Following ratification of term limits, politicians would no longer view Congress as a lifetime career. The era of constant campaigning and the short-sighted policy making that comes with it would come to an end. Incumbent advantages would be limited. Elections would become more competitive. Voters would have a wider electoral choice as more and more people run for office. Instead of making political choices to preserve their seats, Members would be more likely to make the tough choices necessary to preserve our Nation.

When our Founding Fathers wrote the Constitution, they limited Government by disbursing power between the branches of Government. Checks and balances were created to provide oversight amongst the branches, and to ensure that Government remained loyal to the people, all other powers were specifically reserved for the people.

Over 80 percent of Americans favor limiting congressional terms; 22 of 23 initiative States have passed term limits for their Federal delegations and the 23d State should pass term limits this year.

Despite this overwhelming support, this body has voted on term limits only three times this century. Even worse, term limits has never made it to the floor of the House of Representatives. I was responsible for initiating two of the three votes in the Senate. The first time we received 30 votes, the second time 39 voted with us.

It is now time for the whole of Congress to answer the call of the people. The success of grass roots groups is impressive but incomplete. Congress must act to bring term limits to the millions of Americans whose wishes for a citizen legislature have been ignored at the State level.

My amendment would impose term limits on all Members of Congress. Senators would be limited to serving no more than two consecutive 6-year terms and Representatives would be limited to six consecutive 2-year terms.

Only elections following the amendment's ratification would be counted, and appointments and special elections would be excluded from the limits.

Mr. President, it is time we return to the fundamental belief of our Founders—that holding public office is a public service, not a lifetime career.

Term limits will restore the competition, responsiveness, and diversity intended by the Framers of the Constitution and demanded by our constituents.●

ADDITIONAL COSPONSORS

S. 15

At the request of Mr. MOYNIHAN, the names of the Senator from Florida [Mr. GRAHAM] and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 15, a bill to provide that professional baseball teams and leagues composed of such teams shall be subject to the antitrust laws.

S. 38

At the request of Mr. HATCH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 38, a bill to amend the Violent Crime Control and Law Enforcement Act of 1994, and for other purposes.

S. 194

At the request of Mr. MCCAIN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 194, a bill to repeal the Medicare and Medicaid Coverage Data Bank, and for other purposes.

SENATE RESOLUTION 31

At the request of Mrs. BOXER, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Resolution 31, a resolution to express the sense of the Senate that the Attorney General should act immediately to protect reproductive health care clinics.

SENATE RESOLUTION 54—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 54

Resolved, That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period March 1, 1995, through February 29, 1996, under this resolution shall not exceed $4,343,438.00 of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period of March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $4,444,627.00 of which amount (1) not to exceed $40,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and not to exceed $1,000.00 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate, the payment of stationery supplies purchased through the Keeper of Stationery, U.S. Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, to be paid from Appropriations account for ''Expenses of Inquiries and Investigations.''

SENATE RESOLUTION 55—AUTHORIZING EXPENDITURES BY THE SPECIAL COMMITTEE ON AGING

Mr. COHEN (for himself and Mr. PRYOR) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 55

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Special Committee on Aging is authorized from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, in its discretion—

(1) to make expenditures from the contingent fund of the Senate,

(2) to employ personnel, and

(3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or nonreimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 1995, through February 29, 1996, under this resolution shall not exceed $1,046,685.

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $1,070,031.

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required—

(1) for the disbursement of salaries of employees paid at an annual rate,

(2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate,

(3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate,

(4) for payments to the Postmaster, United States Senate,

(5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or

(6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 29, 1996, and March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations.''.

● Mr. COHEN. Mr. President, today on behalf of myself and Senator PRYOR I am submitting a resolution to authorize funding for the Senate Special Committee on Aging for the period of March 1, 1995, through February 28, 1997.

This resolution makes a technical change in the amounts requested for committee operations from the funding resolution we introduced last week. The amounts contained in this resolution fully comply with the guidance issued by the rules Committee that directed each Senate committee to reduce its committee expenditures by 15 percent below the committee's budget authorization for 1994, plus approved cost of living adjustments.●

SENATE RESOLUTION 56—ORIGINAL RESOLUTION REPORTED AUTHORIZING EXPENDITURES BY THE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. PRESSLER, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on Rules and Administration:

S. RES. 56

Resolved, That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Commerce, Science, and Transportation is authorized from March 1, 1995, through February 29, 1996, and from March 1, 1996, through February 28, 1997, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. The expenses of the committee for the period from March 1, 1995, through February 29, 1996, under this resolution shall not exceed $3,369,312, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period March 1, 1996, through February 28, 1997, expenses of the committee under this resolution shall not exceed $3,445,845, of which amount (1) not to exceed $14,572 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $15,600 may be expended for the training of the professional staff of such committee under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 29, 1996, and February 28, 1997, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee, except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 1995, through February 28, 1996, and from March 1, 1996, through February 28, 1997, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

SENATE RESOLUTION 57—MAKING MAJORITY PARTY APPOINTMENTS

Mr. LOTT (for Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 57

Resolved, That the following shall constitute the majority party's membership on the following Senate committees for the 104th Congress, or until their successors are appointed:

Small Business: Mr. Bond (Chairman), Mr. Pressler, Mr. Burns, Mr. Coverdell, Mr. Kempthorne, Mr. Bennett, Mrs. Hutchison, Mr. Warner, Mr. Frist, and Ms. Snowe.

Aging: Mr. Cohen (Chairman), Mr. Pressler, Mr. Grassley, Mr. Simpson, Mr. Jeffords, Mr. Craig, Mr. Burns, Mr. Shelby, Mr. Santorum, and Mr. Thompson.

SENATE RESOLUTION 58—RELATIVE TO JOINT COMMITTEES

Mr. LOTT (for Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 58

Resolved, That the following-named Members be, and they are hereby, elected members of the following joint committees of Congress:

Joint Committee on Printing: Ted Stevens, Mark O. Hatfield, Thad Cochran, Wendell H. Ford, and Daniel K. Inouye.

Joint Committee on the Library of Congress: Mark O. Hatfield, Ted Stevens, Thad Cochran, Claiborne Pell, and Daniel P. Moynihan.

SENATE RESOLUTION 59—TO AUTHORIZE THE PRINTING OF A COLLECTION OF THE RULES OF THE COMMITTEES OF THE SENATE

Mr. LOTT (for Mr. STEVENS) submitted the following resolution; which was considered and agreed to:

S. RES. 59

Resolved, That a collection of the rules of the committees of the Senate, together with related materials, be printed as a Senate document, and that there be printed 600 additional copies of such document for the use of the Committee on Rules and Administration.

SENATE RESOLUTION 60—RELATIVE TO THE LINE-ITEM VETO

Mr. SPECTER submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 60

Whereas Federal spending and the Federal budget deficit have reached unreasonable and insupportable levels;

Whereas a line-item veto would enable the President to eliminate wasteful pork-barrel spending from the Federal budget and curb the deficit before considering cuts in important programs;

Whereas evidence may suggest that the Framers of the Constitution intended that the President have the authority to exercise the line-item veto;

Whereas scholars who have studied the matter are not unanimous on the question of whether the President currently has the authority to exercise the line-item veto;

Whereas there has never been a definitive judicial ruling that the President does not have the authority to exercise the line-item veto;

Whereas some scholars who have studied the question agree that a definitive judicial determination on the issue of whether the President currently has the authority to exercise the line-item veto may be warranted: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality.

Mr. SPECTER. Mr. President, earlier today the Constitutional Law Subcommittee of the Judiciary Committee had hearings scheduled on the line-item veto, and regrettably those hearings were not held because an objection was lodged under the rule which prohibits committee hearings from going forward or subcommittee hearings from going forward if they are in process more than 2 hours after the U.S. Senate commences its business.

I thought it was unfortunate that the hearings were canceled on that ground because a great many witnesses had come, and some from far distances, such as the distinguished Governor of Wisconsin, Gov. Tommy Thompson, to testify about this very important measure.

Mr. President, as the CONGRESSIONAL RECORD will show, this Senator has

long supported the line-item veto. That is a provision which would give the President of the United States the authority to strike a given line of expenditure without vetoing the entire bill.

There was a very dramatic presentation made by President Reagan a few years ago when the Congress submitted to the President a continuing resolution which was all 13 of the appropriations bills. And it was an enormous pile, about 20 or 24 inches in size. President Reagan at his State of the Union speech was expressing his concern that, instead of sending 13 individual appropriations bills which the President might approve or veto one at a time, this continuing resolution had been sent, so that it was not even the line-item veto but it was a circumstance where the President had this massive legislation.

He had the bill precariously positioned on the edge of the podium, and I became somewhat concerned that it was going to fall. Then after 1 minute or 2, I realized that it was President Reagan's method—perhaps you might call it a theatrical method—to underscore the volume and size of the bill. And I think the people watching around the country on national television were concerned that the bill might fall as well.

That was a very dramatic way of depicting the problem the President faces with a continuing resolution with some 13 appropriations bills. But the same principle applies to a single bill. I believe that it is very much in the national interest so that the President would have the authority to strike an individual item one by one without vetoing the entire bill.

It is my view, Mr. President, that the President of the United States possesses constitutional authority under existing law to exercise the line-item veto. That proposition has been supported by very intensive local research which my staff and I have undertaken, and also by very extensive research which has been undertaken by distinguished leading scholars, including Professor McDonald, who has written extensively on this subject.

The constitutional approach that the Constitution currently gives the President the line-item veto arises from the fact that clause 3 of article I, section 7, of the U.S. Constitution is an exact copy of the Massachusetts Constitution. The Massachusetts Constitution was enacted substantially before the U.S. Constitution. It goes back to the Massachusetts fundamental charter of 1733, and was implemented specifically to give the royal governor a check on the unbridled spending of the colonial legislature.

Professor McDonald points out that at the time of the Constitution's ratification process anti-Federalist pamphleteers opposed the U.S. constitutional provision because it ''made too strong a line-item veto in the hands of the President.'' Federalists, on the other hand, saw this clause, clause 3, and the power to veto individual items of appropriations, as an important executive privilege.

James Bowdoin, the Federal Governor of Massachusetts, argued that the veto power conferred upon the President in the Federal Constitution was to be read in light of the Massachusetts experience which did give the U.S. President the line-item veto. In the Federalist Paper No. 69, Alexander Hamilton, a member of the Constitutional Convention, who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto gave power which ''tallies exactly with the revisionary authority of the council of revision'' in New York, which according to Professor McDonald had the power to revise appropriation bills and in effect exercise the line-item veto.

Without going into great detail—and I will put in the RECORD a statement which will amplify this—in the early days of the Republic the President did in effect exercise the line-item veto. President Washington and Treasury Secretary Hamilton acted upon the authority to shift appropriated funds from one account to another.

And Thomas Jefferson as President also embraced that practice and on at least two occasions refused to spend money that the Congress had appropriated. President Andrew Jackson declined to enforce provisions of a constitutional enactment, in effect exercising the line item veto, and similarly in 1842, President John Tyler signed a bill which he refused to execute in full—there again, really exercising the line-item veto. It was not until after the Civil War that the President assumed that he did not have the individual line-item veto when President Grant urged Congress to grant him such authority.

Mr. President, that is an abbreviated statement of the reasoning that there is constitutional authority presently for the President of the United States to exercise the line-item veto. I had occasion to discuss this matter with President Bush when he was in office on a long plane ride, and the President said that his lawyer told him he did not have the power to line-item veto. I suggested, perhaps somewhat cavalierly, that perhaps he should change lawyers. I quickly suggested that President Bush not tell the bar association because I might want to practice law again some day.

In 1993, I had occasion to travel with President Clinton to western Pennsylvania and discussed with him the issue of the line item veto, and upon my saying to President Clinton that he had the authority to exercise the line-item veto, he asked me to send him a memorandum on the subject, which I did.

I think it useful at the conclusion of my presentation to include that memorandum together with the letters I sent to President Clinton and his reply to me on the subject.

I am introducing, Mr. President, two resolutions, so that the Judiciary Committee will have these resolutions before them when they next have deliberation on the line-item veto. We had a Judiciary Committee hearing last year on a resolution which I had introduced, which would propose:

> The Constitution grants to the President the authority to veto individual items of appropriation and the President to exercise that constitutional authority to veto individual items of appropriation without awaiting the enactment of additional authorization.

When that matter was pending before the constitutional law subcommittee, there was considerable sentiment among other Members that that might have gone a little farther than they wanted to go. But they were prepared to vote out a resolution which would say that there was at least sufficient authority so that the President should exercise the line-item veto. I am introducing the first resolution again which was before the 103d Congress, and then the second resolution which would provide that it is the sense of the Senate that the President should exercise the line-item veto without awaiting the enactment of additional authorization for the purpose of obtaining a judicial determination of its constitutionality.

In my opinion, Mr. President, the line-item veto is very, very important and ought to be exercised now. I think anyone who is President ought to move forward because of the legal authority that the President currently has that authority. But at a very minimum, there is sufficient legal authority for the law to be submitted for a judicial test.

Mr. President, I have long supported a line-item veto for the President, I have proposed constitutional amendments to grant the President such authority, and I have supported statutory enhanced rescission authority.

As these measures have failed, after extensive legal research and analysis, I now urge the President to exercise the line-item veto without further legislative action. I do so because I believe, after a careful review of the historical record, that the President already has the authority under the Constitution to veto individual items of appropriation in an appropriations bill and that neither an amendment to the Constitution nor legislation granting enhanced rescission authority is necessary.

The line-item veto would be effective in helping to reduce the huge deficit that now burdens our country. While alone it is no panacea, its use would enable the President to veto specific items of appropriation in large spending bills, thereby restraining some of the pork-barrel or purely local projects that creep into every appropriations bill. With the broad national interest rather than purely local concerns at work, the President's use of the line-item veto would cut significant amounts of this type of spending.

The line-item veto would also have a salutary effect on Members of Congress. Knowing that their attempts to insert items into appropriations bills will be subjected to presidential scrutiny, Members are likely to become more reluctant to seek special favors for the home district at the expense of the Nation at large. While such discretionary programs and earmarks do not account for a large part of Federal spending, getting control over them will improve the authorization and appropriations process. The President could use the veto to eliminate funding for unauthorized programs. Such a message would motivate Congress to reauthorize programs with regularity, improving our oversight and the effectiveness of the Government.

The line-item veto is not a partisan issue. It is a good Government issue. Many Democrats support the line-item veto; some Republicans oppose it. As a candidate in 1992, Bill Clinton firmly embraced the line-item veto. As President, he has the opportunity to make effective use of it to help control in some small measure the deficits we accumulate. By exercising this option, the President can provide a check on unfettered spending and carve away many of the pork-barrel projects contained in both versions of the budget that serve primarily private, not national interests.

Beyond the specific savings, the presence and use of the line-item veto by the President could give the public assurances that tax dollars were not being wasted. Each year the media report many instances of congressional expenditures which border, if in fact they do not pass, the frivolous. Those expenditures are made because of the impracticality of having the President veto an entire appropriations bill or sometimes a continuing resolution. That creates a general impression that public funds are routinely wasted by the Congress.

The line-item veto could eliminate such waste and help to dispel that notion. The resentment to taxes is obviously much less when the public does not feel the moneys are being wasted. Notwithstanding the so called taxpayers' revolts in some States, there is still a willingness by the citizenry to approve taxes for specific items where the taxpayers believe the funds are being spent for a useful purpose. The line-item veto could be a significant factor in improving such public confidence in governmental spending even beyond the specific savings.

I now turn to the basis for my position that the President already has authority under the Constitution to exercise the line-item veto, without a need for additional constitutional or statutory legislation.

The constitutional basis for the President's exercise of a line-item veto is found in article I, section 7, clause 3 of the Constitution. Clause 2 of article I, section 7 provides the executive the authority to veto bills in their entirety. The question of conferring on the President the power to veto specific items within a bill appears not to have been discussed at the Constitutional Convention. During the drafting of the Constitution, however, James Madison expressed his concern that Congress might try to get around the President's veto power by labeling bills by some other term. In response to Madison's concern, Edmund Randolph proposed and the Convention adopted the third clause of article I, section 7, whose language was taken directly from a provision of the Massachusetts Constitution of 1780.

Clause 3 of article I, section 7 provides that in addition to bills—the veto of which is set forth in clause 2:

> Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the case of a Bill.

While the clause does not explicitly set out the executive authority to veto individual items of appropriation, the context and practice are evidence that that was its purpose. According to noted historian Prof. Forrest McDonald of the University of Alabama, the clause was taken directly from a provision of the Massachusetts Constitution of 1780. In his article entitled ''The Framers' Conception of the Veto Power,'' published in the monograph, ''Pork Barrels and Principles: The Politics of the Presidential Veto'' 1–7 (1988), Professor McDonald explains that this provision dates back to the State's fundamental charter of 1733 and was implemented specifically to give the royal Governor a check on the unbridled spending of the colonial legislature, which had put the colony in serious debt by avoiding the Governor's veto power by appropriating money through ''votes'' rather than through legislation.

Professor McDonald also points out that at the time of the Constitution's ratification process, anti-Federalist pamphleteers opposed the proposed Constitution and in particular clause 3 of article I, section 7, precisely because it ''made too strong a line-item veto in the hands of the President.''

Federalists, on the other hand, saw clause 3 and the power to veto individual items of appropriation as an important executive privilege—one that was essential in assuring fiscal responsibility while also comporting with the delicate balance of power they were seeking to achieve. For example, during his State's ratifying convention, James Bowdoin, the Federalist Governor of Massachusetts, argued that the veto power conferred to the President in the Federal Constitution was to be read in light of the Massachusetts experience under which, as I have already noted, the Governor had enjoyed the right to veto or reduce by line-item since 1733.

In the Federalist No. 69, Alexander Hamilton, a member of the Constitutional Convention who was soon to become the first Secretary of the Treasury, wrote that the constitutional veto power ''tallies exactly with the revisionary authority of the council of revision'' in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely accept or reject legislative enactments in their entirety. This power was not unique to New York, as the Governors of Massachusetts, Georgia, and Vermont—soon to be the first new State admitted to the new union—also enjoyed revisionary authority over legislative appropriations.

As many of my colleagues know, our distinguished colleague from West Virginia, the chairman of the Appropriations Committee, has made a series of speeches on the Senate floor drawing on his vast knowledge about the historical underpinnings of our republican form of government and on the Framers' rationale for the checks and balances they created. His review of Roman history is apt, because, as he knows, the Framers were acutely aware of Roman history. This awareness helped them develop their government of limited powers and of checks and balances. The Framers knew that the vice of faction, the desire to pursue one's private interest at the expense of the public interest, had helped bring on the downfall of the Roman Republic. Madison and others were convinced that by diffusing power and balancing it off in different branches of government, we might avoid to the fullest extent possible, the defects of faction.

In another sense, however, the distinguished chairman of the Appropriations Committee, overlooks the fundamental differences between Rome's ancient government and ours. In ours, the people have a direct say. In Rome's the male citizens had a limited, indirect say, but mostly the ruling class was hereditary or was based on wealth. We have a democracy; Rome did not.

This fundamental difference between our Nation and ancient Rome means that there are more factions with which our Government must contend. With so many different factions, or ''interest groups'' as we call them today, it is much easier for one of them to capture a single Member of Congress to advance its cause and to fund it. Each Representative has a much narrower focus than a Senator, each of whom has a much narrower focus than the President. Thus, Congress is more susceptible to pressure from factions, as one Member who wants a favor for a particular faction trades his or her support for another Member's preferred faction. We all know that this appropriations log-rolling occurs. Ultimately, the President is presented with one large spending bill, much of which reflects the political horse-trading that occurs.

The line-item veto sheds light on the power of private interests that seek to use the appropriations process for their own private benefit. By excising line items and making Congress vote on them individually in an effort to override the veto, the President can shed light directly on these private interests and force Members to be more accountable to their constituents by voting on the projects identified by the President as unnecessary and wasteful.

Some, like the distinguished chairman of the Appropriations Committee, contend that the line-item veto would result in an intolerable shift of power from Congress to the Executive. To this argument, I have two responses. The first is that, as I believe I show, the Framers of the Constitution intended that the President have the authority to veto individual items of appropriations. Thus, in their concept, the line-item veto does not offend the balance of powers.

The second response is related to the entire structure of the Government. The Constitution places the power of the purse in the hands of Congress. It is a peculiarly legislative function to decide how much money to spend and how to allocate these expenditures. In this regard, however, spending is no different than any other legislative function. Thus, there is no reason to consider the line-item veto any more of an infringement of the separation of powers than the President's ability to veto bills at all. Hamilton recognized the structural importance of the veto in the Federalist 73, when he wrote that the veto provides ''an additional security against the enaction of improper laws * * * to guard the community against the effects of faction, precipitancy, or of any impulse unfriendly to the public good, which may happen to influence a majority of [the legislative] body'' from time to time. The Framers were acutely aware that it is the legislative branch that is most susceptible to factional influence. Thus, they understood that the veto served a critical role.

But, opponents of the line-item veto argue, Hamilton's point went to bills as a whole, and not simply pieces of them. The legislative process necessarily relies on horse-trading to get things done, and nowhere is such trading more important than in the appropriations process. This response, while acknowledging the reality, is an answer that directly contradicts the Framers' intent and leads to bad government, for it accepts the premise that factions and the prominent Members of Congress who support their causes must be bought off with goodies in appropriations bills. But that is precisely the evil that the Framers sought to insulate against with the veto.

Given the role of factions in the appropriation process, the use of the line-item veto is completely consistent with the Framers' conception of the veto power. Indeed, that is not surprising, as the Framers believed they had granted the President a line-item veto. Despite the arguments of the distinguished chairman of the Appropriations Committee to the contrary, the line-item veto was not only intended by the Framers but is an appropriate limitation on congressional authority to combat the force of faction.

This process would not surprise the Framers of the Constitution. Madison and the others who met in Philadelphia in 1787 were not just knowledgeable about history. They were practical men of affairs and politics who understood human nature. They knew the dangers of faction and the likelihood that faction would influence Congress more so than the President, who is responsible to the entire Nation, not a single district or State.

Thus, it is only to be expected that the Framers provided Congress with the power to appropriate funds, tempered with executive authority to line-item veto as a means of expunging special interest spending was their resolution, and history bears this out. The line-item veto is entirely consistent with the Framers' conception of government and the dangers of faction.

Shortly after the new Federal Constitution was ratified, several States, including Georgia, Vermont, Kentucky, and my home State of Pennsylvania, rewrote their constitutions to conform with the Federal one and specifically incorporated language to give to their executives the authority to exercise a line-item veto. These States were in addition to the States like Massachusetts and New York, where the Governor's power to revise items of appropriation was well-established. For example, article II, section 10 of the Georgia Constitution of 1789 gave the Governor the power of ''revision of all bills'' subject to a two-thirds vote of the general assembly. Section 16 of chapter II of the Vermont Constitution of 1793 vested in the Governor and council the right to revise legislation or to propose amendments to the legislature, which would have to adopt the proposed amendments if the bill were to be enacted. Article I of the Kentucky Constitution of 1792 and section 23 of article I of the Pennsylvania Constitution of 1790 tracked the language of article I, section 7, clause 3 of the new U.S. Constitution.

The chief executives of both the State and new Federal governments immediately employed the line-item veto. On the national level, the early practice was one in which the President viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary Hamilton assumed the authority to shift appropriated funds from one account to another. Although his party had at one time opposed such transfers, once he became President, Republican Thomas Jefferson also embraced the practice, and at least on two occasions, he refused to spend money that the Congress had appropriated.

The practice continued. As late as 1830, President Andrew Jackson declined to enforce provisions of a congressional enactment. Likewise in 1842, President John Tyler signed a bill that he refused to excute in full. It was not until after the Civil War that a President assumed he did not already have the authority to veto individual items of appropriation, when President Grant urged the Congress to grant him such authority.

But President Grant's view was anomalous. The Framers' understanding and their original intent was that the Constitution did provide the authority to veto or impound specific items of appropriation. The States understood that to be the case, and many in fact embraced the Federal model as a means of providing their own executives this same authority.

I believe that the evidence strongly supports the position that under the Constitution the President has the authority to employ the line-item veto. At the very least, the President's use of the line-item veto will almost certainly engender a court challenge if the veto is not overridden. The courts will then decide whether the Constitution authorizes the line-item veto. If they find it does, then the matter will be settled. If they find it does not, then Congress may revisit the issue and decide whether to amend the Constitution or grant statutory enhanced rescission authority to the President.

In conclusion, I urge the President to employ the line-item veto if he is seriously committed to deficit reduction. As I have argued here today, the authority to exercise this power is not dependent on the adoption of a constitutional amendment or any additional legislation; it already exists. The Framers' intent and the historical practice of the first Presidents serve as ample evidence that the Constitution confers to the Executive the authority to line-item veto. Given President Clinton's use of the line-item veto as Governor and his support of it as a candidate, I urge him to act on that authority consistent with his rightful power to do so.

Mr. President, with these documents in the RECORD, there will be a reasonably full explanation of the legal basis for the line-item veto and the two resolutions which I am submitting for consideration of the Senate and which will be on the record when the Judiciary Committee next holds its hearing on this subject.

I thank my colleagues for the time I have taken.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

MEMORANDUM

Re Presidential authority to exercise a line-item veto

The President currently enjoys the authority under the Constitution to exercise a line-

item veto without any additional constitutional or statutory authority. The consistutional basis for the President's exercise of a line-item veto is to be found in article I, section 7, clause 3 of the Constitution.

The first article of the Constitution vests legislative authority in the two Houses of Congress established thereunder. Clause 2 of section 7 of the first article provides the presidential authority and procedure to veto ''bills.'' This is the basis for the President's clearly established authority to veto legislation. The provision also established the procedure under which Congress may override the President's veto.

The question of conferring authority on the President to veto specific items within a bill was not discussed at the Constitutional Convention. During the drafting of the Constitution in 1787, however, James Madison noted in his subsequently published diary that he had expressed his concern that Congress might try to get around the President's veto power by labeling ''bills'' by some other term. In response to Madison's concern and in order to guard the President's veto authority from encroachment or being undermined and preserve the careful balance of power it sought to establish, Edmund Randolph of Virigina proposed and the Convention adopted language from the Massachusetts Constitution which became article I, section 7, clause 3.

This clause requires that in addition to bills:

''Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill [these being set forth in article I, section 7, clause 2].''

In combination with the preceding clause 2 of section 7, this third clause gives the President the authority to veto any legislative adoption of Congress, subject to congressional override.

The historical context of its adoption supports the position that clauses 3 vests the President with authority to veto individual items of appropriation.

According to the noted historian Professor Forrest McDonald in his paper ''The Framers' Conception of the Veto Power,'' published in ''Pork Barrels and Principles: The Politics of the Presidential Veto'' 1–7 (1988), clause 3 was taken directly from a provision of the Massachusetts Constitution of 1780. This provision set in the State's fundamental charter Massachusetts law dating to 1733 first implemented to give the Royal Governor a check on unbridled spending by the colonial legislature, which had put the colony in serious debt by avoiding the governor's veto power by appropriating money through ''votes'' rather than legislation. Professor McDonald has also noted in an oped article published in the Wall Street Journal, that the agents of the King of England could disapprove or alter colonial legislative enactments ''in any part thereof.''

Discussion and debate at the Constitutional Convention over the meaning of clause 3 was scant. In his notes of the proceedings of the Convention, our main source for the intent of the Framers of our fundamental Charter, Madison noted only that Roger Sherman of Connecticut ''thought [article I, section 7, clause 3] unnecessary, except as to votes taking money out of the Treasury.'' No other member of the Convention appears to have discussed the clause. Sherman's comment was important, as it demonstrates the context in which the Framers saw the newly added provision: it was needed only insofar as it pertained to votes appropriating money from the Treasury. Perhaps discussion was so scant because the meaning of the clause was clear to the Framers.

In his 1988 article, Professor McDonald notes that two Anti-Federalist pamphleteers opposed the proposed Constitution in part because article I, section 7, clause 3 ''made too strong a line-item veto in the hands of the President.'' The Federalist Governor of Massachusetts, James Bowdoin, argued during the Massachusetts ratifying convention that the veto power was to be read in light of the Massachusetts experience in which, as noted, the lint-item veto was exercised by the governor. In ''The Federalist'' No. 69, Alexander Hamilton wrote that the constitutional veto power ''tallies exactly with the revisionary authority of the council of revision'' in New York, which, according to Professor McDonald, had the power to revise appropriations bills, not merely turn down the entire legislative enactment. Massachusetts, Georgia, and Vermont also gave their executives revisionary authority over legislative appropriations.

Roger Sherman's comment was prescient, as he focused on the issue confronting us over 200 hundred years later. The language of clause 3 has proven to be redundant, as Congress has not attempted to avoid the strictures of the second clause. But clause 3 is not superfluous as regards, in Sherman's language, ''votes taking money out of the Treasury.'' In order to give effect to this provision, the President must have the authority to separate out different items from a single appropriation bill and veto one or more of those individual items.

This reading is consistent with the early national practice, under which Presidents viewed appropriations as permissive rather than mandatory. President Washington and his Treasury Secretary, Alexander Hamilton, assumed that the President had the authority to shift appropriated funds from one account to another. The former Anti-Federalists, having become the Republican party, objected to these transfers. Once a Republican, Thomas Jefferson, became President, however, he too considered appropriations bills to be permissive and refused on at least two occasions to spend money that had been appropriated by Congress.

Professor McDonald points out in his 1988 article that shortly after the new Federal Constitution was ratified, several of the States rewrote their constitutions to conform their basic charters to the new Federal one. The contemporaneous experience of these States is highly relevant to the Framers' understanding of the text they had devised. Several States adopted new constitutions in 1789 or the early 1790's. Of these, Georgia and Pennsylvania, and the new States of Vermont and Kentucky all adopted constitutions that included the phrasing of article I, section 7 to enable their governors to exercise the line-item veto.

According to a 1984 report of the Committee on the Budget of the House of Representatives, ''The Line-Item Veto: An Appraisal,'' the practice at the national level of the President's exercise of a line-item veto continued. President Andrew Jackson declined, over congressional objection, to enforce provisions of a congressional enactment in 1830. In 1842, President John Tyler signed a bill that he refused to execute in full. Instead, he advised Congress that he had deposited with the Secretary of State ''an exposition of my reasons for giving [the bill] my sanction.'' Congress issued a report challenging the legality of the President's action.

Professor McDonald noted that between 1844 and 1859, three northern States, responding to fiscal problems, adopted constitutions explicitly providing their governors with power to veto individual items of appropriation. Building on this history, the provisional Constitution of the Confederate States of America also made explicit that the President of the Confederacy had line-item veto authority.

It was only after the Civil War that President Grant suggested that he did not already enjoy the authority to veto individual items of appropriation and other specific riders to legislation and urged that he be granted such authority. President Grant's position that he did not enjoy a line-item veto under the Constitution was directly contradictory to the original understanding of the Constitution, a position endorsed by Presidents Washington, Jefferson, Jackson, and Tyler through usage. It ignored the original understanding of the Framers of the Constitution and the historical context in which that document was drafted. Proposals for a Federal line-item veto have been made intermittently since the Grant Administration.

An alternative argument based on the language of article I, section 7, clause 2, but consistent with the original understanding of the veto power, has also been made to support the President's exercise of a line-item veto. In discussing why the issue of a line-item veto was not raised during the Constitutional Convention, Professor Russell Ross of the University of Iowa and former United States Representative Fred Schwengel wrote in an article ''An Item Veto for the President?'' 12 Presidential Studies Quarterly 66 (1982), ''[i]t is at least possible that this subject was not raised because those attending the Convention gave the term 'bill' a much narrower construction than has since been applied to the term. It may have been envisioned that a bill would be concerned with only one specific subject and that subject would be clearly stated in the title.''

Professor Ross and Mr. Schwengel quote at length the former Chairman of the House Judiciary Committee, Hatton W. Sumners, who defended this view in a 1937 letter to the Speaker of the House that was reprinted in the Congressional Record on February 27, 1942. Chairman Sumners was of the view that the term ''bill'' as used in clause 2 of section 7 of the first article was intended to be applied narrowly to refer to ''items which might have been the subject matter of separate bills.'' This reading he thought most consistent with the purpose and plan of the Constitution. Thus, Chairman Sumners believed that clause 2, as originally intended, could also be relied upon to vest line-item veto authority in the President.

Chairman Sumners' reading is also consistent with the practice in some of the colonies. Professor McDonald cites to the Maryland constitution of 1776, which expressly provided that any enacted bill could have only one subject. Several other States followed Maryland during the succeeding decades and limited legislative enactments to a single subject.

A review of the contemporary understanding of the veto provisions of the Constitution when drafted supports the view that the President currently enjoys line-item veto authority, which several Presidents have exercised.