PExon	Kassebaum	Reid
Faircloth	Kempthorne	Robb
Frist	Kerrey	Roth
Gorton	Kohl	Santorum
Graham	Kyl	Shelby
Gramm	Lieberman	Simon
Grams	Lott	Simpson
Grassley	Lugar	Smith
Gregg	Mack	Snowe
Harkin	McCain	Specter
Hatch	McConnell	Stevens
Hatfield	Moseley-Braun	Thomas
Heflin	Murkowski	Thompson
Helms	Nickles	Thurmond
Hutchison	Nunn	Warner
Inhofe	Packwood	
Jeffords	Pressler	

NAYS—28

Akaka	Feinstein	Levin
Bingaman	Ford	Mikulski
Boxer	Glenn	Murray
Breaux	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Johnston	Rockefeller
Conrad	Kennedy	Sarbanes
Daschle	Kerry	Wellstone
Dorgan	Lautenberg	
Feingold	Leahy	

NOT VOTING—2

Bradley	Moynihan

So the motion to lay on the table the amendment (No. 240) was agreed to.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 241

(Purpose: Proposing an amendment to the Constitution relative to contributions and expenditures intended to affect elections for Federal, State, and local office)

Mr. HOLLINGS. Mr. President, I send an amendment to the desk on behalf of myself and the senior Senator from Pennsylvania, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS], for himself, and Mr. SPECTER, proposes an amendment numbered 241.

The amendment is as follows:

On page 1, beginning on line 3, strike ''That the'' and all that follows through line 9, and insert the following: ''that the following articles are proposed as amendments to the Constitution, all or any of which articles, when ratified by three-fourths of the legislatures, shall be valid, to all intents and purposes, as part of the Constitution:''.

On page 3, immediately after line 11, insert the following:

''ARTICLE—

''SECTION. 1. Congress shall have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to Federal office.

''SECTION. 2. Each State shall have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to State office.

''SECTION. 3. Each local government of general jurisdiction shall have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to office in that government. No State shall have power to limit the power established by this section.

''SECTION. 4. Congress shall have power to implement and enforce this article by appropriate legislation.''.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Texas is recognized.

Mrs. HUTCHISON. I thank the Chair.

(The remarks of Mrs. HUTCHISON pertaining to the introduction of S. 400 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

UNANIMOUS CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that the Feingold amendment be the next amendment and that the pending Feingold motion be limited to the following time prior to a motion to table and that no amendments be in order prior to the motion to table: It will be 60 minutes under the control of Senator FEINGOLD and 30 minutes under the control of Senator HATCH. I further ask that following the conclusion or yielding back of time, the majority leader or his designee be recognized to make a motion to table the Feingold motion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that immediately following the disposition of the Feingold amendment vote, the Hollings amendment No. 241 become the then-pending amendment; that it be limited to the following time prior to a motion to table, and that no amendments be in order prior to the motion to table: 60 minutes under the control of the distinguished Senator from South Carolina; 30 minutes under the control of Senator HATCH. I further ask that following the conclusion or yielding back of time, the majority leader or his designee be recognized to make a motion to table the Hollings amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, and I will not object to the request, but it is my understanding that the unanimous-consent agreement would lead to two votes, the last of which would occur somewhere around 7:30 or 7:45?

Mr. HATCH. The Senator is correct. There would be two amendments pursuant to these unanimous-consent requests. Both will be 1½ hour in length with a motion to table and votes following.

Mr. DORGAN. Will those be the last votes today?

Mr. HATCH. Not necessarily. I have no knowledge about where we go from there.

Mr. DORGAN. Those two votes will occur consecutively?

Mr. HATCH. No. They will occur at the conclusion of each 1½ hours of debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MOTION TO REFER

Mr. FEINGOLD. Mr. President, on behalf of myself, Senators BUMPERS, ROBB, MURRAY, HOLLINGS, MOSELEY-BRAUN, EXON, and WELLSTONE, I send a motion to the desk to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself, Mr. BUMPERS, Mr. ROBB, Mrs. MURRAY, Mr. HOLLINGS, Ms. MOSELEY-BRAUN, Mr. EXON, and Mr. WELLSTONE, proposes a motion to refer.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

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

The motion is as follows:

On behalf of myself and Senators Bumpers, Robb, Murray, Hollings, Moseley-Braun, Exon, and Wellstone, I move to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith House Joint Resolution 1 in status quo and at the earliest date possible to issue a report, the text of which shall be the following:

''The Committee finds that—

(1) the Congress is considering a proposed amendment to the Constitution to require a balanced budget;

(2) the Federal budget according to the most recent estimates of the Congressional Budget Office continues to be in deficit in excess of $190 billion;

(3) continuing annual Federal budget deficits add to the Federal debt which is projected to soon exceed $5 trillion;

(4) continuing Federal budget deficits and growing Federal debt reduce savings and capital formation;

(5) continuing Federal budget deficits contribute to a higher level of interest rates than would otherwise occur, raising capital costs and curtailing total investment;

(6) continuing Federal budget deficits also contribute to significant trade deficits and dependence on foreign capital;

(7) the Federal debt that results from persistent Federal deficits transfers a potentially crushing burden to future generations, making their living standards lower than they otherwise would have been;

(8) during the 103rd Congress, the annual Federal deficit declined for two years in a row for the first time in two decades and is projected to decline for a third year in a row;

(9) the progress in reducing the Federal deficit achieved during the 103rd Congress could be reversed by enacting across-the-board or so-called middle class tax cut measures proposed in the 104th Congress;

(10) enacting such tax cuts is inconsistent with and contrary to efforts being made to achieve further Federal deficit reduction during the 104th Congress and the goal of achieving a balanced budget; and

(11) It is the Sense of the Committee that reducing the Federal deficit should be one of the nation's highest priorities, that enacting

an across-the-board or so-called middle class tax cut during the 104th Congress would hinder efforts to reduce the Federal deficit and that enacting such tax cuts would be inconsistent with proposals to adopt a Constitutional amendment to balance the budget.''

Mr. FEINGOLD. Mr. President, this is a motion to refer House Joint Resolution 1 to the Budget Committee with instructions to report back forthwith in status quo and require the Budget Committee to issue a report at the earliest possible time which would include the text of a sense-of-the-Senate resolution and which, Mr. President, I had originally intended to offer directly to House Joint Resolution 1 at the appropriate time.

The procedural situation before us makes it difficult to have a sense-of-the-Senate resolution considered directly because we are considering the language of a possible constitutional amendment.

The instructions attached to the motion to refer that we have here have the effect, however, of allowing us to vote on the substance of what would have been a sense-of-the-Senate resolution if a regular legislative measure had been pending.

Mr. President, the language of the instruction is intended to put the Senate on record for the first time with respect to the issue of whether an across-the-board tax cut or a middle-class tax cut is consistent with efforts to balance the Federal budget and reduce the Federal deficit. And the motion goes through some of the issues that all of us know to be involved in not having a balanced budget, issues having to do with the fact that the Federal deficit is still in excess of over $190 billion a year despite the efforts we have made in the past couple of years.

The fact is that the Federal debt within the next couple of months will, for the first time in our country's history, exceed the astonishing figure of $5 trillion. This motion points out that the Federal budget deficits and the growing Federal debt have a strong tendency to reduce savings and capital formation in this country. We also point out that the Federal budget deficits contribute, very unfortunately, to a higher level of interest rates than would otherwise occur. This raises capital costs. It has the consequence of hurting our economy by curtailing the total investment that we have in the economy.

Add to this, the failure to balance the Federal budget contributes to significant trade deficits and dependence on foreign capital. And worst of all, the point that is perhaps most often made on this floor having to do with the issue of balancing the budget and the balanced budget amendment, the failure to deal with the Federal deficit and the Federal debt is very likely to leave a potentially crushing burden on future generations that would make their living standards lower than they otherwise would have been.

As we have pointed out frequently on this floor, Mr. President, during the 103d Congress, the annual Federal deficit actually declined. It declined for 2 years in a row for the first time in two decades. And now, under the current estimates, it is projected to decline for a third straight year in a row. This has not happened for many, many decades, I believe as far back as President Truman.

Our concern in offering this motion is that the progress in reducing the Federal deficit achieved during the 103d Congress could be very quickly reversed if we do not have the will to say no to either an across-the-board tax cut or a middle-class tax cut. If we do not say no to these tax cuts—a difficult thing to do politically—the legacy of the 104th Congress will not be the passage of a balanced budget amendment. The legacy will be dropping the ball and forever making the Federal deficit and the Federal debt unsurmountable barriers.

Quite simply, our motion says that enacting such tax cuts is inconsistent with and contrary to efforts being made to achieve further deficit reduction during the 104th Congress and that tax cuts are clearly, Mr. President, contrary to the goal of achieving a balanced budget.

So, Mr. President, the motion concludes by saying it is the sense of the committee—this being the Budget Committee—that reducing the Federal deficit should be one of the Nation's highest priorities, and that enacting across-the-board or so-called middle-class tax cuts during the 104th Congress would hinder efforts to reduce the Federal deficit, and that enacting such tax cuts would be inconsistent with proposals to adopt a constitutional amendment to balance the budget. So that is our intent.

I believe that this is an opportunity for both sides of the aisle, Republican and Democrat, to go on record for the first time on this very key issue. And the issue is whether or not the November 8 elections were really about tax cuts.

People have a lot of theories about what was intended by the electorate in that election. One theory is that people wanted a tax cut, that was the driving force, and that is why the President, supposedly, offered a middle-class tax cut, and that is why the Republican contract offers an even more dramatic and surprisingly large tax cut at a time of major Federal deficits.

I believe, based on my reading of this issue—and I think my cosponsors agree—that is not what the electorate meant at all. The people of this country were not calling for a tax cut, because they know the hard and difficult facts. They know who they are stealing from if we do not reduce the Federal deficit. They know that a tax cut today means a larger deficit and larger debt for tomorrow for their children and grandchildren. And the numbers bear it out very well.

Mr. President, one of the charts I have here today describes the impact of the smaller tax cut proposal, the proposal by the President for a $63 billion tax cut over the next 5 years. As the chart shows, if we go through with the President's proposal, by fiscal year 2000 the deficit would still be hovering at almost $200 billion after we, under the leadership of that very same President, finally got the deficit below that figure for the first time in many years.

What this chart suggests is that if we do not enact the President's tax cuts, and add to it the interest savings that accrue from not making the deficit worse, you net out about a $25 billion difference in the fifth year alone. In one year alone, not doing this tax cut could mean a $25 billion improvement in our deficit picture. And that is not something to sneeze at.

Put together all those 5 years, again you are talking about just $63 billion saved, plus all the interest saved.

What I believe the American people think is that if we have these cuts to be made—the President says he has them, he has identified them, he has put them on paper, he has put his name to them and taken the political heat—what the American people are saying is, ''Good. Do those cuts, but use them to bring down the Federal deficit,'' as this chart shows we could fairly easily do just using the President's own figures.

Now a second illustration is even more dramatic. It suggests, as I certainly would, that compared to the President's proposal, which at least pays for all the tax cuts with spending cuts, that there is an even more extreme proposal in the Republican Contract With America.

Over that same time period of 5 years, the Contract With America calls not for $63 billion in tax cuts, but the whopping sum of $196 billion in tax cuts by the year 2000.

Now, this is from the same folks, largely, who say they are going to pass a balanced budget amendment, that they do not need to tell you where the money is going to come from, that we do not need a glidepath, and that we are going to be able to give out this tax cut and everything is going to be just fine. We are going to have a balanced budget amendment.

But if we do what the Contract With America suggests over the next 5 years, we will not have this type of deficit reduction and we will miss a tremendous opportunity to enormously decrease the Federal deficit.

This second chart shows that in the fiscal year 2000, if we do not do the Republican tax cut—which I do not think the American people want anyway—that instead of having an almost $200 billion deficit, we could finally be making real progress. We could take all those Republican cuts and the deficit would be down to $114 billion in fiscal year 2000.

In other words, we would actually be within reach of our shared goal. And

that shared goal, whether we are for the balanced budget amendment or not, is that, at least by the year 2002, this figure would be zero, that we would have a balanced budget.

How can the Contract With America talk about a balanced budget and a balanced budget amendment and then propose a tax cut that takes us just in the opposite direction? Two-hundred billion dollars in the wrong direction.

So, Mr. President, I suppose those who support the Republican Contract With America's tax cuts are advocates of trickle down Reaganomics, if you will. They may argue that by doing these tax cuts the economy may do better than doing nothing; somehow the revenues will come in and these figures will then be reduced and our estimating will be wrong and we will wipe out the deficit that way. I sure hope that is true, if we go down that road.

The way we got into this deficit in the first place was 12 years where tax cuts for all folks, including high-income folks, had just the opposite result, where the deficit went out of control.

I suppose those on the other side of the aisle could say that President Clinton's proposal for a middle-class tax cut is, in effect, trickle up. Give middle-income people some money, they will spend it, and the economy will do better and that will bring in the revenues to solve our fiscal problems. I hope that is true. I like his idea better than the Republican contract.

But the evidence is just not there that that will be the actual impact on our Federal budget. I would suggest just the opposite would occur. Putting that money in the economy at this point may actually drive up inflation, drive up interest rates, and lead to just the opposite conclusion.

So whether you look at it from the point of view of the Contract With America or from the point of view of the President's proposal, which I know he offers in good faith, neither proposal is consistent with or makes any sense if people in this body are sincere when they talk about balancing the Federal budget over the next 7 years. We cannot have it both ways.

And what I am most struck by is that the American people are, of course, ahead of us on this, as they so often are. They know better than we do. They are ahead of our rhetoric. They are ahead of the tax cut.

In fact, it gets even worse if you look into the outyears. The 10-year cost of the President's tax cuts is not just $63 billion. The 10-year cost of the so called middle-class tax cut is $174 billion. That is a pretty high figure. Of course, it is not even as high as the entire amount of the Republicans' $196 billion for the first 5 years.

So what is the 10-year impact if we go down the road of the Republican contract and their tax cut? Believe it or not, the Republican contract and its tax cut call for a $704 billion tax cut over the next 10 years, and they are going to balance the budget? Who in this country would even begin to believe that that was possible? That is the guaranteed route to the worst budget disaster we would ever have, and it is hard to believe we could do worse than in the 1980's. If we do that one in 10 years, that is exactly where we will be.

Just in terms of interest costs, the interest we would save in the 10th year alone by not adopting the Republican contract tax cuts is $48.4 billion, just in the 10th year; $50 billion worth of interest. That is almost as much as the President's whole 5-year tax-cut plan. That is what the Contract With America calls for in the name of the balanced budget amendment.

That is 30 percent more than the Federal Government will spend on transportation in fiscal year 1996 and more than we will spend this year on all of the Federal judiciary, the entire legislative branch and the programs and personnel of the Small Business Administration, the General Services Administration, the Commerce Department, the State Department, the Environmental Protection Agency, the Interior Department and the Justice Department combined. That is just the interest that we lose and that we have to pay out on just the 10th year of the Republican plan that includes as well the notion of a balanced budget amendment. Mr. President, this makes no sense on the facts.

I would like to take a few minutes to point out that although some say it is very courageous to stand up here and make this motion to refer and, of course, that is nice for me and all the Senators, it does not take that much courage to go along with what your constituents are telling you to do.

Since December 15, in my office we have received well over 400 letters and phone calls on the issue of whether the people of Wisconsin want us to do the middle-class tax cut. The figures are surprising perhaps to some but they do not surprise me, because I find almost no one in my State who wants this tax cut.

Here are the figures: 356 people who have contacted me say they do not want the tax cut. They say they want the money used from the cuts on programs to reduce the Federal deficit. Only 73 people contacted us to say go ahead with the tax cut. I realize it goes against political conventional wisdom, but I guess I would be the first to say that even though the November 8 elections were clearly not about people wanting a tax cut. I do not think there is any evidence of that, but I do know what the November 8 elections were about is that people are tired of politics as usual. Even though politicians are taught in politics 101 or in their first campaign, do not ever go against a tax cut, the American people are smashing that conventional wisdom. They are saying that they know it is pandering. They are saying that they know we have a greater problem, a problem that affects not just them and the bills they have today, but a problem that could destroy the future of their children and grandchildren.

That is the experience the other Senators who are cosponsoring this have had. They have come up to me, have done the town meetings in their States and have said, Senator FEINGOLD, we are hearing the same thing you are. People are saying do the cuts, please take the fat out of the Federal Government, pare it down, but do not throw away that money on a meaningless tax cut that fails to deal with our national budgetary problems.

So I have been pleased with the support in this body. I actually have not had a single conversation with any Member of the Senate who says he or she is very much for the tax cut. At best, they are ambivalent about it. I know in the House there is more support for a tax cut. After all, it is part of the Republican contract. There is a certain group looking to see what percentage of the items in the contract may pass. Is it going to be 100? I do not think so because I do not think term limits is going to pass. But some are shooting for 70, 80 percent, some magic number. These are numbers in the contract that the other body ought to take a look at because I do not think the people want that tax cut.

That is what one of the Members of the other House discovered when he went out and decided to have a town meeting of his own, apparently, over the weekend.

I ask unanimous consent that an article from the Washington Post of February 12, entitled ''Many Say They could Skip the Tax Cut,'' be printed in the RECORD.

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

[From the Washington Post, Feb. 12, 1995]

MANY SAY THEY COULD SKIP TAX CUT

(By Dale Russakoff)

MANVILLE, NJ., Feb. 11.—The House Budget Committee came to this town today to hear how real people feel about the federal budget crisis. After three hours of listening to people of all ages demand less federal spending on defense, welfare, the arts, public broadcasting and congressional salaries, committee Chairman John R. Kasich (R-Ohio) hit the crowd of about 1,000 with a hardball question.

Who was so concerned about the federal deficit that he or she would forgo tax cuts promised by both Republicans and Democrats until after the budget is balanced?

The question apparently wasn't hard at all. In the packed meeting hall of a Veterans of Foreign Wars center here in heavily Republican central New Jersey, hands went up everywhere. Kasich then asked how many people wanted their tax cuts up front, before the budget is balanced. Only a few hands went up, and they were booed.

''Both parties are offering a political rebate,'' Cole Kleitsch, 33, a property manager who lives in Princeton, NJ., and works for the debt-fighting Conquer Coalition, told the committee, ''The people it [the debt] is going to hurt most—the children—are not in this

room. That's our posterity and we're supposed to take care of it. So far, we're taking care of our posterior.''

Despite the overwhelming sentiment for deferring tax cuts, which Kasich said he and the committee also found in three previous field hearings in the Midwest, West and South, the chairman said there are no plans to reconsider the $200 billion in tax relief that Republican House candidates promised in their ''Contract With America.''

''The number one thing we have to do in this country is keep our word, and keeping our word involves doing the kind of relief that is promised in the contract,'' Kasich said after the hearing. ''It's something of a problem when you have people overwhelmingly saying, 'We don't want to do this.' But I think if we start breaking our word, they're just going to say, 'Ah, it's just another group of politicians.' ''

''It's not as clear to the public as it is to us that the way you bring down deficits is to deny the government revenue,'' said Rep. Robert S. Walker (R-Pa.), a close friend and adviser of House Speaker Newt Gingrich (R-Ga.), explaining the determination to press ahead with tax cuts.

Kasich emphasized that four hearings hardly constitute a scientific example of national sentiment. (Voters told a Washington Post-ABC poll that they favor deficit reduction over tax cuts by a margin of 3 to 2).

But Kasich said that if the Senate pares down the tax relief the House intends to pass—including a $500 per child tax credit and a capital gains tax cut—sentiments like those expressed at his committee's field hearings might make it easier for House members to go along.

The hearing drew heavy turnout in this hard-luck community that was the home of Johns-Manville Corp., the asbestos manufacturer bankrupted by an avalanche of lawsuits from victims of asbestos disease. More than 100 people were turned away after the meeting hall filled to capacity.

An aide to Kasich said this was the first field hearing that appeared to draw ''special interests,'' which he defined as union members and advocates of tuition aid to the poor. A number of anti-GOP banners were displayed outside the hall, including: ''Big Welfare for the Rich and Orphanages for the Poor? No Way!'' Another, with an arrow pointing toward the meeting hall, said: ''The Tooth Fairy?''

Most speakers proposed cutting the budget in ways that would not affect them directly. Phil Nicklas, who is not a food stamp recipient, told the committee to eliminate the food stamps program, Joel Whittaker said to toss out the Legal Services Corp. and the National Endowment for the Arts. Sherry Zowader said every member of Congress should take a 15 percent pay cut.

But Carol Kasabach, 54, who lives near Trenton, told the committee that she and her husband, who both are employed and successful, would be willing to forgo some of the Social Security benefits due them in order to help reduce the deficit.

Walker responded that this would turn Social Security into ''just another welfare program'' for those who qualify based on need. Kasabach raised her voice and told Walker: ''This is for the welfare of all of us, and we have a responsibility to each other.''

The Corporation for Public Broadcasting had as many friends as enemies in the audience. Walker challenged one advocate, Sherry Zowader, to explain why her position did not mean that working families should pay taxes ''to subsidize a $1 billion industry called Big Bird.''

''We can all pick out in government what we don't like our money being spent on,'' Zowader said. ''And you have to pay for some things you don't like as well as the things you like. That's democracy.''

The sentiment against tax cuts was summed up powerfully by Lynn Dill of Colonia, N.J., who told the committee: ''I want the best thing for the country and the children. And if both parties did the right thing, congressmen wouldn't have to worry about getting reelected.''

This moved Rep. Martin R. Hoke (R-Ohio) to remark: ''We are getting so much wisdom from this testimony, we should require half of all the hearings in Congress be held not in Washington, D.C., but outside.''

Mr. FEINGOLD. Mr. President, let me just take a moment on what happened when Representative KASICH went out and asked the folks—apparently he does not pretend it was otherwise—if they were for the tax cut. The article says, ''Who was so concerned about the Federal deficit that he or she would forego tax cuts promised by both Republicans and Democrats until after the budget is balanced?''

That is what he asked the crowd. How many people out there would give up their tax cut so that the budget would be balanced?

The article says the question apparently was not hard at all, it was easy for everyone.

In the packed meeting hall of the Veterans of Foreign Wars Center here in heavily Republican central New Jersey, hands went up everywhere. Kasich then asked how many people wanted their tax cuts up front before the budget is balanced.

The newspaper reports only a few hands went up and they were booed.

So the message is finally reaching the other House that the American people are ahead of the politicians, that the American people know that this problem cannot be solved if we are going to spend $60 or $200 or $700 billion on tax cuts at the same time we are pretending—pretending—to do something about the problem of the balanced budget amendment.

I am also pleased to say, Mr. President, that the Concord Coalition, which has done a fine job of marshaling this issue of the Federal deficit, has today endorsed our motion, writing that this is backed by the 150,000 members in all 50 States and saying that, of course—of course—it is inconsistent for somebody to support the balanced budget amendment and at the same time say they want a giant tax cut. No one buys that story.

The same goes for the public opinion polls. On December 20, just 5 days after the President's speech when everyone assumed that everyone was for the tax cut, just 5 days later, a USA Today-CNN/Gallup Poll said 70 percent of the American people say that reducing the deficit is a higher priority than a tax cut.

In the Washington Post, an ABC news poll on January 6, 1995, says the people favor deficit reduction over tax cuts by a three-to-two margin. So in every measure I can find, whether it be a man-on-the-street or woman-on-the-street poll, the words of economists, calls to my office, the letters to my office, I cannot find a constituency out there in the United States of America for this kind of fiscal recklessness.

But perhaps my favorite indication of this always is a political cartoon. I have to say that being a Senator has to be about the best job in the world, but if I had the talent, I would also love to be a political cartoonist. I do not have the artistic talent nor do I have, perhaps, the ability to do this. But this cartoon from our Milwaukee Sentinel typifies this whole issue.

It shows an enormous creature, sort of a Jabba the Hut entitled ''deficit.'' It just keeps eating and eating. And what it is eating is the catering provided by a caterer called ''Tax Cuts R Us, Catering and Pandering.''

Instead of putting this deficit monster on a diet, what this institution is on the verge of doing if we do not reverse course is to continue to feed this monster to the detriment of everyone today, tomorrow, and in the future.

Mr. President, I think this is an opportunity for us to make a bipartisan statement. No matter what else you feel about the balanced budget amendment itself, we cannot have it both ways. The cosponsors of my amendment include those who oppose the balanced budget amendment, such as myself. It includes some who have stated they will vote for the balanced budget amendment, and it includes some who have said they are undecided.

What we all agree upon is that it cannot be either a rational or honest process if we continue to feed this monster. A balanced budget amendment cannot work hand in hand with an irresponsible tax cut that is being advocated, the false belief that the November 8 elections had anything to do with it.

So I urge my colleagues to support the motion. I reserve the remainder of my time.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I have been authorized by Senator HATCH's staff to take 5 minutes of Senator HATCH's time.

Let me say, I agree with 99 percent of what my colleague from Wisconsin has to say. I applaud his leadership on this. A tax cut just does not make sense when we have this kind of a deficit.

I am going to vote against his amendment because I do not want to get it mixed up with the balanced budget amendment. But I could not agree with him more in terms of the substance. It is not only the things that he mentioned.The Clinton tax cut is, frankly, more responsible than the Republican tax cut, but they are both wrong.

But in terms of equity, it is very interesting, for those who have an income of $30,000 or less, even the Clinton tax cut gives them only 5½ percent of the tax cut, while those of us who get $100,000 to $200,000 a year—and that is the majority of us in the U.S. Congress—some exceed that amount—we

get 12.4 percent of the tax cut—a much, much smaller number of people get a much bigger chunk of the tax cut.

A tax cut just does not make sense. My colleague from Wisconsin has been leading the effort on this, and I applaud his effort. I assume this issue is going to come before the Budget Committee. I am going to be with Senator FEINGOLD there. I assume it will be debated in the Chamber. I am going to be with Senator FEINGOLD in the Chamber. I do not favor having it on this particular constitutional amendment. I think we should try to avoid everything that might confuse the constitutional amendment. But in terms of principle, he is absolutely on target, and I commend him.

I yield back the remainder of my 5 minutes to Senator HATCH.

Mr. FEINGOLD. Mr. President, I thank the Senator from Illinois, who was one of the very first persons who came up to me after the new year and said that, in fact, he was having the same experience in his State. Even though Wisconsin and Illinois are very close physically, they are certainly not identical States. But he was having the same experience. He was going around the State and people were saying do not take these cuts that you have identified and use them to do a tax cut. Take those opportunities to reduce the Federal deficit. I believe that is the conversation we had.

Mr. SIMON. If I may, if my colleague will yield, the first time I did this was at a town meeting somewhere. Someone asked about the tax cut, and I said I believe in telling you the truth, and I do not anticipate my answer is going to be popular. Frankly, I had not seen the polls. And I told them I was opposed to the tax cut; that we ought to be using that money to reduce the deficit. And instead of boos, I got cheers from the town meeting, and that has been my experience ever since. I think that would be the experience of most Members of the Senate when they try it out with the people.

Mr. FEINGOLD. Mr. President, I do feel the need to address what the Senator just suggested, that it somehow confuses people for the Senate to go on record on this issue. How can this be confusing? This motion does not delay. I think no one disputes that. It is an automatic referral back from the Budget Committee. This is not an effort to slow down the balanced budget amendment.

I have also pointed out to the body that this does not become part of the constitutional amendment itself. This does not go out to the States for purposes of their ratification process. That would not make a lot of sense, since it is up to us here to decide whether we are going to have a middle-class tax cut or an across-the-board tax cut, so I do not see how this could possibly confuse anyone, that the Senate would choose to go on record that we are going to be straight with the American people and not kid them that we can afford a tax cut at the same time we are passing a balanced budget amendment. I do not understand how anyone could be confused by that logic.

Mr. SIMON. Will my colleague yield on that?

Mr. FEINGOLD. I am happy to yield.

Mr. SIMON. I think the reality is if we put this in as a sense of the Senate here now, there are some of my colleagues who disagree with the Senator and me, in fact probably a majority disagree with the Senator and me on this. But even assuming it is a majority on our side, there may be some who would vote against the proposition because this sense of the Senate is there, and so I think it has the possibility—I am not saying it is a probability, but I think it has the possibility of losing a vote or two, and I think my colleague from Utah would agree we need every vote we can get.

Mr. FEINGOLD. Mr. President, I think this is exactly what is wrong with this balanced budget amendment process. We saw this with regard to the so-called glidepath amendment, the so-called right to know. In the desperate desire to get enough votes to pass the balanced budget amendment, we are closing the door on honesty with the American people.

This body has, unfortunately, refused to lay out that 5- or 7-year plan that would tell us where it is going to come from. That is bad enough. But when you close off an opportunity to make a clean statement that we cannot afford the tax cut and still have a balanced budget amendment, then you are even going farther because what you are doing with this tax cut is digging an even deeper hole. It is already hard enough to lay out exactly how we are going to put together the numbers under the current problem. But when you add another $60, $200, $700 billion, $1 trillion, as you claim to be solving the problem, that is where the real obfuscation, the real confusion, the real misleading of the American public comes.

Mr. President, do you know what the American people think when they hear about the balanced budget amendment? I believe they think we are going to actually balance the budget when we do this. I do not think they really all realize that we are setting into motion here something that is going to take probably the better part of a decade, and in the meantime there will be no legal requirement that we balance the budget.

So what is a more important and appropriate time than right now, as this amendment comes to a vote in the Chamber in the next few days or weeks, to tell the American people we understand that cutting taxes will make it virtually impossible either to meet the balanced budget requirement, if it is enacted, or that the human consequence and the pain that will be suffered by people in this country will be enormous if we suddenly cut $200 or $700 billion out of our Federal revenues at this point, leaving it even more impossible to balance the Federal budget in any kind of humane way? And for anyone who thinks this motion is either confusing or inappropriate, this is precisely the motion the distinguished majority leader used in order to put forward his motion on Social Security.

Now, if this is confusing, why was that not confusing? Presumably we would not put anything on the bill if it is an issue of confusion. I think the source of confusion is clear. The effort to confuse is from those who do not want to tell the truth to the American people, which is that the Contract With America goes completely in two directions at the same time.

Several Members on the other side of the aisle have publicly stated, in the Finance Committee and also in public statements and in statements in the Chamber, that they, too, do not support the tax cuts, knowing what it means for the budget.

So I feel strongly that there is no reason not to pass a simple sense-of-the-Senate resolution at this time. It does not go out to the States, and it tells the truth. And that is that all these tax cut plans are the ultimate demonstration that many supporters of the balanced budget amendment are not as dedicated to balancing the budget as they pretend.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate what the distinguished Senator is trying to do. I know he feels very sincerely and is very dedicated to deficit reduction, as he has said. But the bottom line of this motion to refer is that we should protect the largest tax increase in history and that we should avoid enacting tax cuts that even the President, President Clinton, has called for.

This is political cheerleading for the action of a single Congress in a single piece of legislation and I think it is wholly inappropriate to a constitutional debate like this one we are having with regard to the balanced budget amendment, because the Constitution sets in place broad principles and leaves yearly budgeting priorities to be set by each succeeding Congress, as it is each Congress' right and duty to do.

What I suggest to my friend from Wisconsin is that we can have this debate more appropriately when Congress debates the implementing legislation contemplated by the amendment. That would be a perfect place for him to bring his concerns to the Senate. If the Congress chooses to accept the point of view of the distinguished Senator from Wisconsin that there should be no further tax cuts, then Congress can do so. But in this context I really do not see a reason to vote for this motion to refer.

It is ironic, indeed, for those of us who have been watching this debate, to

see that those who have criticized proponents of the balanced budget amendment for writing fiscal policy into the Constitution, as they say—and of course this balanced budget amendment does not do that—it is ironic to see them attempt to set tax policy during this debate.

The motion before us serves only two purposes, I think. One, to make a political point in praise of the tax hikes of the 103d Congress. And, two, to attempt to keep the same level of taxing that we now have to ensure there is more money and more spending than Congress might otherwise have, if the American people decide that the spending is not worth the taxes.

So I do urge the defeat of this motion and express the hope that we can move to final passage of the balanced budget amendment soon, so we can finally begin to move this Government to fiscal responsibility. Because every day that goes by while we are debating this, another $829 million is added to the national debt, as is shown on our balanced budget debt tracker here.

The distinguished Senator from Wisconsin is concerned about the national debt, wanting to keep the tax increases in place, not wanting to allow any tax cuts that might stimulate the economy and get more people paying taxes. And every day we have more amendments like this the debt is going up $829 million.

We are now in the 16th day since we started this debate and we have been on the floor 12 days of that time, and during that time the national debt has increased $13,271,040,000. Actually we are higher than that because we are almost into the 17th day. So the debt is going up while we fiddle around here in Washington and watch our country burn to the ground.

Let me just make an additional point or two here regarding the time spent in previous debates on the balanced budget amendment, because some have complained that we are trying to move the process along too fast. I have a brief breakdown of previous Senate action on other constitutional amendments to balance the budget.

When I was chairman of the Constitution Subcommittee in the 97th Congress, Senator THURMOND and I brought to the floor—it was the first time anybody ever brought to the floor of either House of the Congress—a balanced budget amendment to the Constitution. We brought that to the floor and the floor action on the resolution took 11 days. During that period of 11 days 31 amendments were offered, 24 Democrat amendments and 7 Republican amendments. The resolution finally passed the Senate by a rollcall vote of 69 yeas to 31 nays.

It went to the House, of course, and was defeated there. Tip O'Neill led the troops over there and he defeated us even though we got 60 percent of the vote. But it was 11 days of debate on the Senate floor at that time, and we had 31 amendments.

In the 99th Congress we brought it again to the floor. This was in 1986. Again I was still chairman of the Constitution Subcommittee. We had 7 days of debate on the resolution, 13 amendments were offered, 7 of them were offered by Democrats, 6 by Republicans, and the resolution failed by rollcall vote 66 yeas to 34 nays. By one vote that resolution failed back in 1986.

Then again, the third time it was ever brought to the floor of the Senate was in 1994, last year, it was designated Senate Joint Resolution 41. On that resolution we spent 5 days of floor debate, we had one amendment offered that was a Democrat amendment, and the resolution failed by four votes, 63 to 37.

Now, already in this 104th Congress, on House Joint Resolution 1, we are in the 12th day of consideration and debate. We have had six amendments and three motions, three of them have been Democratic amendments with one motion a Democrat motion and three have been Republican amendments with one motion—plus this one. So what I am saying is that we are moving awfully slow here this year by historical standards, and we should get moving on to final passage. But I appreciate the distinguished Senator from Wisconsin. I know he is sincere. I know he is trying to resolve the deficit problems in his own way.

But really this debate ought to wait until the implementing legislation where he may have a better chance of actually passing substantive language that may get him where he wants to be, which seems to be to stop any kind of tax reduction or tax cut—even ones like the President wants—at that more appropriate time.

I am prepared to yield the remainder of our time but I will be happy to yield the floor. I see the Senator wants to speak longer but I am prepared to yield back if the Senator will.

Mr. FEINGOLD. Mr. President, we are not prepared to yield back our time. The senior Senator from Arkansas will speak in a minute.

Let me just say briefly I am somewhat amused at the notion that the distinguished chairman of the Judiciary Committee brings up, the fact the deficit is going up every day as we speak, as if somehow it is the fault of this debate that the deficit is going up.

But even under the terms of the balanced budget amendment, the notion is there would not be a balanced budget until the year 2002. I ask you, what is more damaging to the goal of balancing the Federal budget? Debating a subject as to how consistent it is to have tax cuts and balance the budget at the same time and debating that for a few days? Or to pretend that somehow after we dig this huge hole for the Federal deficit again that we will be able to solve it over the course of those next 7 years? It does not make sense.

The notion that we are going to cut off debate on the basic budgetary choices that are involved in the context of the balanced budget amendment debate does not make any sense to me. I do not think it makes any sense to the American people. It would be one thing if we were all agreed that we were going to move in the same direction. If everybody in both Houses said of course we are going to make sure that everything we do brings down the deficit, that would be one thing. But what I and Senator BUMPERS and others are trying to point out is that this particular notion of a tax cut flies in the face of any reasonable person's notion of what is supposed to happen here, which is reducing the Federal deficit, not increasing it by $200 or $750 billion.

With that I am happy to yield to the senior Senator from Arkansas, who has been a leader on deficit reduction here and has been a great help on this amendment.

The PRESIDING OFFICER (Ms. SNOWE). The Senator from Arkansas.

Mr. BUMPERS. Madam President, I thank my colleague from Wisconsin for yielding. But more important, I think him for crafting this sense-of-the-Senate resolution which ought to pass 100-zip.

I do not know how many votes we have had—maybe 60 votes since we came back into session. And I will hand it to the Republicans, they know how to stick together. I am speaking of votes occurring not only on the balanced budget amendment but everything that has come up since we came into session. It has been unanimous on the other side. I think on one vote two Republicans defected.

So it makes you have second thoughts about even standing up here and talking what you think is ordinary common sense. But the Senator from Wisconsin, with whom I am pleased to join in this amendment, is simply saying it is time we quit playing games and start debating the real issue, and that is, ''What are we going to do about the deficit?'' The balanced budget amendment is probably a done deal. But as far as the deficit is concerned, it does not make any difference whether the balanced budget amendment passes or not. If it passes or if it fails, we are going to be back to square one after we vote on final passage because we are going to have to figure out how to actually balance the budget.

You see that chart over there? That is clever. I give the Republicans credit for putting that chart up.It shows how much the deficit has gone up each day since we started debating the balanced budget amendment. I wish we had a chart on this side showing how much the deficit would have gone up if we had not passed the President's deficit reduction plan in 1993 without a single Republican vote. It would be 50 percent higher each day. Our chart would show the deficit going up 50 to 75 percent more every day than that chart shows. And we reduced the deficit that much without one single Republican vote.

So, Madam President, I rise today to try to talk common sense. There is a new book out. I was down at Wake Forest University today delivering a speech at a convocation. A man caught me just as I was leaving. He said, Senator, you must read this new book called ''The Death of Common Sense, How It Is Suffocating America.'' Well, that is what we are trying to talk about—common sense.

I want you to think about this, Senators. The Republican Contract With America is not a contract I signed, but it says we are going to pass this balanced budget amendment. And we are going to give the American people expanded IRA's to increase savings. And we are going to provide an across-the-board tax cut that costs $200 billion over the next 5 years and $700 billion over the next 10 years. Then we are going to increase defense spending by somewhere between $60 and $80 billion. Then we are going to provide a capital gains tax cut, 90 percent of which goes to the richest 5 percent of the people in America. We are going to do all this and balance the budget in the year 2002. What that adds up to, Madam President, is $1.6 trillion that must be cut in the next 7 years.

Everybody here who has been here any time at all knows that is absolutely lunacy. That is not going to happen. There are not very many people in State hospitals in this country that believe we are going to make all those tax cuts, increase defense spending, and balance the budget. Yet the Congress bought that same argument 14 years and $3.5 trillion ago.

Did you know that if it were not for the interest on the increased debt that built up during the 12 years of the Ronald Reagan and George Bush Presidencies, we would have a surplus today. Not a deficit—a surplus—if we were not paying the interest on that staggering debt we accumulated when we bought the same argument we are asked to buy again today.

There is one thing that is really crafty about the Contract With America. The middle-class tax cut in the Contract With America is supposed to cost $200 billion in the first 5 years. Then, in the next 5 years, it will cost $500 billion. That is very crafty. But the only time you ever hear this Chamber so silent that you can hear the termites working is when you ask, ''How are you going to pay for it?'' It would make Houdini blush to suggest that this can be done in the next 7 years.

Every Member of Congress, every economist in the country, and every citizen of America, knows that this is palpable nonsense. With his amendment, the Senator from Wisconsin is saying it is time we start actually doing something about the deficit instead of just putting a few words in the Constitution.

Let me say to my colleagues that you do not even have to be courageous to vote for this amendment. Look here. Here is a USA Today poll; 70 percent of the people of this country say put those spending cuts on the deficit. Everybody says, ''Senator you are going to vote against the balanced budget amendment. It is very popular.'' I say, ''You are going to provide middle-class tax cuts and that is very unpopular.''

Let me just read a couple of letters. These are ordinary citizens, constituents of mine.

Dear Senator BUMPERS: The truth is, as much as I hate paying taxes, I don't want this tax break. I would much rather see the cuts made as proposed, taxes kept at the current rate, and see some serious reduction in the national debt. This is a price for my future and that of my children that I am willing to pay.

Madam President, the people of America are way ahead of this crowd.

Here is another letter from a constituent in Warren, AR:

Dear Senator BUMPERS: I urge you with your vote to cut spending by the Federal Government in every way possible and to not even think about tax reductions or refunds.

He says that we need to reduce the deficit.

Madam President, I ask unanimous consent those two constituent letters be printed in the RECORD.

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

Warren, AR, January 5, 1995.

Sen. DALE BUMPERS,
Dirksen Senate Building, Washington, DC.

DEAR SEN. BUMPERS: I urge you with your vote to cut spending by the Federal government in every way possible and to not even think about tax reductions or refunds. In my opinion, we need to not only reduce the deficit spending but to eliminate it and start reducing the debt.

I realize my request is almost impossible to fulfill but there has to be a day of reckoning where the dollar won't be worth two cents if we continue our deficit spending for things the nation can not afford. We have been living in a fairland for too many years.

Respectfully yours,

F. MARTIN HANKINS.

Siloam Springs, AR.

DEAR SENATOR BUMPERS. I am writing to you in regard to the numerous tax reduction plans for the middle class. I am, I assume, one of those discussed, as the combined annual income of my wife and I fall in the 40–50,000 dollar range.

The truth is, as much as I hate paying taxes, I don't want this tax break. I would much rather see the cuts made as proposed, taxes kept at the current rate, and see some serious reduction in the national debt. This is a price for my future and that of my children that I am willing to pay.

I am not alone in my belief. I have talked to a great many people on this issue, and all of them have been of the same voice. We would rather see the money invested in debt reduction than to go out to McDonald's an extra time each month on the tax savings.

On the issue of budget cuts, I recently returned from my fourth trip from the National Fire Academy. This is a superb organization and would very much like to see it's funding maintained or increased. The U.S. continues to have the highest fire loss in the industrialized world. There is much that needs to be done. But the results produced by the National Fire Academy and the U.S. Fire Administration have made a tremendous difference in training, education and research. I hope that room may be found to allow them to press forth with their plans for the future.

Thank you for your time, interest and involvement.

ANDY MITCHELL.

Mr. BUMPERS. Madam President, it just drives me insane, the talk about providing $700 billion in tax cuts, then providing another Lord knows how much for the Pentagon, and, then say, ''Folks, just as soon as we can get these words in the Constitution, we will balance the budget in the year 2002.'' What are we doing? We are treating them like children who could not possibly understand the nuances, the sophistication, the complication of the budget process. ''But they understand if you put it in the Constitution. The Constitution is a sacred document.''

We have had 11,000 constitutional amendment proposals since this country was founded. Besides the Bill of Rights, those 10 amendments adopted together in 1789, the people of this country have amended the Constitution 17 times. But people here in Congress have tried to get them to amend it over 11,000 times. You know something else. Of the 11,000, the majority of those amendments have occurred in the last 32 years. And 35 constitutional amendments have been proposed since we came back into session January 3. That is one a day. Jefferson, Jay, Adams, Hamilton, the most brilliant congregation of minds ever assembled under one roof, gave us this sacred document and we trivialize it. Norm Ornstein said the Constitution is the fix of last resort. Do you want a figleaf to go home and talk to your constituents about instead of actually doing something to reduce the deficit? Term limits, put it in the Constitution. Prayer in school, put it in the Constitution. The Constitution is not crafted to deal with social problems for which there is a legislative fix. You know that virtually every one of the 35 constitutional amendments that have been introduced this year have been introduced by Republicans, who consider themselves conservatives. But you know what, Robert Gowin, a scholar at the American Enterprise Institute, a very conservative think tank here, says: ''Conservatives revere our institutions and our traditions.'' True conservatives. Robert Gowin says, ''True conservatives do not muck with the Constitution.'' I could not agree with him more.

Madam President, what we are talking about is spine, a little courage, not a figleaf to hide behind by putting a few words in the Constitution and hope that 7 years from now people will have forgotten the grandiose and wholly unkept promises.

The Senator from Wisconsin and I are simply trying to introduce a grain of common sense into this debate. The American people deserve it. If the President can find $63 billion for a middle-class tax cut, then put it on the deficit. If the Republicans can find $200 billion or $700 billion for tax cuts and

increases in defense spending, put it on the deficit.

Finally, let me reiterate, Madam President, that this is a sense-of-the-Senate resolution that does not cost you a nickel. You are not changing the constitutional amendment that is before us, House Joint Resolution 1. You are simply saying, yes, I agree that we need to get the show on the road in a serious way and quit talking nonsense.

I yield the floor.

Mr. FEINGOLD. Madam President, first of all, I thank the Senator from Arkansas for his wonderful statement of common sense. That is all we are trying to do is to be a little bit direct with the American people and say that it is wholly impossible to balance the Federal budget at the same time you are talking about massive tax cuts.

In a moment, the distinguished Senator from Minnesota will join with us. But let me just say that I think what the Senator was saying at the end is important to reiterate. A lot of folks here that are for the balanced budget amendment—and maybe some of them do not plan to be around here when we have to actually make these hard decisions; maybe some will retire; maybe some will be President; maybe some will be term limited; maybe they will be kicked out of here by their own vote for term limits. But this is an awfully sweet deal for a politician. If you vote for a balanced budget amendment, you get to hand out a giant tax cut to everybody, and you do not have to say what you are going to cut for many years. It is like a hat trick. That is about the best thing a politician could have. That is exactly the kind of concern I have here. I think many people are very sincere about balancing the Federal budget. But if we are not honest about this issue, that you cannot have it both ways, you cannot have a tax cut and balance the budget, then we are failing our responsibility to be direct with the American people.

Madam President, I want to note one thing about the debate thus far. The hour and a half is coming to an end. I have not heard one single Senator say one good thing about the tax cut proposal. Not a single Senator has come out and said it is a good idea to cut taxes across the board or to have a middle-class tax cut. But I have heard at least four Members from the other side of the aisle—the distinguished Senator from Vermont, the distinguished Senator from Rhode Island, the distinguished Senator from Pennsylvania, and the distinguished Senator from Oregon, chairman of the Finance Committee—all publicly say that this might not make sense. They may not well be able to support this tax cut.

Madam President, I guess what I am in search of now is, who is for this? Why do we not start building the foundation of a balanced budget by pointing out that there is nobody in the U.S. Senate who cares enough to come down here and defend the Contract With America's tax cut provision. There is not a single Senator that has come out and defended the President's notion of a middle-class tax cut. I am reading from today's debate that there is not a constituency—certainly not among the American public. Maybe the good news here is that we are not even going to try to do this. If that is what we get out of this process, I will be delighted. I await the day when a Senator comes out here and says, First, he is for a tax cut of this magnitude, $200 billion, and second, he can show us how to have a balanced budget while he does it.

I am delighted to yield 5 minutes to the distinguished Senator from Minnesota.

Mr. KYL. Mr. President, if I might, I would like to respond to the challenge of the Senator from Wisconsin very briefly before we hear the comments of the Senator from Minnesota.

Mr. FEINGOLD. Mr. President, I assume that comes off of their time.

The PRESIDING OFFICER. It does.

Mr. KYL. I thank the Senator. I will challenge it in this way, without talking about all of the proposals in the Contract With America.

One of the key proposals in the Contract With America is to reverse part of the tax increase, the largest tax increase in the history of this country, that raised a tax on seniors. As a matter of fact, it says that if you are a wealthy senior making a grand sum of $34,000 a year, we are going to tax 85 percent of your Social Security. We think that is wrong and we think that tax increase should be repealed. That is part of the Contract With America.

What the amendment of the Senator from Wisconsin suggests is that that tax cut ought to be off the table, that we should not consider any part of the Contract With America tax cuts, because it will make it too hard to balance the budget. Well, in some respects it does make it harder to balance the budget because you have to, in effect, pay for the tax cuts and the reductions called for in balancing the budget. But there are some of us who think the Federal Government spends far too much and we can achieve the savings to accomplish both goals.

We also believe that it is important as a matter of public policy and as a commitment to the seniors of this country to repeal that pernicious tax increase that was part of the President's large tax increase of 2 years ago—this Social Security tax increase.

In the last several days, a lot of Members—particularly from the other side—were in the body here proposing that we protect seniors by taking Social Security off budget. ''We cannot allow the balanced budget amendment to hurt seniors,'' they said. But they are willing to say that we should not help seniors by repealing this onerous 85-percent Social Security tax increase. It is a little bit like playing the first half of a ball game—of course, the Democratic party was in the majority 2 years ago; they had the House, the Senate, and the Presidency, so they had the power to ram that tax increase through—and then when the second half of the ball game starts and the Republicans are in control of the Senate and the House of Representatives and we would like to play in the game and repeal that tax increase that the President got through and that they supported, they say no, no, we are going to call an end to the ball game now. We are not going to play the second half. We are going to leave that tax increase in the law so that a wealthy senior who makes $34,000 a year—wealthy by that definition, of course—is going to be taxed 85 percent on Social Security. We say that is not right, that we should repeal that tax and that we can repeal that tax at the same time that we are beginning the process of balancing the budget. It will take 6 or 7 years, but we will get there and we will get there for one reason: Because the balanced budget amendment will force us to get there.

Mr. FEINGOLD. Madam President, briefly, I appreciate the input of the Senator from Arizona. We want to find out what Senators are supporting so-called tax cuts, and we are interested to know how in the world it is going to be paid for while we go forward with increasing defense spending and balancing the Federal budget and all of the things provided for in the contract. I think this is exactly what we are concerned about. We are concerned that the contract's effect is not to balance the budget, but to undo the progress made in the last 2 years.

The Senator just described one of the elements that led to the reduction of the Federal deficit for the first time in many, many years. He is on record that he is going to try to repeal it. We do not have on record how we are going to pay for that item, or how we are then going beyond that. Because the problem with repealing that is you have to come up with the money to pay for its repeal, and even then you still have not done one single penny of net deficit reduction. You have gone in the wrong direction.

So that is what the debate has to be about. That is what the American people are entitled to.

I now yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Madam President.

First of all, let me thank the Senator from Wisconsin [Mr. FEINGOLD], for his leadership on this issue. I think, Madam President, the thing that I appreciate the most about the Senator from Wisconsin is his insistence that we be very straightforward with people and that we treat the people that we represent with intelligence and that we lay out very honestly and truthfully what the options are.

Now we can disagree in good faith about what those options are. And I understand that full well. But from my perspective, Madam President—and I

have said this a couple of times about these tax cuts—I really liken this, to use an old Jewish proverb, to trying to dance at two weddings at the same time. I just think you cannot talk about more deficit reduction and at the same time say you are going to have this broad-based tax cut—broad-based; we are not talking about one particular proposal, broad-based to the tune of $200 billion since we are talking about a balanced budget amendment between 1996 and 2002 and then another $500 billion between 1992 and 1997. That is $700 billion of tax cuts that is to be made that has to be made up somewhere even before we begin to then get back to deficit reduction.

And so, Madam President, my concern about the direction of all this, as I have stated on the floor before, is that when I add up the baseline $1 trillion that we know we have to do by way of budget cuts to get to this balanced budget by 2002 and then the additional revenue that we lose by virtue of the tax cuts, which we have to make up, plus the increase in the military budget, we are talking about somewhere in the neighborhood of $1.4 trillion.

So, Madam President, it is interesting. My framework is not that deficit reduction is the only public policy goal. That is not what I believe. I have always believed there are two deficits. One of them is the budget deficit; the other is the investment deficit.

I will have an amendment on the floor dealing with children and education, again, because I think we make a terrible mistake in the ways in which we have abandoned children and not invested in children in our country. So from the point of view of the Senator from Minnesota, who understands, on the one hand, there are certain decisive areas of life in our Nation where we need to make the investment and, on the other hand, understands that we have to continue on this path of deficit reduction, I do not see how in the world some of my colleagues can be talking about yet more tax cuts.

This amendment, which asks the Budget Committee to look at this, which essentially challenges all of us to have, I think, some real intellectual rigor on this issue, is an extremely important contribution.

Madam President, I have to say one other thing that actually the Senator from Wisconsin got me thinking about. The politics of this are nifty. It sort of reminds me of 1981 again, where basically what some of the leadership in the country said to the people and the Nation was, we are going to ask you Americans to make a huge sacrifice. And if you make that sacrifice, our country will be much better off—high levels of productivity, the deficit will go down, more jobs, all the rest. We ask you, will you let us cut your taxes?

And people said, ''Great.''

Well, what happened? We cut taxes, dramatically increased the Pentagon budget and built up a huge deficit and a huge debt. We cannot repeat that mistake again. We have to get real with people. We have to make difficult choices.

I have never been identified as a deficit hawk. I get criticized sometimes for not being hawkish enough on this issue, because I keep saying we have to invest in children, education, and we have to invest in health care as well.

But I also understand that we cannot make these investments where we need to make the investments in our people and our communities and continue to reduce the deficit and eventually get to the point where we balance the budget—though I think 2002 is a political date—without getting real.

And that is the importance of this amendment. I would think that this amendment would command broad-based support among all Senators who have said that they consider deficit reduction to be one of their top priorities. Broad-based tax cuts of this kind take us in precisely the opposite direction, and we know it. That is what the Senator from Wisconsin is trying to speak to.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator has remaining 4 minutes 9 seconds.

Mr. FEINGOLD. Thank you, Madam President.

I cannot think of any better allies on an issue like this than the Senator from Arkansas and the Senator from Minnesota, who I know are in this for the long haul. We are in this for the long haul on the balanced budget amendment, on the budget resolution, on reconciliation, you name it. We are going to continue to raise this issue of the irresponsibility of these tax cuts every chance we get with the goal of defeating it.

I think the Senator from Minnesota just made a tremendous point when he pointed out what happened in the early 1980's. Naturally, when people were told we are going give you a tax cut, it will cause the economy to broom and everything will be great, they said, ''That sounds pretty good.'' Human nature. Nothing wrong it. It might have worked.

But the amazing thing now is that in 1995, the American people are hearing that same line again, and what I am so impressed by and delighted by is that they simply are not being fooled twice. It is not going to work this time. Telling the American people, as President Reagan did, that he is going to balance the budget and give everybody a giant tax cut—he did not do it, the Congresses then did not do it, and neither will the 104th Congress, because it cannot be done.

And so to conclude our argument on this, I would just like to return to those people from my State who just laid it on the line and who say they are not going to fall for this again, this idea that 2 plus 2 equal 6 when it comes to balancing the Federal budget.

A couple from, for example, Eagle River, WI, wrote about the tax cut:

> What I need, and what the country needs, is to have the budget deficit paid off so that 20% of the national budget does not go to raising money lenders into the upper class, and so that in 20 years my children and grandchildren won't have to suffer having their entire taxes go to pay the interest and getting none of the services that government should properly provide.

Folks from Cornucopia, WI, which is the northernmost point of Wisconsin, wrote and said:

> The thing is, I can't figure out why this is happening—this race to cut taxes—when the majority of people, according to all I've seen, heard, and read, don't care. We want the deficit cut and we want our money spent more wisely.

A gentleman from Madison, WI, wrote:

> I would like to pay less taxes. I have a family to feed and a mortgage to pay, but what is even more important to me is the yearly federal deficit and the expanding national debt.

He says to us here in the Senate:

> Don't try to make me feel good and make some political points by giving me a tax cut that my children will have to pay for. I'm not that stupid. That doesn't impress me. Short-term, feel-good tax cuts may look good to the weak-minded voters, but frankly I'm extremely concerned about the national debt that we will be leaving our children to pay off long after you are out of office. Let's do what is right for the kids, (even though they are not voters yet, you politicians!). Let's make the spending cuts, leave the tax rates where they are, pay off the federal debt, and leave this country in a secure financial position that won't leave our children cursing on our graves!

And finally, Madam President, from Birnamwood, WI:

> Dear Mr. FEINGOLD:
> I am writing about the proposed tax cuts and write-offs being proposed lately. I am all for cutting spending and lowering taxes as my many letters to you prove. But throwing a few crusts of bread to the masses to keep them quiet is not the answer. By all means cut government spending. But use that savings to eliminate the deficit and pay down the debt that threatens to overwhelm us.

Madam President, in conclusion, the American people are very clear on this. Why in the world can we not be clear with them and say that it is impossible to push for a balanced budget amendment in good faith and still believe we can have the giant tax cuts being proposed, in particular, by the Contract With America?

Mrs. MURRAY. Madam President, I rise in support of the amendment offered by my good friend, the Senator from Wisconsin.

Madam President, I serve as a member of the Senate Budget Committee, and I take that assignment seriously. The budget process starts in that committee. The deficit reduction starts there.

And, Madam President, the tough choices are made there.

And, because in the last 2 years, we made tough choices, the deficit is finally going down.

This country racked up more debt during the 1980's than we had during the previous two centuries. We can never allow this type of explosive debt to creep into the budget process again.

When I was sworn in 2 years ago, I wanted to offer a change in thinking, and help to solve the problem of poor fiscal management.

And, we are solving this problem. We are cutting unnecessary and wasteful programs. We are streamlining other projects.

This year alone, the President has sent us a budget for fiscal year 1996 that eliminates 130 programs and significantly 270 more.

And, because our fiscal house is finally being put in order, the budget deficit has been reduced for 3 years in a row—that is the first time that has happened since Harry Truman was in the White House.

Madam President, we finally have seen some commonsense, rational solutions in budgeting. And, we must continue providing leadership with level-headed moderate decisions, even if they are based on tough choices.

That is why I support the Feingold amendment. It is common sense. It recognizes that we do not have a lot of money to go around. And, the last thing we should be doing when the deficit is finally being reduced is to engage in a political bidding war to enact broad-based, across-the-board tax breaks.

This would only send our deficit soaring again, just like the 1980's. Just like the days when we were told ''you can have it all, and not pay for it.'' Just like the time when we racked up the highest amount of debt in the history of the world.

Madam President, let me be clear. Our colleagues should understand that a vote for the Feingold amendment is not a vote against tax relief. Certain Americans need tax relief. Certain tax laws are antiquated and need to be changed. I believe, for example, we need to revise our estate and gift tax laws.

But, we need to go through this with common sense. I have seen many of the proposals for tax breaks before us. Who do they really help?

My friends and neighbors discuss the Federal budget with me all the time. And Madam President, they tell me time and again that we should reduce the deficit before we discuss broad-based tax breaks.

Fighting this deficit is too serious for political game-playing. We clearly cannot push off on our kids an exploding deficit. Sometimes, spending programs are urgent, and, sometimes, tax relief is necessary.

But, bidding wars to cut taxes for political popularity are not urgent and not necessary. As I said, Madam President, these proposals might be popular, but they are dangerous.

And, Madam President, I will start worrying about my own personal popularity when I know my kids have a secure economic future.

This amendment is good common sense. I thank my friend, Senator FEINGOLD, for having the courage to bring it before the Senate. And, I urge its swift adoption.

Mr. BAUCUS. Madam President, I rise in opposition to the sense-of-the-Senate resolution advanced by my colleague from Wisconsin.

The citizens of Montana want deficit spending brought under control. They want the budget balanced and they want the job done within a specified period of time. The balanced budget amendment achieves that result, although, as I have noted on several occasions, not without a great deal of pain.

The resolution before us attempts to establish priorities between balancing the budget and a middle-class tax cut.

I serve on the Finance Committee. Provisions to implement a middle-class tax cut will come before that committee in the near future. After hearings and after due consideration, I and the other members of the Finance Committee will determine whether a middle-class tax cut should be enacted and what form it should take. After the committee takes action, each and every Member of this body will have a chance to express their view on the proposed middle-class tax cuts, if in fact, the committee forwards such cuts to the full Senate for their consideration.

The working citizens of Montana would benefit from a middle-class tax cut. At the same time, they have expressed to me time and again that deficit reduction is their primary concern. The issue I and my colleagues will face on the Finance Committee is whether we can accommodate both a reduction in the deficit and tax cuts for America's middle class.

These priorities are properly decided by the members of the Finance Committee after due consideration, not by a sense-of-the-Senate resolution.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I think this debate is far more appropriate to a debate on the implementing legislation. I hope our fellow Senators will vote down this motion to refer. I encourage the distinguished Senator, who is very sincere in trying to handle deficit matters, to do this on the implementing legislation after the balanced budget amendment passes. That is the way to do it, and not at this particular time. If the balanced budget amendment does not pass, then he has plenty of other vehicles to try and make his points known.

There are many of us who believe that tax cuts actually increase revenues to the Federal Government. That was proven during the eighties. Had we not passed all kinds of additional spending programs as part of a deal made in order to get the marginal tax rate reductions, we would have had an even greater economic expansion. As it was, every time President Reagan wanted marginal tax cuts reduced, Congress added a bunch of spending programs on the side as part of the bills. As a result, we still had more revenues, but we had even greater spending increases than revenue increases. Of course, part of those increases were defense and national security spending.

I am not here to assess blame on anybody. All I am saying is that many of us believe that tax rate reductions done in the appropriate and proper way actually create more opportunities for working people, more savings, more investment, more jobs, and more people working, and therefore, more people paying into the system.

So, having said that, I hope that our fellow Senators will realize that this is not the time to pass on a status quo tax policy method of implementing the balanced budget amendment as embodied in this motion, but this is a time to stand up for the balanced budget amendment. Let us stay on the beam, let us stay on the ball. Let us stay focused on what has to be done.

Has the distinguished Senator yielded back the remainder of his time? I yield back the remainder of my time.

Madam President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to lay on the table the motion to refer House Joint Resolution 1 to the Budget Committee with instructions. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 66, nays 32, as follows:

[Rollcall Vote No. 67 Leg.]

YEAS—66

Abraham	Dole	Kennedy
Ashcroft	Domenici	Kohl
Baucus	Faircloth	Kyl
Bennett	Feinstein	Lautenberg
Biden	Frist	Leahy
Bond	Gorton	Lieberman
Bradley	Gramm	Lott
Brown	Grams	Lugar
Bryan	Grassley	Mack
Burns	Gregg	McCain
Campbell	Hatch	McConnell
Coats	Hatfield	Mikulski
Cochran	Heflin	Murkowski
Coverdell	Helms	Nickles
Craig	Hutchison	Pressler
D'Amato	Inhofe	Rockefeller
DeWine	Jeffords	Roth
Dodd	Kempthorne	Santorum

Sarbanes	Smith	Thomas
Shelby	Snowe	Thompson
Simon	Specter	Thurmond
Simpson	Stevens	Warner

NAYS—32

Akaka	Exon	Levin
Bingaman	Feingold	Moseley-Braun
Boxer	Ford	Murray
Breaux	Glenn	Nunn
Bumpers	Graham	Packwood
Byrd	Harkin	Pell
Chafee	Hollings	Pryor
Cohen	Inouye	Reid
Conrad	Johnston	Robb
Daschle	Kerrey	Wellstone
Dorgan	Kerry	

NOT VOTING—2

Kassebaum	Moynihan

So the motion to lay on the table the motion to refer House Joint Resolution 1 to the Budget Committee with instructions was agreed to.

AMENDMENT NO. 241

The PRESIDING OFFICER. Under the previous order of the Senate, we will now resume consideration of amendment No. 241, offered by the Senator from South Carolina, Mr. HOLLINGS.

The Chair recognizes the Senator from South Carolina.

Mr. HOLLINGS. Madam President, let me emphasize that this is not intended to delay the constitutional amendment for a balanced budget. In fact, we have agreed to an hour and a half time limit. My amendment is drafted so that, if adopted, it will be engrossed separately by the States, and therefore voted on separately by the States, so it will not kill the balanced budget amendment. In other words we are not trying to delay or are confuse.

Madam President, let me go to the history of this, because I was there. In the 1968 race for President, the distinguished former Secretary of Commerce, Maurice Stans, he came to my State and he said: Now, you textile leaders, you all have to contribute $35,000 apiece for the Presidential race. He raised $350,000.

I had been in Government 20 years. I had been elected Lieutenant Governor, I had been elected Governor, and they were my friends, and they never got up $350,000 for this Senator.

I remember this course of events well. In the Presidential campaign of 1968, the Nixon folks went all of the county to the rich and asked that they contribute to the campaign. One fellow from Chicago gave $2 million. There were several others who gave $400,000 and $500,000. Following the election, John Connally went to President Nixon and said, ''Mr. President, there have been some real valued contributors, substantial contributors, and they have not even met you or been thanked by you.'' They agreed that the President would come down the next week to the ranch in Texas for a barbecue. As that week arrived and they were turning into the barbecue at the Texas ranch, Dick Tuck, the prankster from the Kennedy days, put a Brink's truck by the gate. Then they got a picture of it. We were all embarrassed: The public thought the Government was up for sale.

Madam President, it has gotten worse. Back in 1974, in a bipartisan fashion—I remember the debate well—we amended the Federal Election Campaign Practices Act. With these amendments we said the Government is not up for sale. You cannot receive cash. Every dollar must be on top of the table, accounted for here at the Secretary of the Senate and the Secretary of State back in your home State. You can only get $1,000 individually, $5,000 by way of a PAC and you will be limited to so much per voter. Most importantly, the total expenditures of the campaign would be limited. In the State of South Carolina it would be about $500,000, half a million dollars. But in the State of California or Texas it would be, of course, millions.

I say it has gotten worse. But let me emphasize, we had a strong vote on the Federal Election Campaign Practices Act in 1974 and our good friend, the distinguished Senator from New York at that time, Senator Jim Buckley—and I speak affectionately because his father contributed to my races, William F. Buckley, Sr. —but Jim said: Oh, no, I am going to sue the Senate. You can't limit what I spend on my races. You have taken away my speech.

And in a very distorted decision, a contorted decision, the Supreme Court agreed. By the Courts decision in Buckley versus Valeo, rather than freedom of speech under the first amendment, for individuals and people, the Supreme Court gave freedom of speech to the rich. Freedom to those with money, rather than to the people. The Court essentially took the speech away from the poor.

For example, if I have $1 million and you have $50,000, I wait until the first week of October and then I just offload—spending all my money on television, signs, radio, farmer shows, talk shows and everything I can possibly think of. And whoever I am running against, their friends and family say, ''I wonder why he does not answer.''

You do not answer because you do not have the money. It takes literally millions of dollars now.

It seems like somehow somewhere there would be some shame in this body. I have tried over the last 20 years. You can not offer a joint resolution as an amendment to a bill. It seems that in every Congress there were always campaign reform bills, but I could not offer my joint resolutions to them. Offering joint resolutions to bills is barred by the rules.

These campaign reform bills usually included some form of public financing. That always lead to gridlock. It appears we are not going the way of public financing. I hope not, with a $4.85 trillion deficit. We are not going to find a new mission for the taxpayer—that of financing politicians. So we are not going to do that. We have to control campaign expenditures. We have to somehow control it. For heaven's sake, we have tried, and it has been bipartisan.

I thank my distinguished colleague from the other side, the distinguished Senator from Pennsylvania, Senator SPECTER, and the others who cosponsored and willingly voted to help in this particular cause.

My amendment does not say what the limits would be. I would contemplate going back to what we intended, namely, limiting spending to so much per voter in each State; the small States the smaller amount of money and the large States the larger amount of money. But now today you have to raise $13,200 each and every week of a six year term for the average Senator to get reelected—$13,200 a week. He is in business, not to legislate, not to debate, not to listen, not to discuss, not to hear, but by gosh to track down everybody he can and pick their pockets—$13,200 a week.

I heard the distinguished Senator from California, who was just reelected, say with her contributions and with the party contributions, it took her $19 million to run. Senator FEINSTEIN would admit that. Her opponent, Mr. Huffington, spent almost $30 million.

This is a disgrace. Do not come in here with this ''ying yow'' about, yes, it is a good idea, but not on the balanced budget amendment. It is just our opportunity. We have had time and time again votes on my amendment. We had a vote on this particular matter back in 1988. We got 52 votes. We brought it up again later in that same year and we got a vote of 53 votes, and, on May 27 of 1993 we got 52 votes for a Sense-of-the-Senate resolution expressing that the Senate should adopt this amendment.

Mr. HATCH. Mr. President, will the Senator yield for a unanimous consent request?

Mr. HOLLINGS. Yes. I yield.

Mr. HATCH. I thank my friend.

Mr. President, I ask unanimous consent that the 30 minutes designated to me be designated to the distinguished Senator from Kentucky.

The PRESIDING OFFICER (Mr. DEWINE). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, let us be done with the phony charge that spending limits are somehow an attack on freedom of speech. This is false. If anything the Courts decision is an attach on free speech. As Justice Marshall points out in his dissent the Court's decision actually limits the speech of those with less money. Justice Marshall states, and I quote:

> It would appear to follow that the candidate with the substantial personal fortune at his disposal is off to a significant head start.

Indeed, Mr. President, Justice Marshall went further when he argued that by upholding the limits on contributions but striking down the limits on

overall spending, the Court put an additional premium on a candidate's personal wealth.

The effect of this decision was discussed before a hearing that we held in the Judiciary Committee. We have had several hearings. At one of those hearings, back in 1988, the Committee on the Constitutional System's Lloyd Cutler appeared, and he said and I quote:

Along with Senator Nancy KASSEBAUM of Kansas and Mr. Douglas Dillon, I am a co-chairman of the Committee on the Constitutional System, a group of 700 present and former legislators, Executive branch officials, political party officials, professors and civic leaders who are interested in analyzing and correcting some of the weaknesses that have developed in our political system.

Quoting further:

The courts approved the Presidential Campaign Financing Fund created by the '76 amendments, including the condition it imposed barring any Presidential nominee who accepted the public funds from spending more than a specified limit. However, it remains unconstitutional for Congress to place any limits on expenditures by independent committees or on behalf of a candidate. In recent Presidential elections, these independent expenditures on behalf of one candidate exceeds the amounts of Federal funding he accepted. Moreover, so long as Congress remains deadlocked on proposed legislation for the public financing of congressional campaigns, it is not possible to use the public financing device as a means of limiting congressional campaign expenditures.

Accordingly, the Committee on the Constitutional System has come to the conclusion that the only effective way to limit the explosive growth of campaign financing is to adopt a constitutional amendment.

Mr. President, In reality my amendment really restores the freedom of speech. If you have money, you have unlimited speech. If you do not have money, you have the freedom to shut up, say nothing.

I can tell you, the last five amendments to the Constitution itself dealt with elections and all were ratified by three-fourths of the States in an average of 17 months. If we adopt this today the states can ratify it and we can enforce limits on campaign expenditures for the 1996 elections.

My amendment, if effect, gets us back to an even playing field where everyone has the same freedom, rich or poor, Republican or Democrat, conservative or liberal or otherwise.

With respect to incumbency, I think we have learned from the last election that—at least we Democrats have learned—it does not pay to be an incumbent. I can tell you that right now. There were 10 Senators that were here last year that are not here today.

Right to the point, Mr. President, for 20 years Congress has been like a dog chasing its tail. We have tried to correct Buckley versus Valeo. We have had, time and time again, debates on all forms of campaign reform. Again and again and again, it does not go anywhere. When it looks as if it is going somewhere, it is threatened with the veto. Here, with this particular approach, there is no veto. The amendment would go directly to the States.

I yield 5 minutes to the distinguished Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in support of the effort by the Senator from South Carolina. I think that, at a minimum, we have to limit the amount individuals can contribute to their own campaigns. The Senator's analysis is very clear that in order to do that, given Buckley versus Valeo, we must have a constitutional amendment.

Mr. President, my own personal view is that the problem that lies at the heart of the political process is the money in the political process. There is no doubt that this is true. And I believe that while the Senator's amendment is necessary, and a constitutional amendment is necessary to achieve the end of preventing those with enormous resources from buying elections, I do not think it is sufficient. I support it because I think it is an important step that plugs up one gigantic loophole in this process that allows those with means to buy the microphone. When you have a system where only the rich can buy paid media in sizable amounts, you directly impede political equality. That is what has happened, and this is the only way under our current circumstances to change that.

Mr. President, if we do this amendment and leave all the rest there, we still have a major problem: too much money in politics. So I offer, in support of the amendment and in addition to the amendment—and a very simple idea that our only way to get money out of politics is to get money out of politics—two very simple proposals. One, that anybody in America, on their Federal income tax form, above their tax liability, can designate an additional $200 to go to a political fund. In July, or at sometime after the primary election for Federal office in a particular State, that fund is divided between Republican, Democrat, and/or qualified independent, and the only money that is permissible is the money from that fund. And the money in that fund can only be contributed from citizens in your State.

If citizens in a particular State chose to give very little, they would be less informed, no doubt in my mind. They would be less informed, but they would be in charge. And the system would adjust. And, who knows, maybe we would end up with a system in which attack ads would go and public discourse would grow. Unless we are prepared to cross the path to the side that says the only money available is money contributed by citizens in your State—no PAC's, no party conduits, no big contributors, and no wealthy individuals able to buy the means and the microphone in an election —unless we are prepared to do all of that, we are just kidding ourselves. We are going to be arguing around the edges about this political reform or that political reform. But unless we take, I think, this radical step, we will not end money in politics. It is as simple as that.

So the Senator's effort is not only laudable but central to getting control of the democratic process.

I see the distinguished Senator from Pennsylvania is on the floor and is going to speak, and he has the opportunity, given what his activities are these days on the national scene, to champion fundamental campaign finance reform. I hope that we will cross that line and say: No individual contributions, no big contributions, no PAC's, no party conduits, and no millionaires buying elections. You can put up to $200 above your tax liability into a fund several months prior to the general election, which is divided among Republicans and Democrats and qualified independents, and that is the only money; it is only the money from tax returns in your State. If we do not do something that radical, we will not have fundamental campaign finance reform.

I salute the Senator for his amendment.

Mr. HOLLINGS. Mr. President, I yield whatever time necessary to my distinguished cosponsor, the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the amendment offered by the distinguished Senator from South Carolina. This is an issue which we have raised repeatedly on the floor of the U.S. Senate, because it is a direct way to deal with campaign finance reform without having a further burden on the Treasury of the United States.

We have debated campaign finance reform repeatedly in a variety of contexts. Most of them come down to a proposition to have Federal subsidies for candidates and then to call upon the candidates to relinquish their rights under Buckley versus Valeo in order to qualify for Federal funding. I have opposed such Federal funding because I think it is unwise to further burden the Treasury by having campaigns paid for by the U.S. Treasury.

The necessity for this amendment was created by the decision of the Supreme Court of the United States in 1976 in Buckley versus Valeo. That particular decision had a very significant impact on this Senator, because at that time I was running for the U.S. Senate. Under the 1974 statute, there was a limited amount a candidate for the Senate could spend of his or her own money, based on population.

When I entered the race in late 1975, for a seat which was then being vacated by a very distinguished U.S. Senator, Senator Hugh Scott, the Federal law said that, on a population basis, a candidate in a primary in Pennsylvania would be limited to $35,000. That was about the limit of the means which I had at that time, having been extensively in public service as district attorney of Philadelphia and for a relatively short period of time in the private practice of law. Halfway through that campaign, on January 29, 1976, the

Supreme Court of the United States said that the limitation on what an individual could spend of his or her own money was unconstitutional.

At that time, I was running against a very distinguished Pennsylvanian, the late Senator John Heinz, with whom I served in this body for many, many years. Senator Heinz had substantially more financial capabilities and, as was appropriate under the law, utilized the invalidation of the spending limit at that time.

It has always seemed to me that Congress ought to have the authority to establish a spending limit in Federal elections without regard to the first amendment limitation which was applied by the Supreme Court in Buckley versus Valeo.

In approaching this matter, Mr. President, I am very concerned about amending the first amendment to the United States Constitution—freedom of speech, religion, press, assembly. But the amendment that we are talking about really does not go to any of these core first amendment values. This is not a matter affecting religion. It is not a matter really affecting speech.

I think it was a very far stretch when the split Court of the U.S. Supreme Court said that a campaign expenditure for an individual was a matter of freedom of speech. At that time, the Supreme Court did not affect the limitation on spending where an individual could contribute only $1,000 in the primary and $1,000 in the general, except for contributions by PAC's, political action committees.

At that time, in 1976, my brother had considerably more financial means than I did and would have been very much interested in helping his younger brother, but the limitation on my brother in that primary was for $1,000. It seemed to me then and it seems to me now that if a candidate has the right to spend as much of his or her money as he or she chooses, then why should not any other citizen have the same right under the first amendment to express himself or herself by the political contributions.

So the decision by the Supreme Court in Buckley versus Valeo, I submit, was a unusual one and I think not well founded. And within our framework of Government we can change that by having this amendment at this time.

I discussed this matter earlier today with my distinguished colleague from South Carolina. We talked about the procedural aspect of offering legislation to come up through the Judiciary Committee and at this time, on this resolution, it is an appropriate field to deal with this matter. And as we are dealing with the constitutional amendment for a balanced budget, we can deal with the constitutional issue raised in Buckley versus Valeo.

This year, Mr. President, I am undertaking another venture at the present time, exploratory travel looking toward the Republican nomination for President of the United States. And I am impressed again with how important fundraising is and how disproportionate it is to the undertaking for a political candidacy.

My idea about running for elective office, Mr. President, is a matter of issues, a matter of tenacity, a matter of integrity, and how you conduct a campaign. But money has become the dominant issue in the Presidential campaign. And the media focus on it to the virtual exclusion of the many issues of substantive matters which are really involved in a campaign for the candidacy for the Presidency.

So I think that the amendment which is now pending will leave it up to the Congress of the United States to decide what campaign finance limitations should be, authority which we have under the Constitution. Under a constitutional provision, the Congress does have the authority to deal with this issue. Article 1, section 4, of the Constitution specifically vests the authority in Congress to regulate national elections.

Absent the decision in Buckley versus Valeo, we would have that authority. Similarly, State legislatures would also have the authority to regulate their own campaigns if Buckley versus Valeo were not the law of the land.

In essence, Mr. President, I think that Buckley was wrongly decided. I think that it has limited the Congress in regulating the expenditure of funds. Money is too important in elections for the House of Representatives, for the U.S. Senate, as well as for the Presidency of the United States.

So I hope we will have an affirmative vote. The last time this matter came up in a sense-of-the-Senate resolution, it was passed. And if we could pass it here today, I think it would be a very, very important step forward for reform to eliminate money as a dominant factor in so many elections.

I thank the Chair and yield the floor.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Pennsylvania, because he has given a real life example of the frustration that we have.

Let me yield so the other side can respond.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, this need not be a lengthy debate. I would be more than happy to yield back whatever time I may have left if the Senator from South Carolina would like to do the same. We have been over this turf before.

I want to commend the Senator from South Carolina for understanding and realizing that all of the campaign finance reform bills we have dealt with in recent years have been unconstitutional. So at least the Senator from South Carolina understands that the proposals that have been kicking around here for the last 5 or 6 years clearly trash the first amendment.

But I would say where I differ with the Senator from South Carolina is not in his judgment about the fact that the campaign finance reform bills that we have dealt with were unconstitutional—and they clearly were—but the Senator now says we ought to amend the first amendment. We ought to change the first amendment to the Constitution for the first time in 200 years.

And by suggesting that, Mr. President, my good friend from South Carolina has managed to come up with a proposal that even Common Cause is against and the Washington Post is against. So we have two entities that have been in the forefront of calling for campaign finance reform. Common Cause, a leading outside interest group, special interest group, advocating a campaign finance reform, says amending the first amendment is a bad idea, so they oppose the HOLLINGS proposal. And the Washington Post, which has clearly been interested in seeing a campaign finance reform bill, also opposes amending the first amendment.

So Mr. President, I would submit a letter of a few years back by Common Cause opposing the HOLLINGS constitutional amendment and ask unanimous consent that it be printed in the RECORD.

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

COMMON CAUSE,
Washington, DC, March 23, 1988.

DEAR SENATOR: The Senate is expected to consider shortly S.J. Res. 21, a proposed amendment to the Constitution to give Congress the power to enact mandatory limits on expenditures in campaigns. Common Cause urges you not to support S.J. Res. 21.

The fundamental problems caused by the massive growth in spending for congressional elections and by special interest PAC giving demand effective and expeditious solution. The Senate recently came within a handful of votes of achieving this goal. For the first time since the Watergate period, a majority of Senators went on record in support of comprehensive campaign finance reform legislation, including a system of spending limits for Senate races. It took an obstructionist filibuster by a minority of Senators to block the bill from going forward.

The Senate now stands within striking distance of enacting comprehensive legislation to deal with the urgent problems that confront the congressional campaign finance system. The Senate should not walk away from or delay this effort. But that is what will happen if the Senate chooses to pursue a constitutional amendment, an inherently lengthy and time-consuming process.

S.J. Res. 21, the proposed constitutional amendment, would not establish expenditure limits in campaigns; it would only empower the Congress to do so. Thus even if two-thirds of the Senate and the House should pass S.J. Res. 21 and three-quarters of the states were to ratify the amendment, it would then still be necessary for the Senate and the House to pass legislation to establish spending limits in congressional campaigns.

Yet it is this very issue of whether there should be spending limits in congressional

campaigns that has been at the heart of the recent legislative battle in the Senate. Opponents of S. 2, the Senatorial Election Campaign Act, made very clear that their principal objection was the establishment of any spending limits in campaigns.

So even assuming a constitutional amendment were to be ratified, after years of delay the Senate would find itself right back where it is today—in a battle over whether there should be spending limits in congressional campaigns. In the interim, it is almost certain that nothing would have been done to deal with the scandalous congressional campaign finance system.

There are other serious questions that need to be considered and addressed by anyone who is presently considering supporting S.J. Res. 21.

For example, what are the implications if S.J. Res. 21 takes away from the federal courts any ability to determine that particular expenditure limits enacted by Congress discriminate against or otherwise violate the constitutional rights of challengers?

What are the implications, if any, of narrowing by constitutional amendment the First Amendment rights of individuals as interpreted by the Supreme Court?

We believe that campaign finance reform legislation must continue to be a top priority for the Senate as it has been in the 100th Congress. If legislation is not passed this year, it should be scheduled for early action in the Senate and the House in 1989.

In conclusion, Common Cause strongly urges the Senate to face up to its institutional responsibilities to reform the disgraceful congressional campaign finance system. The Senate should enact comprehensive legislation to establish a system of campaign spending limits and aggregate PAC limits, instead of pursuing a constitutional amendment that will delay solving this fundamental problem for years and then still leave Congress faced with the need to pass legislation to limit campaign spending.

Sincerely,

FRED WERTHEIMER,
President.

Mr. MCCONNELL. And also, an editorial in the Washington Post also opposing the Hollings constitutional amendment. I ask unanimous consent that the editorial be printed in the RECORD, as well.

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

[From the Washington Post, Apr. 6, 1988]

CAMPAIGN SPINACH

Sen. Ernest Hollings was not an admirer of S. 2, the sturdy bill his fellow Democrats tried to pass to limit congressional campaign spending by setting up a system of partial public finance. He agreed to vote for cloture, to break a Republican filibuster, only after Majority Leader Robert Byrd agreed to bring up a Hollings constitutional amendment if cloture failed. Mr. Byrd, having lost on S. 2, is now about to do that.

Right now Congress can't just limit spending and be done with it; the Supreme Court says such legislation would violate the First Amendment. Limits can only be imposed indirectly—for example, as a condition for receipt of public campaign funds. The Hollings amendment would cut through this thick spinach by authorizing Congress to impose limits straightaway. The limits are enticing, but the constitutional amendment is a bad idea. It would be an exception to the free speech clause, and once that clause is breached for one purpose, who is to say how many others may follow? As the American Civil Liberties Union observed in opposing the measure, about the last thing the country needs is ''a second First Amendment.''

The free speech issue arises in almost any effort to regulate campaigns, the fundamental area of free expression on which all others depend. There has long been the feeling in and out of Congress—which we emphatically share—that congressional campaign spending is out of hand. Congress tried in one of the Watergate reforms to limit both the giving and the spending of campaign funds. The Supreme Court in its Buckley v. Valeo decision in 1976 drew a rather strained distinction between these two sides of the campaign ledger. In a decision that let it keep a foot in both camps—civil liberties and reform—it said Congress could limit giving but not spending (except in the context of a system of public finance). In the first case the court found that ''the governmental interest in preventing corruption and the appearance of corruption'' outweighed the free speech considerations, while in the second case it did not.

Mr. Hollings would simplify the matter, but at considerable cost. His amendment said, in a recent formulation: ''The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal offices.'' But that's much too vague, and so are rival amendments that have been proposed. Ask yourself what expenditures of a certain kind in an election year are not ''intended to affect'' the outcome? At a certain point in the process, just about any public utterance is.

Nor would the Hollings amendment be a political solution to the problem. Congress would still have to vote the limits, and that is what the Senate balked at this time around.

As Buckley v. Valeo demonstrates, this is a messy area of law. The competing values are important; they require a balancing act. The Hollings amendment, in trying instead to brush the problem aside, is less a solution than a dangerous show. The Senate should vote it down.

Mr. MCCONNELL. So, Mr. President, what the Senator from South Carolina is proposing here is that not only the Federal Government but State governments, reading from the amendment, ''have the power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to Federal office.''

Now, Mr. President, it should not be a surprise to anyone that the American Civil Liberties Union also thinks this is a terrible idea. Not only do they think it is a terrible idea with regard to the power that would be granted to limit speech of candidates, the provision I just made reference to, which said ''in support of or in opposition to the nomination or election of any person to Federal office,'' but would also give to the Congress the power to do the following.

And, Mr. President, I read from an opinion of the American Civil Liberties Union, which says:

''Finally, as an amendment subsequent to the First Amendment, the existing understandings about the protection of freedom of the press would also be changed''—freedom of the press would also be changed—''thereby empowering Congress to regulate what newspapers and broadcasters can do on behalf of the candidates they endorse or oppose. A candidate-centered editorial, as well as op-ed articles or commentary, are certainly expenditures in support of or in opposition to political candidates. The amendment, as its words make apparent,'' says the American Civil Liberties Union, ''would authorize Congress to set reasonable limits on the involvement of the media in campaigns when not strictly reporting the news. Such a result would be intolerable in a society that relishes a free press.''

So the proposal we have before us, Mr. President, first, amends the first amendment for the first time in history. And many people feel that is not a good idea; that the first amendment has served us well.

The second manages to draw the opposition of even the principal advocates of campaign finance reform, Common Cause and the Washington Post, and, also, Mr. President, even though this issue in the past was quite partisan—most Republicans opposing it, most Democrats supporting it—the following Senators on the other side of the aisle voted against this proposal when it was last offered in May 1993.

I want to commend those Senators publicly for respecting the first amendment, for agreeing—although they like the idea of a campaign finance reform bill—with Members that amending the Constitution of the United States, amending the first amendment for the first time in history, was a terrible idea. Senator BOXER agreed with that proposition, Senator KERREY of Nebraska, Senator KOHL, Senator LEAHY, Senator MIKULSKI, Senator MOYNIHAN, Senator PELL, and Senator ROCKEFELLER, all, even though I know they basically supported the various campaign finance reform bills proposed by those on the other side of the aisle, agreed with this Senator and the ACLU and Common Cause and the Washington Post that amending the first amendment to the U.S. Constitution for the first time in history was a terrible idea.

So, Mr. President, at the appropriate time I will be making a motion to table, and I hope that Senators will certainly agree that no matter how they may feel about passing some kind of campaign finance reform bill or another—and we certainly have had our differences on that issue—no matter how they may feel about that, it is not a good idea to amend the Constitution, to amend the first amendment to the Constitution for the first time in history.

Now, with regard to the Buckley case on the question of whether spending is speech, the Supreme Court was clear. My recollection was that eight out of nine members of the Supreme Court said spending is speech. So there is not any question that this is an amendment about speech. No matter whether some Senators wish spending were not speech or not, the Supreme Court has said that spending is speech. So no matter how much some Senators may

wish that the Court had not said that, no matter how much some Senators wish the Buckley case was decided otherwise, the fact of the matter is the Supreme Court has said spending is speech.

So this amendment, Mr. President, is about amending the first amendment to the Constitution for the first time in history. So I hope that this will be defeated on a bipartisan basis, because it is really quite a terrible idea.

Mr. President, I will retain the remainder of my time should I need it, and I yield the floor at this point.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I enjoyed references to Senators and their votes. It is not necessarily Dale Carnegie's approach to winning friends and influencing people. I am in the business of trying to obtain votes. So I necessarily try my best to resist the record.

The distinguished Senator from Kentucky made a record and he talks about the first time we amended the first amendment. Well, this is the first time an amendment would do it.

Now, the fact of the matter is, on October 19, 1989, 5 years ago or a little more, the distinguished Senator from Kentucky voted with the majority—it did not get two-thirds—but the distinguished Senator from Kentucky voted to amend the first amendment with respect to burning the flag of the United States of America.

I would be delighted to yield. I am looking at this record. If the record is incorrect, I would be delighted to yield.

Mr. McCONNELL. Mr. President, I thank my friend from South Carolina for yielding.

We have had this same colloquy before. The Senator from South Carolina raised this the last time we had this discussion, and the Senator from South Carolina, I am sure, recalls my reply. My reply was, ''If I had to do it over again, I would have voted differently.'' In fact, upon reflection, my view is that I am sure the Senator from South Carolina, in his history here, has never cast a vote that he regretted, but I have not been so fortunate as to never having regretted a vote I cast here. The Senator from South Carolina and I had this exchange the last time we had this debate, and he, I am sure, recalls that I said that I thought I had made a mistake in voting that way on the flag-burning amendment, and should such an amendment come before Members again, I would not so vote again.

Mr. HOLLINGS. Mr. President, the question is not whether it is a mistake. The question is whether it is a fact that a majority of the U.S. Senate, 51 Senators, duly elected and voting, voted at that particular time to amend the first amendment with respect to burning the flag of the United States of America.

There have been other votes to amend the first amendment. Of course, we have had a majority vote on this amendment at least three times. The truth of the matter is, and the reality is, and the fact is, that the Supreme Court in Buckley versus Valeo amended the first amendment.

I mean, after all, it was a 5–4 decision. If we get down to it we know that, yes, it limits spending, it limits speech. Speech is equated with spending. For those who have money, they can talk all they want. For those who do not, they do not have the freedom of speech. Those who do not have the money are limited.

Of course, the Buckley versus Valeo decision found nothing wrong with limiting speech because they said the $1,000 was constitutional for an individual contribution; the $5,000 for political action committees was also constitutional. So everybody wants to act like we are making some kind of history and changing it around.

When we had the other constitutional amendments affecting elections, they refer, of course, to the matter of elections on term limits. That is the 22d amendment. The 23d amendment, the electoral votes in Presidential elections. The 24th amendment, elimination of the poll tax with respect to voting. And the 26th amendment gave 18-year-olds the right to speak. Someone could give the same argument that 18-year-olds did not have the right to speak under the Constitution in elections. But then they were given the freedom of speech at 18 years of age.

We are dealing with elections and campaign financing. It is totally a shame and disgrace. Absolute shame and disgrace. I will never forget the feel, politically, that you get in campaigns.

I think it is very healthy, Mr. President, to go back on to the main street and walk up and down both sides and see the same merchants that you saw. You asked for their vote. You made certain promises, I guess, certain representations. You told them about your beliefs and what you stand for. You go out into the rural areas to the farmers. You visited around in the hospitals, the doctors, and everything else of that kind.

That is the way we politic in the small State of South Carolina. Of course, it is totally impossible in large New York or large California. I am not contending that it is. But right after the last election in 1992, just a couple of years ago, I went around to each one of the counties and we had town meetings, and I made the call.

My friends kept asking, they say, ''Why are you coming around? You just got elected. You got 6 years.'' And I said, ''I couldn't see you in the campaign. I didn't have time. I had to go raise money.'' On and on and on. It is just like a veritable treadmill you get these campaign managers, consultants, and otherwise, they will break that time down for you. They will break down when you are going to talk and have your early morning for the farmers and when you will have time when the students come back to the university campuses and most importantly when you will raise money.

This is all sophisticated. It is all tried. It is understandable and it is part of the game. It is very, very, very expensive. To get around and really expose yourself, you do not have time to talk to people unless you are asking for their money and being nice and making the obligatory appearances at debates and certain programs and you try to generate free television.

The distinguished Senator from New Jersey came forward with a nice idea, if it could work. I question it. The premise of the distinguished Senator from New Jersey is that the people of New Jersey and the people of South Carolina are just as interested in the elections as the Senator from New Jersey and the Senator from South Carolina. I doubt it.

We just had an election in my State about 10 days ago, a special election. Out of some 180,000 voters, only 6,000 cast votes. It was on radio; it was on TV. Signs were plastered all over, and everything else like that. But we have less participation—and it is getting worse in this particular country—less than 50 percent. You get, in Australia and other countries, almost 100 percent voting.

So the recommendation of the distinguished Senator from New Jersey to check-off for elections themselves to finance politics, I tell you now, that is a tough one, that is a very, very tough one. I can see that would have very limited chance to really be heard.

Eighty percent of your money is expended on television. We have had different proposals of free TV. After all, the people of America own the airwaves. With the people of America owning these airwaves, it seems as if we can allocate some to public office and the attaining of public office. Each side would have so much free television. We have tried that approach. We have tried financing; we have tried voluntarily putting up so much money. We have tried any number of other solutions. They have all failed.

Like I say, it has been a dog chasing its tail because we know that none of these particular bills will pass because every one of them runs into that unconstitutional decision, Buckley v. Valeo. There is not any question that that is a distortion.

I ask unanimous consent to have a very good article by former Congressman Jonathan Bingham, of New York inserted into the RECORD.

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

[From Annals of the American Academy, July 1986]

DEMOCRACY OF PLUTOCRACY? THE CASE FOR A CONSTITUTIONAL AMENDMENT TO OVERTURN BUCKLEY V. VALEO

(By Jonathan Bingham)

Abstract: In the early 1970s the U.S. Congress made a serious effort to stop the abuses

of campaign financing by setting limits on contributions and also on campaign spending. In the 1976 case of *Buckley* v. *Valeo*, the Supreme Court upheld the regulation of contributions, but invalidated the regulation of campaign spending as a violation of the First Amendment. Since then, lavish campaigns, with their attendant evils, have become an ever more serious problem. Multimillion-dollar campaigns for the Senate, and even for the House of Representatives, have become commonplace. Various statutory solutions to the problem have been proposed, but these will not be adequate unless the Congress—and the states—are permitted to stop the escalation by setting limits. What is needed is a constitutional amendment to reverse the *Buckley* holding, as proposed by several members of Congress. This would not mean a weakening of the Bill of Rights, since the *Buckley* ruling was a distortion of the First Amendment. Within reasonable financial limits there is ample opportunity for that ''uninhibited, robust and wide-open'' debate of the issues that the Supreme Court correctly wants to protect.

''The First Amendment is not a vehicle for turning this country into a plutocracy,'' says Joseph L. Rauh, the distinguished civil rights lawyer, deploying the ruling in *Buckley* v. *Valeo*.[1] It is the thesis of this article that the Supreme Court in *Buckley* was wrong in nullifying certain congressional efforts to limit campaign spending and that the decision must not be allowed to stand. While statutory remedies may mitigate the evil of excessive money in politics and are worth pursuing, they will not stop the feverish escalation of campaign spending. They will also have no effect whatever on the spreading phenomenon of very wealthy people's spending millions of dollars of their own money to get elected to Congress and to state office.

When the Supreme Court held a national income tax unconstitutional, the Sixteenth Amendment reversed that decision. *Buckely* should be treated the same way.

BACKGROUND

The Federal Election Campaign Act of 1971 was the first comprehensive effort by the U.S. Congress to regulate the financing of federal election campaigns. In 1974, following the scandals of the Watergate era, the Congress greatly strengthened the 1971 act. As amended, the new law combined far-reaching requirements for disclosure with restrictions on the amount of contributions, expenditures from a candidate's personal funds, total campaign expenditures, and independent expenditures on behalf of identified candidates.

The report of the House Administration Committee recommending the 1974 legislation to the House explained the underlying philosophy:

''The unchecked rise in campaign expenditures, coupled with the absence of limitations on contributions and expenditures, has increased the dependence of candidates on special interest groups and large contributors. Under the present law the impression persists that a candidate can buy an election by simply spending large sums in a campaign. . . .

''Such a system is not only unfair to candidates in general, but even more so to the electorate. The electorate is entitled to base its judgment on a straightforward presentation of a candidate's qualifications for public office and his programs for the Nation rather than on a sophisticated advertising program which is encouraged by the infusion of vast amounts of money.

''The Committee on House Administration is of the opinion that there is a definite need for effective and comprehensive legislation in this area to restore and strengthen public confidence in the integrity of the political process.''[2]

The 1974 act included a provision, added pursuant to an amendment offered by then Senator James Buckley, for expedited review of the law's constitutionality. In January 1976 the Supreme Court invalidated those portions that imposed limits on campaign spending as violative of the First Amendment's guarantee of free speech.

In his powerful dissent, Justice White said, ''Without limits on total expenditures, campaign costs will inevitably and endlessly escalate.''[3] His prediction was promptly borne out. Multimillion-dollar campaigns for the Senate have become the rule, with the 1984 Helms-Hunt race in North Carolina setting astonishing new records. It is no longer unusual for expenditures in contested House campaigns to go over the million-dollar mark; in 1982 one House candidate reportedly spent over $2 million of his own funds.

In 1982 a number of representatives came to the conclusion that the Buckley ruling should not be allowed to stand and that a constitutional amendment was imperative. In June Congressman Henry Reuss of Wisconsin introduced a resolution calling for an amendment to give Congress the authority to regulate campaign spending in federal elections. In December, with the cosponsorship of Mr. Reuss and 11 others,[4] I introduced a broader resolution authorizing the states, as well as the Congress, to impose limits on campaign spending. The text of the proposed amendment was:

''Section 1. The Congress may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal office.

''Section 2. The several states may enact laws regulating the amounts of contributions and expenditures intended to affect elections to state and local offices.[5]

In the Ninety-eighth Congress, the same resolution was reintroduced by Mr. Vento and Mr. Donnelly and by Mr. Brown, Democrat of California, and Mr. Rinaldo, Republican of New Jersey. A similar resolution was introduced in the Senate by Senator Stevens, Republican of Alaska. As of the present writing, the resolution has been reintroduced in the Ninety-ninth Congress by Mr. Vento.[6]

No hearings have been held on these proposals, and they have attracted little attention. Even organizations and commentators deeply concerned with the problem of money in politics and runaway campaign spending have focused exclusively on statutory remedies. Common Cause, in spite of my pleading, has declined to add a proposal for a constitutional amendment to its agenda for campaign reform or even to hear arguments in support of the proposal. A constituency for the idea has yet to be developed.

THE NATURE OF THE PROBLEM

This article proceeds on the assumption that escalating campaign costs pose a serious threat to the quality of government in this country. There are those who argue the contrary, but their view of the nature of the problem is narrow. They focus on the facts that the amounts of money involved are not large relative to the gross national product and that the number of votes on Capitol Hill that can be shown to have been affected by campaign contributions is not overwhelming.

The curse of money in politics, however, is by no means limited to the influencing of votes. There are at least two other problems that are, if anything, even more serious. One is the eroding of the present nonsystem on the public's confidence in our form of democracy. If public office and votes on issues are perceived to be for sale, the harm is done, whether or not the facts justify that conclusion. In Buckley the Supreme Court itself, in sustaining the limitations on the size of political contributions, stressed the importance of avoiding ''the appearance of improper influence'' as '''critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.'''[7] What the Supreme Court failed to recognize was that '''confidence in the system of representative government''' could likewise be '''eroded to a disastrous extent''' by the spectacle of lavish spending, whether the source of the funds is the candidate's own wealth or the result of high-pressure fund-raising from contributors with an ax to grind.

The other problem is that excellent people are discouraged from running for office, or, once in, are unwilling to continue wrestling with the unpleasant and degrading task of raising huge sums of money year after year. There is no doubt that every two years valuable members of Congress decide to retire because they are fed up with having constantly to beg. For example, former Congressmen Charles Vanik of Ohio and Richard Ottinger of New York, both outstanding legislators, were clearly influenced by such considerations when they decided to retire, Vanik in 1980 and Ottinger in 1984. Vanik said, among other things, ''I feel every contribution carries some sort of lien which is an encumbrance on the legislative process . . . I'm terribly upset by the huge amounts that candidates have to raise.''[8] Probably an even greater number of men and women who would make stellar legislators are discouraged from competing because they cannot face the prospect of constant fundraising or because they see a wealthy person, who can pay for a lavish campaign, already in the race.

In ''Politics and Money,'' Elizabeth Drew has well described the poisonous effect of escalating campaign costs on our political system:

''Until the problem of money is dealt with, it is unrealistic to expect the political process to improve in any other respect. It is not relevant whether every candidate who spends more than his opponent wins—though in races that are otherwise close, this tends to be the case. What matters is what the chasing of money does to the candidates, and to the victors' subsequent behavior. The candidates' desperation for money and the interests' desire to affect public policy provide a mutual opportunity. The issue is not how much is spent on elections but the way the money is obtained. The point is what raising money, not simply spending it, does to the political process. It is not just that the legislative product is bent or stymied. It is not just that well-armed interests have a head start over the rest of the citizenry—or that often it is not even a contest. . . . It is not even relevant which interest happens to be winning. What is relevant is what the whole thing is doing to the democratic process. What is at stake is the idea of representative government, the soul of this country.[9]

Focusing on the different phenomenon of wealthy candidates' being able to finance their own, often successful, campaigns, the late columnist Joseph Kraft commented that ''affinity between personal riches and public office challenges a fundamental principle of American life.''[10]

Footnotes at end of article.

SHORTCOMINGS OF STATUTORY PROPOSALS

In spite of the wide agreement on the seriousness of the problems, there is no agreement on the solution. Many different proposals have been made by legislators, academicians, commentators, and public interest organizations, notably Common Cause.

One of the most frequently discussed is to follow for congressional elections the pattern adopted for presidential campaigns: a system of public funding, coupled with limits on spending.[11] Starting in 1955, bills along these lines have been introduced on Capitol Hill, but none has been adopted. Understandably, such proposals are not popular with incumbents, most of whom believe that challengers would gain more from public financing than they would.

Even assuming that the political obstacles could be overcome and that some sort of public financing for congressional candidates might be adopted, this financing would suffer from serious weaknesses. No system of public financing could solve the problem of the very wealthy candidate. Since such candidates do not need public funding, they would not subject themselves to the spending limits. The same difficulty would arise when aggressive candidates, believing they could raise more from private sources, rejected the government funds. This result is to be expected if the level of public funding is set too low, that is, at a level that the constant escalation of campaign costs is in the process of outrunning. According to Congressman Bruce Vento, an author of the proposed constitutional amendment to overturn Buckley, this has tended to happen in Minnesota, where very low levels of public funding are provided to candidates for state office.

To ameliorate these difficulties, some proponents of public financing suggest that the spending limits that a candidate who takes government funding must accept should be waived for that candidate to the extent an opponent reports expenses in excess of those limits. Unfortunately, in such a case one of the main purposes of public funding would be frustrated and the escalation of campaign spending would continue. The candidate who is not wealthy is left with the fearsome task of quickly having to raise additional hundreds of thousands, or even millions, of dollars.

Another suggested approach would be to require television stations, as a condition of their licenses, to provide free air time to congressional candidates in segments of not less than, for instance, five minutes. A candidate's acceptance of such time would commit the candidate to the acceptance of spending limits. While such a scheme would be impractical for primary contests—which in many areas are the crucial ones—the idea is attractive for general election campaigns in mixed urban-rural states and districts. It would be unworkable, however, in the big metropolitan areas, where the main stations reach into scores of congressional districts and, in some cases, into several states. Not only would broadcasters resist the idea, but the television-viewing public would be furious at being virtually compelled during preelection weeks to watch a series of talking-head shows featuring all the area's campaigning senators and representatives and their challengers. The offer of such unpopular television time would hardly tempt serious candidates to accept limits on their spending.

Proponents of free television time, recognizing the limited usefulness of the idea in metropolitan areas, have suggested that candidates could be provided with free mailings instead. While mailings can be pinpointed and are an essential part of urban campaigning, they account for only a fraction of campaign costs, even where television is not widely used; accordingly, the prospect of free mailings would not be likely to win the acceptance of unwelcome campaign limits on total expenses.[12]

Yet another method of persuading candidates to accept spending limits would be to allow 100 percent tax credits for contributions of up to, say, $100 made to authorized campaigns, that is, those campaigns where the candidate has agreed to abide by certain regulations, including limits on total spending.[13] It is difficult to predict how effective such a system would be, and a pilot project to find out would not be feasible, since the tax laws cannot be changed for just one area. For candidates who raise most of their funds from contributors in the $50-to-$100 range, the incentive to accept spending limits would be strong, but for those—and they are many—who rely principally on contributors in the $500-to-$1000 range, the incentive would be much weaker. This problem could be partially solved by allowing tax credits for contributions of up to $100 and tax deductions for contributions in excess of $100 up to the permitted limit. Such proposals, of course, amount to a form of public financing and hence would encounter formidable political obstacles, especially at a time when budgetary restraint and tax simplification are considered of top priority.

Some of the most vocal critics of the present anarchy in campaign financing focus their wrath and legislative efforts on the political action committees (PACs) spawned in great numbers under the Federal Election Campaign Act of 1974. Although many PACs are truly serving the public interest, others have made it easier for special interests, especially professional and trade associations, to funnel funds into the campaign treasuries of legislators or challengers who will predictably vote for those interests. Restrictions, such as limiting the total amount legislative candidates could accept from PACs, would be salutary[14] but no legislation aimed primarily at the PAC phenomenon—not even legislation to eliminate PACs altogether—wouldsolve the problem so well summarized by Elizabeth Drew. The special interests and favor-seeking individual givers would find other ways of funneling their dollars into politically useful channels, and the harassed members of Congress would have to continue to demean themselves by constant begging.

PAC regulation and all the other forms of statutory regulation suffer from one fundamental weakness: none of them would affect the multimillion-dollar self-financed campaign. Yet it is this type of campaign that does more than any other to confirm the widely held view that high office in the United States can be bought.

Short of a constitutional amendment, there is only one kind of proposal, so far as I know, that would curb the superrich candidate, as well as setting limits for others. Lloyd N. Cutler, counsel to the president in the Carter White House, has suggested that the political parties undertake the task of campaign finance regulation.[15] Theoretically, the parties could withhold endorsement from candidates who refuse to abide by the party-prescribed limits and other regulations. But the chances of this happening seem just about nil. Conceivably a national party convention might establish such regulations for its presidential primaries, but to date most contenders have accepted the limits imposed under the matching system of public funding; John Connally of Texas was the exception in 1980. For congressional races, however, it is not at all clear what body or bodies could make such rules and enforce them. Claimants to such authority would include the national conventions, national committees, congressional party caucuses, various state committees, and, in some cases, county committees. Perhaps our national parties should be more hierarchically structured, but the fact is that they are not.

On top of all this, the system would work for general election campaigns only if both major parties took parallel action. If by some miracle they did so, the end result might be to encourage third-party and independent candidacies.

Let me make clear that I am not opposed to any of the proposals briefly summarized earlier. To the extent I had the opportunity to vote for any of the statutory proposals during my years in the House, I did so. Nor am I arguing that a constitutional amendment by itself would solve the problem; it would only be the beginning of a very difficult task. What I am saying is that, short of effective action by the parties, any system to reverse the present lethal trends in campaign financing must have as a basic element the restoration to the Congress of the authority to regulate the process.

THE MERITS OF THE BUCKLEY RULING

The justices of the Supreme Court were all over the lot in the Buckley case, with numerous dissents from the majority opinion. The most significant dissent, in my view, was entered by Justice White, who, alone among the justices, had had extensive experience in federal campaigns. White's position was that the Congress, and not the Court, was the proper body to decide whether the slight interference with First Amendment freedoms in the Federal Election Campaign Act was warranted. Justice White reasoned as follows:

''The judgment of Congress was that reasonably effective campaigns could be conducted within the limits established by the Act. . . . In this posture of the case, there is no sound basis for invalidating the expenditure limitations, so long as the purposes they serve are legitimate and sufficiently substantial, which in my view they are. . . .

''. . . expenditure ceilings reinforce the contribution limits and help eradicate the hazard of corruption. . . .

''Besides backing up the contribution provisions, . . . expenditure limits have their own potential for preventing the corruption of federal elections themselves.[16]

Justice White further concluded that ''limiting the total that can be spent will ease the candidate's understandable obsession with fundraising, and so free him and his staff to communicate in more places and ways unconnected with the fundraising function.

''It is also important to restore and maintain public confidence in federal elections. It is critical to obviate and dispel the impression that federal elections are purely and simply a function of money, that federal offices are bought and sold or that political races are reserved for those who have the facility—and the stomach—for doing whatever it takes to bring together those interests, groups, and individuals that can raise or contribute large fortunes in order to prevail at the polls.[17]''

Two of the judges of the District of Columbia Circuit Court, which upheld the 1974 act—judges widely respected, especially for their human rights concerns—later wrote law journal articles criticizing in stinging terms the Supreme Court's holding that the spending limits were invalid. For example, the late Judge Harold Leventhal said in the *Columbia Law Review*:

''The central question is: what is the interest underlying regulation of campaign expenses and is it substantial? The critical interest, in my view, is the same as that accepted by the [Supreme] Court in upholding limits on contributions. It is the need to maintain confidence in self-government, and to prevent the erosion of democracy which comes from a popular view of government as responsive only or mainly to special interests.[18]

''A court that is concerned with public alienation and distrust of the political process cannot fairly deny to the people the power to tell the legislators to implement this one word principle: Enough![19]

Here are excerpts from what Judge J. Skelly Wright had to say in the Yale Law Journal:

''The Court told us, in effect, that money is speech.

''. . . [This view] accepts without question elaborate mass media campaigns that have made political communications expensive, but at the same time remote, disembodied, occasionally . . . manipulative. Nothing in the First Amendment . . . commits us to the dogma that money is speech.[20]

''. . . far from stifling First Amendment values, [the 1974 act] actually promotes them . . . In place of unlimited spending, the law encourages all to emphasize less expensive face-to-face communications efforts, exactly the kind of activities that promote real dialogue on the merits and leave much less room for manipulation and avoidance of the issues.[21]''

The Supreme Court was apparently blind to these considerations. Its treatment was almost entirely doctrinaire. In holding unconstitutional the limits set by Congress on total expenditures for congressional campaigns and on spending by individual candidates, the Court did not claim that the dollar limits set were unreasonably low. In the view taken by the Court, such limits were beyond the power of the Congress to set, no matter how high.

Only in the case of the $1000 limit set for spending by independent individuals or groups ''relative to a clearly identified candidate'' did the court focus on the level set in the law. The Court said that such a limit ''would appear to exclude all citizens and groups except candidates, political parties and the institutional press from any significant use of the most effective modes of communication.''[22] In a footnote, the Court noted:

''The record indicates, that, as of January 1, 1975, one full-page advertisement in a daily edition of a certain metropolitan newspaper cost $6,971.04—almost seven times the annual limit on expenditures ''relative to'' a particular candidate imposed on the vast majority of individual citizens and associations[23]''

The Court devoted far more space to arguing the unconstitutionality of this provision than to any of the other limits, presumably because on this point it had the strongest case. Judge Leventhal, too, thought the $1000 figure for independent spending was unduly restrictive and might properly have been struck down. As one who supported the 1974 act while in the House. I believe, with the benefit of hindsight, that the imposition of this low limit on independent expenditures was a grave mistake.

Let us look for a moment at the question of whether reasonable limits on total spending in campaigns and on spending by wealthy candidates really do interfere with the ''unfettered interchange of ideas,'' ''the free discussion of governmental affairs,'' and the ''uninhibited, robust and wide-open'' debate on public issues that the Supreme Court has rightly said the First Amendment is designed to protect.[24] In Buckley the Supreme Court has answered that question in the affirmative when the limits are imposed by law under Congress's conceded power to regulate federal elections. The Court answered the same question negatively, however, when the limits were imposed as a condition of public financing. In narrow legalistic terms the distinction is perhaps justified, but, in terms of what is desirable or undesirable under our form of government, I submit that the setting of such limits is either desirable or it is not.

Various of the solutions proposed to deal with the campaign-financing problem, statutory and nonstatutory, raise the same question—for example, the proposal to allow tax credits only for contributions to candidates who have accepted spending limits, and the proposal that political parties should impose limits. All such proposals assume that it is a good public policy to have such limits in place. They simply seek to avoid the inhibition of the Buckley case by arranging for some carrot-type motivation for the observation of limits, instead of the stick-type motivation of compliance with a law.

I am not, of course, suggesting that those who make these proposals are wrong to do so. What I am suggesting is that they should support the idea of undoing the damage done by *Buckley* by way of a constitutional amendment.

Summing up the reason for such an amendment, Congressman Henry Reuss said, ''Freedom of speech is a precious thing. But protecting it does not permit someone to shout 'fire' in a crowded theater. Equally, freedom of speech must not be stressed so as to compel democracy to commit suicide by allowing money to govern elections.''[25]

INDEPENDENT EXPENDITURES IN PRESIDENTIAL CAMPAIGNS

Until now the system of public financing for presidential campaigns, coupled with limits on private financing, has worked reasonably well. Accordingly, most of the proposals mentioned previously for the amelioration of the campaign-financing problem have been concerned with campaigns for the Senate and the House.

In 1980 and 1984, however, a veritable explosion occurred in the spending for the presidential candidates by allegedly independent committees—spending that is said not to be authorized by, or coordinated with, the campaign committees. In both years, the Republican candidates benefited far more from this type of spending than the Democratic: in 1980, the respective amounts were $12.2 million and $45,000; in 1984, $15.3 million and $621,000.[26]

This spending violated section 9012(f) of the Presidential Campaign Fund Act, which prohibited independent committees from spending more than $1,000 to further a presidential candidate's election if that candidate had elected to take public financing under the terms of the act. In 1983 various Democratic Party entities and the Federal Election Commission, with Common Cause as a supporting amicus curiae, sued to have section 9012(f) declared constitutional, so as to lay the groundwork for enforcement of the act. These efforts failed. Applying the *Buckley* precedent, the three-judge district court that first heard the case denied the relief sought, and this ruling was affirmed in a 7-to-2 decision by the Supreme Court in *FEC* v. *NCPAC* in March 1985.[27]

The NCPAC decision clearly strengthens the case for a constitutional amendment to permit Congress to regulate campaign spending. For none of the statutory or party-action remedies summarized earlier would touch this new eruption of the money-in-politics volcano.

True, even with a constitutional amendment in place, it would still be possible for the National Conservative Political Action Committee or other committees to spend unlimited amounts for media programs on one side of an issue or another, and these would undoubtedly have some impact on presidential—and other—campaigns. However, the straight-out campaigning for an individual or a ticket, which tends to be far more effective than focusing on issues alone, could be brought within reasonable limits.

LOOKING AHEAD

The obstacles in the way of achieving a reversal of *Buckley* by constitutional amendment are, of course, formidable. This is especially true today when the House Judiciary Committee is resolutely sitting on other amendments affecting the Bill of Rights and is not disposed to report out any such amendments.

In addition to the practical political hurdles to be overcome, there are drafting problems to solve. The simple form so far proposed[28]—and quoted previously—needs refinement.

For example, if an amendment were adopted simply giving to the Congress and the states the authority to ''enact laws regulating the amount of contributions and expenditures intended to affect elections,''[29] the First Amendment question would not necessarily be answered. The argument could still be made, and not without reason, that such regulatory laws, like other powers of the Congress and the states, must not offend the First Amendment. I asked an expert in constitutional law how this problem might be dealt with, and he said the only sure way would be to add the words ''notwithstanding the First Amendment.'' But such an addition is not a viable solution. The political obstacles in the way of an amendment overturning *Buckley* in its interpretation of the First Amendment with respect to campaigns spending are grievous enough; to ask the Congress—and the state legislatures—to create a major exception to the First Amendment would assure defeat.

The answer has to be to find a form of wording that says, in effect, that the First Amendment can properly be interpreted so as to permit reasonable regulation of campaign spending. In my view, it would be sufficient to insert in the proposed amendment,[30] after ''The Congress,'' the words ''having due regard for the need to facilitate full andfree discussion and debate. ''Section 1 of the amendment would then read, ''The Congress, having due regard for the need to facilitate full and free discussion and debate, may enact laws regulating the amounts of contributions and expenditures intended to affect elections to federal office.'' Other ways of dealing with this problem could no doubt be devised.

Another drafting difficulty arises from the modification in the proposed amendment of the words ''contributions and expenditures'' by ''intended to affect elections.'' This language is appropriate with respect to money raised or spent by candidates and their committees, but it does present a problem in its application to money raised and spent by allegedly independent committees, groups, or individuals. It could hardly be argued that communications referring solely to issues, with no mention of candidates, could, consistent with the First Amendment, be made subject to spending limits, even if they were quite obviously ''intended to affect'' an election. Accordingly, a proper amendment should include language limiting the regulation of ''independent'' expenditures to those relative to ''clearly identified'' candidates, language that would parallel the provisions

of the 1971 Federal Election Campaign Act, as amended.[31]

These are essentially technical problems that could be solved with the assistance of experts in constitutional law if the Judiciary Committee of either house should decide to hold hearings on the idea of a constitutional amendment and proceed to draft and report out an appropriate resolution.

Many of those in and out of Congress who are genuinely concerned with political money brush aside the notion of a constitutional amendment and focus entirely on remedies that seem less drastic. They appear to assume that Congress is more likely to adopt a statutory remedy, such as public financing, than to go for an enabling constitutional amendment that could be tagged as tampering with the Bill of Rights. I disagree with that assumption.

Incumbents generally resist proposals such as public financing because challengers might be the major beneficiaries, but most incumbents tend to favor the idea of spending limits. The Congress is not by its nature averse to being given greater authority; that would be especially true in this case, where until 1976 the Congress always thought it had such authority. I venture to say that if a carefully drawn constitutional amendment were reported out of one of the Judiciary Committees, it might secure the necessary two-thirds majorities in both houses with surprising ease.

The various state legislatures might well react in similar fashion. A power they thought they had would be restored to them.

The big difficulty is to get the process started, whether it be for a constitutional amendment or a statutory remedy or both. Here, the villain, I am afraid, is public apathy. Unfortunately, the voters seem to take excessive campaign spending as a given—a phenomenon they can do nothing about—and there is no substantial constituency for reform. The House Administration Committee, which in the early 1970's was the spark plug for legislation, has recently shown little interest in pressing for any of the legislative proposals that have been put forward.

The 1974 act itself emerged as a reaction to the scandals of the Watergate era, and it may well be that major action, whether statutory or constitutional, will not be a practical possibility until a new set of scandals bursts into the open. Meanwhile, the situation will only get worse.

FOOTNOTES

[1] Personal communication with Joseph L. Rauh, Mar. 1985; *Buckley v. Valeo*, 424 U.S. 1 (1976).

[2] U.S., Congress, House, Committee on House Administration, *Federal Election Campaign Act. Amendments of 1974: Report to Accompany H.R. 16090*, 93rd Cong., 2d sess., 1974, H. Rept. 93–1239, pp. 3–4.

[3] 424 U.S., p. 264.

[4] The other representatives were Mrs. Fenwick, Republican of New Jersey; Ms. Mikulski, Democrat of Maryland; and Messrs. Bevill, Democrat of Alabama; Donnelly, Democrat of Massachusetts; D'Amours, Democrat of New Hampshire; Edgar, Democrat of Pennsylvania; LaFalce, Democrat of New York; and Wolpe, Democrat of Michigan.

[5] U.S. Congress, House, *Proposing an Amendment to the Constitution of the United States Relative to Contributions and Expenditures Intended to Affect Congressional, Presidential and State Elections.* 97th Cong., 2d sess., 1982. H.J. Res. 628, p. 2.

[6] Ibid., 99th Cong., 1st sess., 1985. H.J. Res. 88.

[7] 424 U.S., p. 27, quoting *CSC v. Letter Carriers*, 413 U.S. 548, 565 (1973); see also 424 U.S., p. 30.

[8] Quoted by Congressman Henry Reuss, in U.S., Congress, House, *Congressional Record*, daily ed., 97th Cong., 2d sess., 1982, 128(81): H3900.

[9] *New Yorker*, 6 Dec. 1982, pp. 55–56.

[10] *Washington Post*, 2 Nov. 1982.

[11] In the *Buckley* case the Supreme Court simply assumed that limits on spending were not a violation of free speech when acceptance of such limits was made the condition for receiving public funds, 424 U.S., pp. 85–110. See also Charles McC. Mathias, Jr., ''Should There Be Public Financing of Congressional Campaigns?'' this issue of *The Annals* of the American Academy of Political and Social Science.

[12] A variation of the idea of free television and/or mail, proposed by Common Cause and others, would provide for such privileges as a means of answering attacks made on candidates by allegedly independent organizations or individuals. See Fred Wertheimer, ''Campaign Finance Reform: The Unfinished Agenda,'' this issue of *The Annals* of the American Academy of Political and Social Science.

[13] See ibid.

[14] The Obey-Railsback Act, which contained such restrictions, actually passed the House in 1979, but got no further. See ibid.

[15] See Lloyd N. Cutler, ''Can the Parties Regulate Campaign Financing?'' this issue of *The Annals* of the American Academy of Political and Social Science.

[16] 424 U.S., pp. 263–64.

[17] Ibid., p. 265.

[18] Leventhal, ''Courts and Political Thickets,'' *Columbia Law Review*, 77:362 (1977).

[19] Ibid., p. 368.

[20] Wright, ''Politics and the Constitution: Is Money Speech?'' *Yale Law Journal*, 85:1005 (1979).

[21] Ibid., p. 1019.

[22] 424 U.S., pp. 20–21.

[23] Ibid., p. 21.

[24] *Roth v. United States*, 354 U.S. 476, 484 (1957); *Mills v. Alabama*, 384 U.S. 214, 218 (1966); *New York Times v. Sullivan*, 376 U.S. 254, 270 (1964).

[25] U.S., Congress, House, *Congressional Record*, 97th Cong., 2d sess., daily ed., 128(81): H3901.

[26] *New York Times*, 19 Mar. 1985.

[27] *FEC v. NCPAC*, 105 S. Ct. 1459 (1985).

[28] U.S., Congress, House, *Contributions and Expenditures*, H.J. Res. 628.

[29] Ibid.

[30] Ibid.

[31] 2 U.S.C.A. §431(17).

Mr. HOLLINGS. I thank the distinguished Chair.

The time is about up. I am sorry to have taken more time, but I wanted to get into the full measure of this thing. It is a bipartisan approach to restore free speech. What Buckley versus Valeo did is take away the speech of the poor and give enhanced speech to the rich. You know it and I know it. This amendment will put us back to where we were when the 1974 act was passed. It will limit spending in campaigns. That is what we all want to do. We did it in 1974, we thought, until the Buckley versus Valeo decision.

I thank the distinguished Chair.

Mr. MCCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 21 minutes and 51 seconds.

Mr. MCCONNELL. Mr. President, I do not know; maybe we can check with the Cloakrooms to see if anybody objects to yielding back time. I do not know whether my friend from South Carolina has time left he wants to use, but I was going to suggest that I make a few more observations and if the Senator from South Carolina is ready to yield back, I would yield back as well. But there could be those who are depending on this vote occurring at a certain time, so if we could ask the staff to check on that, I would appreciate it.

Mr. President, the past majority leader, Senator Mitchell, who just left the Senate a couple of months ago said on June 26, 1990, ''For 200 years,'' referring to the first amendment, ''it has protected the liberties of generations of Americans. During that time, the Bill of Rights has never been changed or amended,'' not once, ever. It stands today, word for word, exactly as it did when it was adopted two centuries ago.

Senator George Mitchell went on on the same day:

Never in 200 years has the first amendment been changed or amended. As a result, never in 200 years has Congress been able to make a law abridging freedom of speech.

Now, that was Senator George Mitchell, the Democratic majority leader, expressing his views about the importance of leaving the first amendment unamended, untampered with.

The current majority leader, Senator DASCHLE, said on June 21, 1990:

What chapter will we have ghosted for our autobiographies to explain away our writing a loophole into the free speech clause of the Bill of Rights of the Constitution of the United States?

Senator DASCHLE was, of course, referring to the debate on the flag burning amendment, but his point, his point, was about the first amendment and freedom of speech.

Now, the American Civil Liberties Union, which I indicated earlier strongly opposes the Hollings proposal, says:

The proposed constitutional amendment to limit Federal campaign expenditures would amend the free speech guarantee of the first amendment as interpreted by the Supreme Court, thereby limiting the amount of political speech that may be engaged in by any candidate or by anyone else [anyone else] seeking to be involved in the political process.

The ACLU said, Mr. President:

It is a highly flawed proposal, one that is constitutionally incapable [incapable] of being fixed and raises—

Said the ACLU:

a number of significant issues. It deserves to be rejected by the Senate.

Now, Mr. President, I have been quoting from a number of organizations that are supposedly on the liberal side of the political spectrum. Just to reassure some of my conservative friends, it is also the view of conservatives that the Hollings amendment is a bad idea. George Will in a June 28, 1993, Newsweek column said this. He was really, I would say to my friend from South Carolina, admiring the Senator in many ways. This is a quote from Mr. Will's column, which I will ask in a moment be inserted in the RECORD. He said:

Hollings claims—you have to admire his brass—

And, boy, we do admire the brass of the Senator from South Carolina. He has more brass than anybody else in the Senate, and we do admire him. He said:

Hollings claims—you have to admire his brass—that carving this huge hole in the first amendment would be ''a big boost to free speech.'' But by ''free'' he means ''fair,'' and by ''fair'' he means equal amounts of speech—the permissible amounts to be decided by incumbents in Congress and State legislatures.

George Will went on. He said:

Note also the power to limit spending not only ''by'' but even ''in support of, or in opposition to'' candidates.

That gets back to the point I made earlier about giving Congress the power to shut the newspapers up, too.

The Senators who voted for this included many who three years ago stoutly (and rightly)—

George Will said.

Opposed carving out even a small exception to the first amendment protections in order to ban flag burning. But now these incumbents want to empower other incumbents to hack away at the Bill of Rights in order to shrink the permissible amount of political discourse.

Mr. President, I ask unanimous consent that the George Will column be printed in the RECORD; also, that the letter to which I have referred several times from the American Civil Liberties issue be included in the RECORD.

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

[From Newsweek, June 28, 1993]

SO, WE TALK TOO MUCH?—THE SUPREME COURT'S TWO-WORD OPINION OF THE SENATE'S REFORM BILL MAY BE GOOD GRIEF!'

(By George F. Will)

Washington's political class and its journalistic echoes are celebrating Senate passage, on a mostly party-line vote, of a ''reform'' that constitutes the boldest attack on freedom of speech since enactment of the Alien and Sedition Acts of 1798. The campaign finance bill would ration political speech. Fortunately, it is so flagrantly unconstitutional that the Supreme Court will fling it back across First Street, N.E., with a two-word opinion: ''Good grief!''

The reformers begin, as their ilk usually does, with a thumping but unargued certitude: campaigns involve ''too much'' money. (In 1992 congressional races involved a sum equal to 40 percent of what Americans spent on yogurt. Given the government's increasing intrusiveness and capacity to do harm, it is arguable that we spend to little on the dissemination of political discourse.) But reformers eager to limit spending have a problem: mandatory spending limits are unconstitutional. The Supreme Court acknowledges that the First Amendment protects ''the indispensable conditions for meaningful communication,'' which includes spending for the dissemination of speech. The reformers' impossible task is to gin up ''incentives'' powerful enough to coerce candidates into accepting limits that can be labeled ''voluntary.''

The Senate bill's original incentive was public financing, coupled with various punishments for privately financed candidates who choose not to sell their First Amendment rights for taxpayers' dollars and who exceed the government's stipulated ration of permissible spending/speech. Most taxpayers detest public financing. (''Food stamps for politicians,'' says Sen. Mitch McConnell, the Kentucky Republican who will lead the constitutional challenge if anything like this bill becomes law.) So the bill was changed—and made even more grossly unconstitutional. Now it limits public funding to candidates whose opponents spend/speak in excess of government limits. The funds for the subsidy are to come from taxing, at the top corporate rate, all contributions to the candidate who has chosen to exercise his free speech rights with private funding. So 35 percent of people's contributions to a privately funded candidate would be expropriated and given to his opponent. This is part of the punishment system designed to produce ''voluntary'' acceptance of spending limits.

But the Court says the government cannot require people ''to pay a tax for the exercise of that which the First amendment has made a high constitutional privilege.'' The Court says that the ''power to tax the exercise of a right to power to control or suppress the exercise of its enjoyment'' and is ''as potent as the power of censorship.''

Sen. Fritz Hollings, the South Carolina Democrat, is a passionate advocate of spending limits but at least has the gumption to attack the First Amendment frontally. The Senate bill amounts, he says candidly, to ''coercing people to accept spending limits while pretending it is voluntary.'' Because ''everyone knows what we are doing is unconstitutional,'' he proposes to make coercion constitutional. He would withdraw First Amendment protection from the most important speech—political discourse. And the Senate has adopted (52–43) his resolution urging Congress to send to the states this constitutional amendment: Congress and the states ''shall have power to set reasonable limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election'' for federal, state or local office.

Hollings claims—you have to admire his brass—that carving this huge hole in the First Amendment would be ''a big boost to free speech.'' But by ''free'' he means ''fair,'' and by ''fair'' he means equal amounts of speech—the permissible amounts to be decided by incumbents in Congress and state legislatures. Note also the power to limit spending not only ''by'' but even ''in support of, or in opposition to'' candidates. The 52 senators who voted for this included many who three years ago stoutly (and rightly) opposed carving out even a small exception to First Amendment protections in order to ban flag-burning. But now these incumbents want to empower incumbents to hack away at the Bill of Rights in order to shrink the permissible amount of political discourse.

Government micromanagement: The Senate bill would ban or limit spending political action committees. It would require privately funded candidates to say in their broadcast advertisements that ''the candidate has not agreed to voluntary campaign limits.'' (This speech regulation is grossly unconstitutional because it favors a particular point of view, and because the Court has held that the First Amendment protects the freedom to choose ''both what to say and what not to say.'') All this government micromanagement of political speech is supposed to usher in the reign of ''fairness'' (as incumbents define it, of course).

Incumbents can live happily with spending limits. Incumbents will write the limits, perhaps not altogether altruistically. And spending is the way challengers can combat incumbents' advantages such as name recognition, access to media and franked mail. Besides, the most important and plentiful money spent for political purposes is dispensed entirely by incumbents. It is called the federal budget—$1.5 trillion this year and rising. Federal spending (along with myriad regulations and subsidizing activities such as protectionist measures) often is vote-buying.

It is instructive that when the Senate voted to empower government to ration political speech, and even endorse amending the First Amendment, there was no outcry from journalists. Most of them are liberals and so are disposed to like government regulation of (other people's) lives. Because, journalists know that government rationing of political speech by candidates will enlarge the importance of journalists' unlimited speech.

The Senate bill's premise is that there is ''too much'' political speech and some is by undesirable elements (PACs), so government control is needed to make the nation's political speech healthier. Our governments cannot balance their budgets or even suppress the gunfire in America's (potholed) streets. It would be seemly if politicians would get on with such basic tasks, rather than with the mischief of making mincemeat of the First Amendment.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, June 4, 1992.

DEAR SENATOR:

The American Civil Liberties strongly opposes S.J. Res. 35, the proposed constitutional amendment to limit federal campaign expenditures. The proposal would amend the free-speech guarantee of the First Amendment, as interpreted by the Supreme Court, thereby limiting the amount of political speech that may be engaged in by any candidate or by anyone else seeking to be involved in the political process. It is a highly flawed proposal, one that is constitutionally incapable of being fixed, and raises a number of significant issues. It deserves to be rejected by the Senate.

First, as many members of the Senate recognized during the debate about the flag-burning amendment proposed a few years ago, it is wrong for the Senate to consider changing the First Amendment, a provision that is a justifiable source of pride for the United States and much admired throughout the world. If Congress could carve out exceptions to the reach of free speech through constitutional amendment, particularly in the important area of political speech, then none of our liberties and freedoms are safe and proposals to give Congress authority over other forms of speech will abound. Moreover, since the Constitution does not grant freedom of speech to the people, but is a reflection of its Framers' natural-rights philosophy—one that recognizes that these rights inhere in the people and are inalienable—it is unlikely that Congress, even by way of constitutional amendment, has the authority to interfere with or restrict those rights. In other words, S.J. Res. 35 may well be an unconstitutional constitutional proposal.

Second, if the proposed amendment were implemented, it would operate to distort the political process in numerous ways. if implemented evenhandedly, it would operate to the benefit of incumbents who generally have a higher name recognition and thus an ability to do more with lesser funding. And it would operate to the detriment of dark-horse and third-party candidates who start out with fewer contributors and whose only hope of obtaining the visibility necessary to run a serious campaign may come from the backing of a few large contributors or from their own funds. Thus,rather than assure fair and free elections, the proposal would likely operate to the benefit of those in power and to the disadvantage of those challenging the political status quo.

Additionally, the wording of the proposed amendment would actually permit Congress to set a different limit on incumbents versus challengers, wealthy candidates versus those without vast personal funds to mount a campaign, or candidates from underrepresented groups versus those who are well represented, as long as these were justified on a rational basis. The First Amendment properly prevents the government from making these kinds of distinctions, but S.J. Res. 35 would enable Congress to set these limitations notwithstanding currently existing constitutional understandings. Some of the dangers to the First Amendment are most apparent when S.J. Res. 35 is viewed from that perspective.

Finally, as an amendment subsequent to the First Amendment, the existing understandings about the protections of freedom of the press would also be changed, thereby empowering Congress to regulate what newspapers and broadcasters can do on behalf of

the candidates they endorse or oppose. A candidate-centered editorial, as well as op-ed articles or commentary, are certainly expenditures in support of or in opposition to political candidates. The amendment, as its words make apparent, would authorize Congress to set reasonable limits on the involvement of the media in campaigns when not strictly reporting the news. Such a result would be intolerable in a society that cherishes a free press.

Last year, we celebrated the 200th anniversary of the Bill of Rights with speeches, articles, and lessons about the importance of our cherished liberties. This year should not mark the end of that bicentennial legacy by an ill-conceived effort to cut back on freedom of speech and the press. Please reject S.J. Res. 35.

Sincerely,

ROBERT S. PECK,
Legislative Counsel.

Mr. MCCONNELL. Let me just say again, hopefully in conclusion, if both sides are ready to yield back their time—I do not know whether they are not, but if they are, I am prepared to, but let me summarize again that this proposal has the opposition of Common Cause, the opposition of the Washington Post, the opposition of the ACLU, and the opposition of George Will. That pretty well covers it, Mr. President. It is opposed by people from left to right.

I hope that the Senate would support the motion to table I will make at such time as we conclude the debate.

So, Mr. President, I would just inquire of my friend from South Carolina, do we want to yield back and go ahead or have we heard from our Cloakrooms?

Mr. HOLLINGS. I would like to accommodate the distinguished Senator from Kentucky. What happens is I have the Senator from Nevada on the way.

Mr. MCCONNELL. All right.

Mr. HOLLINGS. He is on the way.

Mr. MCCONNELL. Mr. President, then I will just reserve the remainder of my time and yield the floor.

Mr. HOLLINGS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 10 minutes 46 seconds.

Mr. HOLLINGS. Mr. President, I enjoy serving with the distinguished Senator from Kentucky. When he was going down the list of the American Civil Liberties Union and the Washington Post and all these liberal folks, he should not get too enthralled with this particular issue, because somebody will pick up that RECORD, the way they run campaigns now, and say he is running around with the ACLU. I could see that 20-second bite right now.

I have a good friend. He wanted to contribute to me. He said he could get $5,000 from a group, and I said, ''Look, it will take me $50,000 to $100,000 to explain that group. I just cannot accept it.''

You have to look at elections. It is unfortunate, but that is what we are talking about. If you get it back down to where you have a limited amount in a small State like South Carolina of $1 million, the incumbent, I can tell you right now, is at a disadvantage, because I have a record of votes, thousands of votes. What I fear as an opponent is some nice, young, clean-cut law graduate, married, with two or three children and who has never voted on anything. All he has is a picture of himself going into church on Sunday. What am I going to argue about?

I was lucky in my last race. I had a former Congressman as an opponent. I survived by the skin of my teeth because they zeroed in with lots of money and lots of TV. Money talks. Money talks. If we can start limiting that money in these campaigns, we will get it back to the people.

The expenses are just absolutely unheard of. For example, the average cost of winning a Senate seat in 1980 was $1.2 million, but by 1984 it rose to $2.1 million, and by 1986 it skyrocketed to $3.1 million—this is the average—in 1988, to $3.7 million, and last year the average seat was $4.1 million.

This past year Ollie North in Virginia spent $19.8 million. Senator ROBB spent $5.4 million. Mr. President, $19.8 and $5.4 million—that's a total of $25.2 million.

You can go down the list. I do not really want to make a public record because I know the sensitivities of Senators. Frankly, it is embarrassing what we all spend. I know my opponent, for example, spent just as much as I did and tried to report it differently.

When are we going to correct this thing? Here is an opportunity to do just exactly that. We have a wonderful opportunity. Whatever the Senator from Kentucky says I want to consider it, because he and I have been on the same side against public financing: The public now contributing to politics. You would never get anybody out up here if that were the case. That is really where the incumbents can spend all their time prissing and preening and actually getting absolutely nothing done. In fact, that is the way we are. We are on a treadmill to make absolutely sure that nothing gets done.

How much time do I have left?

The PRESIDING OFFICER. The Senator from South Carolina has 2 minutes 30 seconds.

Mr. HOLLINGS. I reserve the remainder of my time.

I yield to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

UNANIMOUS-CONSENT AGREEMENT

Mr. HATCH. Mr. President, I ask unanimous consent that when the Senate resumes the joint resolution at 9:30 a.m. on Wednesday, the pending business be the Bingaman amendment re: supermajority, and that time on that amendment prior to a motion to table be as follows, and that no second-degree amendments be in order prior to the motion to table: 45 minutes under the control of Senator BINGAMAN, 15 minutes under the control of Senator HATCH.

I further ask that following the conclusion or yielding back of time the majority leader or his designee be recognized to make a motion to table.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object, Mr. President, will the distinguished Senator from Utah please repeat the first part of the request for unanimous consent? If he does not mind? I apologize.

Mr. HATCH. I will be glad to.

Mr. President, I ask unanimous consent that when the Senate resumes the joint resolution at 9:30 a.m. on Wednesday, the pending business be the Bingaman amendment re: supermajority, and that time on that amendment prior to a motion to table be as follows, and that no second-degree amendments be in order prior to the motion to table: 45 minutes under the control of Senator BINGAMAN, 15 minutes under the control of Senator HATCH.

I further ask that following the conclusion or yielding back of time the majority leader or his designee be recognized to make a motion to table.

Mr. PRYOR. Mr. President, would that be presuming that this will be the final vote of the evening, on the Hollings amendment?

Mr. HATCH. This is going to be the final vote.

Mr. PRYOR. I do not object and I yield the floor and thank the Senator.

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

Mr. HATCH. Mr. President, I further ask unanimous consent that following the disposition of the Bingaman amendment, Senator WELLSTONE be recognized to make a motion to refer, and the time on that motion be limited in the following fashion prior to a motion to table, and that no amendments be in order to the motion prior to the tabling motion: 45 minutes under the control of Senator WELLSTONE, 15 minutes under the control of Senator HATCH.

I further ask unanimous consent that following the conclusion or yielding back of time, the majority leader or his designee be recognized to make a motion to table the motion to refer.

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

Mr. HATCH. Mr. President, I have been authorized to tell the Senate that following the vote on the amendment of the distinguished Senator from South Carolina there will be no more rollcall votes this evening. But we will have those two rollcall votes first thing in the morning starting after the debate at 9:30 and after the second debate at that time.

I am wondering if both sides would be willing to yield their time.

Mr. HOLLINGS. Just in a few minutes.

Mr. President, I ask unanimous consent that the testimony of the distinguished Lloyd N. Cutler before the Senate Judiciary Committee be printed in the RECORD.

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

STATEMENT OF LLOYD N. CUTLER BEFORE THE SENATE JUDICIARY COMMITTEE, SUBCOMMITTEE ON THE CONSTITUTION, MARCH 17, 1988

My name is Lloyd N. Cutler. Along with Senator Nancy Kassebaum of Kansas and Mr. Douglas Dillon, I am a Co-Chairman of the Committee on the Constitutional System, a group of several hundred present and former legislators, executive branch officials, political party officials, professors and civic leaders who are interested in analyzing and correcting some of the weaknesses that have developed in our political system.

One of the most glaring weaknesses, of course, is the rapidly escalating cost of political campaigns, and the growing dependence of incumbents and candidates on money from interest groups who expect the recipient to vote in favor of their particular interests. Incumbents and candidates must devote large portions of their time to begging for money; they are often tempted to vote the conflicting interests of their contributors and to create a hodgepodge of conflicting and indefensible policies; and in turn public frustration with these policies process.

A serious attempt to deal with the campaign financing problem was made in the Federal Election Campaign Act of 1974 and the 1976 amendments, which set maximum limits on the amounts of individual contributions and on the aggregate expenditures of candidates and so-called independent committees supporting such candidates. The constitutionality of these provisions was challenged in the famous case of *Buckley* v. *Valeo,* 424 U.S. 1, in which I had the honor of sharing the argument in support of the statute with Professor Archibald Cox. While the Supreme Court sustained the constitutionality of the limits on contributions, it struck down the provision limiting expenditures for candidates and independent committees supporting such candidates. It found an inseparable connection between an expenditure limit and the extent of a candidate's or committee's political speech, which did not exist in the case of a limit on the size of each contribution by a non-speaker unaccompanied by any limit on the aggregate amount a candidate could raise. It also found little if any proven connection between corruption and the size of a candidate's aggregate expenditures, as distinguished from the size of individual contributions to a candidate.

The Court did, however, approve the Presidential Campaign Financing Fund created by the 1976 amendments, including the condition it imposed barring any presidential nominee who accepted the public funds from spending more than a specified limit. However, it remains unconstitutional for Congress to place any limits on expenditures by independent committees on behalf of a candidate. In recent presidential elections these independent expenditures on behalf of one candidate exceeded the amount of federal funding he accepted. Moreover, so long as the Congress remains deadlocked on proposed legislation for the public financing of Congressional campaigns, it is not possible to use the public financing device as a means of limiting Congressional campaign expenditures.

Accordingly, the Committee on the Constitutional System has come to the conclusion that the only effective way to limit the explosive growth of campaign financing is to adopt a constitutional amendment. The amendment would be a very simple one consisting of only 46 words. It would state merely that ''Congress shall have power to set reasonable limits on campaign expenditures by or in support of any candidate in a primary or general election for federal office. The States shall have the same power with respect to campaign expenditures in elections for state and local offices.''

Our proposed amendment would enable Congress to set limits not only on direct expenditures by candidates and their own committees, but also on expenditures by so-called independent committees in support of such a candidate. The details of the actual limits would be contained in future legislation and could be changed from time to time as Congress in its judgment sees fit.

It may of course be argued that the proposed amendment, by authorizing reasonable limits on expenditures, would necessarily set limits on the quantity of speech on behalf of a candidate and that any limits, no matter how ample, is undesirable. But in our view the evidence is overwhelming by now that unlimited campaign expenditures will eventually grow to the point where they consume so much of our political energies and so fracture our political consensus that they will make the political process incapable of governing effectively. Even the Congress has found that unlimited speech can destroy the power to govern; that is why the House of Representatives has imposed time limits on Members' speeches for decades and why the Senate has adopted a rule permitting 60 senators to end a filibuster. One might fairly paraphrase Lord Action's famous aphorism about power by saying, ''All political money corrupts; unlimited political money corrupts absolutely.''

Finally, Mr. Chairman, I would not be discouraged from taking the amendment route by any feeling that constitutional amendments take too long to get ratified. The fact is that the great majority of amendments submitted by Congress to the states during the last 50 years have been ratified within twenty months after they were submitted. All polls show that the public strongly supports limits on campaign expenditures. The principal delay will be in getting the amendment through Congress. Since that is going to be a difficult task, we ought to start immediately. Unlimited campaign expenditures and the political diseases they cause are going to increase at least as rapidly as new cases of AIDS, and it is high time to start getting serious about the problem.

Mr. Chairman, on three past occasions we the people have amended the Constitution to correct weaknesses in that rightly revered document as interpreted by the Supreme Court. On at least two of those occasions—the Dred Scott decision and the decision striking down federal income taxes, history has subsequently confirmed that the amendments were essential to our development as a healthy, just and powerful society. A third such challenge is now before us. The time has come to meet it.

For a fuller discussion of the case for a constitutional amendment, I am attaching an article written shortly before his death by Congressman Jonathan Bingham, my college and law school classmate and, in my view, one of the finest public servants of our times.

Mr. HOLLINGS. Mr. President, in the process of completing the thought, to raise the kind of money necessary now in races the average Senator must raise over $14,000 a week every week of his or her 6-year term. Overall spending in congressional races increased from $403 million in 1990 to more than $590 million in 1994; a 50 percent increase in 4 short years.

Mr. President, with $50,000-plate dinners, with $11 million evening fundraisers, it is going up, up and away. This amendment is not just spasmodic or spurious or unstudied. I went to the Parliamentarian, Mr. Dove, and asked if it would confuse a constitutional amendment on the balanced budget. He said the way I had it written it would be engrossed separately and be voted on by the States separately. Thereupon, I included language in the first section to make sure that it would not cause confusion and that it would be voted on separately. Of course, having agreed to the time—and I thank the distinguished Presiding Officer—the distinguished Senator from Kentucky having agreed to a time limit, I appreciated the time given.

This certainly was not intended for delay. It is a serious amendment. It is a wonderful opportunity for all of us to say what we mean and mean what we say by voting in the affirmative for this amendment.

The PRESIDING OFFICER. Does the Senator yield the remainder of the time?

Mr. HOLLINGS. I yield the remainder of the time.

Mr. McCONNELL. Mr. President, in conclusion, let me remind everybody that on this proposal offered by the distinguished Senator from South Carolina, Common Cause, the Washington Post, the ACLU, and George Will all think it is a bad idea.

Mr. President, I rest my case. I hope the motion of the Senator from Utah to table will be agreed to.

I yield the remainder of my time.

Mr. HATCH. Mr. President, I move to table the Hollings amendment, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Utah to lay on the table the amendment of the Senator from South Carolina. On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from North Carolina [Mr. HELMS] and the Senator from Kansas [Mrs. KASSEBAUM] are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina [Mr. HELMS] would vote ''yea.''

Mr. FORD. I announce that the Senator from New York [Mr. MOYNIHAN] is necessarily absent.

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 45, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—52

Abraham	Burns	Coverdell
Ashcroft	Chafee	Craig
Bennett	Coats	D'Amato
Bond	Cochran	DeWine
Brown	Cohen	Dole

Domenici	Inhofe	Roth
Faircloth	Jeffords	Santorum
Feingold	Kempthorne	Simon
Frist	Kyl	Simpson
Gorton	Lott	Smith
Gramm	Lugar	Snowe
Grams	Mack	Stevens
Grassley	McCain	Thomas
Gregg	McConnell	Thompson
Hatch	Murkowski	Thurmond
Hatfield	Nickles	Warner
Heflin	Packwood	
Hutchison	Pressler	

NAYS—45

Akaka	Exon	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Campbell	Kerrey	Rockefeller
Conrad	Kerry	Sarbanes
Daschle	Kohl	Shelby
Dodd	Lautenberg	Specter
Dorgan	Leahy	Wellstone

NOT VOTING—3

Helms	Kassebaum	Moynihan

So, the motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote by which the motion was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. CRAIG. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for not to exceed 15 minutes each.

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

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Thank you, Mr. President.

75TH ANNIVERSARY OF THE LEAGUE OF WOMEN VOTERS

Ms. MOSELEY-BRAUN. Mr. President, the Senator from Texas and I would like to take a moment in morning business to congratulate the League of Women Voters on their 75th anniversary.

Mr. President, I want to take this opportunity to congratulate the League of Women Voters on their 75th anniversary. The League is a quintessentially American institution—one that has served this country very well.

The league's accomplishments are many. I am particularly proud of the leadership the league provided in the 72 year struggle to give women the right women to vote. A struggle the league finally won when the 19th amendment became a part of the U.S. Constitution.

In 1919, Carrie Chapman Catt founded the league in Chicago, at the Convention of the National American Women's Suffrage Association. While the fight for women's right to vote helped create the league, however, its mission has always been much larger. Seventy-five years ago, Carrie Chapman Catt said that ''Winning the vote is only an opening wedge * * * but to learn to use it is a bigger task.''

That statement is as true today as it was when the League was founded—and the league's continuing work is perhaps the best evidence of that truth. The league continues to educate and inform citizens and get people involved in their communities; it plays a critical role in helping to make government work better. League members work at the grossroots to build citizen participation in the democratic process, and to promote positive solutions to community issues through education and advocacy.

While the league can be justifiably proud of its many accomplishments, league members are not content. They know there is still much work that remains to be done. In 1995, there are still far too many Americans who are not registered to vote and who do not participate in the democratic process. This is the focus of the league's most recent ''Take Back the System'' campaign. Its goal is to make voter registration more accessible, to provide voters with information on candidates and issues, and to restore the voters' confidence and involvement in the system.

The campaign has been very successful. Its crowning achievement came last year, when the Congress passed the National Voter Registration Act. Motor-voter has begun to enfranchise millions of Americans who have been shut out of the political process, because it makes voter registration more uniform and more accessible. In the past month since the statute has been in force, tens of thousands of new voters have signed up to register and participate in the political process. This is very positive. I am hopeful that my State of Illinois will implement it as well.

The league has played a large role over the years in many other issues related to increasing participation in the democratic process. After the Brown versus Board of Education Supreme Court decision, local leagues began to work in the community to discuss the issue of desegregation. Their goal was to promote calm, reasonable discussions, to diffuse the tension the decision had caused, especially in the South. At that time, the leagues in the South were representative of women in the South. Local leagues held forums and talks on the issue. Their efforts at providing education and building consensus were successful. In 1956, the Atlanta league made headlines when it voted to strike the word white from its bylaws restricting membership to white women. The league has provided leadership on behalf of the enfranchisement and civil rights of all Americans.

And the league has been very involved in preserving civil liberties and protecting the privileges written into the Bill of Rights. In 1947, President Truman initiated his Loyalty Program, whose purpose was to root out spies in the Federal Government. Anyone whose loyalty came under question was required to testify before a loyalty board, and was often denied due process. During this period, the league developed a program to educate citizens about individual rights. In 1955, League President Percy Maxim Lee, testified before the House Un-American Activities Committee against Senator McCarthy's abuses of congressional investigative power. She emphasized that:

> Tolerance and respect for the opinions of others is being jeopardized by men and women whose instincts are worthily patriotic, but whose minds are apparently unwilling to accept the necessity for dissent within a democracy.

Today, the league is working in the emerging democracies of Eastern Europe to promote grassroots political education. League members have spent time in Poland and Hungary training people about how to make local government more responsive, and how to increase citizen participation in the democratic process. They have also brought people to the United States to learn how local leagues promote positive solutions to community issues through education and advocacy.

The league's programs are always unbiased and nonpartisan. They never support or oppose candidates for office. Although the message is political—the mission is to influence public policy—the goal is to promote an open, representative, and accountable government which has the confidence of the American people.

I have been a member of the League of Women Voters' Illinois chapter and Chicago chapter for 15 years. As a member of the league, I invite all of my colleagues, as well as all the people listening at home on C–SPAN, to involve yourselves with this grassroots organization. Across the Nation, there are over 100,000 members and supporters that build the strength of the league. Our members include people of all colors, creeds, and both genders, and we embrace new members with open arms. In the words of Susan Lederman, a former president of the league, ''Our energy, experience, and enthusiasm will be contagious. Our democracy will be stronger and better for the effort we make.''

Mr. President, again, I wish to congratulate and commend the league and its members for their continued efforts in behalf of keeping our political and governmental institutions vital ones. Their role in protecting and promoting democracy in this country, frankly, has been unparalleled.

I know Senator HUTCHISON has a statement, as well.

I just wanted to take this moment to wish the league and its members a