the following Members will be recognized for 5 minutes each.

RECOGNIZING THE HEROISM OF LT. JOSEPH P. TADE AND HIS FELLOW OFFICERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. JONES] is recognized for 5 minutes.

Mr. JONES. Mr. Speaker, we live in a world where crime rates are rising daily, and where acts of violence against innocent people are escalating, at an alarming rate. It is rare when we hear of citizens who go above and beyond the call of duty to help their fellow man.

Mr. Speaker, at this time, I would like to give special recognition to one of those individuals, Lt. Joseph P. Tade, of the Elizabeth City, NC Police Department.

Lieutenant Tade embodies the qualities of honor, tenacity, and dedication. He has recently received three national awards for acts of courage and valor in the line of duty. The American Police Hall of Fame, has awarded Lieutenant Tade two separate Silver Stars for Bravery and the Legion of Honor Medal.

The Incidents, for which Lieutenant Tade earned his medals say much about his bravery and character.

On October 12, 1980, then-Patrolman Tade and his partner, intervened when an armed man attempted to flee the scene of a robbery, at a local grocery store. The suspect, opened fire on an innocent bystander and on the officers. After unsuccessfully attempting to convince the gunman to surrender, the officers pursued the suspect as he fled in his car. The chase ended when the officers cut off the suspect's can and the suspect took his own life.

Lieutenant Tade earned his second Silver Star when a routine traffic stop pin 1984 turned into a high speed chase that reached 95 miles per hour. When the chase appeared to have stopped, one of the three suspects aimed his gun at Tade and his partner, and then opened fire. Fearing for he and his partner's lives, Tade returned fire, striking the gunman twice. The suspects were apprehended a short time later and the gunman survived his wounds.

Lieutenant Tade's actions, in April of 1995, earned him The Legion of Honor Medal. While attempting to separate a local male and female involved in a violent altercation, Tade was severely cut by the female who had suddenly produced a razor blade. Although bleeding profusely—from a two inch long wound—he was still able to disarm the youth and take her into custody. Despite the many stitches required, Lieutenant Tade recovered and suffered no permanent damage.

Mr. Speaker, Lieutenant Tade is by no means alone in deserving our recognition. Every day and night, in this country and abroad, hundreds of thousands of Federal, State and local law enforcement officers, risk their lives to maintain peace, uphold justice, rid our neighborhoods of violent criminals, and keep our children and families safe. Words alone seem inadequate, but I would like to express to Lieutenant Tade, and his fellow officers throughout American, a sincere ''Thank you'', for your dedication to your fellow citizens.

Mr. Speaker, I ask unanimous consent that the entire summary of Lieutenant Tade's courage, be included in the RECORD.

Mr. Speaker, in a world where crime rates are rising daily, where acts of violence against innocent people are escalating at an alarming rate, it is rare when we hear of citizens who go above and beyond the call of duty to help their fellow man. Mr. Speaker, at this time I would like to give special recognition to one of those individuals, Lt. Joseph P. Tade, of the Elizabeth City Police Department in Elizabeth City, NC.

Lieutenant Tade embodies the qualities of honor, tenacity, and dedication. He has recently received three national awards for acts of bravery and heroism in the line of duty. The American Police Hall of Fame has awarded Lieutenant Tade two separate Silver Stars for bravery and the Legion of Honor Medal.

The incidents for which Lieutenant Tade earned his medals say much about his bravery and character. On October 12, 1980, then-Patrolman Tade and his partner intervened when an armed man attempted to flee the scene of a robbery of a local grocery store. The suspect fired multiple shots at a bystander and the officers. Fearing for the lives of everyone in the area, the officers returned fire, including two warning shots in the air and shots by Tade aimed at the suspect's tires. After attempting to convince the gunman to surrender, the officers pursued the suspect as he fled in his car. The chase ended when the officers cut off the suspect's car and the suspect took his own life.

Lieutenant Tade earned his second Silver Star when a routine traffic stop in 1984 turned into a high speed chase that reached speeds of 95 miles per hour. At night and on patrol with a police cadet, Tade once again demonstrated bravery and courage in the face of danger. When the truck they were chasing appeared to have stopped, and the officers had exited their vehicle, one of the three suspects fired multiple shots at Tade and his partner from the truck. Once again, fearing for he and his partner's lives, Tade returned fire, striking the gunman twice. The driver of the vehicle suddenly pulled away and another chase ensued. After evading several road blocks, the suspects were apprehended and the gunman survived his wounds.

Lieutenant Tade's actions in April 1995 earned him The Legion of Honor Medal. While he and his partner, Capt. W.O. Leary, were attempting to separate a local male and female involved in a violent altercation, Tade was severely cut by the female who had suddenly produced a razor blade. Bleeding profusely from a 2-inch cut on the hand, he was still able to disarm the youth and take her into custody. Lieutenant Tade required 10 stitches and luckily suffered no permanent damage.

These are certainly not Tade's only awards. In 1980, he was named Outstanding Young Law Enforcement Officer of the Year by the Elizabeth City Jaycees. Throughout his career, Tade has received commendations from the Drug Enforcement Administration, the North Carolina State Bureau of Investigations, the North Carolina Division of Alcohol Law Enforcement, the U.S. Attorney's Office, the Currituck County Sheriff's Office, the Edenton Police Department, in addition to countless interdepartmental commendations.

Lieutenant Tade, a 20-year veteran, has a long and distinguished career with the Elizabeth City Police Department. He joined the department in 1976 and served as a cadet until 1978, when he was sworn-in full time. He immediately became involved in criminal investigations, as the department had no full-time investigators. In 1987, Tade was promoted to the rank of sergeant and became one of the department's first two full-time investigators. In 1989, Tade was promoted to the rank of lieutenant. In 1992, Tade was appointed as commander of the newly formed northeast regional drug task force. In 1995, Tade was appointed supervisor of a new division within the department. The neighborhood interdiction team, where he continues to serve today. This team is a community policing and street drug enforcement group working mainly in high crime areas of the city.

Over the course of his highly successful career, Lieutenant Tade has been involved in over 2,500 local, State and Federal drug arrests alone, reaching to such places as New York City, NY, and Allentown, PA. These arrests have resulted in record seizures of illicit drugs and currency, well in excess of $1.5 million. In addition, Tade has completed over 1300 hours of advanced law enforcement training.

Lieutenant Tade, a resident of Elizabeth City since the age of 10, currently lives with his wife Janet and their 3 daughters, Summer, Jessica, and Jordan.

Mr. Speaker, Lieutenant Tade is by no means alone in deserving our recognition. Every day and night, in this country and abroad, hundreds of thousands of Federal, State, and local law enforcement officers risk their lives to maintain peace, uphold justice, rid our streets, our neighborhoods and our businesses of violent criminals, and keep our children and families safe. To Lieutenant Tade and his fellow officers, I say ''thank you.''

□ 1530

INADVISABILITY OF REQUIRING TWO-THIRDS MAJORITY TO PASS TAX LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. SKAGGS] is recognized for 60 minutes as the designee of the minority leader.

Mr. SKAGGS. Mr. Speaker, I appreciate having the opportunity to address the House this afternoon. The topic of this special order is the proposed amendment to the Constitution to require two-thirds majorities in the House and the Senate to adopt any legislation concerning increases in tax rates or tax base.

As the Speaker may be aware, the leadership of the majority party has announced its intention to bring this

matter up for debate and vote in the House on April 15, the Monday that the House is scheduled to return from 2 weeks of spring recess. In my opinion, scheduling the debate on this matter at that time, preceded as it will have been by no effective committee consideration or markup, constitutes an act of relatively modest political theater but relatively irresponsible constitutional legislation. But it is merely the last chapter in an ongoing novel of regrettable proportions during this, the 104th Congress, in which the majority party consistently has seen fit to treat the Constitution as if it were really just a rough draft.

Mr. Speaker, let me give my colleagues some idea of the recent history of the consideration of amendments to the Constitution. In the last 20 years preceding this, the 104th Congress, the House voted on constitutional amendments a total of nine times in 20 years. The average per Congress was one constitutional amendment, the maximum was two, frequently there were none. This amendment that will be coming up on April 15 will be the 4th time in this 104th Congress that the leadership has brought forth an amendment to the Constitution, and thus my characterization, I think appropriately, that this Congress is really treating the Constitution of the United States as if it were just a working document in draft form which we can toy with at our whimsy.

Mr. Speaker, we have already had amendments debated and voted on in the House concerning the flag of the United States, concerning term limits, concerning a balanced budget, and now this two-thirds tax proposal, and I think most Members are aware we will probably have even a fifth proposed amendment to the Constitution offered up some time later this year having to do with the first amendment's protection against the establishment of religion and protecting the free exercise thereof.

Mr. Speaker, this particular amendment that will be coming before us a couple of weeks has not only serious, serious, and I believe absolutely unworkable practical problems attached to it, but the process by which it will come to the floor of the House for debate is absolutely extraordinary. We would suppose, Mr. Speaker, that when we undertake the most serious legislative responsibility that we can have as Members of this great body, that is, considering an amendment to the Constitution, that we would go to some pains to make sure that a proposed amendment had been fully and carefully examined by those institutions within the House structure that are designated as having the expertise and the responsibility to conduct such an examination and vet it. In our case, that is the House Judiciary Committee, and in particular, the Subcommittee on Constitutional Law.

Unfortunately, in this instance, I presume because the chairmen of both that subcommittee and full committee actually have very grave reservations about this particular proposal and are disinclined to mark it up and report it to the House, the leadership is co-opting them, preempting that very, very important responsibility that the Judiciary Committee has to really go over proposed amendments to the Constitution as carefully as we possibly can to consider both the intended and unintended consequences.

Mr. Speaker, we are giving the back of our hand, as it were, to that normal order and process in the House for considering an amendment to the Constitution and just bringing this to the floor in an essentially unexamined and unreflected-upon state.

Interestingly, I think in part because of that cavalier approach to a very, very serious responsibility, it has been reported that the chairman of the House Ways and Means Committee, the tax-writing committee of the Congress, has also very serious misgivings about this proposal because of one of its many impractical consequences, namely if we were to adopt this two-thirds vote requirement for any tax bills in the Constitution, we would basically be embracing—for all practical purposes—the current state of the tax law for an indefinite period of time.

Mr. Speaker, if you look over recent history in enacting tax laws, almost all of which, if they are at all comprehensive, involves some increases as well as decreases and changes, very, very few will have be seen to have been passed by the two-thirds majority of both the House and the Senate that would be required under this proposed amendment to the Constitution. Since the chairman of the House Ways and Means Committee is reported to be a strong proponent of major tax reform, a fan of one of many alternatives that have been offered up for wholesale change in the Tax Code, he well realizes if this were in the Constitution, or ability to make that kind of change would be greatly constrained, if not made almost impossible.

One of the things that we, I think, should keep first in mind in considering this is not just the failure of the leadership here to follow regular order and process, as ought to apply to a proposal of this seriousness, but the content of the proposal, as well. It follows obviously that any time we require a super majority to enact legislation, in this case tax legislation, the corollary of that is to give a minority within the body, the House or the Senate, effective control of the issue. That contradicts head on the fundamental principle of majority rule that Madison identified during the debate in the Constitutional Convention as the first principle of this democracy of ours.

Now, it may seem a trivial observation to suggest that a super-majority requirement necessarily cedes control of the issue to a minority. Here in the House, that minority would represent something just over one-third of the people of the country, certainly a significant number. But under this constitutional amendment, effective control of the tax-writing responsibilities of the Congress would be given over to one-third plus 1 of the other body, the U.S. Senate, and it surprised me.

Mr. Speaker, I sat down a few minutes ago and just calculated that percentage of the population of the United States represented by the one-third plus 1 of the Senate that comes from the smallest States in the Union. Under this proposal, to give control over tax legislation to one-third plus 1 of the Senate, that is the same thing as saying that we would give power over this issue to less than 10 percent of the people of this country, because 34 Senators represent, combined from the smallest States, less than 10 percent of our entire population.

Now, it seems to me we should think long and hard about a proposal that would have that kind of incredibly distorting effect on who is in a position to determine the future course of this country in an area as critical as tax legislation.

Mr. Speaker, I have several other points to make with regard to the merits and the substance of this proposal, but I wanted at this time to recognize and yield some time to the distinguished gentleman from Virginia [Mr. MORAN], who has been very active in this Congress and in earlier Congresses in these areas having to do with the fundamental constitutional arrangements of the Republic, and I yield at this time such time as he may wish to consume.

Mr. MORAN. Mr. Speaker, I thank my distinguished colleague and good friend from Colorado for yielding me time.

Mr. Speaker, this amendment that we are discussing, House Joint Resolution 159, that would require a two-thirds vote to raise Federal taxes, may seem to be a simple, reasonable idea, but it invites dangerous consequences for our democracy that will weaken the power of the Federal Government to respond to national problems. Since the resolution includes any changes that would broaden the tax base, it will also effectively block passage of any fundamental overhaul of our entire tax system, be it the majority leader's call for a new flat tax or the interest of the chairman of the Ways and Means Committee in the national sales tax, or anything in between, including the most moderate and responsible alterations. Finally, this resolution will prove unworkable, as the House leadership has already discovered with its celebrated—but now ignored—rule change requiring a three-fifths vote on tax legislation.

This resolution, as my colleague from Colorado has explained, violates the spirit of majority rule and will take us back to the problems our Founding Fathers experienced under the Articles of Confederation. Article 9 of the Articles of Confederation required the vote of 9 of the 13 States to

ascertain the sums and expenses necessary for the States to raise revenue. In 1787, at the Constitutional Convention, our Founding Fathers recognized that this was an insurmountable defect and sought to establish a national government that can impose and enforce laws and collect revenues through a simple majority rule.

Mr. Speaker, my distinguished colleague has discussed the constitutional aspects of this resolution, but I would like to focus on how unworkable this resolution will prove to be based on our experience with the much-celebrated change in the House rules that requires a three-fifths vote for any tax increase. That was enacted on the first day of Republican control of the House in January, 1995. As specified in that modified clause 5(c) of rule 21 of our congressional code, the House of Representatives' code, no bill, joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting.

This rule was broken just as soon as we voted on the Contract With America, introduced and approved by the Republican majority of the Congress, but to approve it, we had to violate the rule. On April 5, I came to this well and raised a point or order on a provision in the Contract With America tax relief act that repealed section 1(h) of the Internal Revenue Code affecting the maximum rate for long-term capital gains. While the intent of the provision was to lower the capital gains rate, it actually increased the tax rate on the sale of small business stocks from 14 percent under current law to 19.8 percent.

At the time, the Speaker's chair ruled that this tax increase was not subject to the three-fifths rule, but in a June 12 letter from House Parliamentarian Charles Johnson, it appears that this ruling was made in error and the original point of order should have in fact been sustained. Since the Parliamentarian has confirmed my original challenge, the House leadership has found it necessary to waive the three-fifths vote requirement in at least two instances, the Balanced Budget Act of 1995 and the Medicare Preservation Act, in order to pass its legislative agenda and to raise taxes.

Mr. Speaker, neither measure received a three-fifths majority vote. Neither of those pieces of legislation could have passed this body if we had been good to the rule that was passed on the first day of the session of this congressional term. Back in January, we passed a law and we have had to ignore that law in order to pass the legislation that was in the Contract With America.

□ 1545

Under the original House version of the Balanced Budget Act, the House leadership found it necessary to waive the three-fifths rule. The Committee on Rules had to do that by a simple majority vote in order to impose this tax increase, a 50-percent tax penalty on Medicare plus medical savings accounts withdrawals for any purpose other than Medicare and the part B income contingent premium. Also the repeal of the 5-year income averaging rule on lump sum pension distributions, the increase in the phaseout rate for the earned income tax credit, the new rates that are applied to expatriates, and the new tax imposed on gambling income of Indian tribes. All of these tax increases should have triggered the three-fifths vote required for approval.

Now we want to increase this three-fifths vote to two-thirds? In other words, increase the hypocrisy of this body to pass one law, and then ignore it when we want to pass another? If the new majority has problems honoring its pledge not to increase the tax rate and abide by its own rules, they make even more problematic if we were to do a proposed constitutional amendment as is proposed by this joint resolution.

Under this expanded requirement, Congress could not have passed last year's expansion of the health deduction for the self-employed. In that legislation we closed some tax loopholes dealing with minority broadcasting benefits to pay for the bill's revenue lost.

When you are in a pay-as-you-go basis, you have to increase taxes in some are in order to reduce them in others. So when we eliminated the tax loopholes, increasing taxes on minority broadcasters, again, that violated the rule, because closing the loophole is also broadening the tax base.

According to the material submitted into the CONGRESSIONAL RECORD by Congressman JOE BARTON on January 4, 1995, there have been five major tax increases enacted into law since 1980. The Tax Equity and Fiscal Responsibility Act of 1982, the House vote was 226 to 207; the Omnibus Budget Reconciliation Act of 1987, the vote was 237 to 181; the Omnibus Budget Reconciliation Act of 1989, the vote was 272 to 182; the Omnibus Budget Reconciliation Act of 1990, the vote was 228 to 200; and Omnibus Budget Reconciliation Act of 1993, that vote was only 218 to 216.

Only one of these measures, the Budget Reconciliation Act of 1989, could have passed the House with a two-thirds margin. In reality, the five measures that were brought up by Congressman BARTON included both tax increases and spending cuts. Had these measures not been passed with bipartisan support and signed into law by President Reagan and President Bush, the deficit would be far, far worse than it is today.

The one exception to deficit reduction that passed on a party line vote, the Landmark Omnibus Budget Reconciliation Act of 1993, has been credited with reducing the deficit 3 years in a row, and possibly an unprecedented fourth year if current economic trends continue.

I find it a little ironic for all the objections the Republicans have expressed for the tax increases, and the Clinton tax increase in particular in 1993, they have yet to repeal a single one of those tax increase in 1993. Not one of the so-called notorious 1993 tax increases has been repealed in any measure sent by this Congress to the White House.

What Representative BARTON does not mention in the CONGRESSIONAL RECORD is that Ronald Reagan would have encountered problems enacting most of his agenda if there was a constitutional amendment requiring a two-thirds vote.

Mr. Speaker, I have many other points I want to raise to buttress the argument that this does not make any sense to propose a two-thirds constitutional requirement, but at this point let me pass the baton on to my colleague from Colorado for a while to further buttress our argument.

Mr. SKAGGS. I would just like to engage the gentleman for a moment in a further discussion of the short history that we have—I was going to say enjoyed, but at least experienced under the so-called three-fifths rule which was adopted at the start of this Congress as a rule of the House governing the required majority; that is, three-fifths, whenever, we are considering anything that is construed as having a tax increase.

Now, first the proponents said it would apply to any increase, and then they said only to income tax increases, and then only to certain types of income tax increases. My sense is that the correct interpretation of this rule of the House remains the subject of a great deal of debate and confusion and inquiry. The saving grace, if you will, is that the majority has show that it is quite willing to waive the application of that rule as a matter of course whenever it is inconvenient to have to deal with the new rule that they adopted.

Mr. MORAN. I guess that is what they mean by regulatory flexibility.

Mr. SKAGGS. Well, whatever it may be, now we can waive a House rule, as the gentleman pointed out, by simple majority vote when we bring a matter to the full House for debate. But if we have got this in the Constitution, what then?

Mr. MORAN. Well, you ask a very good question, Mr. SKAGGS. I do not know why we are here trying to save them from themselves, which is what we are doing, but the reality is that virtually no tax reform measures could have been enacted if we had not hypocritically ignored, overruled, that three-fifths requirement. But as you say, if it is a constitutional amendment, we do not have that flexibility. The Committee on Rules just decides, well, this is an inconvenient law and so

let us just ignore it. If it is part of the Constitution, it cannot be ignored. That means that we could never again reform our Tax Code, because to do so you have to raise revenue in order to cut it in other places. So we would be putting ourselves into an untenable position.

Mr. SKAGGS. I think we need to expound on this point a little bit more. Nobody here is interested in raising taxes per se. This is not about taxes, it is about the Constitution of the United States and having a workable system of government. The examples which you cited, which I think it is important for us to be mindful of, have to do with all manner of different reform proposals. Certainly any of the tax simplification or tax reform proposals that this Congress has adopted in the last 20 years or that are pending before us in various forms now, have almost invariably involved some change in the tax base or change in the rate in order to effect reductions or reforms somewhere else, have they not?

Mr. MORAN. Not only have they this year, that is absolutely true, and that is why the Committee on Rules acknowledged that when it waived the three-fifths rule. So it would not apply to any of the tax legislation that has come before us this year. But also if you look back, it applied to all of President Reagan's and President Bush's proposals. None of them would have been enacted if this constitutional amendment were in effect.

So President Reagan could not have accomplished the 1981 tax cut, the 1986 tax cut, or any of the others in between. President Bush could not have accomplished the 1990 tax cut. We never could have come close to the reduction in deficit that we have experienced as a result of the 1993 Omnibus Budget Reconciliation Act. So it is hard to imagine where we would be if this constitutional amendment had been put into place, say, back in the 1970's or 1980's.

Mr. SKAGGS. Well, as I mentioned a few minutes ago, and it may be worth just going through the list of those States whose Senators, if they happen to decide to coalesce in opposition because small States might be affected in some way or other, States that could effectively block any future tax legislation if this were in the Constitution, because if you add up the Senators from Vermont, Delaware, Montana, Wyoming, North Dakota, South Dakota, Alaska, Rhode Island, New Hampshire, Nevada, Maine, Hawaii, Idaho, Utah, Nebraska, New Mexico, and West Virginia, that is more than one-third of the Senate, represents about 9 percent of the population of the country, and that group of Senators would be in a position to call the shots.

Now, I do not know whether that comports with the gentleman's sense of adherence to the fundamental principles of this democratic, small ''r,'' republican, but it certainly offends mine.

Mr. MORAN. I agree it would offend mine, too. We would hasten to add all of those States are very ably served by their Senators. Here we are not talking about personalities, we are talking about the Constitution. We are trying to go back to the original tenets of that Constitution. They tried something that was not majority rule in the Articles of Confederation. You needed 9 out of the 13 States to pass any revenue-raising provision. They found it was unworkable. The country was not functioning. So they had to go back and correct it and install majority rule.

Now, when you think about it, as you so ably explain, 10 percent of America's population could prevent any kind of tax increase. No matter how needed it is to keep this Government functioning, whether we are in a war, whether we are in a depression, whatever the situation, 10 percent of America's population can block any attempt to put our country on a sound fiscal footing.

I think that is the most compelling argument, and then in addition to the experience we have already had with the violation of the three-fifths rule. But the other point that you so well made, Mr. SKAGGS, is that the Constitution is not a rough draft. The Constitution has served this country very well for two centuries. To go mucking around with it with a piece of legislation that we know is going to be violated the first time that we have to act responsibly as a body, I cannot imagine that we would have any cosponsors of such legislation, never mind a long list of cosponsors.

So I would hope they would all reconsider, look at both recent and long-term history of this country, check out our Constitution, give it a little more respect, and recognize that this is not in the national interest.

Mr. SKAGGS. I thank the gentleman for his comments. One of the things that is most odd about this particular proposal, and I mentioned a few minutes ago, is not just the substance and the, I think, unexamined consequences of the substance, but the manner by which it is going to be brought to the House on April 15.

We have been joined by our distinguished colleague from Massachusetts, a member of the Committee on the Judiciary. I wonder if he might enlighten us a bit more about what the process that has been followed or not followed in this case looks like?

Mr. FRANK of Massachusetts. Well, I thank the gentleman from Colorado for taking the initiative on this special order and for yielding to me. But ''enlightenment'' is hardly the right word, because the Republican leadership is determined that this will not be the product of an enlightenment, but rather of the dark ages, because one of the things they do not want is for anyone to really have a chance to think about this proposal.

I am the senior minority member on the Subcommittee on the Constitution of the Committee on the Judiciary. We had a hearing on this a couple of weeks ago. The amendment was presented and the sponsors of the amendment were there, and in the course of their presentation they mentioned that this would be on the floor on April 15.

Now, I guess, showing my inability to adapt to the new majority, I was a little puzzled, because, this was a week or so ago, no committee vote was scheduled, no subcommittee vote was scheduled. Ordinarily with legislation, we find that the process of first debating it in subcommittee and making some changes, and then going to full committee and making some changes, that is how you refine legislation. That is how you answer questions. None of us in my experience is bright enough to simply sit down and have a piece of legislation spring from our forehead like, was it Athena from the forehead of Zeus, or whoever sprang from whatever. Ordinarily you want some questions and conversation. I was a little surprised that this bill was going to go right from hearing to the floor of the House. I asked why, and I realize what the answer is.

This legislation, this constitutional proposal, is so flawed, it does not command a majority within the subcommittee in the Judiciary that has jurisdiction, because there are significant, influential, respected Republicans who do not want to vote for it. It does not have a majority in the committee, so they plan to bypass the subcommittee and bypass the committee and bring it to the floor.

But then a glitch developed, because as we discussed this, even at the hearing, it became clear that, for instance, you could not under this constitutional amendment raise a tariff. I know Pat Buchanan has not been getting much respect from the Republicans, and as the poor man's totals fall in the primaries they whack him again. But to pass a constitutional amendment to make it virtually impossible to raise tariffs, that seems to me one more indignity they would heap upon Mr. Buchanan, but apparently that is what this amendment would do, because under this amendment you could not raise tariffs. He talked about raising tariffs. Indeed, we have legislatively ceded to the President the right to raise tariffs, as we all know, in particular cases. You can raise a tariff in the case of dumping. It is a countervailing tariff. You might raise a tariff in a particular case by denying somebody most-favored-nation treatment, et cetera.

Well, we cannot delegate to the President by more than we have ourselves. If it takes us two-thirds to raise a tariff, it would obviously take two-thirds to pass a bill that would delegate to the President the right to raise a tariff. So our ability to defend ourselves in trade by higher tariffs, that would also take two-thirds.

In addition, it was pointed out and conceded by the sponsors of the amendment, that going to a flat tax would take two-thirds. So now they are not

only going after Buchanan, they are going after Steve Forbes. This amendment is the revenge of the congressional Republicans and their upstart candidates.

□ 1600

Because going to a flat tax means you increase the base. And the language of the amendment clearly says, if you increase the tax base, if you tax more items, if you take away an exemption for mortgage interest, if you take away an exemption for charitable deductions, that requires two-thirds. In fact, one of the sponsors, our former colleague, the junior Senator from Arizona, said, well, do not pass this constitutional amendment until we get to a flat tax. Another one said, no, we do not agree with that. So there was a certain amount of confusion about this.

This is the vehicle they are talking about taking right from this intellectual chaos to the floor of the House. Then apparently another noncommittee intervened because it is going to be a nonjudiciary bill. But the chairman of the Committee on Ways and Means, who is a thoughtful individual, the gentleman from Texas, apparently looked at this and said, wait a minute, you cannot require us to take two-thirds to go to a flat tax. He wants to go to a consumption tax. I think there is a lot to be said for the approach of the gentleman from Texas, but it would take two-thirds to do that. He says, you cannot do this to tariffs.

So apparently we are now having a conference between the Committee on Ways and Means and the Committee on the Judiciary except not with the committees. We are going from a nonmarkup in the Committee on the Judiciary to a nonmarkup in the Committee on Ways and Means, on as significant a piece of legislation as we can have, an amendment to the Constitution, something which has happened 27, 28 times in our 200-plus years. That is being now privately discussed by some very able people, but they are privately discussing it. It is a shambles of a way to legislate.

It will come to the floor without any committee consideration, with uncertainty. Does this affect the flat tax; does it affect the tariff? What it shows is this is a search for a political gimmick. No one could think we would seriously legislate in this way.

Let me add one other flaw that occurs to me on this. That is, the amendment would, of course, allow you to reduce taxes by a majority, but it would take two-thirds to raise them. But I think in effect this would also make it harder for future Congresses to cut taxes. Because if you are in a situation where you say, you know, things are looking very good now, and we are in a sort of a surplus situation, we can afford to cut taxes now because we can always raise them back again if later on we need them, people will be reluctant to do that. Because if it takes two-thirds to raise the taxes later on, then it may not be prudent to reduce them temporarily.

The whole notion which we may reach of a temporary tax reduction, you will have to say, wait a minute, if we temporarily reduce them, we will need two-thirds to put them back up again. That seems to me to be a grave error. This is not only substantially a grave mistake, procedurally it is a complete and total botch.

Mr. SKAGGS. I appreciate the gentleman's insights into the way we will be confronted with this on April 15, assuming the leadership sticks to its intentions.

Mr. FRANK of Massachusetts. Sticking to their guns, they are very good at that. They stuck to their assault weapons last Friday. So I assume they will stick to their guns. They are very good at sticking to their gun owners.

Mr. SKAGGS. The gentleman has served on the Committee on the Judiciary how many terms?

Mr. FRANK of Massachusetts. This is my eighth term.

Mr. SKAGGS. Has there ever been a case before this Congress when the Committee on the Judiciary completely failed to mark up a constitutional amendment?

Mr. FRANK of Massachusetts. I do not remember one. I was told that when the equal rights amendment came before us, I do remember it came before us under a suspension of the rules. It was my impression that it had gone through the committee. It had certainly gone through the amendment previously.

I do not remember a constitutional amendment coming up that never went through the committee. You have to say, in defense of the Republican leadership, the bill to combat terrorism went through the Judiciary Committee, but after it went through the committee because the right wing in this Congress did not like it, it got totally changed before it came to the floor anyway. Similarly with the immigration bill, the Committee on the Judiciary voted out the immigration bill, but some people in the right wing did not like it so they changed it around. You people on judiciary, we are just being considerate. What is the point of you wasting your time engaging in a model U.N. here, having all these debates. We are going to do whatever we want on the floor anyhow.

But we are going to suffer in this case because with regard to tariffs, with regard to a flat tax, there are serious questions here. Apparently these serious questions are going to be resolved not through some open debate in committee with the press involved but through private conversations between Members of the Committee on the Judiciary, sponsors of the bill and members of the Committee on Ways and Means, a totally undemocratic procedure.

Mr. SKAGGS. Let me ask either the gentleman from Massachusetts or Virginia, one of the things that has been a regular topic of debate around here the last few months has been questions of corporate welfare, closing corporate tax loopholes. Will we be able to deal with that kind of proposal?

Mr. FRANK of Massachusetts. The gentleman has a perfectly appropriate question. Let me say, I do want to say to my friend from Colorado, it just struck me, when he mentioned we are from Virginia and Massachusetts, we represented the people who voted on the original Constitution. Colorado was not around to get involved in the original one, so the Republicans are being very generous by letting you in. But I think the Philadelphia convention had a little better set of procedures than the current group.

Any effort to close loopholes, any effort to diminish tax preferences that wealthy people now have, any effort to say, for instance, that the tax code encourages people to go overseas more than they should, the effort we had earlier to close the tax loophole on people who want to renounce their citizenship but retain their money, all of those would require two-thirds. As hard as it has been to deal with any of that loophole closing or excessive corporate luxury that we have done so far, going from a majority to two-thirds would make it infinitely harder.

Mr. SKAGGS. Does the gentleman from Virginia have thoughts on that topic?

Mr. MORAN. Just to underscore the point that the gentleman from Massachusetts [Mr. FRANK] made, we have had so many proposals that would have required an offset in the revenue code to do the right thing. In most cases people recommend ways to reduce taxes because that is what the public seems to prefer, obviously. But there have been several other measures that have been suggested by the Republican majority, such as phasing out much of the benefits of the earned income tax credit.

That was about $32 billion, a major component of the tax reduction and budget resolution proposal that the majority suggested. Yet that never could have even been on the table because it in effect is an income tax increase and in fact would have required a two-thirds vote, which never would have passed.

Mr. Speaker, obviously the situation where people renounce their citizenship so they can avoid taxes due, that would have amounted to $3.6 billion. That would never be on the table because obviously that is an income tax increase and obviously in conflict with this legislation. But we can go through virtually every significant tax proposal that has been made by both sides of this aisle and in some way violates the two-thirds income tax increase restrictions. What the measures that we mentioned earlier, the five major tax bills that have been enacted since 1980, every single one of them but one—actually one of them passed with two-thirds

of the vote, but none of the others would have passed—every single one of them would have been in violation of this two-thirds requirement.

Mr. Speaker, I mentioned to Mr. FRANK and Mr. SKAGGS earlier, sometimes we wonder why we need save them from themselves, but the point of this is that we all have an obligation to protect the Constitution.

We all have really an obligation to do some reading on the history of the Constitution to understand that this very issue was debated at length by the Founding Fathers when they realized that the requirement to have 9 out of the 13 original States, at that time they were not all States, they were commonwealths and the like, but to have 9 of the 13 States proved totally unworkable. The U.S. Government was not functioning, and so they went back to majority rule. They had their turn at that time to put in a constitutional provision making it more difficult to raise taxes. They deliberately chose after extensive debate not to do that. And for us now to treat the Constitution, as the gentleman from Colorado [Mr. SKAGGS] described as some kind of rough working draft, I think does a great disservice to the American people and to the future of this Nation.

Mr. Speaker, I know we have the most compelling arguments on our side. I cannot imagine why they would bring up this kind of legislation without debate. We are going to go on vacation for the next 2 weeks. That is why the gentleman from Colorado is bringing this up because we are not even going to have time to debate it. Yet they would bring it up and attempt to pass a constitutional amendment creating a totally unworkable situation.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for his participation.

Mr. FRANK of Massachusetts. Mr. Speaker, if the gentleman will continue to yield, we ought to emphasize, he may have already done this, when the gentleman from Virginia talks about the prior tax bills, many of those tax bills were listed as tax reductions and in gross they were. That is, several of them meant that the Government collected less taxes when we were through than when we started. Despite the fact that they were, several of them, listed as tax reductions, none of them would have been allowed without a two-thirds vote because tax reductions never in my experience are bills that only reduce. They reduce overall, but they offset the reductions by increasing in some areas.

Unless we believe that we have as equitable a Tax Code as we are ever going to get and that the balance of taxes should never be changed, then we should be against this amendment. This amendment means that any effort to shift the balance, any effort to say that there are some elements that are not doing a fair amount and there are others that are, we would have to take two-thirds to deal with that.

Mr. Speaker, what it shows is also a fundamental understanding, I believe, on the part of many in the majority that their ideological agenda is unpopular with the American people. That is what is at stake here. Increasingly we are being given proposals that limit what the majority can do. If we are in fact confident that the majority is on our side, then we do not try to limit them. But what we have are people who have found out, I think, that, while the general public disagreed with a lot of what the Government was doing, there is on the part of the public an unwillingness to dismantle the Federal Government as much as people on the other side think.

They were, as we know, surprised that, when they shut down the Government as a deliberate tactic on several occasions earlier this year, the public was upset. Many Republicans said nobody will care. Well, they were wrong. The American people cared deeply about their Government because their Government is doing things that on the whole they have asked it to do. They understand, therefore, that they are not going to win this increasingly on a majority situation. So what they are trying to do is fix the game, require two-thirds so that on those occasions when a majority disagrees with them and wants to do more in health care and environmental protection and in law enforcement than they want to do, they will not have to appeal to a majority. They will have this minority veto that they can inflict. That is what is at stake.

Mr. MORAN. Mr. Speaker, I would just like to make a point, too. When we look at the historical record and what is forcing this issue, I cannot really find anything other than purely appeasing those in our economy who simply do not like to pay taxes and that some Members would pander to and put their interests ahead of the national interest.

But the reality is that, if we look back at taxes as a percent of gross domestic product, in 1981, during the Reagan administration, they were 20.2 percent. In 1982, they were 19.8 percent, almost 20 percent, but they have stayed under 20 percent now since for the last 26 years. It is remarkable how consistent they have been.

Mr. Speaker, what needs to be done, it would seem to me, is to make that level of tax revenue fair, to make it such that it will stimulate our economy, to make it such that its priorities are representative of the American people's priorities. But to take away our ability to make those tough decisions, to exercise the judgment that we were elected to make just does not seem to be in the national interest or the interest of this body.

Mr. SKAGGS. Mr. Speaker, let me just say in concluding, I think there are a couple of things we can be sure of or at least we ought to allow to humble us. One is our inability to predict the future. Why in the world we would want to deprive our successors in the body of their ability to deal in the future with one of the most complicated and nuanced subjects that we ever face around here, namely the tax code, deprive them of their ability or make them basically the captive of 34 Senators and their inability to deal with that subject is beyond me.

In effect, we are saying to those that are going to come after us in this Congress, we do not care what the particular circumstances may be that you are going to face in 10 to 20 years. We simply do not trust the majority of you to exercise your judgment to carry out the will of the then-majority of American citizens. Our expectation is that you are going to be incompetent to do that, that you have got to have two-thirds.

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Mr. Speaker, that seems to me to be a very arrogant and presumptuous act for us to take. It also, as the gentleman from Virginia has pointed out, ignores our history, and one of the things that is for me most profound about the honor of serving here is our job as carrying the legacy of the brilliant people who drafted the Constitution and set up our system of Government and who did so because the supermajority requirements of the Articles of Confederation were wholly dysfunctional. They recognized that, for this Republic to survive, the fundamental principle of free Government absolutely had to be majority rule and that to cede that responsibility to the minority was a prescription for failure, which we ought to keep in mind as we deal with this amendment.

The gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Yes, I think that is exactly what is at stake here, but I think we have to give it some specific content.

The current Republican majority in Congress won the 1994 election, and they won it, they got more votes than we got. I think they won in part because of dissatisfaction with what the Government was doing. Many of them misunderstood that to mean opposition to the Government in general. It is possible to be critical of waste and excess and sloppiness and not believe the Government should get of the business.

And they have increasingly learned that now the public is far more supportive of environmental policies than many of the Republicans, not all, but many of the Republicans, understand. The public likes the notion of the Federal Government helping with college educations, helping with law enforcement, helping with medical care, and they have a dilemma. They have the dilemma of having a very ideological agenda which says, in the words of the majority leader, the Government is dumb and the markets are smart, and at a time when people are not so sure that the markets are fair, how do you prevent the public from having the Government play a more active role than they want ideologically?

That is their dilemma because the public is getting away from them and

not supporting these cutbacks, and it reminds me of my favorite musical, the musical ''Fiorello,'' and when he wins, and he was not supposed to win, the bosses are walking around very grumpily, and there is one set of lines in the song where they say, ''How did we know the people would go to the polls and elect a fanatic?'' And the other one says, ''The people can do what they want to, but I got a feeling it ain't democratic.''

Mr. Speaker, I think that is a dilemma that our friends have over there. They are afraid that what the people want to do to them ''ain't'' democratic and, therefore, they are going to restrict the ability of a majority of the American people, acting through their legislators, to decide 5 years from now, 10 years from now, 20 years from now that they would like the Government to play more of a role in this or that area, or that they would like the tax code to be fairer. They would like wealthier people to pay a higher percentage.

If we were to decide, for instance, that the Social Security payroll tax, which is a very regressive tax, unfairly burdens a lot of working people, and we want to alleviate that by changing the mix, we could not do that. If we wanted to say that wealthy people ought to pay more of their income toward the Social Security tax instead of having it cut off, we would need two-thirds, and what we have are people who, I would give them credit for perception, they understand that their very right-wing, ideological agenda is increasingly unpopular with a lot of people, and, therefore, while they still have something of a majority, they are going to try and change the rules so that that majority will not be able to work its will.

Mr. MORAN. Two words might be applicable here, and that is hypocrisy and cynicism. Certainly it is the height of hypocrisy to pass a rule at the beginning of a game, as we did on the very first legislative day of this session of Congress back in January 1995, when we passed a rule saying that three-fifths' vote would be required any time you raise taxes, and then every time that we have had a tax bill, the Committee on Rules has had to waive that exemption. Talk about hypocrisy; to get credit for passing a law, and then every time that it would apply, to waive it.

But then cynicism, and I think the term cynicism applies here because we do not have that ability to waive it if it becomes a constitutional amendment. But the Members on the other side have got to be thoughtful enough to know that this would be unworkable if it became a constitutional amendment. And so what is driving it?

Well, one would have to believe that it is a certain element of cynicism, knowing perhaps that they are not likely to be in office when it applies to subsequent Congresses or believing that better minds will prevail, that the Senate will kill it or that the American people in their State constitutional conventions will kill it, but somebody else will do the responsible thing, allowing them to do the cynical thing to get votes by voting for this constitutional amendment, believing and hoping that it will never become law.

Mr. FRANK of Massachusetts. Mr. Speaker, that is very reassuring because that gives us two chances to kill it: one with better minds; and, two, with the Senate as apparently an alternative line of defense there.

Mr. SKAGGS. Let me suggest that we take the words of James Madison as a benediction to this particular discussion, and just quoting from the last part of Federalist Paper No. 58, Madison on this very point wrote as follows:

''It has been said,'' this is referring to the debates in the Constitutional Convention about wanting more than a simple majority for certain kinds of legislation, quote, ''it has been said that more than a majority ought to have been required in particular cases for a decision.'' That some advantages might have resulted from such a precaution cannot be denied. It might have been an additional shield to some particular interests and another obstacle, generally, to hasty and partial measures. But these considerations are outweighed by the inconveniences in the opposite scale. In all cases where justice or the general good might require new laws to be passed or active measures to be pushed, the fundamental principle of free government would be reversed. It would no longer be the majority that would rule. The power would be transferred to the minority.

I do not think we should do that.

PROTECTING OUR ENVIRONMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized for 60 minutes as the designee of the majority leader.

Under the Speaker's announced policy of May 12, 1995, the gentleman from Georgia [Mr. NORWOOD] is recognized for 60 minutes as the designee of the majority leader.

Mr. NORWOOD. Mr. Speaker, the Federal Government has a vital role to play in protecting our environment. If we are to preserve and build on the tremendous gains we have made in the last two decades in cleaning up our land, air, and water, we must have Federal guidelines enforced by an active and revitalized Environmental Protection Agency working in close cooperation with our States and local governments.

Now that I have shattered your opinion of conservative Republican views on the environment, we can get down to nuts and bolts of how we accomplish the goals on which I think we all agree—for we are all environmentalists.

Thirty years ago many of our rivers were horribly polluted, our air quality in parts of the country was so bad that people with even minor health problems were confined to their homes, and soil and building contamination was to an extent that our children showed elevated levels of lead poisoning in nationwide blood tests. These problems led Republican President Richard Nixon to create the Environmental Protection Agency to clean up the country.

We have done a good job in getting started—but we still have a long way to go, and we can do better. That's what this new Congress should be about.

In the three decades since the creation of our environmental laws, we have seen what began as strong measures to protect our natural resources turn into a tidal wave of regulations and lawsuits that stifle our economy, usurp local and State autonomy, and infringe on the constitutional rights of property owners, while accomplishing very little in the way of real protection or cleanup.

This is generally what happens with every Federal agency or endeavor, given enough time. Because when we create laws and agencies to address a nationwide problem, we at the same time create a new industry comprised of Government bureaucrats; private sector consultants, experts, and contractors; specialized trial attorneys; and consumer activist groups.

All these groups have a powerful vested interest in seeing that the original nationwide problem is not only not solved, but continues to be an ever-growing problem, expanding their industry, careers, and incomes into perpetuity.

With groups like Ralph Nader's Citizen Action, the Energy Research Foundation, Greenpeace, and the like, we have created a cottage industry raising millions of dollars a year, that would be put out of business if we ever really solved our environmental problems.

The trial attorneys that have become emeshed in our cleanup efforts are costing us $900 million a year—money that could be used on actually cleaning up waste sites, but is instead siphoned away without a single shovelful of waste being touched in return.

The principles behind environmental legislation are good—the problem is how they are enforced and carried out. But to even suggest reform or change in the status quo is to invite the wrath of these special interests, and that is where we find ourselves today in searching for better ways to clean up our environment.

There is probably no better example of this than the ongoing effort to reform the Superfund Clean-Up Program. This program came into existence in 1980 with the noble goal of identifying and cleaning up the worse cases of site pollution and contamination in the country, called National Priorities List Sites, or NPL's. In addition, secondary pollution sites were identified as ''brownfield sites'' that also badly