

threaten to create a frantic rush, year in and year out, for the savings necessary for bringing the budget into constitutional compliance. In that sort of an environment, no Federal program would be safe. Business leaders would be unable to plan ahead, not knowing what programs will be funded or cut from year to year. An R&E tax credit that is constantly in jeopardy of being canceled is of little benefit to American business.

Contrary to the rhetoric of those who support this amendment, American businesses will suffer if they are forced to operate in the looming shadow of tax increases or potential cuts in important programs. What's more, under the requirements of a balanced budget amendment the Congress would be forced to reorder our budgetary priorities every fiscal year. There'd be no rhyme or reason to what we cut and what we fund, because our decisions would be based on short-term economic factors. Long-term considerations would simply go by the wayside. By almost any standard, the balanced budget amendment is bad economic policy. But, it would have even worse and more far-reaching constitutional implications. Passage of this amendment risks allowing direct judicial involvement in the enforcement of a balanced budget requirement.

If for whatever reason, the Congress was unable to achieve either a balanced budget or get 60 votes to waive the requirement for such, then the Federal judiciary could be forced to make critical decisions on budgetary allocations. I must say, I find it quite interesting that many of the same people who complain about so-called judicial activism are seeking to pass an amendment that would thrust the judiciary directly into our budgetary discussions. Theoretically, judges could order the Government to stop Social Security checks from being sent out, cut Federal spending, or even raise taxes. Additionally, to those who complain about a clogged court system, we could see a significant rise in litigation by either Members of Congress or private citizens hurt by spending cuts mandated by this amendment.

For the Congress to go along with such a proposal represents an abdication of our responsibilities as legislators. The Constitution mandates very clearly that the legislative and executive branches must possess sole responsibility for fiscal policy. Yet, this amendment would fundamentally

transform our constitutional system of checks and balances by placing the judiciary in an unheard of position—making budgetary decisions. This contravenes the most sacrosanct notions of constitutional integrity—our system of checks and balances and division of authority among the three branches of government. And it would debase the Constitution by involving it directly in economic decision making. This constitutional amendment would place what is fundamentally a fiscal policy into our organic law.

Again, I urge all my colleagues to read the Constitution before they cast their vote. Look at the sorts of amendments that have been enacted. At their core, they deal almost universally with issues of social policy and the functioning of our democratic institutions—not with economic policy. But, this amendment would change that legacy. And I believe it could begin a disquieting process of including what is basically statutory language into our national Constitution. There can be little doubt that we face a momentous decision.

Changing the Constitution is not like adopting a simple statute that can be modified or repealed somewhere down the road. The fact is, amending the Constitution is one of the most sacred duties of our role as national leaders. Indeed, the language we insert into the Constitution is timeless. And it will likely stay there long after all of us leave this Earth. However, I worry that the fundamental, hallowed nature of our Constitution is being lost on my colleagues.

The last Congress advocated one of the most sweeping rewrites of the U.S. Constitution since the Bill of Rights. And I worry that this Congress will continue this troubling precedent. In the 104th Congress, amendments were proposed requiring a supermajority for taxes, advocating term limits, providing for a line-item veto, allowing school prayer, preventing unfunded mandates, criminalizing flag burning, and the list goes on.

The Constitution is not a set of institutional guidelines to be amended by each new generation of leaders. Generation after generation will live with the consequences of our constitutional decisions. And while I realize that this amendment is incredibly popular among the American people, that should not be our determining factor. Amending the Constitution must not be based on the political currents of today, but the sacred principles on

which our Nation was founded. There is a very good reason why, in the more than 200 years since this Nation adopted the Constitution, we have seen fit to amend it only 27 times—27 times in more than 200 years. In fact, in those 200 or so years, there've been approximately 11,000 proposed amendments to the Constitution. Only 33 passed the Congress. And the Bill of Rights notwithstanding, only 17 are now part of the Constitution. What's more, amending the Constitution remains an incredibly difficult task.

Two-thirds of the Congress, and three-fourths of the State legislatures must agree before we change the law of the land. Our Founding Fathers made clear that amending the Constitution would not be an easy or brazen decision. As Henry Clay said 145 years ago, "The Constitution of the United States was made not merely for the generation that then existed, but for posterity—unlimited, undefined, endless, perpetual posterity."

These are not idle words. The Constitution is sacred parchment—our guiding force for more than 200 years of democratic rule and a beacon for millions around the world who yearn for the dignity that freedom and democracy bestows. In my view, this document remains one of the greatest political and democratic accomplishments in human history and the amending of it must not be a rash or impetuous act. We all agree on the need for balancing the budget, but this amendment is the wrong way to go about doing it. If we are to really bring our fiscal house in order; if we are to guarantee to future generations that they will not be burdened with our debts; if we are to balance the budget in a fair and equitable manner, then let us reject this amendment and instead roll up our shirt sleeves and get down to the task of making the tough choices to truly balance the budget.

I thank the majority leader for making this possible. I yield the floor.

ADJOURNMENT UNTIL MONDAY,
FEBRUARY 10, 1997

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 12 noon, Monday, February 10, 1997.

Thereupon, the Senate, at 2:14 p.m., adjourned until Monday, February 10, 1997, at 12 noon.