

I have spoken many times on the floor of the urgent need for a balanced budget amendment to the Constitution. Today I urge my colleagues to once again consider the necessity of this amendment. Furthermore I commend the leadership of Colorado State Representative Steve Tool, who is also my State Representative, and Senate President Ray Powers, for sponsoring H.J. Res. 99-1040. These statements have added great credibility and weight to the argument in favor of a balanced budget amendment.

Accordingly, I submit for the RECORD Colorado H.J. Res. 99-1040 and urge colleagues to consider the thoughtful opinion of the State of Colorado.

HOUSE JOINT RESOLUTION 99-1040

Whereas, the federal budget has been balanced only once since 1969, and federal public debt now exceeds \$5.5 trillion, an amount equaling approximately \$20,000 for every man, woman, and child in America; and

Whereas, Chronic deficit spending demonstrates an unwillingness or inability on the part of the executive and legislative branches of the federal government to spend no more than the amount of available revenues; and

Whereas, Fiscal irresponsibility at the federal level lowers our standard of living, destroys jobs, and endangers economic opportunity now and for those in the next generation; and

Whereas, The federal government's unlimited ability to borrow money to finance its deficits raises concerns directed to the fundamental structure and responsibilities of government, making such fiscal policies an appropriate subject for limitation in the United States constitution; and

Whereas, The United States constitution vests the ultimate responsibility for changing the terms of that charter with the people, as represented by their elected state legislatures, and opposition by a small minority in the United States Congress has consistently thwarted the will of the people that a balanced budget amendment be submitted to the states for ratification; now, therefore, be it

Resolved by the House of Representatives of the sixty-second General Assembly of the State of Colorado, the Senate concurring herein,

That we, members of the Sixty-second General Assembly, request the Congress of the United States to expeditiously pass and submit to the legislatures of the fifty states for their ratification an amendment to the United States constitution requiring that, in the absence of a national emergency the total of all federal appropriations for any given fiscal year not exceed the total of all estimated federal revenues for the fiscal year. Be it

Further resolved, That copies of this Joint Resolution be sent to each member of Colorado's delegation to the United States Congress.

A SPECIAL TRIBUTE TO CHLOE WILLIAMS FOR HER DEDICATION TO OUR NATION'S VETERANS

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 17, 1999

Mr. GILLMOR. Mr. Speaker, it is with pride that I rise today to pay special tribute to an

outstanding individual from the great state of Ohio. This weekend, in very special ceremonies in Columbus, Ohio, the Ohio Veterans of Foreign Wars will celebrate the 100th Anniversary of the organization. At those ceremonies, Ms. Chloe Williams will be among those helping make the 100th Anniversary a success.

Ms. Williams, of Post 1090, has given her time and energy to assisting our nation's veterans. A veteran of the United States Army, Ms. Williams is a life member of the Veterans of Foreign Wars. Through her service to our veterans and the VFW, she has moved through the ranks at the district and state levels of the VFW and Ladies Auxiliary.

Mr. Speaker, it is people like Chloe Williams that truly make a difference in the lives of our veterans. Through her work in District 8 and around the state, she has vigorously promoted the programs of the VFW, especially the Operation Uplink program, which provides long distance phone service to active duty personnel and to veterans.

It has been said that America thrives and prospers due to the unselfish and dedicated efforts of her citizens. With the hard work of Chloe Williams and the two million members of the Veterans of Foreign Wars, I think that adage is perfectly clear.

Mr. Speaker, on this 100th Anniversary of the Veterans of Foreign Wars, I would like to say thank you to all those who have worked so hard on behalf of our veterans. Certainly, Chloe Williams has made a positive impact, and we thank her for her commitment. I would urge my colleagues to stand and join me in special tribute to Chloe Williams and to those attending the 100th Anniversary of the Veterans of Foreign Wars. Best wishes to each of you now and in the future.

BAN JUDICIAL TAXATION

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 17, 1999

Mr. MANZULLO. Mr. Speaker, today I am introducing an amendment to the Constitution to ban the Judiciary at any level of government from levying or increasing taxes. Why? Because levying and increasing taxes is a function of the legislative branch of government. Consider, after all, the separation of powers doctrine. Most citizens of our great country have heard at one time or another about separation of powers. We were taught about it in our civics classes growing up. We learned about it in our history classes. We read about it in the Constitution. I, for one, believe that the Constitution is clear in its delineation of duties. I don't believe the Founding Fathers meant to leave much to interpretation. There really are no mincing of words. Please consider:

Article I. Section 8. The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States, but all duties, Imposts and Excises shall be uniform throughout the United States.—United States Constitution

Article I. Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other bills.—United States Constitution

These words are succinct and explicit, and they spell out exactly how taxes are to be raised. If there is any question, consider the following quotations from other relevant sources:

"Were the power of judging joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control for the judge would then get the legislator. Were it joined to the executive power, the judge might behave with all of the violence of an oppressor."

"There can be no liberty where the legislative and executive powers are united in the same person, or body of magistrates, or, if the power of judging be not separated from the legislative and executive powers . . ."—James Madison, Federalist Number 47, quoting Montesquieu to defend the Constitution's separation of powers.

"[T]he judiciary, from the nature of its functions, will always be the least dangerous to the political rights of the constitution; because it will be least in a capacity to annoy or injure them. The executive not only dispenses the honors, but holds the sword of the community. The legislature not only commands the purse, but prescribes the rules by which the duties and rights of every citizen are to be regulated. The judiciary on the contrary has no influence over either the sword or the purse, no direction either of the strength or of the wealth of the society, and can take no active resolution, whatever. It may truly be said to have neither Force nor Will, but merely judgement; and ultimately must depend upon the aid of the executive arm even for the efficacy of its judgements."—Alexander Hamilton, Federalist Number 78

"The interpretation of the laws is the proper and peculiar province of the courts. A constitution is in fact, and must be, regarded by the judges as a fundamental law. It therefore belongs to them to ascertain its meaning as well as the meaning of any particular act proceeding from the legislative body."—Alexander Hamilton, Federalist Number 78

If there is any phrase that sums up the reason for the existence of this republic, that phrase is "no taxation without representation." These are the words of Thomas Jefferson, who, when he wrote the Declaration of Independence, cited King George for three things: (1) the king refused to pass laws that would allow people the right to be represented in their own legislature; (2) he called together legislative bodies at unusual times so nothing could be done; and (3) he imposed taxes on the people without their consent!

Finally, James Madison asked the rhetorical question in Federalist number 33, "[w]hat is a power but the ability or faculty of doing a thing? What is the power of laying and collecting taxes but a legislative power?"

Why, then, 210 years after the ratification of our nation's Constitution do we have unelected judges—from the "least dangerous" branch—who are appointed for life, levying and raising taxes? Some people with whom I have spoken have asked me if judges can really do this. Well, they are doing it because they can. They can because Congress allows them to get away with it.

What is judicial taxation? It is the act whereby a federal court orders a state or political

subdivision of a state to levy or increase taxes. In *Missouri vs. Jenkins* (110 Sup. Ct. 1661 (1990)), the Supreme Court held that a federal court had the power to order an increase in state and local taxes. Specifically, the 5 to 4 majority ruled that a federal district court has "abused its discretion" by directly imposing a local property tax increase to finance implementation of a school desegregation plan for the Kansas City, Missouri school district. BUT, the court stated that "[a] court order directing a local government body to levy its own taxes is plainly a judicial act within the power of a Federal court," and that the federal judiciary may also block enforcement of state law limitations on local tax efforts that interfere with the funding of constitutionally-based desegregation plans. This is an "indirect" tax. The dissenters in the *Jenkins* ruling criticized the direct versus indirect distinction as a "convenient formalism." However, the decision EXPANDED SIGNIFICANTLY THE POWER OF THE FEDERAL COURTS!

Those who oppose attempts to curb this power claim that the Kansas City case is the only case where a federal judge, Russell Clarke, ordered a tax increase to finance the building of a magnet school system to make it more appealing. Similarly, judicial taxation took place two decades ago when federal Judge Leonard Sand forced the elected representatives of Yonkers, New York to raise taxes on their constituents in order to finance the construction of public housing in middle-class neighborhoods. In New Hampshire, the state Supreme Court decreed that local schools must be funded with a statewide tax in order to equalize spending per pupil across the school districts.

In the congressional district I represent, Judge Michael P. Mahoney, the federal magistrate judge overseeing a desegregation case in Rockford, Illinois, concluded that the school district had authority under Illinois' Tort Immunity Act to issue bonds without referendum and to levy taxes to fund the remedial programs. Pursuant to this finding, the school district issued bonds and levied taxes from 1991 through 1997 under the Tort Immunity Act. Although the Tort Fund is not subject to voter control and was originally intended to be used to pay damages to individuals in civil liability suits, the federal magistrate ordered its use. More recently, the federal magistrate again ordered each member of the school board under threat of contempt and jail to increase taxes. Following that threat in late 1997, the school board capitulated and approved the \$25 million tort levy for that year. After the vote, School Board Member David Strommer said, "It's a disgrace for an American public official to face this kind of pressure." Since 1989, the city of Rockford, with a population of 140,000 people, has paid \$183 million to comply with the court orders. That is a lot of money for such a small population, and that's for schools alone.

All of these examples run counter to the intentions of the Founding Fathers. Our nation cannot allow its liberties to slip by the wayside. We have judges raising taxes. We have a regulatory body, the FCC, imposing a telephone tax. We have a Congress that doesn't believe this is a problem. Of these, it is Congress that is directly accountable to the people.

So, what I have done legislatively to address judicial taxation? During the last Congress, I was able to insert a provision into the Judicial Reform Act. The provision was straight forward and was designed to severely limit the imposition of judicially imposed taxation. It would have applied to any order or settlement that directly or indirectly required a State, or political subdivision of a State, to increase taxes.

My efforts to bar the federal judiciary from directly or indirectly raising taxes were defeated by a gutting amendment. However, in a sense we succeeded because this may have been one of the few times and possibly the only time in the history of our republic where the issue of Congress ceding taxing authority to the courts has ever been debated. Putting a halt to judicial taxation is NOT about desegregation, prison overcrowding, environmental law enforcement, housing, or what have you. It is all about abiding by the fundamental tenants of our Constitution.

This Congress, I am focusing on a two-pronged approach. It is not going to be easy, but given the options, I believe that we have very few alternatives. I have introduced a joint resolution to amend the Constitution which reads simply, "Neither the Supreme court, nor any inferior court of the United States, nor the court of any State in its application of laws under this Constitution or any Federal law, shall have the power to instruct or order a State or political subdivision thereof, or an official of such State or political subdivision, to levy or increase taxes."

The second approach, and this is very important, is through the states proposing a constitutional amendment. Currently, states cannot propose amendments to the Constitution without first the calling of a constitutional convention. However, there is a proposal—H.J. Res. 29—which was introduced by Virginia Representative TOM BLILEY that would allow for a mechanism by which the states could propose amendments to the Constitution without calling for a constitutional convention. I am a cosponsor of this resolution.

Right now, as I understand it, 15 states have passed either a Resolution or a Memorial calling upon Congress to send to the states for ratification of an amendment to the U.S. Constitution banning federal judges of inferior courts or the Supreme Court from having the power to levy or increase taxes. Those states include Alabama, Alaska, Arizona, Colorado, Delaware, Louisiana, Massachusetts, Michigan, Missouri, Nevada, New York, Oklahoma, South Dakota, Tennessee and Utah. As it stands, there are no teeth in those resolutions because there is no mechanism. H.J. Res. 29 would provide that mechanism. We should all be working to pass that amendment, as well.

Levying taxes should remain a prerogative of the legislative branch. Thus, I will continue my efforts to stop judicial taxation.

HONORING THE 25TH ANNIVERSARY OF THE UNITED SENIOR CITIZENS CENTER OF SUNSET PARK

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 17, 1999

Ms. VELÁZQUEZ. Mr. Speaker, I rise today in honor of the United Senior Center of Sunset Park as they celebrate 25 years of service to the elderly citizens throughout the Sunset Park area of Brooklyn. The organization provides fellowship and lends a helping hand whenever, wherever and to whomever it is needed.

First started in 1974, the center, then located at 56th and 6th Avenues, quickly became a vital part of the communities it served. As it grew, the need for their services was so great that they soon had to relocate to larger space at their current location of 53rd and 3rd Avenues where they have been for twenty years.

As the center expanded it began to address the diverse cultural needs of the communities they serve. They began by offering services in Spanish and, soon after that, added staff and programs in Chinese. These enhancements made the United Senior Center in Sunset Park more responsive and a more integral part of the rich cultural fabric of Brooklyn.

The diverse groups of seniors in Sunset Park can take advantage of the United Senior Centers many recreational programs, including tai-chi, bingo, arts and crafts, and swimming. Additionally, the center also offers important English as a Second Language courses to help individuals improve their day-to-day lives. There are citizenship programs, and nutrition-education seminars, as well as a variety of programs designed to assist seniors regarding senior's rights and entitlement benefits.

The dedicated staff and leadership of the United Senior Center of Sunset Park has done an exemplary job of helping seniors in our communities. Through their efforts they help an estimated 36,000 people a year.

I urge my colleagues to join me in congratulating the leaders and staff of the United Senior Center of Sunset Park on their 25th anniversary. The center is an integral part of our diverse culture in Brooklyn, and I wish them continued success for the next 25 years and beyond.

BOND PRICE COMPETITION IMPROVEMENT ACT OF 1999

SPEECH OF

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, June 14, 1999

Mr. DINGELL. Mr. Speaker, as Ranking Member of the Committee on Commerce, as well as one of the original sponsors and a Floor-Manager of H.R. 1400, the Bond Price Competition Improvement Act of 1999, I rise to clarify a matter involving the legislative history of this legislation. My remarks are an extension of remarks that I made during House consideration of H.R. 1400 (June 14, 1999, CONGRESSIONAL RECORD at H4137).