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We Need Constitutional Limits to Protect Our Fiscal Rights

by Amy K. Frantz

"Conducting the business of the state is not costless." Even a government limited only to protecting our rights, enforcing contracts, and providing a defense will need to collect some taxes from its citizens. However, all democratic governments have fiscal rules of some type to protect the citizens — "and we need protection." While the official federal debt is more than $5 trillion, the actual total liabilities (official debt combined with unfunded obligations for retirement programs, federal loan guarantees, and other programs) of the federal government are $18 trillion. Dr. Randy Simmons of Utah State University discusses the effectiveness of different types of fiscal limits in his chapter "Constitutional Limits vs. Statutory Limits" from *Limiting Leviathan.*

Dr. Simmons sees three problems with deficit spending. First, deficit spending is a form of "taxation without representation." Future generations obviously cannot be consulted about today's spending decisions, even though they will have to help pay for those decisions. Second, large and persistent deficits reduce national savings, limiting the capital available for investments in activities that promote economic growth. Finally, deficit spending creates an incentive for politicians to overspend because it reduces the costs faced when spending money. "By borrowing instead of taxing, politicians are able to provide more services than people are willing to pay for."

The turning point in deficit spending appears to be 1929. The 1929 budget was in balance and contained provisions to reduce the debt from World War I. However, since 1929 the budget has only been balanced eleven times. "Sometime after 1929, the nation's politicians and many economists lost the previously firmly-held moral rule against deficit spending."

In 1935, economists J.M. Keynes published his book, *The General Theory of Employment, Interest, and Money*. Keynes' theory is that government policy — deficit spending or increasing taxes — should be used to fight both depressions and inflation. Politicians adopted Keynes' theory to justify deficit spending. "But one of Keynesianism's many problems is that, although there is great public demand for deficit spending during times of economic downturn, there is also great public demand for deficit spending during times of economic expansion."

In addition, "two structural changes to the American political system occurred that promote continuing and growing deficits." In the 1960s and early 1970s, the government greatly expanded entitlement obligations, creating programs such as Medicare and food stamps. These programs turned out to be far more expensive than predicted. The second change was the dispersal of power in Congress by creating more committees and subcommittees. With the expanded committee system, more members of Congress had the power to spend, allowing members to respond more directly to their constituents.

The federal government has made several attempts to balance the budget, although all have been statutory limits. In 1974 Congress passed the Congressional Budget Impoundment and Control Act (CBA), requiring Congress to pass a budget plan each year. But the CBA did not require corrections if Congress overestimated revenues or underestimated expenditures (which Congress did) and spending actually increased under the failed CBA.

In 1985, Congress again attempted to bring the deficit under control with the adoption of the Gramm-Rudman-Hollings (GRH) deficit targets. If the deficit targets were not met, the excess spending was subject to sequestration, or an across-the-board cut. A second GRH was passed in 1987 when the original GRH was found unconstitutional. But the cuts required under GRH II in order to meet the deficit targets were "so large they were unacceptable and, therefore, not credible." The 1990 sequestration order required across-the-board cuts of over 30 percent in those programs not exempt from the cuts, which no one in Congress expected to be imposed.

In 1990 GRH was replaced with the Budget Enforcement Act (BEA). "BEA was supposed to increase cooperation between Congress and the President, but its initial application failed miserably." In 1995, the President and Congress could not agree on a budget, and the government "shut down" when the President refused to sign appropriations bills he felt cut too much from domestic programs. Two years later, the President and Congress agreed to a budget plan that claims to balance the budget by 2002. However, this agreement relies on unrealistic projections of economic growth and future cuts in spending and budgetary tricks such as claiming the Social Security trust fund as income.

While statutory attempts to control spending by the federal government have, thus far, been failures, the states provide evidence that constitutional rules have fewer loopholes and are more binding. Several studies cited by the author found that "states with constitutional constraints requiring a supermajority to overrule a balanced budget rule are more effective at balancing budgets than states with less stringent rules."

Twenty-five years of attempts by the federal government to balance the budget have shown that "changing the rules requires more than legislation." Constitutional limits are more effective than statutory limits because they are more permanent and more difficult to change. The federal government needs a constitutional balanced budget amendment, including a "limitation on taxation to complement the balanced-budget requirement." The line-item veto also needs to be a constitutional provision. "Constitutional limits on our fiscal leviathan are in the same spirit as constitutional limits of government's power over civil rights." "Restrictions on [the] power to tax and spend controls some of the government's power over our lives in the same sense that restricting the government's ability to limit freedom of assembly, speech, and religion reduces government's control over our lives."

This Institute Brief is one in a series on the chapters of an upcoming book, Limiting Leviathan*, edited by Dr. Don Racheter, Executive Director of Public Interest Institute, and Dr. Richard Wagner, Economics Professor at George Mason University and Chairman of PII's Academic Advisory Board.* Limiting Leviathan *makes a case for limited government and discusses the types of limitations on government that are appropriate and necessary.*

The author of this chapter in Limiting Leviathan *is Dr. Randy Simmons of Utah State University.*

This summary of Dr. Simmons' chapter was written by Amy K. Frantz, a Research Analyst with Public Interest Institute.