

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

ORDERS FOR MONDAY, FEBRUARY 10, 1997

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Monday, February 10. I further ask that immediately following the prayer, the routine requests through the morning hour be granted.

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

Mr. LOTT. Mr. President, for the information of the Senate, the phrase "the routine requests through the morning hour" are deemed to include the approval of the Journal to date, the waiving of resolutions coming over under the rule, the waiving of the call of the calendar, and the expiration of the morning hour.

Mr. President, I ask unanimous consent that the Senate then proceed to a period of morning business until the hour of 1 p.m., for Senators to speak during the designated times: Senator DASCHLE or his designee from 12 to 12:30, Senator THOMAS or his designee from 12:30 to 1.

I further ask unanimous consent that at 1 o'clock the Senate resume consideration of Senate Joint Resolution 1, the constitutional amendment requiring a balanced budget, and that Senator WELLSTONE then be recognized at that time.

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

PROGRAM

Mr. LOTT. For the information of all Senators, the Senate will continue the debate on the balanced budget amendment on Monday. Under a previous order, the Senate will resume debate on the Durbin amendment at 3:30 with a vote occurring on or in relation to that amendment at approximately 5:30 on Monday. Senators can, therefore, expect the next rollcall vote on Monday, February 10, at 5:30.

Prior to that debate, Senator WELLSTONE will be recognized to offer two amendments. It is my hope we will be able to complete all debate on Senator WELLSTONE's amendments during Monday's session, however those amendments will be voted on during Tuesday's session.

I also remind my colleagues that next week is the final week of business prior to the Presidents' Day recess. I hope we will be able to make continued progress on the balanced budget amendment, and it is possible the Senate will act on a number of nominations that will be available. In fact, we do have pending before us for consideration the nomination of Charlene Barshefsky to be the U.S. Trade Representative, although her nomination will involve probably a vote on a waiver of an existing law, and possibly an

amendment to that waiver that may be offered by Senator HOLLINGS or others; so we will have to keep that in mind. And we expect to have the nomination reported out for U.N. Ambassador Richardson.

We also may be voting next week on the mandatory provisions included in last year's omnibus appropriations bill involving population planning funding. That will depend on whether the House is able to complete its action early in the week. But we could very well get to a vote on that issue Wednesday or Thursday of next week because we would like to complete it, if we could, before the Presidents' Day recess.

We will continue, then, to have debate on amendments, with time agreements wherever possible, on the constitutional amendment for a balanced budget. So I urge my colleagues to be understanding next week.

We also will be out a good portion of Thursday morning for Ambassador Harriman's funeral, and therefore we probably won't be able to get started with votes until sometime after noon on Thursday. But we'll have a full day on Monday, Tuesday, Wednesday, and Thursday next week before we go out for the Presidents' Day recess.

ORDER FOR ADJOURNMENT

Mr. LOTT. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of Senator DODD.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

BALANCED BUDGET AMENDMENT TO THE CONSTITUTION

The Senate continued with the consideration of the joint resolution.

Mr. DODD. Mr. President, first, I express my gratitude to the majority leader for graciously arranging at the end of the business time for me to address the issue at hand, and that is the proposed constitutional amendment to balance the budget.

I, like all of my colleagues, do not know a single Member of this body who disagrees with the proposition that we ought to be balancing the budget or getting us close to it and as quickly as we possibly can. I don't think there is any debate about the desired goal shared by everyone in this Chamber and the overwhelming majority of Americans in this country for a balanced budget. They do, I think, Mr. President, share this goal for wise reason.

I was asked the other day in a classroom in my home State of Connecticut by students, "Why is balancing the budget, why is there so much talk about that? What is the importance of that?" Maybe we take for granted that everyone understands the answer. We talk about it as if it were an end in and of itself, rather than the implications of a balanced budget for our Nation and, for that matter, people who live beyond our Nation.

The reason is that balancing the budget is not a goal in and of itself. It is what it does, what it creates, and that is, of course, a sound economy and an expanded economy. It creates jobs in the country and opportunities for people that wouldn't otherwise exist if we were operating with a mountain of debt that forced the U.S. Government to compete in the borrowing business with private institutions and individuals.

By balancing the budget, what we are doing is contributing significantly to the economic growth and the job creation that is absolutely essential if any nation is going to succeed, and particularly if we are going to be successful in the 21st century.

Balancing the budget has importance, but its real importance is not in and of itself, but rather what it contributes to the overall wealth and strength of our Nation.

So I begin these remarks, Mr. President, by stating what I think is the obvious—I hope it is the obvious—and that is that every Member of this body believes that balancing the Federal budget is an issue of critical importance to our Nation's future. Across the political spectrum, from the White House to the Capitol, among Democrats and Republicans, liberals, conservatives, moderates, whatever label people wish to place on themselves or are placed on them, there exists, I think, a broad-based consensus on the desire for bringing the Federal budget into balance.

In fact, in the last Congress, both the President and the Republican leaders agreed in principle to a 7-year balanced budget plan. The sticking point then was the details of those plans, not the notion of a balanced budget itself. So the debate today is not about whether we should balance the budget. That we agree on. The debate today, and will be over the coming days, is how we balance the budget.

The proponents of this constitutional amendment would have us believe otherwise. They would lead us to believe that the Congress is simply incapable of mustering the necessary courage to make the tough choices to balance the budget. They would have us believe that only by an amendment to the U.S. Constitution would we be forced, and future Congresses forced, to act.

Mr. President, when one considers our efforts at reducing the deficit over the past half dozen years, I think it is fair to say such an assertion lacks credibility. Over the past decade, the

deficit, as a percentage of the gross domestic product, has shrunk by more than 70 percent. Let me restate that. Over the past decade, the deficit as a percentage of the gross domestic product has shrunk by more than 70 percent. Today, it is only 1.4 percent of the gross domestic product. In fact, as a percentage of the economy, the deficit is at its lowest level in more than a generation in this country.

These figures clearly demonstrate that contrary to the conventional wisdom, contrary to the rhetoric from across the aisle, and from other places, this body does, in fact, possess ample courage to reduce the deficit. In fact, the tremendous decreases in the Federal deficit came in the last 4 years, as this chart to my left, I think, amply demonstrates.

I will just point out, it is entitled "Bringing the Deficit Down to Ground Zero," which we all agreed should occur by the year 2002. What is indicated by these dots and lines, in 1992, the annual deficit stood at \$290 billion. Based on the projections in 1992, that deficit was going to increase each year from \$302 billion over 1993 and 1994, going up to \$312 billion, then up to \$319 billion in 1996, \$351 billion by 1997, \$391 billion by 1998. Those were the projections for the increase in the deficit that we were given in 1993.

But in 1993, as many will recall, we adopted a budget plan that was, unfortunately, not bipartisan, Mr. President. It was adopted with just Democratic votes. Those were the days when we were in the majority on this side. That is, before the arrival of the distinguished Presiding Officer.

We were in the majority and passed a budget resolution here in the U.S. Senate. A similar one was passed in the House. They were done in the most uncommon of fashions. Usually there is some bipartisanship. But this one was done exclusively with Democratic votes, on both sides.

It was hotly contested, hotly debated. People may recall it was decided by one vote, I think, in the House of Representatives, and I think by that margin here in the Senate as well. In fact, I think it was the vote of the Vice President at the time casting the vote that made that possible. At any rate, it was a very narrow vote.

But what has happened since then, since 1993, and that budget resolution? We have seen by 1993, instead of being \$302 billion, the deficit went from \$290 billion to \$255 billion. Then it has proceeded, over the next 3 years, down to \$203 billion, \$164 billion, and in 1996, \$107 billion.

What we hope is going to occur with this budget proposal that is before us now, and over the next 5 years, is that the budget will continue, based on the projections included, will fall to that ground zero, balancing the budget by the year 2002.

Let me state here that I appreciate immensely the reaction, of the majority in both this body and in the House

of Representatives, to the President's budget. That is not to say they have endorsed the budget. Quite to the contrary, there are significant disagreements. But unlike almost every year that I can recall, Mr. President, whether it was a Republican President or a Democratic President, with the submission of budgets you could almost guarantee the press releases would go out from whoever was the opposing party in the legislative branch announcing that the budget was dead on arrival and we began this tremendous fight on Capitol Hill to try to come up with a new budget altogether.

That is not the case this year. I give the majority here credit, as well as the administration, for working ahead of time to try to come up with some common ground on some of the more delicate issues. As I said, there has not been total agreement, but we are not in the same situation we have been in the past where this turns into a huge battle from the very beginning.

So my hope is, despite what previous history there may have been, we are now going to be able to work on a budget agreement that gets us to that ground zero in the year 2002. That is really what we ought to be doing. Because as the Presiding Officer knows, and others are certainly aware, writing something into the Constitution and issuing a press release about it does not make it happen. You have to do the work.

Whether it is in the Constitution or not, you have to do the kind of work in order to move us in that direction toward ground zero. Because of the implications, again, I want to stress the point. This is important to do because of what it does to our economy. It gives us the kind of economic growth, the stability, the lower interest rates that allow for businesses to borrow and expand and put people to work. That is the effect of a balanced budget.

So there has been a good record here now. We are going in the right direction for the first time in years. The challenge for all of us here, regardless of party or ideology or some label that someone wants to put on someone, is to work together to see to it that we achieve those desired goals stated in this chart.

None of us can predict, obviously, what is going to happen next week, tomorrow, or, for that matter, next month, next year that might disrupt our ability to move in this direction. That is one of the major reasons I have such reluctance about writing into the Constitution an economic theory that could end up being highly disruptive toward our ultimate goals as a nation.

As someone suggested—I think my colleague from North Dakota, Senator CONRAD, the other day, Mr. President, in talking about the proposed amendment. He suggested to a group of us that if we had any hesitation about whether or not this particular amendment belonged in the Constitution—and I have made a similar rec-

ommendation to people in my own home State—to take out 20 minutes or a half-hour, which is all you need, to read the Constitution of the United States. It is an incredible document in its simplicity and directives.

Then, if you would, after you read the Constitution of the United States, pick up and read this amendment and ask yourself the simple question: Does this language in this amendment, putting aside the implications of it, but does this language in this amendment belong in this document, this organic law of our country, which represents the timeless principles—the timeless principles—that we embrace as a people?

Nothing in the Constitution is contemporary in the sense that it deals with a present-day problem, except to the extent that human nature constantly raises issues that need to be addressed and protected by the Constitution. But we have historically stayed away from dealing with the issue of the day in the Constitution.

I urge again that we consider what the implications would be of taking language which deals with economic theory, which is the contemporary issue of the day, and enshrining it in the organic law of the country, in such a way that I think we do an injustice to that document. Also, we run the risk, as I hope my colleagues will appreciate, of making it far more difficult in many ways for us to achieve the kind of economic opportunity, the job creation, the stability that is the underlying goal behind the entire discussion of whether or not we ought to have a constitutional amendment that balances the budget and does what we are presently on the right path toward achieving and that the Congresses in the years ahead will have to grapple with itself, as it deals with the issues of its day.

So, Mr. President, I hope that Members, and others who may be in doubt about what this debate is all about, that they might take the time to read, as I say, both the Constitution and the amendment and ask themselves the question that Senator CONRAD of North Dakota posed to us the other day, as to whether or not those particular words belong in the Constitution.

Mr. President, other issues have been raised over the past number of days, and more will be raised next week, which are posed by this amendment.

One of the issues that I will be raising has to do with the issue of national security. Again, the Presiding Officer is someone who is no stranger to these issues as a new Member of this body and he has a distinguished record in serving our country. I commend him for it.

One of my concerns here is that the amendment would seem to indicate that we could not expend resources on a national security problem unless there was a declaration of war. As my colleagues are certainly aware, it has been many a year since we declared

war despite the fact that we have had many conflicts in which American men and women have lost their lives. My concern would be that, given how difficult that can be, given the nature of the world in which we live today, declarations of war may be harder to achieve.

This could be a matter for a separate discussion, the whole issue of the role of Congress and the war powers resolutions which we have debated extensively here over the years. But I can imagine, as I am sure the Presiding Officer could, situations that would not warrant necessarily a declaration of war, and yet it may be critically important that the United States respond because the national interest of the country is at stake, and yet we find ourselves engaged in such a debate where we have to first declare war before a President might be able to act and get the necessary funds.

That is the kind of problem I see posed by the well-intended authors of this amendment, to create situations that could pose serious problems for our country. I have drafted an amendment and I have asked people to look at it. It may be an amendment that can be agreed to. It seems to me that we ought to be able to respond to situations without tying ourselves into long legislative knots around here. It may be absolutely critical that the Chief Executive, the Commander in Chief of this country be able to respond to a situation without getting bogged down in what could be a partisan battle, for whatever reason, and put in jeopardy the lives of American men and women or put in jeopardy the interests of our country. We could find ourselves hamstrung by a problem in the constitutional amendment that its authors never intended, but in the years to come could occur.

So that is one issue that I find particularly troublesome about the balanced budget amendment. I urge again my colleagues to review and look at it.

Another issue was raised by our colleagues from California, Senator FEINSTEIN and Senator BOXER. Unfortunately, their State, maybe more so than any other in recent years, has been plagued by one disaster after another, natural disasters in most cases, where they have needed additional attention and resources. There seems to be little or no provision to respond to those situations again without having to go through the tremendous gyrations of developing some support.

California is a big State. They have more than 50 Members of Congress in the House. They have the same number of Senators we have. What if you come from a smaller State that does not have the same kind of political clout that California might bring to a situation, where they need those extra dollars? Are we going to be able to respond? A legitimate issue is raised, Mr. President, by the language of this amendment, this constitutional amendment, that would make it ex-

tremely difficult for the Congress to respond to natural disasters that could hit any State in this country.

Again, that is another reason that I think my colleagues ought to examine carefully some proposals that will be offered and, I would say, ultimately to step away from what I consider to be sort of a bumper-sticker approach to an issue that deserves far greater work and diligence than merely writing into the Constitution language that could make our job as legislators far more difficult in responding to the needs of our Nation.

Mr. President, I will not take a great deal of time here today. I merely wanted to rise to indicate once again that we are on the right track. I think we are going in the right direction in dealing with the issue of getting our budgetary house in order. That is what we are going to have to do year in and year out, to see to it that we have the ability to respond.

I am not old enough to remember the Great Depression, and I am confident the Presiding Officer is not either, but there are people certainly who will read this RECORD who are listening to what we are saying who remember the 1930's. I can only imagine how difficult it must have been for that Congress and that Chief Executive Officer. In the Northeast, in my State of Connecticut, and the Midwest was particularly hard hit in those years, what would life have been like in a Connecticut or Nebraska if we had been hit as we were with that Great Depression and faced with the tremendous need to provide resources to people in our States. We ought to be very thankful that we do not have national depressions. We have taken enough steps over the years to avoid the kind of difficulties that can sweep across a nation.

Mr. President, I am sure the President is aware of this, my State, over the last 4, 5, 6, or 7 years, has been very hard hit economically. We have historically been called the Provision State, dating back to the Revolutionary War, and we are proud of it. The builders of helicopters, and jet engines at Pratt & Whitney, and submarines and electric boats, radar systems at Norden, we have a long history. The end of the cold war, the recession and the real estate collapse all hit my small State very hard. It has been very, very difficult for us to get back on our feet. Luckily, these economic troubles did not sweep across the country. Most parts of the country have done well. What am I to do in my State because of its unique problems? We need some particular help in responding to the needs of our people.

What worries me is that we may not have national depressions, but we could have regional depressions. Will there be enough votes in these bodies to have supermajorities to provide the resources that specific regions of the country need? It could be an agricultural problem that hits—possibly bad crop seasons. I know the people of my

State have been sympathetic in the past in responding when that has occurred. They are consumers of the food that is produced in this country. But natural disasters can hit. People can be literally wiped out in a matter of weeks. How do we respond? Should we respond? Is every State that does not have the same interests going to vote accordingly?

Again, hamstrung by a constitutional amendment, it would make it difficult for us to use common sense and respond. That is troublesome to me, to put it mildly. For those reasons and others, Mr. President, I urge my colleagues to move away from this particular debate. If the issue was we needed to get the attention of some reluctant Members of Congress—and I happen to believe there were some who were not serious enough about this issue. I go back to the days of the early 1980's. As an original sponsor of the Gramm-Rudman proposal, I think it could have worked had we not had a bunch of loopholes. Back in 1982 or 1983, I offered a pay-as-you-go budget, Mr. President, requiring that for every single expenditure there had to be resource to pay for it—every single expenditure. Had we adopted a pay-as-you-go in 1982, we would have been in balance 11 years ago, in 1986. I only got 22 votes on the floor of this Chamber in 1982 on that proposal.

I take very seriously this debate about getting this budget in balance and moving in the right direction, but I again argue, as I did at the outset, it is work. It is not easy. Everybody has to go back to their constituencies and explain why everyone has to share in this responsibility. Merely taking out a chisel and etching into the organic law of this country the conclusion of a proposal of balancing the budget does not get us there, and it does raise serious, serious questions about other weighty matters that this Nation must come to terms with from time to time.

In my view, it places them in jeopardy, and particularly at a time when it seems to me that we are on the right track, moving in the right direction. I do not understand why we would place in jeopardy other vitally important issues when, in fact, we are achieving, I think all would agree, the goals stated by those who strongly endorse this constitutional amendment.

In addition the constant inflexibility in our budgetary decisionmaking process could have a disastrous impact on the business community. The private sector expects order and consistency in our economic policy. What's more, they rely on the Federal Government for our support and assistance in myriad ways.

Whether it's the research and experimentation tax credit, our aggressive advocacy for American exporters, or the vital statistics and information published by Federal agencies, the private sector receives crucial support from the Federal Government. However, passage of this amendment could

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

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

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

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

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

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

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

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

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

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

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

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

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

ADJOURNMENT UNTIL MONDAY,
FEBRUARY 10, 1997

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

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