

they do a disservice to the diversity that makes up the greatest democracy in history.

I yield the floor.

EXHIBIT 1

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BLACK LEADERS TRY TO DENY THOMAS

STATUS AS ROLE MODEL

(By Edward Felsenthal)

WASHINGTON.—When Benjamin Carson, a prominent African-American surgeon, was helping organizers find an inspiring speaker to close a weeklong "Festival for Youth" in Delaware this month, he pushed for Supreme Court Justice Clarence Thomas.

It wasn't only Justice Thomas's exalted title and status as one of the country's highest-ranking public servants that attracted Dr. Carson. It also was his remarkable rise from poverty. The two men were acquainted through their membership in the Horatio Alger Society, a group whose members have overcome significant odds to achieve success.

But when the Baltimore surgeon issued the invitation, he never dreamed that he would set off a political firestorm. After an organized protest from a regional chapter of the National Association for the Advancement of Colored People, which threatened to picket the talk, Justice Thomas backed out.

Normally, ethnic organizations are only too eager to have top elected or appointed officials visit and speak to community groups, especially young people. But the Delaware protest was the latest incident in an unusual drive against a public official by some black leaders to deny the conservative, 48-year-old justice a position as a role model within the African-American community.

UNFLATTERING COVER STORIES

Last year, after a school-board member and local parents threatened to protest, a Maryland school temporarily retracted an invitation for Justice Thomas to speak at an awards ceremony for eighth graders. *Emergence*, an influential magazine among the black intelligentsia, has run two unflattering cover stories on the justice, one portraying him wearing an Aunt Jemima-style kerchief, the other portraying him as a lawn jockey. His judicial decisions also have attracted unusual personal attacks, including a stinging open letter from former U.S. Judge Leon Higginbotham.

Justice Thomas, whose bitter 1991 confirmation hearings became a national spectacle because of Anita Hill's allegations of sexual harassment, is certainly no stranger to controversy. But the recent protests are extraordinary because they have little or nothing to do with the highly charged issues raised during his difficult confirmation. Instead, they have to do almost entirely with Justice Thomas's conservative views and decisions criticizing policies such as affirmative action.

While feminist groups took the lead in fighting against his Supreme Court nomination, this time the criticisms of Justice Thomas are being leveled almost entirely by other blacks. Various civil-rights leaders claim—sometimes in terms that are astonishingly abusive even by Washington standards—that Justice Thomas has betrayed his race by opposing the affirmative-action policies that his critics say helped get him where he is, and by voting with the court's conservatives on other civil-rights issues.

"If white folks want to have Justice Thomas serve as a role model for their kids, that's their business," says Hanley Norment, president of the NAACP's Maryland branch. Mr. Norment, who helped plan the protest against Justice Thomas at the Delaware fes-

tival, dismisses him as a "colored lawn jockey for conservative white interests."

DISSENTING VOICES

A number of black leaders, including national NAACP President Kweisi Mfume, have raised concerns about the campaign against Justice Thomas, and some say African-Americans should take pride in his accomplishments. "This is an embarrassment," says Michael Meyers, executive director of the New York Civil Rights Coalition. Justice Thomas "doesn't hold my views on affirmative action. He doesn't hold my views on race. But he is on the United States Supreme Court, and he's entitled to . . . respect."

That sentiment is echoed even in some seemingly unlikely places. "Of course, he's a role model," says Charles Ogletree, the Harvard Law School professor who was Anita Hill's lawyer during the confirmation hearings. His success proves "that you can come up from poverty and have a huge impact in our society."

Justice Thomas's career has engendered conflicted feelings in black America from the moment he hit the national scene as chairman of the Equal Employment Opportunity Commission in the Reagan administration. Although mainstream black groups such as the NAACP were worried that he was hostile to many civil-rights laws, they opted not to fight his 1989 selection to the federal appeals court in Washington. And although many of those same groups later decided to oppose his elevation to the Supreme Court, some believed that his humble origins might ultimately make him more sympathetic to their civil-rights agenda.

That hasn't happened. He has joined the court's conservative wing in ruling that it's unconstitutional to draw up voting districts primarily on the basis of race. He concurred in a 1995 ruling that put strict limits on federal affirmative action, saying such programs "stamp minorities with a badge of inferiority and may cause them to develop dependencies." He also concurred that year in a decision that curbed school desegregation, expressing astonishment that "courts are so willing to assume that anything that is predominantly black must be inferior."

Other justices participated in these decisions, too, of course. But Justice Thomas's African-American critics seem to view his role as uniquely unforgivable, and that sentiment in turn has provoked the concern about his influence on black youth.

IT DOESN'T AFFECT HIM

Justice Thomas won't comment on the Delaware incident, but friends insist he isn't ruffled. "He's been around long enough dealing with the so-called civil-rights community [that] it doesn't affect him," says Stephen Smith, a Washington lawyer and former law clerk for Justice Thomas.

After the area NAACP leaders threatened their protest, Justice Thomas wrote festival organizers to say that, while he doesn't object to "peaceful demonstrations," he didn't want to distract from the event's focus on children. Finally, says a gleeful Mr. Morment, the Maryland NAACP official, "the guy made some decision that we agree with."

Other black leaders say they too would object if the justice were invited to speak to kids in their area. It is a way of "getting his attention" to communicate that "we're disappointed with the actions that you've taken, and so therefore we can't hold you up as a role model," says Hazel Dukes, president of the New York conference of the NAACP.

It is in one sense ironic that Justice Thomas has provoked such criticism: On a court whose members are more likely to be found speaking at high-brow judicial conferences

than obscure local convention halls, Justice Thomas has shown a special interest in talking with ordinary people, particularly the young. His message is "inspiring and uplifting," says Norman Hatton, a vice principal at the Thomas G. Pullen School in Landover, Md., where the justice spoke at the awards ceremony last summer.

Indeed, even some NAACP leaders are adopting a more conciliatory approach. In a recent speech, Mr. Mfume, the national president, criticized the Maryland chapter, saying protests against Justice Thomas shouldn't rise to such a level that they impede his right to speak. "We must never rush to silence free speech," he said. "It doesn't matter how we feel about Justice Thomas."

Dr. Carson, the surgeon, adds: "Children shouldn't be forced to watch 'a bunch of silly adults . . . put people into corners and castigate them. . . . If anything is a bad role model, that is.'"

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

The PRESIDING OFFICER [Mr. THOMAS]. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the order, morning business is closed.

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

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

The bill clerk read as follows:

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

The Senate resumed consideration of the joint resolution.

Pending:

Dodd amendment No. 4, to simplify the conditions for a declaration of an imminent and serious threat to national security.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from West Virginia [Mr. BYRD] is recognized.

Mr. BYRD. Mr. President, the measure before the Senate is a proposed amendment to the Constitution mandating a balanced budget annually. It is unconstitutional-like. I am not saying it is unconstitutional. If it is riveted into the Constitution, of course it would be constitutional. But I am saying it is unconstitutional-like in its words, which lack the vision, the simplicity, and the majestic sweep of language that we find in the Constitution. Rather, it sounds and reads like a bookkeeping manual on principles of accounting. The amendment is replete with words like "outlays," "fiscal year," "receipts," "estimates of outlays and receipts," "receipts except those derived from borrowing," "repayment of debt principal,"—words which

are out of keeping with the graceful language used by the Framers in writing the original Constitution and the Bill of Rights. The amendment is made up of 8 sections constituting a total of circa 310 words, more than were used by the Framers in stating the Preamble to the Constitution and in establishing a Congress composed of two Houses, establishing a House of Representatives, establishing a Senate, establishing the Presidency, establishing the Supreme Court, and including the article setting forth the mode by which the Constitution would be considered ratified and in effect. Moreover, it is a masterpiece of confusing details, deceptive illusions, and doublespeak.

It is misleading. I am talking about this amendment now that we have before the Senate. It is misleading, contradictory in its terms, and is ultimately bound to disappoint the American people and undermine their faith in the credibility of the Nation's basic document of law and government.

We all agree—all 100 of us—that continued massive deficits are bad for the country, and we are all in agreement that action must be taken by the legislative branch, working in cooperation with the executive branch, to bring our budgets under control and into balance at some point, yea, even to provide for surpluses so that the country can begin to retire the principal and reduce the interest on the national debt, which, in only the last 16 years, has assumed colossal proportions beyond anything that was even imagined during the previous 192 years and 39 administrations in the history of the Republic. I am saying during the 192 years previous to the first Reagan administration. I need not remind my colleagues and those who are listening to the debate—although I shall—that until the beginning of the first administration of Ronald Reagan, total debt of the U.S. Government was a little under \$1 trillion, while, beginning with the first administration of President Reagan and continuing up to this time, over \$4 trillion has been added to that debt. In other words, four-fifths of the total debt held by the public have been added in the last 16 years, four-fifths—four times the amount of debt that was accumulated during the first 192 years in the life of this Republic, during the first 39 administrations in the life of this Republic, up until the first administration of President Reagan.

Does anyone challenge that? Does anyone wish to stand on this floor and say, "That ain't so"?

It is no wonder, then, that the American people have lost faith in their Government, and if this proposed constitutional amendment is approved by both Houses of Congress and ratified by the necessary three-fourths of the State legislatures, the people of this country will have no cause for reassurance that our fiscal and deficit problems will ever be resolved. I fear that the situation will not have been made better but, rather, will have been made worse.

I have not been able to listen to all of the speeches that have been made by all of the proponents of the amendment.

I have tried to listen to as many as I could. I have not been able to hear them all. But of those that I have heard, there has not been one—not one—that has addressed itself to the details of this amendment.

We have heard many times that the devil is in the details. I have not heard a single proponent—not one—explain the amendment section by section or stated how and why the adoption of this amendment will, indeed, bring down the deficit and lead to a balanced budget. I would like for them to explain each section and explain how that section is going to bring the deficits down.

All of the speeches that I have heard merely talk about the need for getting the deficit under control. I am for that. But none has explained how this particular proposed constitutional amendment is going to do the job. All I have heard have been "the sky is falling" speeches—oh, the sky is falling—which have simply stated the need for getting our house in order, to which we all can agree and stipulate.

So they say deficits are bad; our national debt is too large; we need to get the deficits under control. Nobody disagrees with that. That is all the speeches I have heard. As I say, I have not heard them all. But all of the speeches by the proponents I have heard have amounted to that: Deficits are bad; we have to do something about them.

And what do they propose to do? Adopt this amendment. They don't explain how it will rectify the situation.

So I continue to wait to hear a single proponent—just one—who will come to the floor and explain clearly as to how each section will contribute to the common objective that we all seek; namely, a balanced budget, and explain beyond any doubt that these sections of this amendment, as so constructed, will do the job. You can bet on it.

Everyone is in agreement that consistently operating with deficits is undesirable, but we are told to accept on faith this proposed constitutional amendment. We are told it will do the job, but we are not told how it will do the job. We are not given the details as to the sacrifices and the pain the people must endure in order to achieve yearly budget balance. We are only told that continued deficits are not good, which we all know to start with, but that this amendment will fix the problem. We are, therefore, importuned to buy what really amounts to a "pig in a poke." And as far as the explanation of the amendment thus far is concerned, we cannot even be assured that there is a pig in that poke.

So now let us proceed to take a look section by section at the amendment, which we are all being implored to support and which, if we buy on to this amendment, the American people will,

likewise, be beseeched to ratify in their State legislatures throughout the country: Don't look at the details, don't bother, just accept on faith. Things are bad, deficits are bad, we have to do something about it. Ipso facto, vote for this amendment. It will do the job.

For the benefit of the American people who do not have a copy of this amendment and who are watching and listening to the words spoken on this floor, I have had the entire amendment placed on this chart and will now go through it section by section in the hopes of shedding a little light at least on what I believe to be a very anti-Democratic, anti-Republican, and anticonstitutional proposal. Not unconstitutional, but anticonstitutional.

So let us start at the beginning. The Bible says, "In the beginning." You can't get much beyond that, "In the beginning, God * * *"

Well, in the beginning, let's take the very top section. Let's start at the top.

Section 1 of the constitutional amendment states:

Total outlays for any fiscal year shall not exceed—

Shall not exceed—

total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific—

For a specific—

excess of outlays over receipts by a rollcall vote.

Mr. President, and Mr. and Mrs. America, this states that for every dollar that is spent in any fiscal year, there shall be \$1 of income. That is what it says. In other words, for every dollar that goes out in a given year, a dollar will have to come in, unless three-fifths of the Members of both Houses of Congress provide by law for a specific excess of outlays over receipts by a rollcall vote.

If Congress is bound to spend more than it takes in, how can it do it? It can only do so by a rollcall vote and by passing a law which states the specific excess by which dollars spent will exceed dollars received. It will not be enough for Congress to provide by law in a given year that outlays "may exceed receipts." That is not enough. To comply with the language of this section, Congress will have to state specifically the excess of outlays over receipts that it is willing to approve.

Moreover, this cannot be done by a simple majority in each House of Congress, as is the case with most other laws that are passed by Congress. The stickler here is that three-fifths of the whole number of each House will have to approve the specific excess. Got to be exact, the exact amount. "All right, Senators, we're getting ready to vote. We've got to know the exact amount by which the outlays will exceed the receipts, because it has the words 'specific excess'."

For example, the Senate is composed of 100 Members and three-fifths of them will be required to loose this amendment from its chains. Three-fifths of

the whole number of the Senate means that at least 60 Members of the Senate would have to vote in favor of permitting the specific excess of dollars paid out over dollars taken in. Sixty Members. Fifty-nine will not be enough.

It will not matter if there is a snowstorm outside the doors and only 59 Senators can get to the Senate to vote. That is a quorum—that is over a quorum. But that will not matter. Even if they all vote to allow outlays to exceed receipts by an exact and specific amount, that will not be enough.

Now, this may appear to be a very simple matter on the surface, but upon closer examination it will be anything but simple.

Why do I say this? Because there is no way on God's green Earth that human beings can precisely predict what the total outlays will be for a fiscal year until that fiscal year has expired and the U.S. Treasury Department has tallied up the final figures of what the income versus the spending was for the year just ended. No way—no way—that anyone, that any human being or any computer contrived by any human being can determine before the fiscal year is out the exact amount by which outlays for any fiscal year have exceeded the receipts of that fiscal year. No way. It is impossible. No way, until the fiscal year has expired and the U.S. Treasury Department has tallied up the final figures of what the income versus the spending was for the year just ended. You will not know until that happens.

And only then, which is usually late in the month of October—perhaps the third or fourth week of October—several weeks after the end of any fiscal year, are the facts known as to the exact amount of the outlays and the exact amount of the receipts, and, consequently, whether or not there was a deficit, and, if so, specifically how much was the excess of outlays over receipts. We will not know it by the end of the fiscal year.

So what are we going to do then? The fiscal year has ended. September 30 is gone. We do not know what the excess was. How then can three-fifths of the Members of the Senate vote for a "specific excess of outlays over receipts" when the final books are not closed, the amounts are not tallied. Nobody knows.

I might stand on my feet and say, "Mr. President, how much is the excess?" Nobody can tell me. And we will not know it for perhaps 3 or 4 weeks after September 30, after the fiscal year has ended.

Therefore, there is no way for Congress to provide by law for a "specific excess of outlays over receipts" during the fiscal year in question. The specific amount of any excess of outlays over receipts cannot be known by the human mind until the U.S. Treasury has totaled up the figures for a fiscal year that has already ended 2 or 3 weeks earlier and advised Congress of the results.

Consequently, we are being presented in the very first section of the amendment with a requirement that cannot be met. It cannot be met. Now, let us examine more closely. Take the first portion of Section 1: "Total outlays for any fiscal year shall not exceed total receipts for that fiscal year * * *". That language is very clear. It cannot be misconstrued or misunderstood. It means exactly what it says. It does not say that total outlays "may not exceed." It does not say that "Total outlays for any fiscal year may not exceed total receipts." It does not say that "Total outlays for any fiscal year should not exceed total receipts." Nor does it say that "Total outlays for any fiscal year ought not exceed total receipts." It says, total outlays shall not—shall not—shall not—exceed total receipts for that fiscal year, no ifs, ands or buts. The Federal budget, under this language, must be balanced every fiscal year right down to the bottom dollar. There is no wiggle room—wiggle room—none.

Now, let us understand what this means. We are told by the proponents of this amendment that the Federal Government should have to balance its budget every year, like a family does. How many times have I heard that? "Oh, we ought to do like the average American family. We ought to do like a family does or do like the State governments do it. The Federal Government ought to do like the State governments do it. They balance their budgets. The American family balances its budget. And the Federal Government ought to do the same." How many times have I heard that? How many times have you heard it, Mr. President?

The truth is that the American family does not and the truth is the State and local governments of this country do not do what this amendment requires the Federal Government to do. The fact is that the unified Federal budget is not the same as a family budget. The fact is that the unified Federal budget is not the same as the budgets that State and local governments are required to balance—or that they are supposed to balance. They are not the same.

Unlike those budgets, unlike the State budgets, the unified Federal budget includes all spending that occurs in a fiscal year regardless of whether that spending is for recurring operating costs of the Federal Government or whether that spending is for public investments.

Now, would anybody stand and challenge that? Would anybody tell me that the States are operating under the same kind of unified Federal budget that the Federal Government is operating under? Yet they say we ought to do like the States. The Federal Government ought to balance its budget like the States balance their budgets. Just one—I would like to hear a Senator challenge that statement.

Under the unified Federal budget, capital investments, such as roads, air-

ports, transit systems, military procurement for weapon systems, military aircraft, battleships, missiles, are required to be paid for in full as the purchases are made. This is a system of budget accounting that no business, no State or local government, and no family has to abide by.

Let us consider the family budget. I consider my family budget a typical family budget. I can remember when I had to buy a bedroom suite—on May 25, 1937; soon it will be 60 years. On May 25, 1937, I bought a bedroom set, looking forward to the day when I pay that preacher \$2 and take my wife away. We would not be going on any honeymoon. Of course, we have been on a honeymoon now for 60 years, but we would not be going anywhere. There would not be any gifts, would not be any flower girls, would not be any best man—except ROBERT BYRD. I bought a bedroom suite, paid for it at the company store where I was employed as a meat-cutter and in produce sales, \$5 down, \$7.50 every 2 weeks until it was paid off.

So that is the way most families have to manage. Most families that I know have to borrow money to buy their homes, have to borrow money to buy their farms, they have to borrow money to purchase necessary assets such as automobiles with which they get to work and get home from work, and they have to borrow money to provide their children with a college education. I do not think that one will find very many Americans who would want to have to balance their family budgets in a manner that would require them to pay for the entire cost of their home in the same year, the entire cost of the farm in the same year, the entire cost of the automobile in the same year, or the entire cost of a college education for their children. Yet that is what the U.S. Government would be required to do by this section of this amendment.

Mr. and Mrs. America, be on your guard; you need to know that. When you listen to these proponents say that the Federal Government should balance its budget just like the States balance theirs—listen, Governors, you know better than that. When the proponents say that the Federal Government should balance its budget just like the average American families balance its budget, hold on. Pay attention. That is not what it does.

Similarly, the proponents tell us that most States and local governments are required to have balanced budgets. What the proponents fail to point out is the fact that State governments are required to balance only their operating budgets. Do not tell me that "ain't" so, because it is. The States are allowed to have separate capital budgets, which are excluded from the annual budget balancing requirement. A State may be required to keep its operating budget in balance each year, but the budget with which it floats bonds for the construction of school buildings or highways and other capital investments is not required to be balanced

each year. I know. I know that is the way the West Virginia Constitution operates. It does not require a unified budget as this amendment would or as the Federal Government does operate on a unified budget.

If such capital investment budgets were required to be balanced each year, as this amendment would mandate that the Federal Government do, the States in many instances would not be able to build schools and highways and bridges. Is that not so, Governors who may be listening? Is that not so, State legislators who may be listening? The capital budgets of States are excluded from the annual budget-balancing requirement of the State constitutions. Under this balanced budget amendment, however, the Federal Government would be forbidden to adopt capital budgeting, and this would gravely endanger our ability to purchase the kinds of public assets or make the kinds of public investments that are so critical to this Nation's future economy and to its future security.

The language of this first section of the amendment, if the amendment is ever adopted and ratified, will prohibit the Federal Government from purchasing capital assets and repaying the costs of them over time for the simple reason that it says that each year, the total outlays shall not exceed the total receipts; shall not exceed the total income of the Federal Government. Rather, the Federal Government would be required to pay for the entire cost of all these capital investments as they are purchased. I believe if the American people focus on this issue alone, it should be enough to convince them of the unwisdom of placing such a strait-jacket on Federal budgeting into our Constitution.

But the proponents of the amendment will say, "Hold on. Hold on, Senator. This language allows a waiver of the budget balancing requirement." Sure enough, there is a portion of section 1 which reads, ". . . unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote."

So the two halves of this sentence do not match up. This sentence is classic doublespeak. Mr. and Mrs. America, that is exactly what we are doing here, engaging in doublespeak. It is a kind of "have it both ways" sentence—the kind of stuff that politicians are so proficient at crafting. On the one hand, we are saying that the Federal Government's spending shall not exceed its income, that it must live within its means, and that that concept is important enough to rivet into the Constitution of the United States. But in the very same sentence, without skipping a beat, the language also says that all that is so unless three-fifths of the whole number of each House waive that requirement.

So there is a requirement for a supermajority vote of three-fifths of each House to approve a waiver, and that

constitutes minority control in each House, which is anathema—anathema—to the principle of majority rule, anathema to the democratic—small "d"—rule, the principle of majority rule, a cardinal principle of representative democracy. That is basic in this Republic. It means that a minority can block action. The requirement of a supermajority three-fifths vote is a prescription for gridlock. A majority of three-fifths would be difficult to get on a politically charged vote of this kind where partisanship would rear its ugly head. What would happen, then, when the President's advisers tell him late in a fiscal year, or at the beginning of the next fiscal year, that despite previous estimates to the contrary—or if it is the last of October, in the next fiscal year—there was a substantial deficit and that Congress has not been able to produce the necessary three-fifths vote in each House to waive the requirement set forth in section 1 for a balanced budget.

The clock is ticking. The fiscal year is running out. And a deficit looms large, large on the horizon. The President's advisers tell him he is constitutionally bound to balance the budget.

Now, Mr. President, those Senators didn't do it. They could not muster the three-fifths vote to waive that provision in section 1.

The President is, therefore, told to impose the necessary cuts in spending for the remainder of the fiscal year in order to achieve budget balance. He has no choice.

At this late point, during any fiscal year, what could the President do? He would have no choice but to make arbitrary cuts in Federal spending, which could mean a reduction in payments to which many citizens are entitled under the law. Among the programs for which monthly checks are issued by the U.S. Treasury are Social Security benefits, military and civilian retirement benefits, veterans benefits—hear me, veterans—veterans benefits, payments for Medicare and Medicaid, and payments to contractors. To those who say that your Social Security check, or—veterans, lend me your ears—your veterans pension, or your military or civilian retirement checks are safe under this constitutional amendment, I can assure you that they are not. Moreover, it is highly likely that the judiciary will find itself embroiled in yearly budget decisions.

I see in this committee report these words on page 23—words in the committee report that comment on section 6 of the amendment:

The provision precludes any interpretation of the amendment that would result in a shift in the balance of powers among the branches of Government.

How can any committee report say, with any authority that is dependable authority, that the provision precludes any interpretation of the amendment? Is that not what the committee report said? "The provision precludes any interpretation of the amendment. . ."

That is saying to the courts, Mr. Justice, your court is precluded from interpreting the amendment in any way that would result in a shift of the balance of powers among the branches of Government. How much is that piece of paper going to be worth? Yet, a committee report says it. "The provision precludes any interpretation of the amendment that would result in a shift of the balance of powers among the branches of Government."

The President impounds the moneys. He feels he has to impound them. He has to stop the checks. He has to put a halt on the mailing of the checks. He impounds moneys. Does that constitute a shift in the balance of powers between the legislative and executive branches? And, Mr. Proponent, are you going to tell me that the courts will abide by this committee language here, that they will feel bound by this committee language, they will be "precluded"? That is what this language says, that "the provision precludes any interpretation of the amendment that would result in a shift in the balance of powers among the branches of Government."

Let me also say at this point that section 1 of the amendment is a hollow promise. It says the budget shall be balanced, but it does not say how the budget must be balanced. It does not say how the deficits shall be reduced. Where are the proponents? This is what I have been waiting to hear. I am opposed to this constitutional amendment. I want someone to tell me and to convince me and prove to me, by their written words, that I am wrong, that I am not reading these sentences correctly, that they don't say what I have said they say. I want someone to show me that I am wrong.

It does not say how or where to cut Government spending. It does not say how or whether revenues should be increased. There isn't a proponent of the amendment that I have heard stand on the floor and say, "This is how we are going to make this section work. We are going to have to raise taxes." I haven't heard a proponent stand up on this floor—not one—and say the President's proposed tax cut is going to have to be forgotten, or that the tax cuts proposed by the Republican Party—the GOP, the Grand Old Party—are going to have to be forgotten. Not only should we not have the tax cuts—I say we should not cut taxes. Here is one Senator who, if I were a proponent of this amendment, I would say, well, I am against cutting taxes. I believe we ought to balance the budget. I believe we ought to wipe out these deficits. But this language does not say how or where to cut Government spending. It does not say how or whether revenues should be increased. And all of the Republicans, in 1993, stated that the reason they did not vote for that budget balancing package—which worked—most of them used the excuse that it increased taxes. That may be what we will have to do again. But the language

in this amendment doesn't say whether revenues should be increased.

But never mind, the proponents of the amendment have provided an escape hatch right in the amendment itself. Take a look at section 6.

Section 6 states, "The Congress shall enforce and implement this article by appropriate legislation * * *" There is nothing new about that. Congress has the power now, working with the President, to balance the budget. But this amendment says, "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts."

I hope that the new Members of the Senate will pay close attention to this language. I can understand that when new Members come here, they haven't had any experience with the terminology or the Federal budgets, with the estimates of revenues and outlays from year to year, and how those estimates have been off. I can understand that. So I can forgive new Members. But I hope they will listen. Section 6 states that, "The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts." This is the Achilles' heel of the balanced budget amendment to the Constitution.

I especially would like the proponents of this amendment to come over here and defy what I am saying about section 6 of this constitutional amendment.

While section 1 is the core of the amendment, because it says that the budget shall, not may, but shall be balanced every year, section 6 in the very same amendment says that we don't really have to balance the budget as section 1 would require. The proponents of this amendment are telling us in section 6 that they are just kidding in section 1 when they say that the budget must be balanced. In section 6, they are saying, "We don't really mean it, Mr. and Mrs. America." In section 1, the amendment says that "outlays shall not exceed receipts" in any fiscal year, but section 6 says only that estimates of outlays shall not exceed estimates of receipts in any fiscal year.

So, if this amendment is adopted, the sacred document of the Constitution will say, in no uncertain terms, in section 1 that Congress shall balance the budget every year. But just read a little further, and the Constitution of the United States will say, forget section 1, Congress doesn't really have to balance outgo with income, doesn't have to balance outlays with receipts. All we have to do is just rig the estimates, so that estimated spending will not exceed estimated income for any given fiscal year.

Isn't that what this says?

Section 1, therefore, makes the entire balanced budget proposal as phony as a \$3 bill. Better still, phony as a \$2.50 bill; phony. If the escape hatch is used, we will be right back where we have been so many times in the past,

balancing the budget will be smoke and mirrors, and anyone who can read the English language knows it. Because there it is as plain as the nose on your face: "The Congress shall enforce and implement this article"—meaning the constitutional amendment to balance the budget—"by appropriate legislation, which may rely on estimates of outlays and receipts." Section 6 makes this proposed constitutional amendment a fraud; a fraud. I shall have more to say about section 6 at another time, but I will say this much: I say it makes the amendment a fraud.

Let the proponents read what the committee report says about section 6. Let me read from the committee report. Page 23 of the committee report: "The Congress shall enforce and implement * * * creates a positive obligation on the part of Congress to enact appropriate legislation to implement and enforce the article." Then the committee looks at the words "which may rely on estimates of outlays and receipts."

The committee report goes on to say this: "Estimates"—the word "estimates"—"means good faith, responsible, and reasonable estimates made with honest intent to implement section 1." The committee knows that it is providing a loophole that is large enough for Attila to drive his 700,000 horsemen through, large enough for Tamerlane, large enough for Amtrak—because it says in the first section the budget must be balanced, the budget shall be balanced; outlays may not exceed receipts.

Then it comes along in section 6 and says, "Well, we don't really have to do that; don't really have to pay any attention to that language. What we really mean is that the estimates of outlays shall not exceed the estimates of receipts. And the record will show, as I will on another day, that it is impossible for the estimates—insofar as the record is concerned, it has been impossible for the estimates to balance or to come out as stated. It is impossible for anyone to estimate what the revenues are going to be. It is impossible for anyone in this Government to estimate what the revenues will be. It says, well, estimates really mean good-faith, responsible, and reasonable estimates.

What is meant by "good faith"? How do we know when they are "good faith" estimates? How do we know when they are "responsible" estimates? How do we know when they are "reasonable" estimates? How do we know when those estimates are made with "honest intent"? We have seen the numbers "cooked." David Stockman was the Director of OMB during the early years of the Reagan administration. The numbers were "cooked," and David Stockman said so. So they were rigged.

The committee goes on and says, "This provision gives Congress an appropriate degree of flexibility"—you bet it does—"in fashioning necessary implementing legislation. For example, Congress could use estimates of re-

ceipts or outlays at the beginning of the fiscal year to determine whether the balanced budget requirement of section 1 would be satisfied so long as the estimates were reasonable and made in good faith. In addition, Congress could decide that a deficit caused by a temporary, self-directing drop in receipts or increase in outlays during the fiscal years would not violate the article."

This is the committee report I am reading from, and it is talking about section 6 in this constitutional amendment. The language goes on to say in the committee report: "Similarly, Congress could state that very small or negligible deviations from a balanced budget would not represent a violation of section 1." How much is "small"? How much is "very small"? What would be a "negligible deviation"?

We have a \$1.7 trillion budget. Let us say that the deviation is \$50 billion. Is that "small"? Is that "very small"? Let us say the estimate only missed it by \$50 billion. That is \$50 for every minute since Jesus Christ was born. Is that small enough? It is only 3 percent of the total budget, \$50 billion. As a matter of fact, you can make it \$51 billion of a \$1.7 trillion deficit. It would only be off 3 percent. Is that "negligible"? Is that small enough?

It goes on to say: "If excess of outlays over receipts were to occur, Congress could require that any shortfall must be made up during the following fiscal year."

Now, this is the committee report explaining the amendment. And that is shilly-shally. That is what the committee report says. I did not say it. Section 6 provides the loophole, it provides the way out, the way to get around section 1 in the amendment, the way to get around this balanced budget amendment. I will have more to say about that section at a later time.

Now let us look at section 2 of the balanced budget amendment. Section 2 states, "The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote."

In practical terms, what this section means is, again, if a minority in the Congress decides that they do not want to go along with the policies of the majority, they can put this country into default on its debt. If the United States ever defaulted on the payment of its debt, that action would send the world financial markets into utter chaos. This is the same as any family's filing for bankruptcy. Forget about ever getting another mortgage on the home or another automobile loan. Any lender, knowing that you have already skipped your payments and gone bankrupt, is going to charge you an exorbitant rate of interest on your next loan, that is, if you can ever get another loan.

Failure to raise the debt limit or ceiling, when required, would have far-reaching effects on the U.S. Treasury's

ability to pay Social Security and veterans' pensions and other obligations, and the Nation's creditworthiness would be destroyed. Millions of people depend on Federal payments, including employees, pensioners, veterans, investors, contractors, as well as State and local governments. If the debt ceiling is reached and the necessary supermajority vote of both Houses is not achieved, all of these payments must be stopped.

The fact is that over the last 16 years, there have been 30 occasions when the Congress has voted to increase the debt limit. And yet, on only 2 of those 30 occasions have we met the three-fifths requirement of this balanced budget amendment. It is not going to be easy. A minority will have many opportunities to play politics with this phraseology in this amendment. Only on 2 of those 30 occasions have we met the three-fifths requirement for this balanced budget amendment. On the other 28 occasions, less than three-fifths of the whole number of both Houses voted by rollcall to provide the necessary increase in the debt limit.

I have seen the occasion arise many times when this party or that party, one party or the other, will play politics with this language. I have seen situations in which the Democrats laid back, would not vote for an increase in the debt limit. They would make the Republicans do it. And I have seen the occasions when the Republicans would lay back and not vote to raise the debt ceiling, make the Democrats do it.

One particular instance comes to mind. This is just an example:

"On Friday, October 12, 1984, the 98th Congress adjourned after the Senate, in a final partisan political battle, narrowly approved an increase in the national debt ceiling to \$1.82 trillion. Senate Republicans cleared the way for adjournment when, without the vote of a single Democrat—I was the minority leader—"without the vote of a single Democrat they," meaning the Senate Republicans, "approved an increase in the national debt ceiling. 'There will be no more votes today,' said Baker," meaning Howard Baker, "as he smiled broadly. 'There will be no more votes this session. There will be no more votes in my career.' His Senate colleagues and spectators in the galleries came to their feet to give the Tennessee veteran a roaring ovation as he sat in his front-row seat. Baker joined in the light laughter saying, 'Frankly, I first thought that applause was for me. But then I realized that it was for sine die adjournment.'"

"Following the vote on the debt limit, Senator DANIEL PATRICK MOYNIHAN said, 'For 4 years, Republicans have always made us Democrats pass a debt limit. Then they campaigned against it. Now it's their debt limit. Let them pass it.'"

So those are the games that were played, and they will be played again.

Section 3 of the amendment is as follows: "Prior to each fiscal year, the

President shall transmit to the Congress a proposed budget for the U.S. Government for that fiscal year, in which total outlays do not exceed total receipts."

So this section means then that the President of the United States must send a balanced budget to the Congress before each fiscal year even though during a recession the President may deem it advisable to recommend a fiscal deficit in order to help get the country back on its feet. That will happen from time to time. The language of section 3 would preclude his doing so. He is not supposed to recommend a fiscal deficit. He is required by the constitutional amendment to recommend a balanced budget.

Notwithstanding this requirement, however, a President's Office of Management and Budget could "cook the numbers," as was done during the administration of President Reagan. Didn't David Stockman say so? That is not just ROBERT BYRD talking. They cooked the numbers to reflect whatever income and spending numbers the administration wanted. And they can do it again. They will do it again—cook the numbers.

The President's budget could, for example, forecast that the economy will grow faster than it really will grow, and therefore would take in more tax revenues; or the administration could forecast that interest rates would be much lower than most economists predict, or that unemployment would drop during the upcoming budget year, thereby causing the budget to be in balance. Cook the numbers.

In short, the President and his staff can, as we have seen in the past—don't say, "It ain't so," because it is—come up with any number of rosy scenarios in order to make the numbers balance. Consequently, simply telling the President of the United States that he must send a balanced budget to the Congress does not in fact get us any closer to balancing the budget. The American people will again be treated to "make believe," "Alice in Wonderland" budgets while we politicians just keep on playing the same old shell game in ways that will fool the American public.

Section 4 reads:

No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

What the proponents of this amendment are doing is making it more difficult for Congress to close tax loopholes—to get rid of what are called tax expenditures. Mr. President, that little piece of the economic pie amounts to about \$500 billion in lost revenues every year. This is not to say that all of these tax writeoffs are bad policy. Certainly the mortgage interest deduction has allowed many more Americans to own homes than may have otherwise been the case. So, many of the writeoffs are wholesome and healthful for the economy. But, at same time, some

of these writeoffs are simply tax loopholes which, like leeches, suck the blood from the economic body politic.

No one likes to raise taxes, but it is something that has to be done, and for 208 years, Congress has been able, by a simple majority vote in both Houses, to increase revenues. It does have to be done, from time to time, no matter how much we may dislike having to vote to do it. Yet, this section would require a kind of "floating" supermajority in both Houses in order to increase revenue. Let me explain this term which I have invented. For over two centuries, the Constitution has required only a simple majority in each House to raise revenues. For example, let us say that there are 90 Senators present and voting on a measure to raise taxes. Up to this point, a simple majority, just 46 Senators of the 90, could pass the bill. Under this proposed constitutional amendment, with 90 Senators voting, 51—51 Senators, not 46; 51 Senators, or five more Senators than a simple majority—would be necessary.

Now, depending upon what day of the week, what hour of the day, of course, a supermajority of five votes would be necessary rather than a simple majority of one vote. But let us say that 80 Senators are present and voting. A simple majority would require 41 Senators to pass the bill. With this new constitutional amendment in place, at least 51 Senators would be required—or 10 more votes than is presently required. Hence, a supermajority of 10 in that hypothetical case would be necessary. And so on. If 70 Senators voted, ordinarily 36 Senators could pass the bill. But under this constitutional amendment, 51 Senators would be required, or 15 additional Senators over and above a simple majority; a supermajority of 15. So it is a "floating supermajority." This is why I refer to it as a "floating supermajority." It floats, or changes, depending upon the number of Senators present and voting, so that if the supermajority of five votes is necessary to pass the tax bill on a Wednesday, let us say, a supermajority of 10 votes or 15 votes may be necessary if the passage of the bill should occur on Thursday or Friday. It could be 9 o'clock in the morning in one case and 4 o'clock in the afternoon in the other. So it would fluctuate. It is not an exact number. It will float from day to day and from hour to hour, depending upon the clock and the calendar.

Section 5 states:

The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

Mr. President, Congress does not always declare war anymore. Even when it does declare war, the declaration

may not necessarily be lifted when the shooting stops. Congress declared war against Germany in 1941. Not very many Americans, and not all the Members of the U. S. Senate, perhaps, realize that this declaration of war existed until September 28, 1990. Consequently, if this constitutional amendment to balance the budget had been a part of the U.S. Constitution during that period, the Congress could have waived the balanced budget requirement every year for almost a half century—because a declaration of war was “in effect,” technically.

So, here again, this section requires a “floating” supermajority, as did section 4, in order to receive the necessary approval by both Houses of Congress.

If the Nation is not engaged in a conflict that causes an imminent and serious military threat to national security, then a three-fifths majority would be required to waive the amendment for national security reasons. I would like to remind my colleagues just to think back with me to the 1990–1991 timeframe and recall President Bush’s military buildup in the Persian Gulf. Prior to the actual Desert Storm engagement, a very expensive military buildup was necessary to provide the materiel and the personnel to conduct that conflict. Under this constitutional amendment, should a similar situation arise, the President would be required to achieve a three-fifths majority of both Houses in order to enact into law a waiver under section 1 because the waiver under section 5 would not be applicable, in that we would not be “engaged” in a military conflict; we are just getting ready for one. We are just rolling up our sleeves. We are just preparing. We are getting things all lined up, but we are not actually in a military conflict. But that has to be done because you cannot provide the materiel, the equipment, the engines of war just overnight. Furthermore, under section 5, a three-fifths majority could be required to increase military spending to deter aggression, provide military aid to our allies, or to rebuild forces after a military conflict.

Until such a three-fifths majority is achieved, what happens to the Nation’s defenses? What happens to our national security? Will our allies be able to count on the United States to stand shoulder to shoulder with them if a necessity for such should materialize in the future?

Will they have any confidence that the United States will act? They have to be more confident than I am confident that the three-fifths vote would be here in this Senate.

Section 7 states:

Total receipts shall include all receipts of the United States Government except those derived from borrowing.

“Total receipts shall include all receipts of the United States Government except those derived from borrowing.”

Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

Under the definition of section 7, Social Security checks and veterans benefits, veterans pension checks, Medicare reimbursement checks—they are outlays. Does anyone dispute that? Those are outlays. The senior citizens of this country and the veterans of this country are being asked to accept on blind faith the fact that their Social Security checks or their Medicare benefits will be secure if this constitutional amendment is adopted here and ratified later by the requisite number of States.

They are being told—Social Security recipients are being told, the recipients of veterans checks are being told—that even though the Social Security trust fund is not specifically exempted from the balance mandate, they have no need to worry, because Congress is on record as agreeing to balance the budget without touching the fund.

The Balanced Budget and Emergency Deficit Control Act of 1985, commonly known as Gramm-Rudman-Hollings, placed Social Security off budget beginning in 1986. This legislation, with its protections for Social Security, passed the Senate by a vote of 61 to 31 with a strong bipartisan majority. The Budget Enforcement Act of 1990 reinforced these earlier protections for Social Security by placing it even more clearly off budget. What the American people are not being told by the proponents of this amendment, however, is that a mere statute—a mere statute—protecting Social Security is subordinate to the Constitution of the United States, which is the supreme law—the supreme law—of the land. It will top, it will trump any statute. The supreme law. Here it is, the Constitution of the United States. Tops any statute.

Nor would the good intentions of the present Congress be binding on future Congresses. I say to the veterans and to the senior citizens of our country, be on your guard. If this proposal becomes a part of the U.S. Constitution, your checks—your checks—will be at risk of being reduced in the future.

Finally, Mr. President, section 8 says:

This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later.

Which means simply that it can’t take effect prior to fiscal year 2002. So those of us who are up for reelection in the year 2000 could, if it was our desire, vote for this amendment, go on home, sit in the old rocking chair, and just rock away, because the hammer isn’t going to fall on me. This thing will not go into effect until 2002, at the earliest.

What does that mean? That also means that Members of the House and Senate will be relieved of the pressure until 2002. So we can just go on our merry way. It will all be taken care of, it will all become automatic, this is self-enforcing, it’s automatic. The sky is falling; the debt is bad; the deficit is terrible; just vote for the constitutional amendment to balance the budget; it’s just that simple.

This section amounts to nothing more than a feel-good section. What this is saying is that we can wait to actually balance the budget. We do not need to do it now, Mr. President. This year of 1997 may well be the most opportune time in many, many years to achieve a balanced Federal budget. The President has submitted a budget that is projected to balance by the year 2002. We have already made substantial progress toward that end. The deficit has already been reduced over 60 percent in the last 4 years. It is time to finish the job that we started 4 years ago and enact legislation that will achieve a balanced budget by 2002, not wait until 2002 to start to balance the budget.

So, Mr. President, when looked at in its entirety, this proposed constitutional amendment amounts to nothing more than constitutional flimflam, constitutional pap. If it is adopted, we would have turned majority rule on its head and replaced it permanently with minority rule. And in the meantime, we will have perpetrated a colossal hoax—h-o-a-x—on the American people, and our children will have been robbed of their birthright to live under a constitutional system of checks and balances and separation of powers.

We have all heard the moaning and groaning, the shedding of tears about our children, how they are going to bear the fiscal burden that has been placed upon them. I share that feeling. I voted for the package in 1993 that reduced the Federal deficit by \$500 billion, something like that, \$500 billion, which has resulted in four consecutive years of reduced deficits.

I voted for that. No Senator on that side of the aisle can say that he voted or she voted for that. They will say, “Well, the reason I didn’t is because it increased taxes.” Well, that may be part of the pain that we will have to undergo to relieve that burden from our children’s backs.

I do not think the President should be advocating tax cuts now. I do not think that the GOP, the grand old party, should be advocating tax cuts at this time. Forget about the tax cuts and relieve the burden on our children’s backs by that much.

I am concerned too about my grandchildren and my great grandchildren and their children, that they will not live under a Constitution such as that which was handed down to us by our forefathers.

But let me remind my colleagues who may be listening, let me remind the American people who may be listening, this amendment does not require that the budget be balanced. It does if we only look at section 1. But when we look at the amendment in its entirety and go down to section 6, we realize full well that it does not mean that. We are only required to balance the estimates, the estimates of revenues, the estimates of outlays. So what this amendment does is require us to balance the estimates.

Mr. President, I am reminded of Plato's Allegory of the Cave. In his "Republic," Plato, in a dialogue with a friend, speaks of human beings living in a cave, with their legs and their necks chained so that they can only look toward the rear of the cave. They are prevented by the chains from turning around, from turning their heads toward the entrance of the cave. And above and behind them is a fire blazing, causing shadows to appear on the walls of the cave, the shadows creating strange images that move around the walls, as the flames flicker and as men and objects pass between the fire and the human beings who were chained. The den has an echo which causes the prisoners to fancy that voices are coming from those moving shadows.

At length, one of the human beings is liberated and compelled suddenly to stand and turn his neck around and walk toward the cave's entrance, walk toward the light at the entrance. As he is compelled to move toward the cave's opening, he suffers pains from the light of the Sun and is unable to see the realities, unable to see the realities of which in his former state he had only seen the shadows. He even fancies that the shadows which he formerly saw were truer than the real objects which are now revealed to him.

He is reluctantly dragged up a steep and rugged ascent until he is forced into the presence of the bright noon day sun and he is able to see the world of reality.

Mr. President, as I listened to my colleagues who are proponents of the balanced budget amendment, I hear them year after year urging support of a constitutional amendment, and they use the same old arguments year after year. They must be getting tired of hearing those arguments over and over. I know I am tired. They seem never to view the amendment with reality but always with their backs turned toward the light and their faces turned toward the darkness, as it were, of the rear of Plato's allegorical cave. As in his Allegory, they seem to be impervious to a realistic view of the amendment, but continue to insist that it is really the elixir, the silver bullet, and they seem to resist holding it up to the light but prefer, instead, to concentrate on its shadows, its feel-good platitudes.

I view the amendment as a flickering, unrealistic image on the walls of the cave of politics. Most of the proponents of the amendment are unwilling to take a look at the amendment, section by section, phrase by phrase, clause by clause, and word by word, preferring to live with the image that has so long been projected to the overwhelming majority of the American people by the proponents of the amendment. It is a feel-good image that will not bear the light of scrutiny, and the echoes that come back from the walls of the cave of politics are the magic incantations that we hear over and over and over again in this so-called debate—"vote for the amendment"—

which really is not a debate at all. It has not been thus far. Maybe it will become one. If it were a debate, the proponents would be on the floor, even now, challenging the conclusions that I have drawn and expressed and telling me that I have not been reading the amendment correctly—"No, the amendment does not say that," they should be saying—in which I have proclaimed it to be a fraud.

Elijah smote the waters of the Jordan with his mantle and the waters parted, and he and Elisha crossed over the Jordan on dry land to the other side of the Jordan. I have seen that old river of Jordan, one of the great rivers of the world. I thought it was going to be a wide, deep river. Not a wide river. Not a deep river. Some places it might be 2 feet deep, that great old river of Jordan.

I bet my friend here sings songs about that old river of Jordan.

On Jordan's stormy banks I stand,
and cast a wishful eye
To Canaan's fair and happy land
where my possessions lie.

So Elijah smote the waters with his mantle and the waters parted, and he and Elisha crossed over on dry land to the other side of the Jordan. This constitutional amendment will never be the mantle that will part the waters of political partisanship and divisiveness, "cooked numbers," and doctored estimates so as to provide a path across the river of swollen deficits to the dry land of a balanced budget on the opposite banks of the stream. Where are those who will challenge what I have said about section 6, who will say that I am wrong about this amendment's unworthiness of being placed in the Constitution, who will cite the errors of my argument and explain to this Senate the amendment, section by section, and explain why this amendment will work, how it will work, where the cuts will be made, and how the revenues will be increased. All of these good things do not just happen once the amendment is added to the Constitution.

If this amendment is the panacea that so many in this body claim it to be, then certainly it could stand the scrutiny of point-by-point, section-by-section debate. It is flawed, as I believe, and if it is flawed, as I believe, we must dare to hold it to the light and expose it. The American people should not be sent such a far-reaching amendment without an exhaustive discussion of the havoc that it could create.

This is not a campaign slogan—"pass the balanced budget amendment." It is not a Madison Avenue jingle designed to sell soap. Why not just put it on the bumpers of our automobiles as a bumper sticker—"pass the constitutional amendment." This is an amendment to the most profound and beautifully crafted Constitution of all time. And we owe the American people the best, most thorough debate on its provisions of which we are capable as lawmakers and as their elected representatives.

Let us all come out of the cave and not fear or shrink from the bright rays of the Sun on the language of this amendment.

AMENDMENT NO. 6

(Purpose: To strike the reliance on estimates and receipts.)

Mr. BYRD. Mr. President, I ask unanimous consent I may offer an amendment at this time and that it be laid aside pending the consideration of other amendments that may have been introduced already.

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

Mr. BYRD. Mr. President, I shall read the amendment:

On page 3, strike lines 12 through 14 and insert the following:

Section 6. The Congress shall implement this article by appropriate legislation.

Mr. President, that does away with balancing by estimates.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 6.

On page 3, strike lines 12 through 14 and insert the following:

"SECTION 6. The Congress shall implement this article by appropriate legislation.

Mr. BYRD. Mr. President, I will be happy to consider a time limit on this amendment and vote on it on a future day. I am agreeable to trying to work out a time limit at some point. I just offer it today so that it may be made part of the RECORD and may be printed and that we may, then, with this understanding, return to it at a future day.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, the distinguished Senator from West Virginia has done a service to this body, as he has for so many years in so many different issues at so many different times.

In part of this debate over the last 2 days, I have on more than one occasion urged the proponents of this constitutional amendment to step up to what I call the Byrd challenge. I know the distinguished senior Senator from West Virginia knows that I say that most respectfully because when the distinguished Senator from West Virginia lays down a challenge on a constitutional issue, every one of us, Democrats or Republicans, should pay attention because what he is doing is challenging the U.S. Senate to rise above politics, rise above polls of the moment, but to stand up for our Constitution for the ages. Polls come and go. Polls change. The Constitution stands for the ages.

I think of the vote as the war clouds gathered in Europe before World War II, the vote to extend the draft, I believe it was by one vote. Those who voted to extend the draft cast a very unpopular vote for the most part. Where would democracy be today if they had not had the courage to step beyond the polls of the moment? Look at the Marshall plan. I remember former President Nixon telling me that he remembers 11 percent of the people in this country were in favor of the Marshall plan, but if Harry Truman had not had the courage to push forward and had not Members of this body and the other been willing to stand up, we would not have had the democracy stand where it does today.

If this great country, the greatest democracy, the most powerful economy, the most powerful Nation in history, hamstring itself into something in the Constitution where it cannot reflect basic economic realities, those of us who succumb to the passing moments of a poll may regret, and our children may regret, that we did not listen to the Byrd challenge.

I repeat what I said before many times, the Byrd challenge is here. I ask proponents of this constitutional amendment to focus on the words of this proposed amendment, explain what they mean, explain how this proposed constitutional amendment will work. Senator BYRD has explained this amendment word by word, section by section, phrase by phrase, and what he has done is asked the obvious questions—what does it mean?

Mr. President, we are in this Chamber, the Chamber that shows respect for silence, for the silence is thundering in response to the distinguished Senator from West Virginia, because there has been no response to his question, what do these phrases mean, what do these words mean, what do these sections mean?

Mr. BYRD. Would the distinguished Senator yield?

Mr. LEAHY. I am happy to yield to the Senator.

Mr. BYRD. I thank the distinguished Senator. I hope that Senators will look carefully at section 6 of the proposed constitutional amendment and that they will also look very carefully at the words of the committee report, which deals specifically with section 6. The distinguished Senator from Vermont is on the Judiciary Committee. He wrote some differing views from those of the majority of the committee, and they are printed in the committee report. But inasmuch as my amendment strikes most of section 6, I hope that Members—and I particularly call to the attention of new Members of the body, section 6 and the language in the report which provides the loopholes that will give us all a way out of having to live up to this constitutional amendment give us a way out of having to balance the budget, in the event that it is adopted by both Houses and ratified by three-fourths of the States.

I thank the distinguished Senator from Vermont.

Mr. LEAHY. I thank the distinguished Senator from West Virginia. I close only with this: None of us in this body owns a seat in the U.S. Senate. We are privileged and honored to serve here at the time we are here, and then we go on. But our Constitution does own a place in our country. It has been amended only 17 times since the Bill of Rights. We should never rush pell-mell into an amendment to this Constitution without thinking through the consequences.

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

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Ms. SNOWE. Mr. President, I think it is important for the American people to know how significant and important this debate is on the constitutional amendment to balance the budget. I served 16 years in the House of Representatives and am now in my third year in the U.S. Senate. Some have argued that when we debate this amendment, we are hearing the same old argument over and over again. That is true, because we have the same problem year in and year out. That is why those of us who support a constitutional amendment feel so strongly about the necessity to have this amendment in the Constitution of the United States because it will ensure stability and security for the future of this country and for our children and our grandchildren.

Having served in this overall institution for 19 years now, we have heard the debate on the constitutional amendment. This is about our eighth time in either the House or the Senate, or both, that we have been debating this issue. Guess what? Each and every time we have heard the same arguments over and over again as to why we don't need a constitutional amendment, that it is not necessary, that we can do it on our own, that if only we had the will or the discipline, we could enact a balanced budget, that it is simply not necessary. Well, if that was the case, why then don't we have a balanced budget? Why is it that we are still trying to enact a balanced budget? Why is it that we are still trying to reach an agreement with the President of the United States on a balanced budget?

The President said the other day in his State of the Union Address, "We don't need to rewrite the Constitution of the United States. All we need is your vote and my signature." Well, we gave him our vote on a balanced budget. It was submitted to the President of the United States last year. Guess what? We didn't get his signature.

That is the problem. We can all have our disagreements about the particulars. But in the final analysis what is required in a balanced budget amendment is that you have to agree to the bottom line. There is a bottom line. What this amendment says is that total outlays will not exceed total receipts in any fiscal year. I know that is a concept that is difficult to understand in this institution because it is nothing that we have ever been required to do. What we feel is important to the security interests of this country is to ensure that we have balanced budgets in perpetuity.

Almost every State in the country is required to have a balanced budget. Yes. Most of them are required to balance their budgets because of a constitutional amendment in their State constitution, like my State of Maine. My husband served for 8 years as Governor. Believe me, they didn't argue with particulars of the constitutional amendment. They understood what they had to do because they took an oath of office as each and every one of us does in the U.S. Senate and the U.S. House of Representatives. We are required to uphold the Constitution of the United States as each and every Governor is required to uphold their State constitution.

So what they did in good faith is reach an agreement on a budget, and in their case a biennial budget. Yes, if their estimates were wrong, they made adjustments. Their constitutions are not prescriptions for perfection. It is an attempt to comply with the constitution. That is what the Governors and the State legislatures do all across the country. If their estimates are wrong, if their projections for interest rates, unemployment rates, or inflation rates are wrong, they make adjustments throughout the year or at the end of the year, because they understand they are required to balance the budget.

So, I find it sort of nothing short of extraordinary that we sit here and argue, "Well, this amendment is providing too much flexibility because we are relying on estimates." Yet, on the other hand we are facing numerous challenges and propositions to a constitutional amendment to balance the budget that would enhance our flexibility because there are those who argue, from across the aisle and other opponents, who say, "Well, a constitutional amendment is too restrictive, we can't respond to circumstances such as recessions or downturns of the economy, a national economic emergency of some kind." So we are getting it from both sides—from those who say it is too restrictive and other opponents who argue saying it isn't restrictive enough. That is the problem here. Because in the final analysis, if we are truly interested in ensuring that we balance our budget, I suggest that we could overcome our institutional opposition by passing a constitutional amendment to balance the budget.

As I have said in the past to those who argue that, "Well, it is just really a gimmick," if there was a gimmick, Congress would have passed it long ago because Congress loves gimmicks. But this constitutional amendment isn't a gimmick. It is an attempt to put our fiscal house in order.

It is interesting. We get this coming and going, if you listen to the debate. We have charts that show declining deficits. But what about the charts that show the deficits moving up beyond the turn of the century and even before that time? We will be required in the year 2002 alone to reduce the deficit to balance the budget by \$188 billion. But the opponents will not tell you about the deficits in future years that will double and triple—double and triple. In the year 2025 alone, the deficit will be in that one year alone \$2 trillion. You know 2025 isn't that far away, if you think about your children and your grandchildren and the staggering debt that they will be required to assume because we are just passing it on.

In fact, if we do not manage this debt, the next generation will be required to pay an 82-percent tax rate and see a 50-percent reduction in their benefits. And that is a fact.

Are we not required or obligated to address that question? An 82-percent tax rate and a 50-percent reduction in benefits. That is what we are leaving to the next generation. I know I and others as strong proponents of this amendment share a true responsibility to begin to address this question. I would like to think that we have faith in this institution sufficient enough to know that this can happen. But it will not and it has not.

The last time we balanced the budget in the U.S. Congress was the same year that Neil Armstrong landed on the Moon. That is what these 28 unbalanced budgets on this desk represent. That is the point. Since 1950, we have only had five surpluses—five. In a century, practically speaking, 27 times. That is the track record. That is the historical track record.

Is that the gamble we want to take for the next generation? I say not. And that is why I am prepared to take the risk in terms of the interpretation of a constitutional amendment to balance the budget, because it is that important to our future. And so each and every time we hear everybody saying: "We can do it; it is important, I agree; we should have a balanced budget; we can do it on our own," just think for a moment. We have not had one since 1969.

The fact is we cannot even agree statutorily. We had that debate last year for a long time. In fact, a group of us on a bipartisan basis offered our own plan to try to serve as a catalyst for this debate. In fact, we received 46 votes. And I did not like everything in that budget, I have to tell you. But I was willing to agree to it because I thought the bottom line was that im-

portant. I do not doubt for a moment that it is difficult to reach an agreement among 100 Senators or 435 Members of the House, so a total of 535, plus the President of the United States. But there has to be some give-and-take in this process, some flexibility in order to reach the bottom line. Unfortunately, we have too much flexibility because we are not required to balance the budget. Oh, sure, we have some statutes, but Congress has long ignored those statutory requirements to balance the budget—long ignored them. That is why a constitutional amendment is so important.

I frankly think there is no greater issue, no issue more central to the economic future of our country as well as to our children and to our grandchildren than balancing the budget. I know the administration is touting an economic recovery, but I have to tell you there are not a lot of people in my State participating in a full economic recovery. Many people are feeling very anxious about the future, about their children's future. The overwhelming majority of Americans—in fact, some polls say as high as 88 percent—have said that they do not believe the next generation will achieve the American dream.

I say that is disheartening, and yet I can understand why people would feel pessimistic, because they know they are working hard to try to make ends meet, and they know their children will be working hard to make ends meet in order to maintain a decent standard of living.

We have heard, well, household income is up. But the real household income in America today is down below the levels of 1990 when we were facing a recession. And certainly my State and New England, California were the hardest hit regions in this country. But that is because there are more people working in the family today; they are having more jobs in order to make ends meet.

There was a cartoon last year showing the President touting the millions of jobs that had been created, and the waiter serving him lunch said, "Yeah, and I have four of them." That is the point. People are having to work longer and harder than ever before to make ends meet.

So then you look at the tax burden. We have heard a lot of discussion about taxes. The tax burden is high. It now represents 38 percent of a family's income—more than food, shelter, and clothing combined. So not only are people working longer and harder in more jobs, but also they are facing a rising tax burden.

Then we hear about economic growth, and we have seen the projections for the future—2.3, 2.1, 2.5, but the average projected growth for America in the next 5 years is about 2.3 percent. If we had had that growth rate for the last 30 years, we would not have achieved today's economy until the year 2003. We would have had 13 million fewer jobs in America.

The point is that this balanced budget is crucial to American families because it means more income in their pockets. That is the bottom line. That is the mathematics of it all, because the less the Government spends, the less it borrows, the more money American families will have in their pockets. That means savings to them. It means their car loans, their student loans, their mortgages will be less costly. That is a fact. In fact, all combined, they could realize a savings of \$1,500 a year because interest rates will be less.

That is real money to the average American family. It is less money they have to give to their Government. It is more money that they have to spend. Frankly, that is what this debate is all about, how we can improve the standard of living for American families and begin to think about our priorities here in the Congress and the priorities for our Nation. But when you do not have to meet a bottom line like every family does in America, every business, every State, you do not have to think about what is a priority anymore. You do not have to think how well or efficiently or effectively we will spend the hard-earned taxpayers' dollars. We just do not have to think about it because we can just incur deficits year in and year out. Even the President's budget that he submitted to the Congress last week adds another \$1 trillion over the next 5 years. And that is supposed to be a balanced budget.

That is what we are talking about. So that is why I happen to think a constitutional amendment to balance the budget is the only course of action that we can take to ensure prosperity for the future.

I know we can have our differences, but in the final analysis we ought to agree that this is the one step we can take. A balanced budget will be great for American families. It will be great for America because it will expand economic growth, and economic growth is the engine that drives a healthy economy. It will help to increase wages, create more jobs, unleash millions, billions of dollars in capital to allow this country to expand and to grow. I do not think we ought to accept budgets that compromise our economic standards, our economic opportunities, because that is what unbalanced budgets do. We are facing a very competitive future in this global economy. The American people understand that. They understand that, and they are worried because they are not certain how their children will be able to prepare for that competitive economy.

That is why education has become a central issue and a central part, I know, of our agenda here in the Senate, and a central part of the President's agenda—because we are going to have to prepare to make investments in education, not only for the basic education needs of Americans but also in continuing education so they are constantly prepared for the changes in skills and technology. But, in order to

make those investments, we have to set priorities in our budgets. We have to have more money to spend. That is why I think balancing the budget and investing in education are not mutually exclusive goals; that you can be fiscally responsible but at the same time be visionary, be compassionate about the investments that we need to make as priorities for America. That is what a constitutional amendment to balance the budget will do, because it will require us to do it each and every year, to examine and reexamine our priorities and how well these programs are functioning.

We have an obligation to make sure that every dollar that is spent is spent wisely and efficiently. Under the current budget process, there is no such requirement.

John F. Kennedy once said, "The task of every generation is to build a road for the next generation." I cannot think of a more important road than the one that leads to fiscal security for future Americans. We have no less an obligation to ensure that, because never before has one generation delivered to the next generation a lower standard of living. But we are in danger of doing that now, and that is why I think it is so important that we grapple with reality and reach the conclusion that the only way we can ensure that prosperity and security for Americans is by enacting a constitutional amendment to balance the budget.

I yield floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. I see several of my colleagues are waiting. I am only going to speak 6 or 7 minutes. Do I have to ask unanimous consent?

The PRESIDING OFFICER. The Chair will observe that at 1:30 the Senate will proceed, under the previous order, to the Dodd amendment for 4 hours.

Mr. GRASSLEY. I will just take what time is left.

Mr. DORGAN. If the Senator will yield for a question? Mr. President, the Senator indicated he wished to speak for 6 or 7 minutes. The Senator from North Carolina, apparently, wishes to speak for 3 minutes, and I had come to the floor wanting to speak also on the legislation.

I ask the Senator to propound a unanimous-consent request that he speak for 7 minutes, the Senator from North Carolina follow for 3 minutes, after which I be recognized.

The PRESIDING OFFICER. The Chair would observe that we would need unanimous consent to deal with the Dodd amendment, as to whether or not that time would be extended.

Mr. HATCH. Mr. President, I ask unanimous consent that time be taken out of both sides equally in the Dodd amendment, because I think we have more than enough time. If we need more time, we will ask unanimous consent to get more.

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

Mr. GRASSLEY. I thank Senator HATCH very much for taking care of that, Mr. President. I appreciate that very much.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the Senator from Maine had a very good statement that we all ought to take cognizance of, and that is based on her experience, being that her husband was Governor of Maine and they had to live within a balanced budget, year after year after year. It does force discipline upon policymakers. She gave an eloquent statement from that point of view, as well as a lot of other good reasons why we need a constitutional amendment to balance the budget.

FINANCIAL ACCOUNTABILITY AT DOD

Mr. GRASSLEY. I want to speak on a problem that I have been speaking about in the Department of Defense, but it also emphasizes the need for having a balanced budget, because the shenanigans that go on in the Defense Department would not go on if we had more discipline in this town in regard to the expenditures of taxpayers' money.

On January 28, I spoke here on the floor about irresponsible financial accounting policies being pursued over at the Department of Defense. This policy is the responsibility of the chief financial officer at the Pentagon. The person holding that position now is Mr. John Hamre, but it would be applicable to anybody holding this position. The chief financial officer is supposed to be tightening internal controls and improving financial accounting. That is exactly why we passed, in 1990, the Chief Financial Officer's Act. Mr. Hamre should be cleaning up the books at the Pentagon and watching the money like a hawk. If that had been the case, we would not need to have a constitutional amendment for a balanced budget, if we had been doing that properly over the last 25 years.

Sadly, the job is not being done. To make matters worse, the bureaucrats are pushing a new policy on progress payments that will loosen internal controls and cook the books. This new policy is embodied in draft bill language that was being circulated in the Pentagon for review as recently as January 30. I expressed my concerns about the new policy in my statement on January 28. In a nutshell, this is what I said then and it is still appropriate today:

I am afraid that this new draft language would subvert the appropriations process that is so key to keeping tight control on how the taxpayers' dollars are expended by the Congress of the United States.

I even alerted the chairman of the Appropriations Committee to the bad aspects of this language. The new lan-

guage is not one bit constructive. It would not fix Defense's crumbling accounting system. It would merely condone and perpetuate crooked book-keeping practices.

Since raising this issue here on the floor, I have exchanged letters with Mr. Hamre. I ask unanimous consent that correspondence be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNDER SECRETARY OF DEFENSE,

Washington, DC, January 29, 1997.

Hon. CHARLES E. GRASSLEY,

U.S. Senate,

Washington, DC.

DEAR SENATOR GRASSLEY: I was astounded yesterday to see that you went to the floor of the Senate to personally attack me. You made no effort to discuss your concerns with me either directly or through your staff. You did not contact me to ask me to explain my position on a draft proposal circulating within the Department for comment. And the "concerned citizen" you cite in your letter who provided this information has never contacted me. This was a Pearl Harbor attack, and I am very disappointed in it.

Frankly, we have done more in the past 3 years to clean up financial management problems in the Department than anyone else has done in the past 30 years. Secretary Perry deserves high praise for making this a priority. I have certainly dedicated myself to this task. You can ask any objective individual in town and they would tell you we have made enormous progress.

In the past 3 years we have closed over 230 inefficient accounting offices and consolidated them into new operating locations with improved business practices and equipment. We have closed over 300 payroll offices and transferred accounts from some 25 old outdated payroll systems into a new modern system with a 500 percent improvement in productivity. We have reduced problem disbursements by over 70 percent in 3 years. We have instituted new policies that freeze activity on accounts that are in deficient status, and I am forcing the Services to obligate funds to cover negative unliquidated obligations. We are prevalidating all disbursements of funds for all new contracts and have lowered the prevalidation threshold on existing contracts.

Yet without even offering to discuss the issue with me, you blast me from the floor of the Senate, claiming I am "ready to throw in the towel" on financial management reform. That is nonsense, and I am disappointed that you would suggest it. I don't blame you personally. I worked for the Senate for 10 years and I know how busy Senators are. I know that you are often given material by staff who represent the fact as correct. But it is disappointing that you would not even ask me to come over to discuss it with you. After you had heard my side, it would be perfectly fair for you to blast me if you still disagreed. But you didn't even ask me to meet with you.

For the record, the language which you criticized has nothing to do with the M account as you allege. It would not "thumb our nose" at the appropriations process or the law as you state in your speech. It would not pool funds at the contract level. This language merely clarified that progress payments are a financing device to lower borrowing costs. In their 40 year history, progress payments were never designed to do anything other than finance a contract. Every progress payment we make is linked directly to the source funds identified to the contract, and detailed audits are conducted