

the provision by the United States of one scintilla more than is called for in the agreed framework without substantial concessions from the DPRK; nor will I accept any diminution of the central role that has been set out for the ROK. South Korea is making a huge contribution to implementing the agreement, and it is their national interest that is clearly most at stake. To accede to any demands by the DPRK in this regard is to assist it in its ongoing attempts to increase the United States-DPRK relationship at the expense of any North-South dialog.

Mr. President, I trust that the administration will resist this latest round of inane demands, and refrain from allowing the DPRK to use this issue to turn us into a cash cow. My subcommittee will be watching this area closely to ensure that it does so. I intend to hold a regular series of hearings to afford the administration the opportunity to keep us up to date on developments in this area.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The bill clerk read as follows:

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

The Senate resumed consideration of the joint resolution.

Pending:

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

Mr. HATCH. Mr. President, the problems I have already outlined in this debate are not the only objections I have to the proposed exemption. The attempt to insert a reference to a mere statute into the Constitution raises serious questions of constitutional and legal policy which argue against including such a reference.

This amendment exemption proposes to take particular statutes of the United States and graft them onto the Constitution of the United States. This is unprecedented. It may have the effect of giving future statutory enactments constitutional significance. In other words, this amendment seems to establish a sort of quasi-constitutional device whereby Congress and the President—or Congress alone if it overrides a Presidential veto—can do something of constitutional significance by enacting a mere statute.

This amendment would exclude from the general definitions of receipts and outlays in the balanced budget amend-

ment the receipts and outlays of the Federal old-age and survivors insurance [OASI] trust fund and the Federal disability insurance (DI) trust fund.

This amendment would constitutionalize the OASI and DI trust funds on the date of enactment and forever thereafter, however amended. This is no small point.

The entire Social Security Act has been amended hundreds of times. The key section that establishes the old age survivors insurance trust fund and the disability insurance trust fund, or title II of the Social Security Act, has been amended over 20 times, or about once every 3 years. The pace of amendment has increased in recent years. Twelve of these amendments have been made since 1980, or almost once per year.

This amendment is not restricted. There is no limit on the subject matter of future amendments. It will constitutionalize every program or policy that future Congresses add to title II, whether or not related to the original purposes of those trust funds.

Of course, the pace of amendments to title II will likely increase rapidly because this amendment provides an incentive for adding extraneous items: Once in title II, the additional receipts and outlays will be off budget and exempt from the strictures of the balanced budget rule.

Under this amendment, future amendments to title II may have constitutional significance. If this provision were added to the constitution, any amendment to title II, no matter how narrow or minute, would have some constitutional significance.

For example, section 201 of the Social Security Act was most recently amended on October 22 of last year by section 3(a) of the Social Security Domestic Employment Reform Act of 1994. Had the provision offered today been in the Constitution at that time, the language on this chart would have had some kind of constitutional significance. Just look at it:

Sec. 3(a) ALLOCATION WITH RESPECT TO WAGES.—Section 201(b)(1) of the Social Security Act (42 U.S.C. 401(b)(1)) is amended by striking “(O) 1.20 per centum” and all that follows through “December 31, 1999, and so reported,” and insert “(O) 1.20 per centum of the wages (as so defined) paid after December 31, 1989, and before January 1, 1994, and so reported, (P) 1.88 per centum of the wages (as so defined) paid after December 31, 1993, and before January 1, 1997, and so reported, (Q) 1.70 per centum of the wages (as so defined) paid after December 31, 1996, and before January 1, 2000, and so reported, and (R) 1.80 per centum of the wages (as so defined) paid after December 31, 1999, and so reported.”.—P.L. 103-387, §3(a), 108 Stat. 4074-75, Oct. 22, 1994.

Could you imagine what that would mean to the Constitution?

This is not the sort of soaring language proclaiming broad and timeless principles we usually associate with the Constitution. But it is the kind of language that will be given at least quasi-constitutional status by this proffered amendment by those who are offering it. I would think anyone who

reverses the Constitution would want to avoid cluttering up the Constitution and the constitutional order by adopting this amendment and giving such legislative language some new para-constitutional status.

The language of the Reid amendment, like the slogans surrounding it, may look or sound simple, but it has extraordinarily complex implications. The amendment is short because it uses titles, but using simple labels does not simplify the legal ramifications.

This amendment refers to the Federal old-age and survivors insurance trust fund and the Federal disability insurance trust fund, but they, together with their legislative histories, take up some 300 pages in the United States Code. You can find it at title 42, United States Code sections 401-433. I am citing the 1988 edition and supplement V of 1993. There are also volumes of relevant judicial opinions and agency rules and adjudications which could be affected. This amendment's implications are a little clearer if restated with elaboration, as shown on this chart.

Again, is this the kind of constitutional language we want to put in the Constitution?

Look at this next chart:

The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund—

By the way, those are the receipts and outlays mentioned in the Reid amendment.

and the Federal Disability Insurance Trust Fund [comprising Title II of the Social Security Act, 42 U.S.C. Sec. 401(a)-(m), Sec. 402(a)-(x), Sec. 403(a)-(1), Sec. 404(a)-(e), Sec. 405(a)-(r), Sec. 405a, Sec. 406, Sec. 407, Sec. 408, Sec. 409, Sec. 410(a)-(q), Sec. 411(a)-(i), Sec. 412, Sec. 413(a)-(d), Sec. 414(a)-(b), Sec. 415(a)-(i), Sec. 416(a)-(l), Sec. 417(a)-(h), Sec. 418(a)-(n), Sec. 420, Sec. 421(a)-(k), Sec. 422(a)-(d), Sec. 423(a)-(i), Sec. 424(a)-(h), Sec. 425(a)-(b), Sec. 426(a)-(h), Sec. 426-1(a)-(c), Sec. 426a(a)-(c), Sec. 427(a)-(h), Sec. 429, Sec. 430(a)-(d), Sec. 431(a)-(c), Sec. 432, Sec. 433(a)-(e) (1988 ed.), as amended, where relevant, and comprising tens of thousands of words, together with all relevant judicial decisions and agency rules and adjudications, comprising millions and millions of words] used to provide old-age, survivors, and disabilities benefits shall not be counted as receipts or outlays for purposes of this article.

Additionally, title II of the Social Security Act is referred to in numerous other sections of title 42 of the United States Code, and it is also referred to in titles 2, 5, 7, 10, 12, 14, 22, 26, 29, 30, 38, 45, 49 appendix, and 50 appendix of the United States Code.

Mr. President, there are further complications raised by the drafting of this attempted statutory exemption. The drafters of the Reid exemption amendment have attempted to narrow the scope of their exemption from previous incarnations by adding an attempt at limiting language. This attempt to paper over the gaping, and hugely elastic loophole created by this amendment only serves to further clutter the constitutional subtext and confuse the