chair.

Mr. BYRD. Let me say just another word about these supermajorities.

Mr. SIMON. Is it not true that there are eight provisions in the Constitution right now requiring a supermajority?

Mr. BYRD. No, that is not true.

Mr. SIMON. I beg to differ with my colleague.

Mr. BYRD. I will show you the Constitution.

Mr. SIMON. On most things, he is correct.

Mr. BYRD. In this, I am correct. In the original Constitution, there are six. In the 12th amendment, there is one dealing with the election of the Vice President by the Senate. In the 14th, there is one dealing with the waiving—in the case of individuals who have taken oaths of office and who participate in a rebellion against the country, two-thirds of the Congress may waive that and allow the person—two-thirds may waive that disability. And in the 25th amendment, where it talks about the disability of the President, there is a supermajority.

So, Senator, when you start talking about the Constitution, let us both sit down and read it together. There are not eight, or whatever the Senator said. There are six in the original, one in the 12th, one in the 14th, and one in the 25th amendments to the Constitution, making a total of nine.

That is a minor matter.

Mr. SIMON. I will take your word it is nine rather than eight. But the point is, this is not something startlingly new. Those provisions are in to prevent Government abuse. And I think we have had Government abuse.

The second point I ask——

Mr. BYRD. Wait just a minute. The Senator is not going to get off with that. I am going to yield to him. I am not going to shut him off. He is not going to get away with that.

Most supermajorities are in the Constitution to protect the structure of that Constitution. Let us talk about expulsion, the expulsion of a Senator, or the conviction of a President in an impeachment trial. They are there to protect individual rights. Those two supermajorities are there to protect individual rights.

In the case of a veto, the exercise of a Presidential veto, that supermajority is to protect one branch against another.

As a matter of fact, it was stated at the Constitutional Convention by one of the Framers that one of the reasons the President ought to have a veto was to protect himself against the legislative branch. There are various others that are claiming to protect individual rights. They are not supermajorities to nail down some fiscal policy. The Constitution does not embrace somebody's fiscal policy. So there were good reasons. Those are not the reasons these two new supermajorities that we are about to inscribe in the Constitution are for.

Mr. SIMON. But one of the things those who founded our Government talked about is taxation without representation. And one of the reasons that Thomas Jefferson favored a balanced budget amendment to the Constitution is he said one generation should no more be obligated to pick up the debt of a previous generation than to pick up the debt of another country.

Mr. BYRD. Thomas Jefferson was not at the Constitutional Convention, as the Senator knows. He was the President of the United States from 1801 to 1809, and when he was President, why did not he ask the Congress to adopt a constitutional amendment to do that? Why did not he? He did not do it. No constitutional amendment was ever sent. Why did not Jefferson do that?

Mr. SIMON. I would be pleased to respond, because George Washington operated this country very frugally. Then, in his Farewell Address, George Washington warned do not get the country into debt. We followed that advice, really followed it up until not too many years ago. Then we lost that sense of responsibility. But it is very interesting in Thomas Jefferson's first term he reduced the small Federal debt we had in this country by 50 percent.

Mr. BYRD. It was also interesting that Jefferson took advantage of the opportunity—I am glad he did—to buy the Louisiana Territory, 1,827,000 square miles for $15 million; less than 2½ cents per acre, extending from the Gulf of Mexico to the Canadian border, from the Mississippi to the Rockies. I am glad he did. He went into debt for it. Where did he get the money? He borrowed it from the banks. That debt, $15 million in that day, was 1.9 times the total budget for that year. If that were to happen in this year, when we have a budget of $1.6 trillion, and if we bought the Louisiana Territory and it cost us 1.9 times the amount of the Federal budget, you could figure that for yourselves. That has to be something like, about $3.1 trillion. I am glad he did. I am glad he went into debt. When going into debt, he benefited all of the ensuing generations from then until kingdom come.

Mr. SIMON. My colleague is absolutely correct. In fact, he illustrates the point that this constitutional amendment has that flexibility.

Mr. BYRD. Wait a minute. It also illustrates that Jefferson was embarrassed by what he had said, and later he said he was embarrassed by it. But he said because of the laws of necessity the means sometimes are worthy of the end.

Mr. SIMON. Let me add that the treaty was signed in Paris in May. In those days you did not find out what had happened for a while. When word got to Washington, DC, in July—and I apologize to my colleague from North Carolina—when word got to Jefferson in July in Washington, DC, he was as startled as anyone else by the Louisiana Purchase.

Our Secretary of the Treasury at that point was a man named Albert Gallatin, many States have Gallatin counties named for him. Most people do not know for whom Gallatin is named. Albert Gallatin objected to the Louisiana Purchase, or part of it, because part of the agreement was that the bonds were 5 percent. They could not pay back any of it for the first 15 years. He wanted to pay it off very, very quickly. But the really important point here is that there were two votes in the U.S. Senate on the Louisiana Purchase. There was one vote in the House of Representatives on the Louisiana Purchase. I do know the precise totals. It was something like 26 to 3, or something like that, in the Senate, and all of them were far more than the 60 percent required by this constitutional amendment.

So this amendment would not have blocked the Louisiana Purchase, I want to assure my colleague from West Virginia.

Mr. BYRD. I did not say the amendment would have blocked the Louisiana Purchase. I am saying, like Napoleon did, that two plus two equals four. Read it.

Mr. SIMON. I do not disagree.

Mr. BYRD. ''Total outlays for any fiscal year shall not exceed total receipts for any fiscal year.'' You cannot get away from it. It has you by the neck.

Mr. SIMON. The Senator and I differ. But I thank him for yielding to me.

Mr. BYRD. I thank the Senator.

Mr. FAIRCLOTH addressed the Chair.

Mr. BYRD. Mr. President, I apologize to my friend from North Carolina. I thank the Senator from North Carolina. Let me thank the Senator from Pennsylvania. He made a good try.

I have not yielded yet. I have not yielded the floor yet.

Mr. FAIRCLOTH. I thank the Senator.

Mr. BYRD. I will in just a moment.

I want to commend and compliment the Senator from Pennsylvania. He did the right thing. He raised his questions. I learn when people ask me questions. And I hope that the listening audience learns. That is the purpose of this, that others who may have a chance to listen, hopefully will listen, may learn something from the questions and from the answers. I do not know all the answers. I do not claim to know that. But I fervently believe the position I am taking, and I think that a clear reading of the amendment supports me.

I thank my Senator from North Carolina for yielding. I beg his pardon for delaying him.

I yield the floor, Mr. President.

Mr. FAIRCLOTH. I thank the Senator from West Virginia. I thought he had yielded the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask for 20 minutes to discuss the Reid amendment.

Mr. REID. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from North Carolina yield for a parliamentary inquiry?

Mr. FAIRCLOTH. I yield the floor for 1 minute to the Senator from Nevada.

Mr. REID. I did not hear. Is the Senator from North Carolina speaking on the matter before the Senate?

The PRESIDING OFFICER. The Senator has been recognized to speak.

The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I will address the Reid amendment. But there are other things I am going to say first with reference to it.

Mr. President, I rise today in strong support of the balanced budget amendment to the Constitution. Mr. President, quite simply, no other legislative issue the Senate will consider is more important than this one. I know this is a broad statement. But the economic future of the United States rests entirely with this amendment. The future of the United States, the well-being of our children, grandchildren and children yet unborn rests entirely of whether we pass this amendment or not.

Mr. President, if we fail to enact this amendment, this country is headed irrevocably toward an economic calamity. Our national debt will soon consume us. We are taking the same path as Mexico, but unlike Mexico, there will be no one that can bail us out.

Mr. President, I have heard a lot of talk on the Senate floor about how we have to find a lot of cuts in order to balance the budget. Senator DASCHLE had a right-to-know amendment that we defeated yesterday. He wanted to know where the spending cuts will be made over the next 7 years.

But the most important thing that we can do is declare that we will balance the budget, show the fortitude to balance the budget, and then once we are bound by the Constitution, we will find a way to keep the budget in balance.

This brings me to the point I want to make and the point of the speech. It will only take 50 votes plus 1 in this Senate to raise taxes. Any Senator that cannot bring it upon himself to vote for cuts can stand up and vote for a tax increase. Any Senator that wants to go back to his constituents and tell them that he is raising their taxes by another 15 percent or more, taking another 15 percent or more out of the gross profits of the small businesses that are struggling already to keep buckle and tongue together, any Senator that wants this extra money to pay for more foreign aid, more welfare, a bigger Department of HUD, and more farm subsidies, he can do that. All he has to do is vote for a tax increase. He can go back to his constituents and tell them that he voted for a tax increase because he thinks these things are more important than the taxpayers keeping more of their own money.

Senators are saying that we cannot deny money to the helpless in our society. I say that the most helpless in our society are our grandchildren, our children, and the progeny not yet born, upon whom we are placing an enormous debt. If our generation wants greater Government, more giveaways, then it is the duty of this Congress to step up to the plate and pay for it now, to face the voters and say: I increased your taxes because I am for more giveaway programs and more spending.

I am tired of those that say they may not vote for the constitutional amendment because they do not know where the cuts will come from. If they have the courage, they simply can vote a tax increase and there will not have to be any cuts. For me personally, I will not be telling anyone in North Carolina that I need 15 percent more of their income to pay for more Government. I do not think we need more foreign aid, more welfare, more money for HUD, or more money for farm subsidies. In fact, what I can tell them is if we simply stop spending more money each year,

we would have a balanced budget, with no cuts.

When I ran for the Senate, I said I would not vote for a tax increase. I have not, nor will I ever. The Federal Government needs to change its spending habits, not impose a burden of higher taxes upon the working people and taxpayers of this country. If we froze Federal spending to the levels that are in the fiscal year 1994 budget, we would not only have a balanced budget in 1997, but we would have a surplus of $10 billion. Instead, we just pour more money into more giveaway programs, with no end in sight.

Mr. President, the message the American people sent to us on November 8 was that they want less Government, not more; less regulations, not more; and more freedom to earn a living and generate a profit and spend their own money. I ran on that message in 1992, and I have not changed to this day.

Mr. President, finally, let me talk about the national debt that is consuming us. It took this country nearly 200 years—from its founding until 1983—to accumulate a national debt of $1 trillion. But since then, in just the last 12 years, we have added $2 trillion more to our debt. Today, our national debt stands at $3.6 trillion.

Under the 1996 budget that the President just released, our national debt will grow to $4.8 trillion by the year 2000. In other words, in just 4 years, our national debt will grow by another trillion dollars.

Every person who has ever gone into debt knows that interest is a piranha and it will eat you alive. The same thing is happening to the U.S. Government today. Interest is starting to destroy the Federal budget.

Mr. President, all of this is taking its toll on our economy and the ability of the U.S. Government to function. In the 1996 budget, 16 cents of every tax dollar will be spent just to pay the interest on the debt. But to put it in real and, I think, more impressive terms, when taxpayers file their income tax returns this year, they should know that 41 percent—41 percent—of all the income taxes that they send to Washington will be used for the sole purpose of paying interest on the money we have already borrowed. In other words, 41 percent of all the individual income taxes collected this year will go to pay interest on the debt.

By the year 2000, our national debt will be equal to 52 percent of the gross national product. In 1980, the figure was exactly half that. In 1996, for the first time, we will spend more on interest on our debt than we will on our military. And we are supposed to be the preeminent military power in the world, and should remain so.

Not only is our debt burden hurting us at home, but it is hurting us abroad. The dollar has fallen against every major currency of the industrialized nations of the world.

Mr. President, some might ask, how did we get ourselves into this mess? We got into this condition not because the working people are taxed too little, but because the Congress spends too much. In 1996, Americans will send $1.4 trillion to the Federal Government. Regrettably, this is not enough for Congress. There is never enough.

If we could just control Federal spending, we might not have to consider this amendment. But for 35 years, this Congress has been unable to muster the fortitude to control Federal spending. It is amazing to think that just since 1982, the Federal budget has doubled. Are we, as a country, better off today than we were in 1982 because we have doubled Federal spending? The answer is simple: We are deeper in debt and have little to show for it, but the interest will be with us to infinity.

Mr. President, we know what the problem is. The question is, what are we going to do about it? The answer is that we must pass the balanced budget amendment. We need to leave our children a clean balance sheet, not a lifetime of debt, excessive taxes and a contingent liability of $7 trillion.

Mr. President, in speaking of the national debt, and its impact upon us, I ask your indulgence to tell a very quick story from my early business career.

As a 21-year-old man, I was trying to buy some new trucks and equipment, and the banker would not consider the loan unless my mother endorsed the paper. Well, she was a very, very stingy Scottish lady and looked things over well before she signed them. This had gone on for a couple of weeks, and I went in the house for lunch one day and I asked her to talk about it. She had the liability and the debt service written on a handkerchief, and the proposed income that I said I was going to make on the same handkerchief on the other side, just a ledger sheet of income and debt service. And she asked me if her figures were right, and I told her they were. She picked it up, handed it to me and said, ''Go and wash it.'' When I stuck it under the spigot and the water hit it, I saw what she had done. She had placed my debt, and had written that in indelible ink. She had written my income in fruit dye. Her words were—and I will never forget them, and the country needs to remember them, too—''When you make a debt, it will be with you always until you pay it, plus interest. Your income can go in a flash.''

Mr. President, I yield the floor and the rest of my time.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I made my comments this morning on the Reid amendment. I very strongly support it and I pointed out my rationale for so doing.

Since then, we have been reading the committee report, Mr. President, and something has come to my attention. In the spirit of debate and discussion which was so prevalent on the floor between the Senator from Pennsylvania and the distinguished ranking member of the Appropriations Committee, I would like to continue that spirit, and if the bill manager, the Senator from Pennsylvania, would be prepared to answer a question on the majority report, I would appreciate it very much.

In this report, on page 19, it is pointed out that some programs are exempted from this resolution and some are not. Now, this is news to me, because, as a member of the Judiciary Committee that considered this, that was not the case.

I would like to read the exact language. It reads:

> Among the Federal programs that would not be covered by S.J. Res. 1 is the electric power program of the Tennessee Valley Authority. Since 1959, the financing of that program has been the sole responsibility of its own electric ratepayers—not the U.S. Treasury and the Nation's taxpayers. Consequently, the receipts and outlays of that program are not part of the problem S.J. Res. 1 is directed at solving.

Now, this is very strange to me. Social Security is put on budget and its receipts and outlays are subject to Senate Joint Resolution 1, but we suddenly find that the Tennessee Valley Authority is not. And not only is it not, but the words prefacing the statement say ''Among the Federal programs that would not be covered by Senate Joint Resolution 1 * * *''

My question to the distinguished Senator from Pennsylvania is: A, are you aware of this, that the TVA is being exempted; and, B, what other programs are being exempted from Senate Joint Resolution 1?

Mr. SANTORUM. I am trying to find the page which the Senator is citing.

Mrs. FEINSTEIN. Page 19 of the committee report, about two-thirds of the way down the page. It says ''Total outlays,'' and then the second paragraph there, which begins ''Among the Federal programs that would not be covered by Senate Joint Resolution 1 * * *''

Mr. CRAIG. Will the Senator from California yield?

Mrs. FEINSTEIN. I certainly will.

Mr. CRAIG. Mr. President, I am glad the Senator found and brought that issue up, because it is critical only in the context of understanding how it fits. I say that as an individual who helped craft this amendment and believes in the logic and in the appropriateness of the words ''Everything that is in the general fund budget is on the table,'' and everything that the general fund budget and the Senate or the Congress of the United States have authority over in decisionmaking for the purposes of appropriations, allocation of resources, or the establishment of funding levels is on the table.

The Tennessee Valley Authority, like other PMA's, or power management Authorities, are not on the Federal budget. They have a Federal obligation

and that is to return revenue to the Government for the money that was used to finance them.

But the Federal Government does not establish their budgets, nor does the Congress of the United States. And that is what is directed in this program.

So it is not a loophole. Everything that is in the budget is on the table. This is a revenue source. It is the board of this particular PMA, or power management authority, that establishes their own budgets and they look at their obligation to the Federal Government as a debt payment obligation. They are not a part of general fund budgeting, nor can they either be called off budget, because they are a quasi-independent Federal agency nontied to the general fund budget.

Mrs. FEINSTEIN. Senator, this is exactly my point, because in 1990, this body took Social Security off budget by a vote of 98 to 2. Social Security draws its revenues from its own specific FICA tax, not from the income tax or any other tax of Government.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. I certainly will.

Mr. CRAIG. I agree the Congress did that. But you and I both know that the Congress of the United States every year includes in the final budget of this country and the budget that you and I will decide in the coming months Social Security expenditures. We are allowed by the law and the Social Security law to make decisions on Social Security. The term ''off budget'' for Social Security is an accounting terminology that separates it from the general fund budget or, if you will, the all-inclusive Federal budget that we have been operating on since the Johnson years.

The power authority is not something on whose budget we decide. That is decided by a separate board. It is only the amount of obligation of payment that power authority is tied to.

So if I may politely say, you cannot compare an apple to an orange. And in this example, that is exactly what I believe you are attempting to do. They are uniquely different entities under the law and under the budget process of our Government.

Mr. SIMON. Will my colleague yield?

Mrs. FEINSTEIN. I certainly will.

Mr. SIMON. I thank the Senator.

If I may make another comparison. It is like Fannie Mae or Sallie Mae. They are entities created by the Federal Government. Their boards are appointed by the President of the United States. But if Fannie Mae gets into some difficulty, they have to raise their own revenue. We are not going to come along and help them.

I do not want Social Security to be in that situation. I want us to feel an obligation to make sure that we fund Social Security.

So I think we are not just talking about something that is off budget where we have an obligation. In this case, we are talking about something that is a Federal Government-created entity, but they have to take care of their own revenue. And if they run into some financial difficulties, they have to raise power rates or, in the case of Fannie Mae, may have to raise interest rates or something else. But we are not going to come along and bail them out.

Mr. REID. Will the Senator from California allow the Senator to ask a question?

Mrs. FEINSTEIN. I certainly will.

Mr. REID. I would be interested if the Senator from California could answer a question based on what the Senator from Illinois said.

Why, then, was not Sallie Mae and Fannie Mae excluded? Why is it only the Tennessee Valley Authority?

Mrs. FEINSTEIN. Mr. President, this has piqued my curiosity as to what is excluded because, if we just follow the logic of the distinguished Senator from Illinois, I stretched my memory back to see if there was a time when the Federal Government ever bailed out Social Security. I do not believe there was. There were times when the Federal Government, the Congress, has raised the FICA tax, but the FICA tax is a compulsory dedicated tax that goes for retirements.

I find it somewhat interesting that some programs—and it does refer to quasigovernmental programs in this as well—some programs are exempted under this bill and others are not.

Of course, the program which is most important to the American people is Social Security. It is not exempted. It is not exempted because there will be 3 trillion dollars' worth of surplus revenues that are going to be taken from Social Security and used to balance the budget.

That is what Senator REID and I do not think is right. I would just like very much to obtain a full list from the committee and from the authors of this as to precisely which programs are being exempted from the balanced budget amendment.

Mr. CRAIG. Will the Senator yield?

Mrs. FEINSTEIN. I will yield.

Mr. CRAIG. Mr. President, no program of the Federal Government is being exempted. These are not Federal programs. These are independent entities that are known as quasi-governmental because it took a Federal act to create them. They are not on budget. They have never been on budget. This is the same report language that was filed a year ago and 3 years ago as we worked this very issue.

So I appreciate your concern because I, too, strongly believe exactly the way the Senator from California believes—that the trust fund of the Social Security system should never be used to balance the budget.

I have one of these entities in my area known as the Bonneville Power Administration. We do not establish their budget here. You have never voted on it. Neither have I. They are a Federal power-marketing agency. They establish their budget just exactly the way the Senator from Illinois said—by rates, and by rate increases if they need to increase their budgets. They have but one obligation to the Senate and to the Government of our country, and that is to return a revenue, based on their debt obligation.

That becomes part of this revenue flow that becomes part of the budget. That is not even like Social Security. Social Security does not return a revenue to the Government following an expenditure. It is a tax flowing in to service the obligations of Social Security and Social Security recipients.

The Tennessee Valley Authority does not flow money to the Government for purposes of obligation other than debt structure, and they are not a part of the unified Federal budget. Simply are not and never have been.

Mrs. FEINSTEIN. Mr. President, let me make this point, if I may, because the Senator from Idaho has just said these are not Federal programs.

The majority report says these are Federal programs. The majority report says: ''Among the Federal programs that would not be covered by S.J. Res. 1 is the Electric Power Program of the TVA.'' Now you are saying it is not only TVA, it is Bonneville as well.

Now, maybe to some the argument can be made that there is no Federal responsibility for these. But if something happened with these programs, I think we would bail them out very rapidly. I do not accept the argument that they are not Federal programs, and the majority report does not accept that argument.

I yield to the Senator from Nevada.

Mr. REID. Mr. President, I appreciate the Senator yielding for a question.

Mr. President, if the Senator from California would look at page 19, the paragraph that begins ''Total outlays,'' right above where the Senator has been reading, it stands on its head what my friend from Idaho said.

Listen: ''Total outlays is intended to include all disbursements from the Treasury of the United States''—listen to this—''either directly or indirectly through Federal or''—listen to this—''quasi-Federal agencies created under the authority of the acts of Congress and either on budget or off budget.''

So that, I say respectfully to my friend from Idaho through my friend from California, that is directly opposite what he said. Is that not what the English language says?

Mrs. FEINSTEIN. That is exactly right, Mr. President. Something is wrong. Something is fishy, I think. And I think we ought to find out what it is, because what is sauce for the goose is sauce for the gander.

I am happy to yield to the Senator from Illinois.

Mr. SIMON. Mr. President, let me just say if we were to rephrase this, I would say the first paragraph we are talking about ''among the federally created programs'' would have language that is more clear.

If my colleague from California wants to vote against the report for that reason, that is fine but just vote for the constitutional amendment.

Let me respond to my friend from Nevada, because the paragraph that he quotes is correct.

The REA serves people in Nevada, California, Idaho, and Illinois. We do permit Government-backed bonds.

Now, when we put out those REA bonds we put a little bit into the Treasury. Whatever CBO determines is a risk factor, that is put there.

Now, when my colleague from California says, well, if Bonneville went down the tube, we probably would rescue then, I think that is correct. I would just remind the Senator that we also rescued Lockheed. We also rescued Chrysler. We will not put any more in here from Michigan for Chrysler or Ford or General Motors, but we do put whatever risk factor we have to when there are federally backed bonds.

Mrs. FEINSTEIN. I am happy to yield to the Senator.

Mr. CRAIG. Mr. President, thank you.

We can play semantics with the report language if you wish and we can ask a variety of questions of the report language. I do not dispute the legitimacy of asking the questions.

The report language is not the amendment. What is in the amendment and which is key, and I think the Senator in searching for the Government programs that would meet the definition, needs to look at section 1 of the amendment.

It says ''Total outlays for any fiscal year.'' That is the operative word, Senator. Now, the Senator used the example if my power authority, Bonneville, got in trouble, would we bail them out. I do not know. We would have to decide that at the time. That would become an outlay at that moment in time.

We would have to fit that into the context of a balanced budget because we would decide collectively that maybe it was necessary to do it—it was going to damage the region. Your State of California buys a lot of power out of the Bonneville power grid. If the Bonneville power grid was going down, we might become allies. We would want to save it so that my State would not go dark and your State would not go dark.

But the point is, does it become an outlay? That is all you and I for the purpose of a balanced budget amendment have a responsibility for. It is at this time not an outlay. TVA does not come to the Federal budget. It is not an outlay of the Federal budget. If it got in trouble—and I think your analogy is fair, as the Senator from Illinois mentioned the analogy of Chrysler and the New York City bailout. New York City is not an outlay today and should never appear on the budget, should not be considered.

But if New York came, like they did years ago and said, ''We are near bankruptcy. Help us,'' they become an outlay. They become a part of the unified budgets of the Federal Government, and it is at that time that we would have to make a decision.

So, whether the report language is right or wrong, the ultimate test and a legitimate question to ask, I sincerely believe, is what segments of the Federal Government manifest an outlay to the unified budget of the Federal Government? While we took Social Security off budget and away from the unified budget, which is merely an accounting word for total expenditure, total receipts, in the end we bring it back. We bring it back and we put it in to the total budget of the Federal Government, and you and I vote annually on the expenditures of Social Security.

We do not on TVA, we do not on Bonneville Power, we do not in this operative section—not operative, but descriptive section. Report language is never operative. It is only descriptive. It expresses general intent. It is only at that point that I think your concern deserves an answer, and I would like to try to put a list together for you.

But if you are basing it on your reason to vote because it is off, the test is: Does it manifest by its presence an outlay to the unified budget of the Federal Government? And the very simple answer to that is no, it does not.

I thank the Senator from California for yielding.

Mrs. FEINSTEIN. Mr. President, I appreciate that and I thank the Senator. It is just that I think I find a conflict in this because, after all, Social Security, although there is an outlay every year, is running well in surplus. By the year 2002 when this is operative, there will be $705 billion plus another $300 billion, it is my understanding, becoming available for retirements. But because they are not needed, this amendment would automatically use those revenues to balance the budget. That is my problem with this.

The fact that—let us say it is Federal or quasi-Federal—this is still an entity that is the product of the Federal Government whose full faith and credit at one point built it, et cetera, and whose full faith and credit would sustain it if it fell into tough years.

I look at Social Security as important as TVA, it is as important as Bonneville if you are a senior who is depending on it or a working person who is paying the FICA taxes with the expectation that the Government is going to make those revenues available. This amendment does not make those revenues available for retirements.

So all we are saying is, just as you have excepted Bonneville, TVA, and some other things yet unknown to some of us, we say exempt Social Security, and then we can all march forward together.

Mr. CRAIG. If the Senator will yield.

Mrs. FEINSTEIN. I yield the floor, and I thank the Senator very much.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, only briefly to respond to the Senator from California. She and I are clearly on the same wave length. We do not want to see the trust funds and the revenues that build up to support future generations Social Security checks used to balance the budget. The tragedy is today they are. Today the surpluses are spent through the general fund and notes are deposited in the trust funds, interest bearing notes. This is a requirement of the law, the law that created Social Security. That is what goes on today.

So the Social Security stability, while there are revenues coming in in the form of taxes, has always been based on the willingness of the Congress of the United States, the Senator from California and the Senator from Idaho for assuring its stability because we, by voting every year to pass a unified Federal budget, vote on the expenditure of moneys from the trust fund to things other than Social Security because the money is borrowed from the trust fund and expended out through the general fund. That is part of the financing of our Government, whether you and I disagree with that or not.

It is not a separate pool of money setting to the side bearing interest. It is working money and, of course, it comes in the form of Treasury notes and interest bearing at the time. That is how it works. I think that is a reasonably good description of how it works and certainly one that will not change.

I think the argument that all of us have had is, if you are going to balance the budget, you look at all of the Federal budget, all of it that is currently inside the unified Federal budget and in the calculations that we make on an annual basis from a budgetary point of view.

While the Senator from California has expressed her concerns here, let me close this thought by simply saying, what is now not currently on budget or a requirement that the Senator from California or the Senator from Idaho deal with it at all, unless it got in trouble, as she makes out, that would be then the point that we would be responsible for it, and it would fit under the definition and the clear examination of article I which says, ''total outlays.'' There is the key, total outlays for any fiscal year. Right now TVA is not an outlay nor are those other entities.

Mr. President, one other item that I thought was interesting this afternoon in the debate and the discussion as it relates to the Senator from West Virginia when he was breaking out different portions of the budget and he was dealing with sections that talked about revenues and how we would handle them, it was interesting to me that he was only willing to deal with pieces and not the whole.

It is most unfair, in my opinion, to examine the amendment in pieces and

say, and, therefore, that piece is operative exclusively under a certain manner. Let me give an example of what I think I am concerned about when he said, ''The limit on debt of the United States held by the public shall not be increased, unless three-fifths'' vote. He talked about revenues and the ability to evaluate those and, again, it was an operative factor of three-fifths vote.

We understand that the art of projecting revenue in a gross domestic product as large as the United States is not a perfect art, and while our very best minds at the Office of Management and Budget, or the Congressional Budget Office, or Treasury might come up with a fixed revenue for the year over which we budget, it would not be unreasonable, based on cyclical patterns, for that revenue to be off by $10, $12, $14, or $20 billion.

The Senator from West Virginia is absolutely right. We are never accurate to within the cent or the dollar or even the hundreds of millions of dollars.

But what it then says is that, by a three-fifths vote, other things are allowed to happen and that remains the key operative. What the process does is that it causes us for the first time to try to live within the revenue projection. And certainly the Senator from West Virginia, who for years has been chairman of the Appropriations Committee, knows that this Congress and probably few that he has ever been involved in ever consciously created a budget to live within the revenue projections. It was always take that revenue and borrow a heck of a lot more.

Now what we are saying is that as we work over the next 7 years to bring this budget into balance, from that point forward we will live within the best guesstimates possible by the professionals, and we will project spending levels on an annualized basis on those projections, on those averages, on those summaries. And if we miss them, then through the implementing language and a new budget process that would be created growing out of this, we would deal with them.

Would it be to lift the debt ceiling by three-fifths vote and move them into debt? Yes, that could be done. That would then clear out the budget for the year.

Would it be to raise revenue to offset it? Yes, that could be done.

Would it be possible to spin it into the next fiscal year as a debt to be paid immediately because of a projected surplus in the next year? Yes, that, too, could be done.

This amendment does not restrict those kinds of actions. What it does say and what is important to say is you look at the total of the argument, read the whole amendment, do not examine the pieces. Put it all together, make it a whole body, make it a whole document because that is how we will all have to look at it and that is how we will have to operate as a Congress under the 28th amendment to the Constitution, the one that we are now debating. We will not operate exclusively by the pieces or the parts. It will be a whole document that will cause us to react that will create the implementing language which will be probably a new Budget Act and a new process.

What it does disallow, and that is, of course, where this Congress has found itself in real trouble over the years, it disallows the ability to micromanage in a way that has created the kind of debt structure that we have. It simply puts us within parameters, very strict parameters, and it gives, I think, the American people for the first time a sense of confidence that we actually are trying to stay within our limits and balance the Federal budget.

I would like to try to do that. I think most Americans want us to do that. I am privileged to be serving my 15th year in the U.S. Congress, and never in those 15 years has this Congress consciously tried to live within its revenue or live within a balanced budget. It always figures we will take what we can get and we will borrow the rest to meet our political desires and not our fiscal responsibility.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. REID. I would ask my friend to yield, if I could talk to either Senator SANTORUM or Senator CRAIG, whoever is managing the bill now?

Mr. SANTORUM. Is the Senator asking me to yield?

Mr. REID. Yes.

Mr. SANTORUM. I ask unanimous consent that I may yield to the Senator from Nevada.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. It is late in the day, and I am wondering if at least for the next hour or so we could get some idea if we have some speakers. I have someone who is tentatively scheduled to come at 5 o'clock, the Senator from Alabama. It is just so people are not necessarily waiting around. I see the Senator from Michigan is here.

Mr. SANTORUM. I do not think we have anyone lined up at this point to speak. I was going to speak for about 5 minutes and then I am going to sit.

Mr. REID. I thank the Senator.

Mr. SANTORUM. Mr. President, I wanted to finish up what little colloquy and discussion we had just a short while ago with the distinguished Senator from West Virginia. I wanted to continue that debate, but in deference to my colleague from North Carolina, I allowed him to make his presentation. But there was a couple of things I just wanted to bring closure to before we move on to the next round.

The point the Senator from West Virginia was alluding to was section 1 of the bill:

> Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *

It is unenforceable, unworkable; these estimates will throw you all off; the estimates do not work; they are not reliable. And as a result this is an unenforceable constitutional amendment that is going to cause all sorts of unconstitutional activities in this Chamber.

I mentioned to him that we must look down to the next section, section 2, which states:

> The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for an increase, for such an increase by rollcall vote.

There is the enforcement; that once we get to the balanced budget, or once we get to where the debt limit is, that we cannot increase that debt limit without a three-fifths vote. That means we cannot incur a debt or a deficit from any year because if we incur a debt and do not raise the debt limit, then we cannot issue obligations to pay for that deficit, which means that would be in a sense a default of certain obligations.

Now, that is the enforcement. That is the mechanism that drives section 1, that makes us get better estimates.

I believe, as I am sure the Senator from West Virginia believes, that we will get better estimates and they will be more ongoing, they will not be every 6 months but will be on a more frequent basis so we can calculate what the correct number will be at the end of the fiscal year so we can hit pretty close to zero and hopefully hit a surplus.

That is the enforcement. That is what makes all of this discussion about estimates, frankly, irrelevant to the enforcement of this act because the enforcement is the debt limit provision. That is what forces us to come in with a balanced budget, irrespective of what the estimates say.

The response then was, well, you are creating a minority veto; that the minority is going to have all this power because it is going to be a supermajority that is going to be required to raise the debt limit.

I would just suggest I have the distinct feeling that we are here because we have a minority veto, that we have been talking about this bill for 2 weeks because of a minority veto; that we will be filing a cloture motion soon and we will find out whether there is a minority veto.

This place runs on minority veto. The minority veto is the hallmark—as the Senator from West Virginia said during his discussion, things come over here to cool down a little bit, to cool down.

I saw a movie the other day, ''Encino Man,'' not exactly the greatest movie that was ever made, but Encino Man was about a Cro-Magnon man and his spouse who were hit by an avalanche. Now, that is cool down. And they were encased in ice. And the Encino Man as a result of an earthquake was uncovered, and the ice block that he was encapsulated in thawed, and he came to life.

My concern is that in this body we are getting avalanched to the point where we are going to be encapsulated in ice and not be able to act and do anything on this balanced budget amendment, and when we wake up it will not be as happy a world as what the Encino Man faced. When we wake up, we may have desperation, despair, and economic collapse in this country because we simply chose to cool things off.

We cannot afford to cool things off any more. The more we cool things off here, the hotter it gets out there. We have an obligation to act.

Do not talk about minority vetoes. We have seen plenty of that around here on this issue. And I suspect the Senator from West Virginia likes that fact, of having that minority veto. As the Senator from Kansas, Mrs. KASSEBAUM, said, maybe it is a bad idea whose time has come, but it is a necessary evil that we have to put on to this country to get our financial act in order for the next generation of Americans.

I do not want to be the first generation of American leaders to leave the next generation worse off than we are and worse off than my grandparents were, and that is what we are standing on the precipice of if we do not act today.

I am hopeful we will. I am confident we will. I do trust the better angels of our nature in this place. I know there is a lot of activity going on that is trying to cloud this issue, but I fundamentally believe that people in this Chamber will do the right thing when called upon and they will stand up for the future of this country.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to proceed as if in morning business for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEVALUATION OF THE MEXICAN PESO

Mr. BENNETT. Mr. President, I thank my colleagues for indulging me in this matter and I will attempt to be as brief as I can.

Yesterday, at this time, the chairman of the Banking Committee, my friend, AL D'AMATO from New York, took the floor and made a strong statement with respect to the peso situation in Mexico and the proposed solution to that situation from our Government. I wish to take the floor and respond and expand upon the statements made by my distinguished chairman.

I agree basically with the position that he took. I do not share some of the outrage that he expressed with respect to the administration's action. I took the floor after the administration had announced their action and generally praised it because I do believe that if we had not taken some kind of action the Mexican economy in an atmosphere of panic would, indeed, have spun out of control and the Mexican Government would have been in default on their bonds within some 48 hours of the time the administration acted.

However, I do not want to leave the impression that with my support of the administration's actions I support the notion that the Mexican Government acted wisely when they devalued the peso in the first place. And the outrage suggested by the chairman of the Banking Committee was appropriately placed when it goes to the question of those who planned this devaluation, those who approved of the devaluation, and those who took the position that the devaluation was inevitable and that it was proper.

In the Wall Street Journal yesterday, Robert Bartley, the editor of the Journal, wrote a somewhat lengthy but in my view very perceptive summary of this situation called ''Mexico: Suffering the Conventional Wisdom.'' I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENNETT. The reason I praised the administration action when it was announced was that unlike the original proposal, the administration action called for entry into the circumstance of the Federal Reserve Board. I have enormous respect for Alan Greenspan, the Chairman of the Federal Reserve Board, who has an understanding of the evils of devaluation that I think goes beyond that held by some policymakers at the International Monetary Fund and the World Bank.

Devaluations are not inevitable. Devaluations are not good policy. Devaluations are usually an attempt on the part of one government to, in the phrase that's become known, beggar thy neighbor—punish another government on their borders, either physically or by trade.

We went through the circumstance of passing NAFTA in this body and in the other body. I was a strong supporter of NAFTA for a variety of reasons that I will not review here.

One of the fundamental pillars of NAFTA was that we would establish free trade between these nations, and the assumption was very specific that this free trade would continue on a dependable exchange rate between countries. For Mexico, once the free trade zone was established, to violate that assumption and say, ''Well, now we have free trade in our countries but we are going to try to make our goods more attractive in your country by devaluing the peso and thereby making our exports cheaper,'' was a violation of that agreement, certainly of its spirit if not its letter.

The fact that the markets reacted so violently to the devaluation, catching the experts at the IMF by surprise with that violence, demonstrates the fact that moving away from the 3.5 relationship between the dollar and the peso was, indeed, a violation of the whole spirit of the NAFTA debate and represented a betrayal of those who had supported NAFTA.

Conventional wisdom, as Mr. Bartley points out, says ''No, no, you can devaluate a little bit and everything will be fine.'' The reaction in this circumstance said you cannot devalue a little bit when the devaluation is a betrayal. You have destroyed the whole relationship that existed between the two countries. That, in my view, was what was wrong.

Now, in the package put together by the administration, there is the opportunity for Alan Greenspan and his opposite number in Mexico, Miguel Mancera, to get together and say we will use these funds that are now available to us by virtue of the decision of the President of the United States, not to bail out investors in Mexico but to start to extinguish pesos. We can acquire pesos by virtue of the money that we have and then extinguish them—tear them up, if you will—and reverse the monetary policy that flooded the Mexican economy with too many pesos, which is what led to the devaluation in the first place.

We can use this money, these two gentlemen can, because they have the expertise, they have the ability, and if the Treasury Department will back them, they will have the support they need to say we can use this money over time to reverse the betrayal of the devaluation. And if that is the approach, I am convinced we will see the Mexican crisis resolve itself happily.

Unfortunately, if that is not the approach, if the money is used in the conventional wisdom fashion of trying to see to it that all of the investors in Mexico are made whole, then I think the dire predictions that we have heard on this floor will indeed come true.

So, I salute the chairman of the Banking Committee. I am a member of that committee, and I look forward to the hearings that he has told us he will schedule. I think it is very appropriate for him to take on this watchdog role that he outlined for us in his floor statements yesterday.

But I hope the administration will recognize that those of us who supported what they proposed are looking to them to try to move to undo that which triggered the crisis in the first place, which was the act of betrayal, the devaluation.

It was not the trade deficit. This country had a trade deficit, the United States, until 1914. The part of the country from which I come, the West, was built by trade deficits. The railroad that linked the West to the East and created all of the economic opportunities that came in its wake was built with British money, not American.

Trade deficits are normal and healthy in developing countries. No,