

THE BALANCED BUDGET AMENDMENT AND ECONOMIC THOUGHT

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The last decade has seen a continuing effort to amend the Constitution to limit spending by the federal government, require an annually balanced federal budget, or both. The proposed amendment would have a big impact on the economy, and many economists have spoken out on the subject, mostly in opposition, but some in support.

Two related concerns lie behind the movement. First, many people believe that federal spending is excessive. It grew from 3% of total output in 1929 to 13% in 1947 (its low point between the high defense spending of the war years and the domestic spending of the post-war years). The post-war peak was 24.9% in 1982. In 1984, it stood at 24% of output. Opposition to large government stems from (nineteenth century) liberal political philosophy. The economists who support the amendment generally share that philosophy. But part of their justification is more narrowly economic, based on concerns about economic efficiency. High taxes sap incentives, distort economic choices, and waste resources on tax reduction schemes. On the spending side of the budget, the size of the income flows controlled by government encourages us all to compete for our share, wasting resources in the process.

The second concern underlying the amendment is deficit spending. The federal government ran surpluses in seven of the fourteen years after World War II, from 1947 to 1960, but it has done so only once since then, in 1969. Meanwhile, the size of deficits has grown, from an average of 1% of output in the 1960's to 5% today. Opposition to deficits arises mainly from their link to high spending. Deficit finance allows the society to spend while avoiding the hard political issue of who will pay. Some economists are also opposed to the use of deficit spending to help cure unem-

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ployment, on the ground that it is in the long run ineffective or even counterproductive.

In the rest of this paper I describe the reasoning that has led some economists to support the amendment, outline the counter-arguments from the literature, and end with a brief evaluation of the debate.¹ First, though, here is a brief summary of where the constitutional amendment stands with respect to passage, and a description of the most widely supported amendment proposal in the Ninety-ninth Congress.

Since 1975, most of the amendment effort has been focused on a campaign to persuade thirty-four states to call for a constitutional convention. At least initially the expectation was that the threat of such a convention would persuade Congress to pass its own resolution for submission to the states. So far thirty-two states have passed resolutions. They differ in content from state to state, and some are now a decade old. Hence, Congress might not consider itself bound to call a convention following action by two more states.

Congress has not, however, ignored this pressure. A proposed amendment passed the Senate in 1982, but failed to win the required two-thirds majority in the House.² A balanced budget proposal was passed out of the Senate Judiciary Committee in September 1984, but did not reach a floor vote. (A drive in the House to force a similar proposal out of committee fell short but received 190 of the 216 signatures needed.) Proponents appear undeterred. New joint resolutions were introduced in both the House and the Senate on January 3, 1985. The proposal summarized below had ninety-nine House sponsors; the corresponding Senate proposal had thirty-four. Seventeen variations have also been offered in the House, and three in the Senate.

Much of the impetus for this amendment arises from a tradition that is more interested in limiting the growth of government than in balancing the budget. But balancing the budget wins all the popular support, so most proposed amendments link the two. Here are the features of the most widely supported proposal:

Section 1: Congress shall adopt a budget for each fiscal year in which projected

1. Economists in general have wisely avoided analysis of the legal issues involved in the adoption and implementation of such an amendment, and so will I. For that discussion, see *The Balanced Budget Amendment: An Inquiry Into Appropriateness*, 96 HARV. L. REV. 1600 (1983).

2. Senate approval may have been more in response to the political embarrassment of the day than to the rumblings from the state capitols. At least one editorial writer thought so: "The immediate motive here is wretchedly trivial—to provide a little shelter for a conservative Senate as it raises the federal debt limit." *Washington Post*, June 21, 1982, at A 12.

receipts are at least as great as projected outlays, unless a three-fifths vote of both houses approves a deficit. Congress and the President are both charged with responsibility to ensure that actual outlays do not exceed those projected.

Section 2: Total receipts shall not increase faster than national income increased in the preceding (calendar) year, unless approved by a majority vote of both houses (in the Senate version), or a 3/5 vote of both houses (in the House version), and signed into law by the President.

Section 3: The President shall each year submit a budget consistent with the provisions of Sections 1 and 2.

Section 4: The provisions of the amendment may be waived in case of a declaration of war.

Section 5: Total receipts and outlays are defined to be inclusive (except for borrowed receipts and outlays to repay debt).

Section 6: Congress shall enforce and implement the amendment by appropriate legislation.

Section 7: The amendment will take effect for the second fiscal year beginning after ratification.³

Without plunging into an analysis of the potential economic impact of this proposal, I will point out that it does not call for what most people would call a balanced budget. It says only that (escape clause aside), initial plans must call for a balanced budget, and that spending must be held to the level of those plans. But a shortfall in receipts compared to expectations could still lead to a deficit. Moreover, at least according to analysis by the Congressional Budget Office, the amendment might contain a second escape clause in that it does not specify a penalty if no budget at all is adopted.⁴

I

The main economic case for a balanced budget amendment rests on an analysis of the incentives facing government officials. The analysis has generally concluded that overspending and waste in government are inevitable. Two distinct paths have led to that conclusion. One says that government officials are not to be trusted to carry out the will of the voters; the other says that the voters themselves are not to be trusted.

A

The topic is a novel one for English-speaking economists, dating back only to the 1950's as a subject for systematic inquiry. As a branch of economics, before 1950 public finance meant primarily the analysis of how the public would respond to government ac-

3. H.R. J. Res. 27, and S. J. Res. 13, 99th Cong., 1st Sess. (1985).

4. CONG. BUDGET OFFICE, *BALANCING THE FEDERAL BUDGET AND LIMITING FEDERAL SPENDING: CONSTITUTIONAL AND STATUTORY APPROACHES*, J932-36, 97th Cong., 2d Sess. (1982).

tions. The incentives facing government officials were not analyzed; the officials were implicitly treated as automatons whose only objective was to further the public welfare. American public finance theory ignored an earlier European tradition in economic and political thought, which took a more jaundiced view of public officials and their motivation. The "public choice" theorists, who are now employing economic theory to analyze the behavior of government, have brought that literature back to our attention.⁵

From nineteenth century European economics, the work that has had the most impact on public choice theory is Knut Wicksell's *A New Principle of Just Taxation*, published in German in 1896 and translated into English only in 1958.⁶ Wicksell was the precursor of today's public choice economists in thinking about how to design rules for public decision making, taking account of the incentives of decisionmakers. In order to avoid coercion of dissenting minorities, which he considered the most unattractive feature of majority rule, Wicksell proposed two features for adoption of any spending proposal:

- (i) Each spending bill should specify the proposed distribution of taxes to pay for it.
- (ii) No such bill shall be adopted without "virtual unanimity" in the legislature.⁷

The required majority might be three-fourths, five-sixths or even nine-tenths. Wicksell observed that "absolute unanimity may have to be ruled out for practical reasons"; otherwise he would have preferred it. The proposal was intended to assure that negotiations would have to continue until essentially every interest group judged that an expenditure's benefits outweigh its costs. Both elements reappear, watered down, in current proposals.

Problems of public choice have attracted increasing attention since Buchanan's rediscovery of Wicksell's work. Here is a sketch of a theory that is general enough to encompass most of this work.⁸

1. People will voluntarily devote their energies to pro-

5. Buchanan, *Public Finance and Public Choice*, 28 NAT. TAX. J. 383 (1975).

6. CLASSICS IN THE THEORY OF PUBLIC FINANCE 72 (R. Musgrave & A. Peacock ed. 1958). Translated by Buchanan; see *supra* note 5, at 393 for an account of the influence Wicksell's paper had on Buchanan's career (and therefore on the development of the field of public choice).

7. CLASSICS IN THE THEORY OF PUBLIC FINANCE, *supra* note 6, at 88-90. Richard E. Wagner, in an unpublished paper, has pointed out that Wicksell's understanding of the issue is deeper and more subtle than is suggested in the translated portion of his work. See R. Wagner, *Limiting Government Spending: Alternative Constitutional Perspectives* (1979) (Florida State University typescript).

8. The following summary loosely follows T. ANDERSON & P. HILL, *THE BIRTH OF A TRANSFER SOCIETY* 4-11 (1980).

ductive activity only when they expect a direct return. Society's output will generally be higher, the closer the link between effort and reward. Output will be highest if each person can expect to receive the full fruits of his or her own labor, as happens in a smoothly functioning competitive market system.⁹

2. The link between a person's effort and reward depends on the existence of a system of well-specified property rights and a government to enforce those rights.
3. The government that defines and enforces property rights enjoys discretion in how to do so. It can favor some groups over others; as a special case it can favor those who govern.
4. With any system of government, those who govern have an incentive to extract wealth from the economic system, either directly in cash or perquisites, or indirectly through expenditures that secure their tenure in office or expand their power.

To summarize, the need for government to have power to define and protect property rights invites government to collect too much, spending some of it for the benefit of the governors rather than for the benefit of the governed.

5. Government's power to define property rights creates a new avenue for the pursuit of wealth. Possible mechanisms for enrichment through government action include tax relief, government-defined monopolies, subsidies, and regulatory changes. Moreover, because benefits are usually concentrated and costs usually diffused, political resistance to the creation of special privilege is rarely effective.¹⁰

These attempts to influence government can lead to excessive government spending (especially transfer payments). They can also lead to excessive government meddling that shows up in the complexity of the tax code, in regulation of economic activity, in cumbersome eligibility rules for subsidies. The effect is to erode property rights and the efficiency of the economic system.

9. We put aside some refinements of theory that deal with circumstances of market failure, such as pollution and other external effects of private activities, in which Adam Smith's invisible hand may lead us in the wrong direction.

10. Peltzman, *Toward a More General Theory of Regulation*, 19 J. LAW & ECON. 211 (1976), proposes a formal theory for this phenomenon.

6. Finally, to complicate the problem, even if society generally recognizes that government has become too big and too powerful, normal political channels of redress are unlikely to succeed. So little of the benefit from reform is returned to the individual reformer personally, that no rational person would make the effort.

Like any other academic group, public choice theorists are diverse and contentious; some could surely dissent from this formulation. But this sketch does accurately reflect, I think, the general spirit of public choice theory.

An important goal of public choice theory has been to explain the growth in government spending as a percentage of total national income, in the U.S. and other countries since World War II.¹¹

Addressing that question, Buchanan and Wagner argue that unbalanced budgets are among the chief villains.¹² Beginning in colonial times, the U.S. enjoyed an unrecognized blessing: the entrenched belief that unbalanced budgets are immoral—a belief so firmly, and generally, held that it could properly be called part of the country's fiscal constitution. The result of this belief was that, while war or crisis might produce deficits, subsequent periods of peace and prosperity would produce surpluses that would retire much of the debt. This idyllic situation was ruined by economists who favored deficits when needed to stimulate deficient demand, and surpluses only when needed to restrain excess demand. Politicians, brought up to fear the consequences of deficits and government debt, heard only the more palatable part of that lesson: deficit finance is not a sin. Buchanan and Wagner blame the economics profession for not having foreseen this result, as we would have if we had given even a moment's thought to the incentives facing those politicians.¹³

Another set of explanations for why government grows has been developed from Niskanen's theory of the interaction between legislators and bureaucrats.¹⁴ The theory hinges on the information gap between legislators, who control the size of agency budgets, and

11. For a thorough survey, see Larkey, Stolp & Winer, *Theorizing About the Growth of Government: A Research Assessment*, 1 J. PUB. POLICY 157 (1981).

12. J. BUCHANAN, & R. WAGNER, *DEMOCRACY IN DEFICIT: THE POLITICAL LEGACY OF LORD KEYNES* (1977).

13. Milton Friedman has also singled out deficits as a major part of the problem, because they allow legislators to enjoy the political benefits of spending without paying the political cost of explicitly distributing the obligations to pay the bills. The argument directly echoes Wicksell. See *Wall Street Journal*, April 26, 1984, at 12.

14. W. NISKANEN, *BUREAUCRACY AND REPRESENTATIVE GOVERNMENT* (1971).

the bureaucrats who administer the agencies. Legislators lack the detailed understanding of the internal functioning of each agency to be able to measure its efficiency of operation. Bureaucrats, rewarded for the size of their empire rather than for their parsimony, can misrepresent the level of spending needed to attain any given level of service, and thereby extract approval of expenditures larger than needed. Hence, even if legislators were to act as perfectly loyal public servants, government would waste money because legislators could never learn enough to root out waste.

Various other partial explanations of the expansion of government spending have also been offered:

1. Expansion of voting rights to include more poor people and expansion of the number of (voting) government employees both create constituencies who are beneficiaries of expanded government.
2. The government's ability to control the agenda in public referenda on some issues means that the outcome preferred by government can be made the least unpalatable among the choices offered to the voters.
3. The imbalance for each specific program between concentrated benefits and dispersed costs creates opportunities for log-rolling and pork-barrel vote trading.
4. Coupled with this imbalance, legislators lack program-specific information; they therefore become receptive to the one-sided information provided by lobbyists.

To what extent have these explanations been subjected to critical scrutiny and withstood careful empirical testing? Larkey, Stolp and Winer give the literature a low mark:

We are impressed with how much has been written and how little is known about why government grows. . . . The theories and empirical work reviewed in this paper are rudimentary. None of the theoretical work is sufficiently developed and tested to be persuasive as a positive theory or useful as a prescriptive theory.¹⁵

The assessment is probably correct. Yet some of the accumulating evidence does provide general support for the public choice view that government officials act in their own self-interest, and that this leads to overspending.¹⁶ Whether these developments help to justify a balanced budget amendment is another question.

15. Larkey, Stolp & Winer, *supra* note 11, at 202.

16. Frey, *The Public Choice Approach to the Explanation of Collective Consumption*, in *THE GRANTS ECONOMY AND COLLECTIVE CONSUMPTION* 43 (R. Matthews & G. Stafford ed. 1982), gives a good survey.

B

Developments in other areas of economics also bear on the question of the balanced budget amendment. Closest in spirit to the public choice work is the work by Stigler and his colleagues on the economics of government regulation. Previously, economists tended to treat government regulation as a panacea for market imperfections. A series of empirical studies by Stigler and others starting in the early 1960's showed the naivete of this view; in fact, the regulatory agency often seems to have been "captured" by those regulated.¹⁷ According to one assessment, the impact of this work has been "to put public interest theories of politics to rest," so that they are now "viewed as normative wishings, rather than explanations of real world phenomena."¹⁸

Further support comes from persuasive recent work by Olson.¹⁹ He started to investigate the difference in growth rates between the "new" region of the South and West and the "old" of the North and East in the U.S. He was led to a hypothesis for which he found broad support across many centuries and many parts of the world. Old societies become rigid because so many deals have been struck. There is such a delicate balancing of opposing political and economic interests that they become immobilized and adaptation to change becomes impossible. The variety of cases Olson finds in support of the model is striking.

Similar support has come from work in economic development that analyzed the costs of government tampering in the economy to encourage investment and protect local manufacturers. An unintended effect of this government intervention is to divert resources in the private sector from productive activities to competition for government favors. Profits in the form of government favors are every bit as attractive as other profits, and such "rent seeking" or "directly-unproductive profit seeking" will continue to absorb resources until the recipient of the government favor enjoys a net income no higher than he could obtain from directly productive activities.²⁰ Here the resource waste is generally not within government, but is brought about by government activity (and in turn generates further government spending to respond to the lobbying

17. G. STIGLER, *THE ECONOMIST AND THE STATE* (1975). See also Peltzman, *supra* note 10.

18. Kalt & Zupan, *Capture and Ideology in the Economic Theory of Politics*, 74 *AMER. ECON. REV.* 279 (1984).

19. M. OLSON, *THE RISE AND DECLINE OF NATIONS* (1982).

20. For references see Tollison, *Rent Seeking: A Survey*, 35 *KYKLOS* 575 (1982).

pressures, choose among competing supplicants for largesse, and so on).

Another related development is Liebenstein's concept of x-efficiency, so named because he could not think of a suitable adjective.²¹ The phenomenon under discussion is the opportunity provided by monopoly—by lack of competitive pressure—to be inefficient, to use cumbersome, high-cost methods of production because they are convenient for the manager, or simply due to his indifference to costs he does not bear. The argument mirrors Alchian's argument that a competitive system can produce reasonably efficient results in spite of itself, even with stupid or uncaring managers in charge. Alchian argued that the relatively inefficient get weeded out by Darwinian competition. His analogy:

Assume that thousands of travelers set out from Chicago, selecting their roads completely at random and without foresight. Only our "economist" knows that on but one road are there any gasoline stations. He can state categorically that travelers will *continue* to travel only on that road; those on other roads will soon run out of gas.²²

Monopoly means that there is no Darwinian pressure to be efficient, and a monopolist who is not motivated to hold costs down is unlikely to do so. A considerable body of empirical evidence has been mustered for Liebenstein's view. Its relevance for the present discussion is that government agencies are the quintessential monopoly suppliers of services, and their managers often may not receive personal rewards for efficiency.

The work discussed so far bears on why society might benefit by choosing to constrain itself to balance its government's budget annually. An analogous body of work explores why a single individual might wish to constrain his own behavior in advance so that he could not later succumb to temptation. Everyday examples of this type of behavior include having automatic checking account deductions for a Christmas club account that pays no interest or asking other family members not to bring candy into the house. The issue of economic theory is posed by supposing an individual makes a plan today for his future behavior. If he reconsiders tomorrow, will he voluntarily abide by the plan? The answer in general is "no"—even if the initial choice was carefully made, consistent with his own preferences, and no new information has become available. Plans to diet always begin tomorrow; on reconsideration the next day, an additional day of delay always seems

21. H. LIEBENSTEIN, *BEYOND ECONOMIC MAN* 29-47 (1976).

22. Alchian, *Uncertainty, Evolution and Economic Theory*, 58 J. POLIT. ECON. 211 (1950), at 214.

equally reasonable. Someone who recognizes his own lamentable tendency to revise his own plans in this way might wish to commit himself to live by today's plan. Society as a whole might display the same human tendency to postpone pain that some of us display as individuals; the balanced budget amendment could then be justified as a social equivalent to the Christmas club that helps bind us to frugality.²³

So far, the discussion has concerned the economics of spending, rather than that of deficits. Although deficits are related to overspending, they also involve distinct economic issues. First, there is an issue of whether economists approve of deficits as a tool of macroeconomic policy. We must distinguish between deficits as a steady diet and as an occasional Keynesian response to recession. If there is any issue on which economists are united, it is in disapproval of continual large deficits. There is, however, disagreement on continual small deficits even in periods of prosperity. A growing economy needs a growing money supply, and government deficits can provide that money supply. The printing press provides a modern kind of *seigniorage*, a mechanism for channeling a modest level of funding to the state without the economic distortions occasioned by taxation. But some fear that small deficits inevitably grow to large ones; to them, the risk outweighs the benefit.

There is also disagreement on occasional deficits as a response to recession. A large majority of the profession continues to follow Keynes in believing that government programs to stimulate demand, generating deficits in the process, are appropriate in the face of high unemployment. But each recent recession appears to have brought successively higher levels of unemployment in the next recovery. That brute fact, coupled with an attractive theory to explain it (the theory of rational expectations) has converted an increasing fraction of the profession, particularly its younger members, to a new view: The public learns to anticipate government policy and to tailor their own actions to it, with the result that government policy becomes increasingly ineffective and even counterproductive.

The last part of the above sentence is most controversial. For those who accept it, though, the conclusion leads to the view that simple rules of macroeconomic policy, followed consistently (e.g.,

23. I have not seen this issue linked to the balanced budget amendment in the literature; I am grateful to my colleague Neil Wallace for pointing out the possible connection, in conversation. The first discussion of the issue is found in Strotz, *Myopia and Inconsistency in Dynamic Utility Maximization*, 23 REV. ECON. STUD. 165 (1956). See also Schelling, *Self-Command in Practice, in Policy, and in a Theory of Rational Choice*, 74 AMER. ECON. REV. 1 (May 1984).

annually balanced budgets), will in the long run perform better than will a policy of active intervention. This position is a descendent of one advocated for the last third of a century by Milton Friedman, who has argued against professional hubris in attempting to manage the economy: Even if policy makers try to be helpful, they are more likely to destabilize than to stabilize the economy's performance, simply because they are so clumsy.²⁴

The new argument, however, is more subtle. It hinges on a simple fact about negotiations. In a series of negotiations, if you always "let bygones be bygones," and act to make the best of the current situation without punishing your opponent for past misdeeds, you have no way to keep him from similar misdeeds in the future. Any parent who has threatened punishment to a child who then disobeys, has faced the problem. Should you proceed with the punishment? It cannot undo the past act, and you will not enjoy administering it—but it might discourage similar disobedience in the future. If I ignore the trespassers picnicking at my vacation cabin I will have a more tranquil weekend than if I confront them, but I may regret it as the news spreads.

The problem in both cases is that the opponent forms expectations about future response from current behavior. You may be better off to bind yourself to actions that are not in your immediate best interest, to help shape your opponent's conduct. The issue is a general one in adversary relationships, and it arises in macroeconomic policy. Once the operation of the economic system has led to a recession, it is in the government's immediate best interest to use deficits to cure it. But if private agents in the economy rationally come to expect that the government will always bail them out of recession, their decisions on prices, wage rates, and all aspects of their contracts will be based on that expectation, possibly leading to poorer economic performance than if the threat of recession were always present. Kydland and Prescott have explicitly suggested a balanced budget amendment as a way to solve that problem.²⁵

A second body of macroeconomic research related to the balanced budget issue is the rapidly growing literature on the "political

24. Friedman, *A Monetary and Fiscal Framework for Economic Stability*, 38 *AMER. ECON. REV.* 245 (1948).

25. See Kydland & Prescott, *Rules Rather Than Discretion: The Inconsistency of Optimal Plans*, 85 *J. POLIT. ECON.* 473 (1977), and *Dynamic Optimal Taxation, Rational Expectations and Optimal Control*, 2 *J. ECON. DYNAMICS & CONTROL* 79 (1980). For an accessible introduction to the rational expectations literature as it relates to economic policy questions, see Sargent & Wallace, *Rational Expectations and the Theory of Economic Policy*, in *RATIONAL EXPECTATIONS AND ECONOMETRIC PRACTICE* 199 (R. Lucas & T. Sargent ed. 1981).

business cycle.” The notion is that at least part of the driving force for business cycles in democratic societies is manipulation of the economy by the party in power prior to each election, in order to maximize their chance for reelection—despite costs to the economy that will be paid later. This hypothesis has considerable empirical support, which lends further strength to the general claim that government officials are hardly disinterested. It could serve directly to justify a balanced budget amendment in order to limit the opportunity for such manipulation.²⁶

D

Even granting the wickedness or clumsiness of government, it does not necessarily follow that a constitutional amendment is the appropriate remedy. Most of the arguments summarized above, from the public choice and related literature, suggest simply that government spends too much or spends on the wrong things. Others argue that government spends too much primarily because deficits are allowed.²⁷ Less frequent arguments are made against deficits, and against any activist fiscal policy, independent of the level at which the budget is balanced.²⁸ The latter argument, as advanced by Kydland and Prescott, offers the most direct link between the diagnosis and the proposed remedy. Government, in their view, needs to bind its future behavior for strategic reasons, to persuade other players in the macroeconomic “game” that recession is a real possibility, even an ever-present threat, in our economic life. Wagner has argued, too, that a balanced budget amendment would abolish the political business cycle.²⁹ With these exceptions, the “scholarly” public choice literature is generally limited to diagnosis; it does not discuss remedy.

Granted that we want to limit spending or deficits, why should it be done by constitutional amendment? In published debate on the amendment itself, I have seen four arguments that address the issue.

26. See Alt, *Political Business Cycles in Britain*, in *MODELS OF POLITICAL ECONOMY* 155 (P. Whiteley ed. 1980), and Locksley, *The Political Business Cycle: Alternative Interpretations*, *id.* at 177. These introductions do not point out, though, that the theory conflicts with the rational expectations view discussed above. That view would suggest that people cannot systematically be fooled by short-term policies that carry longer-term costs, as the “political business cycle” would suggest. On this issue, see Minford & Peel, *The Political Theory of the Business Cycle*, 17 *EUR. ECON. REV.* 253 (1982).

27. J. BUCHANAN & R. WAGNER, *supra* note 12, and Friedman, *supra* note 13.

28. Friedman, *supra* note 24, and Kydland & Prescott, *supra* note 25.

29. Wagner, *Economic Manipulation for Political Profit: Macroeconomic Consequences and Constitutional Implications*, 30 *KYKLOS* 395 (1977), explicitly recommends the balanced budget amendment as protection against the political business cycle. Buchanan and Wagner’s argument also suggests the importance of making deficits unacceptable.

First, as between legislation and constitutional amendment, legislation does not work. One Congress cannot bind the next, and we have a documented history of failed attempts either to limit expenditure growth or to balance the budget through legislation. We need stronger medicine.³⁰

Second, and more persuasive, is an argument that comes from what Wildavsky has called the Pogo theory of overspending ("We have looked upon the enemy and he is us"). To the extent that government spending is due to logrolling, vote trading, and special deals with concentrated benefits but diffuse costs, we find it impossible in the ordinary course of political life to negotiate a joint reduction in spending that would benefit us all. Instead we all go on protecting our own little share of government largesse. This is a classic example of the prisoners' dilemma game, in which two prisoners would both benefit from remaining silent, but both confess because neither can afford to take the risk that the other will strike a deal with the police. In the government spending version, all would profit from a mutual pact to end the special deals that together burden the economy with inefficiency. Yet each separately would profit from violating that agreement, if all other players held to it; and so all suffer for lack of a mechanism to bind each player to the behavior that would benefit all. A constitutional amendment offers a mechanism to escape that dilemma.³¹

The third argument for adopting a balanced budget amendment as a means to control runaway government is based on a historical observation, coupled with crossed fingers. Though Hobbes saw unlimited government as the only alternative to anarchy, history offers significant counterexamples:

Historically, governments do seem to have been held in check by constitutional rules. . . . [O]ur whole construction is based on the belief, or faith . . . that tax rules imposed within a constitution will prevail.³²

30. SENATE COMM. ON THE JUDICIARY, BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT, Rep. No. 151, 97th Cong., 1st Sess. 42 (1981). I do not find the legislative history of attempts to control spending as conclusive as do some of the amendment's supporters; in particular the legislation that was later ignored seems in some cases to have been slipped through by blackmail, as amendments to crucial bills, with no general commitment in Congress to support it.

31. The "prisoners' dilemma" argument has been used by several proponents of the balanced budget amendment. I prefer the exposition of A. WILDAVSKY, *HOW TO LIMIT GOVERNMENT SPENDING* 2 (1980). Another useful discussion is given by Riker, *Constitutional Limitations as Self-Denying Ordinances*, in *THE CONSTITUTION AND THE BUDGET* 85 (W. Moore & R. Penner ed. 1980).

32. G. BRENNAN & J. BUCHANAN, *THE POWER TO TAX: ANALYTICAL FOUNDATIONS OF A FISCAL CONSTITUTION* 10 (1980).

Finally, some of those who support an amendment acknowledge that the first attempt might not work:

It is possible, even likely, that the constitutional limitations will not work any better than . . . other constraints have. It is typical that agreements to resolve prisoners' dilemmas are broken time and again until a satisfactory solution is found.³³

I believe that proponents would all argue that despite this risk it is important at least to try. One argument for at least making the effort is that even an unsuccessful effort to forestall may defuse the anger of the voters who might otherwise do something really crazy.³⁴ Some see continuing budget deficits, and continued expansion of government spending, as leading to inflation that threatens the stability of society. If so, the risk that the proposed constitutional solution might fail is hardly a risk at all, for the alternative is so much worse. "Should we not look for genuine institutional reform within the structure of democratic decision making rather than for changes that replace this structure?"³⁵

II

The mainstream "response" to be summarized here is primarily criticism of the proposed balanced budget amendment, not of the theory of public choice that I have summarized above. However, I am aware of two global objections that have been advanced against that theory, and I will review those here. There are also objections to the conclusion that the government spends more than people want it to, and to the Buchanan-Wagner thesis that our fall from grace started with Keynes. I will briefly review those objections, too, before describing the specific objections economists have advanced against the balanced budget amendment.³⁶

A

The theory of public choice rests on the assumption of self-interested behavior by all of the actors in the political process. North has pointed out that many aspects of behavior crucial to the

33. Riker, *supra* note 31, at 89-90.

34. This argument was advanced by one who had watched a similar sequence in California: Governor Reagan in 1973 proposed an amendment to the state constitution to limit taxes and spending. The proposal was defeated, but perhaps as a result, the financially capricious Proposition 13 was passed five years later. See Meltsner, *Budget Control Through Political Action*, in *THE FEDERAL BUDGET: ECONOMICS AND POLITICS* 315 (M. Boskin & A. Wildavsky ed. 1982).

35. Buchanan & Wagner, *supra* note 12, at 91.

36. To do justice to the present controversy in macroeconomics, which as explained above bears on the debate over the balanced budget amendment, is beyond the scope of this review, the competence of the reviewer, and—no doubt—the patience of the reader.

political process cannot be explained by that assumption—from voting (after all, no one expects his vote to be decisive in any election), to support of voluntary organizations from which there is at most a negligible prospect for personal gain, to acts of individual sacrifice and heroism. Many forms of action that lead to social change and many forms of inaction that lead to social stability require some explanation beyond simple self-interest.³⁷

Public choice theory is obviously, and crucially, incomplete until we learn to incorporate other motivations, notably those with ideological roots. As an argument against the balanced budget amendment, this objection need not be telling. A constitution should protect us against the worst impulses of the most selfish rulers, so even acknowledgement that the theory is partially valid can help justify the need for constitutional protection.³⁸

The second objection to the theory is intended specifically to warn against drawing potential policy conclusions. Musgrave points out that the conclusion, "government is not to be trusted," springs directly from the basic premise that government officials are interested only in their own welfare. One cannot leap from that theory to policy recommendations, without more information on the validity of the theory, to help us to judge the value of what we would gain compared to what we would lose.³⁹

The explanations offered by public choice theorists for the rise in government spending over time are particularly relevant to our present topic, because they are so often cited to justify the urgent need for spending limits and a balanced budget. These explanations have not fared well in scholarly debate, although the general verdict is that they are unproven but not necessarily false. With respect to Buchanan and Wagner's view that Keynesian economic policies have led to runaway government spending, Donald F. Gordon observes that the trend to increased government spending started well before Keynes (with generally balanced budgets), and that during the truly "Keynesian" period of American policy the ratio of government debt to GNP has fallen dramatically.⁴⁰ Furthermore, the

37. D. NORTH, *STRUCTURE AND CHANGE IN ECONOMIC HISTORY* 11 (1981). Kalt & Zupan, *supra* note 18, give concrete evidence that ideology helps account for U.S. Senate votes on stripmining regulation.

38. Brennan & Buchanan, *Monopoly in Money and Inflation*, 88 *HOBART PAPERS* 23 (1981).

39. Musgrave, *Leviathan Cometh—Or Does He?*, in *TAX AND EXPENDITURE LIMITATIONS* 77 (H. Ladd & T. Tideman ed. 1981). He offers enough particulars to make credible the claim that the necessary testing has not yet been done.

40. Gordon, *Debts, Keynes, and Our Present Discontents*, 4 *J. MONET. ECON.* 583 (1978). The same observation has been made by others, but it is in part misleading: While GNP increases with inflation, the face value of outstanding debt does not. Prices have in-

growth in government spending since 1960 has been primarily in state and local, rather than in federal, spending;⁴¹ and debt increases have been associated with shortfalls of revenue, rather than increases in spending.⁴²

The logic of Buchanan and Wagner's position has also been challenged. They claim, first, that voters are generally ill-informed because it is not in anyone's self-interest to become an informed voter; and second, that politicians, and voters, listened to just half of the Keynesian lesson. Meckling asks what model of democratic participation makes it worthwhile for voters to learn just half of the Keynesian lesson, so that they become willing to accept deficits uncritically, when before they were content to believe uncritically that a balanced budget was best for the economy.⁴³ Olson observes that while taxes are unpopular, so is inflation. Why does the self-interest of politicians drive them to shelter voters from the former rather than from the latter?⁴⁴ The argument requires a more careful specification of what information voters are assumed to have, either based on surveys or on a more fully developed theory of voter behavior.

B

There are sins of commission, and sins of omission. I think that mainstream economists' most important objection to the amendment is its attempt to protect against the first, at the risk of bringing about the second. The budget must project outlays twenty months into the future. With the amendment in place, a determined minority in Congress could prevent action in any emergency that had not been foreseen when the budget was drawn up. Recession, natural disaster, famine, or military threat could confront us, but unless there were extraordinary agreement on the proper course of action, prompt government reaction to the emergency would be barred. The mainstream of the profession accepts the potential for waste as an unfortunate cost of government operation, but opts for preserving its freedom to act.⁴⁵

Another objection is that the amendment would be ineffective.

creased five-fold since the end of World War II and account for the increase in GNP relative to debt.

41. Meckling, Comment, in *FISCAL RESPONSIBILITY IN CONSTITUTIONAL DEMOCRACY* 101 (J. Buchanan & R. Wagner ed. 1978).

42. Musgrave, *supra* note 39, at 93.

43. Meckling, *supra* note 41.

44. Olson, Comment, *supra* note 41, at 106.

45. Ackley, *You Can't Balance the Budget By Amendment*, *CHALLENGE*, Nov.-Dec. 1982, at 4.

The military draft is the most obvious illustration that government has means other than expenditures to accomplish its goals. If imaginative accounting could not circumvent any specific laws intended to implement the amendment, other government actions (tax deductions, regulations) could do so.⁴⁶ Moreover, bureaucrats are past masters at focusing budgetary pressures on their most popular expenditures, rather than on the marginal ones.⁴⁷ The end result could match the disaster of the prohibition amendment.⁴⁸

From a technical point of view, there would be formidable problems of implementation. The proposed amendment calls for limiting actual outlays to those budgeted. The current budget process does not directly control outlays, and they cannot even be forecast with precision. If economic growth is slower than expected, if interest rates, retirements, or inflation are higher than expected, outlays will be higher than expected. Under current laws, much of the adjustment is automatic, and some of these automatic adjustments are virtually unavoidable (e.g., the response of Social Security payments to the number retired, or the response of interest payments to interest rates).⁴⁹ Implementation of the amendment would require either building some padding into projected outlays, so that they would become less informative, or else occasional emergency spending cuts at the expense of society's current needs.

An interesting perspective on the proposed amendment comes from Herbert Stein, who has argued that controls on the deficit should be legislative rather than constitutional. The chief economic impact of the deficit is on economic growth, through its effect on private capital formation, because newly issued government debt crowds out private borrowing for investment. We should control deficits, if we want higher growth. But growth means presenting a gift to our children. We abstain from consuming all our harvest so that they may consume even bigger harvests in the future. The judgment of how much of society's resources should be directed to current uses and how much directed to growth, for the benefit of descendants, is one that each generation is entitled to make for itself. Part of the decision is taken away from future generations if

46. McIntyre, *Discretionary Control of the Federal Budget*, in *THE CONSTITUTION AND THE BUDGET*, *supra* note 31, at 57, and MacLaury, *Constitutional vs. Discretionary Constraints*, *id.* at 63.

47. Laband, *Federal Budget Cuts: Bureaucrats Trim the Meat, Not the Fat*, 41 *PUB. CHOICE* 311 (1983).

48. Olson, *Is the Balanced Budget Amendment Another Form of Prohibition?*, in *THE CONSTITUTION AND THE BUDGET*, *supra* note 31, at 91.

49. *Constitutional Amendments Seeking to Balance the Budget and Limit Federal Spending: Hearing before the Subcomm. on Monopolies and Commercial Law of the House Comm. on the Judiciary*, 97th Cong., 2d Sess. 526 (1982) (testimony of Alice Rivlin).

we embed the balanced budget rule in the Constitution.⁵⁰

Finally, a narrower objection has been raised to the requirement of a "super-majority" to waive the amendment. It is quite possible that a majority would build the coalition needed to waive the spending restriction by buying the cooperation of other groups, increasing spending in the process. California has for years required a two-thirds majority of the legislature to approve the annual budget, without thereby noticeably limiting spending.⁵¹

C

The issue of whether we are more helped or hurt by allowing flexibility to government, and whether the flexibility allowed by this amendment is adequate, is one for which there is no immediate analytical resolution. Each economist views the world differently, and in the current state of knowledge there is no ready test of which view is more accurate.

Of the arguments in favor of the amendment the most promising is the macroeconomic argument advanced by Kydland and Prescott. Economic decisions made by the public when they know that government is constrained in its ability to rescue them later will arguably lead to a better-functioning economy than otherwise. Yet the argument is advanced within a limited context that neglects other important social policies, such as a desire to help the afflicted and the needs of foreign policy. These social policies may require flexibility of government response, just as the issues Kydland and Prescott analyze may call for deliberately limiting that flexibility. Their case is not yet proved.

The "prisoners' dilemma" argument for the amendment may have merit. Yet it makes sense only if two conditions are met. First, each person caught in the dilemma must recognize his circumstances and accept the unpleasant truth that he, as well as everyone else, will have to bind himself to the agreement if anyone is to benefit from it. Second, those who enter into the agreement must not be able to make an "end run," abiding by the letter of the agreement but circumventing its spirit. The escape valve that permits either deficits or increases in the fraction of total income claimed by government, gives an opportunity for the first condition to be violated. The opportunity for using tools other than government spending (such as government regulation and tax advantages)

50. Stein, *Discussion*, in *THE CONSTITUTION AND THE BUDGET*, *supra* note 31, at 66.

51. Stubblebine, *Balancing the Budget vs. Limiting Spending*, in *id.* at 50.

to redistribute income gives an opportunity for the second to be violated.

Identifying the weaknesses in others' panaceas has been among the most important contributions of economics to policy making. Economic training equips one to think through unintended consequences of policy proposals. Price ceilings diminish supply, import restrictions punish exporters, demand suppressed in one market will pop up in another. Indeed, the greatest contribution of the public choice literature is to extend the same focus on unintended consequences to include the behavior of government officials and voters.

Those economists who support the balanced budget amendment have not, I think, applied the same discipline to that proposal. Will those who had the political power to extract benefits from the rest of society through government spending programs, find their power eliminated by this amendment? If not, to what alternatives will they turn? What will be the indirect consequences for the functioning of the government and the economy? I suspect that those with political power would indeed find other alternatives, and I fear that the new economic and political distortions could be worse than the old.