

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

TAX LIMITATION CONSTITUTIONAL AMENDMENT

Mr. SENSENBRENNER. Mr. Speaker, pursuant to H. Res. 118, I call up the joint resolution (H.J. Res. 41) proposing an amendment to the Constitution of the United States with respect to tax limitations.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Pursuant to House Resolution 118, the joint resolution is considered read for amendment.

The text of House Joint Resolution 41 is as follows:

H.J. RES. 41

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

“ARTICLE —

“SECTION 1. Any bill, resolution, or other legislative measure changing the internal revenue laws shall require for final adoption in each House the concurrence of two-thirds of the Members of that House voting and present, unless that bill, resolution, or other legislative measure is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount. For the purposes of determining any increase in the internal revenue under this section, there shall be excluded any increase resulting from the lowering of an effective rate of any tax. On any vote for which the concurrence of two-thirds is required under this article, the yeas and nays of the Members of either House shall be entered on the Journal of that House.

“SECTION 2. The Congress may waive the requirements of this article when a declaration of war is in effect. The Congress may also waive this article when the United States is engaged in military conflict which causes an imminent and serious 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. Any increase in the internal revenue enacted under such a waiver shall be effective for not longer than two years.”

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 60 minutes of debate on the joint resolution.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.J. Res. 41, the tax limitation amendment,

which was introduced by the gentleman from Texas (Mr. SESSIONS) and ordered reported by the Committee on the Judiciary on April 4. This important legislation would amend the Constitution by requiring a two-thirds majority vote by Congress for any bill that increases the internal revenue by more than a de minimis amount.

The effect of this amendment would not preclude Congress from amending the internal revenue laws so long as the change in the law did not increase revenue by more than a de minimis amount. For example, a bill that both lowered and increased taxes, if it were revenue neutral would not be subject to the two-thirds requirement, nor would it would a bill intended to raise revenue by reducing taxes.

In addition, the two-thirds majority requirement would be waived when a declaration of war is in effect or when both Houses of Congress pass a resolution which becomes law stating that the United States is engaged in military conflict which causes an imminent and serious threat to national security.

Mr. Speaker, 15 States have adopted similar tax limitation amendments. According to statistics provided by the Bureau of Economic Analysis, these States have benefited from greater rates of increased employment, greater economic growth, decreased government spending, and decreased rates of tax growth.

Although similar amendments have been unsuccessfully considered by the House over the past few years, the need for tax reform has never been greater. According to the Congressional Budget Office, with the exception of 1942, the overall amount of individual income tax revenues is a higher percentage of our gross domestic product than any other time in our history.

The bottom line is the taxes today are too high. Federal, State, and local taxes consume about 40 percent of the income of the average family. That is more than the average family spends on food, clothing, and shelter combined.

As Congress debates meaningful tax relief for the American people, it is also important to recognize that Congress's voracious appetite for spending still endures. That is why I think it is more important than ever for this Congress to reconsider and support a measure that will make it more difficult for Congress to raise taxes in the future.

Inevitably, there will come a time when Congress wishes to spend more but will not have budget surpluses to rely upon. There will be many who will argue that, in order for Congress to spend more from here in Washington, D.C., we will need to take more from the hard-working citizens across our great Nation.

However, I believe this is the wrong approach, and there is another way to

meet our Nation's priorities. That is by taking our bill and reducing wasteful spending, ferreting out fraud and eliminating ineffective programs. Raising taxes should be a last-ditch option and should occur only after careful consideration with broad consensus.

Mr. Speaker, a constitutional amendment is a big step; but I believe our history of tax hikes illustrates that, in this case, it is necessary and an important step that will bring needed discipline to Congress and relief to America's people.

I urge the passage of this resolution. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, to the ladies and gentlemen of the House, I want to begin by thanking the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for requesting that this measure pass through the committee of jurisdiction since this is a constitutional subject. In many years passed, that has not been the case. So we begin in a very important way on that point.

Now, I have to presume that the subject of a constitutional matter is being done seriously, that this is a serious discussion about amending the Constitution of the United States. If it is, then I think it is important, that for all of the Members that may not have the seniority that comes from being here for many years, that they understand that this is the sixth time that we have taken up this measure which has been soundly rejected on each prior occasion, not by the Senate, but by ourselves.

So every year, this exercise is one that is brought to the floor and that we have to deal with it in good faith and using up the time of the House of Representatives to determine whether we want to put a tax limitation constitutional amendment in the Constitution.

Now, the gentleman from California (Mr. DREIER), the chairman of the Committee on Rules, has coined a phrase that this proposal may be nothing more than elitism gone conservative; that this is a conservative elitist idea; that the Republicans, as a party, know better than the Founding Fathers and the people's will as reflected by the majority of the Congress. They have a better idea.

We go through this every year. But not even within our body do we find that there is a serious enough amount of support to move it to the other body where we think we could predict what would happen there as well.

So I oppose the amendment because it is bad for democratic procedure, but it is also horrific for tax policy. By requiring a two-thirds amendment, a majority to adopt certain legislation, we undercut the majority rule and diminish the vote of every single Member of the Congress.

Now, this matter was taken up when our Founders were together. The framers wisely rejected a rule requiring a supermajority for basic government functions. James Madison argued that, under a supermajority requirement, the fundamental principle of free government would be reversed. It would no longer be the majority that would rule. The power would instead have transferred to a minority.

It is on that basis that I apply the same logic now as James Madison applied then in determining whether a supermajority would be appropriate in the Constitution. The amendment is unsatisfactory because it is an undemocratic one.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Ms. HART), a member of the Committee on the Judiciary.

Ms. HART. Mr. Speaker, I rise in support of House Joint Resolution 41 and believe that this is actually a common-sense measure and one that actually enforces some discipline on the Congress to reexamine spending.

As we look at the budgets over recent history, Mr. Speaker, we see that the spending has increased year to year by more than inflation. More importantly, Mr. Speaker, it is increased by higher than the average incomes of Pennsylvanians has increased and higher than the incomes of Americans.

Mr. Speaker, it is only sensible for us as Members of Congress to enforce some discipline on ourselves so that we do not drive Americans to the poor house.

It is a sensible measure that should be supported by all the Members to put this in place, but it is also sensible that to require a tax increase we would have to have bipartisan agreement.

Clearly, Americans are of both parties and many other third parties. Americans do not want to be forced to pay more taxes only because of the decision of one-half plus one of the Congress. It only makes sense for us to heed their wishes and be more careful with their dollars. This measure would only enforce that discipline on us. It would make us more responsive to Americans. It would also make them more sensitive to their families' pocketbooks.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, apparently, Members of the Congress now all very simplistically refute James Madison. The gentleman from Pennsylvania (Ms. HART), the previous speaker, a very important and valuable member of the Committee on the Judiciary, just told us in effect, who cares what Madison was thinking? I mean, that was then, and this is now.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. Of course I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I recall one of the compromises that got the Constitution through the convention in the States was one that permitted slaves to be imported for the first 20 years of the Constitution and did not specifically omit slavery. Now, was Madison enlightened at that time, or did we need to amend the Constitution to get rid of something that my State fought to get rid of in the Civil War?

Mr. CONYERS. Mr. Speaker, reclaiming my time, that is an interesting question that the chairman poses. If he would entertain hearings on my reparations bill, H.R. 40, which has been pending since 1989, I would be delighted with other witnesses to go in to him with a discussion of what the Members of States from the South who were all slave holding States did.

Mr. Speaker, I did not mean to imply that James Madison or even Thomas Jefferson, perish the thought, was right every time on every issue. But I am referring to the question of whether a supermajority requirement on this subject should be put into the Constitution.

Now, James Madison made many mistakes. By the way, so did all the other Founding Fathers. I mean, do you want to start with George Washington and come forward?

□ 1115

The compromise to include slavery was only made, sir, because it was the only way we could form a Nation. The southern leaders all said that without that compromise they would not do it. What I am saying here is that on the requirement for a supermajority James Madison was entirely correct then and those who cite him, including myself, are entirely correct now.

Mr. SENSENBRENNER. If the gentleman will yield further, with all due respect to my good friend the gentleman from Michigan (Mr. CONYERS), I am certainly happy, Mr. Speaker, that he was not around to promote his earlier argument about Madison's enlightenment at the time the Congress debated the 13th, 14th and 15th amendments 140 years ago. I thank the gentleman for yielding.

Mr. CONYERS. Could I just point out a little bit of history? I do not think Madison was around when the 15th amendment was being debated, sir. I do not think Madison was around when the 14th amendment was being debated. I do not think he was around when the 13th amendment was being debated. But let us take Madison out of the picture. Apparently there is some problem with Madison. Let us go to the present day. I never thought I would find myself on the floor defending James Madison's positions, but let us talk about what would happen if this amendment

were to actually come into our Constitution. The amendment would permanently enshrine some \$450 billion of special corporate tax favors into the Constitution, nearly three times as much as all the means-tested entitlement programs combined, something we have been trying to deal with for many years. Now, Madison does not have anything to do with that. That is a present day, 21st century problem.

Another point that we may want to take into present consideration, it would be impossible to change the law to require foreign corporations to pay their fair share of taxes on income earned in this country or to repeal the loopholes which encourage United States corporations to relocate overseas. Now, Madison aside, do we really want to do that? Or is this an example of conservative elitism carried to an extreme?

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

I am very interested in the argument of the gentleman from Michigan. Under this constitutional amendment, we could repeal a tax loophole that gave these outrageous benefits to the corporation he mentioned by a majority vote as long as the revenue that was raised was distributed to the American people. If there was just a flat out repeal, it would take a two-thirds vote. This would make it easier to give tax relief to the American people in repealing these loopholes.

Mr. Speaker, I yield 2 minutes to the gentleman from Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I rise in strong support of H.J. Res. 41, the tax limitation amendment. I spent Easter with my daughter and her family out in San Francisco. While we were there, her husband was filling out his tax return. This, remember, is a young family. They have two children. They cannot afford to buy a home. They are renting a home. They have a good job but they are starting out as a young family.

When he finished filling out his tax return, he said, you know, we spent almost half of what we earned last year in taxes. That is what the average American worker does, spends about half. Taxes are the highest they have ever been. In January of 2000, the Census Bureau reported that the average family paid more than \$9,000 in Federal income tax, twice what it paid 15 years ago. Americans pay more in taxes than they spend on food, clothing and housing combined. Americans work more than 4 months, almost 5 months, just to pay their tax bill.

A continuation of higher taxes should be better controlled. Congress needs to protect the taxpayer from higher taxes. The trend of big government and higher taxes to maintain it

must cease. The government does not have the right to take more than it needs just because it has the power to do so. The requirement of a clear consensus to ensure limited increases in taxes is needed. We need to prohibit irresponsible tax hikes.

It should not be easy to take freedom away from people. When you tax too much, you are taking freedom from people, freedom to earn money and spend it as they want to and to educate their children and to save it and do the things they want to with it. It should not be easy to do that.

Fifteen States currently require some type of supermajority vote for the legislature to raise taxes. In those States, citizens are protected from higher State tax burdens. It is time for the government to follow their example to benefit all taxpayers. The amendment would not prevent raising taxes. Rather, it encourages Congress to look at alternatives before implementing tax hikes. A consensus will force Congress to consider genuine need.

For these reasons and more, I encourage my colleagues to support this constitutional amendment.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Here is a new piece of historic information just in about James Madison that may appeal to my colleagues. Actually, they tried a supermajority, and I think they will all find this very interesting. Because under the Articles of Confederation in the 1780s, there was a provision for a supermajority. Adopting a supermajority tax requirement would repeat the very same mistakes made in the 1780s under the Articles of Confederation between the Declaration of Independence and the adoption of a constitution. Under these articles, it required a vote of nine of the 13 States to raise revenue, a supermajority. It is because the system worked so poorly that the Founding Fathers sought to fashion a national government that could operate through majority rule.

So, Mr. Speaker, we would be ignoring a very important fundamental part of our history if we were to give in this area James Madison too hard a way to go. In fact, in the present circumstances, this amendment would take more votes to close a tax loophole engineered by powerful interest groups than to cut Social Security, Medicare and education programs. The amendment would also make the major deficit reduction measures much harder to pass when they are needed. Remember that five of the six major deficit reduction acts that were enacted since 1982, within the memory and experience of many Members here on the floor, included a combination of revenue increases and program cuts. President Reagan, Ronald Reagan, signed three of these measures into law. Presidents George H. Bush and President William

Jefferson Clinton signed one each. None of these five measures received a two-thirds majority in both Houses.

So, Mr. Speaker, had this proposed constitutional amendment been in effect during this period, substantial budget deficits would still be with us today.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute to tell the rest of the story. The gentleman from Michigan is so right that the Articles of Confederation did require a supermajority of nine of the 13 States to raise taxes. But the Constitution as originally ratified by the States was even more severe. It prohibited direct taxes on the people and required a constitutional amendment in the beginning of the last century to allow the income tax to be constitutionally passed by Congress.

So if we are looking at what Madison hath written, Madison put an even greater straitjacket on the Congress' ability to raise taxes than the Articles of Confederation had.

Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, I rise today in strong support of this resolution. I want to thank my colleague and good friend the chairman of the Committee on the Judiciary (Mr. SENSENBRENNER) and the gentleman from Texas (Mr. SESSIONS) for bringing this critical legislation before this body.

Mr. Speaker, America needs this tax limitation amendment. Why? Because this year thousands, or millions even, of hardworking Americans are going to be suffering intoxication. What is intoxication? Let me say that if the word were actually in the dictionary, intoxication would be defined as the euphoric experience when one gets a refund and then realizes that that refund is actually their own money.

This Congress has a duty to make it harder to raise taxes, while ensuring a more responsible Federal budget. In 1994, Mr. Speaker, I fought for Nevada's own tax limitation amendment. As a private citizen I helped gather 85,000 signatures from residents across Nevada to place a similar measure on the ballot before the voters. This legislation, may I say, passed the Nevada vote test in two successive elections, averaging about 75 percent of each vote count. This legislation requires an amendment to the Nevada constitution saying that two-thirds would be required to raise any new State taxes or fees.

The Federal Government needs to be put on the same fat-free diet that my home State of Nevada has been on since 1996. We need to make it more difficult to raise taxes on hardworking American men and women. We need to shift congressional focus to the bloated Federal spending programs in this Fed-

eral bureaucracy. Passage of this legislation would ensure that Congress focuses its efforts to balance the budget, cut wasteful spending and not raise taxes as an easier and unneeded Federal revenue excuse.

States that currently limit taxes have experienced faster growing economies, a more rapid increase in employment, lower taxes and reduced growth in government spending. No additional financial burden should be placed on the American working family without overwhelming demonstration of need and support from their elected officials.

Let us stop intoxication plaguing Americans. I urge my colleagues to support this tax limitation amendment.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I rise today in opposition to this resolution, in opposition to this amendment, and in opposition to changing our most basic government document in this way.

The gentleman from Michigan has been doing an admirable job of sparring on these issues, but I wanted to come over and stand up and be counted against this thing, also, with him.

For the last couple of months, I have been putting together a Law Review article on the congressional oath of office. It has been interesting because I have gone back and read through some of the statements of Madison and the Framers and Hamilton. These were serious men that put together our most basic document. This very debate that we are having today was a debate that the Framers had. This is the kind of discussion that was contemplated by them, what level of vote count should there be in our legislative bodies to make these kinds of changes.

I not only have respect for the seriousness of their debate and their discussions but also respect for their conclusion, and that once they reached that conclusion, I think we would do well as a Nation not to rekindle that debate every 2 years as we seem to have been doing here for the last few years.

I think this amendment would be a mistake. I think it has very little support around the country. Right now the thrust nationally is to lower taxes, not to raise taxes. In the past when we have raised taxes, the majority of the Members of the legislative body felt that was the way to go. That is not the situation today.

□ 1130

This is an amendment that is not necessary at this time in our Nation's history. It was contemplated by the Framers. I think it would be a mistake today to pass this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is another problem that has not been discussed about the amendment that we may want to take into consideration, and that is the possibility that a constitutional amendment of the nature under debate could lead to large cuts in Social Security and Medicare and a return to deficit spending. No constitutional debate on this subject could be concluded without some discussion about this.

These reductions, large ones, in Social Security and Medicare benefits, have been observed by *The Washington Post*, in which they noted that when baby boomers begin to retire not many years from now, as a matter of fact some have already begun to retire, the country will be in an era of constant fiscal strain. To avoid destructive deficits, there will have to be tax increases or spending cuts or both. So by making it harder to increase taxes, the amendment would compound the pressure on major spending programs. As a matter of fact, that is what is going on now. We are noticing that with the unprecedented large tax cut we are squeezing many programs that are very valuable and dear to many, if not most, of the people in the country.

What are these major spending programs? Social Security, Medicare, Medicaid and others.

Is this really what the Congress wants to do? The pressure on the programs is great enough as it is.

Now Democratic members offered an amendment in the Committee on the Judiciary to ensure that measures designed to secure the financial solvency of Social Security would not be subject to the supermajority requirement, but the Republicans defeated this measure on a party line vote of 8 to 16. So we have on the record that they do not want to exempt the Social Security and other valuable programs from the possibility of financial insolvency by making an exemption to this Draconian proposal that we have before us.

I think that that should deal a telling message to anybody whose mind may not yet be made up.

Also, the proposed tax limitation would rule out measures to raise Medicare premiums for higher individuals, high-income individuals, as well as modest measures to shore up Social Security and Medicare. They would all be caught by the supermajority requirement.

Example, if Congress attempted to make Social Security payroll taxes more progressive by imposing higher tax cuts on higher-income individuals, there would be an increase in the revenue laws and the supermajority requirement would be triggered, no doubt about it.

Indeed, when the Republican budget reconciliation bill reached the House

floor in the fall of 1995, it became more than clear that its proposed increase in Medicare premiums for those at higher income levels constituted, guess what, a tax increase.

Similarly, legislation expanding Social Security to include State and local government employees, which no less than the Advisory Council for Social Security has already proposed, would result in a revenue increase and would therefore be subject to the two-thirds requirement. Do we really want to do that? Do we really want these kinds of provisions caught in this supermajority requirement?

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, it is the same old story. When all else fails, drop the Social Security red herring. This constitutional amendment will not cut Social Security. If there is a revenue pinch, it will force Congress and the Nation to set priorities. Social Security has always been the top priority, and it always will be the top priority, because it is the principal part of our social safety net for senior citizens. So if the shoe starts to pinch because of a revenue shortfall, or the baby boom generation collecting the Social Security that they have earned, it will force cuts in other programs. We all know that there are huge wastes of money in the other programs, and this will provide the fiscal discipline for Congress to set better priorities than it historically has in the past.

Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. ARMEY), the distinguished majority leader.

Mr. ARMEY. Mr. Speaker, let me begin by thanking the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for bringing this bill to the floor. Let me also thank the gentleman from Texas (Mr. SESSIONS) for his sponsorship of this legislation.

Mr. Speaker, this is an important step and a step I believe we must take. Mr. Speaker, I have had the privilege of serving in this body since 1985. For 10 years, I served in this body as a member of the minority while the Democrats were in control of the House of Representatives, and that was a privilege.

Mr. Speaker, in the last 6½ years, I have had the larger privilege of serving in the majority with the Republicans in the majority. Throughout all of that experience, Mr. Speaker, I have found that there are a few things that are consistent whether the Democrats are in the majority or the Republicans are in the majority. Call it the disposition of the legislative body, whatever is the reason, it has been consistently the case for so long as I have had the privilege of observing us at work that the first easiest thing to do in this body is to increase spending.

Lord have mercy. We must constrain ourselves with all the rigor we can to even bring our increases down to a nominal level.

The second easiest thing to do in this body is to raise taxes. I certainly have seen that done here enough, and with relative ease.

The hardest thing to do in this body, Mr. Speaker, is to cut taxes; and the clearly most difficult thing to do is to cut spending.

All that boils down to one thing: we avail ourselves of nothing that we can call a budget constraint. After all, Mr. Speaker, it is other people's money. Easy come, easy go. We do not spend it all that wisely.

So what we are trying to do today is to give ourselves an institutional lever, a rule in this institution that levels the playing field between raising spending and cutting taxes, just to counter what must be the generic dispositions of a legislative body given the extraordinary privilege of taxing and spending other people's money.

A simple rule that would say that in this business of raising taxes which facilitates the increased spending, for which we have this crying disposition, that we should have a supermajority vote. It is a constraint. It is a check, a check against our desires to always build government larger.

Is the Federal Government large enough? Most people in America think yes it is, indeed; that and more.

Do we have enough money? We are talking about surpluses, extraordinary surpluses; surpluses that would not have come about except for 2½ years of extraordinary rigor in the restraint on spending that make these surpluses available; the surpluses that are threatened, threatened not by a shortage of tax revenue from the American people but threatened by the worst addiction one finds in this town, the addiction to the spending of other people's money.

So we must put on the brakes. We must find a way to rein ourselves in, to rein in the institution, the institution of the House of Representatives. Indeed, the institution of Congress must be restrained from the all-too-easy business of simply raising taxes whenever we feel we have an insufficient supply of other people's money. If we cannot do that, Mr. Speaker, during a time when the surpluses are running, we cannot do it at any time.

I just noticed the disposition at work here a moment ago in the discussion on this floor. The question was, what if there were a recession and there would be a shortfall of revenues to the United States? We would have an emergency need to raise taxes, it was argued, to raise taxes. Why? What underlies that logic is the belief that the object of our affection is the Government of the United States, not the well-being and the health of the American economy.

Indeed, if there is a recession, Mr. Speaker, the correct thing to do is to lower taxes; thus, solving the problem of the recession; thus, solving the problem of deficiencies in revenue to the Government that come from the recession.

So the logic is faulty because it is built on the false premise that the object of our affection must be, first, the well-being of the Government and then only secondarily the performance of the economy. The correct logic is this: the well-being of the government, as is the well-being of the Nation in things economic, depends upon the performance of the economy.

We are left with very few tools to assure that this economy works at its peak of performance, but the only one that really remains is the lowering of taxes. So barring a volition in this body to ever change our dispositions, we should use a rule, a rule that says that it is relatively easy to lower taxes when those times arrive and it is most rigorously difficult to raise taxes at all times. This rule will give us that. It should be passed. It should be passed as a matter, Mr. Speaker, of respect for the American people because, after all, it is their money.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted that the majority leader of the Congress has come to the floor. Unfortunately, he did not mention how many times the majority, under his leadership, has waived their own House rules requiring a supermajority vote to increase taxes. Maybe he forgot.

I would remind my colleagues that during the 104th Congress, we had to suspend the House rules imposed by the Republican majority when we dealt with H.R. 1215, the Contract with America Tax Relief Act.

□ 1145

We then had the supermajority vote suspended, this is under the leadership of the majority, under the leadership of the distinguished majority leader that just left the well, in the Medicare Preservation Act of 1994, H.R. 2425; in the Budget Reconciliation Act of 1995, H.R. 2491; in the Health Insurance Reform Act, H.R. 3103; and in H.R. 3734, the Welfare Reform Conference Report. The majority, under the Republican leadership, has frequently waived its own rules requiring a supermajority vote to increase taxes.

The unworkability of House Joint Resolution 41 is illustrated by the fact that they frequently ignore their own rule preventing tax rates from taking increase, unless approved by three-fifths of the House, and this was done in the 104th Congress, many times, on six separate occasions. It led our distinguished colleague the gentleman from Texas (Mr. STENHOLM) to write, "The final blow to any hope that the

vote on the supermajority tax requirement might be for real comes from the dismal adherence Republicans have made to their own internal House rule requiring a three-fifths vote to raise taxes." This is from the leadership of the gentleman who just left the well.

After much fanfare during the organization of the 104th Congress, the House leadership has waived its own effort to restrain itself in every potential instance but one.

In an attempt to avoid these problems at the beginning of the 105th Congress, the rule was significantly narrowed to limit its application to increases in particular tax rates specified under the Internal Revenue Code, rather than tax rate increases generally. Now, that narrow application does not apply to the constitutional provision; it only applies to what we do in the House of Representatives.

So, such experiences highlight the unworkability of setting forth special procedural rules concerning tax laws and tax rates, and these problems would be greatly compounded in the constitutional context that we face in H.J. Res. 41.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I wish to thank the chairman of the Committee on the Judiciary for this opportunity to speak on behalf of House Joint Resolution 41.

Mr. Speaker, despite my belief that we ought to rarely trifle with the work product of the founders of this country from that balmy summer of 1787, where in the Philadelphia State House they crafted our Constitution, I rise today in strong support of the Tax Limitation Constitutional Amendment that we will vote on today.

I do so, Mr. Speaker, because it is my belief that we live in this year 2001 in an age of reason about tax policy, different than other times in American history. Today, most Americans oppose most tax increases. But, Mr. Speaker, we must recognize that this too shall pass; that some day soon, given the seemingly glacial growth of the Federal Government, the day will come that once again tax increases are no longer broadly objectionable.

So I believe that this Congress should seize upon this season of sensibility to constrain future Congresses from reflexively raising taxes to pay for that ever-growing Federal welfare state. It is a growth in government, Mr. Speaker, that does ultimately erode our economic freedoms and the balance of our liberties.

A tax increase constitutional amendment, if adopted today in the Congress and sent to the States, would be an important restraint on the Federal Government in years ahead, and it would

give this Congress and this government the same restraints that some 14 States live under who have tax limitations in their Constitution and in their laws.

Mr. Speaker, tax increases should always be the last resort of this Congress, and the Tax Limitation Constitutional Amendment ensures that it will.

Mr. CONYERS. Mr. Speaker, I am very pleased to yield such time as he may consume to the gentleman from Virginia (Mr. SCOTT), a distinguished member of the Committee on the Judiciary.

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I join my colleagues in opposition to H.J. Res. 41. H.J. Res. 41 proposes a constitutional amendment that provides that changes in Internal Revenue laws by more than a de minimis amount would require a two-thirds majority to pass, rather than the simple majority now required.

Let me just point out a couple of problems with that idea, Mr. Speaker. The proposed constitutional amendment does not affect spending; only paying for the spending. You can increase spending and enact new programs with a simple majority. To pay for the new programs, you require a two-thirds majority. The limitation that this bill proposes is on whether we will pay for the spending or whether we will resort to deficit spending.

Now, the same analysis applies to correcting mistakes. It would take a two-thirds majority to close a corporate loophole, while it only took a simple majority to create the loophole in the first place. If we cannot come up with a two-thirds majority to close the corporate loophole, then that loophole remains, possibly costing millions, or even billions, of dollars that could be put to use elsewhere.

In fact, changing Internal Revenue laws that change the internal revenue by more than a de minimis amount would also affect passing new laws to enforce the laws that are already on the books if that action would increase the internal revenues. You need a two-thirds vote to pass that.

Now, if we really are being honest about reducing spending and limiting spending, the constitutional amendment ought to require a two-thirds vote not to increase taxes, but a two-thirds vote to increase spending. Now, that would limit spending. The limitation on taxes only limits your ability to pay for the spending that you have already enacted.

Another problem, Mr. Speaker, is that the bill has the statutory language involving de minimis. While two-thirds majority vote is required to increase the internal revenue by more than a de minimis amount, the term "de minimis" is not defined, so, we can debate whether you need a two-thirds vote or not.

Some committee members have suggested that any increase in revenue less than one-tenth of one percent of total revenues would be de minimis. But I would remind you that our total revenues are in the trillions of dollars. One-tenth of one percent of \$1 trillion is \$1 billion. I believe that most of us would consider \$1 billion to be more than just de minimis.

Mr. Speaker, amending the Constitution is serious business which should not be taken lightly. This bill presents very difficult questions that are not even close to being answered. It does nothing to limit spending; and, therefore, ought to be rejected.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, if the House would read the constitutional amendment, they would find that the gentleman from Virginia, with all due respect, is misinterpreting what is in the amendment. The amendment says that a loophole can be closed by a majority vote if the money that is raised as a result of closing the loophole is used to provide tax relief for the American people elsewhere. But where the two-thirds vote comes in is if the loophole is closed and the money is raised and is used to finance increased spending.

So what this Tax Limitation Constitutional Amendment encourages is using the money from closed loopholes to provide tax relief for the American people, rather than financing a spending spree by the Congress of the United States. I think that that is entirely logical. What the amendment does is it says if you want to spend the money from the loophole, it is two-thirds; if you want to give it in tax relief, it is a majority.

Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I wanted to come to the floor, and I am not on the Committee on the Judiciary, as these fine ladies and gentlemen, to discuss the technical aspects of this bill.

What I wanted to do was, Mr. Speaker, back in 1995, when I was sworn in as a United States Congressman, a friend of mine from my district brought to me this reprint of a political editorial from 1878. What it is, Mr. Speaker, the Statue of Liberty is standing with a weight around her neck, and her head is bent forward, and on the weight it says "income tax." It further states at the bottom, "the slave of liberty."

I believe sincerely that taxation, excessive taxation, makes the American people slaves to the Federal Government. I think whenever we can bring protection to the American people we should, and that is exactly what H.J. Res. 41 does; it empowers the people through their Representatives here in Washington, D.C.

I believe sincerely that today the American people are paying more taxes

than they have ever paid before. When I look at how too many times I think those of us in Washington D.C., and I am one of those, obviously, that many times we forget that the people are the government.

The power should be with the people. The people should be able to say to their representatives that you must have a supermajority to pass taxes on us, and I think this legislation does that.

I compliment the chairman and his committee, because, quite frankly, because every year for the 7 years I have been in the United States Congress, whenever we brought this bill to the floor I have asked for 1 or 2 minutes to come to the floor, because, again, we need to give the power back to the people when we can, and to give the people the opportunity through the process to say whether they want the Congress to have a two-thirds majority to pass taxes.

I think again we are doing the right thing, and I compliment the chairman and each and everyone who has worked on this resolution, and hope we will pass it shortly.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I thank the gentleman for yielding me time to respond to the chairman's remarks.

Mr. Speaker, if we passed a \$1 million corporate loophole tax benefit that ended up costing us \$10 billion because we miscalculated the impact, we could not close that loophole that passed on a simple majority vote without a two-thirds vote unless we provided \$10 billion in tax relief somewhere just to close that loophole that we did not intend to create to begin with.

Mr. Speaker, again, this amendment will do nothing to limit spending; it just limits our ability to pay for that spending. You create a new program, simple majority; to pay for it, it takes a two-thirds vote.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I rise today to support the tax limitation amendment. I come from the great State of Arizona where we have had similar legislation as the law for the past 10 years. What we did not do that we should have is cut off the initiative route as we did, because when we want to raise taxes in Arizona, instead of going to the legislature, now it is done by initiative, that notwithstanding this year, for the first year, because there is a lack of revenue. Finally, this is holding government spending in check. You see the trepidation on the part of the legislature to actually spend too much, because they would be forced to come back and raise taxes and realize they cannot do it because now it would require a two-thirds majority. It is great legislation.

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Mr. Speaker, I am amused continually when we talk about how easy it is to cut taxes and how difficult it is to raise taxes, when history suggests otherwise. Over the past couple of decades, we have had numerous tax increases and just a couple of significant incidences of tax relief. Whenever we can do anything to actually put a lid on taxes, to actually cut taxes and make it more difficult to raise taxes, then we ought to do it.

For the record, it was mentioned that if we are doing this, then we also ought to put a limitation on spending by making it more difficult to spend. I am in favor of that. I would love to offer an amendment to the amendment which would actually require a two-thirds majority to increase spending, but this, as it stands, is a good piece of legislation, and I support it.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK. Mr. Speaker, what we are seeing today is a declaration by the Republican Party that they recognize that the majority of Americans cannot be relied upon. One of the previous advocates to this amendment said the power belongs to the people, but he misstates what this amendment does. Power now under our Constitution belongs to the representatives of the majority of the people, taking into account, of course, the two Senators per State, which is nonmajoritarian, but within that the majority rules. Well, apparently the Republicans do not have much confidence in the majority, so they want to change the rules so that this particular decision cannot be made by a majority.

The gentleman said the power belongs to the people. We used to have a slogan, "power to the people." Well, this amendment would change that slogan to "power to one-third plus one of the people." If the majority of the people, as they are represented in Congress, decide that they want to improve our ability to do environmental cleanup, or if people thought that having the Social Security tax base cut off at \$75,000 so that if one makes \$30,000 every penny one earns is taxed for Social Security, but if one makes \$300,000 the great majority of one's income is exempt, we could not do that without two-thirds.

Not only are they declaring a lack of faith in the people, they are repudiating the legacy of some past Republican presidents. For instance, President George Bush raised taxes in conjunction with the Congress, because he thought it was very important for the economy. We all remember the President's famous slogan, "Read my lips, no new taxes." Well, any future President I guess would have to say, "Read

two-thirds of my lips, no new taxes." George Bush asked us to raise taxes. I do not think he was profligate and irresponsible. I think he was responding to the particular needs of the particular time.

At this point, no one is advocating tax increases, but different situations occur at different points.

Ronald Reagan. We have heard a lot about the legacy of Ronald Reagan, but I was here when Ronald Reagan asked Congress to raise taxes on several occasions. I did not always vote for the Reagan tax increases. I thought the Reagan tax increase of 1982, which was to undo some of the Reagan tax decrease of 1981, was not fairly constituted. I did not like the Reagan tax increase for Social Security in 1983. But if we read the history books and if we read the assessments of President Reagan, one of the things they say is that President Reagan, Senator Dole, Speaker O'Neill came together to save Social Security and extend its solvency. They did it in part by reducing benefits in a way that I did not agree with, but they also did it by raising taxes.

Indeed, some of the tax increases that were imposed under President Reagan remain in effect. They not only remain in effect, they remain untouched by the current President's tax reduction proposals. It was in 1983 at the request of Ronald Reagan, with the concurrence of a Republican Senate and a Democratic House, that taxes were first levied on part of a Social Security recipient's income. The taxation of part of one's Social Security benefits for people making \$25,000 in addition, to be recycled into the Social Security system, was part of President Reagan's attempt to extend the solvency of Social Security.

Now, if the Republican constitutional amendment had been in power, I do not think President Reagan would have had the votes. I do not think President Bush would have had the votes.

The point I am making is that despite partisan efforts to make it look as if this is somehow an effort to prevent feckless decisions to raise the revenues, it would have, had it been in effect, prevented the last two Republican presidents from getting legislation through that they thought was important to protect Social Security and to protect the economy.

Now, I have noted a tendency on the part of my Republican colleagues to implicitly acknowledge that the public is not thrilled with some parts of their agenda, and I understand that. They have a right, I suppose, when they are campaigning to kind of soft pedal some things; you should tell them the truth, but you do not always volunteer things. But changing the Constitution because they believe the public is not likely to support their position is a totally inappropriate way to go.

I guess we have to explain why this happens, because if one believes the rhetoric that says it is just the government taking people's money for no good reason and the people have to be protected from that, one has to ask the question, why would people let Members of Congress who, by a majority, would vote to increase the taxes that they pay. The answer is, as President Reagan knew and President Bush knew and President Clinton knew, all three of whom asked that taxes be increased, there are important purposes that the people want that may require more revenue.

I want to go back to Social Security. The Social Security system now is financed by taxes that are paid up to 70-some odd thousand dollars worth of income. Many of us believe that is inequitable. Many of us believe we ought to have a package in which we reduce the Social Security bite on some people in the lower end, but increase it for wealthier people. Maybe we want to have a little gap, but then at \$150,000 or more, start collecting some Social Security tax. Any effort to do that would, by this amendment, require a two-thirds vote. Power to one-third plus one of the people. One-third plus one of the people could block that effort. If we decided that we needed more revenue for other purposes, it is not there.

Mr. Speaker, it seems to me a rational decision for the public to make in a civilized society that at a time of great wealth they might want to spend more on environmental cleanup. They might want to do more for police. They might want to help people with prescription drugs. The Republicans have said, well, we want a major tax cut, so here is what we have to do. We have to end the program that allows public housing authorities to hire police officers to combat drug-related crime. I understand people who think cutting taxes, particularly for wealthy people, is more important than fighting drug-related crime in public housing. They do not live in public housing, they do not relate to the people in public housing, and in a democracy that is a legitimate view to put forward. But why do they need two-thirds? Are they not confident they can win that one on the merits?

We have people who believe we ought to be increasing the amount we spend on environmental cleanup. Unfortunately, there are people who disagree. I am prepared to debate that. But if we decide that we have these important public needs and the current revenues are not enough to meet them without going into deficit, I do not understand why we should take two-thirds.

Prescription drugs. We have a proposal from the Republican Party that says, to get taxes at the level we think desirable, we cannot help any elderly person needing prescription drugs whose income exceeds \$17,000. I think

that is a very grave error. I think making sure that Bill Gates pays no taxes when he dies, or his heirs do not; once one dies, they do not pay any taxes, but the notion that Bill Gates' heirs should be able to inherit billions of dollars, but we cannot afford to help someone making \$20,000 with prescription drugs at the age of 82, I think that is wrong. But I am prepared to debate that without fixing it. I say these things because they are directly relevant to this amendment.

This is why the Republicans feel that they have to change the rules. They understand that there will be times when a majority of the Americans will say, we would rather have more revenue. By the way, while the Republicans claim to dislike taxes at certain times, they come to love them, and that is the other thing I would say to my Republican friends: do not underestimate your capacity to adapt.

For example, when President Clinton in 1993 asked Congress to raise the gasoline taxes, there was a great deal of unhappiness on the Republican side, at least it was expressed and I under the Rules of the House of course take at face value everything said here, and when President Clinton remained in office, time and again the Republicans said, we have to get rid of this gasoline tax increase. Well, we now have a Republican President and we have a Republican House and we have a Republican Senate, and we have tax bills coming forward that would reduce various taxes. Do we know what else we have? The same gasoline tax increase that went into effect in 1993 unchallenged.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for yielding. Yesterday I introduced a bill to suspend the Federal gasoline tax to provide some relief to our motorists and our truck drivers. I would invite the gentleman from Massachusetts and others who feel that way to cosponsor this bill.

Mr. FRANK. Mr. Speaker, I am glad that the gentleman is being consistent. He is not only being consistent, he is being unique, because while it is encouraging to some, I thought increasing the gasoline tax was a useful thing to do to help us reduce the deficit in a socially responsible way, the Committee on the Judiciary does not have jurisdiction over it. I will say as I read the Republican program for the year, with \$1.6 trillion worth of tax reduction, they could not find room in there to reduce the gasoline tax. So the Republicans did not think it was a good idea to raise the gasoline tax in 1993, but now that they have complete control over both Houses of Congress and the White House, they are leaving it

alone. They have decided, apparently, on second thought, that it was not such a bad idea after all.

Regarding the taxes that people pay on their Social Security benefits, including those that Ronald Reagan asked us to pass in 1983, Ronald Reagan said, if one is making \$25,000 a year or more, we are going to tax 50 percent of your Social Security benefits. That is not a huge amount of money, but that is what Ronald Reagan said. I voted against that bill. Many of my Republican colleagues who are still here voted for it; some Democrats voted for it as well. I had heard that denounced until the Republicans had the power to do something about it, and that is another one which has grown on them.

This is not a debate as to what the level of taxation ought to be; it is a debate about democratic procedures. The Senate, as we know, is not majoritarian. The House is. By Supreme Court decision, the United States House of Representatives represents population very, very closely. What the Republicans are saying is this: we cannot trust the people elected by a majority of the House of Representatives to make this decision, because we do not think they will get it right. Therefore, we will change the Constitution to make it a nonmajoritarian decision as to what level of public expenditure there will be.

Yes, there are two competing sets of needs. There are private needs, best settled by people having money in their own pocket; there are public needs, environmental cleanup, public safety, some others which can only be dealt with if we spend the money together. They are both needs of the people. Some are best done individually, some done together. What we have today is an effort to bias the decision-making process, because the Republican Party does not have any confidence in the people, apparently thinks that Ronald Reagan was wrong on the several occasions when he asked for tax increases, George Bush was wrong when he asked for tax increases.

The point is this: no one today, given our economy, no one is pushing for tax increases. On the other hand, to say that for all time it should not be a majority decision, but that this decision will have to be made by an extraordinary majority so that a minority can block the decision of a majority of the American people, 40 percent can stop 60 percent from going forward, is bad constitutional government and an unfortunate expression of a lack of confidence in the American people.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Massachusetts and his very articulate self has kind of laid forth the Democratic platform on what they would like the Congress to accomplish during

the next 2 years. We are not dealing with prescription drugs and all of the other issues that the gentleman from Massachusetts is talking about. We are dealing with the simple proposition of whether the Constitution should be amended to make it harder for Congress to raise taxes. That is the proposal that is before us, and that is the proposal that we are voting upon today.

Now, I would submit that the American people think that it should be hard to raise taxes, and I would also submit that the American people historically have not trusted Congress very much when the time comes to deal with bills that raise taxes. So all this amendment proposes to do is to force there to be a national consensus on raising taxes, which is required in a two-thirds vote. It is really pretty simple.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I would say parenthetically I guess the gentleman has decided to reciprocate.

The SPEAKER pro tempore (Mr. SHAYS). The time of the gentleman from Wisconsin (Mr. SENSENBRENNER) has expired.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 additional minute, and I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, apparently the gentleman from Wisconsin (Mr. SENSENBRENNER) wants to reciprocate the lack of confidence the American people have in Congress by having a congressional expression of lack of confidence in the majority of the people. But I want to talk about prescription drugs.

Mr. SENSENBRENNER. Mr. Speaker, I will reclaim my time then, because we have a chance to talk about prescription drugs a little bit later on when the prescription drug bill comes to the floor of the Congress. So I think we really ought to defer that debate until when it is really the question that is before us.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Massachusetts, but let us debate prescription drugs at the time that the bill comes before us.

Mr. FRANK. Mr. Speaker, the gentleman is ignoring the fact that with his amendment that he is putting forward today, and we will cut taxes this year, I think by more than we should but we will, if we decide next year that at the level of revenue available for Medicare we cannot afford a prescription drug program, it will take two-thirds to put one back. That is the flaw in the gentleman's reasoning.

Mr. SENSENBRENNER. Mr. Speaker, reclaiming my time, that is really

not true, because if we cut out other wasteful spending in other parts of the government, we can put more money into prescription drugs, and it is a matter of priority.

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Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, if that is the case, why is the President not putting adequate money into prescription drugs this year instead of saying only \$17,000 as an income cutoff?

Mr. SENSENBRENNER. Mr. Speaker, as the gentleman knows, the President proposes and the Congress disposes.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, in the Department of Defense, we have 480,000 bureaucrats that buy and sell. They charge 22 percent to the military. Should Congress eliminate a lot of that bureaucracy, and instead of having taxpayers cough up money for more defense, should we just put more money into it without more reform?

In education, we get as little as 48 cents to the dollar because of the bureaucracy in education. This morning the Secretary of Education, Rod Paige, testified. The gentleman from Wisconsin pointed out that the President's budget only puts in 6 percent increase. Six percent. Traditionally we have been increasing it by over 12 percent. The Secretary pointed out that there has been a flatlining; that we put more money in education, but there has not been any change. Can Congress work harder, can we do our job to eliminate Federal bureaucracy and spending or can we afford to give the money back to the American people? I pick on not just education, I pick on defense and all government agencies.

Mr. Speaker, environmental cleanup was mentioned. Seventy percent of Superfund went to trial lawyers. Do we look as a Congress and work with the States on how to clean up the environment, or do we keep dumping in money?

Many of my colleagues fought against welfare reform. Sixteen years was the average. They want to dump more money. We have to raise taxes to pay for that. Welfare reform put people back to work, and it helped stimulate the economy.

Capital gains, my colleagues said it was only for the rich. Alan Greenspan said it helped stimulate the economy. So we do not reduce taxes? What I am saying is that my colleagues on the other side of the aisle always want to spend more money without reforms.

The SPEAKER pro tempore (Mr. SHAYS). Without objection, the gentleman from North Carolina (Mr.

WATT) will control the time of the gentleman from Michigan (Mr. CONYERS).

There was no objection.

Mr. WATT of North Carolina. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I really wish we were gathered here today to engage in serious legislation that confronts some of the concerns that we have here in this country. As I left my district, I noticed on the front page of the business section a number of corporations that are in fact laying off workers. I would imagine that you will see over the next couple of weeks and months, the necessity of increasing compensation for those who are now laid off and cannot in some areas, where there is not the appropriate number of jobs available to provide for them, they will then stay unemployed. That means that families will be without their breadwinners and will be without an income.

Mr. Speaker, we stand here today addressing a situation which has occurred on an annual basis. I believe it is almost going to get the kind of standing like Christmas. We will have it every year. This is the sixth annual year that our colleagues have wasted our time with a constitutional amendment dealing with a two-thirds supermajority on a tax increase.

We have listened to my colleagues suggest to you how confining this kind of procedure would be; but more importantly, how it impacts the Constitution where our Founding Fathers, as wise as they were, suggested that a majority reflects the will of the American people. When we begin to use the supermajority, we begin to get into a desperate situation.

Mr. SENSENBRENNER. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, is the gentlewoman from Texas aware that the Constitution written by the Founding Fathers prohibited Congress from levying direct taxes on the American people, and it required an amendment about 100 years ago in order to allow Congress to even have the power to do what we are talking about?

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am certainly aware of that; and I thank the gentleman from Wisconsin.

Mr. Speaker, it was a hundred years ago; and we have proceeded under that legislation, and I believe we have done very well.

The idea now, of course, is to further diminish the responsibilities of the Members of Congress in the majority vote by again putting over us the supermajority which again eliminates the opportunity to provide financing for issues that we are concerned about.

The very fact that this particular amendment has not passed six times in a row suggests the wisdom of this Congress, both Senate and House. My colleagues know that this is a wrong-headed way to go.

Mr. Speaker, here we stand again providing this kind of legislation; and yet the amendment that I had intended to offer, an amendment that would provide for a supermajority not to reduce benefits in Social Security and Medicare, has not been accepted, or has been ruled out of order as it relates to presenting it to the floor.

If it is as important to put a two-thirds supermajority on not raising taxes, and by the way to my colleagues and friend, that means that corporations with tax loopholes, that means that they will have a field day. It means that the assessment by the American people that this administration and this Congress is more business oriented or more paying the piper of the corporate interest, it is true. It means that tax loopholes cannot be closed under this supermajority, because it means if you are suggesting that you raise the taxes of corporations, you will have to have a supermajority. Of course that means that you take away the one vote, one person.

When you talk about Medicare and you talk about Social Security for people, and you say can we have an amendment to ensure that you have a supermajority in order not to reduce the benefit, that has not been accepted.

Mr. Speaker, I would simply say to my colleagues that we realize that a supermajority has been imposed on certain aspects of the business of this House. But I do believe that this idea of a supermajority on taxation eliminates the very vital opportunity of suggesting that even though we may have some prosperity, although I have noted there are layoffs, while we have this prosperity, and the American people may decide to invest in their national parks and their defense by providing increased salaries for our men and women in the Armed Forces, to invest in education, we now stand on the floor of the House to suggest a supermajority so in fact the people of the United States will not have the resources to ensure that their will be done.

Mr. Speaker, I conclude by saying that it is not necessary to have a supermajority to railroad the \$1.6 trillion tax cut that the President wants. Why we stand for the seventh time on the floor of the House for a two-thirds majority, I do not know. It seems that we want to make this as annual as a Christmas holiday.

Mr. Speaker, I rise to oppose H.J. Res. 41 and to introduce an amendment that I believe will improve it.

Mr. Speaker, my amendment is germane. The underlying legislation, H.J. Res. 41, is an

attempt to help the most well to do Americans through a constitutional amendment that limits the ability of Congress to raise taxes and cut deficits. It is no secret that this legislation is designed to disproportionately help the richest people in this country.

Mr. Speaker, my amendment seeks to protect the average person, the neediest, and our seniors by requiring the same two-thirds supermajority as the sponsors of H.J. Res. 41 call for. However, my amendment requires the two-thirds supermajority to cut Social Security and Medicare which help the rest of us.

H.J. Res. 41 could make it difficult to maintain a balanced budget or to develop a responsible plan to restore Medicare or Social Security to long-term solvency. Both of these amendments deal with taxes. Both deal with what we all know is a zero sum game. My amendment is germane because if it is okay to help the rich, it is germane to help the poor and average Americans.

H.J. Res. 41 is a resolution proposing an amendment to the Constitution of the United States of America with respect to tax limitations, that would require any bill, resolution, or other legislative measure changing the internal revenue laws require for final adoption in each House the concurrence of two-thirds of the Members of that House voting and present, unless the bill is determined at the time of adoption, in a reasonable manner prescribed by law, not to increase the internal revenue by more than a de minimis amount.

H.J. Res. 41 also states that for purposes of determining any increase, there shall be excluded any increase resulting from the lowering of an effective rate of any tax and permits the waiver of such requirement, for up to 2 years, if there is a declaration of war or if the United States is engaged in a military conflict which causes an imminent and serious threat to national security and is so declared by a joint resolution which becomes law.

Mr. Speaker, by requiring a two-thirds supermajority to adopt certain legislation, H.J. Res. 41 diminishes the vote of every Member of the House and Senate, denying the seminal concept of "one person one vote." This fundamental democratic principle insures that a small minority may not prevent passage of important legislation.

Mr. Speaker, this legislation presents a real danger to future balanced budgets and Medicare and Social Security. That's why I have offered an amendment to H.J. Res. 41 that would add a new section to H.J. Res. 41 requiring the same two-thirds supermajority when cutting programs that protect Social Security and Medicare. Under H.J. Res. 41, it would be incredibly difficult obtaining the requisite two-thirds supermajority required to pass important, fiscally responsible deficit-reducing packages. And at a time in our history when the Baby Boomers are now retiring, H.J. Res. 41 could make it more difficult to increase Medicare premiums for those most able to pay their fair share of the bill, and could make it difficult balancing both Medicare and Social Security payroll taxes in the long term.

H.J. Res. 41 would make it nearly impossible to plug tax loopholes and eliminate corporate tax welfare, or even to increase tax enforcement against foreign corporations. H.J. Res. 41 would also make it nearly impossible

to balance the budget, or develop a responsible plan to restore Medicare or Social Security to long-term financial solvency.

That's why my amendment would require a supermajority to further challenge these important social programs that serve a great need in this country.

Mr. Speaker, H.J. Res. 41 is the exact same bill that this committee considered in the 105th Congress and my opposition is unchanged. In fact, a phrase in the minority's dissenting views in the 105th Congress stating that "the Framers of the Constitution wisely rejected the principle of requiring a supermajority for basic government functions" still hold true today.

The minority in opposing this tax limitation amendment cited James Madison who vehemently argued against requiring supermajorities, stating that under such a requirement, "the fundamental principle of free government would be reversed." It would be no longer the majority that would rule. Conversely, the power would be transferred to the minority because a small minority could block the necessary supermajority from passing any tax increases. In fact, it is significant to note that because of population patterns, Senators representing some 7.3 percent of the population could prevent a bill from obtaining a two-thirds majority.

Mr. Speaker, I am deeply troubled by the concept of divesting a Member of the full import of his or her vote. As Dean Sameul Thompson, one of the Nation's leading tax law authorities, observed at a 1997 House Judiciary Subcommittee hearing on the same proposal: "The core problem with this proposed Constitutional amendment is that it would give special interest groups the upper hand in the tax legislative process." As such, the potential loss to the Treasury Department from such loopholes is staggering. A Congressional Budget Office study found that over half of the corporate subsidies the Federal Government provides are delivered through "tax expenditures" that selectively reduce the tax liability of particular individuals or businesses. Such expenditures cost the Federal Government \$455 billion in fiscal year 1996 alone—triple the deficit at that time.

Mr. Speaker, this resolution simply dilutes the vote of Members by requiring a supermajority of them to do something as basic to government as acquire the revenue to run government. It is a diminution. It is a disparagement. It is a reduction of the impact, the import, of one man, one vote.

Mr. Speaker, H.J. Res. 41 will also make it nearly impossible to eliminate tax loopholes, thereby locking in the current tax system at the time of ratification. The core problem with this proposed constitutional amendment is that it would give special interest groups the upper hand in the tax legislative process. Once a group of taxpayers receives either a planned or unplanned tax benefit with a simple majority vote of both Houses of Congress, the group will then be able to preserve the tax benefit with just a 34 percent vote of one House of Congress.

In addition, H.J. Res. 41 would make it inordinately difficult to make foreign corporations pay their fair share of taxes on income earned in this country. Congress would even be limited from changing the law to increase

penalties against foreign multinationals that avoid U.S. taxes by claiming that profits earned in the U.S. were realized in offshore tax havens. Estimates of the costs of such tax dodges are also significant. A 1992 Internal Revenue Service study estimated that foreign corporations cheated on their tax returns to the tune of \$30 billion per year.

Another definitional problem arises from the fact that it is unclear how and when the so-called "de minimis" increase is to be measured, particularly in the context of a \$1.5 trillion annual budget. Would we look at a 1-, 5- or 10-year budget window? What if a bill resulted in increased revenues in years 1 and 2, but lower revenues thereafter? It is also unclear when the revenue impact is to be assessed—based on estimates prior to the bill's effective date, or subsequent determinations calculated many years out. Further, if a tax bill was retroactively found to be unconstitutional, the tax refund issues could present insuperable logistical and budget problems.

Mr. Speaker, the amendment to this legislation which I have offered here today, takes this legislation in a different direction. It requires the same two-thirds supermajority as does the underlying bill, but ensures that we fulfill our promise too.

I hope that my colleagues take seriously the path H.J. Res. 41 would lead us down were it to be adopted as is, and I urge my colleagues to support my amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to myself.

Mr. Speaker, in response to the comment that I made, the gentlewoman from Texas (Ms. JACKSON-LEE) said that since the income tax amendment was ratified in 1913, we have done very well. I would agree with her 100 percent. We have done too well. We have done too well having an escalating cascade of taxes on the American people.

What has happened is that we went from the original Constitution that seemed to serve us very well for 140 years prohibiting direct taxes on the American people, to having the pendulum swing far too far in the other direction so that now the Federal tax expressed as a percentage of GDP is the highest in peacetime history of our country.

Mr. Speaker, this amendment pushes that pendulum back in the middle by making it harder to raise taxes. I think the American people would say hooray for that because Congress has been much too eager since 1913 to dip into the pockets of the American taxpayer deeper and deeper.

Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I rise as a strong supporter of this constitutional amendment to require a two-thirds vote to raise taxes on the American people. Until the last Congress, this was the Barton tax limitation constitutional amendment. I was very pleased and willing to let the gentleman from Texas (Mr. SESSIONS) and the gentleman from Arizona (Mr. SHAD-EGG) become the original cosponsors in this Congress.

As has been pointed out, when the Constitution was ratified in the late 1700s, there was a supermajority required to raise taxes. It was 100 percent because you could not have a Federal income tax. The Constitution did not allow it. As has been pointed out by the chairman of the Committee on the Judiciary, in 1913 we changed the Constitution to say that income taxes were acceptable.

The first income tax levied on the American people after that income tax was passed, about 99 percent of the American people paid no income tax because you had to have an adjusted income of over \$3,000 cash; and most Americans in the early part of the 20th century did not have \$3,000 cash income. But if you did, if you did, you paid 1 percent; 1 percent of income over \$3,000. And if you were super-rich, in other words if you got up to where you had cash income over, I think it was, \$50,000, you paid an additional 1 percent.

Mr. Speaker, what does the American taxpayer pay today? The income tax levied on the American people had gone up at one point in time 9,000 percent. We got up to a 90 percent tax bracket. Now how is that possible? It is possible because it only requires 50 percent plus one vote in the House and 50 percent plus one vote in the Senate to raise your income taxes. That has been done repeatedly the last 100 years.

What does this constitutional amendment do? It does not say that you cannot raise taxes; but it says if you are going to raise taxes, you need more than a bare majority. You need more than 50 percent plus one; you need two-thirds.

Now our Founding Fathers knew that there would be times when we needed to do things that needed to be a super-consensus. To ratify treaties and to change the Constitution requires a supermajority vote. What is more important to require a consensus more than a bare majority than raising income taxes? It is interesting when you look at the opinion polls around the country, the States that have supermajority requirements to raise taxes, their taxes are lower. They are lower. States that do not have it, their taxes are higher.

Mr. Speaker, we have used the States as a laboratory; and we have proven that it works at the State level. It would work here in Washington. If you look at interest groups, do you know that the interest group that most supports requiring a supermajority to raise taxes, it is not rich, country club Republicans, it is not soccer moms, it is male, head-of-household union members. Now they tend to vote for our friends on the Democratic side of the aisle, which is fine. Eighty percent of them support a supermajority requirement to raise income taxes. That is the highest number of any segment of our country, 80 percent.

So why is it that we cannot pass this in the House of Representatives? We want it, but to amend the Constitution you have to have a two-thirds vote. It is because some people in this body want to raise taxes. They want to spend more money. We are only going to spend \$2 trillion this year. Let us vote for this tax amendment and send it to the Senate and get them to pass it.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. WATT) has 14½ minutes remaining. The gentleman from Wisconsin (Mr. SENBRENNER) has 29 minutes.

Mr. WATT of North Carolina. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, I thank the gentleman for this time.

Mr. Speaker, it was helpful to have the original author of this bill on the floor to discuss it. In this debate, we have begun to discuss it with some platitude; that this is a bill about having two-thirds of the House and the Senate decide before we raise taxes.

□ 1230

Actually, it is a bit more complicated than that. See, it says that a bill, a resolution or a legislative measure changing the internal revenue laws shall require for final adoption in each House the concurrence of two-thirds of all Members of that House voting and present unless that bill, resolution, or other legislative measure is determined at the time of adoption in a reasonable manner prescribed by law not to increase the internal revenue by more than a de minimis amount.

Well, I guess, then, what we have got to have is a certain amount of litigation, I suppose, about what constitutes a de minimis amount. I think that is really what we need. We need a process around here that makes it even more difficult for us to come to a consensus about how it is that we are going to tax and spend the money that we have to do here each year.

I think it is going to be actually an extraordinary constitutional battle if we pass a constitutional amendment that says it has to be decided by the courts how much a de minimis amount is that we are allowed to raise taxes in order to qualify under this constitutional amendment. Because let us consider what the scenarios will be.

When we pass a budget, there will be a determination, well, it only raises taxes a de minimis amount. Then every interest group under the sun that has a problem with that budget will then have a standing to go into court and say, well, that is not a de minimis amount, it is actually more. Or some other group will come in and say, well, no, no, no, that is less than a de minimis amount, so you should be permitted to do it. We will have nothing but litigation over that point.

Secondly, I think it is interesting to note in all of this discussion about whether or not we should have a higher burden to raise taxes, why is it no one is proposing that we have a higher burden to spend the money. To be intellectually honest about this debate, one should say, well, we should have two-thirds to spend any dollar of the money coming in, because both of those sides make the same argument that the previous gentleman made, that we have been out of control spending, taxing and building and everything else. If we are truly going to be consistent and want to be sure that we have it right, it should be a two-thirds majority to increase spending as well.

So if one wants to make a philosophical point here, I guess one could. One does not like taxes or one likes taxes. From the point of governance, this thing is a disaster. That is why no one is taking it seriously perhaps outside those of us who get paid to debate these things. It is really and truly a cumbersome way to do things.

I find it fascinating that my colleagues who rail against the overly litigious way that often our society operates should now open the door to a whole new area of constitutional law which is going to be defining de minimis. I think that would indeed be folly. Mr. SENBRENNER. Mr. Speaker, I yield myself 1½ minutes. Mr. Speaker, very plainly, on page 3, lines 4 and 5 of the constitutional amendment, it says that Congress defines by law what a de minimis amount is. So this does not require litigation.

But having said that, listening to the argument of the gentleman from New York (Mr. WEINER) would have persuaded the Members of the first Congress and the Congress that sat in 1863 to reject the 1st and 14th amendments to the United States Constitution. Because if one looks at the Constitution annotated, those amendments have been the subject of countless court decisions by the Supreme Court as well as the appeals courts and the district courts because they were not, quote, properly drafted, and because they would have, quote, encouraged litigation.

I do not think, had the gentleman from New York been in the first Congress or in the Civil War Congress he would have voted against the 1st amendment and the 14th amendment. But the argument that he used which does not hold water with this amendment is that this amendment does not encourage litigation because it says that Congress defines by law what a de minimis amount is.

Mr. WEINER. Mr. Speaker, will the gentleman yield?

Mr. SENBRENNER. I am happy to yield to the gentleman from New York.

Mr. WEINER. Mr. Speaker, I thank the distinguished chairman for yielding to me.

Mr. Speaker, here is the difference. This is not a question about whether or not we are interpreting whether someone's speech is abridged. This is taking an inherent constitutional congressional obligation which is deciding these questions and having litigation over what a specific term of art means.

Mr. SENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. HALL) to demonstrate the bipartisan support this amendment has.

Mr. HALL of Texas. Mr. Speaker, I rise today in support of H.J. Res. 41, the Tax Limitation Constitutional Amendment. I have been a cosponsor of this legislation since we first started it back in 1995. I have appeared before in front of post offices on April 15 and talked to distraught taxpayers on that particular day. I will get the same answer from all of them.

I am going to continue to support this as long as it takes to provide a constitutional protection against tax increases for hard-working Americans.

It would have a chance. This bill is going to pass sooner or later. I am not sure when it is going to pass, but it will pass. I will tell my colleagues when it could pass. It could pass when every Member of Congress would take the time to walk out into the streets of their own district and ask this simple question: Would you like to make it more difficult for Congress to raise taxes? If my colleagues do not get a yes answer from that 9 out of 10, then it will be different to the various areas that I have made that same inquiry.

The tax increases that have been enacted since I have been in Congress have passed by narrow margins, once I think by a single vote. Legislation that hits everybody's pocketbook ought to require more than a simple majority of passage. A two-thirds vote requirement would give the taxpayers the protection they need and they are entitled to.

The amendment would do more than just provide tax protection. It will ensure that our efforts to maintain a balanced budget will focus on eliminating wasteful and unnecessary programs and achieving cost savings wherever we can, not raising taxes as a means of achieving this goal.

Now, we are blessed with the projected budget surpluses over the next few years. I do not know if it will last for 10 years. That is the length of our budget. But I do not think anything this Congress can do can screw it up in less than 3 or 4 or 5 years. So I think we have got some real good years directly in front of us.

President Bush and the Congress have pledged to return a portion of that surplus to the American citizens this year in the form of tax relief, and Congress is working out the details on that. However, should the economic environment change and the surplus begin to dwindle, our first line of defense should not be to breach our

agreement with Americans by not lowering their taxes. Any serious economic situation that might call for increased taxes has to be addressed with the cooperation and understanding of all Americans and with more than a simple majority.

If we ever have a balanced budget amendment, and I think there will be a time when we will pass a balanced budget amendment, take two-thirds to pass that amendment, but they could comply with it by simply raising taxes with a majority vote. Now, that does not look right to me.

I think that a lot of States have already moved forward on this initiative and have enacted tax limitation measures of their own. Congress ought to recognize their efforts and give the States and the American citizens the opportunity to decide for themselves on this amendment.

I urge my colleagues to join in the passage of this legislation in the 107th Congress.

Mr. WATT of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I just want to clarify one point. I did not have the opportunity previously in response to the chairman. Unlike the 1st and 14th amendment, when one imagines the 1st and 14th amendments saying thou shall not abridge speech except to a de minimis amount or everyone has equal protection under the law except to a de minimis amount, one would never find that language in the Constitution of the United States because that is not the way constitutions are written, and thank goodness this one will never be part of it.

I mean, the fact of the matter is, as litigious as a society as we have, can anyone recall any time in history that there was a budget resolution that was challenged on constitutional grounds around here? I do not think I have ever seen that. Has there ever been an opportunity where an increase in taxes was challenged on constitutional grounds?

Frankly put, we are going to have, any time we have any change to the IRS budget, for example, if we have an increase in the number of people that the IRS puts on in their ability to enforce the different laws even, if it might increase the amount of tax collection, we are going to have a lawsuit.

This notion that we are somehow are not going to have constitutional conflicts, that we do not have constitutional conflicts in the 1st and 14th amendment, so therefore we should not have done it is absurd. This is not language that goes into the Constitution, because it opens ourselves up to all kinds of litigation.

But a second point is also important. The Framers of the Constitution envi-

sioned this body, Congress, having the ability to make certain decisions about how monies are expended, about how taxes are raised, lowered, either. Do we really want to turn that over to the courts? Is that a desirable outcome to say, well, you think it is de minimis, fine by us. We do not want to be in that circumstance. I am quite certain the distinguished chairman of the Committee on the Judiciary does not want to be in that position either.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, the Framers of the Constitution have used terms of art like due process of law and equal protection under the law and the courts have interpreted it. If the argument of the gentleman from New York (Mr. WEINER) is that we should draft constitutional amendments so tightly that the courts do not interpret it, then I think we probably would have to rewrite the Constitution right from article I, section 1. We do not want to do that. But we do want to give Congress the authority to determine what de minimis is.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the chairman of the Committee on the Judiciary for yielding me this time.

The temptation is here, Mr. Speaker, to directly address the curious and clever arguments. The gentleman from New York (Mr. WEINER), for example, he seems to be suggesting that we truncate the role of the judiciary in our separate and co-equal branches from our constitutional Republic.

He also seems to set up an interesting reinterpretation of what our Founders meant in setting up this Constitution. Because, Mr. Speaker, if it was so desirable to have direct taxation of personal income, why did not our Founders include that in the original document called the Constitution or in the first 10 amendments known as the Bill of Rights. They understood the powers that would be abridged, the rights of citizens that would be abridged.

Ultimately, it came through the 16th amendment which required a supermajority for ratification. So the balance we strike today in adopting this constitutional amendment is to strike a balance to say, if a supermajority was required for the amendment process, there should be a supermajority required for raising taxes.

Now, under the realm of I have heard everything, I think it was suggested earlier we have a supermajority for spending. Let us explore that. But today let us vote yes on this amendment.

Mr. WATT of North Carolina. Mr. Speaker, we have no further requests for time and one final speaker. So if

the gentleman from Wisconsin is ready to close, then I will proceed.

Mr. SENSENBRENNER. Mr. Speaker, I encourage the gentleman from North Carolina to recognize his final speaker, and then we can wrap this up.

Mr. WATT of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this debate is always interesting at this time of the year. Every year, for the last 6 years, around April 15, this same or some version of this proposed constitutional amendment has come to the floor of the House, not as a serious legislative initiative, because I think it has always been acknowledged that there is not sufficient support for such a constitutional amendment. Instead, it comes to the floor as a political vehicle to dramatize and have a discussion about whether taxes are too high or whether the expenditures are out of control.

We have a political discussion in the context of a proposed constitutional amendment.

□ 1245

I want to submit to my colleagues, however, that this is not a discussion about whether taxes are too high or not. If you ask probably 10 out of 10 people on the street whether taxes are too high, all 10 of them will tell you taxes are too high. It is not a discussion about whether we spend too much money. I am sure there are people who will have varying opinions about whether the Federal Government spends too much money. My experience has been that they typically vary based on whether the money is being spent for the benefit of the individual who is taking a position or whether it is being spent for the benefit of somebody else. If money is being spent for your benefit, then most likely you are going to support that expenditure, and if it is not being spent for something that you believe is beneficial to yourself or to the country, then you are going to oppose that. So this is not a debate about whether we spend too much either.

I think it is a debate about democratic rule and democracy and majority rule, because there are only two instances in our Constitution where a supermajority such as this is required. That is to declare war, which we seldom use because the Presidents have decided that you do not even need a supermajority to do that and that is not a good idea, so there has been this constant struggle between the executive branch and the legislative branch even in that area. And the other is to amend the Constitution, which brings me to this point. I think our Founding Fathers recognized that there needs to be something special to require a two-thirds majority, because the idea of majority rule was almost synonymous with the concept of democracy and they did not want to do anything that was contrary to that principle.

Now, my colleagues who continue to profess to me that they are conservatives seem to have forgotten that there is something conservative about the concept of majority rule. They seem to have forgotten that there is something conservative about maintaining the integrity of our Constitution.

In 1994, when my Republican colleagues took over the majority in the House in the 104th Congress, we had a total of 118 proposed constitutional amendments. In the next term of Congress under their control, we had a total of 86 proposed constitutional amendments. In the last term of Congress, we had a total of 52 proposed constitutional amendments. Now, these are the people who came in here telling me that they believed in some conservative philosophy. These are the people who are now telling me that somehow or another they have a better idea about this than the historical founders have had. I am a little confused by this. There is something else going on here.

I think this is about democracy. I think this is about democracy, and I think it is about my ability to represent the constituents who have sent me here on an equal footing with everybody else in this body. It is not about winning and losing a vote. It is about every individual in this country having the right to have an equal voice in the government. That is why we redistrict and do a census and based on that census redistrict the whole country every 10 years, to go out of our way to provide every American an equal voice in our government. And when we set up a system in our Constitution that on one subject, such as taxes or spending or whatever else interrupts that balance, requires some supermajority, then basically what we are saying is we are devaluing the representation of some Members of this body, and we are overvaluing the representation of other people.

Now, I am not going to argue with the notion of whether taxes are too high, but I do not think that is what this debate is about. If you go out on the street and you ask 10 people whether they believe that a basic tenet of democracy is majority rule, I bet you 10 out of 10 of them will tell you they believe in majority rule and they believe in the democracy that we have put in place. That is what this debate is about, my colleagues. That is what this debate is about, whether I am going to give you more power in the government to make this decision or whether I am going to have an equal place on behalf of the constituents who sent me here to cast a vote that has equal value to yours.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I will be very brief. This amendment is very simple. It makes it harder for Congress to raise taxes. It requires Congress to put fiscal discipline on itself so that if there are loopholes closed, the tax relief would be given to the American people rather than being spent on some type of proposal that maybe the American people would not approve of.

The original Constitution written by James Madison prohibited direct taxes except "in proportion to the census, or enumeration hereinbefore directed to be taken."

When the Congress attempted to pass an income tax in the late 1890s, the Supreme Court declared it unconstitutional. On February 13, 1913, the 16th amendment was ratified by the several States and became a part of our Nation's Constitution which specifically gave the Congress the power to lay and collect taxes on income from whatever source derived without apportionment among the several States and without regard to any census or enumeration. Since that time, boy, have those income taxes taken off. With the constitutional amendment ratified in 1913, the heavy hand of the Congress and of the Federal Government has dipped deeper and deeper into the pockets of the people of the United States of America, so that today Federal income taxes as expressed as a percentage of gross domestic product are higher than at any time in the peacetime history of our country, including during World War II in many of the years.

So I guess the question is really simple. Given the track record of Congress since 1913, do we want to continue making it easy for Congress to raise taxes? Or do we want to force Congress to cut spending, to have better priorities, and then to attempt to achieve a national consensus to raise taxes as a last resort? Because a two-thirds vote does require a national consensus to be formed.

I would hope that the Members of the House would approve this constitutional amendment and send it to the other body, because it will send a message that this Congress is serious about making it tough for future Congresses to raise taxes and to force them to set priorities in spending the public's money, not the Congress' money but the public's money.

I ask for an aye vote.

Mr. UDALL of Colorado. Mr. Speaker, here it comes again.

I was a newly-elected Member of Congress the last time we debated this proposed constitutional amendment—but I was told that the House had already considered it more than once.

So, it was no surprise that the debate about it sounded very rehearsed. I got the impression—and it has only been strengthened today—that many Members have heard all the arguments before. And I am pretty sure the debate will not change many minds about the proposal.

But, as I said last time, this resolution strikes me as one of the oddest pieces of legislation that I've encountered—and I think it's one of the worst.

For one thing, while I'm not a lawyer it seems clear to me that the language of the proposal is an invitation to litigation—in other words, to getting the courts involved even further in the law-making process.

To say that Congress can define when a constitutional requirement would apply, provided that the Congressional decision is "reasonable," is to ask for lawsuits challenging whatever definition might be adopted.

Aren't there enough lawsuits already over the tax laws? Do we need to invite more?

But more important, I must oppose this proposal because it moves away from the basic principle of democracy—majority rule.

If this were part of the Constitution, there would be another category of bills that would require a two-thirds vote of both the House and the Senate.

That's bad enough as it applies here in the House, but consider what that means in the Senate. There, if any 34 Senators are opposed to something that takes a two-thirds vote, it cannot be passed. And, of course, each state has the same representation regardless of population.

Consider what that means if the Senators in opposition are those from the 17 States with the fewest residents.

Looking at the results of last year's census, the total population of the 17 least-populous states is about 21 million people.

That's a respectable number, but remember that the population of the country is more than 280 million.

So, what this resolution would do would be to give Senators representing about 7 per cent of the American people the power to block some kinds of legislation—even if that legislation has sweeping support in the rest of the country, and even if it had passed the House by an overwhelming margin.

Right now, that kind of supermajority is needed under the Constitution to ratify treaties, propose constitutional amendments, and to do a few other things.

But this resolution does not deal with things of that kind. It deals only with certain tax bills—bills that under the Constitution have to originate here, in the House. Those are the bills that would be covered by this increase in the power of Senators who could represent such a very small minority of the American people.

Why would we want to do that? Are the proponents of this constitutional amendment so afraid of majority rule? Why else would they be so eager to reduce the stature of this body, the House of Representatives, as compared with our colleagues in the Senate?

Remember, that's what this is all about—"internal revenue," however that term might be defined by Congress or by the courts. When Congress debates taxes, it is deciding what funds are to be raised under Congress's Constitutional authority to "pay the debts and provide for the common defense and general welfare of the United States." Those are serious and important decisions, to be sure, but what is wrong with continuing to have them made under the principle of majority rule—

meaning by the members of Congress who represent the majority of the American people?

So, Mr. Speaker, I cannot support this proposed change in the Constitution. Our country has gotten along well without it for two centuries. It is not needed. I would not solve any problem—in fact, it probably would create new ones—and it would weaken the basic principle of democratic government, majority rule. It should not be approved.

Mr. STARK. Mr. Speaker, this bill will hamstring Congress in an unprecedented manner.

Requiring a two-thirds majority essentially renders Congress unable to increase revenues, as demonstrated by the five major deficit reduction measures enacted between 1982 and 1993. None of these bills passed by a two-thirds majority, yet a majority of this representative body found them necessary to reduce the federal debt and balance the federal budget.

This bill will hurt federal programs when the baby boom generation begins to retire. This could lead to steep reductions in Medicare and Social Security benefits, not to mention other needed federal programs.

Congress needs to impose balance in its budgets but this would be made impossible by requiring a two-thirds majority. Everybody likes the benefits that the federal government provides but nobody likes to pay for them. So it's always easy for a Member of Congress to reduce taxes, yet very difficult to increase taxes—even under a bill that requires a simple majority vote.

A two-thirds majority would be required of any bill seeking to raise federal tax revenues. This includes taxes on corporations that find loopholes to lower their effective tax rates. This also includes businesses that we find pollute the environment. Just last year, the Institute on Taxation and Economic Policy found that forty-one of Fortune's top 250 U.S. companies paid less than zero in federal income taxes at some point between 1996 and 1998. This means that rather than paying the \$9 billion in federal income tax, as required by the 35 percent statutory corporate tax rate, these companies generated so many excess tax breaks that they received rebate checks from the U.S. Treasury totaling \$3.2 billion. One astute University of Miami Law School professor accurately depicted today's bill as the "Tax Loophole Preservation Amendment to the Constitution."

The legislation before us today would mean that corporate welfare could continue to flourish at the expense of American seniors who risk decreased Social Security and Medicare benefits with passage of this devastating bill. This is too big a gift to give to corporate America when we need more money for our children's education, and we need a Medicare prescription drug benefit for our seniors. I urge my colleagues to allow Congress to continue its prescribed work in devising and enacting an annual budget that includes increasing revenues in the same manner as it decreases revenues—by a simple majority vote.

I urge a "not" vote on H.J. Res. 41.

Mr. WATTS of Oklahoma. Mr. Speaker, I rise today to wholeheartedly support House Joint Resolution 41, the Tax Limitation Constitutional Amendment of 2001. I am happy to

be an original co-sponsor of this legislation and hope that one day we can see this safeguard in place in order to protect the wallets and pocketbooks of American taxpayers.

The biggest things in life are usually the hardest things to accomplish. The same is true with law and government. Going to war. Impeaching a president. Overriding a veto. So, too, should raising taxes. It should be difficult to raise taxes. Our system of checks and balances can look out for the average taxpayer if the tax limitation amendment were indeed the law of the land.

Over one third of the population of this nation lives in states with tax limitation amendments.

President Clinton's tax hike in 1993—the largest tax increase in American history—would have died a miserable death if the tax limitation amendment existed back then.

If we really need to raise taxes, if we really need to generate more revenue than we are already collecting, then two-thirds of Congress will do the will of the people. If there is a war, there is an exception. But raising taxes ought to be the very last resort taken in order to solve a fiscal problem.

We need to make it harder for Congress to raise taxes. We need to pass the Tax Limitation Constitutional Amendment.

Mr. GOODLATTE. Mr. Speaker, I rise today in support of House Joint Resolution 41. This joint resolution requires a two-thirds vote in both the House and Senate for any bill that changes the internal revenue laws by more than a de minimis amount. The resolution also allows Congress to waive the supermajority requirement to pass a tax increase (1) during a period of declared war between the U.S. and another country, or (2) when Congress and the president enact a resolution stating that the U.S. is engaged in a military conflict which threatens national security. Tax legislation enacted under this waiver can be in force for no longer than two years after its enactment.

Mr. Speaker, H.J. Res. 41 provides a simple mechanism to curb wasteful and abusive government spending by restraining the government's unquenchable appetite for taking the American people's money. The more the government has, the more it spends. The more it spends, the more it needs. The Tax Limitation Amendment will ensure that when the government needs money, it will not simply look to the American people to foot the bill.

A Constitutional amendment is the only way we can assure the American people that Congress will only take from their pocketbooks that which is truly needed. This Constitutional amendment will force Congress to focus on options other than raising taxes to manage the Federal budget. It will also force Congress to carefully consider how best to use current resources before demanding that taxpayers dig deeper into their hard-earned wages to pay for increased Federal spending.

Furthermore, if Congress has less to spend on programs, it will be forced to act responsibly and choose what is truly important to the American people, and it will be forced to make sure government programs are run as effectively and efficiently as possible. Simply put, the harder it is for Congress to tax the American people, the harder it will be for Congress to spend their money.

Mr. Speaker, Once and for all, it is time for Washington to get off the American people's backs and out of their pockets.

I thank my colleague, Mr. SESSIONS, and I urge my colleagues to support House Joint Resolution 41.

Mr. OTTER. Mr. Speaker, I rise today in support of H.J. Res. 41, the Tax Limitation Amendment to the United States Constitution. This legislation will protect the American people from runaway government spending and keep Uncle Sam out of America's pocketbook.

This Amendment demonstrates the respect this Congress has for the states and taxpayers of the United States. Today, the United States taxpayer faces the highest tax burden ever. I am pleased to have joined a bi-partisan majority in passing President Bush's tax relief package a few weeks ago. But the measure we take up today in the House is a longer-term solution to keep our taxes in check. No longer will a determined, razor-thin majority be able to force through tax increases against the will of the people. In 1993 this country was subjected to massive tax increases that passed each House by a single vote.

I believe that if Washington, D.C. really thinks a tax increase is necessary, we should be able to convince the representatives of $\frac{2}{3}$ of the states. We require a $\frac{2}{3}$ vote of Congress to change the constitution, we require a $\frac{2}{3}$ vote to overturn the President's veto, we require $\frac{2}{3}$ votes for many important votes. Shouldn't we recognize that to working Americans, how much Washington takes away is the most important issue of all? I am proud to vote for this amendment, and I will recommend its passage to the legislature of my home state of Idaho.

Mr. NADLER. Mr. Speaker, I oppose the constitutional amendment before us because it is flawed and fundamentally anti-democratic. As the ranking Democratic member of the subcommittee of jurisdiction over constitutional amendments, I also want to register my strong objection to the manner in which the majority has once again disregarded regular order and proceeded without any hearings or subcommittee consideration. I would hope that our fundamental governmental document would merit more respect and care.

H.J. Res. 41 disregards the constitutional principle of majority rule, requiring instead, a two-thirds "super majority" vote to raise taxes. The only exceptions to the super majority requirement are: bills that do not increase taxes by more than a "de minimis amount"; when a declaration of war is in effect; or when the United States is engaged in a "serious military conflict" that causes an "imminent and serious threat to national security."

James Madison, in The Federalist Papers No. 58, warned against such super majorities, stating that, under such a requirement, "the fundamental principle of free government would be reversed. It would be no longer the majority that would rule: the power would be transferred to the minority." For example, based on data from a 1996 U.S. Census report, Senators representing only 7.3% of the U.S. population could prevent a tax bill from obtaining the two-thirds super majority required to pass. And the bill would require a far larger vote count to raise taxes than to lower taxes.

This “one way ratchet” mechanism dilutes a member’s vote on tax bills that are central and fundamental to the workings of our government. Although the sponsors point out that it is not unprecedented to provide in the Constitution for a two-thirds vote for certain significant actions, such as overriding a presidential veto or congressional impeachments, in the 104th Congress, the then Chairman of this Committee stated “I am troubled by the concept of divesting a Member of the full import of his or her vote. You are diluting the vote of Members by requiring a supermajority . . . it is a diminution. It is a disparagement. It is a reduction of the impact, the import, of one man, one vote.”

H.J. Res. 41 is designed to benefit the wealthy and powerful at the expense of the average American family and the poor. This constitutional amendment makes it difficult to close unfair tax loopholes that benefit the powerful corporations and wealthiest Americans, requiring a two-thirds supermajority to do so. For example, the amendment makes it difficult to curb “corporate welfare” and cut unproductive tax expenditures that grant subsidies to powerful special interests. Yet, according to a recent editorial in the Washington Post, “when the baby boomers begin to retire . . . the country will be in an era of fiscal strain. To avoid destructive deficits, there will have to be tax increases and/or spending cuts. By making it harder to increase taxes, this amendment would compound the pressure on the major spending programs: Social Security, Medicare, Medicaid and the rest.” This is wrong, Mr. Speaker; and I think that we ought not to allow it.

This amendment would also endanger important excise taxes that fund public safety and environmental programs whose extension would be subject to a supermajority vote. Many such excise taxes are dedicated to purposes such as transportation trust funds, Superfund, compensation for health damages, taxes on alcohol, tobacco, and pensions, as well as a variety of environmental taxes.

The amendment is also vague and runs the risk of transferring authority from the Congress to the courts. For example, the amendment fails to define the term “internal revenue laws” to which super majority votes would apply, and also fails to define the term “de minimis” to which super majorities do not apply. These vagaries would empower the courts to divine the congressional intent on tax issues that are not the province of the courts, and would bring the courts into fundamental policy disputes that are strictly the province of the Congress.

Finally, the majority has recognized just how unworkable a supermajority requirement can be. On at least six separate occasions waived its own House rules requiring such super majorities to increase taxes where it suits their needs. For example, during consideration of the Contract with America Tax Relief Act in 1995 the majority waived the currently necessary three-fifths majority rule needed to raise taxes. This is wrong.

This legislation would end the ability of the American people, acting through their representatives in Congress, to decide how they want to raise and spend their own money. The democratic principle of one person, one vote is before us today. I believe that we must pro-

tect it for this generation, and for generations to come.

Mr. BEREUTER. Mr. Speaker, this Member rises in principled opposition to House Joint Resolution 41, the so-called “tax limitation” constitutional amendment. Certainly it would be more politically expedient to simply “go along” and vote in support of a constitutional amendment requiring two-thirds approval by Congress for any tax increases. However, as a matter of principle and conscience, this Member cannot do that.

As this Member stated when a similar amendment was considered by the House in the past, there is a great burden of proof to be borne for any deviations from the basic principle of our democracy—the principle of majority rule. Unfortunately, this Member does not believe the proposed amendment to the U.S. Constitution is consistent or complementary to this important principle.

There should be no question of this member’s continued and enthusiastic support for a balanced budget and a constitutional amendment requiring such a balanced budget. In my judgment, tax increases should not be employed to achieve a balanced budget; balanced budgets should be achieved by economic growth and, as appropriate, tax cuts. That is why this Member in the past has supported the inclusion of a supermajority requirement for tax increases in the Rules of the House. However, to go beyond that and amend the Constitution is, in this Member’s opinion, inappropriate and, therefore, the reason why this Member will vote against House Joint Resolution 41.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAYS). Under House Resolution 118, an amendment in the nature of a substitute, if printed in the CONGRESSIONAL RECORD and if offered by the minority leader or his designee, would be in order at this point. The Chair is aware of no qualifying amendment.

Pursuant to House Resolution 118, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WATT of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 189, not voting 11, as follows:

[Roll No. 87]

YEAS—232

Aderholt	Goss	Peterson (PA)
Akin	Graham	Petri
Andrews	Granger	Pickering
Armey	Graves	Pitts
Bachus	Green (TX)	Platts
Baker	Green (WI)	Pombo
Ballenger	Greenwood	Portman
Barcia	Grucci	Pryce (OH)
Barr	Gutknecht	Putnam
Bartlett	Hall (TX)	Quinn
Barton	Hansen	Radanovich
Bass	Harman	Ramstad
Berkley	Hart	Regula
Berry	Hastert	Rehberg
Biggert	Hastings (WA)	Reynolds
Bilirakis	Hayes	Riley
Bishop	Hayworth	Roemer
Blunt	Hefley	Rogers (KY)
Boehner	Heger	Rogers (MI)
Bonilla	Hilleary	Rohrabacher
Bono	Hobson	Ros-Lehtinen
Boswell	Hoekstra	Roukema
Brady (TX)	Horn	Royce
Brown (SC)	Hulshof	Ryan (WI)
Bryant	Hunter	Ryun (KS)
Burr	Hutchinson	Sanchez
Burton	Isakson	Sandlin
Buyer	Issa	Santorum
Callahan	Istook	Scarborough
Calvert	Jenkins	Schaffer
Camp	John	Schrock
Cannon	Johnson (IL)	Sensenbrenner
Cantor	Johnson, Sam	Sessions
Capito	Jones (NC)	Shadegg
Castle	Keller	Shays
Chabot	Kelly	Sherman
Chambliss	Kennedy (MN)	Sherwood
Coble	Kerns	Shimkus
Collins	King (NY)	Shows
Combest	Kingston	Simmons
Condit	Kirk	Simpson
Cox	Knollenberg	Skeen
Cramer	Kolbe	Skelton
Crane	LaHood	Smith (MI)
Crenshaw	Largent	Smith (NJ)
Cubin	Latham	Souder
Culberson	LaTourette	Spence
Cunningham	Leach	Stearns
Davis, Jo Ann	Lewis (CA)	Stump
Davis, Tom	Lewis (KY)	Sununu
Deal	Linder	Sweeney
DeLay	LoBiondo	Tancredo
DeMint	Lucas (KY)	Tauzin
Diaz-Balart	Lucas (OK)	Taylor (MS)
Doolittle	Maloney (CT)	Taylor (NC)
Duncan	Manzullo	Terry
Dunn	McCarthy (NY)	Thornberry
Ehlers	McCrery	Thune
Ehrlich	McInnis	Tiahrt
Emerson	McIntyre	Tiberi
English	McKeon	Toomey
Etheridge	Mica	Traficant
Everett	Miller (FL)	Upton
Ferguson	Miller, Gary	Walden
Flake	Moran (KS)	Walsh
Fletcher	Myrick	Wamp
Foley	Nethercutt	Watkins
Fossella	Ney	Weldon (FL)
Frelinghuysen	Northup	Weldon (PA)
Galleghy	Norwood	Weller
Ganske	Nussle	Whitfield
Gekas	Osborne	Wicker
Gibbons	Ose	Wilson
Gilchrest	Otter	Wolf
Gilman	Oxley	Young (AK)
Goode	Pallone	Young (FL)
Goodlatte	Paul	
Gordon	Pence	

NAYS—189

Abercrombie	Blagojevich	Carson (IN)
Ackerman	Blumenauer	Carson (OK)
Allen	Boehert	Clay
Baca	Bonior	Clayton
Baird	Borski	Clement
Baldacci	Boucher	Clyburn
Baldwin	Boyd	Conyers
Barrett	Brady (PA)	Costello
Becerra	Brown (FL)	Coyne
Bentsen	Brown (OH)	Crowley
Bereuter	Capuano	Cummings
Berman	Cardin	Davis (CA)

Davis (FL)	Kildee	Pelosi
Davis (IL)	Kilpatrick	Peterson (MN)
DeFazio	Kind (WI)	Phelps
DeGette	Kleczka	Pomeroy
DeLahunt	Kucinich	Price (NC)
DeLauro	LaFalce	Rahall
Deutsch	Lampson	Rangel
Dicks	Langevin	Reyes
Dingell	Lantos	Rivers
Doggett	Larsen (WA)	Rodriguez
Dooley	Larson (CT)	Ross
Doyle	Lee	Rothman
Dreier	Levin	Rush
Edwards	Lewis (GA)	Sabo
Engel	Lipinski	Sanders
Eshoo	Lofgren	Sawyer
Evans	Lowe	Schakowsky
Farr	Luther	Schiff
Fattah	Maloney (NY)	Scott
Filner	Markey	Serrano
Ford	Masaca	Shaw
Frank	Matheson	Slaughter
Frost	Matsui	Smith (WA)
Gephardt	McCarthy (MO)	Snyder
Gillmor	McCollum	Solis
Gonzalez	McDermott	Spratt
Hastings (FL)	McGovern	Stark
Hill	McKinney	Stenholm
Hilliard	McNulty	Strickland
Hinche	Meehan	Stupak
Hinojosa	Meek (FL)	Tanner
Hoefel	Meeks (NY)	Tauscher
Holden	Menendez	Thomas
Holt	Millender-	Thompson (CA)
Honda	McDonald	Thompson (MS)
Hooley	Miller, George	Thurman
Hostettler	Mink	Tierney
Houghton	Mollohan	Towns
Hoyer	Moore	Turner
Hyde	Morella	Udall (CO)
Inslee	Murtha	Udall (NM)
Israel	Nadler	Velázquez
Jackson (IL)	Napolitano	Visclosky
Jackson-Lee	Neal	Waters
(TX)	Oberstar	Watt (NC)
Jefferson	Obey	Waxman
Johnson (CT)	Oliver	Weiner
Johnson, E. B.	Ortiz	Wexler
Jones (OH)	Owens	Woolsey
Kanjorski	Pascrell	Wu
Kaptur	Pastor	Wynn
Kennedy (RI)	Payne	

NOT VOTING—11

Capps	McHugh	Smith (TX)
Cooksey	Moakley	Vitter
Gutierrez	Moran (VA)	Watts (OK)
Hall (OH)	Roybal-Allard	

□ 1322

Messrs. FORD of Tennessee, CUMMINGS, TURNER, ACKERMAN, and THOMAS changed their vote from "yea" to "nay."

Messrs. PORTMAN, BARTLETT of Maryland, and McKEON changed their vote from "nay" to yea."

So, two-thirds not having voted in favor thereof, the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. WATTS of Oklahoma. Mr. Speaker, I was unavoidably detained and missed the vote on final passage of H.J. Res. 41, the Tax Limitation Constitutional Amendment (recorded vote No. 87). If I had not been detained, I would have voted "aye" on this important bill.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. SHAYS). Under the Speaker's announced policy of January 3, 2001, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

A NEW CHINA POLICY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, President Bush deserves much credit for the handling of the spy plane crisis. However, he has received significant criticism from some of his own political supporters for saying he was very sorry for the incident. This seems a very small price to pay for the safe return of 24 American military personnel.

Trade with China, though, should be credited with helping to resolve this crisis. President Bush in the diplomatic handling of this event avoided overly strong language and military threats which would have done nothing to save the lives of these 24 Americans.

This confrontation, however, provides an excellent opportunity for us to reevaluate our policy toward China and other nations. Although trade with China for economic reasons encourages both America and China to work for a resolution of the spy plane crisis, our trading status with China should be reconsidered.

Mr. Speaker, what today is called "free trade" is not exactly that. Although we engage in trade with China, it is subsidized to the tune of many billions of dollars through the Export-Import Bank, the most of any country in the world.

We also have been careless over the last several years in allowing our military secrets to find their way into the hands of the Chinese government. At the same time we subsidize trade with China, including sensitive military technology, we also build up the Taiwanese military, while continuing to patrol the Chinese border with our spy planes. It is a risky, inconsistent policy.

The question we must ask ourselves is how would we react if we had Chinese airplanes flying up and down our coast and occupying the air space of the Gulf of Mexico? We must realize that China is a long way from the U.S. and is not capable nor is showing any signs of launching an attack on any sovereign territory of the United States. Throughout all of China's history, she has never pursued military adventurism far from her own borders. That is something that we cannot say about our own policy. China traditionally has only fought for secure borders, predominantly with India, Russia, Japan, and in Korea against the United States, and that was only when our troops approached the Yalu River.

It should not go unnoticed that there was no vocal support from any of our allies for our spy missions along the Chinese coast. None of our allies bothered to condemn the action of the Chinese military aircraft, although it technically was cause of the accident.

Do not forget that when a Russian aircraft landed in Japan in 1976, it was

only after many months we returned the plane to Russia, in crates.

Although there is no doubt that we technically have legal grounds for making these flights, the question really is whether or not it is wise to do so or necessary for our national security. Actually, a strong case can be made that our national security is more threatened by our patrolling the Chinese coast than if we avoided such flights altogether.

After a half century, it is time to reassess the need for such flights. Satellite technology today gives us the ability to watch and to listen to almost everyone on Earth. If there is a precise need for this type of surveillance for the benefit of Taiwan, then the Taiwanese ought to be involved in this activity, not American military personnel.

□ 1330

We should not feel so insecure that we need to threaten and intimidate other countries in order to achieve some vague psychological reassurance that we are still the top military power in the world. This is unnecessary and may well represent a weakness rather than a strength.

The Taiwanese Relations Act essentially promises that we will defend Taiwan at all costs and should be reevaluated. Morally and constitutionally a treaty cannot be used to commit us to war at some future date. One generation cannot declare war for another. Making an open-ended commitment to go to war, promising troops, money and weapons is not permitted by the Constitution.

It is clear that war can be declared only by a Congress currently in office. Declaring war cannot be circumvented by a treaty or agreement committing us towards some future date. If a previous treaty can commit future generations to war, the House of Representatives, the body closest to the people, would never have a say in the most important issue of declaring war.

We must continue to believe and be confident that trading with China is beneficial to America. Trade between Taiwan and China already exists and should be encouraged. It is a fact that trade did help to resolve this current conflict without a military confrontation.

Concern about our negative trade balance with the Chinese is irrelevant. Balance of payments are always in balance. For every dollar we spend in China, those dollars must come back to America. Maybe not buying American goods as some would like, but they do come back as they serve to finance our current account deficit.

Free trade, it should be argued, is beneficial even when done unilaterally, providing a benefit to our consumers. But we should take this opportunity to point out clearly and forcefully the