From: Bieger, Peter
To: Krulic, Alexander; Meade, Christopher
Cc: Weideman, Christian; Agrawal, Priti; Laughton, Steven; Pulliam, Joel
Subject: RE: 14th Amendment in the news
Date: Wednesday, March 20, 2013 1:38:53 PM

FYI: Bruce Bartlett was a (political) DAS in Econ Policy in the last two years of the Reagan Administration.

From: Krulic, Alexander
Sent: Wednesday, March 20, 2013 1:26 PM
To: Meade, Christopher
Cc: Weideman, Christian; Agrawal, Priti; Bieger, Peter; Laughton, Steven; Pulliam, Joel
Subject: 14th Amendment in the news

Chris – I imagine that you might have read this, but I did not see it in the news clips.

FYI: regarding the 14th Amendment.

Alex

The Politics of the 14th Amendment and the Debt Limit

By BRUCE BARTLETT - March 19, 2013, New YORK TIMES

Bruce Bartlett held senior policy roles in the Reagan and George H.W. Bush administrations and served on the staffs of Representatives Jack Kemp and Ron Paul. He is the author of "The Benefit and the Burden: Tax Reform – Why We Need It and What It Will Take."

In 2011, Republicans in Congress drove the nation to the very brink of defaulting on the national debt. During that debate, a number of conservatives argued that default was no big deal — that the debt was so terrible that default was a reasonable option to be considered. Although few Republicans agreed with this position, probably all agreed with Senator Mitch McConnell of Kentucky, the Senate minority leader, that the debt limit was a hostage worth ransoming to force President Obama to surrender to their demands.

The most recent debt-limit extension was enacted in January and expires on May 19. On March 12, Senator McConnell signaled that he again planned to hold it hostage to Republican demands that programs to aid the poor and elderly be slashed.

In a March 13 interview with the radio host Sean Hannity, the House speaker, John A. Boehner of Ohio, said repeal of the Affordable Care Act might be the ransom that will have to be paid for raising the debt limit. “Do you want to risk the full faith and credit of the United States government over Obamacare?” he said. “That’s a very tough argument to make.”

In 2011, a number of respected legal scholars asserted that a little-known provision of the 14th Amendment to the Constitution essentially invalidated the debt limit. That provision states:

Sec. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Other scholars contended that this constitutional provision was archaic, that it related to factors specific to the post-Civil War period and had no present-day relevance. On the contrary, I believe a careful review of the circumstances surrounding enactment of the 14th Amendment shows a great deal of similarity to those today.

Such a review was recently done by Franklin Noll, a historian who is a consultant to the Treasury Department’s Bureau of Engraving and Printing, and posted on the Web site of the Social Science Research Network.

Mr. Noll points out that there was strong support for repudiating the Civil War debt among Democrats, who were closely aligned with the Confederate South. They were angered that Congress had explicitly repudiated all the Confederate debt, and had refused to compensate slave owners for freeing their valuable slaves, and Southerners had no desire to help pay the Union’s debts.

One problem for Republicans was that the 13th Amendment abolished the clause in the Constitution that counted slaves as three-fifths of a man for the purpose of apportioning seats in the House of Representatives. The ironic result was to increase the South’s representation in the House. The 11 states of the Confederacy saw their representatives rise to 73 in 1870 from 61 in 1860. They would also have 22 of the Senate's 74 seats.

It was feared that readmission of the Southern states, together with Democrats from the north, would provide enough votes to prevent passage of legislation to fund the debt. Hence Republicans believed it was essential to have constitutional protection for the national debt.

The forces of repudiation found strong support in the departing President Andrew Johnson, a Democrat from Tennessee whom Abraham Lincoln put on the Republican ticket in 1864 in a spirit of unity to save the Union. In his last State of the Union address, on Dec. 9, 1868, Johnson contended that the cost of the debt was so high that repudiation was justified. He declared:

This vast debt, if permitted to become permanent and increasing, must eventually be gathered into the hands of a few, and enable them to exert a dangerous and controlling power in the affairs of the government. The borrowers would become servants to the lenders, the lenders the masters of the people. We now pride ourselves upon having given freedom to 4,000,000 of the colored race; it will then be our shame that 40,000,000 of people, by their own toleration of usurpation and profligacy, have suffered themselves to become enslaved, and merely exchanged slave owners for new taskmasters in the shape of bondholders and tax gatherers.

Johnson proposed that the Treasury cease paying interest on a large portion of the debt and instead use that money to retire the debt. "The lessons of the past admonish the lender that it is not well to be over-anxious in exacting from the borrower rigid compliance with the letter of the bond," he said.

Supporters of repudiation, however, had two big political problems to overcome. First, much of the Civil War debt was owned by average people. Historically, financial institutions had bought almost all the Treasury's bonds, but the amount of bonds needed to be sold during the war required creation of a mass market for Treasury securities.

Second, the debt was closely identified in the public mind with the war itself. As Mr. Noll explains: "The wartime debt became inextricably entwined with the patriotism and moral purpose of the Civil War. To attack the public debt was therefore an attack on the wartime sacrifices and the righteousness of the war to preserve the Union and abolish slavery."

For this reason, people were willing to bear a much heavier burden of taxation than existed before the war, making the promises of tax relief from debt repudiation fall on deaf ears.

The purpose of the debt provision of the 14th Amendment was to say that national debt was beyond the realm of politics. In the words Jack Balkin, a Yale law professor: “It was stated in broad terms in order to prevent future majorities in Congress from repudiating the federal debt to gain political advantage, to seek political revenge or to try to disavow previous financial obligations because of changed policy priorities.”

Republican threats to hold the debt limit hostage to their agenda today present precisely the sort of political situation contemplated by the authors of the 14th Amendment.

From:	Sonfield, Brian
To:	Pulliam, Joel
Cc:	Laughton, Steven
Subject:	RE: presentation on 14th Amendment issue
Date:	Friday, March 15, 2013 3:02:59 PM

Looping in Steve. I think it might have been the Treasury Historical Association?

From: Pulliam, Joel
Sent: Friday, March 15, 2013 3:01 PM
To: Sonfield, Brian
Subject: RE: presentation on 14th Amendment issue

I've not heard anything about this. It is a lecture that will be given inside treasury?

From: Sonfield, Brian
Sent: Friday, March 15, 2013 2:44 PM
To: Pulliam, Joel
Subject: presentation on 14th Amendment issue

Joel,

I think Pete mentioned that there was an upcoming lecture by an outside speaker on the 14th Amendment issue? Do you have any information about this? Thanks.

Brian J. Sonfield
Deputy Assistant General Counsel
General Law and Regulation
Department of the Treasury
Tel. 202-622-9804

From:	Earnest, Natalie W.
To:	_DL_FYI; _DL_TFI_Alerts; Brundage, Amy; Schultz, Eric; Holzer, Benjamin; "Anne_E_Wall@who.eop.gov" (Anne_E_Wall@who.eop.gov)
Subject:	WSJ: Lew: Supports Permanent Executive Powers to Raise Debt Ceiling
Date:	Thursday, February 21, 2013 4:58:09 PM

Treasury Nominee Lew: Supports Permanent Executive Powers to Raise Debt Ceiling

By Jeffrey Sparshott

WASHINGTON--Treasury secretary nominee Jacob Lew said he would support new, permanent executive powers to raise the federal debt limit, a measure Republicans have rejected as a power grab.

In December, then-Treasury Secretary Timothy Geithner asked congressional leaders to give the White House permanent authority to increase the government's borrowing limit as part of a deficit-reduction deal. The new authority would mirror a provision authored by Senate Minority Leader Mitch McConnell (R., Ky.) during the last debt-ceiling showdown in 2011.

"I would support an extension of the provision that was included in the Budget Control Act of 2011," Mr. Lew said in written responses to questions from Sen. John Cornyn (R., Texas).

The Texas lawmaker is a member of the Senate Finance Committee, which must approve Mr. Lew's nomination before the full Senate can vote on it. A spokesman for Mr. Cornyn said he is reviewing all of Mr. Lew's responses to the committee.

The debt ceiling became a particularly heated topic in 2011 and again toward the end of 2012, with the Treasury warning of a potential government default if Congress didn't raise it. Lawmakers in January approved a short-term suspension of the debt ceiling, allowing the government to keep paying its bills while the White House and Congress negotiate new spending and tax measures. The measure passed by Congress suspends the debt cap until May 18.

Mr. Lew rejected one proposal, floated by some Democrats, to invoke the 14th amendment in order to allow the White House to unilaterally raise the debt limit.

The amendment says, in part, "the validity of the public debt of the United States...shall not be questioned."

The Treasury nominee also rejected the idea of minting a high-denomination platinum coin to avoid an increase in the limit.

On international affairs, Mr. Lew said sanctions remained "critically important" as the U.S. seeks to stop Iran from developing nuclear weapons.

"I believe there is time and space to pursue a negotiated resolution that denies Iran a nuclear weapon, but that the window for such negotiations is narrowing," Mr. Lew said.

From:	Lori.Santamorena@bpd.treas.gov
To:	Clark, James G.; Kim, Colin; Pietrangeli, Fred; Pulliam, Joel; Monroe, David; Kubeluis, Christopher; Morrow, Sheryl
Subject:	Fw: Lee Casey Testifies before House Ways and Means Committee about the Debt Ceiling
Date:	Wednesday, January 23, 2013 5:05:25 PM
Attachments:	Lee Casey Ways and Means Comments.pdf

FYI in case you didn't see this. A co-worker passed it along. One of her husband's law partner's testified on the 14th amendment, he is a constitutional expert.

Lori

From: Paravano, Jeffrey
Sent: Wednesday, January 23, 2013 4:15 PM
To: DC Office
Cc: Casey, Lee
Subject: Lee Casey Testifies before House Ways and Means Committee

Please join me in congratulating Lee Casey on his testimony yesterday before the House Ways and Means Committee:

From Tax Notes:

The 14th Amendment does not grant the president power to raise the debt limit because only Congress holds constitutional authority to control spending and taxes, Baker & Hostetler LLP partner Lee A. Casey said at a January 22 House Ways and Means Committee hearing on the debt limit.

A copy of Lee's Written Statement is attached.

Regards,

Jeff

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Written Statement of
Lee A. Casey
Hearing on the Statutory Debt Ceiling
Before the Committee on Ways and Means
House of Representatives

January 22, 2013

Thank you, Mr. Chairman and Members of the Committee.

It is an honor and privilege to appear here today to discuss the critical issue of the federal debt ceiling. At the outset I must emphasize that I am speaking on my own behalf, and not on behalf of my Firm or any of its clients.

There are really two questions before the Committee today, one of policy and one constitutional. The policy question involves the extent to which the so-called "debt ceiling" is a sensible place to do battle over what everyone must concede is an unsustainable level of federal spending. The second question involves the constitutional ramifications of the debt ceiling, whether there must be a congressionally mandated limit to federal borrowing, and the extent to which the President may ignore these restraints or simply raise that limit and borrow money on his own authority.

It is this second question I will address and I believe that the answer is clear: under the Constitution, Congress alone has the power to decide how, when and why federal spending should take place, and the extent to which that spending may be supported by taxation and/or borrowing.

The debt limit or ceiling is, of course, a statutory device that dates to the First World War. Before that time, Congress customarily voted on individual borrowing measures. In 1917, the Liberty Bond Acts were passed to help fund America's war effort. Although these measures continued limits for individual debt issues, the Second Liberty Bond Act of 1917 became the basis for the modern debt limit ceiling now codified at 31 U.S.C. § 3101.[1] Although the debt limit *in its current form* is not constitutionally mandated, some type of congressionally controlled limit on Executive Branch borrowing is required and, whatever precise form that limitation takes, it is constitutionally protected. The President can neither ignore nor alter the debt limit without fundamentally subverting the Constitution's separation of powers and violating his own oath of office.

There are two principal mechanisms by which the federal government may obtain the resources it needs to operate through taxation and through borrowing. Both of these mechanisms are the peculiar province of the legislative branch.[2] Under Article I, section 8 of the Constitution, Congress alone is granted the

[1] *See generally*, D. Andrew Austin & Mindy R. Levit*, The Debt Limit: History and Recent Increases* 7-8 (Cong. Res. Serv. Dec. 27, 2012).
[2] A third mechanism for raising revenue, sales of federal assets, is also subject to congressional control. *See* U.S. Const., art. IV, § 3, cl. 2 ("The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.").

authority to lay and collect taxes, to pay federal debts, and "[t]o borrow Money on the credit of the United States." The Executive Branch then carries out these functions that is, its role is to execute what Congress has enacted in these areas. The President has no independent authority to raise taxes or to borrow on the Nation's credit.

This was, of course, the purpose and intent of the Constitution's Framers. In a basic division of governmental power, they granted the President the sword (as Commander-in-Chief), the Courts judgment (in actual cases and controversies), and Congress the power of the purse. Vesting the legislature with this power was, of course, inherited from the British system and was especially viewed as empowering the House of Representatives, where all revenue bills must originate. *See* U.S. Const., art. I, § 7, cl. 1. Moreover, as James Madison explained in Federalist No. 58, the Framers fully anticipated and intended that congressional power over federal taxation, borrowing and spending would be used as a political weapon:

> The house of representatives cannot only refuse, but they alone can propose, the supplies requisite for the support of government. They, in a word, hold the purse; that powerful instrument by which we behold, in the history of the British Constitution, an infant and humble representation of the people gradually enlarging the sphere of its activity and importance, and finally reducing, as far as it seems to have wished, all the overgrown

> prerogatives of the other branches of the government. *This power over the purse may, in fact, be regarded as the most complete and effectual weapon with which any constitution can arm the immediate representatives of the people, for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure.*

The Federalist No. 58 at 394 (James Madison) (Jacob E. Cooke ed. 1961) (emphasis added).

It follows, of course, that the President cannot "raise the debt ceiling" on his own authority and is bound to respect this limitation on federal spending, even if this requires him to make difficult decisions and take actions he would not otherwise support. Those who have suggested that section 4 of the 14th amendment grants the President such power are mistaken. That provision vests the President with no additional or independent authority.

Section 4 of the 14th Amendment forbids repudiation of federal debts lawfully incurred. It was adopted shortly after the Civil War (ratified July 9, 1868) to ensure that the debts incurred by the federal government fighting that conflict would be honored and those of the Confederate States permanently nullified. Section 4 provides in full that:

> The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in

> suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

U.S. Const. amend. XIV, §4. A constitutional amendment was necessary to guarantee this result because, once representatives of the southern States returned to Congress, Congress otherwise could have reversed these decisions under the fundamental principle that the simple legislative actions of one Congress do not bind future Congresses.

Whatever the circumstances of section 4's enactment and ratification, its language is not limited to the public debt incurred during the Civil War, and the Supreme Court has suggested a broader application. In *Perry v. United States*, 294 U.S. 330 (1935), one of the actions spawned when Congress abandoned a gold currency in 1934, the Court noted with regard to section 4 that:

> While this provision was undoubtedly inspired by the desire to put beyond question the obligations of the government issued during the Civil War, its language indicates a broader connotation. We regard it as confirmatory of a fundamental principle which applies as well to the government bonds in question, and to others duly authorized by the Congress, as to those issued before the amendment was adopted.

294 U.S. at 354.[3] This provision should, of course, give confidence to those who have loaned money to the United States, through the purchase of various debt instruments, that their investment is safe. Unlike other sovereigns, the United States cannot repudiate or dishonor its debts.[4]

However, claims that this fundamental rule permits the President to raise the debt ceiling on his own authority are specious. Not only would such power upset the Constitution's basic separation of powers and there is no evidence that the Framers of the 14th amendment had any such purpose but it is also plainly

[3] Significantly, there is evidence in the amendment's drafting history that this broader effect was specifically intended. *See* Andrew M. Grossman, *Heritage Foundation Legal Memorandum: The Fourteenth Amendment is No Blank Check for Debt Increases* 2 (July 11, 2011) (quoting the statement of Senator Benjamin Wade that "I believe that to do this will give great confidence to capitalists and will be of incalculable pecuniary benefit to the United States, for I have no doubt that every man who has property in the public funds will feel safer when he sees that the national debt is withdrawn from the power of Congress to repudiate it and placed under the guardianship of the Constitution.").

Moreover, in *Perry* eight justices (four among the majority and four in dissent from the Court's decision) found the obligation to honor such debt instruments not merely in the 14th amendment, but inherent in the power to borrow "on the credit of the United States" in the first instance:

> The binding quality of the promise of the United States is of the essence of the credit which is so pledged. Having this power to authorize the issue of definite obligations for the payment of money borrowed, the Congress has not been vested with authority to alter or destroy those obligations.

294 U.S. 353, 372-379.

[4] Under current law, were federal payments on debt stopped or interrupted, injured bondholders would likely be able to obtain relief in the United States Court of Federal Claims. *See* 28 U.S.C. § 1491 (granting United States Court of Federal Claims Jurisdiction over damage claims against the United States founded in the Constitution, statute or contract). *Cf. Hatter v. United States*, 953 F.2d 626 (Fed. Cir. 1992) (Claims Court had jurisdiction over claim by federal judges that their salaries had been reduced in violation of the compensation clause, U.S. Const. Art. III, § 1).

inconsistent with that amendment's language. The 14th amendment, including section 4, gives the President no additional authority. Indeed, section 5 of the 14th amendment specifically vests the power to enforce its requirements *in Congress*: "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

The next question, of course, is what is the "public debt" that section 4 renders sacrosanct. The most obvious interpretation is that the public debt consists of debt instruments issued by the United States in exchange for money the results of Congress' exercising its power under Article I, section 8, to "borrow Money on the credit of the United States." This certainly was the usage adopted by the *Perry* Court, although its actual holding was limited to determining that the plaintiff had not been damaged by the government's refusal to pay in gold or the equivalent amount in currency. *See Perry v. United States*, 294 U.S. at 356-57, 361.

What is clear is that this "public debt" does not include federal spending programs, including "entitlement" programs, simply because the government has in some general sense made a commitment to them. In *Flemming v. Nestor*, 363 U.S. 603 (1960), the Supreme Court ruled that even the Social Security program created no vested right to benefits thereafter immune from legislative change. Indeed, even at that early date the Court recognized that the future vitality of such programs depends on Congress's legal right to make changes in the available benefits: "[t]o engraft upon the Social Security system a concept of 'accrued property rights' would deprive it of the flexibility and boldness in adjustment to ever-changing conditions which it demands." *Id*. at 610.

Thus, as a constitutional matter, Congress has the authority and obligation to regulate federal borrowing. It can exercise this power in a number of different ways, including by voting on individual debt issues as was the case before the First World War, or by establishing an overall limit on the amount of debt the federal government may incur without further congressional action. The President is bound by such limits. He can neither ignore the debt ceiling, nor can he "raise" it on his own authority. Section 4 of the 14th Amendment does not grant the President this power. Although it forbids any repudiation or dishonoring of the existing federal "public debt," it does not require or itself authorize new or additional borrowing.

I would be pleased to answer any questions the Committee may have.

From:	Fitzpayne, Alastair
To:	Salstrom, Sandra; Wolin, Neal; Patterson, Mark (DO); Adeyemo, Adewale (Wally); Gregg, Richard; Coley, Anthony; Clark, James G.; Meade, Christopher
Cc:	Mujumdar, Namrata
Subject:	fyi - latest from BPC
Date:	Tuesday, January 15, 2013 5:56:25 PM

What Is a Government Default on its Debt?

Posted January 15, 2013

Congress must raise the debt ceiling in the weeks ahead or risk setting off an ugly chain of events

By Steve Bell

In recent weeks, some policymakers and media mavens have opined that if the United States pays in full and on time the principle and interest on its sovereign debt, then that means no "real" default has occurred, just a "technical" default.

First, elementary but important facts:

1. The United States issues sovereign debt, which pays interest to holders of that debt and is redeemed at face at maturity;
2. Sovereign debt is NOT the only indebtedness of the United States – we have millions of payment obligations that come due every day;
3. Either of these categories of debt can be paid only if the United States Treasury has the money to do so; and
4. A failure to pay any of these debts is to default on those debts.

Last year, **Jason Zweig** of *The Wall Street Journal* and economist **Donald Marron** noted that on at least two occasions after World War II, the United States did, indeed, default. The results were similar: a spike in interest costs to the United States taxpayer. One of the defaults led to an unintended delay in defense spending and likely prompted a recession.

Focusing merely on sovereign debt presents much too narrow a perspective on what might happen if the United States fails to increase its debt ceiling **within the next 6 weeks or so**.

In addition to the sovereign debt, the United States owes literally millions of other entities: contractors, pension recipients, Medicare health providers, veterans, Social Security beneficiaries, and more, as outlined in the **letter** from the Treasury Secretary to Congress on Monday.

As an example, let's imagine Joe's Tool and Die Shop in Ohio, a business of 200 employees that, among other things, sub-contracts to a larger, government defense contractor. In the normal course of business, Joe's shop completes its work on a project and sends a bill to its defense contractor. The defense contractor confirms the legitimacy of the bill and passes it on to the Department of Defense (DoD). The DoD confirms the bill and its amount and the DoD computers send the bill to Treasury computers for payment.

This happens literally millions of times every single day for all the agencies of the federal government. Whether it's a bill to repair a courthouse or to pay physicians through Medicare, most of the action is computerized.

What happens if Treasury doesn't have the money to pay Joe's bill?

Analysts have spent a great deal of time noodling on this question. Can Treasury prioritize payments of legitimate debt? If legal to do so, can prioritization be carried out as a practical matter? Can payment of the sovereign debt come before other kinds of debt, since a separate computer system is devoted to sovereign debt than to other debts?

Our best guess, an informed guess, but still a guess, is that Treasury will decide it cannot as a practical matter prioritize among non-sovereign debt. The Secretary cannot decide whether to

pay the courthouse bill that came in at 9:00 a.m. instead of paying the Medicare debt that arrived at Treasury ten seconds later.
Instead, **as discussed last year**, Treasury may well decide to pay none of the bills that came in on that day. Instead, Treasury would wait until sufficient government receipts come in to meet the entire day's obligations.
If Monday presents Treasury with $15 billion in obligations, but Treasury only has $10 billion on hand, the department could wait until sometime Tuesday or later in the week, when additional receipts of $5 billion come in. Then, Treasury would have $15 billion to pay all of those bills deferred from Monday.
Of course, as the days went by, Treasury would find itself deferring payments for a longer and longer time, since the government runs deficits. Eventually, this kind of "reverse Ponzi scheme" would crash and burn. Salaries, pensions, contractor bills—all would face longer and longer delays until payment.
And, one day, it might happen that even the sovereign debt obligations could face default. Why? Because at some point Treasury will accumulate such a backlog of deferred bills that it doesn't have enough in its coffers to even pay sovereign debt on time and in full.
As Federal Reserve Chairman Ben Bernanke said recently, the result would be "calamitous." Not only would the national economy suffer as individuals waited to be paid, but global financial markets would spasm. Treasury Secretary Douglas Dillon discussed a similar situation in a **speech** way back in 1963, when the United States faced a confrontation between the Executive Branch and the Legislative Branch on a debt ceiling increase.
All of this talk should, of course, be merely theoretical "scenario" talk in a university finance class somewhere. But, it isn't. Within the next 6 weeks or so, Congress must raise the debt ceiling or the default chain we have outlined above will happen.
If Treasury runs out of money, the result would be much more than a "government shutdown" brought by failure to appropriate monies to the agencies. We would experience a *true* government shutdown.
Congress and the President must not take dogmatic positions on the debt ceiling. If negotiations are necessary to increase the debt ceiling, then both the president and Congress must negotiate a solution. Failure to do so will give America a serious black eye internationally and a serious recession domestically.

Related Posts

- Will the Delay in the Tax Filing Season Affect the X Date?
  January 11, 2013
- BPC's Debt Limit Projection: Key Takeaways
  January 11, 2013
- Congress Faces More Than the Debt Ceiling
  January 8, 2013

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Alastair Fitzpayne
Assistant Secretary, Legislative Affairs
Department of the Treasury
202 622 1900 office
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(b) (5)

From:	Robertson, William
To:	_DL_Communications; _DL_FYI
Subject:	OVERSIGHT January 8 to 14
Date:	Monday, January 14, 2013 2:07:33 PM

OVERSIGHT January 8 to 14

8th January

The Atlanta Journal-Constitution

HOUSING CRISIS; $8.5B agreed to settle abuses

BYLINE: J. Scott Trubey; Staff

Ten major mortgage companies, including Atlanta-based SunTrust Banks, agreed on Monday to pay more than $8.5 billion to settle claims of abusive foreclosure practices. Federal regulators said the deal would get compensation faster to affected homeowners and aid borrowers who are currently in financial trouble.

The Press Enterprise

10 MAJOR MORTGAGERS SETTLE

BYLINE: DEBRA GRUSZECKI STAFF WRITER DGRUSZECKI@PE.COM

Ten major mortgage companies, including JPMorgan Chase, Bank of America and Wells Fargo, have agreed to pay $8.5 billion to settle federal complaints involving wrongful foreclosure actions against homeowners in 2009 and 2010.

The Washington Post

Obama statement concerns allies of whistleblowers

BYLINE: Joe Davidson

Whistleblower advocates often view President Obama as a friend, but that doesn't mean they always see eye to eye.

The Washington Times

Housing lenders to pay billions for blowing bubble;
10 banks hit for bad loans, faulty foreclosures

BYLINE: By Tim Devaney THE WASHINGTON TIMES

The U.S. banking industry suffered two big hits Monday stemming from the collapse of the housing bubble, with 10 banks and mortgage lenders agreeing to pay $8.5 billion in a settlement with federal regulators, while Charlotte, N.C.-based Bank of America agreed to a separate settlement with Fannie Mae over bad housing loans that its controversial lending subsidiary sold to the federal housing finance giant.

The Financial Times

Forgotten clause comes into play in US debt ceiling debate

From Dr Franklin Noll.

Sir, Your report “Cracks widen in US debt ceiling debate” (January 7) comments on the 14th amendment and the public debt ceiling. No doubt there will be much confusion on these matters and, while I cannot comment on their legal niceties, as a historian of US government finance

I may be able to provide some historical clarity.

[MetLife gets third Fed extension to submit capital plan]
Tue, Jan 8 2013
(Reuters) - The Federal Reserve has granted MetLife Inc a third extension to submit its capital plan as the insurer moves closer to completing the sale of its deposit-taking business to a unit of General Electric Co's GE Capital.

In 'fiscal cliff' bill, White House was key to corporate tax breaks
By Patrick Temple-West and Marcus Stern and Susan Cornwell
WASHINGTON, Jan 7 (Reuters) - As the U.S. Congress rushed last week to approve a "fiscal cliff" tax bill that raised income taxes on the wealthy, Washington lobbyists were fretting over a drama that was playing out within the negotiations: whether the bill would include about $64 billion in tax breaks for businesses.

9th January
Columbus Ledger-Enquirer (Georgia)
A positive step -- but is this really enough?
The Federal Reserve and the Office of the Comptroller of the Currency announced Monday an agreement under which some major American banks will pay about $8.5 billion in wrongful foreclosure settlements with millions of Americans.

Los Angeles Times
INSURANCE; AIG may sue U.S. over bailout;
The move, coming amid a 'thank-you' ad campaign, shows chutzpah, critics say.
BYLINE: Jim Puzzanghera
American International Group Inc. has been trying to put on a new face by thanking America for its bailout. But it may end up with more egg on its face for weighing a lawsuit against the U.S. government over the rescue.

McClatchy Washington Bureau
Washington insider Jacob Lew widely expected as next treasury secretary
BYLINE: Kevin G. Hall; McClatchy Newspapers
President Barack Obama is expected to name longtime Washington insider Jacob "Jack" Lew on Thursday as his next treasury secretary, a pivotal post as negotiations commence over raising the nation's debt ceiling and staving off controversial scheduled cuts in federal spending.

The Washington Post
Talking politics at the table can be more than just impolite

But some in Congress said this settlement will end the investigation too soon and hoped the agencies would have pushed for more answers.

"I am deeply disappointed that the OCC and the Federal Reserve finalized this settlement and effectively terminated the Independent Foreclosure Review process before providing Congress answers to serious questions about how this settlement amount was determined, who these funds will go to, and what will happen to other families who were abused by these mortgage servicing companies, but have not yet had their cases reviewed," said Rep. Elijah E. Cummings, Maryland Democrat and ranking member of the House oversight and government reform committee. "I do not know what the rush was to make this settlement without answering these key questions, and although I look forward to obtaining information about how this deal may assist homeowners, I have serious concerns that this settlement may allow banks to skirt what they owe and sweep past abuses under the rug without determining the full harm borrowers have suffered."

This follows a $25 billion settlement for foreclosure abuse among five large banks, including Bank of America, and the Obama administration and 49 state attorneys general, which was agreed to in February 2011.

The Financial Times

Forgotten clause comes into play in US debt ceiling debate

From Dr Franklin Noll.

Sir, Your report "Cracks widen in US debt ceiling debate" (January 7) comments on the 14th amendment and the public debt ceiling. No doubt there will be much confusion on these matters and, while I cannot comment on their legal niceties, as a historian of US government finance I may be able to provide some historical clarity.

Basically, the debt clause (clause 4) of the 14th amendment eliminated any chance that a future Congress could assume the debt of the Confederate States of America (or any rebellious state or states) or repudiate the public debt of the United States.

At the time, 1865, the clause was widely seen as a political makeweight added to the 14th amendment
to ensure its passage and ratification as both parts of the debt clause were wildly popular in the postwar North. This clause was largely forgotten by scholars until the debt crisis of 2011.

The debt ceiling was first created in a 1917 act authorising the second loan to fund the US effort in the first world war. This was part of a transfer of responsibility for debt operations from the Congress to the US Treasury. As a way of oversight on the Treasury, Congress imposed limits on maturities and interest rates and barred the Treasury from borrowing beyond totals originating from the various loan acts. Over time, the limits were removed and a simple, total-borrowing ceiling put in place as the Treasury took on ever more responsibility in raising the funds legislated for by Congress.

The debt ceiling has been reached dozens of times since its institution, bringing the debt clause into play each time. However, clause 4 of the 14th amendment was never remembered, let alone invoked in any of these previous incidents. What is different this time is that, as in 1865 and 1917, the public debt has again become a cause célèbre.

Franklin Noll, President, Noll Historical Consulting, Greenbelt, MD, US

MetLife gets third Fed extension to submit capital plan
Tue, Jan 8 2013
(Reuters) - The Federal Reserve has granted MetLife Inc a third extension to submit its capital plan as the insurer moves closer to completing the sale of its deposit-taking business to a unit of General Electric Co's GE Capital.

The largest life insurer in the United States said it received a letter from the Fed granting an extension until June 30 to submit the plan.

MetLife has a bank holding charter because of its online banking business and is therefore overseen by the Fed. Last March the insurer failed a stress test and was blocked by the Fed from raising dividend or buying back shares.

The sale of the deposits portion of its bank to GE Capital got approval from banking regulators in December, moving MetLife a step closer to relinquishing the bank charter, which may mean the end of Fed oversight.

The company has, however, warned that it does not expect to buy back any shares in 2013, a blow to investors who have waited since the autumn of 2011 for a return of capital.

MetLife had received an extension from September 30, 2012 until January 5 to resubmit its capital plan. The September deadline was also an extension of an earlier June deadline.

(Reporting by Aman Shah in Bangalore; Editing by Supriya Kurane)

From:	Robertson, William
To:	_DL_Communications; _DL_FYI
Subject:	FT - Obama warns Republicans on debt limit
Date:	Monday, January 14, 2013 12:30:04 PM

Obama warns Republicans on debt limit

By Richard McGregor in Washington

President Barack Obama called on Republicans in the US Congress to lift the country's borrowing limits without preconditions, saying markets could go "haywire" if there is another confrontation over the US debt limit.

At what was billed as the final press conference of his first term, Mr Obama said that Republicans should not expect to be paid a "ransom" in the form of new spending cuts for agreeing to lift the debt ceiling.

If Congress did not lift the debt ceiling in time, Mr Obama said: "Markets could go haywire. Interest rates could spike for anyone who borrows money. It would be a self-inflicted wound for our economy."

He said that Republicans should "choose quickly because time is running short" adding that the US is not a "deadbeat nation".

The US reached its $16.4tr debt limit at the end of the year but the Treasury has since taken measures to continue paying the country's public debt, which it can do until late next month.

The Republicans say deep spending cuts must be part of any deal to raise the debt ceiling and have scoffed at proposals by Senate Democrats for the White House to ignore Congress if necessary.

A story in Politico, the Washington publication, said Republicans were seriously considering allowing the government to shut down, or for the US to delay paying its debts, to make their point on spending.

"I think it is possible that we would shut down the government to make sure President Obama understands that we're serious," House Republican Conference Chairwoman Cathy McMorris Rodgers of Washington state told Politico.

"We always talk about whether or not we're going to kick the can down the road. I think the mood is that we've come to the end of the road."

The tension surrounding the debt limit marks the latest flare-up in America's seemingly unending budgetary battles. On January 1, after several rounds of negotiations, Congress struck a last-minute agreement to avoid much of the fiscal cliff – a mix of spending cuts and tax hikes due to hit the economy starting this month. But many of the big fiscal policy questions were pushed to this year, with deadlines approaching soon.

Democratic leaders in the Senate last week gave President Barack Obama the green light to sidestep Congress and take executive action to avoid a default if no agreement is reached.

The move may have raised pressure on the White House to consider creative action in the event that lawmakers fail to forge a compromise on lifting the country's debt ceiling of $16.4tn by the end of next month.

Among the solutions that have been floated are a presidential invocation of the 14th amendment of the constitution – which says the debt of the US “shall not be questioned” – in order to continue borrowing.

The White House could also simply decide tax and spending laws take precedence over the debt ceiling constraints if they are in conflict, and keep spending money.

However, Mr Obama appeared to dismiss such efforts on Monday, saying: “There are no magic tricks here.”

The president said the US economy was “poised for a good year as long as Washington politics do not get in the way”.

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	NYT (Krugman): So What Will You Do, Mr. President?
Date:	Saturday, January 12, 2013 4:42:24 PM

NYT (Krugman): So What Will You Do, Mr. President?
By Paul Krugman

If I'd spent the past five years living in a monastery or something, I would take the Treasury Department's declaration that the coin option is out as a sign that there's some other plan ready to go. Maybe 14th Amendment, maybe moral obligation coupons or some other form of scrip, something.

And maybe there is a plan.

But as we all know, the last debt ceiling confrontation crept up on the White House because Obama refused to believe that Republicans would actually threaten to provoke default. Is the WH being realistic this time, or does it still rely on the sanity of crazies?

The thing is, the coin option sounds silly, but it clearly obeys the letter of the law. As far as I can tell, none of the other options -- other than outright surrender -- has the same virtue. Failing to pay debt service would be a breach of contract. Paying contractors, and maybe Social Security recipients, in scrip would violate the law, which says that they should be paid -- not given IOUs. Deciding that the president has the right to ignore the debt limit after all would avoid these legal breaches at the expense of another breach.

And default in any of these senses would risk a huge collapse of confidence.

So is there a plan, or will it just be another case of tough talk followed by a tail-between-the-legs retreat?

As I said, if we didn't have some history here I might be confident that the administration knows what it's doing. But we do have that history, and you have to fear the worst.

From: Anderson, Matthew
To: _DL_FYI
Subject: Politico: Reid to Obama: OK to skip Congress on debt ceiling
Date: Friday, January 11, 2013 2:55:23 PM

Politico: Reid to Obama: OK to skip Congress on debt ceiling

By: Manu Raju and John Bresnahan
January 11, 2013 02:47 PM EST

Senate Majority Leader Harry Reid and other top Democrats are putting new pressure on the White House to circumvent Congress to boost the nation's debt ceiling if no bipartisan agreement can be reached.

In a strongly worded letter to President Barack Obama, Reid and his leadership team argue that failing to raise the $16.4 trillion debt ceiling would threaten the full faith and credit of the United States. Reid and Sens. Dick Durbin, Chuck Schumer and Patty Murray asserted that Obama "must make clear that you will never allow our nation's economy and reputation to be held hostage."

"In the event that Republicans make good on their threat by failing to act, or by moving unilaterally to pass a debt limit extension only as part of an unbalanced or unreasonable legislation, we believe you must be willing to take any lawful steps to ensure that America does not break its promises and trigger a global economic crisis — without congressional approval, if necessary," the Friday letter to Obama says.

The letter amounts to the most concerted push yet by Senate Democratic leaders for the White House to take unprecedented action to raise the debt ceiling given the bitter stalemate in Congress. After the messy debt ceiling fight from 2011, and the protracted fiscal cliff battle that extended until New Year's Day, Obama has said he will not use the debt ceiling increase as a bargaining chip and will refuse to negotiate with GOP leaders on the issue.

But Republicans have demanded that dollar-for-dollar spending cuts must accompany any increase in the debt ceiling. And after agreeing to raise marginal income tax rates on high earners as part of the fiscal cliff deal, Republicans refuse to consider any new revenue as part of a debt-ceiling accord. Democrats say tax must be part of any deal.

In addition, many conservative Republicans are convinced that failure to lift the debt ceiling - which will be reached as early as next month - would constitute immediate default by the U.S. government. These Republicans believe that the U.S. government can continue to make interest payments to debt holders without defaulting.

"The fact that we continue hitting the debt ceiling is a symptom of Washington's spending problem, and hitting the debt ceiling does not immediately trigger a default," said Rep. Steve Scalise (R-La.), chairman of the powerful Republican Study Committee, in a statement on Thursday. "The Treasury Secretary has an obligation to preserve the credit rating of the United States and should pledge to continue making necessary interest payments to avoid default."

Following the prolonged 2011 debt fight, the credit rating agency Standard & Poor's downgraded U.S. debt, and analysts warn more downgrades could be possible, which could have dire consequences for the American and global economies.

Hill Democrats, for their part, are worried that they lack the leverage in the debt ceiling battle and stand to lose big in any deal cut between the White House and congressional Republicans.

Democrats privately grumble that Obama and Vice President Joe Biden "gave away" the issue of tax increases as part of the fiscal cliff deal. Without being able to include taxes - more specifically, tax cuts for some income groups — Democrats fear that Obama will have nothing to counter GOP arguments calling for steep reductions in entitlement programs like Medicare and Medicaid.

And if Obama listened to Democratic leaders and circumvented Congress, it would undoubtedly generate furious protests from Republicans and could spawn a constitutional crisis over the scope of presidential authority.

House Democrats, including Minority Leader Nancy Pelosi, have been pushing Obama to invoke his power under the 14th Amendment — to ensure the validity of public debt — and unilaterally act to avoid default, ignoring Congress in the process.

The White House has repeatedly said it does not believe it has the power under Section Four of the 14th Amendment to avoid seeking congressional approval for a debt ceiling increase, although the Obama administration has come under pressure from its allies to find other ways around the legislative battle and reconsider its position.

Most recently, the idea of allowing the Treasury Department to mint a "$1 trillion dollar coin" and deposit it at the Federal Reserve in order to wipe away $1 trillion in liabilities has generated buzz in Washington. But some legal experts question the validity of such a move, and its unclear if Wall Street and other financial markets would punish such maneuvering as mere partisan sophistry and not a real solution to a serious fiscal problem.

The White House has downplayed the idea but did not completely rule it out earlier this week.

“There is no Plan B, there is no backup plan,” said White House spokesman Jay Carney. “There is Congress’s responsibility to pay the bills of the United States.”

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	FT: US flips coin in attempt to avoid default
Date:	Friday, January 11, 2013 2:38:33 PM

FT: US flips coin in attempt to avoid default

By James Politi in Washington

There was laughter in the White House press briefing room this week as Jay Carney answered the fourth consecutive question from reporters on the same, seemingly absurd possibility.

Would Barack Obama "totally rule out" creating a $1tn coin to solve the next budget crisis and avert a default on US debt?

"You could speculate about a lot of things," was the not quite crystal-clear response from the Obama administration's top spokesman.

Having averted a big chunk of the noxious tax increases of the so-called fiscal cliff with a last-minute agreement on New Year's day, the US is already grappling with its next budgetary stalemate. If Congress does not raise America's borrowing limit of $16.4tn by the end of next month, the country will once again face the prospect of defaulting on its debt, which it narrowly avoided in August 2011.

In a repetition of previous fiscal battles between Mr Obama and congressional Republicans, there is no clear path to an agreement to circumvent the problem ahead of the deadline – and Washington is fluttering with proposals, ranging from the outlandish to the ridiculous.

The wildest solution is the platinum coin option. Thanks to an arcane loophole, the US Treasury can mint commemorative coins worth any denomination. The coin would then be deposited at the Federal Reserve, allowing the government to continue paying its bills even without fresh congressional authority to borrow more money. The Fed could presumably control any inflationary effects in the economy – and once the debt limit was finally lifted, the operation could be unwound, and the coin melted.

Among the biggest proponents is Paul Krugman, the liberal New York Times columnist and Nobel-Prize winning economist. " It's the president's duty to do whatever it takes, no matter how offbeat or silly it may sound, to defuse this hostage situation. Mint that coin!," he wrote on Friday.

The magic coin has at least one backer among congressional Democrats in Jerrold Nadler, the representative from New York. And a petition surfaced on the White House website to direct the US Mint to create the $1tn coin, gathering more than 7,500 signatures, still short of the 25,000 needed by early February to trigger an official response from the administration.

Some Republicans are unsettled. "Some people are in denial about the need to reduce spending and balance the budget. This scheme to mint trillion dollar platinum coins is absurd and dangerous, and would be laughable if the proponents weren't so serious about it as a solution. I'm introducing a bill to stop it in its tracks," said Greg Walden, a Republican congressman from Oregon.

Two former heads of the US Mint have lined up on opposite sides of the issue. Philip Diehl, appointed by president Bill Clinton, has defended the proposal as viable, but Edmund Moy, appointed by president George W. Bush, called it "a desperate gimmick of questionable legality and doesn't even come close to solving our fiscal problems".

Meanwhile, many in Washington are lamenting that the US budgetary debate has come to this. "We are actually talking about exploiting a very obscure provision of the US code as a way to get around the political system's inability to come around to some sort of resolution," says Michael Strain, a research fellow at the American Enterprise Institute, the conservative think-tank. "What we are really talking about is running the printing presses to pay the bills. This is the refuge of banana republics."

Michael Linden, a budget policy analyst at the left-leaning Center for American Progress, says it does not surprise him that "crazy ideas are met with other crazy ideas" – pinning the blame on Republicans for the situation. "[The coin] comes from a place of genuine concern that Republicans have gone a little nuts. It also sounds cool."

Indeed, the political reality – with little apparent progress towards a new fiscal deal – means talk of chimerical back-up plans is only bound to increase in the coming weeks.

The Obama administration and Democrats want to see the debt limit raised unconditionally on the grounds that America's borrowing levels reflect decisions on taxes and spending already made by legislators.

But Republicans see the need to raise the debt limit as their leverage to force deep spending cuts, particularly to popular government pension and health programmes. They are also resisting any further tax increases – having just conceded $620bn in new revenue to Democrats to avoid the fiscal cliff – limiting the bounds of any new compromise with the Obama administration.

Most believe a last-minute deal will be reached, as has become customary. Otherwise, it is not just the $1tn coin that could save the day. Some are suggesting the Treasury could issue IOU's, or warrants, to its creditors that could be sold in private markets, rather than defaulting. Or Mr Obama could simply keep borrowing by invoking the 14th amendment of the constitution, which states that the "validity" of US public debt "shall not be questioned".

But even if the worst fiscal disaster is skirted, each of these options would still leave America's reputation for its management of economic policy in tatters.

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	WSJ (op-ed): Rivkin and Casey: The Myth of Government Default
Date:	Thursday, January 10, 2013 8:13:22 PM

WSJ: Rivkin and Casey: The Myth of Government Default

The Constitution commands that public debts be repaid. There is no such obligation to fund entitlement programs.

By DAVID B. RIVKIN JR.
AND LEE A. CASEY

Three false arguments, pushed hard by the Obama administration and accepted on faith by the media and much of the political establishment, must be laid to rest if the American people are to understand the issues at stake in the federal "debt ceiling" debate.

The first is that Congress's failure to raise the debt ceiling—the amount of money the federal government is authorized to borrow at any given time—will cause a default on the national debt. The second is that federal entitlement programs are constitutionally protected from spending cuts. The third is that the president can raise the debt ceiling on his own authority.

To take up the first canard: Contrary to White House claims, Congress's refusal to permit new borrowing by raising the debt ceiling limit will not trigger a default on America's outstanding public debt, with calamitous consequences for our credit rating and the world's financial system. Section 4 of the 14th Amendment provides that "the validity of the public debt of the United States, authorized by law . . . shall not be questioned"; this prevents Congress from repudiating the federal government's lawfully incurred debts.

The original concern of this provision was to guarantee the integrity of federal debts incurred during and immediately after the Civil War (while the debts of the Confederacy were nullified permanently), and to ensure that a newly "reconstructed" Congress—to which the Southern states were readmitted—would not reverse these decisions. However, the amendment's language was not limited to the Civil War-related debts. In *Perry v. United States* (1935), the Supreme Court made clear that the provision "indicates a broader connotation" protecting the nation's debts as a whole.

This means that a failure to raise the debt ceiling—to prevent new borrowing—does not and cannot put America's current creditors at risk. So long as this government exists, and barring a further constitutional amendment, those creditors must be paid.

Nor are they at risk in practice, since the federal government's roughly $200 billion in tax revenue per month is more than sufficient to service existing debts. If the executive chose to act irresponsibly and unconstitutionally and failed to make any debt payments when they come due, debt-holders would be able to go to the Court of Federal Claims and promptly obtain a money judgment.

These basic facts should inform any credible decisions by credit-rating agencies in establishing the government's creditworthiness. Significantly, these agencies have traditionally acted favorably when heavily indebted countries have not defaulted on their debt but cut deeply their public spending.

Second, despite White House claims that Congress must raise the debt ceiling to pay the bills it has incurred, the obligations protected as "debts" by the 14th Amendment do not include entitlement programs such as Medicare and Social Security. These programs are not part of the "public debt," which consist of loans that are made to the federal government through bonds and similar financial instruments. Entitlement programs are instead political measures that are fully subject to the general rule that one Congress cannot, by simple legislation, prevent a future Congress from making cuts.

This fundamental and vital distinction is clear from both the text and the drafting history of the 14th Amendment's Section 4. The wording of the section was revised before its enactment and ratification to replace the term federal "obligations" with that of "debts," a far more narrow (and manageable) category.

The distinction was recognized by the Supreme Court in *Flemming v. Nestor* (1960), which involved the power of Congress to modify Social Security benefits. The court noted that entitlements and "contractual arrangements, including those to which a sovereign itself is a party, remain subject to subsequent legislation by the sovereign."

Congress can reduce a wide range of payments to various beneficiaries at any time by amending the statutes that authorize them or simply by failing to appropriate sufficient funds to pay for them. Nor does Congress have any legal or constitutional obligation to borrow money to pay for entitlements.

Third, assertions, most recently made by Nancy Pelosi, that the president can rely on Section 4 as a pretext for raising the debt ceiling by himself are manifestly incorrect and constitutionally dangerous. Section 4 grants no power whatsoever to the president—instead, the 14th Amendment grants *Congress* the "power to enforce, by appropriate legislation, the provisions of this article."

More fundamentally, this argument—which has been tentatively advanced and then tentatively withdrawn by the White House, both during the 2011 debt-ceiling battle and in the last several weeks—is contrary to the language, structure and history of the Constitution.

Like the British Parliament before it, Congress controls the power of the purse—the authority to raise taxes, borrow money and direct how revenues are spent. In particular, Article I, Section 2, grants to Congress the power "to borrow money on the credit of the United States." There is no similar grant to the president. Any effort by the chief executive to borrow money without congressional action would be every bit as injurious to our constitutional system as presidentially ordered taxation.

True enough, the "debt ceiling" is not a constitutional requirement. Congress could choose instead—as used to be the case during most of our history—to vote separately on the issuance of each federal debt instrument. However, nowhere in the Constitution is the president authorized to borrow or spend money without congressional action, except insofar Congress itself may permit.

Once these false arguments are cleared away, the real issue in the debt-ceiling debate becomes clear: the proper level of federal spending. Should Congress fail to increase the debt ceiling as much as the president wants, the effective result would be major government spending cuts, with payments on public debt excluded.

This is tough medicine and not to be administered lightly. If Republicans are serious about winning this debate, they must strive to convince the American people that such spending cuts are necessary, given President Obama's openly articulated unwillingness to implement any meaningful spending cuts other than defense and his clear preference for limitless borrowing.

Whether they can succeed in this task is unclear. But the public must at least be allowed to ponder these vital issues without being misled by false claims involving debt default, the nature of federal obligations, and which branch of government is in charge of the public fisc.

Messrs. Rivkin and Casey are partners in the Washington, D.C., office of Baker Hostetler LLP and served in the White House and Justice Department during the Ronald Reagan and George H.W. Bush administrations.

From: Pulliam, Joel
To: Monroe, David
Subject: I hope this is helpful
Date: Tuesday, January 08, 2013 11:39:00 AM

In response to various proposals by bloggers and others for resolving a debt limit impasse, the White House has emphasized that “Congress has the responsibility to pay the bills Congress racked up” and Treasury has confirmed its view that the debt limit is a “binding legal constraint.”

http://www.treasury.gov/connect/blog/Pages/FACT-CHECK-Treasury-General-Counsel-George-Madison-Responds-to-New-York-Times-Op-Ed-on-14th-Amendment.aspx

http://online.wsj.com/article/SB10001424127887323706704578228072822313666.html

From: Barrows, Stephen
To: Pulliam, Joel
Subject: RE:
Date: Monday, January 07, 2013 5:12:23 PM

Thanks.

____

Stephen H. Barrows
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From: Pulliam, Joel
Sent: Monday, January 07, 2013 5:02 PM
To: Barrows, Stephen
Subject:

http://www.treasury.gov/connect/blog/Pages/FACT-CHECK-Treasury-General-Counsel-George-Madison-Responds-to-New-York-Times-Op-Ed-on-14th-Amendment.aspx

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	Politico: 6 facts about the 14th Amendment
Date:	Monday, January 07, 2013 11:16:18 AM

Politico: 6 facts about the 14th Amendment

By: Bobby Cervantes
January 7, 2013 11:07 AM EST

"The validity of the public debt of the United States, authorized by law … shall not be questioned," reads the 14th Amendment to the U.S. Constitution. The upcoming fight to raise the national debt ceiling has again pushed the clause into the spotlight. Here is some important recent history on the issue:

1. In July 2011, former President Bill Clinton said he would use the 14th Amendment to raise the national **debt ceiling** "without hesitation, and force the courts to stop me" if a default was in sight. It's "necessary to pay for appropriations already made, so you can't say, 'Well, we won the last election and we didn't vote for some of that stuff, so we're going to throw the whole country's credit into arrears.'"

2. House Minority Leader **Nancy Pelosi** has put her support behind unilaterial presidential action on the debt ceiling by using the 14th. "I would just go do it. But the Congress has incurred much of this debt. And so what are you saying, we incurred it but we're not going to pay it?" Pelosi said.

3. The White House has looked into the 14th Amendment option, but President Barack Obama **ruled out** it out during the most recent debt ceiling debate in 2011. "I have talked to my lawyers," Mr. Obama said. "They are not persuaded that that is a winning argument."

4. In 1935, the **Supreme Court** took up the pubic debt issue and said only that Congress cannot "alter or destroy" incurred debts.

5. It's likely the Court wouldn't take up the case if the president unilaterally raises the debt ceiling, but the justices would rule in "a lopsided margin" for Obama if he were challenged, according to **The New Republic**.

6. There's little doubt the 14th Amendment option would infuriate Republicans in Congress. In 2011 debt ceiling fight, Texas Sen. John Cornyn, now the Senate's No. 2 Republican, said it was **"crazy talk."**

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	FT: Cracks widen in US debt ceiling debate
Date:	Sunday, January 06, 2013 7:29:28 PM

FT: Cracks widen in US debt ceiling debate
By Richard McGregor in Washington

Democrats and Republicans have started the new year stand-off over the US debt ceiling by airing their stark differences over how to divide the burden for deficit reduction between new taxes and fresh spending cuts.

Mitch McConnell, the Republican Senate minority leader, insisted that in the wake of last week's deal over the fiscal cliff lifting income taxes on the wealthy that the "tax issue is finished, over, completed".

"That's behind us. Now the question is – what are we going to do about the biggest problem confronting our country and our future? That's our spending addiction – it's time to confront it," he told ABC.

However, Nancy Pelosi, the Democratic House minority leader, said that the revenue raised in the fiscal cliff deal, pushed through early in the new year in the Senate and later through the House, was "not enough".

"The president had originally said he wanted $1.6tn in revenue – he took it down to $1.2tn as a compromise in this legislation . . . but that is not enough on the revenue side," she told CBS.

Under US law, Congress must approve an increase in the country's borrowing limit, something that used to be relatively routine under both Republican and Democratic presidents, but has now become politicised as the deficit has grown.

The Treasury has advised Congress that the US hit its $16.4tn debt ceiling on December 31 but the department is now taking "extraordinary measures" giving it extra funds to service US debts probably until late February.

Ms Pelosi raised the possibility that President Barack Obama could bypass a congressional vote by ruling that the debt cap is unconstitutional under the 14th Amendment, which says the validity of the country's debt "shall not be questioned".

"When President Bush was . . . incurring these massive debts, the Republicans weren't saying 'boo' at the time," she told CBS. "In fact, if I were president, I'd use the 14th Amendment, which says that the debt of the United States will always be paid."

Although the idea is popular among some Democrats, the White House has explicitly ruled out using the 14th Amendment as recently as last month.
Mr McConnell declined to say whether he would allow the debt ceiling to be breached if Mr

Obama did not offer what his party regarded as a sufficient amount in spending cuts, as a number of Republican senators have suggested.

“Hopefully, we don’t need to get to that point,” he said.

The debt ceiling is just one three upcoming occasions for partisan confrontation over the budget in coming months.

Across-the-board spending cuts, delayed in the fiscal cliff deal, now kick in on March 1. Congress also needs to pass a new budget when the current one runs out on March 27.

The US now borrows about 40 cents on every dollar the federal government spends

From:	Weil, Matthew
To:	_DL_FYI
Subject:	The Atlantic: Why the President Should Ignore the Debt Ceiling
Date:	Friday, December 07, 2012 4:46:08 PM

Why the President Should Ignore the Debt Ceiling

By Garrett Epps, Dec 7 2012, 2:43 PM ET

According to some legal scholars, doing nothing might be the "least unconstitutional" option for Obama.

I wouldn't like to play basketball with Barack Obama, but cards are a different question. He strikes me as the kind of poker player who might offhandedly announce to the table, "In case you're wondering, I'm not holding pocket aces."

That reflection was sparked by the announcement Friday by White House Press Secretary Jay Carney that "this administration does not believe that the 14th Amendment gives the president the power to ignore the debt ceiling -- period."

Thus once again, the President has communicated to the opposition in the House that they needn't fear an end run if they decide to hold the debt ceiling--and the world economy--hostage when the U.S. public debt bumps up against the statutory debt ceiling early next year.

If I were running things, the White House would have said nothing one way or the other about the unilateral option. But I might have casually pointed out a new article by Cornell Law Professor Michael Dorf and George Washington University Law Professor Neil H. Buchanan.

Buchanan is well known for his work in federal taxation, economic policy, budgeting, and debt; Dorf is similarly well regarded among mainstream constitutional scholars. When these authors speak, people in those fields don't laugh. In their article, "How To Choose the Least Unconstitutional Option: Lessons for the President (and Others) from the Debt Ceiling Standoff," the two scholars make an exhaustive study of how a president should respond to an attempt to hijack the debt ceiling.

Their conclusion: "faced with this choice among unconstitutional options, the president should choose the 'least unconstitutional' course---here, ignoring the debt ceiling." But that's not all. They argue further that "if the bond markets would render such debt inadequate to close the gap, the President should unilaterally raise taxes rather than unilaterally cut spending."

This is a remarkable piece of analysis by two scholars who cannot be dismissed--as many of us discussing this issue last year were--as "frauds" or "hacks." Buchanan and Dorf make a comprehensive survey of the history of the debt ceiling and of the meaning of Section Four of the Fourteenth Amendment, which states that "[t]he validity of the public debt of the United States, authorized by law, . . . shall not be questioned." Their conclusions are not easily ignored. The White House wouldn't need to have endorsed their theory. It would hang there, like the two cards face down in front of a poker player.

Section Four has come a long way in the past 18 months. When I first began writing about it last year (at that point, only the great progressive lawyer Thomas Geoghegan had publicly discussed it), most people though the idea was insane. (At a House hearing on the debt-ceiling issue, Barney Frank, on the basis of my writings on the subject, accused me personally of believing Elvis was still alive. For the record, I am aware that he died last year.)

Since then, it has been embraced by Bill Clinton as an option for a president, and has even come to the attention of House Minority Leader Nancy Pelosi, who recently said about the debt-ceiling issue, "I'm with the 11th Amendment, so. Is it the 11th Amendment? That--14th is it? Whatever it is, I'm with the Constitution of the United States."

Obama, however, has apparently taken it off the table. No pistol at the knife fight for this President.

I am not at all sure that I think the president can or should invoke Section Four to breach the debt ceiling if the House Republicans refuse to due their constitutional duty. I am sure that presidents throughout American history have dealt with obstreperous Congresses by keeping them uncertain about what will happen if they refuse to do business. Like King Lear, presidents sometimes muse idly that

I will do such things,--
What they are, yet I know not: but they shall be
The terrors of the earth.

Executive unilateralism may be a bad thing, but unilateral disarmament is often also a mistake.

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	Mother Jones: Four Theories That Would Allow President Obama to Ignore the Debt Ceiling
Date:	Thursday, December 06, 2012 6:14:51 PM

Mother Jones: Four Theories That Would Allow President Obama to Ignore the Debt Ceiling

—By ***Kevin Drum***| Thu Dec. 6, 2012 3:01 PM PST

What happens after we get a deal on the fiscal cliff? If Republicans are to be believed, we'll just sail right into a second crisis, this time over raising the debt ceiling. They're insisting that, once again, they'll refuse to raise the ceiling unless President Obama agrees to massive spending cuts.

We'll see. But it's worth pondering what Obama's options are for simply ignoring the debt ceiling and continuing to spend money regardless of whether Republicans agree to raise it. Several theories have been floating around since the first debt ceiling crisis last year. Here they are:

The 14th Amendment. Under this theory, the president would simply invoke the 14th Amendment, which says, "The validity of the public debt of the United States, authorized by law [...] shall not be questioned." Bill Clinton thinks this would work, but it strikes me as unlikely. Even if the debt ceiling isn't raised, the public debt is still valid and the Treasury can continue to pay it. Lots of other spending would have to be cut, but not debt payments.

The platinum coin. There's an obscure statute that authorizes the Treasury to mint platinum coins "in accordance with such specifications, designs, varieties, quantities, denominations, and inscriptions as the Secretary, in the Secretary's discretion, may prescribe from time to time." Jack Balkin suggests that the Secretary of the Treasury could simply mint a $1 trillion platinum coin, deposit it at the Federal Reserve, and then write checks on it. I don't buy this one either. It's just too outré. It's the kind of thing that sounds cute to a blogger tapping away on his laptop, but there's no way an actual president would ever try anything so obviously childish.

Priority of legislation. In general, recent legislation overrides older legislation when there's a conflict. The president could argue that the last debt ceiling increase was passed in August 2011, and that any spending legislation passed since then implies Congress's consent to raise the debt ceiling. They knew we were running a deficit when they approved the spending, after all. Obama would just have to make sure to fund mandatory programs first (Social Security, Medicare, etc.), since they were authorized decades ago, and then issue new debt only to fund discretionary spending.

You and whose army? This is the most important argument of all. Regardless of the legal justification, the real question is whether a court would interfere. Many people think the filibuster is unconstitutional, for example, but everyone agrees that it doesn't matter because no court will ever touch the subject. It's an internal matter for Congress to decide. This is similar: the debt ceiling is a political argument between two branches of government, not a legal one. Jonathan Zasloff adds a little meat to this argument, suggesting that there's literally no one with proper standing to sue in the first place.

During the last debt ceiling fight, Obama never suggested he'd resort to unilateral action like this. Partly that's because he genuinely wanted to make a "grand bargain" on spending, and the debt ceiling fight was pretty good political cover for that. This time he doesn't, so he might be more likely to try it. However, one interesting question about this is whether he's ever asked the Office of Legal Counsel for an opinion about any of these theories. If he has, and it was negative, that would probably restrain him. If he hasn't, he'd probably need to in order to maintain his credibility on the issue. That's a risk, of course, since there's no telling what OLC's lawyers would come up with. There's a political risk too: congressional Republicans could go ballistic and become even more obstreperous than they are now. Fun times.

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	TPM: Not Just the 14th Amendment
Date:	Thursday, December 06, 2012 5:05:27 PM

Talking Points Memo: Not Just the 14th Amendment

JOSH MARSHALL DECEMBER 6, 2012, 4:17 PM 668

Many opponents of GOP debt-ceiling hostage taking have been pointing for more than a year to the idea that the 14th Amendment might give the President authority to continue borrowing money even without a debt-ceiling vote. In other words, the entire concept of debt-ceiling votes are themselves unconstitutional because the President has the borrowing authority himself. I actually think there's something to the argument. But the White House clearly does not. And that's probably not even the biggest problem.

Assume there's no constitutional problem to the President just going ahead and ignoring the debt ceiling. There's also a market component. Simply put, the value of US Treasuries is the 'full faith and credit of the United States'. World markets believe that promise is the closest thing in finance to certainty. And in moments of extreme uncertainty investors have even been willing to essentially pay the US government to hold on to their money for them.

But there's never been a case before — except maybe arguably during the Civil War — when the US government has issued bonds that are somehow in intra-governmental dispute. If you're buying US government debt, what if this particular auction is of Treasuries the sitting Congress says the Treasury Department isn't authorized to issue? There would be Court challenges filed immediately. Surely, you'd prefer to wait for the ones that everyone agrees are OK. In practice, there'd surely be some inverse premium on these Treasury notes since they wouldn't quite have the backing fo the full faith and credit of the US.

At a minimum that means the government would blow a lot of money simply because of that added uncertainty. But you'd also now have what amounted to two classes of Treasuries — the good ones and ones with an asterisk next to them. And as soon as you have that, at least some of the fixedness and clarity of what a US Treasury obligation represents would be blurred.

I wont pretend to know all the ins and outs of the financial implications. I do know that even if the 14th Amendment issue seemed viable, this question of market uncertainty would likely be enough for the White House to rule it out.

It’s not going to happen. This is not how this looming crisis is going to be resolved.

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	NYT (Blog): White House Says It Cannot Raise Debt Ceiling
Date:	Thursday, December 06, 2012 4:58:19 PM

NYT (Blog): White House Says It Cannot Raise Debt Ceiling

By Peter Baker

The White House flatly declared Thursday that President Obama could not unilaterally raise the nation's debt ceiling without Congress, rejecting liberal entreaties to bypass Republicans who may try to use the statutory borrowing limit as leverage in fiscal negotiations.

Some Democrats, including former President Bill Clinton, have theorized that the president has the authority to raise the debt ceiling on his own, citing a clause in the 14th Amendment guaranteeing that the nation's debts "shall not be questioned." They have called on Mr. Obama to assert this power to deprive Republicans of a weapon in the current showdown over taxes and spending.

But Mr. Obama effectively renounced such an assertion of authority on Thursday through his spokesman. "I can say that this administration does not believe that the 14th Amendment gives the president the power to ignore the debt ceiling," Jay Carney, the White House press secretary, told reporters, reading from language that had been prepared for him.

Administration officials had long discounted the possibility that the president would claim such power but Thursday's statement seemed more definitive than in the past. When asked about it last year, Mr. Obama said: "I have talked to my lawyers. They are not persuaded that that is a winning argument." While dismissing the idea, his language at the time did not seem to categorically rule it out the way the new statement seemed to do.

The White House statement came as Senate Republicans and Democrats squared off on a different measure proposed by Mr. Obama meant to make it harder for Congress to stop the debt ceiling from rising. When Republicans tried to put it to a vote in hopes of embarrassing Democrats, the Democrats called their bluff and said they would allow the vote if the minority would let it pass on a simple majority and not filibuster it.

Under longstanding practice, Congress sets a cap on federal borrowing and from time to time has had to raise it to accommodate deficit spending previously approved by lawmakers and the president. While that has often been a politically painful vote for lawmakers, it became a tool in the hands of Republicans last year when they refused to pass such an increase without significant spending cuts.

With the approach of another year-end fiscal crisis, some Republicans have talked about conceding to Mr. Obama's demand to raise taxes on the wealthy in the short term but then coming back to the table once the current debt limit is reached when they can use it to force the president to accept their priorities. Mr. Obama sternly warned Republicans on Wednesday not to try that, saying he would "not play that game," leading some to think he might assert his own authority to raise the debt limit.

Some liberals have argued that the president does not need Congressional approval to raise the debt limit because of Section 4 of the 14th Amendment, which states: "The validity of the public debt of the United States, authorized by law, including debts incurred for payments of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."

The provision was passed in the wake of the Civil War to ensure the payment of Union debts, but it has been imbued with meaning beyond its historical context. In 1935, Chief Justice Charles Evan Hughes wrote that "its language indicates a broader connotation."

Mr. Clinton said publicly last year that he would invoke that provision "without hesitation" and "force the courts to stop me." Other Democrats have picked up the call this year, including Representative Peter Welch of Vermont, who said Mr. Obama should be willing to lift the debt ceiling by executive action.

If nothing else, some Democrats figured that the simple threat could help neutralize the Republican advantage once negotiators are backed against the debt limit again. On the other hand, by renouncing such authority on Thursday, Mr. Obama may be trying to avoid taking responsibility for such action on his own and perhaps making it easier for Republicans to refuse to raise the limit.

In his recent deficit reduction proposal to Congress, Mr. Obama included a different possible mechanism to avoid repeated clashes over borrowing. Under his proposal, a president could raise the limit unless Congress voted to disallow it; if Congress passed such a motion rejecting an increase, the president could veto it, meaning it would require a two-thirds vote to override and prevent the limit from going up.

Democrats are calling that the McConnell provision after Senator Mitch McConnell of Kentucky, the Republican minority leader, who proposed the idea as a one-time way out of the clash that consumed Washington in the summer of 2011. The White House is hoping to win the support of business leaders to make such an approach permanent.

Another option is to pass a debt ceiling increase that would be large enough to accommodate borrowing for the next five years, as suggested by John Engler, a former Republican governor of Michigan and now president of the Business Roundtable.

“John is exactly right when he says the only thing that the debt ceiling is good for as a weapon is just to destroy your credit rating,” Mr. Obama said in a speech to the Business Roundtable on Wednesday.

The White House noted that raising the debt ceiling was simply a way of authorizing payment on spending that had already been approved by Congress. “When you get a credit card bill, you don’t just say, well, you know what? I’m sick of this, I’m not paying it anymore,” Mr. Carney said. “I mean, you can do that, but there will be significant consequences for your personal financial future. Well, when the United States of America, when it gets its bills for items it has purchased, pays those bills.”

But Republicans see the debt ceiling as the most useful way of imposing fiscal discipline on the president. “Why on earth would we even consider giving a president who’s brought us four years of trillion-dollar deficits unchecked authority to borrow?” Mr. McConnell asked in a floor speech. “He’s the last person who should have limitless borrowing power.

“Look, the only way we ever cut spending around here is by using the debate over the debt limit to do it,” he added. “Now the president wants to remove that spur to cut altogether. It gets in the way of his spending plans. I assure you, it’s not going to happen. The American people want Washington to get spending under control. And the debt limit is the best tool we have to make the president take that demand seriously.”

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	BuzzFeed: Dem Senator: Don"t Rule Out 14th Amendment In Debt Limit Talks
Date:	Thursday, December 06, 2012 3:20:02 PM

BuzzFeed: Dem Senator: Don't Rule Out 14th Amendment In Debt Limit Talks

“I don't think they ought to rule it out,” Durbin says. But they did anyway.

Rebecca Berg

Posted Dec 6, 2012 3:04pm EST

WASHINGTON — On the same day the White House ruled out using the 14th Amendment to raise the federal debt limit, a Democratic senator said that tack should be reserved as "an option."
"I don't think they ought to rule it out," Senate Majority Whip Dick Durbin told reporters Thursday.

The 14th Amendment asserts that "the validity of the public debt of the United States, authorized by law... shall not be questioned." Some have argued that the president could use this as justification to unilaterally raise the debt limit, though it's unclear whether courts would consider such a move constitutional.

The debt ceiling was the focus of some debate in the Senate earlier Thursday, when Republicans tried to force a vote on the president's plan to take away Congress' authority to raise the debt limit. Republicans retreated when it became clear Democrats would vote in favor of the measure.

"What this shows is that Republicans are getting flummoxed and throwing stuff at a wall to see what sticks," said Sen. Chuck Schumer.
But Schumer said he doesn't think the White House will need to use its constitutional authority to bypass Congress.

"Better if Congress actually just raises it and takes that off the table, and that's what's going to happen," Schumer said.

From: Anderson, Matthew
To: _DL_FYI
Subject: Reuters: White House: no constitutional workaround for debt ceiling
Date: Thursday, December 06, 2012 12:59:11 PM

Reuters: White House: no constitutional workaround for debt ceiling

12:53pm EST

WASHINGTON, Dec 6 (Reuters) - The Obama administration does not believe that the 14th Amendment of the U.S. Constitution allows the president to ignore the debt ceiling, White House spokesman Jay Carney said on Thursday.

The statutory ceiling on U.S. Treasury borrowing is $16.4 trillion, and the nation is expected to hit the legal limit near the year's end.

Congress must raise the borrowing cap, and Carney's comments dismissed the possibility that President Barack Obama could have a constitutional option to get around Congress if lawmakers failed to do so.

From:	Weil, Matthew
To:	_DL_FYI
Subject:	The Hill: Debt limit complicates deficit talks
Date:	Wednesday, December 05, 2012 8:57:22 PM

Debt limit complicates deficit talks

By Russell Berman - 12/05/12 07:59 PM ET

President Obama and congressional Republicans on Wednesday ratcheted up their threats on an increase in the debt ceiling, complicating fiscal-cliff negotiations that had already stalled over taxes.

The president, during a meeting with business leaders at the White House, issued a stern warning to Republicans not to try to use a debt-limit vote as leverage to extract concessions on spending cuts, as they did in 2011.

"I want to send a very clear message to people here: We are not going to play that game next year," Obama said. "If Congress in any way suggests that they're going to tie negotiations to debt-ceiling votes and take us to the brink of default once again as part of a budget negotiation — which, by the way, we had never done in our history until we did it last year — I will not play that game. Because we've got to break that habit before it starts."

In delivering his message, the president cited reports that if a comprehensive deal isn't reached in the next few weeks to avert the fiscal cliff, Republicans might pass an extension only of middle-class tax rates and set up a debt-ceiling fight early next year. The Treasury Department has said it will need additional borrowing authority by mid-February.

The White House is asking Congress to make permanent a process first proposed last year by Senate Republican Leader Mitch McConnell (Ky.), in which the president could authorize an increase in the debt ceiling unilaterally and Congress could only block it with the two-thirds majority needed to override a presidential veto.

The process was used in the 2011 Budget Control Act, but when Treasury Secretary Timothy Geithner proposed enshrining it permanently last week, McConnell reportedly laughed.

The president's warning came on another day of stalemate in the fiscal-cliff talks, as Republicans implored Obama to respond to their proposal with a counteroffer. The White House has said it will not make another offer until the GOP agrees to higher tax rates for the wealthy, and Geithner said in a television interview Wednesday that the administration was "absolutely" prepared to go over the fiscal cliff if Republicans did not concede that point.

"All we need is for the president to sit down and talk specifics and get serious," House Majority Leader Eric Cantor (R-Va.) told The Hill. "We want a meeting. We want some kind of response, something to the specifics that we put on the table."

Speaker John Boehner (R-Ohio) and Obama spoke by phone Wednesday afternoon, an aide for the Speaker said, though he declined to provide details of their conversation.

Republican leaders readily acknowledge Obama has the upper hand politically, but they have accused him of not negotiating in good faith.

"Despite dancing in the end zone, which he's doing, he keeps moving the goalposts," said Rep. Dave Camp (R-Mich.), chairman of the House Ways and Means Committee. "I think they're on a different timeline than we are. Because I think the longer you wait, the more uncertain it gets, and I don't think that's helpful to the economy."

Boehner said he told Obama shortly after the election that if he wanted an increase in the debt ceiling included in a fiscal-cliff deal, it would come with "a price tag."

"Giving President Obama, and every future president, authority to spend infinite sums of borrowed money is something the American people wouldn't stand for, and neither would members of Congress in either political party," Boehner spokesman Michael Steel said.

But when Boehner and other House GOP leaders sent the White House a $2.2 trillion counteroffer on Monday, they included no proposal on the debt limit.

Aides say the Speaker is open to negotiating the next debt-limit hike this month but is waiting for Obama to make a specific debt-ceiling request that has a chance of passing the House. Boehner has said he wants to keep to a principle he established in 2011, in which the level of spending cuts and reforms must match or exceed the amount of additional borrowing Congress authorizes.

Under that rubric, Boehner's $2.2 trillion proposal could be linked to a debt-ceiling increase that carries the nation through the end of 2014 or beyond, using debt projections from the Bipartisan Policy Center.

Yet the Speaker is also cognizant that asking for any increase in the debt ceiling remains a heavy political lift in the House Republican Conference, which is one reason he may have held it out of a proposal that already included an offer of $800 billion in new tax revenue.

Senior Republicans have been reluctant to even discuss the debt ceiling in the context of the fiscal-cliff talks. "I don't want to get into that one," Camp said as he ducked into a meeting Wednesday.

Conservatives have been adamant that the debt ceiling be kept separate. "It has nothing to do with the fiscal cliff," freshman Rep. Raul Labrador (R-Idaho) said.

Another conservative freshman, Rep. Tim Huelskamp (R-Kan.), said the debt ceiling "should be our leverage for the next two years."

"If Republicans trade away a debt-ceiling issue and agree with the president that we shouldn't have a debt ceiling, then we might as well close up shop," he said. "Because we're done here for the next two years."

Leading Democrats — including former President Clinton — have suggested Obama should increase the debt ceiling on his own authority, citing the 14th Amendment to the Constitution. The White House reiterated it is not considering that move, which would likely provoke a legal battle with Congress.

Republicans in both the House and Senate moved to issue formal rejections of the president's proposal, via McConnell's plan, for a permanent increase in the debt limit. Reps. John Fleming (R-La.) and Cynthia Lummis (R-Wyo.) were collecting signatures on a resolution reaffirming that Congress has the authority under the Constitution to borrow money and should “not cede this power to the president.”

“This is an unprecedented power-grab by this president, and the Congress needs to put its foot down,” Lummis said.

Across the Capitol, Sen. Rob Portman (R-Ohio) was organizing a letter to be sent to the White House arguing the debt limit has historically given lawmakers the chance to get the budget under control.

“For Congress to surrender its control over the debt limit would be to permanently surrender what has long provided the best opportunity to enact bipartisan deficit-reduction legislation,” Portman wrote.

— Justin Sink and Bernie Becker contributed.

From: Meade, Christopher
To: Pulliam, Joel
Cc: Bieger, Peter
Subject: FW: Roll Call: Obama Unilateral Action on Debt Limit Would Risk Political, Legal Battle
Date: Wednesday, December 05, 2012 8:21:19 PM

From: Weil, Matthew
Sent: Wednesday, December 05, 2012 7:17 PM
To: _DL_FYI
Subject: Roll Call: Obama Unilateral Action on Debt Limit Would Risk Political, Legal Battle

Obama Unilateral Action on Debt Limit Would Risk Political, Legal Battle

By Ben Weyl
Dec. 5, 2012, 7:07 p.m.

If President Barack Obama and congressional Republicans are unable to agree to lift the debt ceiling, Obama could take extraordinary measures that would avoid a crippling government default but would surely invite Republican outrage and likely trigger a constitutional crisis.

Obama is seeking new authority to raise the debt ceiling as part of fiscal cliff negotiations, and he took a hard line Wednesday, saying he would reject GOP efforts to tie new spending cuts to a debt limit increase, as happened last year.

"I want to send a very clear message to people here: We are not going to play that game next year," Obama said at a White House meeting with business leaders. "I will not play that game. Because we've got to break that habit before it starts."

House Speaker John A. Boehner, R-Ohio, said recently that any increase in the debt limit would come with a "price tag." Last year, after a showdown that brought the United States to the brink of default, Boehner successfully extracted a dollar in spending cuts for every dollar in additional borrowing capacity, and he has said that demand remains in force.

The White House wants a fiscal cliff deal that boosts the federal government's borrowing capacity as long as the House and Senate do not muster a veto-proof majority in opposition. Administration officials call it the "McConnell provision," named for Senate Minority Leader Mitch McConnell, who proposed it as part of the 2011 law (PL 112-25) that raised the debt ceiling.

Under the administration's plan, once the president requests an increase in the debt ceiling, Congress would have 15 days to enact a joint resolution of disapproval. If both chambers passed the resolution, it would be sent to the president who could sign or veto it. If the president vetoed the resolution, the government's borrowing capacity would increase absent a vote to override the veto, requiring two-thirds support in each chamber.

Obama's drive to take the sting out of the debt ceiling coupled with his forceful language suggest he may reconsider a controversial idea pushed by top Democrats during last summer's budget negotiations — lifting the debt limit unilaterally, by claiming the 14th Amendment to the

Constitution forbids a government default.

Although there is no consensus on the matter, some legal scholars believe the president does have such authority, largely under the 14th Amendment, which states, “the validity of the public debt of the United States ... shall not be questioned.”

Neil H. Buchanan, a George Washington University law professor argues the debt ceiling itself is unconstitutional. In addition to its violation of the 14th Amendment, breaching the debt limit would leave the president in a quandary, leaving him to pick whether to defy the law by violating the debt ceiling statute or to ignore spending measures already decreed by Congress.

Buchanan and Michael C. Dorf, a Cornell University law professor, refer to this paradox as the president’s “trilemma” in a legal article.

“The reason the debt ceiling is unconstitutional is the constitutional choice should always be the one that limits the powers of the president,” Buchanan said. “If I were the Republicans, giving the president the authority to pick and choose which spending to cut would scare the bejeesus out of me.”

Not all constitutional scholars share this viewpoint. Lawrence H. Tribe, a constitutional law professor at Harvard, wrote an opinion piece last year arguing the president could not usurp the legislature’s power to borrow money on the credit of the United States.

There’s no question, however, that an executive decree raising the debt ceiling would bring an explosive response from congressional Republicans.

“I don’t think he has the authority to do that,” said Rep. James Lankford, R-Okla. “It does create a constitutional challenge with the courts immediately of what authority does the president have. Does he have unlimited authority to spend?”

GOP leaders also would likely take action to try to halt Obama’s move.

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“I think the president would win on that analysis,” he said.

From: Weil, Matthew
To: _DL_FYI
Subject: Roll Call: Obama Unilateral Action on Debt Limit Would Risk Political, Legal Battle
Date: Wednesday, December 05, 2012 7:16:49 PM

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Dec. 5, 2012, 7:07 p.m.

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From:	Weil, Matthew
To:	_DL_FYI
Subject:	Roll Call: Obama Unilateral Action on Debt Limit Would Risk Political, Legal Battle
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Dec. 5, 2012, 7:07 p.m.

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Barrows, Stephen

From: Anderson, MatthewDisabled
Sent: Monday, December 03, 2012 9:52 AM
To: _DL_FYI
Subject: NYT (Bartlett): The Debt Limit Is the Real Fiscal Cliff

NYT (Bartlett): The Debt Limit Is the Real Fiscal Cliff

By BRUCE BARTLETT

Bruce Bartlett held senior policy roles in the Reagan and George H.W. Bush administrations and served on the staffs of Representatives Jack Kemp and Ron Paul. He is the author of "The Benefit and the Burden: Tax Reform - Why We Need It and What It Will Take."

Washington is all abuzz over the impending tax increases and spending cuts referred to as the fiscal cliff, an absurdly inaccurate term that both Democrats and Republicans have unfortunately adopted in order to pursue their own agendas. In truth, it is a nonproblem unless every impending tax increase and spending cut takes effect permanently - something so unlikely as to be effectively impossible.

In my opinion, the fiscal cliff is akin to the so-called Y2K problem in late 1999, when many people worried that computers would freeze, elevators would stop running and planes would fall from the sky. Of course, nothing of the kind happened.

So if the fiscal cliff is a faux problem, why do we hear that industry and financial markets are deeply fearful of it? The answer is that there is a very real fiscal problem that will occur almost simultaneously - expiration of the debt limit. Much of what passes for fiscal-cliff concern is actually anxiety about whether Republicans in Congress will force a default on the nation's debt in pursuit of their radical agenda.

No less an authority than the anti-tax activist Grover Norquist, who basically controls the Republican Party's fiscal policy, has said repeatedly that the debt limit is where the real fight will be over the next several weeks. In a Nov. 28 interview with Politico's Mike Allen, he was asked about the leverage President Obama has over Republicans in the fiscal-cliff debate. Mr. Norquist replied that Republicans have vastly more leverage when it comes to the debt limit.

MR. NORQUIST: Well, the Republicans also have other leverage, continuing resolutions on spending and the debt ceiling increase. They can give him debt-ceiling increases once a month. They can have him on a rather short leash, on a small - you know, here's your allowance, come back next month if you've behaved.

MR. ALLEN: O.K., O.K., wait. You're proposing that the debt ceiling be increased month by month?

MR. NORQUIST: Monthly. Monthly. Monthly if he's good, weekly if he's not. I mean, look, it's an accordion, it's an accordion, because if you're really - well, that's what they did - remember the first few months of the Obama - when the Republicans took the House and the Senate - took the House, they said, "O.K., here's two weeks of continuing resolutions because you have saved $4 billion. Oh, now you've agreed to $8 billion in savings, you may have four weeks." And they basically did - and what happened with the freshmen - remember, the Tea Party guys who just came in said: "This is taking too long. Let's ask for it all." And as soon as you asked for it all, you only got half of what you asked for, whereas you were getting everything you wanted. You were doing three yards in a cloud of dust, and you had - now, all those freshmen, newbie Tea Party guys are veterans. They would understand this time around why three yards in a cloud of dust for seven months is winning.

In short, the debt limit is a hostage that Republicans are willing to kill or maim in pursuit of their agenda. They have made this clear ever since the debt ceiling debate in 2011, in which the Treasury came very close to defaulting on the debt.

As Senator Mitch McConnell of Kentucky, the Senate minority leader, explained:

I think some of our members may have thought the default issue was a hostage you might take a chance at shooting. Most of us didn't think that. What we did learn is this - it's a hostage that's worth ransoming.

At the risk of stating the obvious, the debt limit is nuts. It serves no useful purpose to allow members of Congress to vote for vast cuts in taxation and increases in spending and then tell the Treasury it is not permitted to sell bonds to cover the deficits Congress created. To my knowledge, no other nation has such a screwy system.

Nevertheless, we have a debt limit that is denominated in dollar terms; it is breached when the debt subject to limit, which includes bonds the government itself holds in various trust funds, rises above that limit. Currently, it is $16.394 trillion. The Congressional Budget Office estimates that given current spending and revenue trends, that figure will be reached before the end of the year.

At that point, Treasury will have to take extraordinary and costly measures to avoid technically hitting the debt ceiling. But these measures provide only a month or so of breathing room. At some point, Treasury will lack the cash to pay the bills that are due and it will face nothing but unthinkable choices - don't pay interest to bondholders and default on the debt, don't pay Social Security benefits, don't pay our soldiers in the field and so on.

In a new book, "Is U.S. Government Debt Different?," Howell Jackson, a law professor at Harvard, walks through options for prioritizing government spending in the event that Republicans insist on committing financial suicide. They are all illegal or unconstitutional to one degree or another. They would require the Treasury to either abrogate Congress's taxing power, spending power or borrowing power.

In the October issue of the Columbia Law Review, Professors Neil H. Buchanan of the George Washington University Law School and Michael C. Dorf of Cornell Law School examine the question of what a president should do when he must act and all his options are unconstitutional. They cite Abraham Lincoln's July 4, 1861, message to Congress in support of the idea that some laws are more unconstitutional than others and the president is empowered to violate the one that is least unconstitutional when he has no other option.

Said Lincoln, "To state the question more directly, are all the laws, *but one*, to go unexecuted, and the government itself go to pieces, lest that one be violated?"

In the present case, of course, the one law would be the debt limit, which Professors Buchanan and Dorf say is less binding on the president than unilaterally cutting spending or raising taxes without congressional approval. Hence, if Republicans are truly mad and absolutely refuse to raise the debt limit, thereby risking default or the nonpayment of essential government bills, Professors Buchanan and Dorf believe the president would have the authority to sell bonds over and above the limit.

There are a host of practical problems any time the president is forced into uncharted constitutional territory, as Lincoln so often was. But when faced with an extortion demand from a political party that no longer feels bound by the historical norms of conduct, the president must be willing to do what has to be done.

IS U.S. GOVERNMENT DEBT DIFFERENT?

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HOW TO CHOOSE THE LEAST UNCONSTITUTIONAL OPTION: LESSONS FOR THE PRESIDENT (AND OTHERS) FROM THE DEBT CEILING STANDOFF

Neil H. Buchanan & Michael C. Dorf***

The federal statute known as the "debt ceiling" limits total borrowing by the United States. Congress has repeatedly raised the ceiling to authorize necessary borrowing, but a political standoff in 2011 nearly made it impossible to borrow funds to meet obligations that Congress had affirmed earlier that very year. Some commentators urged President Obama to ignore the debt ceiling, while others responded that such borrowing would violate the separation of powers and therefore that the president should refuse to spend appropriated funds.

This Article analyzes the choice the president nearly faced in summer 2011, and which he or a successor may yet face, as a "trilemma" offering three unconstitutional options: ignore the debt ceiling and unilaterally issue new bonds, thus usurping Congress's borrowing power; unilaterally raise taxes, thus usurping Congress's taxing power; or unilaterally cut spending, thus usurping Congress's spending power. We argue that the president should choose the "least unconstitutional" course—here, ignoring the debt ceiling. We argue further, though more tentatively, that if the bond markets would render such debt inadequate to close the gap, the president should unilaterally increase taxes rather than cut spending. We then use the debt ceiling impasse to develop general criteria for political actors to choose among unconstitutional options. We emphasize three principles derived from a famous speech by

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** Robert S. Stevens Professor of Law, Cornell University Law School. The authors gratefully acknowledge helpful exchanges with and comments from Jack Balkin, Aaron Bruhl, Josh Chafetz, Kevin Clermont, Sherry Colb, Lonny Hoffman, Mitchel Lasser, Martin Lederman, Peter Linzer, Michael McConnell, Alan Morrison, Trevor Morrison, Jens Ohlin, Eduardo Peñalver, Aziz Rana, Neil Siegel, and Laurence Tribe. We also greatly benefited from the questions and comments of student and faculty participants in workshops at Cornell Law School, Duke Law School, and the University of Houston Law School, where we separately presented earlier versions of this Article. Sergio Rudin, Alison Skaife, and Wanling Su provided excellent research assistance.

From:	Anderson, Charlie
To:	_DL_FYI
Subject:	NYT: The Debt Ceiling Escape Hatch
Date:	Friday, June 22, 2012 10:18:03 AM

June 21, 2012, 12:15 PM

The Debt Ceiling Escape Hatch

By DAVID FIRESTONE

Last year, when House Republicans pushed the government to the point of default by threatening not to raise the debt limit, there was a lot of frantic talk about using the Constitution as an escape hatch. Because the 14th Amendment prohibits any action that raises doubt about the public debt, the theory went, President Obama could declare the ceiling unconstitutional and simply ignore the House's threat.

The idea was endorsed by Bill Clinton and several economic scholars, but it never really caught on among elected Democrats. Mr. Obama expressed skepticism about it, and Democratic leaders – who lack the confrontational DNA of their Republican counterparts – decided not to push it.

But now that Speaker John Boehner is promising a rerun of the whole fiasco within the next year, the Constitutional option is starting to have a little more appeal. On Wednesday, in a meeting with a group of columnists, Nancy Pelosi, the House Democratic leader, urged the president to use the 14th Amendment to protect the nation's credit from another extortion attempt.

"You cannot put the country through the uncertainty" again, she said, according to Matthew Yglesias of Slate.

Ms. Pelosi's statement is an encouraging sign that Democrats may take a very different approach when Mr. Boehner reloads later this year or early next, whenever the current debt limit is reached. Led by Mr. Obama at his most naïve, the Democratic reaction to last year's extortion was to negotiate, to seek a grand bargain that inevitably disintegrated when Republicans refused to raise taxes on the rich.

What they got instead was a brutal sequester of military and domestic spending—parts of which are loathed by virtually everyone in Washington—that threatens to derail the economy when it begins next January. The crisis deeply damaged the country's financial reputation, produced a downgrade in its credit rating, and led to single-digit approval ratings of Congress.

Ms. Pelosi obviously doesn't want to go through that again, and it's hard to imagine why Mr. Obama would, assuming he is re-elected. If other Democrats begin pushing the idea that the debt limit is unconstitutional, it might stiffen the president's spine to use the option, particularly now that Republicans have stated they will never again raise the limit without getting huge spending cuts in return.

It's not as if he'd be ending a hallowed American tradition. The debt limit was always a fraud on the public, providing the illusion of a firm outside boundary to government borrowing when none was ever needed. Congress controls spending and taxes, and can raise or lower the debt as easily as it regularly used to increase the debt limit. A terrific 1961 editorial in the Times chided President Kennedy for not trying to repeal this "meaningless" statute.

Using the 14th Amendment option would lead to a messy fight, and the legal outcome is far from clear. But it's a fight worth having, because the alternative, as the country has seen, will be far worse.

From:	Meade, Christopher
To:	Pulliam, Joel; Bieger, Peter
Subject:	RE: TPM: Pelosi: Obama Should Raise Debt Limit Directly, Go Around Congress
Date:	Wednesday, June 20, 2012 8:55:57 PM

Thanks, Joel.

From: Pulliam, Joel
Sent: Wednesday, June 20, 2012 8:52 PM
To: Meade, Christopher; Bieger, Peter
Subject: Fw: TPM: Pelosi: Obama Should Raise Debt Limit Directly, Go Around Congress

From: Anderson, Matthew
Sent: Wednesday, June 20, 2012 08:08 PM
To: _DL_FYI
Subject: TPM: Pelosi: Obama Should Raise Debt Limit Directly, Go Around Congress

Talking Points Memo (TPM): Pelosi: Obama Should Raise Debt Limit Directly, Go Around Congress

June 20, 2012, 5:00 PM 3058

House Minority Leader Nancy Pelosi has changed her public position on an issue that divided Democrats during the fight over raising the debt ceiling last summer. She now says that President Obama should use the 14th Amendment to raise the debt ceiling by fiat — to preserve the country's credit rating and avoid another economically harmful brinksmanship over the country's borrowing limit.

"I would like to see the constitution used to protect the country's full faith and credit," she told a handful of columnists at a roundtable. According to Matt Yglesias, "She didn't offer a legal argument in favor of the position, but argued on policy grounds that 'you cannot put the country through the uncertainty' again, noting that America's sovereign debt was downgraded by ratings agencies in the wake of the standoff even though it was successful resolved."

"This isn't just about credit ratings," she added. "It's about the dynamism of our economy."

Many progressives — including some high-profile members of Congress — urged Obama to short circuit the contrived crisis by taking matters into his own hands. Even Bill Clinton said he would've invoked the 14th amendment and dared Republicans to stop him.

But most higher profile Democrats in Congress were wary of over-interpreting the Constitution. Top legal scholars and practitioners, of a variety of ideological leanings, expressed doubts that the 14th Amendment gave the president such wide latitude, and warned of potentially far-reaching consequences if the he took such a unilateral move. Obama administration lawyers reached the same conclusions.

At the time, Pelosi reportedly privately wanted Obama to call the GOP's bluff. But she declined to say so publicly. This time around she isn't being so cautious.

From: Bieger, Peter
To: Pulliam, Joel
Subject: RE: George Madison letter to NYTimes re 14th Amendment
Date: Thursday, October 06, 2011 10:41:47 AM

Thanks!

From: Pulliam, Joel
Sent: Thursday, October 06, 2011 10:26 AM
To: Bieger, Peter
Subject: George Madison letter to NYTimes re 14th Amendment

Can be found here:

http://www.treasury.gov/connect/blog/Pages/FACT-CHECK-Treasury-General-Counsel-George-Madison-Responds-to-New-York-Times-Op-Ed-on-14th-Amendment.aspx

From:	Rose, Lacey
To:	_DL_FYI
Subject:	NBC Transcript: Meet the Press with Plouffe
Date:	Sunday, July 31, 2011 1:31:59 PM

Meet the Press transcript for July 31, 2011

July 31: Plouffe, Thune, McCaskill, Granholm, Labrador, Cramer, Brokaw

MR. DAVID GREGORY: This Sunday, the final showdown over the debt ceiling just two days before a potential U.S. default. As Wall Street braces for a market shock, will Congress and the president compromise before the deadline? And with high unemployment and slower growth, how much more can the economy take?

(Videotape)

PRES. BARACK OBAMA: The power to solve this is in our hands. And on a day when we've been reminded how fragile the economy already is, this is one burden we can lift ourselves.

(End videotape)

MR. GREGORY: But House Republicans dig in...

(Videotape)

REP. JOHN BOEHNER (R-OH): I stuck my neck out...

(End videotape)

MR. GREGORY: ...blaming the White House and Democrats for failing to lead.

(Videotape)

REP. BOEHNER: ...and it is time for the administration and time for our colleagues across the aisle, put something on the table! Tell us where you are!

(End videotape)

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MR. GREGORY: This morning, the political fight, the endgame, and the economic fallout. With us, the president's senior adviser David Plouffe.

Then, the latest on the negotiations in the Senate with Senator John Thune, Republican of South Dakota, and Senator Claire McCaskill, Democrat of Missouri.

Finally, the political roundtable. Our focus: the political landscape and the debt crisis. Is our leadership bankrupt? And what high economic stakes mean to you. With us, NBC News special correspondent Tom Brokaw; former Democratic governor of Michigan Jennifer Granholm; host of CNBC's "Mad Money" Jim Cramer; and a tea party-backed freshman Republican congressman from Idaho, Raul Labrador.

Announcer: From NBC News in Washington, MEET THE PRESS with David Gregory.

MR. GREGORY: Good morning. Still unfolding story here in Washington, the battle over raising the debt ceiling has entered its final hours now. After weeks of tense negotiations, pointed political debates, some signs now that a compromise plan between congressional leaders and the White House could emerge as early as today. The Senate Majority Leader Harry Reid postponed an overnight vote on his own debt limit measure and announced late last night that the Senate would instead reconvene at noon today and hold off to the vote at 1 PM Eastern time.

(Videotape, last night)

SEN. HARRY REID (D-NV): There are many elements to be finalized, many elements to be finalized. And there is still a distance to go before any arrangement can be completed. But I believe we should give everyone as much room as possible to do their work.

(End videotape)

MR. GREGORY: Signs of progress also echoed by Republican Senate leader Mitch McConnell and House Speaker Boehner.

(Videotape, yesterday)

SEN. MITCH McCONNELL (R-KY): Our country is not going to default for the first time in history. That is not going to happen. We now have, I think, a level of seriousness with the right people at the table that we needed and thought we had, as the speaker indicated, last weekend. We're going to get a result.

REP. BOEHNER: I think it's pretty clear, should be clear to all of you that Senator McConnell and I believe that we're going to be able to come to some agreement to end this crisis as soon as possible.

(End videotape)

MR. GREGORY: To the White House now. Our chief White House correspondent Chuck Todd is standing by.

Chuck, how close?

MR. CHUCK TODD: David, they're very close. They've agreed on the framework as far as, as far as we know. And the framework is this: The agreement that the debt ceiling will be raised past 2012, the agreement that we're only talking about cuts only, about $1 trillion up front in this first six months, and then about $1.8 trillion in cuts for the rest of 2012. Now, what had been the sticking point for the last three weeks had been this issue of an enforcement mechanism. What will force Congress to do these cuts? Republicans, of course, wanted another vote on the debt limit. That is not something the White House wants. So what was agreed to is an across-the-board cut. So if this supercommittee that is created cannot come up with the cuts, there will be an across-the-board cut that will include Medicare, it'll include the Pentagon, and it'll be a tough spending cut that would take--start in 2013, and one that would be painful for both parties, David.

MR. GREGORY: The sticking point is still the House of Representatives. They passed a different sort of bill. Compromise does not look likely there. How, how tricky is that vote?

MR. TODD: Well, the trickier part might be now Democrats. Republicans feel pretty good about this deal at this point, and so Republicans think they can get a lot of votes, perhaps 180 to 200 Republicans, and therefore you'd only need about 30 or 40 Democrats. So that they feel good about. But, David, we're up against a legislative clock and the default clock, so don't be surprised if there's a temporary extension, if necessary, to get the final details done because they're not done with some of the details, and some Democrats are not happy.

MR. GREGORY: All right, Chuck Todd, thank you very much, from the White House north lawn.

I'm joined now by senior adviser to the president David Plouffe.

Welcome back to MEET THE PRESS.

MR. DAVID PLOUFFE: Good morning, David.

MR. GREGORY: So from your vantage point, you're inside the room. Is that overly rosy, or are you that close?

MR. PLOUFFE: Well, we don't have a deal. Everyone is cognizant, as, as Chuck Todd just reported on, both the legislative clock and, more importantly, the default clock. So the hours are ticking here. I think what's clear is that there's general agreement that we're going to have deficit reduction in two stages. The first is going to be something the parties largely agree on, about $1 trillion in deficit reduction. The second stage is going to be the trickier, elements of entitlement reform and tax reform, which this supercommittee's going to be charged with. And I think it's going to be incumbent on the leaders in Congress to appoint people to those committees who are going to drive to yes, to try and compromise, get out of their party's comfort zone.

MR. GREGORY: Let...

MR. PLOUFFE: Yeah.

MR. GREGORY: Let me be clear, though. What will the president accept as a deal?

MR. PLOUFFE: Well, first of all, we--it's clear our economy is obviously not as strong as any of us would like it to be. This debt ceiling cloud has harmed our economy. Why on earth would we want to go through this again a few short months from now?

MR. GREGORY: So it has to be through 2012.

MR. PLOUFFE: So--for the economy, number one. Number two, we want to make sure that if there is an enforcement mechanism--and again, the committee is not going to be charged with just doing spending cuts only. The committee's going to be charged with looking at our entire deficit reduction problem and look at things like tax reform and revenue. You need--you want something to compel this committee to act. That was part of the president's approach that he laid out to the country a few months ago, that there would be a debt cap that would enforce action. So you want to have something that compels both parties to act. Because I do think there's going to be a lot of pressure, rightly, on this committee to produce something that Congress can vote on. Yes.

MR. GREGORY: But, but a lot of people watching this have got to be wondering, what's actually going on today? What is the fighting about? So first stage, you, you cut government spending over a 10-year period to raise the debt ceiling. Part of that is a second stage, another committee in Washington that looks at really making the hard decisions. And then if they don't make the hard decision, something forces Congress' hand. So again, what will the president accept as a consequence to force the, the Congress' hand?

MR. PLOUFFE: Well, again, it might be more enjoyable to negotiate this with you this morning. I, I can't get into a great amount of detail. But I think that, one, we have to make sure that you can agree on the initial set of spending cuts. The process for the committee, it's essential, we think, that the debt ceiling get extended off into the future so it doesn't hurt the economy. Then we want to make sure whatever enforcement mechanism is something, one, that if it were triggered, you know, you think the country could live with; but secondly, strong enough to compel folks to act. And I think that you, you see, this has been a healthy debate. I think the country's learned a lot about our debt and deficit problems. I think there's been some education here in Washington. And I think what's clear is, you know, where the president stands is where the American people stand, that if we're going to do another set of deficit reduction, over $1 trillion, they're going to insist it be balanced. Because if you're a middle-class family, if you're a senior citizen...

MR. GREGORY: But it's not going to be balanced. There's no tax increases in this.

MR. PLOUFFE: But...

MR. GREGORY: You--the president said it had to have tax increases, it must--had to be balanced.

MR. PLOUFFE: The committee--yeah.

MR. GREGORY: That's not what's in this deal.

MR. PLOUFFE: Well, listen, this committee's going to be charged with coming up with additional deficit reduction. There's no way to do it without smart entitlement reform and tax reform.

MR. GREGORY: So you only get to do potential tax increases as part of a second stage of spending cuts that a committee has to agree to?

MR. PLOUFFE: Well, the first stage--it's clear in this first stage what we're going to get is an extension of the debt ceiling...

MR. GREGORY: Right.

MR. PLOUFFE: ...you're going to get that first set of spending cuts over $1 trillion, and then you're going to get this committee that's going to be charged with reporting out, hopefully, a balanced deficit reduction plan.

MR. GREGORY: Well, what is healthy about this debate? I mean, you talk about another supercommittee. Seventeen months ago the president convened a debt commission, the proposals, recommendations from which were not acted on by the president or Congress. Now you're talking about another committee. Nobody's yet making the hard choices about two-thirds of the budget, which is entitlement spending. So what's healthy about this debate?

MR. PLOUFFE: Well, it's certainly not been a healthy debate in, in the short-term. I think the American people are sitting back and saying, you know, "I'm going through tough things in my life, and these folks are sitting there arguing with each other, unwilling to compromise, do tough things." Particularly the House Republicans this week. But I would say this. The president laid out several months ago a $4 trillion deficit reduction plan. What we were striving to do with the speaker of the House was a, a big deficit reduction package that wouldn't have a supercommittee, we would have done it right now. That wasn't possible. The speaker of the House, pulled by the right wing of his party, walked away from that. But the president's going to be committed over these next few months, as I--and I think members of Congress needs to be as well, that we need to finish the job here. And the way they're going to finish that job is to have a balanced deficit reduction package that doesn't harm the economy.

MR. GREGORY: Let me ask you some other pressing matters. I've spoken to top figures on Wall Street who say this is a code red day, all hands on deck preparing for a market shock as early as tomorrow. What is your message? What is the president's message to investors around the globe at this moment?

MR. PLOUFFE: Well, I think it is that we have to get this solved. Today is obviously a critical day. We have to give confidence that there is a pathway to make sure that we both reduce the debt ceiling--and let's not underestimate the debt reduction is an important part of this. So I think that...

MR. GREGORY: But that doesn't sound like a very certain message to investors. I mean, should they be assuaged by that?

MR. PLOUFFE: Well, listen, the best way we're going to assuage investors, the rest of the world, most importantly, the American people, is to solve this problem. And I think in the coming hours--and we're literally talking about in the coming hours--I think it's incumbent on congressional leaders to compromise that last bit so we can have a deal that, again, the House Republicans mysteriously, because I don't know anyone who watches this who would think this is a good idea, wanted us to go through this whole three-ring circus again in four or five months.

MR. GREGORY: Well...

MR. PLOUFFE: We're not going to do that because it's bad for the economy.

MR. GREGORY: If we have a default, who gets paid first? How does Treasury make that decision?

MR. PLOUFFE: Well, listen. At the appropriate point, the Treasury Department is obviously going to lay out for the American people how this would operate.

MR. GREGORY: When...

MR. PLOUFFE: Our focus right now is solving this problem. If we're not able to reach a deal, then Treasury's going to have to report to the American people exactly how this is going to happen.

MR. GREGORY: Chairman Mullen...

MR. PLOUFFE: Yes.

MR. GREGORY: ...is in Afghanistan. He told our troops fighting there he didn't know the answer to when and whether they would get paid. Will the president insist that if there's a default, that troops get paid?

MR. PLOUFFE: Again, the Treasury Department will--and by the way, what Admiral Mullen talked about, you know, it's outrageous that here we are, 60 hours away from the United States of America potentially defaulting for the first time, and the reason we're here is that, particularly Republicans in the House, but, but Republicans generally have been unwilling to compromise. So at the appropriate point, if we get to that point, the Treasury Department will lay out very clearly for the American people, most importantly for investors, folks around the world, exactly what would happen if we default.

MR. GREGORY: I want to be clear on what the president would accept. In terms of cuts, in the first state or the second stage, in other words, that--what's called in Washington a trigger, which means that whatever forces Congress' hands if they don't continue to cut government spending, something would happen. We know the president is open to tax increases automatically. Would he also accept a deal that would cut Social Security benefits or Medicare benefits if Congress doesn't act?

MR. PLOUFFE: Well, first of all, when you say open to tax increases, let's remember what the president's for: closing tax loopholes; making sure that millionaires and billionaires, large corporations, through tax reform contribute. What you see the Republican Party largely wanting to do is ask senior citizens, college students, the middle class to pay all the freight here. And people are outraged by that. Everyone's going to have to do their part here. So, in deficit reduction--and again, this next stage, the first stage is going to be some domestic spending cuts in Defense and non-Defense, that both parties largely can come to agreement on. Not easy, but a first stage. Second stage is going to be a discussion in Congress about things like tax reform and entitlement reform. Our view is things like Social Security and Medicaid, you know, they can't be part of the solution here unless you've got a balanced package that includes tax reform.

MR. GREGORY: So we're still at a stalemate when it comes to that, in terms of that second stage. Another option that's been talked about and there's been pressure from Democrats is invoking the 14th Amendment. This is the key piece of the 14th Amendment. "The validity of the public debt of the United States authorized by law shall not be questioned." The president could unilaterally raise the debt ceiling. Will he do that if it comes to that?

MR. PLOUFFE: Listen, we've been, we've been asked them question a lot. And I think particularly when you come to the closing hours of this crisis, a lot of people are suggesting off-ramps. There is no off-ramp here. You know, we...

MR. GREGORY: So the 14th Amendment is not an option.

MR. PLOUFFE: No. We, we've looked at that. The only way out of this is for Congress to act, for the Republicans in Congress to be willing to compromise a little bit. You know, the debt ceiling's been raised dozens of times historically. It shouldn't take, you know, a constitutional crisis for us to pay the bills on our credit card that Congress has already racked up.

MR. GREGORY: The backdrop for this, as you know, is an economy in trouble. The Wall Street Journal described it this way in terms of economic recovery. This was yesterday. "The government on Friday reported that the economy grew at a rate of just 1.3% in the second quarter, failing to bounce back from knocks earlier in the year. Estimates of first-quarter growth were also revised down to 0.4%. As a result, the pace of economic recovery has been one of the worst since World War II. ... That's particularly bad news as the economy confronts the threat of a default on the nation's debt." Is the Obama recovery much more like a bust?

MR. PLOUFFE: No. What, what also was reported this week is you went back three years and the depth of the recession the president inherited was even more severe than anyone realized. I mean, the worst since F.D.R. inherited the Depression. So we had a long, you know, we had growth in negative six, negative seven, just terrible. So what we have to do is--now, from those terrible depths we've made progress. We continue to see some positive job growth, but not nearly as rapid enough. First of all, this debt ceiling problem, it's not just harmed investors, it's clear it's harmed consumer confidence, business confidence, small and large. We have to remove this cloud. Secondly, Congress can do some things right now. We can pass trade deals that can help us compete. We can pass patent reform so that our innovators have an easier time getting their ideas to market. We can work together to build roads and bridges and put construction workers back to work. We can--we have a payroll tax looming, by the way, that would expire next year, which would be about $1,000 tax increase on every American if we don't pass it. So we've got to get through this debt ceiling for a lot of reasons, but the focus here in Washington has to centrally go back to how we're going to create jobs, how we're going to grow this economy.

MR. GREGORY: Before you go...

MR. PLOUFFE: Yeah.

MR. GREGORY: ...you are the president's top political adviser. As you look at what Washington has done, essentially a failure to govern, do you now think a third party is a viable alternative in the 2012 race?

MR. PLOUFFE: Well, that'll be up to the American people. Here's what I would say...

MR. GREGORY: Yeah, but you're, you're the expert inside the White House.

MR. PLOUFFE: Well, I can speak to this. I think that most Americans believe that the president has tried to tackle tough problems. I think they're clear that here is a president who was willing to do some tough things that obviously we took some criticism from our own party on. So he's walked the walk in terms of how we solve the deficit, someone who's clearly been willing to compromise. And what's interesting is the president, last Monday night in his speech to the nation and again Friday, asked the American people to reach out to Congress through tweets, through e-mails and calls and say, "Demand a compromise." And the reaction was overwhelming. I think people are very frustrated and they want their leaders, obviously, to have strong principles. But at the end of the day, as they're going through the struggles in everyday life, what they can't afford is their leaders to be engaged in a three-ring circus.

MR. GREGORY: Does...

MR. PLOUFFE: So...

MR. GREGORY: Does it open up a third party or not?

MR. PLOUFFE: Well, listen, you know, that'll be up to the American people. What I'm confident in is that the president's leadership is something that was rewarded in 2008. I think people think he's the one person here who's focused every day on solving problems, not trying to score political points. And that's going to be one of the reasons he's going to be re-elected in 2012.

MR. GREGORY: All right. We're going to leave it there. David Plouffe, we'll be watching. Thank you very much.

Coming up, more on this deal or default. All eyes on the negotiations in the Senate as the clock ticks towards a looming debt deadline. So how does a final deal get done? We're going to get into those negotiations. Democratic Senator Claire McCaskill will be here and Republican Senator John Thune will join me next.

(Announcements)

MR. GREGORY: Coming up, down to the wire on a debt deal. How does a deal finally get done to avoid default? Democratic Senator Claire McCaskill, Republican Senator John Thune, they will join me next, right after this brief commercial break.

(Announcements)

MR. GREGORY: Joining me, Senator John Thune, Republican of South Dakota, and Senator Claire McCaskill, Democrat of Missouri.

Welcome, both of you, to MEET THE PRESS. Well, this is really where the action is right now, it's in the Senate. Senator Thune, as a Republican here, somebody who's reportedly in play, what has to be in this agreement to get you to yes?

SEN. JOHN THUNE (R-SD): Well, I think a couple things, David. First, no taxes; spending reductions at least equal to the amount that the debt limit would be increased by dollar for dollar; and I think a pathway to get a result on entitlement reform. Those are the elements that I think a lot of Republicans are going to be looking for in order to support a final bill.

MR. GREGORY: But you, you heard David Plouffe a minute ago that McConnell is saying there's no tax increases in this deal, and that's true. But there is still, again, another committee that's going to look at making the hard decisions about entitlements and tax reform; and the president, you know, is going to look in that committee for tax increases to be part of that approach.

SEN. THUNE: Well, I, I think there will be some who want to see taxes as part of the approach. I certainly don't, and I don't think most Republicans do. And I think we believe that if tax reform is a part of that discussion of the permanent committee, and it certainly can be, it ought to be with an eye toward broadening the base, lowering rates and, and getting the economy growing again. Tax reform can be a very useful tool in terms of economic growth, but I don't think tax increases are certainly on, on the agenda of any Republican in the House or the Senate.

MR. GREGORY: Can you vote for what's taking shape right now as you know about it?

SEN. THUNE: Well, it's hard to say because we haven't seen the details.

MR. GREGORY: Yeah.

SEN. THUNE: I don't like the way--where this is headed. I'm not a big fan of the joint committee. But remember, this is probably going to be as good of an outcome as we can get, and most of us are going to have to accept things that we don't like in the final product.

MR. GREGORY: Senator McCaskill, you were in your office yesterday. We have pictures of you on the phone talking to constituents. And you sent a tweet out in the day that caught my eye. "Just spent a couple of hours answering the phones in my office. Dominant message: Don't cut Social Security or Medicare, and compromise." And yet, the big fight we know right now is over the enforcement mechanism, again, more Washington talk. What it means is you cut a certain amount up front to raise the debt ceiling, and then there's a second stage of cuts that come; and there is this committee that tries to agree on those cuts. And if you don't do it over this 10-year span, something forces Congress' hand. So how do you not put Social Security benefits or Medicare benefits into that potential enforcement mechanism when they're what are driving the debt?

SEN. CLAIRE McCASKILL (D-MO): Well, I think you have to have a lot of faith that the American people are going to continue to weigh in. And, and here's the bottom line, this fight has not been about nothing. This hasn't just been political theater. There's a philosophical difference here on the Hill between the Democratic Party and the Republican Party. And it's pretty simple: They have voted to keep giving taxpayer checks to big oil while they voted to convert the Medicare system to vouchers. Now, that doesn't compute for us. How can you be more willing to push money, public money, to the most profitable corporations in the history of the world at the same time you're willing to dismantle

Medicare? So that's really the fight here. So if they're not willing to look at--and, you know, John and I agree that we can do tax reform and--but we can generate some revenues there by leveling the playing field, by lowering tax rates for businesses and individuals, but let's get away from the situation where the people who have power in Washington don't have to pay any taxes.

MR. GREGORY: But, Senator, what's really ludicrous to the American people, even when the American people don't always speak with one voice on this matter, is that Washington is not really dealing with what really drives the debt, that's entitlement spending, it's been going on this way and was a ticking time bomb since the '60s, and Democrats--like you were saying, "Hey, you--we can't deal with Social Security and Medicare." Republicans say, you know, sign tax pledges, that "I'm not going to raise taxes; well, we can't deal with revenues." I mean this is what's ludicrous to the American people. And even here, if we have a deal, we're going to solve a political problem but not the underlying fiscal problem, which is what creates our debt, Senator, no?

SEN. THUNE: Well, I think absolutely what drives government spending more than anything else is basically three programs--Medicare, Medicaid, Social Security. You cannot fix this mess in the long term absent addressing those. And what the Democrats have proposed--and, and most have talked about tax increases being part of this as a "balanced approach," but you've got essentially trying to use a balanced approach to one side of the problem. The problem is we spend too much. We have got to rein in these spending programs that are going to drive us over the cliff if we don't do it. That entails entitlement reform. that's got to be part of this debate and part of the solution.

MR. GREGORY: So, so what enforcement mechanism has to be in the final deal for you to find it acceptable?

SEN. THUNE: Well, I think some of the things that they're talking about right now--I mean, frankly, the, the--in the Boehner bill, of course, it was the debt limit increase, you didn't get another debt limit increase...

MR. GREGORY: Right.

SEN. THUNE: ...until you got a result in entitlement reform. But there's--now there's a discussion about across-the-board spending reductions. I think that makes sense. I think that puts pressure on both sides to do the hard things in order to get a result.

MR. GREGORY: Could you live with that?

SEN. McCASKILL: Well, I think we have to make sure that there is Defense spending in there because we got to have something to make the Republicans begin to look at a more, at a more balanced approach. And here's the thing, no one...

MR. GREGORY: Well, shouldn't Medicare be in there, too, to make sure we have Democrats looking at a balanced approach?

SEN. McCASKILL: I am--absolutely. I've been one of the Democrats saying that we have to look at entitlement reform. But, David, there's a big difference between telling Warren Buffett we're not going to buy his prescription drugs anymore and converting it to a voucher program. There are things we can do with both Social Security and Medicare that will preserve them, protect them, protect the beneficiaries, protect the benefits without gutting them. And that's really the case. If we have a balanced approach, we will preserve those programs as we know them...

MR. GREGORY: Right.

SEN. McCASKILL: ...and will be able to get it on long-term debt structure. Both of them have to be on the table. We can't keep going down a road where they want to keep pushing more public money to big oil but don't want to address the other issues.

MR. GREGORY: Senator Thune, September 29, 2008, was an important debate, an important day. That was the TARP bailout of the banks. That compromised legislation was voted down by lawmakers, and on that day the Dow plunged 778 points. What is your message to, particularly, your Republican colleagues in the House about this debt deadline and the prospect of voting down a compromise?

SEN. THUNE: I think that default isn't an option. We need to solve this. We need to do it in a way that is consistent with solving the problem, which isn't just the debt limit increase, it is the debt. We have to start making a dent in that, which is why I think Republicans in the House and the Senate have insisted upon dollar-for-dollar reduction in spending to go with an increase in the debt limit, and, and a pathway to get entitlement reform. Those are the things, the elements, I think, that are going to have to be in a plan to pass the House and the Senate, David.

MR. GREGORY: My colleague Brian Williams has a special tonight on "Dateline," "Taking the Hill," inside the workings of Congress in the middle of this debt drama. And he spoke with Majority Leader Reid about really that, that view so many Americans have right now.

(Videotape, "Taking the Hill: Inside Congress")

MR. BRIAN WILLIAMS: The American people seem to be saying to ladies and gentlemen like you, "You can't keep doing this, something has to change. This place seems so irretrievably broken."

SEN. HARRY REID: We're going through a very difficult time, and I understand why people are upset. We have to work through it. We need to come together. Legislations aren't a compromise. My program that I've suggested that I think goes a long way toward the problems this country faces with reducing the debt by almost $3 trillion, it sets up an idea of where we can, even before that's over, do some of the grand bargain that we need. But we need, we need to get beyond this. We can't have our credit rating crash. It would, in effect, be a tax increase for everybody out there.

(End videotape)

MR. GREGORY: For somebody who opposes tax increases, do you agree with that? That ultimately if we see a credit rating slip, the prospect of default, it leads to something akin to tax increases?

SEN. THUNE: Well, I don't think we're--I don't--we don't know what the rating agencies, agencies are going to do. But I know this: The Republican approach to solving this is to cutting government and growing the economy, and we believe those two are connected. The Democrat approach to this is, is--would continue to grow government. And that's why--I think Claire's right--I mean this is a debate, David, a broader philosophical debate about the size, the role, the scope of the government in this country. And Republicans came here after the last election with a mandate from the American people, not to make government larger, but to make government smaller and more responsive and more accountable and more efficient.

MR. GREGORY: Quick question about 2012. You know, we've now seen, Senator McCaskill, Washington going to the brink on shutting the government down. Washington now again going to the brink over something more catastrophic, which is a default on our debt. The voters are going to speak next year. You're up for re-election. What's the message they're going to send?

SEN. McCASKILL: Well, I think--I hope that more Americans realize that what we have to have is more volume from the moderate middle. We have a lot of volume around Washington from the two extremes. The talking heads, the cable TV, the people who are most agitated are the people that are most divided. We need those people who want compromise. We want those people who want a balanced approach. All of us agree on cutting spending. This isn't a D or R deal. We are at the table with significant spending cuts. What we need now are people in this country that want to say, "It's not about the tea party, and it's not about the far left. It is about compromise." That's when our country shines so brightly.

MR. GREGORY: So, Senator Thune, are you still thinking about running for president?

SEN. THUNE: I'm not. I made that decision, I'm comfortable with it.

MR. GREGORY: So no--in a Shermanesque statement, you're not running.

SEN. THUNE: I am not running.

MR. GREGORY: Would you consider the vice presidency?

SEN. THUNE: I don't think you rule any options out in politics, David. Obviously, when you're in this you want to serve your country and put your skill set to their--to its highest and best use. And, you know, I'm not going to rule anything out. But I'm certainly focused today on what we're doing in the United States Senate, which today is trying to get a, a deal here that will avert a crisis for our country.

MR. GREGORY: All right, we'll be watching. Thank you both very much.

And coming up, deal or no deal? Has the damage caused by the debt deadlock already been done financially, fiscally? Has Washington's attempt to come up with a deficit-cutting deal exposed a deficit of leadership in Washington? Our roundtable weighs in: NBC's Tom Brokaw, former Governor Jennifer Granholm, CNBC's Jim Cramer, and tea party-backed congressman Raul Labrador. That's up next.

(Announcements)

MR. GREGORY: We are back with our roundtable discussion. Joining me now, host of CNBC's "Mad Money" Jim Cramer, NBC's special correspondent Tom Brokaw, former Democratic governor of Michigan Jennifer Granholm, and Republican congressman of

Idaho Raul Labrador.

Welcome to all of you.

Jim Cramer, I want to start with you. I've talked to top bankers in the country who say there's Washington gridlock and there's Wall Street meltdown. They're preparing for the latter. This is a tough day right now. This is a code red day for many on Wall Street. Describe it.

MR. JIM CRAMER: Well, I think a lot of people are trying to figure out where bills will be paid. A lot of people are trying to figure out what cash is. In other words, there's so much money due, the, the government owes so much money in the next few days, that the banks are wondering who will pay it? Will there be a total shutdown? Will the president have to order money be printed? Will gold be sold at Fort Knox? The range of worry is so staggering that all the great bankers and many of the great CEOs I deal with just simply have no idea what will--going to happen. None.

MR. GREGORY: And if we don't have some kind of framework today that's announced, what could happen in Asia, what could happen in U.S. markets by tomorrow?

MR. CRAMER: We have to go lower. It's, it's just etched in the cards. We felt, by the way, on Friday that there might be a deal this weekend. That kept us from going down 2 to 3 percent. It is in the cards, 2 to 3 percent, maybe further, if nothing is reached. This is global. Global.

MR. GREGORY: Tom Brokaw, the cover of the National Journal was pretty scary this week. This is what it looks like, "Damage Done." This is financial calamity potentially. This is also a political meltdown. Where are we as we sit here now?

MR. TOM BROKAW: Well, I, you know, I think this is much more than an accounting or a Wall Street issue. In fact, this is a critical passage for this country. It reminds me of my freshman year in college. I'd wait till the last minute, pull an all-nighter, and then go in there and hope I got it right. And I've got to tell you, my freshman year in college was a disaster, so I don't want that to be a metaphor for the country. But I'm not very confident about where we are right now because there is a political default that is already in place, not just in this country, with most of the constituents--left, right and in the middle--saying they're so fed up with what's going on in Washington and no longer have confidence in the system. And then you expand that across the, across the world. When there was a rumor that Greece, a bit player in the international economy, might default, look what happened to the markets and what happened around the world because everything now travels at the speed of light. So this is a sad commentary on our system and our inability to manage the greatest country in the world and its place in the international economy, I think.

MR. GREGORY: Raul Labrador, you're a freshman Republican from Idaho, tea party-backed. A lot of your--and you've been instrumental in some of the talks on the House side, which included a balanced budget amendment, which is, you know, a poison pill in the Senate, as you know. Do you feel vindicated that you've stuck to principles? Or are you aptly criticized for failing to recognize what you and your colleagues are doing that leads to the political default that Tom is talking about?

REP. RAUL LABRADOR (R-ID): Well, let's talk about this for a second. We didn't create the problem. The problem has been created by the establishment of Washington for the last 30 years. The reason we have $15 trillion in debt is not because I was in Congress for the last 30 years, because of the people who have been here. And we, we came to Washington to change the way business was done. The American people have told us that they want us to change the way the business was done. Mike Mullen, who you, you quoted recently, he said...

MR. GREGORY: Chairman of the Joint Chiefs.

REP. LABRADOR: Chairman of the Joint Chiefs of Staff. He said that the greatest national security threat to our nation is our debt.

MR. GREGORY: But we know this about the back...

REP. LABRADOR: And we know this.

MR. GREGORY: We understand the backdrop.

REP. LABRADOR: So we're...

MR. GREGORY: But there's still a question of how you unwind something so big when there is a real prospect here of financial calamity.

REP. LABRADOR: And I understand that. And, and if you look at what happened last night and this morning, John Boehner has been saying this entire week that the bill he first introduced in the House of Representatives was actually a bill that was supported by Harry Reid. Harry Reid has been denying it the whole week. He has been not telling the truth the entire week, saying that that was not the bill he agreed to. Then this morning we find out that the only difference between Harry Reid and John Boehner was the triggers. That's the only thing that--the only distinction. So now we know that John Boehner has been telling the truth the entire week. The bill that he first introduced in the House was the bill that he and Harry Reid worked on last week. He--if he would have had enough Democrats who would have voted with John Boehner, this, this would have passed on Monday and we wouldn't be at the moment of crisis that we're in right now.

MR. GREGORY: Governor Granholm, what, in the end--senators are a little bit more constrained by the politics and the negotiations, but you heard David Plouffe--what, in the end, should be acceptable to the president at this point?

FMR. GOV. JENNIFER GRANHOLM (D-MI): Well, obviously he wants to make sure that we don't see an extension of this debate for the next few months. We want to make sure it's taken care of. He obviously has said that we don't want to do further damage to the economy, and that you have to have balanced approach. But, honestly, I--and listening to my colleague over here--not my colleague, but the colleagues of others in the House, and I appreciate being here with you--we are just talking past one another. And the reality is what has to happen is that the--I think the tea party members have to recognize that they read the tea leaves wrong in November, that people sent them here to change, but change the economy and not, not, not put us into default, not bad change, not exacerbate the problem, but change the economy by focusing on jobs. People were angry about the jobs. The Friday GDP results only inflates that. But now what they're doing is it's, it's--it is so irresponsible. So they need to--they--I believe the president will accept the deal as it's been outlined. Obviously, he's in the room and negotiating heavily. But, in the end, what has to happen is that there must be a focus on jobs. And that's going to require some investment.

MR. GREGORY: Let, let me just go back to Tom. Tom, you've been reporting on this, as well, in the last, in the last couple of days. The reality is that the president wanted tax increases. That's not going to be part of this. But the other reality is to get an increase in the debt ceiling, they're still going to leave unresolved some pretty tough questions about, are there going to be Medicare cuts, Social Security cuts. What are you going to do about the big drivers of the debt?

MR. BROKAW: Well, I think that's the critical issue, and I think everyone has to stand back and realize that we are where we are because we're all in. This is not just a Democratic problem or a Republican problem, the whole country was in on this to get us to this stage. Now, we're in a huge spending binge in this country. Everybody was along for the ride for a long, long time. President Bush started a war on a credit card. It's been going on for 10 years. We have prescription drug benefits for the seniors that are not paid for. SEC wasn't looking at what was happening on Wall Street. Democrats were pushing house ownership for people who didn't really deserve and shouldn't be buying houses. At the same time, they were not willing to step up on reforming Medicare and on Medicaid and Social Security. The country itself, they were spending money like crazy, and they were--they'd gotten used to having Washington take care of whatever they needed.

So now we're at a stage where I think the country has to come together, David, and say, "This is a critical passage." And we are--Democrats are going to have to step up on social entitlements and reforming them. I talked to Governor Kasich of Ohio yesterday, Republican, who's got his own tough, tough passage out in Ohio. He was here in '97 as the chair of the House Budget Committee. He said we ought to be talking about reform and not just slashing spending. We ought to be reorganizing the government and these programs because, as we mismanaged the expansion of government, we can't mismanage now the cutting of government. That's what I really think.

MR. CRAMER: This is--we're talking about recession. OK. I have never felt since the 2008, 2009 period, that we'd be anything other than a growth mode coming out.

MR. BROKAW: Right.

MR. CRAMER: Like many of our trading partners, like China, like Brazil, like Russia, like India. Not us. Now we are talking about a recession. This is the first time it's been on the table. This is a recession caused by government. It is not caused by business people. They want to build, they want to lend, they want to do anything possible to avoid this recession. The second half, we will be in recession if this is not resolved. Recession means many fewer jobs, it means far fewer tax receipts, trillion dollars lost, IRA, 401(k), trillion dollars lost in job creation. I'm hearing about little amounts being saved here vs. what will be lost in the next six months if this is not resolved.

MR. GREGORY: Congressman, you've talked about something that is fundamental to this impasse. And I want to show it on the screen because some polling indicates what Americans oppose and what they support. This is what Americans are for, if you look at the numbers: a balanced budget amendment, which you supported, three-quarters of respondents; the cut, cap and balance plan, which is what the House passed originally with spending caps and the like. But, oh, guess what, they're also for cuts and tax increases, that balanced approach. But here's what they're opposed to, which makes it hard. Cutting farm subsidies, cutting pensions, cutting Medicaid benefits, cutting Medicare, cutting Social Security. So the bottom line is, the American people are sending mixed messages.

REP. LABRADOR: And they are.

MR. GREGORY: Makes it hard to govern.

REP. LABRADOR: Absolutely. It makes it very hard to govern. They come into my office and they tell me I want you to cut spending, but don't cut my program.

MR. GREGORY: Right.

REP. LABRADOR: I hear that every single day. And the reality is that I, I want the American people to understand two things today. We will solve this problem. I'm tired of hearing all the media talking about how this is a crisis. We will solve this problem. It will actually happen and today we will have a plan. It might not be a plan that I agree with, but I think today or tomorrow we will have a plan and we won't go past this day.

The second thing, their Republicans actually proposed to get rid of all the loopholes already, and the people in the media never talk about it. The Ryan budget that was passed overwhelmingly by the House majority, in the House, actually has a plan for getting rid of the loopholes. I am for getting rid of the loopholes. I think it's fundamentally unfair that GE paid no taxes this year, and I think most of the American people agree with me. But what we need to do is we need to lower tax rates, and we need to broaden the base so everyone gets treated equally.

MR. GREGORY: Can I pin you down on one point?

REP. LABRADOR: Absolutely.

MR. GREGORY: If your speaker supports the compromise that they're negotiating today, will you vote yes for it?

REP. LABRADOR: I have to look at it. I'm not sure.

MR. GREGORY: But what, what has to be in it to get you to yes?

REP. LABRADOR: You know, for me the balanced budget amendment is really important, but I think there's enough members of the House that will probably support it so it can pass. I think the votes are there, and, and that's really important.

MR. GREGORY: The votes are there in the House. That's important because that's...

REP. LABRADOR: And I think the votes are there for it because the majority of the House have already voted for the--for this--a similar plan.

MR. GREGORY: Right.

REP. LABRADOR: I think the votes are there.

MR. GREGORY: But they'll be no balanced budget amendment, which was a sweetener, which is how you got to 218.

REP. LABRADOR: But I think you will just lose a few votes, and I think it will get out of the House of Representatives.

MR. GREGORY: OK. So--will the tea party caucus vote no, but it'll still survive?

REP. LABRADOR: I'm not a member of the tea party caucus. I'm actually--I'm here to represent my constituents and the people of the United States.

MR. BROKAW: Can I ask you a question about Idaho?

REP. LABRADOR: Yeah.

MR. BROKAW: I mean, here's an example. You know, I've been looking at the numbers across the country about what states are the beneficiaries of federal aid. You're obviously a big beneficiary for a lot of reasons. You've got national forest land. The last numbers that I saw, you get a buck 28 back for every dollar you send to Washington. Now, that additional--that 28 cent premium, what would you be willing to give up? How much of it?

REP. LABRADOR: You know, if we got rid of that premium, what we would start doing is actually controlling our own destiny, and it costs us actually 30 percent more to use federal money. So I think it would be a wash. If you look at the schools, if you look at the roads, every time you do something with federal money because of the regulations and all the different things that you have to do, it actually costs you about 30 percent more to, to use that money.

MR. GREGORY: You know, it's interesting, Governor Granholm, you had to balance the budget in Michigan.

GOV. GRANHOLM: Mm-hmm.

MR. GREGORY: Not an easy process, didn't always make you a popular governor, either, in that process. But The Wall Street Journal did a look at the entitlement state that has been building since the '60s. And it's not a pretty picture. I mean, Republicans spent a lot of money on wars in the last decade and prescription drug benefit. But this has been going on since the '60s. "The Road to a Downgrade" was this piece. "By 2010, [federal entitlement] payments to individuals were 66 percent of the federal budget, up from 28 percent in 1965. We now spend $2.1 trillion a year on these redistribution programs, and the 75 million baby boomers are only now starting to retire." And even if we have a compromise to get us out of this political mess right now and the short-term financial mess, we're not dealing with the fiscal problems here. They're still pushing that off because nobody in Washington can make those hard decisions.

GOV. GRANHOLM: No, I mean, clearly the entitlement question has to be addressed. But I can tell you, David, I cut more as a percentage out of government than any state in the country this past decade. And where is Michigan in terms of its economic growth? Cutting did not result in economic growth. What results in growth is making sure you've got a good business climate for businesses to grow and prosper. And so we've got to cut where we can in order to invest where we must in order to grow the economy. And it's that investment side that I worry that those who are affiliated with the tea party or who are on the far right don't realize that other countries are co-investing with businesses in order to create jobs in their, in their countries. If we do nothing more than just cut, that will continue to accelerate the lack of growth in GDP. So we've got to realize that the strategy here must be very specific. Yes, you've got to reform entitlements, but you've got reform entitlements and invest in order to grow because the quickest way to take down your deficit is through growth.

REP. LABRADOR: But, David, let's talk about the truth about what happened in Michigan.

Governor Granholm actually supported the highest tax increases in the history of Michigan, and unemployment went from...

GOV. GRANHOLM: OK. Wait a second.

REP. LABRADOR: ...6.8 percent to 15.3 percent.

GOV. GRANHOLM: When I took over Michigan...

REP. LABRADOR: And...

GOV. GRANHOLM: Let's not get into an argument about Michigan.

REP. LABRADOR: ...that's a reality, that's a reality.

GOV. GRANHOLM: Michigan has the highest unemployment...

MR. GREGORY: Let him finish his point and then you respond to it.

REP. LABRADOR: And that's a reality. At the same time, you have the governor of Texas who actually supported tax decreases and more broadening of the base, and actually we have the fastest growth in Texas than any of the other states.

GOV. GRANHOLM: So this is a great point because Michigan's economy is emblematic of what's going on in the nation, a global shift in manufacturing jobs. Michigan had seven times more automotive manufacturing than other states in the country, and we saw those jobs leave because of this global shift. So the question for America is what can our nation do to make sure we have advanced manufacturing jobs in our country? Yes, Michigan had a huge concentration of them, and that's--you know, we had the biggest bankruptcies in the, in the world inside of Michigan. So clearly our unemployment rate was attached to that. But for the nation, we have to decide how are we going to be competitive globally?

MR. GREGORY: Let, let me ask Jim Cramer about the president's leadership in all of this. To show you how toxic this atmosphere is here, Peggy Noonan wrote in her piece in The Wall Street Journal over the weekend the following about the president has supporters still, but there is grim support. She writes, "Obama is losing a battle in which he had superior forces - the presidency, the U.S. Senate. In the process he revealed that his foes have given him much too much mystique. He is not a devil, an alien, a socialist. He is a loser. And this is America, where nobody loves a loser." Pretty strong language. From your vantage point, how has the president led through this?

MR. CRAMER: All right. One of the things that happened, I want to talk about what the congressman said about the media, that the media exacerbated or even caused the problem. We were all hopeful in Wall Street and in Main Street that the president would come out and say a few things which said compromise. He came out and panicked the heck out of us. He talked about the higher interest rates for mortgages, he talked the spike--the spiking credit card, he talked about how hard it is going to be to get a student loan. It took us all aback because we felt that he'd be a compromise leader. Instead, he created tremendous fear. Tremendous fear means uncertainty. Uncertainty means no spending. Uncertainty means no spending by businesses. It means no hiring. It was a setback.

MR. GREGORY: But...

MR. CRAMER: He caused the panic, not the media.

MR. GREGORY: But, Tom, is--you've covered Washington a long time. The reality is the president got very close to a deal working it himself, and that blew up. He obviously took a different tack here.

MR. BROKAW: He, he was working the deal with John Boehner. A lot of people thought they were going to get that done, the big grand deal. But the speaker couldn't sell it in the House of Representatives. I think it's really kind of foolish to talk about winners and losers at this point. There are no winners that I see on this landscape at the moment, and we're going to have to kind of work our way through a very, very swampy piece of Washington real estate to see whether we can get to the high ground or not. But obviously this has not been a great time for the president. It's not been a great time especially for the speaker. If, if, if the House does approve the Harry Reid bill, that'll be a little bit of a comeback. But if they reject in the House the Reid bill, then Speaker Boehner has had a really tough couple of weeks, to say nothing of the president at this point.

MR. GREGORY: Yeah.

REP. LABRADOR: I'm sorry, but I, I have to disagree here. And with all due respect, this--in the House of Representatives we actually passed a budget, we passed two bills that would have raised the debt ceiling. And I want to show you, this morning you showed--you actually saw on this show the failure of leadership of this administration. You asked David Plouffe a very simple question, "Will the military be paid?" Instead of telling you the truth, what he did is he demagogued. I want to show you real leadership. In 1985, the president of the United States, Ronald Reagan, was asked the same question, and his Treasury Department said, "The secretary of the Treasury does have the authority to choose the order in which to pay obligations of the United States." This an official document from the Department of Treasury. "We are aware of no statute or any other basis for concluding that Treasury is required to pay outstanding obligations in order in which they are presented for payment unless it chooses to do so." And this president has not been willing to tell the American people that Medicare recipients and the military will be paid as long as we receive sufficient money in the Treasury. We have to solve this problem, I want to solve this problem, but there has been a failure of leadership from this president, and all he's doing is demagoguing and scaring the American people.

MR. GREGORY: All right. Let me take a break here, we'll take a quick break, we'll come back with more of our roundtable in just a moment.

(Announcements)

MR. GREGORY: Final moments now with the roundtable and a review. David Plouffe, senior adviser to the president on this program talking about the key sticking point, will there be tax increases as part of this deal or not? This is what he said.

(Videotape)

MR. PLOUFFE: What's clear is, you know, where the president stands is where the American people stand, that if we're going to do another set of deficit reduction, over a trillion dollars, they're going to insist it be balanced. Because if you're a middle-class family, if you're a senior citizen...

MR. GREGORY: But it's not going to be balanced, there's no tax increases in this.

MR. PLOUFFE: The, the...

MR. GREGORY: You--the president said it had to have tax increases, must--had to be balanced.

MR. PLOUFFE: The committee--yeah.

MR. GREGORY: That's not what's in this deal.

MR. PLOUFFE: Well, listen, this committee's going to be charged with coming up with additional deficit reduction. There's no way to do it without smart entitlement reform and tax reform.

(End videotape)

MR. GREGORY: Is this left, Congressman, deliberately gauzy? Will there be tax increases down the road when the special committee comes together, comes out with recommendations for more cuts that are on the back end of this deal?

REP. LABRADOR: That's actually one of the problems I have with the deal because I think it, it is opening the door for tax increases. I think there should be tax reform, and I think every member of the House of Representatives on the Republican side believes that there should be tax reform. I think every person should pay the same rate, I think it should be across the board, and I think it should be fair to all Americans.

MR. GREGORY: Jim Cramer, again, a pressing financial question: Are Treasury bonds safe as we sit here?

MR. CRAMER: Yes, absolutely. Don't even want to panic any people on that. They are still the last resort place to be both for China, which owns most--they have the preponderance of our debt and us. Don't ever want to take that off the table. The full faith and credit of the United States will be good during this period.

MR. GREGORY: There is, Tom Brokaw, additional conversation going on as we reference every week, and it is disgust with Washington. I know as you travel around the country you hear it. From Facebook, Eric F. writes this, "I think we now have elected officials that are afraid of their support bases rather than wanting to represent them. Why does it seem that compromise is a dirty word these days?" On Twitter, from Tim Herr, "I have never been less confident about the future," which is loaded on so many terms. I remember election night in 2010, you talked about independent voters being a moveable feast. What kind of message are we heading for next year in the election as a result of a near government shutdown and now near default?

MR. BROKAW: Well, it's still very much in play. But I, I would say about the tea party, for example, they played by the rules of American politics. They got angry, they got organized, they got here and they got what they wanted, and, and they did it with discipline. Whether or not, in the long haul, it's good for the larger universe is a very open question at this point. If you want to change Washington, that's what you have to do. You have to get organized around your passions and your interests. And you can't say, as the congressman indicated earlier, "I want you to cut, but not my programs." This is a critical time in the 21st century, and we're talking not just about the markets on Monday, we're talking about our grandchildren, and we're talking about the future of this country as it goes forward in a hotly competitive international environment. You know, during Ronald Reagan's time, we didn't have China and Brazil and India. Oil was a manageable price at that time.

MR. GREGORY: OK.

MR. BROKAW: It's a much different environment, David.

MR. GREGORY: All right. We're going to leave it there. Tom and all, thank you very much.

Before we go this morning, a programming note, a "Dateline" special tonight, "Taking the Hill: Inside Congress." NBC News sent 80 people, 30 cameras to canvas the Capitol and capture the drama of this debt fight as our own Brian Williams was there to see it all unfold. Again, that's at 7 PM Eastern tonight. More updates throughout the day as they become available on these negotiations. That is all for today. We'll be back next week. If it's Sunday, it's MEET THE PRESS.

From: Rose, Lacey
Sent: Sunday, July 31, 2011 1:26 PM
To: _DL_FYI
Subject: ABC Transcript: This Week with Plouffe, Graham - Livelink 165 KB
Attachments: image001.jpg - 4 KB; image002.jpg - 38 KB

'This Week' Transcript: David Plouffe and Lindsey Graham

July 31, 2011

(BEGIN VIDEO CLIP)

AMANPOUR (voice-over): This week, the endgame.

MCCONNELL: Our country is not going to default for the first time in history. That is not going to happen.

AMANPOUR: Now, at the 11th hour, perhaps some cause for optimism.

REID: There are negotiations going on at the White House now on a solution that will avert a catastrophic default.

AMANPOUR: With the whole world watching, the president faces his toughest challenge yet.

OBAMA: The time for putting party first is over.

AMANPOUR: ABC chief political correspondent George Stephanopoulos joins us for the inside story and the very latest, as the crisis nears a climax.

The president's top political adviser, David Plouffe, on hand with the view from the White House.

And then, Tea Party Congress at a crossroads.

MCCAIN: It's unfair. It's bizarro.

AMANPOUR: Republican Senator Lindsey Graham on the search for consensus within his own party.

Also, from Norway to Fort Hood, extremism is back in the headlines. New York City Police Commissioner Ray Kelly on the very real threat posed by radicals. And we'll take you to Mogadishu, Somalia, where ABC's David Muir is the first U.S. correspondent on the ground reporting on that country's epic famine.

ANNOUNCER: Live from the Newseum in Washington, "This Week" with Christiane Amanpour starts right now.

(END VIDEO CLIP)

AMANPOUR: Welcome to the program.

Lots to get to today, but first, some news since your morning papers. We have new developments to report on the story dominating all others, and that's the flurry of last-minute talks to raise the debt ceiling before the country runs out of money to pay its bills.

And this morning, we're hearing that there is a framework of a deal being worked on, but it's fragile.

And you can see the clock there ticking down to the Tuesday deadline.

Already we're seeing signs of mounting concern on Wall Street. The stock market plunged more than 500 points in the last week, a loss of $700 billion, or just over 4 percent of its value.

But this morning, a glimmer of hope, perhaps. For the very latest, I'm now joined by ABC chief political correspondent George Stephanopoulos.

George, you've been talking to all your sources. Are we at the edge? Or are we pulling back from the edge?

STEPHANOPOULOS: I think we're seeing the beginnings of an end game. It's good to be back on "This Week." And this is just a framework of a deal, as you said, not a final deal at all, but it's designed to get each side its bottom line.

The president gets an extension of the debt ceiling through the election, about $2.4 trillion. Congressional Republicans get the deficit reduction spending cuts that they say needs to meet that $2.4 trillion.

Here's how it would work: a trillion dollars in spending cuts right now.

Then a special congressional committee would be set up designed to report by about Thanksgiving to come up with another trillion or so dollars in spending cuts, maybe a little bit more than that.

The rub is on what happens if this congressional committee doesn't get that $1.4 trillion in deficit reduction. They're working on what they call a trigger that would guarantee spending cuts in both defense and domestic programs if this congressional committee doesn't meet the goal.

Now, the question would be, does that trigger also include revenues? Congressional sources saying no. Does it guarantee automatic spending cuts? Congressional sources saying yes. The White House saying they don't agree with that yet, which is why we're glad to have David Plouffe here, the senior adviser, who can maybe clear some of that up for us this morning.

AMANPOUR: Indeed. And joining us now, David Plouffe, the senior adviser to President Obama. So you've heard all that we've been talking about. Is there a deal?

PLOUFFE: No, there's not.

AMANPOUR: Is there a deal close, a framework? What can you tell us?

PLOUFFE: Well, I, unfortunately, can't negotiate here on your program.

AMANPOUR: No.

PLOUFFE: I think that what's clear is that pretty much both parties agree that there's going to be a first stage of deficit reduction, over a trillion dollars, that there is going to be a process, as George talked about, a congressional committee. And what that's going to work on is the items that the president was focused on with Speaker Boehner. You're not going to reduce the deficit without tax reform, without entitlement reform.

STEPHANOPOULOS: So that committee could include revenue increases, the committee, not the trigger?

PLOUFFE: The committee...

STEPHANOPOULOS: ... could consider revenue increases.

PLOUFFE: Any -- any long-term deficit reduction -- and I think the American people have spoken clearly about this, too -- if you're a middle-class family, if you're a senior citizen, you're furious that the answer to the deficit reduction by some here in Washington, mainly Republicans in the House, is to ask you to do everything. You're going to have to have closing of tax loopholes. You're going to have to have revenue produced to close the deficit.

There is -- without getting into details -- obviously, one of the things we've been focused on -- and this was part of the president's deficit reduction plan he outlined way back in the spring -- was an enforcement mechanism. So if this committee doesn't act -- and I would start by saying I think it's incumbent on leaders in both parties to appoint people to this committee who are focused on deficit reduction, who will be willing to get out of their party's comfort zone, so you can produce something that can get voted on.

But an enforcement mechanism, so that if the committee doesn't act, if it deadlocks, that there be some additional deficit reduction.

And that's obviously one of the areas that's under discussion.

AMANPOUR: So do you know think, as this is being worked on, do you think, after all this tension and stress between the parties, that there will be something that both parties can get all their members -- well, a majority to vote on?

PLOUFFE: Well, we still have some hard work to do. But it would be inconceivable that we don't. I think the American people -- you flashed the stock market decline this week. It's clear that it's hurting consumer confidence, business confidence. We have to remove this specter.

The debt ceiling has been raised dozens of times over the last couple decades. It has to be raised again. And, again, let's remember what we're talking about here. These are bills that Congress already put on the credit card. They're required to pay for them.

We all agree -- and if you're an American citizen, you should be, I think, pleased by this -- there's almost unanimity that we need to stop putting as much spending on the credit card. So the debate we're having right now is, how do we reduce the deficit? So I think that all the leaders have said, both privately and publicly, that the United States of America is not going to default. So we...

AMANPOUR: Will it happen by the deadline, though, by the August 2nd deadline?

PLOUFFE: Well -- well, that is the deadline. Our borrowing authority runs out. And so...

AMANPOUR: No short-term extensions, a few days?

PLOUFFE: Well, what -- what we've said -- and I think some in Congress have said -- if you have a deal and you needed a day or two to dot the i's and cross the t's -- but there's no reason even to do that. We have to get this done by Tuesday because it would be inconceivable for the United States of America -- the impact that would have not only on people here in this country, most importantly, but around the world would be catastrophic.

STEPHANOPOULOS: But, David, let me press you on the details here, because the details of this enforcement mechanism are all-important. This is what the whole negotiation is coming down to right now. The president has said time and time again he wants a balanced approach that includes tax reform revenue increases. Everyone I've talked to on Capitol Hill says this enforcement mechanism would not include revenue increases, would just be across-the-board spending cuts, domestic spending, Medicare perhaps, and defense, and it would not include revenues.

So if the enforcement mechanism doesn't include revenues, what incentive would Republicans have to consider revenue increases? And wouldn't it all but guarantee that the final product is all spending cuts and not the balanced approach the president wants?

PLOUFFE: Well, I will. First of all, I think the committee is going to be charged with finding significant deficit reduction. I think there's going to be a lot of focus on that committee. Certainly the work president did with the speaker is going to inform that committee. I think the American people have spoken loudly and clearly they want a balanced approach that asks something of everybody.

ABC News

White House Senior Advisor David Plouffe... **View Full Size**

Now, whatever enforcement mechanism is put in place has to be strong enough to compel action. Whatever its composition, people shouldn't look at this enforcement mechanism -- at least from my viewpoint -- as, well, you should assume that's going to happen.

Because what you want -- and, you know, historically there have been enforcement mechanisms that have been strong enough to compel action -- back in 1990, the first President Bush reached agreement with Democratic leaders because there was a looming trigger that people wanted to make sure...

(CROSSTALK)

STEPHANOPOULOS: But that included revenue increases. Now you're talking about one that does not include revenue increases. Isn't that the problem?

PLOUFFE: Well, listen, we're talking about a variety of options here. But the key principle is that the enforcement mechanism has to be strong enough to compel both parties.

STEPHANOPOULOS: But let me just press this, then...

PLOUFFE: Yes.

STEPHANOPOULOS: Can the president accept an enforcement mechanism that is spending cuts only, automatic spending cuts only, that does not include revenues?

PLOUFFE: What I would say is, we would accept an enforcement mechanism that ensures that -- that compels both parties to action and also is something that we think substantively is acceptable to the country.

STEPHANOPOULOS: So you're saying there may be a way to compel action by both parties without including revenues?

PLOUFFE: Well, again, we're talking about a variety of different options here in the closing hours here about how to compel that action. I would say that the positive thing is -- I think both parties agree that you need such an action.

And exactly what the composition is -- again, we want to make sure that there's focus on this committee acting. And I think this has been a healthy debate. I think the American people understand a lot more about the deficit, about that there's no easy answers. I think it's been a healthy debate here in Washington. And I think any long-term deficit reduction is going to include revenues and smart entitlement reform.

STEPHANOPOULOS: Republicans don't agree with that.

PLOUFFE: Well, some Republicans do. First of all, I'd say most Republicans in America do. And you're beginning to see more Republican senators speak to this, that, listen, we had a deal with Speaker Boehner that obviously fell apart that included $800 billion in revenue. So I'm confident that any solution that this committee would produce that ultimately will be voted on in Congress is going to be balanced.

AMANPOUR: Frustrated members of your own party, they're basically saying, look, why doesn't the president -- who has his principles -- stand up for them, rather than spending so much time wanting to be bipartisan, a conciliator? I mean, they're saying the Republicans are driving a harder bargain. And as George has just described, the president has moved all of the way to the language and the ideals that the Republicans espouse.

PLOUFFE: Now, if you look at -- what are...

AMANPOUR: But, yes, because he wanted a clean bill, then a bill with cuts and spending, and now as George is talking about, it's -- it's all cuts for the moment.

PLOUFFE: Well, first of all, we've been clear, we need this debt ceiling increased well into the future. The spectacle in Washington this week, anyone who thinks we should repeat this again a few months down the road, I don't think there's many people in America.

So, first of all, we need a longer-term extension, because our economy cannot have this cloud over it. Secondly, deficit reduction now is going to happen in two stages. There's going to be a first stage that has cuts agreed to, largely that came out of the work the president and the vice president did, that are acceptable largely to members of both parties.

The second stage is going to be a committee that's looking into the tougher issues of entitlement reform and tax reform.

The president believes that we need to reduce the deficit. This isn't about playing on a Republican playing field. This country, our economy has to reduce the deficit, we have to live within our means. And if you're a progressive, there's a powerful case for deficit reduction, things like college loans, college scholarships, medical research, spending on things like roads and bridges that put construction workers to work, if we don't reduce the deficit in the not-too-distant future, we're not going to have room to do any of that.

So we have to live within our means. And I think the president has been clear that he is willing to do some tough things, because the only way to reduce the deficit is to get out of your comfort zone. You're not going to do it without some smart entitlement reform in the long term, but you're also not going to do it without significant tax reform.

STEPHANOPOULOS: You keep saying smart entitlement reform. Does that include Medicare cuts? Are Medicare cuts back on the table as part of this congressional committee's mandate and as part of the enforcement mechanism's mandate?

PLOUFFE: Well, again, there's various, George, enforcement mechanisms that would have different constructs. In the initial set of spending cuts, obviously, these are just domestic spending cuts, and they would be both defense and non-defense. The committee's charge then -- before we get the enforcement mechanism -- will be, how do you fill in the rest of the details? The truth is, we will have cut a lot of domestic spending. So there's not going to be much more room there.

STEPHANOPOULOS: So that drives you to Medicare and Medicaid, perhaps Social Security?

PLOUFFE: Well, and tax reform. And the president was pretty clear. He laid out -- he was willing to do Medicare reform. Our view on this is, if we can strengthen Medicare, if we can strengthen Social Security, as opposed to what the House Republicans wanted to do, which was largely to dismantle it...

STEPHANOPOULOS: But you keep talking about tax reform, and what we've just seen in the House all week long is there are not votes in the House of Representatives -- there's not a majority in the House of Representatives for the kind of package you're talking about.

PLOUFFE: Well, it's hard to get a majority of House Republicans, it seems, to even support their own plan. But here's what I'm convinced of. The shame of it is, if the, quote, unquote, "grand bargain" that the president had been working with the speaker on, I'm convinced, had that come, it would have been the easiest to get the votes for, because it would have been deficit reduction on such a grand scale that even though there was component parts in it that are really tough political votes, people would have been willing to accept it.

Well, now we're going to do it in two stage, but ultimately we need the same outcome, which is we need significant deficit reduction, $3 trillion or $4 trillion over 10 years, really begin to reduce the deficit in the years after that, and it's got to be done in a balanced way.

AMANPOUR: You keep saying it has to be done. If it's not, what is the administration going to do? I mean, the specter of U.S. soldiers fighting for this country in Afghanistan, asking their commander whether they're going to get paid is really shameful.

PLOUFFE: Yes.

AMANPOUR: What are the choices that are going to be made if this doesn't come through as you hope?

PLOUFFE: Well, it's really unthinkable. And I think the specter you raised is one of the reasons I think there's so much urgency on Capitol Hill this morning.

AMANPOUR: What are the tough choices? And what's going to be paid?

PLOUFFE: Well, first of all, our focus now is on solving this. You know, we don't have much time left, a little over 60 hours, I guess. We've got to get this solved.

And, you know, at the last hours, you begin -- people are looking for off-ramps. There is no off-ramp here. The only option is for Congress to raise the debt ceiling and to sign these initial deficit reduction savings into law.

Obviously, if Congress isn't able to act, the Treasury Department is going to have to brief people who'd affected and will obviously do that. But the focus now has to be driving towards some conclusion here.

And, listen, I think the American people are sitting at home and saying, you know, they've gone through this recession, many have lost jobs, many are working two jobs, they're helping family members who've been affected, they're furious at this.

What they're screaming -- listen, the president a couple times this week talked about compromise. And Capitol Hill was besieged by tweets, by calls, by e-mails, because the American people are fed up. They want their leaders to lead, and part of leading is compromise.

You know, George, you've worked on Capitol Hill. Any meaningful agreement has to be based on compromise, particularly when you have divided government. The American people chose divided government in 2010, but they did not choose dysfunctional government. And I think the spectacle this week has been something that's enraged Americans, and I think they're going to insist that their leaders here over the next two-and-a-half days solve this problem.

AMANPOUR: Well, we're certainly going to be watching it. David Plouffe, thank you very much, indeed.

AMANPOUR: And so, again, Capitol Hill becomes a hive of activity this afternoon when Senator Majority Leader Henry Reid brings his troops into session. We'll then begin to see how the rank-and-file are responding to the leadership negotiation.

And we're now joined by a key Republican senator, Lindsey Graham of South Carolina.

Thanks for joining us.

GRAHAM: Thank you.

AMANPOUR: As all of this goes on, we're hearing now from Minority Leader Mitch McConnell that they are working -- they're close to the parameters -- close to presenting something to their members. Is this, what you're hearing, the kind of thing that you could get on board with?

GRAHAM: Yeah, that was actually a pretty good interview. I don't know where I'm going to land, but I do believe that there is a desire by the body as a whole, Republicans and Democrats, to get this done in a way that you don't go in Tuesday with a default.

But there's a lot of history being made here. The average debt ceiling increase in terms of time since 1940 has been nine months. We're going to do 22 months, is the proposal, and $2.3 trillion.

From the Republican Party's point of view, I think we can declare victory in a limited fashion. This is the first time in my lifetime, that I know of, that we're paying for future debt increases dollar for dollar. And that would not have happened without the 2010 election, which was about the size and scope of the government.

But when you tell Tea Party folks and, quite frankly, people like me, we've won, the answer would be, wait a minute, we've changed the culture in terms of raising the debt ceiling, but in the next decade, you're adding $6 trillion to $7 trillion additional money to the debt. The government continues to grow.

So I think what we've been able to achieve is historic in terms of the debt ceiling debate, but we're not -- we're no longer running toward oblivion. We're walking toward it. And now we need to stop and turn around, go back the other way.

AMANPOUR: Every Republican congressman from your own state voted against Speaker Boehner's plan...

GRAHAM: They did.

AMANPOUR: ... even though it did contain the balanced budget amendment.

GRAHAM: Yeah.

AMANPOUR: Do you think they'll get behind this current framework that we've been describing?

GRAHAM: You know, I don't see many conservatives getting behind this, quite frankly, because you don't overall. I've learned in politics the hard way, don't oversell, and don't tell people they should feel good when they have a reason not to feel that great.

AMANPOUR: Will it pass? Will enough get behind it?

GRAHAM: I think half the conference in the Republican House must vote for this. To President Obama, to David...

STEPHANOPOULOS: Only half?

GRAHAM: I think that's the minimum, because I like John Boehner. Maybe he can get more, but it's a $3 trillion package that will allow $7 trillion to be added to the debt over the next decade.

(CROSSTALK)

STEPHANOPOULOS: But you know the politics as well as I do...

GRAHAM: So how much celebrating can you do about that?

STEPHANOPOULOS: In order to get something like this through that does not include -- it looks like this will not include revenue increases...

GRAHAM: No revenue. That's a win.

STEPHANOPOULOS: I know where you stand on that.

GRAHAM: That's a win.

STEPHANOPOULOS: That is a win. It would only get half?

GRAHAM: My belief is, what do I tell people at home who say, what did you do about getting us out of debt? I slowed down how much debt you add. Instead of adding $10 trillion, we're going to add $7 trillion. I slowed down the growth of government, but it still grows every year. For those who came out to vote in 2010 to say, get the size and scope of Washington changed in the new direction...

(CROSSTALK)

STEPHANOPOULOS: If you only get half, this could go...

(CROSSTALK)

GRAHAM: It doesn't go in the new direction.

STEPHANOPOULOS: With only half the Republican conference, this could go down.

GRAHAM: Well, I'll tell you, our Democratic friends provided no votes to John. There's no plan by the president. Harry Reid's plan is going nowhere.

AMANPOUR: But you say there's no plan, sir, but he's moved so far, in fact, entirely to your side.

GRAHAM: His -- his -- his rhetoric has moved. The reason everybody's moved in town...

AMANPOUR: But this is all spending cuts.

GRAHAM: Well, let me tell you. There's people in my party moved. There are people in my party who really are not that excited about cutting government...

STEPHANOPOULOS: You're not ready to vote for this, are you?

GRAHAM: I can't -- from -- from a big picture, I'm not ready to vote for this. And let me tell you why -- excuse me, George -- the bottom line here is, the people who got elected are not excited about being Republicans or Democrats, particularly on the Republican side. They're excited about results.

And it is fair to say, we've achieved a significant change in the way Washington works by paying for the debt ceiling increase and not passing it onto the credit card. We have not achieved entitlement change. We have not reduced the size and scope of government. We're going in the wrong direction at a slower pace, and for a lot of people, that is not winning.

AMANPOUR: You're an internationalist. We've talked before about all sorts of things like Afghanistan and other such places.

GRAHAM: Yes.

AMANPOUR: Look, you saw the soldiers yesterday -- and I asked David Plouffe this -- I mean, desperately asking their commander, Admiral Mullen, whether they're going to get paid, and he said, "I can't tell you."

GRAHAM: Well, I can. I can tell them. Here's what -- I wish I'd have been there. I would have said, not only are you going to get paid, but Admiral Mullen said the number-one national security issue facing this country is debt. And I wish we would have followed on with what we said.

If you believe that we're so far in debt we're going to become a weak country and can't afford to defend ourselves, I would have told the Marine, you're going to get paid, but by God we're going to change the reason your children will never have the American dream. So, young man, we're going to pay you, but we're going to change Washington so your country doesn't become weak and ineffective and have more debt that your children can afford to pay. That's what I would have told the Marines.

AMANPOUR: You must also worry, given your extensive connections around the world, about the way the world is seeing this country right now. I mean...

GRAHAM: I'm not worried about democracy. Here's what I would tell...

(CROSSTALK)

AMANPOUR: Not democracy. About -- they say a political system gone mad.

GRAHAM: You've got people in this country who just won a big election. They weren't kidding when they said they wanted to come to Washington to change the size and scope of the government. Then you've got people who've been there forever saying, you don't understand, you don't get it.

Well, let me tell you, I do understand: 43 cents on every dollar being borrowed, we're going to become Greece in the next 15 or 20 years. Medicare and Social Security is going to fail. So what I would tell anybody around the world, thank God these new people are here, because do you want America to become Greece? Do you want our debt instruments not to be well received throughout the country? Do you want us holding our debt, never to turn around while we're in debt to $14.3 trillion? This deal -- and it is better than a lot of people thought, but is not nearly where the problem is.

AMANPOUR: All right. Senator, on that note, thank you very much, indeed, for joining us.

GRAHAM: Thank you.

AMANPOUR: And coming up, our roundtable on the emerging framework of a deal and the big question, can it hold? We'll take up where Senator Lindsey Graham just left off. The stakes couldn't be higher for this country and the Congress and the Obama presidency. Stay with us.

(BEGIN VIDEO CLIP)

BOEHNER: I have offered ideas. I've negotiated. Not one time, not one time did the administration ever put any plan on the table. All they would do was criticize what I put out there. I stuck my neck out a mile to try to get in agreement with the president of the United States. I stuck my neck out a mile.

(END VIDEO CLIP)

AMANPOUR: House Speaker John Boehner on Friday night, a taste of the intensity that's defined the final hours of the debt ceiling debate. The speaker weathered some tough challenge this week, and now he faces a new test. Whatever deal is worked out between the Senate and the president will, of course, have to pass muster in the House, so lots of twists and turns still to come.

Joining me to chart the course, George Will, Pulitzer Prize-winning economist Paul Krugman, who's also a columnist for the New York Times, Grover Norquist, president of Americans for Tax Reform, a group that's played a major role in this debate with its no-new-taxes pledge, and once again, ABC chief political correspondent George Stephanopoulos.

Gentlemen, you just heard what Senator Lindsey Graham said, what David Plouffe, the president's adviser, said. Mitch McConnell is saying they're quite close, that he'll have the parameters of a framework he thinks to show to his members today.

Is this now going to pass? Are we going to get a deal?

WILL: I think we are. And I think it was signaled when the president spoke last Monday. That's six days ago; it seems like six months ago. But what he said was it is unjust and unacceptable to have a debt ceiling agreement that does not include revenues, that is unbalanced. The president said that after the second most prominent and powerful Democrat in Washington, Harry Reid, had proposed exactly that. He not only proposed that -- that is, an increase without revenues -- but an increase that had the other main Republican component, which was spending cuts commensurate in dollar numbers with the increase in the debt ceiling.

AMANPOUR: So it's a win?

WILL: It is a win. Now, the conservatives are saying it's imperfect, to which one must say the Sistine Chapel ceiling is probably in some sense imperfect.

AMANPOUR: Well, I don't know. Was Michelangelo imperfect? Is this imperfect? Or is it enough for you to get your people behind?

NORQUIST: Well, it avoids the two biggest challenges, and everybody goes back to 1982 and 1990. It doesn't have a tax increase in it. It appears to have real spending restraint with mechanisms to enforce it, as opposed to what happened in the past, where we had the tax increase without spending restraint. By missing those two, it moves in the right direction. Would I like to see more spending reductions? Absolutely. Are we moving in the correct direction? Yeah.

AMANPOUR: George, we've just been talking to Senator Graham and before to David Plouffe. I mean, Senator Graham extraordinarily seemed to say that it actually didn't go far enough and that he actually wouldn't be voting for it.

STEPHANOPOULOS: Said it was historic, said it was victory in a limited sense, but wouldn't be voting for it. But take a step back. And I would love to hear Paul on this, as well. You go back since this Republican majority was elected in the House in November. Since then, the Bush tax cuts have been extended. They got about $30 billion in government spending cuts in the spring. They're going towards $2.4 trillion now without any of the revenue increases the president has called for. You know, you talked to people in Speaker Boehner's House. They say this is a big, big win. And I don't know how you can deny it at this point.

KRUGMAN: No. The first thing is, we shouldn't -- you know, from -- from the perspective of a rational person -- in other words, a progressive on this stuff -- we shouldn't be even talking about spending cuts at all now. We have 9 percent unemployment. These spending cuts are going to worsen unemployment. That's not even -- it's even going to hurt the long-run fiscal picture, because we have a situation where more and more people are becoming permanent long-term unemployed. And if you have a situation in which you're going to permanently raise the unemployment rate, which is what this is going to do, that's actually going to reduce future revenues.

So this -- this thing -- these spending cuts are even going to hurt the long-run fiscal position, let alone cause lots of misery. And then on top of that...

AMANPOUR: Well, you...

KRUGMAN: ... we've got these budget cuts, which are entirely -- basically the Republicans said we'll blow up the world economy unless you give us exactly what we want, and the president said, OK. That's what happened.

AMANPOUR: You know, you've been consistent about this, saying that there should be no cuts at a time of recession and weak recovery. What is your scenario, though, once this goes through and there are significant spending cuts and no revenues?

KRUGMAN: We're looking. I mean, we used to talk about the Japanese and their lost decade. We're going to look to them as a role model. They did better than we're doing. We're -- this is going to go on -- I have nobody I know who thinks that the unemployment rate is going to be below 8 percent at the end of next year.

With the spending cuts, it might well be above 9 percent at the end of next year. There is no light at the end of this tunnel. And all the -- we're having a debate in Washington which is all about, gee, we're going to make this economy worse, but are we going to make it worse on 90 percent the Republicans' terms or 100 percent the Republicans' terms? And the answer is 100 percent.

WILL: Paul's right. We are a third of the way through a lost decade, but we're a third of the way after TARP, the stimulus, Cash for Clunkers, dollars for dishwashers, cash for caulkers, the entire range of stimulus, the Keynesian approach, which, by its own evidence, simply hasn't worked. Now Paul says double down.

KRUGMAN: Can I just say -- in advance, one important point is to make that -- is that people like me said in advance this wasn't remotely big enough. It's not an after the fact. It's not coming back afterwards.

Right from the beginning, we looked -- I looked at the numbers, people like me looked at the numbers, said we have -- we're going to have huge cutbacks at the state and local level. You've got a federal increase which is going to be barely enough to limit those cutbacks. There is going to be no net fiscal stimulus, if you look at government as a whole, which is what happened.

WILL: And it...

KRUGMAN: So here we are.

WILL: It would be good to go to the election -- electorate and have a Krugman election this time, saying, resolved, the government is too frugal. Let's vote.

AMANPOUR: President Obama has been deeply involved over the last, you know, several days, last 48 hours for sure, but it's been a very rough week for him, George. How is this going to pan out?

STEPHANOPOULOS: For a few months. I mean, first of all, the president needs a deal, because he doesn't -- he bears the consequences of default more than anyone else. Even if the public blames the Republicans more for what happened, he's got to deal with what happens in the economy.

I think at this point, the White House is hoping that, by getting a deal, he -- he can at least start to right the ship. You look at what's happened in the polling and the president's approval rating over the last couple of months. The Gallup poll has him down to 40 percent. The Pew poll, George, you and I were talking about before we came on air has him barely beating a generic Republican now 41 to 40. It's taken a real toll on the president's position.

AMANPOUR: And...

NORQUIST: Look, we've also had 50 states that have sort of played this out, as well. In the last couple of years, there have been not -- they've not been raising taxes, states like New Jersey and Michigan and Wisconsin and Ohio and Pennsylvania, major states, Texas, Florida. And what they have done is rein in spending. The states that have reduced spending and not raised taxes are doing better than the states like Illinois and Connecticut and California, which are trying to raise taxes.

AMANPOUR: Is that right, Paul?

KRUGMAN: No, it's not. We can get into statistics here -- we'd get too deep into the weeds -- but it's just not true. And it's -- let me say, by the way, on the politics of this, if you look at the polling, it turns out that the average Republican voter thinks there should be some revenue as part of this deal, right? So the president has agreed to -- not just to an agreement that's way to the right of the average American voter. It's actually to the right of what the average Republican voter wants.

(CROSSTALK)

STEPHANOPOULOS: ... he has fought here. He simply doesn't have the votes.

KRUGMAN: No, he doesn't. He has -- he has options. There are -- there are -- I'm aware of at least four possible legal routes to just regarding the debt ceiling...

STEPHANOPOULOS: You're talking about the 14th Amendment.

KRUGMAN: The 14th Amendment, Article I, the platinum coin. Do people know about the platinum coin issue?

(CROSSTALK)

KRUGMAN: You can issue -- it appears to be legally possible to...

STEPHANOPOULOS: That are worth a trillion dollars each?

KRUGMAN: ... to print -- to mint a $2 trillion platinum coin, which is ridiculous, but the whole debate is ridiculous, right? If you've got somebody who's holding the American economy hostage and trying to extort policy concessions that they could never actually pass through Congress and that they could never get past the voters, you go for whatever you can do to stop it. But he won't do that.

(CROSSTALK)

STEPHANOPOULOS: ... I think the only time the president could have done something is go back in December when Republicans were calling for an extension of the Bush tax cuts. He could have called for an extension of the debt limit then. It might not have worked, but it's when he had the most leverage.

(CROSSTALK)

AMANPOUR: I mean, that is an important question. There's nothing legally, constitutionally any way that binds the debt ceiling to the -- to the debt or the budget. Why didn't he take a stronger stance in saying, these are two separate issues?

KRUGMAN: It's what we asked on everything, right? Why -- why -- why is the president unwilling -- you know, he's...

AMANPOUR: George, he could have done it, right?

WILL: Done what?

AMANPOUR: Done that.

KRUGMAN: He always signals -- he begins every negotiation by signaling, "I'm willing to move halfway." So the other side moves further, and he moves halfway. He's never been willing to...

(CROSSTALK)

NORQUIST: He paid attention to the 2010 election. He noticed what happened. I don't think the president -- well, we know the president wasn't willing to stand up and say, "I don't care about overspending. I just want you to let me borrow more money. I don't care about overspending." He can't say that three times out loud and have a prayer in 2012.

The Republicans, they're going to take the Senate in 2012. If you look at the 23 Democrat seats up, half of them in reddish states, and 10 Republican Senate seats up all in reasonably Republican states, with the possible exception of Massachusetts, and he's got $10 million in the bank and looks great in a bathing suit. I mean, you're looking at a Republican Senate in two years. How is he going to hold on to the White House if he says he doesn't care about spending?

KRUGMAN: The 2010 elections were a run on two main themes: Where are the jobs? And Democrats are going to cut Medicare. And so Obama's response to that is, let's do stuff that's going to further reduce employment and let's -- let's give the Republicans cover on Medicare.

STEPHANOPOULOS: But look at reality. If there are 50 House Republicans that are saying we're willing to send the country into default, he just doesn't have the leverage.

(CROSSTALK)

KRUGMAN: ... if he just says no.

AMANPOUR: We're going to talk about jobs and further leverage right after a break, when we'll have more with our roundtable. But first, how will tomorrow's markets respond to today's news? We get an expert reality check. Stay with us.

(COMMERCIAL BREAK)

AMANPOUR: This week, Wall Street started to waver. With the debt deadline looming ever closer, the Dow plunged, its biggest drop in a year. The ripple effect stretched to overseas. The international markets also shaken by the climate of deep uncertainty and confusion. So what will tomorrow bring?

Mohamed El-Erian joins me from California. He's the CEO of PIMCO, the world's largest bond fund.

Mr. El-Erian, thank you very much for joining me. You have been...

EL-ERIAN: Thank you.

AMANPOUR: You've been hearing perhaps that the Senate minority leader, Mitch McConnell, feels quite optimistic that something is going to get worked out. There's a framework of a deal. How do you expect the markets to react come open time today and also tomorrow here?

EL-ERIAN: Two issue, Christiane. First, there will likely be relief, because I think this compromise will lead to an increase in the debt ceiling, and therefore avoid default. But this relief will be short. And it will be short because markets look at all the discussion not as an end in itself, but as a means to an end.

And when they look at it as a means to an end, it will not remove the threat of a downgrade. It does nothing to restore household and corporate confidence. So unemployment will be higher than it would have been otherwise. Growth will be lower than it would be otherwise. And inequality will be worse than it would be otherwise.

And, thirdly, like you said at the top of the show, the rest of the world is watching, and this will do very little to reduce the concern that the rest of the world has about the role of the U.S. in the global economy. So I expect the relief to be short-dated.

AMANPOUR: Let me ask you about the downgrade. There's obviously quite a lot of debate about not only will it happen, but if it does happen, how dramatically bad would that be for the United States? What, from your perspective, would be the effect of a downgrade from AAA?

EL-ERIAN: It will make us worse off. It's unambiguous in my mind that we have constructed both a global system and a national system based on the U.S. being a AAA. If the U.S. loses that AAA status, it will be much more difficult for the U.S. to restore growth. So it's unambiguously bad.

AMANPOUR: And how likely do you think it is to happen, the downgrade?

EL-ERIAN: We have one rating agency out there that said it would downgrade unless certain things happen, and these things are not happening fast enough. So if this rating agency, S&P, sticks to what it said, it will downgrade. Of course it's under tremendous pressure not to do so, but it has said that it would downgrade.

AMANPOUR: And in terms of U.S. economic growth, this first half has been very weak, the first quarter, even downgraded, if you like, from the estimates. What will substantial spending cuts do? Will it materially improve the outlook for U.S. economic growth?

EL-ERIAN: No, here I'm with Paul, because we have a very weak economy, so withdrawing more spending at this stage will make it even weaker, especially that this is not packaged in the context of medium-term viability. Remember, Christiane, public finance is only one of the headwinds facing this economy. We have a banking system that's not operating properly. We have a labor market that's not operating properly. And we have a housing market that's not operating properly.

AMANPOUR: All right. Thank you so much indeed, Mohamed El-Erian.

Sobering words, as you all heard. Let's bring all of you back for the roundtable discussion. The big, overarching theme here, obviously, is also to get the economy back on track and to improve this really drastically weak recovery. Paul, how is that going to happen?

KRUGMAN: I mean, my first best guess, my maximum likelihood estimates, to wear my academic hat, is it won't happen, not for years and years to come. No one is discussing the kinds of policy that might make it happen. We're waiting for the economy to heal itself, which if it's doing is doing very slowly.

AMANPOUR: Even in this situation, are there things that could be done to make people go back to work? Are there structural infrastructure work?

KRUGMAN: Well, look, if we -- there are potholes everywhere. If we actually -- you know, if there were any political willingness to just do sort of obviously needed infrastructure work, with borrowed money, then we would -- that would do a lot. But we're not going to do that.

And other than that, you know, Ben Bernanke might be able to pull a few more tricks out of his hat. And -- but it's really hard to see where this is going to come from.

AMANPOUR: So, George, if that happens and there are all these dramatic cuts and the economy doesn't improve, I mean, what does that do politically? Are people, do you think, going to blame the president come 2012? Are they going to blame the Republicans? What's going to happen?

WILL: I think they'll blame the president. It takes 2.5 percent growth annually to create enough jobs to account for the natural growth of the labor force. And the numbers we got this week...

(CROSSTALK)

WILL: ... the first quarter -- the first quarter growth of 1.9 percent was revised down to 0.4 percent, then came 1.3 percent. This is -- as we said, we're a third of way to a lost decade.

STEPHANOPOULOS: That's why this debate is so maddening. You listen to Mohamed El-Erian, and he's not alone there. On the one hand, he says, if you don't have these tremendous spending cuts, credible deficit reduction, we're going to get downgraded by the ratings agencies, that's going to be an economic disaster.

KRUGMAN: Can we say a word about the ratings agencies? Who are these guys, and why should they have this power?

STEPHANOPOULOS: They do.

KRUGMAN: And they've been wrong about everything. They were wrong about...

STEPHANOPOULOS: They were certainly wrong about the mortgage...

KRUGMAN: ... about the mortgage markets. They downgraded Japan in 2002. And -- and the result, after 19 years, is that you'd have made a lot of money if you bought Japanese bonds.

STEPHANOPOULOS: I completely agree with that, but then you turn it around, and Mohamed El-Erian says what -- on the other hand, if you make these spending cuts, the economy is going to be stuck in the -- stuck in the mud. I mean, this is a -- a paradox you just can't break.

WILL: It's not a paradox. It's a contradiction.

KRUGMAN: It's not. It's none of those. The textbook answer is spend now, cut later. Spend now and have -- have a long-term plan, work on something. The real problems for the U.S. budget are not actually even in the next decade. They're in what happens after 2020.

So if you could credibly promise to do reasonable things after 2020, while at the same time actually spending...

STEPHANOPOULOS: But that wouldn't be good enough for the ratings agencies...

KRUGMAN: But it's never going to -- it's never going to happen in the -- but that's -- it's politics. There's no economic mystery.

NORQUIST: There's been both short-term progress and long-term progress. Short-term progress is, we didn't raise taxes. We are dealing with the overspending problem, clawing it back a little bit.

Long term, we've set the precedent. We're never again doing a 1982 or a 1990 deal where we raise taxes and pretend to cut spending. We're -- and we're going to insist from now on, any time the debt ceiling goes up, dollar for dollar, spending comes down. Those two are long-term progress.

KRUGMAN: Can I ask you, by the way...

(CROSSTALK)

NORQUIST: There's a third part to the problem we face, taxes, spending. There's been a wave of regulations, both -- that have arrived and that are threatened. I think the biggest thing holding back economic growth now is the concern that next week you wake up and the EPA or some other department of government has decided not just what kind of light bulbs you have, but how big your car can be.

KRUGMAN: It's this amazing story that's come into minds, which is that the tax hikes of '82, '90 and '93 were somehow a terrible thing, a bad thing. You know, by the year 2000, we'd had a decade of very good growth. We had a surplus in the budget. All of the squandering took place after that. So those were -- the things that you say we will never again do were actually the things that put us briefly on the road to fiscal sanity.

AMANPOUR: Gentlemen, thank you very much indeed.

And coming up, the next big story. Is the face of terror changing? Should the massacre in Norway be a wakeup call for law enforcement here in the United States? I will ask New York City Police Commissioner Ray Kelly.

(COMMERCIAL BREAK)

AMANPOUR: Two troubling cases this week spotlight the threat posed by the extremists in our midst. In Texas, Army Private Naser Jason Abdo stands accused of planning another deadly attack on Fort Hood. He may have been inspired by the radical Islamic cleric Anwar al-Awlaki.

And in Norway, confessed mass-murderer Anders Behring Breivik has found some unlikely defenders on the far right of the European political spectrum. At least three politicians have come under fire for defending his extremist, anti-Muslim, anti-immigrant views.

But is violent right-wing extremism only a threat abroad? For some perspective, we turn to a man on the front lines, New York City Police Commissioner Ray Kelly.

Commissioner Kelly, thank you so much for joining us.

KELLY: Good morning.

AMANPOUR: We've all heard -- we know all the work that the U.S. law enforcement, yourself, everywhere is doing on Islamic extremism, the homegrown terrorism threat. Is there a possibility, though, that a Norway could happen here?

KELLY: Well, it's something that we have to watch closely, and we are. I think U.S. law enforcement is focused on the issue. I can tell you, in New York City, we have a task force in our intelligence division that looks at white supremacist/anti-government groups and individuals.

In fact, just a few days before the Norway massacre, we had a teleconference with our century partners -- this is 100 law enforcement agencies in the northeast quadrant of the country -- and that was the specific subject. We talked about certain groups and individuals that we're concerned about.

But it's an issue that can pop up, you know, quickly, without any advanced notice, because these individuals play their cards very closely. They don't show their hand. Just a few blocks from where you're sitting, we had a white supremacist walk into the Holocaust Museum in 2009, shoot and kill one of the security guards. He himself was shot, but clearly he had mayhem in mind.

AMANPOUR: So...

KELLY: So it is a ongoing issue that law enforcement has to continue to focus on, and I believe we are.

AMANPOUR: So can you characterize -- you've talked about threats. You mentioned one. Can you characterize some of the threats that you're hearing about, the nature of them?

KELLY: Well, there are individuals who get together and sort of follow a neo-Nazi philosophy, not unlike Anders Breivik in Norway. But they are -- they are difficult to spot. And to a certain extent, they tend to get together in rural areas. They stay away from large city centers. But in New York, we have to be concerned about something planning -- someone planning or plotting an event away from the city and it coming into New York. So we're on a lookout for this sort of thing, but it's difficult to identify.

AMANPOUR: Is it politically difficult, as well? There's obviously an infamous case of a special report on this issue, written by an analyst at the Department of Homeland Security, and because of an outcry, once it was about to be released, it was quashed. Is there a problem with trying to focus enough attention on this threat, given the sensitivities about the threat since 9/11, for instance, the Islamic threat?

KELLY: You know, I guess there are always some First Amendment issues that you have to be aware of, but I know we don't have a problem in focusing on it in New York City. We follow certain individual on the Internet. They put out their feelings quite clearly. A lot of them are careful about not advocating violence.

For instance, the individual in Norway, although he had a lot of Internet activity, did not advocate violence. He put his manifesto on the Internet six hours before he started the attacks. But so they're -- they're somewhat careful about, you know, advocating violence.

AMANPOUR: And just as we -- as we wrap up, I wanted to ask you, on this rapidly approaching 10th anniversary of 9/11, is New York, is America safer? Or are there real issues that you're still having to deal with?

KELLY: Oh, there are certainly real issues that we have to deal with. We think the elimination of Osama bin Laden was an important milestone, but not a game-changer. We're still very much at risk. We're concerned, as we get closer to the 9/11/11 memorial, because we know Osama bin Laden spoke about that date twice in the last two-year period.

So the federal government, local and state authorities, I think are very much aware of the threat and are on alert.

AMANPOUR: Commissioner Kelly, thank you very much indeed for joining us from New York.

KELLY: Thank you, Christiane.

AMANPOUR: And we want to bring you up to date on some other headlines from around the world.

Israel today is rocked by the largest protest in its history. More than 150,000 people are in the streets around the country demonstrating against high housing and food costs and inadequate health care and education. Police disbursed crowds in Tel Aviv, but there have been no reports of violence.

However in neighboring Syria today, the news is very grim. The Associated Press is reporting at least 62 civilians are dead, killed after Syrian tanks stormed the city of Hama before dawn. They're stepping up a crackdown on antigovernment protests. And this comes a day before the start of the Muslim holy month of Ramadan, where nightly protests across the country are expected to grow larger.

And in Somalia today, it is a race against time, as U.N. relief workers struggle to get help to the ravaged nation. The situation is truly catastrophic, a famine borne of skyrocketing food prices and exacerbated by the worst drought in decades and perpetuated by terrorists who use food as a weapon.

ABC's David Muir is the first American correspondent in Somalia, and he's traveling with the United Nations, and he filed this report for us from Mogadishu.

(BEGIN VIDEOTAPE)

MUIR (voice-over): We flew into Mogadishu with the U.N. this morning. They now say the crisis here in Somalia is by far the most serious food emergency in the world. And this week, as the first of the aid reached the city's capital, there was something else: a gun battle, African peacekeepers trying to protect the food and the fragile government here, firing deadly shots at Islamic militants, members of al-Shabaab, who have a grip on much of this country.

This crisis is at a breaking point. Tens of thousands have fled this country by foot, some walking more than 100 miles to neighboring Kenya, traveling what the U.N. calls the roads of death.

We traveled the perilous route, too. And then this mother, sitting beneath a tree, she was almost there.

(on-screen): And how long was her journey?

(voice-over): Ten days, she tells us.

(on-screen): These are all her belongings from Somalia?

(voice-over): Yes, she says. Her own children have run ahead to the tents that now pepper the horizon, a first sign that these refugees are nearing the camps. The children who race to keep us with us, their smiles have returned. A number of refugees swelling in the desert outskirts, so many now that the doctors have come to them.

(on-screen): This is an -- this is an ambulance?

(UNKNOWN): Yes (inaudible) ambulance.

MUIR (voice-over): They take us inside their makeshift clinic.

(on-screen): So this is the waiting area here.

(voice-over): Mothers putting their children in hanging buckets to weigh them. The hunger has now spread here beyond the most susceptible, beyond babies and toddlers. It's the older children, too.

But they say if they can just get them the nutrients, you soon see what we did. Doctors Without Borders allowed our camera into their intensive care unit at the refugee camp. We saw this little girl, her tiny bones and her sagging skin, the hospital director immediately told us he saw something else: She was sitting up for the first time.

(on-screen): She's been about her two days.

(UNKNOWN): This is the third day.

MUIR: The third day.

(UNKNOWN): Yeah.

MUIR: And you can say that she's going to be OK?

(UNKNOWN): Yes, she's going to be OK.

MUIR: Christiane, it's really something to see how quickly the children bounce back once you feed them, which is why the U.N. says it's imperative to get the food and the aid here into the capital of Somalia, Mogadishu.

There are people now coming to this city by the tens of thousands, knowing full well the danger they face in doing so. It's a sign of just how desperate they've become. We'll be traveling on the convoy today, and you can see the torrential downpours here at the airport. It's going to make the whole effort all the more challenging.

Christiane, back to you.

(END VIDEOTAPE)

AMANPOUR: David, thank you, from Mogadishu, Somalia.

And it is so hard. Be sure to watch "World News Tonight" for more of David's exclusive reporting. Viewers of "This Week" have given generously to help the people of Somalia. But as you can see, the challenges are great. To find out how you can help, visit our Web site at abcnews.com/thisweek.

We'll be right back.

(COMMERCIAL BREAK)

AMANPOUR: And now, the Sunday funnies.

(BEGIN VIDEO CLIP)

FERGUSON: We owe a record amount of money to China. And the Chinese are starting to drop little hints they might want it back. They have. Last night, I got Chinese food, and the fortune cookie said, "Where's our money (bleep)?"

(LAUGHTER)

"I don't have your money." "You get my money."

(LAUGHTER)

O'BRIEN: President Obama said that compromise has become a dirty word. Yeah. Then he told Republicans to go compromise themselves.

(LAUGHTER)

COLBERT: The debt ceiling debate drags on and on, and, frankly, both parties have been acting like children, with the Republicans saying, "Gimmie, gimmie, gimmie," and the Democrats saying, "Take it, take it, take it, just don't hit me."

(LAUGHTER)

(END VIDEO CLIP)

AMANPOUR: And we'll be right back.

(COMMERCIAL BREAK)

AMANPOUR: And now, "In Memoriam."

(BEGIN VIDEO CLIP)

SMITH: Good evening from ABC News headquarters in Washington. I'm Howard K. Smith.

REASONER: I'm Harry Reasoner in New York. These are tonight's headlines.

(UNKNOWN): And Hideki Irabu will pitch out of it.

(END VIDEO CLIP)

AMANPOUR: This week, the Pentagon did not release any names of U.S. Service members killed in Iraq or Afghanistan, and it's the first time since we began this segment that we have not had to mark the loss of any U.S. forces in those conflicts. We'll be right back.

(COMMERCIAL BREAK)

AMANPOUR: That's our program for today. Be sure to watch "World News Tonight" for all the latest on the debt ceiling negotiations. And remember, you can follow us any time on Twitter, Facebook, and or abcnews.com. For all of us here in Washington, thank you for watching, and we'll see you again next week.

END

From:	Rose, Lacey
To:	_DL_FYI
Subject:	ABC Transcript: This Week with Plouffe, Graham
Date:	Sunday, July 31, 2011 1:26:28 PM

'This Week' Transcript: David Plouffe and Lindsey Graham

July 31, 2011

(BEGIN VIDEO CLIP)

AMANPOUR (voice-over): This week, the endgame.

MCCONNELL: Our country is not going to default for the first time in history. That is not going to happen.

AMANPOUR: Now, at the 11th hour, perhaps some cause for optimism.

REID: There are negotiations going on at the White House now on a solution that will avert a catastrophic default.

AMANPOUR: With the whole world watching, the president faces his toughest challenge yet.

OBAMA: The time for putting party first is over.

AMANPOUR: ABC chief political correspondent George Stephanopoulos joins us for the inside story and the very latest, as the crisis nears a climax.

The president's top political adviser, David Plouffe, on hand with the view from the White House.

And then, Tea Party Congress at a crossroads.

MCCAIN: It's unfair. It's bizarro.

AMANPOUR: Republican Senator Lindsey Graham on the search for consensus within his own party.

Also, from Norway to Fort Hood, extremism is back in the headlines. New York City Police Commissioner Ray Kelly on the very real threat posed by radicals. And we'll take you to Mogadishu, Somalia, where ABC's David Muir is the first U.S. correspondent on the ground reporting on that country's epic famine.

ANNOUNCER: Live from the Newseum in Washington, "This Week" with Christiane Amanpour starts right now.

(END VIDEO CLIP)

AMANPOUR: Welcome to the program.

Lots to get to today, but first, some news since your morning papers. We have new developments to report on the story dominating all others, and that's the flurry of last-minute talks to raise the debt ceiling before the country runs out of money to pay its bills.

And this morning, we're hearing that there is a framework of a deal being worked on, but it's fragile.

And you can see the clock there ticking down to the Tuesday deadline.

Already we're seeing signs of mounting concern on Wall Street. The stock market plunged more than 500 points in the last week, a loss of $700 billion, or just over 4 percent of its value.

But this morning, a glimmer of hope, perhaps. For the very latest, I'm now joined by ABC chief political correspondent George Stephanopoulos.

George, you've been talking to all your sources. Are we at the edge? Or are we pulling back from the edge?

STEPHANOPOULOS: I think we're seeing the beginnings of an end game. It's good to be back on "This Week." And this is just a framework of a deal, as you said, not a final deal at all, but it's designed to get each side its bottom line.

The president gets an extension of the debt ceiling through the election, about $2.4 trillion. Congressional Republicans get the deficit reduction spending cuts that they say needs to meet that $2.4 trillion.

Here's how it would work: a trillion dollars in spending cuts right now.

Then a special congressional committee would be set up designed to report by about

Thanksgiving to come up with another trillion or so dollars in spending cuts, maybe a little bit more than that.

The rub is on what happens if this congressional committee doesn't get that $1.4 trillion in deficit reduction. They're working on what they call a trigger that would guarantee spending cuts in both defense and domestic programs if this congressional committee doesn't meet the goal.

Now, the question would be, does that trigger also include revenues? Congressional sources saying no. Does it guarantee automatic spending cuts? Congressional sources saying yes. The White House saying they don't agree with that yet, which is why we're glad to have David Plouffe here, the senior adviser, who can maybe clear some of that up for us this morning.

AMANPOUR: Indeed. And joining us now, David Plouffe, the senior adviser to President Obama. So you've heard all that we've been talking about. Is there a deal?

PLOUFFE: No, there's not.

AMANPOUR: Is there a deal close, a framework? What can you tell us?

PLOUFFE: Well, I, unfortunately, can't negotiate here on your program.

AMANPOUR: No.

PLOUFFE: I think that what's clear is that pretty much both parties agree that there's going to be a first stage of deficit reduction, over a trillion dollars, that there is going to be a process, as George talked about, a congressional committee. And what that's going to work on is the items that the president was focused on with Speaker Boehner. You're not going to reduce the deficit without tax reform, without entitlement reform.

STEPHANOPOULOS: So that committee could include revenue increases, the committee, not the trigger?

PLOUFFE: The committee...

STEPHANOPOULOS: ... could consider revenue increases.

PLOUFFE: Any -- any long-term deficit reduction -- and I think the American people have spoken clearly about this, too -- if you're a middle-class family, if you're a senior citizen, you're furious that the answer to the deficit reduction by some here in Washington, mainly Republicans in the House, is to ask you to do everything. You're going to have to have closing of tax loopholes. You're going to have to have revenue produced to close the deficit.

There is -- without getting into details -- obviously, one of the things we've been focused on -- and this was part of the president's deficit reduction plan he outlined way back in the spring -- was an enforcement mechanism. So if this committee doesn't act -- and I would start by saying I think it's incumbent on leaders in both parties to appoint people to this committee who are focused on deficit reduction, who will be willing to get out of their party's comfort zone, so you can produce something that can get voted on.

But an enforcement mechanism, so that if the committee doesn't act, if it deadlocks, that there be some additional deficit reduction.

And that's obviously one of the areas that's under discussion.

AMANPOUR: So do you know think, as this is being worked on, do you think, after all this tension and stress between the parties, that there will be something that both parties can get all their members -- well, a majority to vote on?

PLOUFFE: Well, we still have some hard work to do. But it would be inconceivable that we don't. I think the American people -- you flashed the stock market decline this week. It's clear that it's hurting consumer confidence, business confidence. We have to remove this specter.

The debt ceiling has been raised dozens of times over the last couple decades. It has to be raised again. And, again, let's remember what we're talking about here. These are bills that Congress already put on the credit card. They're required to pay for them.

We all agree -- and if you're an American citizen, you should be, I think, pleased by this -- there's almost unanimity that we need to stop putting as much spending on the credit card. So the debate we're having right now is, how do we reduce the deficit? So I think that all the leaders have said, both privately and publicly, that the United States of America is not going to default. So we...

AMANPOUR: Will it happen by the deadline, though, by the August 2nd deadline?

PLOUFFE: Well -- well, that is the deadline. Our borrowing authority runs out. And so...

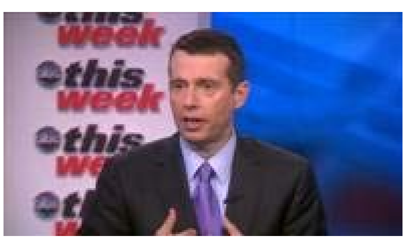
AMANPOUR: No short-term extensions, a few days?

PLOUFFE: Well, what -- what we've said -- and I think some in Congress have said -- if you have a deal and you needed a day or two to dot the i's and cross the t's -- but there's no reason even to do that. We have to get this done by Tuesday because it would be inconceivable for the United States of America -- the impact that would have not only on people here in this country, most importantly, but around the world would be catastrophic.

STEPHANOPOULOS: But, David, let me press you on the details here, because the details of this enforcement mechanism are all-important. This is what the whole negotiation is coming down to right now. The president has said time and time again he wants a balanced approach that includes tax reform revenue increases. Everyone I've talked to on Capitol Hill says this enforcement mechanism would not include revenue increases, would just be across-the-board spending cuts, domestic spending, Medicare perhaps, and defense, and it would not include revenues.

So if the enforcement mechanism doesn't include revenues, what incentive would Republicans have to consider revenue increases? And wouldn't it all but guarantee that the final product is all spending cuts and not the balanced approach the president wants?

PLOUFFE: Well, I will. First of all, I think the committee is going to be charged with finding significant deficit reduction. I think there's going to be a lot of focus on that committee. Certainly the work president did with the speaker is going to inform that committee. I think the American people have spoken loudly and clearly they want a balanced approach that asks something of everybody.



ABC News

White House Senior Advisor David Plouffe... **View Full Size**

Now, whatever enforcement mechanism is put in place has to be strong enough to compel action. Whatever its composition, people shouldn't look at this enforcement mechanism -- at least from my viewpoint -- as, well, you should assume that's going to happen.

Because what you want -- and, you know, historically there have been enforcement mechanisms that have been strong enough to compel action -- back in 1990, the first President Bush reached agreement with Democratic leaders because there was a looming trigger that people wanted to make sure...

(CROSSTALK)

STEPHANOPOULOS: But that included revenue increases. Now you're talking about one that does not include revenue increases. Isn't that the problem?

PLOUFFE: Well, listen, we're talking about a variety of options here. But the key principle is that the enforcement mechanism has to be strong enough to compel both parties.

STEPHANOPOULOS: But let me just press this, then...

PLOUFFE: Yes.

STEPHANOPOULOS: Can the president accept an enforcement mechanism that is spending cuts only, automatic spending cuts only, that does not include revenues?

PLOUFFE: What I would say is, we would accept an enforcement mechanism that ensures that -- that compels both parties to action and also is something that we think substantively is acceptable to the country.

STEPHANOPOULOS: So you're saying there may be a way to compel action by both parties without including revenues?

PLOUFFE: Well, again, we're talking about a variety of different options here in the closing hours here about how to compel that action. I would say that the positive thing is -- I think both parties agree that you need such an action.

And exactly what the composition is -- again, we want to make sure that there's focus on this committee acting. And I think this has been a healthy debate. I think the American people understand a lot more about the deficit, about that there's no easy answers. I think it's been a healthy debate here in Washington. And I think any long-term deficit reduction is going to include revenues and smart entitlement reform.

STEPHANOPOULOS: Republicans don't agree with that.

PLOUFFE: Well, some Republicans do. First of all, I'd say most Republicans in America do. And you're beginning to see more Republican senators speak to this, that, listen, we had a deal with Speaker Boehner that obviously fell apart that included $800 billion in revenue. So I'm confident that any solution that this committee would produce that ultimately will be voted on in Congress is going to be balanced.

AMANPOUR: Frustrated members of your own party, they're basically saying, look, why doesn't the president -- who has his principles -- stand up for them, rather than spending so much time wanting to be bipartisan, a conciliator? I mean, they're saying the Republicans are driving a harder bargain. And as George has just described, the president has moved all of the way to the language and the ideals that the Republicans espouse.

PLOUFFE: Now, if you look at -- what are...

AMANPOUR: But, yes, because he wanted a clean bill, then a bill with cuts and spending, and now as George is talking about, it's -- it's all cuts for the moment.

PLOUFFE: Well, first of all, we've been clear, we need this debt ceiling increased well into the future. The spectacle in Washington this week, anyone who thinks we should repeat this again a few months down the road, I don't think there's many people in America.

So, first of all, we need a longer-term extension, because our economy cannot have this cloud over it. Secondly, deficit reduction now is going to happen in two stages. There's going to be a first stage that has cuts agreed to, largely that came out of the work the president and the vice president did, that are acceptable largely to members of both parties.

The second stage is going to be a committee that's looking into the tougher issues of entitlement reform and tax reform.

The president believes that we need to reduce the deficit. This isn't about playing on a Republican playing field. This country, our economy has to reduce the deficit, we have to live within our means. And if you're a progressive, there's a powerful case for deficit reduction, things like college loans, college scholarships, medical research, spending on things like roads and bridges that put construction workers to work, if we don't reduce the deficit in the not-too-distant future, we're not going to have room to do any of that.

So we have to live within our means. And I think the president has been clear that he is willing to do some tough things, because the only way to reduce the deficit is to get out of your comfort zone. You're not going to do it without some smart entitlement reform in the long term, but you're also not going to do it without significant tax reform.

STEPHANOPOULOS: You keep saying smart entitlement reform. Does that include Medicare cuts? Are Medicare cuts back on the table as part of this congressional committee's mandate and as part of the enforcement mechanism's mandate?

PLOUFFE: Well, again, there's various, George, enforcement mechanisms that would have different constructs. In the initial set of spending cuts, obviously, these are just domestic spending cuts, and they would be both defense and non-defense. The committee's charge then -- before we get the enforcement mechanism -- will be, how do you fill in the rest of the details? The truth is, we will have cut a lot of domestic spending. So there's not going to be much more room there.

STEPHANOPOULOS: So that drives you to Medicare and Medicaid, perhaps Social Security?

PLOUFFE: Well, and tax reform. And the president was pretty clear. He laid out -- he was willing to do Medicare reform. Our view on this is, if we can strengthen Medicare, if we can strengthen Social Security, as opposed to what the House Republicans wanted to do, which was largely to dismantle it...

STEPHANOPOULOS: But you keep talking about tax reform, and what we've just seen in the House all week long is there are not votes in the House of Representatives -- there's not a majority in the House of Representatives for the kind of package you're talking about.

PLOUFFE: Well, it's hard to get a majority of House Republicans, it seems, to even support their own plan. But here's what I'm convinced of. The shame of it is, if the, quote, unquote, "grand bargain" that the president had been working with the speaker on, I'm convinced, had that come, it would have been the easiest to get the votes for, because it would have been deficit reduction on such a grand scale that even though there was component parts in it that are really tough political votes, people would have been willing to accept it.

Well, now we're going to do it in two stage, but ultimately we need the same outcome, which is we need significant deficit reduction, $3 trillion or $4 trillion over 10 years, really begin to reduce the deficit in the years after that, and it's got to be done in a balanced way.

AMANPOUR: You keep saying it has to be done. If it's not, what is the administration going to do? I mean, the specter of U.S. soldiers fighting for this country in Afghanistan, asking their commander whether they're going to get paid is really shameful.

PLOUFFE: Yes.

AMANPOUR: What are the choices that are going to be made if this doesn't come through as you hope?

PLOUFFE: Well, it's really unthinkable. And I think the specter you raised is one of the reasons I think there's so much urgency on Capitol Hill this morning.

AMANPOUR: What are the tough choices? And what's going to be paid?

PLOUFFE: Well, first of all, our focus now is on solving this. You know, we don't have much time left, a little over 60 hours, I guess. We've got to get this solved.

And, you know, at the last hours, you begin -- people are looking for off-ramps. There is no off-ramp here. The only option is for Congress to raise the debt ceiling and to sign these initial deficit reduction savings into law.

Obviously, if Congress isn't able to act, the Treasury Department is going to have to brief people who'd affected and will obviously do that. But the focus now has to be driving towards some conclusion here.

And, listen, I think the American people are sitting at home and saying, you know, they've gone through this recession, many have lost jobs, many are working two jobs, they're helping family members who've been affected, they're furious at this.

What they're screaming -- listen, the president a couple times this week talked about compromise. And Capitol Hill was besieged by tweets, by calls, by e-mails, because the American people are fed up. They want their leaders to lead, and part of leading is compromise.

You know, George, you've worked on Capitol Hill. Any meaningful agreement has to be based on compromise, particularly when you have divided government. The American people chose divided government in 2010, but they did not choose dysfunctional government. And I think the spectacle this week has been something that's enraged Americans, and I think they're going to insist that their leaders here over the next two-and-a-half days solve this problem.

AMANPOUR: Well, we're certainly going to be watching it. David Plouffe, thank you very much, indeed.

AMANPOUR: And so, again, Capitol Hill becomes a hive of activity this afternoon when

Senator Majority Leader Henry Reid brings his troops into session. We'll then begin to see how the rank-and-file are responding to the leadership negotiation.

And we're now joined by a key Republican senator, Lindsey Graham of South Carolina.

Thanks for joining us.

GRAHAM: Thank you.

AMANPOUR: As all of this goes on, we're hearing now from Minority Leader Mitch McConnell that they are working -- they're close to the parameters -- close to presenting something to their members. Is this, what you're hearing, the kind of thing that you could get on board with?

GRAHAM: Yeah, that was actually a pretty good interview. I don't know where I'm going to land, but I do believe that there is a desire by the body as a whole, Republicans and Democrats, to get this done in a way that you don't go in Tuesday with a default.

But there's a lot of history being made here. The average debt ceiling increase in terms of time since 1940 has been nine months. We're going to do 22 months, is the proposal, and $2.3 trillion.

From the Republican Party's point of view, I think we can declare victory in a limited fashion. This is the first time in my lifetime, that I know of, that we're paying for future debt increases dollar for dollar. And that would not have happened without the 2010 election, which was about the size and scope of the government.

But when you tell Tea Party folks and, quite frankly, people like me, we've won, the answer would be, wait a minute, we've changed the culture in terms of raising the debt ceiling, but in the next decade, you're adding $6 trillion to $7 trillion additional money to the debt. The government continues to grow.

So I think what we've been able to achieve is historic in terms of the debt ceiling debate, but we're not -- we're no longer running toward oblivion. We're walking toward it. And now we need to stop and turn around, go back the other way.

AMANPOUR: Every Republican congressman from your own state voted against Speaker Boehner's plan...

GRAHAM: They did.

AMANPOUR: ... even though it did contain the balanced budget amendment.

GRAHAM: Yeah.

AMANPOUR: Do you think they'll get behind this current framework that we've been describing?

GRAHAM: You know, I don't see many conservatives getting behind this, quite frankly, because you don't overall. I've learned in politics the hard way, don't oversell, and don't tell people they should feel good when they have a reason not to feel that great.

AMANPOUR: Will it pass? Will enough get behind it?

GRAHAM: I think half the conference in the Republican House must vote for this. To President Obama, to David...

STEPHANOPOULOS: Only half?

GRAHAM: I think that's the minimum, because I like John Boehner. Maybe he can get more, but it's a $3 trillion package that will allow $7 trillion to be added to the debt over the next decade.

(CROSSTALK)

STEPHANOPOULOS: But you know the politics as well as I do...

GRAHAM: So how much celebrating can you do about that?

STEPHANOPOULOS: In order to get something like this through that does not include -- it looks like this will not include revenue increases...

GRAHAM: No revenue. That's a win.

STEPHANOPOULOS: I know where you stand on that.

GRAHAM: That's a win.

STEPHANOPOULOS: That is a win. It would only get half?

GRAHAM: My belief is, what do I tell people at home who say, what did you do about getting us out of debt? I slowed down how much debt you add. Instead of adding $10 trillion, we're going to add $7 trillion. I slowed down the growth of government, but it still grows every year. For those who came out to vote in 2010 to say, get the size and scope of Washington changed in the new direction...

(CROSSTALK)

STEPHANOPOULOS: If you only get half, this could go...

(CROSSTALK)

GRAHAM: It doesn't go in the new direction.

STEPHANOPOULOS: With only half the Republican conference, this could go down.

GRAHAM: Well, I'll tell you, our Democratic friends provided no votes to John. There's no plan by the president. Harry Reid's plan is going nowhere.

AMANPOUR: But you say there's no plan, sir, but he's moved so far, in fact, entirely to your side.

GRAHAM: His -- his -- his rhetoric has moved. The reason everybody's moved in town...

AMANPOUR: But this is all spending cuts.

GRAHAM: Well, let me tell you. There's people in my party moved. There are people in my party who really are not that excited about cutting government...

STEPHANOPOULOS: You're not ready to vote for this, are you?

GRAHAM: I can't -- from -- from a big picture, I'm not ready to vote for this. And let me tell you why -- excuse me, George -- the bottom line here is, the people who got elected are not excited about being Republicans or Democrats, particularly on the Republican side. They're excited about results.

And it is fair to say, we've achieved a significant change in the way Washington works by paying for the debt ceiling increase and not passing it onto the credit card. We have not achieved entitlement change. We have not reduced the size and scope of government. We're going in the wrong direction at a slower pace, and for a lot of people, that is not winning.

AMANPOUR: You're an internationalist. We've talked before about all sorts of things like Afghanistan and other such places.

GRAHAM: Yes.

AMANPOUR: Look, you saw the soldiers yesterday -- and I asked David Plouffe this -- I mean, desperately asking their commander, Admiral Mullen, whether they're going to get paid, and he said, "I can't tell you."

GRAHAM: Well, I can. I can tell them. Here's what -- I wish I'd have been there. I would have said, not only are you going to get paid, but Admiral Mullen said the number-one national security issue facing this country is debt. And I wish we would have followed on with what we said.

If you believe that we're so far in debt we're going to become a weak country and can't afford to defend ourselves, I would have told the Marine, you're going to get paid, but by God we're going to change the reason your children will never have the American dream. So, young man, we're going to pay you, but we're going to change Washington so your country doesn't become weak and ineffective and have more debt that your children can afford to pay. That's what I would have told the Marines.

AMANPOUR: You must also worry, given your extensive connections around the world, about the way the world is seeing this country right now. I mean...

GRAHAM: I'm not worried about democracy. Here's what I would tell...

(CROSSTALK)

AMANPOUR: Not democracy. About -- they say a political system gone mad.

GRAHAM: You've got people in this country who just won a big election. They weren't kidding when they said they wanted to come to Washington to change the size and scope of the government. Then you've got people who've been there forever saying, you don't understand, you don't get it.

Well, let me tell you, I do understand: 43 cents on every dollar being borrowed, we're going to become Greece in the next 15 or 20 years. Medicare and Social Security is going to fail. So what I would tell anybody around the world, thank God these new people are here, because do you want America to become Greece? Do you want our debt instruments not to be well received throughout the country? Do you want us holding our debt, never to turn around while we're in debt to $14.3 trillion? This deal -- and it is better than a lot of people thought, but is not nearly where the problem is.

AMANPOUR: All right. Senator, on that note, thank you very much, indeed, for joining us.

GRAHAM: Thank you.

AMANPOUR: And coming up, our roundtable on the emerging framework of a deal and the big question, can it hold? We'll take up where Senator Lindsey Graham just left off. The stakes couldn't be higher for this country and the Congress and the Obama presidency. Stay with us.

(BEGIN VIDEO CLIP)

BOEHNER: I have offered ideas. I've negotiated. Not one time, not one time did the administration ever put any plan on the table. All they would do was criticize what I put out there. I stuck my neck out a mile to try to get in agreement with the president of the United States. I stuck my neck out a mile.

(END VIDEO CLIP)

AMANPOUR: House Speaker John Boehner on Friday night, a taste of the intensity that's defined the final hours of the debt ceiling debate. The speaker weathered some tough challenge this week, and now he faces a new test. Whatever deal is worked out between the Senate and the president will, of course, have to pass muster in the House, so lots of twists and turns still to come.

Joining me to chart the course, George Will, Pulitzer Prize-winning economist Paul Krugman, who's also a columnist for the New York Times, Grover Norquist, president of Americans for Tax Reform, a group that's played a major role in this debate with its no-new-taxes pledge, and once again, ABC chief political correspondent George Stephanopoulos.

Gentlemen, you just heard what Senator Lindsey Graham said, what David Plouffe, the president's adviser, said. Mitch McConnell is saying they're quite close, that he'll have the parameters of a framework he thinks to show to his members today.

Is this now going to pass? Are we going to get a deal?

WILL: I think we are. And I think it was signaled when the president spoke last Monday. That's six days ago; it seems like six months ago. But what he said was it is unjust and unacceptable to have a debt ceiling agreement that does not include revenues, that is unbalanced. The president said that after the second most prominent and powerful Democrat in Washington, Harry Reid, had proposed exactly that. He not only proposed that -- that is, an increase without revenues -- but an increase that had the other main Republican component, which was spending cuts commensurate in dollar numbers with the increase in the debt ceiling.

AMANPOUR: So it's a win?

WILL: It is a win. Now, the conservatives are saying it's imperfect, to which one must say the Sistine Chapel ceiling is probably in some sense imperfect.

AMANPOUR: Well, I don't know. Was Michelangelo imperfect? Is this imperfect? Or is it enough for you to get your people behind?

NORQUIST: Well, it avoids the two biggest challenges, and everybody goes back to 1982 and 1990. It doesn't have a tax increase in it. It appears to have real spending restraint with mechanisms to enforce it, as opposed to what happened in the past, where we had the tax increase without spending restraint. By missing those two, it moves in the right direction. Would I like to see more spending reductions? Absolutely. Are we moving in the correct direction? Yeah.

AMANPOUR: George, we've just been talking to Senator Graham and before to David Plouffe. I mean, Senator Graham extraordinarily seemed to say that it actually didn't go far enough and that he actually wouldn't be voting for it.

STEPHANOPOULOS: Said it was historic, said it was victory in a limited sense, but wouldn't be voting for it. But take a step back. And I would love to hear Paul on this, as well. You go back since this Republican majority was elected in the House in November. Since then, the Bush tax cuts have been extended. They got about $30 billion in government spending cuts in the spring. They're going towards $2.4 trillion now without any of the revenue increases the president has called for. You know, you talked to people in Speaker Boehner's House. They say this is a big, big win. And I don't know how you can deny it at this point.

KRUGMAN: No. The first thing is, we shouldn't -- you know, from -- from the perspective of a rational person -- in other words, a progressive on this stuff -- we shouldn't be even talking about spending cuts at all now. We have 9 percent unemployment. These spending cuts are going to worsen unemployment. That's not even -- it's even going to hurt the long-run fiscal picture, because we have a situation where more and more people are becoming permanent long-term unemployed. And if you have a situation in which you're going to permanently raise the unemployment rate, which is what this is going to do, that's actually going to reduce future revenues.

So this -- this thing -- these spending cuts are even going to hurt the long-run fiscal position, let alone cause lots of misery. And then on top of that...

AMANPOUR: Well, you...

KRUGMAN: ... we've got these budget cuts, which are entirely -- basically the Republicans said we'll blow up the world economy unless you give us exactly what we want, and the president said, OK. That's what happened.

AMANPOUR: You know, you've been consistent about this, saying that there should be no cuts at a time of recession and weak recovery. What is your scenario, though, once this goes through and there are significant spending cuts and no revenues?

KRUGMAN: We're looking. I mean, we used to talk about the Japanese and their lost decade. We're going to look to them as a role model. They did better than we're doing. We're -- this is going to go on -- I have nobody I know who thinks that the unemployment rate is going to be below 8 percent at the end of next year.

With the spending cuts, it might well be above 9 percent at the end of next year. There is no light at the end of this tunnel. And all the -- we're having a debate in Washington which is all about, gee, we're going to make this economy worse, but are we going to make it worse on 90 percent the Republicans' terms or 100 percent the Republicans' terms? And the answer is 100 percent.

WILL: Paul's right. We are a third of the way through a lost decade, but we're a third of the way after TARP, the stimulus, Cash for Clunkers, dollars for dishwashers, cash for caulkers, the entire range of stimulus, the Keynesian approach, which, by its own evidence, simply hasn't worked. Now Paul says double down.

KRUGMAN: Can I just say -- in advance, one important point is to make that -- is that people like me said in advance this wasn't remotely big enough. It's not an after the fact. It's not coming back afterwards.

Right from the beginning, we looked -- I looked at the numbers, people like me looked at the numbers, said we have -- we're going to have huge cutbacks at the state and local level. You've got a federal increase which is going to be barely enough to limit those cutbacks. There is going to be no net fiscal stimulus, if you look at government as a whole, which is what happened.

WILL: And it...

KRUGMAN: So here we are.

WILL: It would be good to go to the election -- electorate and have a Krugman election this time, saying, resolved, the government is too frugal. Let's vote.

AMANPOUR: President Obama has been deeply involved over the last, you know, several days, last 48 hours for sure, but it's been a very rough week for him, George. How is this going to pan out?

STEPHANOPOULOS: For a few months. I mean, first of all, the president needs a deal, because he doesn't -- he bears the consequences of default more than anyone else. Even if the public blames the Republicans more for what happened, he's got to deal with what happens in the economy.

I think at this point, the White House is hoping that, by getting a deal, he -- he can at least start to right the ship. You look at what's happened in the polling and the president's approval rating over the last couple of months. The Gallup poll has him down to 40 percent. The Pew poll, George, you and I were talking about before we came on air has him barely beating a generic Republican now 41 to 40. It's taken a real toll on the president's position.

AMANPOUR: And...

NORQUIST: Look, we've also had 50 states that have sort of played this out, as well. In the last couple of years, there have been not -- they've not been raising taxes, states like New Jersey and Michigan and Wisconsin and Ohio and Pennsylvania, major states, Texas, Florida. And what they have done is rein in spending. The states that have reduced spending and not raised taxes are doing better than the states like Illinois and Connecticut and California, which are trying to raise taxes.

AMANPOUR: Is that right, Paul?

KRUGMAN: No, it's not. We can get into statistics here -- we'd get too deep into the weeds -- but it's just not true. And it's -- let me say, by the way, on the politics of this, if you look at the polling, it turns out that the average Republican voter thinks there should be some revenue as part of this deal, right? So the president has agreed to -- not just to an agreement that's way to the right of the average American voter. It's actually to the right of what the average Republican voter wants.

(CROSSTALK)

STEPHANOPOULOS: ... he has fought here. He simply doesn't have the votes.

KRUGMAN: No, he doesn't. He has -- he has options. There are -- there are -- I'm aware of at least four possible legal routes to just regarding the debt ceiling...

STEPHANOPOULOS: You're talking about the 14th Amendment.

KRUGMAN: The 14th Amendment, Article I, the platinum coin. Do people know about the platinum coin issue?

(CROSSTALK)

KRUGMAN: You can issue -- it appears to be legally possible to...

STEPHANOPOULOS: That are worth a trillion dollars each?

KRUGMAN: ... to print -- to mint a $2 trillion platinum coin, which is ridiculous, but the whole debate is ridiculous, right? If you've got somebody who's holding the American economy hostage and trying to extort policy concessions that they could never actually pass through Congress and that they could never get past the voters, you go for whatever you can do to stop it. But he won't do that.

(CROSSTALK)

STEPHANOPOULOS: ... I think the only time the president could have done something is go back in December when Republicans were calling for an extension of the Bush tax cuts. He could have called for an extension of the debt limit then. It might not have worked, but it's when he had the most leverage.

(CROSSTALK)

AMANPOUR: I mean, that is an important question. There's nothing legally, constitutionally any way that binds the debt ceiling to the -- to the debt or the budget. Why didn't he take a stronger stance in saying, these are two separate issues?

KRUGMAN: It's what we asked on everything, right? Why -- why -- why is the president unwilling -- you know, he's...

AMANPOUR: George, he could have done it, right?

WILL: Done what?

AMANPOUR: Done that.

KRUGMAN: He always signals -- he begins every negotiation by signaling, "I'm willing to move halfway." So the other side moves further, and he moves halfway. He's never been willing to...

(CROSSTALK)

NORQUIST: He paid attention to the 2010 election. He noticed what happened. I don't think the president -- well, we know the president wasn't willing to stand up and say, "I don't care about overspending. I just want you to let me borrow more money. I don't care about overspending." He can't say that three times out loud and have a prayer in 2012.

The Republicans, they're going to take the Senate in 2012. If you look at the 23 Democrat seats up, half of them in reddish states, and 10 Republican Senate seats up all in reasonably Republican states, with the possible exception of Massachusetts, and he's got $10 million in the bank and looks great in a bathing suit. I mean, you're looking at a Republican Senate in two years. How is he going to hold on to the White House if he says he doesn't care about spending?

KRUGMAN: The 2010 elections were a run on two main themes: Where are the jobs? And Democrats are going to cut Medicare. And so Obama's response to that is, let's do stuff that's going to further reduce employment and let's -- let's give the Republicans cover on Medicare.

STEPHANOPOULOS: But look at reality. If there are 50 House Republicans that are saying we're willing to send the country into default, he just doesn't have the leverage.

(CROSSTALK)

KRUGMAN: ... if he just says no.

AMANPOUR: We're going to talk about jobs and further leverage right after a break, when we'll have more with our roundtable. But first, how will tomorrow's markets respond to today's news? We get an expert reality check. Stay with us.

(COMMERCIAL BREAK)

AMANPOUR: This week, Wall Street started to waver. With the debt deadline looming ever closer, the Dow plunged, its biggest drop in a year. The ripple effect stretched to overseas. The international markets also shaken by the climate of deep uncertainty and confusion. So what will tomorrow bring?

Mohamed El-Erian joins me from California. He's the CEO of PIMCO, the world's largest bond fund.

Mr. El-Erian, thank you very much for joining me. You have been...

EL-ERIAN: Thank you.

AMANPOUR: You've been hearing perhaps that the Senate minority leader, Mitch McConnell, feels quite optimistic that something is going to get worked out. There's a framework of a deal. How do you expect the markets to react come open time today and also tomorrow here?

EL-ERIAN: Two issue, Christiane. First, there will likely be relief, because I think this compromise will lead to an increase in the debt ceiling, and therefore avoid default. But this relief will be short. And it will be short because markets look at all the discussion not as an end in itself, but as a means to an end.

And when they look at it as a means to an end, it will not remove the threat of a downgrade. It does nothing to restore household and corporate confidence. So unemployment will be higher than it would have been otherwise. Growth will be lower than it would be otherwise. And inequality will be worse than it would be otherwise.

And, thirdly, like you said at the top of the show, the rest of the world is watching, and this will do very little to reduce the concern that the rest of the world has about the role of the U.S. in the global economy. So I expect the relief to be short-dated.

AMANPOUR: Let me ask you about the downgrade. There's obviously quite a lot of debate about not only will it happen, but if it does happen, how dramatically bad would that be for the United States? What, from your perspective, would be the effect of a downgrade from AAA?

EL-ERIAN: It will make us worse off. It's unambiguous in my mind that we have constructed both a global system and a national system based on the U.S. being a AAA. If the U.S. loses that AAA status, it will be much more difficult for the U.S. to restore growth. So it's unambiguously bad.

AMANPOUR: And how likely do you think it is to happen, the downgrade?

EL-ERIAN: We have one rating agency out there that said it would downgrade unless certain things happen, and these things are not happening fast enough. So if this rating agency, S&P, sticks to what it said, it will downgrade. Of course it's under tremendous pressure not to do so, but it has said that it would downgrade.

AMANPOUR: And in terms of U.S. economic growth, this first half has been very weak, the first quarter, even downgraded, if you like, from the estimates. What will substantial spending cuts do? Will it materially improve the outlook for U.S. economic growth?

EL-ERIAN: No, here I'm with Paul, because we have a very weak economy, so withdrawing more spending at this stage will make it even weaker, especially that this is not packaged in the context of medium-term viability. Remember, Christiane, public finance is only one of the headwinds facing this economy. We have a banking system that's not operating properly. We have a labor market that's not operating properly. And we have a housing market that's not operating properly.

AMANPOUR: All right. Thank you so much indeed, Mohamed El-Erian.

Sobering words, as you all heard. Let's bring all of you back for the roundtable discussion. The big, overarching theme here, obviously, is also to get the economy back on track and to improve this really drastically weak recovery. Paul, how is that going to happen?

KRUGMAN: I mean, my first best guess, my maximum likelihood estimates, to wear my academic hat, is it won't happen, not for years and years to come. No one is discussing the kinds of policy that might make it happen. We're waiting for the economy to heal itself, which if it's doing is doing very slowly.

AMANPOUR: Even in this situation, are there things that could be done to make people go back to work? Are there structural infrastructure work?

KRUGMAN: Well, look, if we -- there are potholes everywhere. If we actually -- you know, if there were any political willingness to just do sort of obviously needed infrastructure work, with borrowed money, then we would -- that would do a lot. But we're not going to do that.

And other than that, you know, Ben Bernanke might be able to pull a few more tricks out of his hat. And -- but it's really hard to see where this is going to come from.

AMANPOUR: So, George, if that happens and there are all these dramatic cuts and the economy doesn't improve, I mean, what does that do politically? Are people, do you think, going to blame the president come 2012? Are they going to blame the Republicans? What's going to happen?

WILL: I think they'll blame the president. It takes 2.5 percent growth annually to create enough jobs to account for the natural growth of the labor force. And the numbers we got this week...

(CROSSTALK)

WILL: ... the first quarter -- the first quarter growth of 1.9 percent was revised down to 0.4 percent, then came 1.3 percent. This is -- as we said, we're a third of way to a lost decade.

STEPHANOPOULOS: That's why this debate is so maddening. You listen to Mohamed El-Erian, and he's not alone there. On the one hand, he says, if you don't have these tremendous spending cuts, credible deficit reduction, we're going to get downgraded by the ratings agencies, that's going to be an economic disaster.

KRUGMAN: Can we say a word about the ratings agencies? Who are these guys, and why should they have this power?

STEPHANOPOULOS: They do.

KRUGMAN: And they've been wrong about everything. They were wrong about...

STEPHANOPOULOS: They were certainly wrong about the mortgage...

KRUGMAN: ... about the mortgage markets. They downgraded Japan in 2002. And -- and the result, after 19 years, is that you'd have made a lot of money if you bought Japanese bonds.

STEPHANOPOULOS: I completely agree with that, but then you turn it around, and Mohamed El-Erian says what -- on the other hand, if you make these spending cuts, the economy is going to be stuck in the -- stuck in the mud. I mean, this is a -- a paradox you just can't break.

WILL: It's not a paradox. It's a contradiction.

KRUGMAN: It's not. It's none of those. The textbook answer is spend now, cut later. Spend now and have -- have a long-term plan, work on something. The real problems for the U.S. budget are not actually even in the next decade. They're in what happens after 2020.

So if you could credibly promise to do reasonable things after 2020, while at the same time actually spending...

STEPHANOPOULOS: But that wouldn't be good enough for the ratings agencies...

KRUGMAN: But it's never going to -- it's never going to happen in the -- but that's -- it's politics. There's no economic mystery.

NORQUIST: There's been both short-term progress and long-term progress. Short-term progress is, we didn't raise taxes. We are dealing with the overspending problem, clawing it back a little bit.

Long term, we've set the precedent. We're never again doing a 1982 or a 1990 deal where we raise taxes and pretend to cut spending. We're -- and we're going to insist from now on, any time the debt ceiling goes up, dollar for dollar, spending comes down. Those two are long-term progress.

KRUGMAN: Can I ask you, by the way...

(CROSSTALK)

NORQUIST: There's a third part to the problem we face, taxes, spending. There's been a wave of regulations, both -- that have arrived and that are threatened. I think the biggest thing holding back economic growth now is the concern that next week you wake up and the EPA or some other department of government has decided not just what kind of light bulbs you have, but how big your car can be.

KRUGMAN: It's this amazing story that's come into minds, which is that the tax hikes of '82, '90 and '93 were somehow a terrible thing, a bad thing. You know, by the year 2000, we'd had a decade of very good growth. We had a surplus in the budget. All of the squandering took place after that. So those were -- the things that you say we will never again do were actually the things that put us briefly on the road to fiscal sanity.

AMANPOUR: Gentlemen, thank you very much indeed.

And coming up, the next big story. Is the face of terror changing? Should the massacre in Norway be a wakeup call for law enforcement here in the United States? I will ask New York City Police Commissioner Ray Kelly.

(COMMERCIAL BREAK)

AMANPOUR: Two troubling cases this week spotlight the threat posed by the extremists in our midst. In Texas, Army Private Naser Jason Abdo stands accused of planning another deadly attack on Fort Hood. He may have been inspired by the radical Islamic cleric Anwar al-Awlaki.

And in Norway, confessed mass-murderer Anders Behring Breivik has found some unlikely defenders on the far right of the European political spectrum. At least three politicians have come under fire for defending his extremist, anti-Muslim, anti-immigrant views.

But is violent right-wing extremism only a threat abroad? For some perspective, we turn to a man on the front lines, New York City Police Commissioner Ray Kelly.

Commissioner Kelly, thank you so much for joining us.

KELLY: Good morning.

AMANPOUR: We've all heard -- we know all the work that the U.S. law enforcement, yourself, everywhere is doing on Islamic extremism, the homegrown terrorism threat. Is there a possibility, though, that a Norway could happen here?

KELLY: Well, it's something that we have to watch closely, and we are. I think U.S. law enforcement is focused on the issue. I can tell you, in New York City, we have a task force in our intelligence division that looks at white supremacist/anti-government groups and individuals.

In fact, just a few days before the Norway massacre, we had a teleconference with our century partners -- this is 100 law enforcement agencies in the northeast quadrant of the country -- and that was the specific subject. We talked about certain groups and individuals that we're concerned about.

But it's an issue that can pop up, you know, quickly, without any advanced notice, because these individuals play their cards very closely. They don't show their hand. Just a few blocks from where you're sitting, we had a white supremacist walk into the Holocaust Museum in 2009, shoot and kill one of the security guards. He himself was shot, but clearly he had mayhem in mind.

AMANPOUR: So...

KELLY: So it is a ongoing issue that law enforcement has to continue to focus on, and I believe we are.

AMANPOUR: So can you characterize -- you've talked about threats. You mentioned one. Can you characterize some of the threats that you're hearing about, the nature of them?

KELLY: Well, there are individuals who get together and sort of follow a neo-Nazi philosophy, not unlike Anders Breivik in Norway. But they are -- they are difficult to spot. And to a certain extent, they tend to get together in rural areas. They stay away from large city centers. But in New York, we have to be concerned about something planning -- someone planning or plotting an event away from the city and it coming into New York. So we're on a lookout for this sort of thing, but it's difficult to identify.

AMANPOUR: Is it politically difficult, as well? There's obviously an infamous case of a special report on this issue, written by an analyst at the Department of Homeland Security, and because of an outcry, once it was about to be released, it was quashed. Is there a problem with trying to focus enough attention on this threat, given the sensitivities about the threat since 9/11, for instance, the Islamic threat?

KELLY: You know, I guess there are always some First Amendment issues that you have to be aware of, but I know we don't have a problem in focusing on it in New York City. We follow certain individual on the Internet. They put out their feelings quite clearly. A lot of them are careful about not advocating violence.

For instance, the individual in Norway, although he had a lot of Internet activity, did not advocate violence. He put his manifesto on the Internet six hours before he started the attacks. But so they're -- they're somewhat careful about, you know, advocating violence.

AMANPOUR: And just as we -- as we wrap up, I wanted to ask you, on this rapidly approaching 10th anniversary of 9/11, is New York, is America safer? Or are there real issues that you're still having to deal with?

KELLY: Oh, there are certainly real issues that we have to deal with. We think the elimination of Osama bin Laden was an important milestone, but not a game-changer. We're still very much at risk. We're concerned, as we get closer to the 9/11/11 memorial, because we know Osama bin Laden spoke about that date twice in the last two-year period.

So the federal government, local and state authorities, I think are very much aware of the threat and are on alert.

AMANPOUR: Commissioner Kelly, thank you very much indeed for joining us from New York.

KELLY: Thank you, Christiane.

AMANPOUR: And we want to bring you up to date on some other headlines from around the world.

Israel today is rocked by the largest protest in its history. More than 150,000 people are in the streets around the country demonstrating against high housing and food costs and inadequate health care and education. Police disbursed crowds in Tel Aviv, but there have been no reports of violence.

However in neighboring Syria today, the news is very grim. The Associated Press is reporting at least 62 civilians are dead, killed after Syrian tanks stormed the city of Hama before dawn. They're stepping up a crackdown on antigovernment protests. And this comes a day before the start of the Muslim holy month of Ramadan, where nightly protests across the country are expected to grow larger.

And in Somalia today, it is a race against time, as U.N. relief workers struggle to get help to the ravaged nation. The situation is truly catastrophic, a famine borne of skyrocketing food prices and exacerbated by the worst drought in decades and perpetuated by terrorists who use food as a weapon.

ABC's David Muir is the first American correspondent in Somalia, and he's traveling with the United Nations, and he filed this report for us from Mogadishu.

(BEGIN VIDEOTAPE)

MUIR (voice-over): We flew into Mogadishu with the U.N. this morning. They now say the crisis here in Somalia is by far the most serious food emergency in the world. And this week, as the first of the aid reached the city's capital, there was something else: a gun battle, African peacekeepers trying to protect the food and the fragile government here, firing deadly shots at Islamic militants, members of al-Shabaab, who have a grip on much of this country.

This crisis is at a breaking point. Tens of thousands have fled this country by foot, some walking more than 100 miles to neighboring Kenya, traveling what the U.N. calls the roads of death.

We traveled the perilous route, too. And then this mother, sitting beneath a tree, she was almost there.

(on-screen): And how long was her journey?

(voice-over): Ten days, she tells us.

(on-screen): These are all her belongings from Somalia?

(voice-over): Yes, she says. Her own children have run ahead to the tents that now pepper the horizon, a first sign that these refugees are nearing the camps. The children who race to keep us with us, their smiles have returned. A number of refugees swelling in the desert outskirts, so many now that the doctors have come to them.

(on-screen): This is an -- this is an ambulance?

(UNKNOWN): Yes (inaudible) ambulance.

MUIR (voice-over): They take us inside their makeshift clinic.

(on-screen): So this is the waiting area here.

(voice-over): Mothers putting their children in hanging buckets to weigh them. The hunger has now spread here beyond the most susceptible, beyond babies and toddlers. It's the older children, too.

But they say if they can just get them the nutrients, you soon see what we did. Doctors Without Borders allowed our camera into their intensive care unit at the refugee camp. We saw this little girl, her tiny bones and her sagging skin, the hospital director immediately told us he saw something else: She was sitting up for the first time.

(on-screen): She's been about her two days.

(UNKNOWN): This is the third day.

MUIR: The third day.

(UNKNOWN): Yeah.

MUIR: And you can say that she's going to be OK?

(UNKNOWN): Yes, she's going to be OK.

MUIR: Christiane, it's really something to see how quickly the children bounce back once you feed them, which is why the U.N. says it's imperative to get the food and the aid here into the capital of Somalia, Mogadishu.

There are people now coming to this city by the tens of thousands, knowing full well the danger they face in doing so. It's a sign of just how desperate they've become. We'll be traveling on the convoy today, and you can see the torrential downpours here at the airport. It's going to make the whole effort all the more challenging.

Christiane, back to you.

(END VIDEOTAPE)

AMANPOUR: David, thank you, from Mogadishu, Somalia.

And it is so hard. Be sure to watch "World News Tonight" for more of David's exclusive reporting. Viewers of "This Week" have given generously to help the people of Somalia. But as you can see, the challenges are great. To find out how you can help, visit our Web site at abcnews.com/thisweek.

We'll be right back.

(COMMERCIAL BREAK)

AMANPOUR: And now, the Sunday funnies.

(BEGIN VIDEO CLIP)

FERGUSON: We owe a record amount of money to China. And the Chinese are starting to drop little hints they might want it back. They have. Last night, I got Chinese food, and the fortune cookie said, "Where's our money (bleep)?"

(LAUGHTER)

"I don't have your money." "You get my money."

(LAUGHTER)

O'BRIEN: President Obama said that compromise has become a dirty word. Yeah. Then he told Republicans to go compromise themselves.

(LAUGHTER)

COLBERT: The debt ceiling debate drags on and on, and, frankly, both parties have been acting like children, with the Republicans saying, "Gimmie, gimmie, gimmie," and the Democrats saying, "Take it, take it, take it, just don't hit me."

(LAUGHTER)

(END VIDEO CLIP)

AMANPOUR: And we'll be right back.

(COMMERCIAL BREAK)

AMANPOUR: And now, "In Memoriam."

(BEGIN VIDEO CLIP)

SMITH: Good evening from ABC News headquarters in Washington. I'm Howard K. Smith.

REASONER: I'm Harry Reasoner in New York. These are tonight's headlines.

(UNKNOWN): And Hideki Irabu will pitch out of it.

(END VIDEO CLIP)

AMANPOUR: This week, the Pentagon did not release any names of U.S. Service members killed in Iraq or Afghanistan, and it's the first time since we began this segment that we have not had to mark the loss of any U.S. forces in those conflicts. We'll be right back.

(COMMERCIAL BREAK)

AMANPOUR: That's our program for today. Be sure to watch "World News Tonight" for all the latest on the debt ceiling negotiations. And remember, you can follow us any time on Twitter, Facebook, and or abcnews.com. For all of us here in Washington, thank you for watching, and we'll see you again next week.

END

From:	Rose, Lacey
To:	_DL_FYI
Subject:	CBS/AP: Congress Closing In On A Deal To Avert US Default
Date:	Sunday, July 31, 2011 1:18:47 PM

Congress Closing In On A Deal To Avert US Default

July 31, 2011 1:10 PM

NEW YORK (CBSNewYork/AP) – The U.S. Senate plunged on Sunday into what many lawmakers, the White House and millions of Americans coast to coast, hoped would be an all-but-decisive last-minute effort to raise the nation's debt ceiling and defuse a crisis that still could lead to an unprecedented government default.

As senators began debate in a rare Sunday session, Democratic leader Harry Reid said he was "cautiously optimistic" agreement could be reached. Republican leader Mitch McConnell said earlier that negotiators were "very close."

Still, cautioned Reid, "there are a number of issues yet to be resolved. We must understand that there's no agreement that has been made."

Tuesday is the deadline for averting default, the day the Treasury says it will reach the limits of its borrowing authority to pay all the nation's bills.

This weekend, New York City Comptroller John Liu spoke about how the city's finances could potentially be effected if a deal isn't reached in Washington.

He says among other things, the city's pension will take a hit if there's no debt limit deal by Tuesday.

"Most immediately, we have over one million New Yorkers who rely on their Social Security payments and those payments are at risk if an agreement is not reached," said Liu.

Liu also said not reaching deal could also have an adverse effect on Wall Street. "If Washington does not reach an agreement by Tuesday, the U.S. could technically go into default and that would cause chaos in the financial markets," said Liu.

That's why Liu said he is calling for a task force to look at options for the city if there is no deal by Tuesday. "I hope the worst-case scenario does not happen, but it's inconceivable that we're even at this point now," he said.

Assemblyman David Weprin said he too is concerned about what would happen to the economy if a deal isn't reached by the deadline date.

"The United States of America has never defaulted on their debt, they've never been shut out of the capital markets," said Weprin. "If for some reason they missed the deadline or if the major rating agencies downgrade the United States' debt, it would have fiscal implications for years to come and we really can't let that happen."

Weprin said he's particularly worried about seniors, who he said are scared about what could happen to their Social Security and other benefits.

"We need to protect the entitlement programs to protect Social Security, Medicare and Medicaid and not to balance the budget on the backs of seniors," he said.

Meanwhile, some lawmakers made the rounds on various Sunday television news shows to talk about the latest developments in the debt deal talks.

New York Sen. Chuck Schumer told CNN Sunday morning that while “there is no final agreement,” there was a sense of relief that the two sides were finally working on a compromise plan.

Schumer later told CBS that one of the last sticking points is the creation of a “trigger” mechanism that would hit priorities of both parties if the committee does not come up with a plan for further deficit reduction.

Among the trigger ideas being discussed are automatically reducing spending on entitlement programs such as Medicare along with closing tax loopholes or reducing defense and non-defense programs by an equal amount.

“It should be equally tough on Democrats and Republicans,” Schumer said.

The Senate takes a test vote at 1 p.m. Sunday to move the debate forward.

Congressional leaders of both parties have tried to reassure the financial markets that they will beat the deadline and avert a first-ever default.

From:	Rose, Lacey
To:	_DL_FYI; Coscia, Caroline
Subject:	HuffPo (Ken Allen): The 14th Amendment Is Obama"s Briar Patch
Date:	Saturday, July 30, 2011 2:40:47 PM

The 14th Amendment Is Obama's Briar Patch
Posted: 7/30/11 02:08 PM
Ken Allen
Political writer

Silliness about the debt ceiling has risen to the absurd. Anyone who steps back from the swirl of current arguments will immediately see that there is an easy, almost unavoidable exit from our current paralysis, and President Obama controls it. If Congress cannot reach agreement on terms for raising the debt ceiling, President Obama will have the inescapable duty to invoke the 14th Amendment and continue to pay U.S. debts. He may not like that option. He may be opposed to it in principle. But he will be compelled to take it unless he is seriously deluded about the state of the world.

Legal scholars may quibble about whether the 14th amendment allows or compels the president to blow past Congress' debt ceiling, but as a practical matter there is no question that if the president invokes it to avoid a looming economic disaster plain enough for all the world to see, there will be no legal recourse. Because the president has the power to ignore the debt limit, even if he doubts he has the authority to do so, he will be compelled to do so. If Congress is unable to act, he will have, whether he wants it or not, the last clear chance to avoid disaster. Whether he is a naïve ninny, innocent as a baby, and pure as the driven snow or a cynical Machiavellian manipulator without a principle to his name, he has to understand this: if he has the last clear chance to avoid the abyss and does not take it he will not be forgiven by his own supporters, by the American people, or by history itself. However, if he does save the system, he will be a hero to all but the most obtuse economic know-nothings and cynical demagogues. Even Corporate America will have to doubt that it can entrust all branches of government to the Republicans and consequently entrust the economy to the economic nincompoops who have shown themselves willing to destroy it for principles and theories they do not understand. No matter whether the decision terrifies him or disgusts him, President Obama will be compelled to act.

From a progressive, fiscally responsible, and security-conscious point of view, the consequences of presidential action would almost all be positive. Once the president ignores the debt ceiling there will be no going back. The world will understand that any future president, faced with the same situation, will have to take the same action. The full faith and credit of the United States will remain inviolate. Congress might as well stop enacting a debt limit. Not only will it not be enforceable, it will be universally perceived as meaningless.

The wisdom of markets deserves scant faith, but if they "understand" what I have just outlined, that may explain why U.S. and world markets have proceeded to date with seeming confidence that no default is likely.

There is a very sober side to all of this from the progressive point of view. The chance that President Obama and the members of his administration do not understand all of the above is vanishingly small. Consequently, it is very hard to explain all of the concessions the president has made to Republican intransigence except by the theory that he really shares many of the Republican objectives, from undermining Social Security to putting Medicare beyond the reach of millions of people, and is trying to use the manufactured "debt crisis" as an excuse to allow him to implement them.

FDCH Political Transcripts

February 8, 1996, Thursday

TREASURY SECRETARY RUBIN AND OTHERS TESTIFY ON RAISING THE DEBT CEILING.

LENGTH: 54986 words

COMMITTEE: HOUSE BANKING AND FINANCIAL SERVICES

SPEAKER:

REPRESENTATIVE JAMES LEACH (R-IA), CHAIRMAN
REPRESENTATIVE BILL MCCOLLUM (R-FL)
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REPRESENTATIVE FRANK LUCAS (R-OK)
REPRESENTATIVE GERALD WELLER (R-IL)
REPRESENTATIVE J.D. HAYWORTH (R-AZ)
REPRESENTATIVE JACK METCALF (R-WA)
REPRESENTATIVE SONNY BONO, (R-CA)
REPRESENTATIVE BOB NEY (R-OH)
REPRESENTATIVE ROBERT EHRLICH (R-MD)
REPRESENTATIVE BOB BARR (R-GA)
REPRESENTATIVE DICK CHRYSLER (R-MI)
REPRESENTATIVE FRANK CREMEANS (R-OH)
REPRESENTATIVE JON D. FOX (R-PA)
REPRESENTATIVE FRED HEINEMAN (R-NC)
REPRESENTATIVE STEVE STOCKMAN (R-TX)
REPRESENTATIVE FRANK LOBIONDO (R-NJ)
REPRESENTATIVE J.C. WATTS (R-OK)
REPRESENTATIVE SUE W. KELLY (R-NY)

REPRESENTATIVE HENRY GONZALEZ (D-TX), RANKING
REPRESENTATIVE JOHN LAFALCE (D-NY)
REPRESENTATIVE BRUCE VENTO (D-MN)
REPRESENTATIVE CHARLES SCHUMER (D-NY)
REPRESENTATIVE BARNEY FRANK (D-MA)
REPRESENTATIVE PAUL KANJORSKI (D-PA)
REPRESENTATIVE JOSEPH KENNEDY (D-MA)
REPRESENTATIVE FLOYD FLAKE (D-NY)
REPRESENTATIVE KWEISI MFUME (D-MD)
REPRESENTATIVE MAXINE WATERS (D-CA)
REPRESENTATIVE BILL ORTON (D-UT)

REPRESENTATIVE CAROLYN MALONEY (D-NY)
REPRESENTATIVE LUIS GUTIERREZ (D-IL)
REPRESENTATIVE LUCILLE ROYBAL-ALLARD (D-CA)
REPRESENTATIVE THOMAS BARRETT (D-WI)
REPRESENTATIVE NYDIA VELAZQUEZ (D-NY)
REPRESENTATIVE ALBERT WYNN (D-MD)
REPRESENTATIVE CLEO FIELDS (D-LA)
REPRESENTATIVE MELVIN WATT (D-NC)
REPRESENTATIVE MAURICE HINCHEY (D-NY)
REPRESENTATIVE GARY ACKERMAN (D-NY)
REPRESENTATIVE KEN BENTSEN (D-TX)

REPRESENTATIVE BERNARD SANDERS (I-VT)

PANEL ONE
REPRESENTATIVE JIM SAXTON (R-NJ)
REPRESENATIVE JOHN MICA (R-FL)
REPRESENTATIVE PAUL KANJORSKI (D-PA)
REPRESENTATIVE JOSEPH KENNEDY (D-MA)

PANEL TWO
RUBERT E. **RUBIN,** SECRETARY,
U.S. DEPARTMENT OF TREASURY
RUDOLPH PENNER, FORMER DIRECTOR,
CONGRESSIONAL BUDGET OFFICE
MICKEY LEVY, CHIEF ECONOMIST, NATIONSBANK
WILLIAM POOLE, FORMER MEMBER, COUNCIL OF
ECONOMIC ADVISORS

LOCATION: WASHINGTON, D.C.

LEACH: Committee will come to order. This hearing is called to discuss the debt ceiling issue and receive recommendations and appropriate courses of congressional action in the wake of the current budget impasse.

Let me begin by making it clear that while the committee can expect to hear today contentious concerns from various sides about actions taken or not taken over the last few months in budget negotiations, Congress is committed to the principle that there will be no default, not for one minute. At issue this month is the establishment of the most appropriate methodology for lifting the debt ceiling not whether the ceiling will be breached. Default is not on the table.

The effects on stock as well as bond market turmoil that would be triggered by a federal default cannot be underestimated. Markets depend on confidence and confidence is rooted in the notion of a stable government. Given the difficulties of reaching political accommodations in an increasingly diverse and polarized political system, the political parties in first and second estates of government must understand that on certain issues, consensus has to be reached. Default is such an issue.

Nevertheless while Congress has never in its history allowed default, few modern day legislators have pristinely (PH) supportive voting records on raising the debt ceiling and no legislator who has been in Congress over the past few decades can say the he or she supported only so-called clean debt ceiling approaches.

Directly or indirectly, debt ceiling increases have generally been tied to budgetary precepts (PH). Over the last ten years, for instance, the debt ceiling has been increased 17 times by Congress. Only seven times has this been accomplished through a clean bill and most of these have been short term measures tied loosely to resolution (PH) of major budget issues.

The majority of times debt ceiling increases have explicitly been tied to budget legislation. A decade ago the trade-off demanded by a liberal Congress for voting to increase the debt ceiling demanded was acquiescenced by the Reagan Administration and Congress' principle priority, greater percentage increases in the domestic spending than in the defense budget.

Indeed the reason the national debt is such a problem today is that Reagan era deficits were surprisingly driven more by increases in spending than decreases in taxes. Federal spending is a percentage of GNP increase from 21.5 to 23.5 percent during the Reagan Administration while tax revenues basically remained level at 19.25 to 19.5 percent.

Hence, Republicans believe that if the country reaches a balanced budget without tax increases, we must reduce the size of government in relationship to the whole economy, the GNP, although not necessarily in relation to current governmental expenditures.

The background of today's circumstance is that the new majority in Congress has attempted to couple the debt ceiling issue with constraints in the growth of government and institute an inflation adjusted freeze on spending. The old majority is crying foul. Like in the 1980s it insists on debt ceiling increases to accommodate federal spending growth well above the inflation rate.

There is, of course, a shared responsibility between executive and legislative branches on the issues of the budget and debt ceiling but in today's context, each branch has a different perspective. The executive argues that Congress has not offered an approach it can support and that Congress has used strong arm tactics which included bringing parts of the government to a standstill.

The President in a State of the Union Address even lectured those assembled, never, never again to press the executive to this extent.

LEACH: The Congress, on the other hand, points out that last fall, it passed and sent a balanced budget approach, including the lifting of the debt ceiling on the executive, which the President vetoed.

Subsequently, the President put the honor of the presidency on the line by affirming publicly and signing a bill obligating himself to the development of a balanced budget approach using common economic assumptions, i.e., CBO estimates, by the end of last year. Only when it became clear that the word of the President, at least with regard to the budget negotiations, was not being kept, did Republicans put pressure, perhaps mistakenly, on federal government operations.

But it should be clear that just as in the view of the executive is, that never, never should the government be shut down for lack of timely appropriations, it is the view of the majority in Congress that always, always should the President uphold the law and keep his word to the American people.

When the President commits to a balanced budget approach by a time certain, it is not unreasonable for Congress to believe this commitment should and would be kept. In this regard, subsequent reviews of documents and inside strategizing would appear to indicate that the White House had developed a strategy well in advance of a debt limit crisis to prolong confrontation with Congress.

This strategy has had the effect of putting an element of instability into the economy and precipitated more than a little social splintering. Here, let me point out some of the nuances involved in the politicizing of economics.

Medicare is the foremost. In 1993, the First Lady testified before Congress that the administration favored capping annual Medicare spending increased at six to seven percent. The Vice President in 1993 pointed out in national television that the administration favored five-and-a-half to six percent annual Medicare cap. And in the background, Leon Panetta, in one of his last acts as House Budget Committee Chairman, proposed a five-and-a-half percent annual cap.

The Republican balanced budget vetoed last fall by the President capped Medicare annual increases at 6.4 percent. Based on revised CBO estimates, the Republicans subsequently proposed a 7.2 percent Medicare annual increase approach. Any neutral observer might ponder the fairness of Democrats charging that Medicare was being gutted when the Republicans offered higher Medicare spending levels than the First Lady, the Vice President, and the President's Chief of Staff had earlier proposed.

Any neutral observer might also wonder where Treasury has been in advising the President and Congress in Medicare in recent months when it must have had an early glimpse that Medicare Trust Fund was in worse shape than was publicly known until revelations of last week. The surprised deficit incurred by the Medicare fund last year underscores the need for reform to insure Medicare solvency, not politics to advance the fortune of any politician or his or her party.

Here it might be noted, I know of no economist, conservative or liberal, who has not suggested in recent years that the budget can never be controlled unless entitlement system is reformed. If one is serious about controlling federal spending, at the same time leaving adequate room for discretionary spending programs such as education, entitlements must be disciplined.

In conclusion, let me stress that there will be more than a little truth to the perspectives presented by both sides this morning. But the big picture is, that the public has been ill-served by the political games that have been played. The big picture is that the Republicans have a compelling case for budgetary restraint and modest entitlements reform. Likewise, Democrats have a credible case to insist that priorities in certain areas, such as education, should be reconsidered by the new majority.

LEACH: The tragedy is that accommodation could and should have been achieved with the discipline of the need to lift the debt ceiling supplying an effective time constraint.

Since that circumstance has not materialized both parties now find themselves less able to compromise and more likely to delay critical budget issues until after the next election. The debt ceiling will soon be lifted and default averted. But the real story will not relate to this event which occur later this month, probably in February 29, Leap Year Day, but to the opportunity that has been lost.

What has been at issue is the thinness line between contemplating default and using the debt ceiling issue as a constructive opportunity to reach consensus and what realistically should be done in the legislative process. The combination of Treasury tactics in an avalanche of partisan mischief and political apprehension in both parties of Congressional miscalculation of the power of the presidency and executive branch misunderstanding the taxing and spending decisions are constitutionally the principle province of Congress has produced a stalemate making orderly, long-term and debt management approaches unlikely to be adopted this year.

It is not a high moment for democratic governance. Before turning to our distinguished panel, I'd like to recognize, my esteemed ranking member, Mr. Gonzales for his opening statement.

GONZALEZ: Thank you very much, Mr. Chairman. I appreciate the -- It's very difficult to treat this hearing as a serious matter, because after all this committee does not have jurisdiction to act on the debt ceiling. Also, the Republican leadership has vowed not to permit people.

But we're told that there will be some kind of political conditions to be met in order to avoid default. On the other hand, the haven't decided what the conditions will be. And in any case, those demands are being formulated, not in this committee but somewhere else.

So, this would seem to me to be the wrong quorum for a hearing since the policy decisions will not be made here. One purpose of the hearing might be to allow those who are so inclined to attack the Secretary for protecting the nation's credit to do so.

But surely you know, rationale person would seriously argue that the Secretary should have done anything else. It makes little sense to have a hearing to try to explain to the Secretary why a lighted stick of dynamite is actually a handy bat to beat the President into submission.

Another purpose, might be to trot out the latest political message, to see if it works better than the old train wreck scenario. After all, when the train wreck seemed to be a great idea the Secretary was blamed for crying wolf, and then accused of doing too much to keep the wolf away.

And now he's being criticized for not doing enough to prevent default because there really was a wolf at the door. But what I hope is that hearing will be opportunity for us to hear some serious discussions about the debt limit and why default is a bad idea.

Every family gets bills every month. And every bill carries with a warning that there will be a penalty for late payment. Therefore, every family knows that if it, if you don't pay your bills, the only time and in full, you either don't credit, or you pay more for it.

GONZALEZ: The same thing is true of the federal government. If Congress doesn't permit the Treasury to pay bills on time, or if Congress gives anyone serious cause to believe that the bills won't be paid on time, the United States government -- and I mean every one of us -- will pay a penalty.

Default or even serious threats of default, will cost us real money. That's plain and simple. And there would be no one to blame but the United States Congress which alone could enact the laws needed to allow those bills to be paid. Bills that the Congress authorized anyway -- specifically the actions needed to ensure that the bills get paid, must originate here in the House. So if there's a default, or if the credit of the United States government is in any way impaired, the people of this country will know who's at fault -- the United States House of Representatives, and, more particularly, it's leaders.

As I recall it, the Secretary spent all of last summer and fall asking respectfully that Congress act to protect our credit. When Congress failed to act, the Secretary took steps to give us more time to think this through. At first, the Republican reaction was to say that default wouldn't matter, which is, to me, a crazed notion to anyone who's even seen a creditor's bill.

And then the Republicans threatened to **impeach** the Secretary whose stand, apparently, was to pull them back from the edge of the cliff.

Lately, the message has been, "Default doesn't really matter, but we'll never let it happen anyway."

My colleagues, Congress has the sole responsibility here. We authorize the spending and we must now pay the bills or see the taxpayers subjected to immense and undeserved penalties for late payment.

Secretary **Rubin** has done all he legal and prudently can to protect us from ourselves. After all the threats and the blusters and the bullyings, it's now time for the Congress to act as responsible adults should.

If my friends on the other side can think of some way that we can protect our credit without paying our bills on time and in full, I certainly want to hear it. But I think Mr. Secretary has already taken every legal and prudent action possible. And now it's the turn of Congress to act prudently and responsibly.

LEACH: Thank you, Mr. Gonzalez. Before turning to other members, I'd like to notice that we have a new member of the committee that's joined us to day, and we welcome you Mr. Jesse Jackson, Jr., and your participation will be most appreciated. Mr. McCollum.

MCCOLLUM: Thank you very much, Mr. Chairman. I don't think there's any member of this panel of either party who thinks defaulting on the federal debt and obligations of our government is a good idea, but I think that the extremes of the two options have been grossly exaggerated. There would be, of course, some consequences that are not desirable to defaulting but there would not be the ceiling falling that some have painted; at least, I don't think so from all the judgments that I have looked at on this. On the other hand, clearly there would be some consequences to.

What I think we have actually, though, is a very clear path that's being shown to us about some politics that were being played in another way that was perhaps far more dangerous to the long-run of our economy than simply a question of brinksmanship that often has been played over the debt ceiling by Democrats as well as Republicans.

MCCOLLUM: And the Democrats particularly since they controlled this House for 40 and as the Chairman pointed out on numerous occasions attached things to the debt ceiling including a bill in the Carter era when the President wound up vetoing it, et cetera, involving oil embargoes.

But what I see as happening, having looked and listened to the President in the last few weeks in the State of the Union message and so forth, is that somewhere along the way he said in his own mind and now to the American public some things that don't quite jive with the way the actions actually have turned out. He sounded awfully conservative in that State of the Union Address. I could have given some of that myself.

He said he thinks that big government is at an end. I certainly hope so but I don't see the signs to follow through on that. He says we're only a few dollars apart with regard to balancing the budget and all he wants to do is to protect Medicare and Medicaid and welfare from those extreme things the Republicans want to do to them and makes it sound like he's such a reasonable fellow about all this.

But it took 11 months and four budget submissions to this Congress before he submitted a budget that was in balance according to the Congressional Budget Office. And that only came about after there was brinksmanship, the shutting down of the government by this Congress and the President.

Really I think he shut it down because he vetoed the bills that would have kept it open. But whatever the case, he played that rather craftfully from a political standpoint to try to get the most mileage possible out of it.

And yet, getting a balanced budget up here sounds like the end all, be all when you listen to what he has to say. And that was never the end game. Republicans never simply wanted to get the President to produce a balanced budget.

How you balance it is as equally important to balancing it. And we thought that that would be the point of serious negotiations. That would be the beginning point once we could agree on the bottom line figures as something in balance with numbers that matched the Congressional Budget Office's reasonable assumptions about the future of the economy.

We want to reduce the size and scope of the federal government. We want to get at entitlements. We think that it's required that two- thirds of the federal budget are entitlements then some substantive changes in the way entitlements work have to be there in order to have any credible budget that's in balance in seven years or any other number of years.

And we're very chagrined by the fact that during the budget negotiations that went on down at the White House with congressional leaders at the end of December, the first of January, the President was submitted a program for Medicaid reform that had been endorsed by 68 House Democrats and he rejected it. Said, I won't have anything to do with that in the balanced budget proposals and these discussions.

And he was given a Medicare proposal that was endorsed by 47 House Democrats, hardly something that was strictly a partisan proposal and he rejected that. And he was given the Senate passed version of the welfare reform bill that only nine Democrats voted against over there and he rejected that.

Now, I don't think Republicans have been unreasonable at all. I think this President has been playing politics with this. And I think the debt ceiling question we're on today is a part of that picture. We shouldn't be playing those kinds of politics.

And least of all, the President shouldn't be telling the American public and having the Secretary, I'm sure in cooperation with the President, Secretary **Rubin** saying well the sky's going to fall if this or that doesn't happen. And then going out and using powers that are very dubious.

MCCOLLUM: And have been highly criticized by well respected authorities, to circumvent the rule that Congress has the right to raise the debt ceiling and to be the one who determines these matters under the Constitution, not the Executive Branch of government.

So I think today's hearing is fruitful. It is important for us to put this in perspective. And I look forward, Mr. Chairman, to hearing from what some of our colleagues have to say about this subject, but most importantly, what Secretary **Rubin** has to say today about what appears to have been a pattern and practice that has been going on in this administration, of trying to play as much politics to set Republicans up for the next election as possible, and lacking the seriousness that I think most of us expected of getting to a real balanced budget and actually accomplishing negotiations of compromise which the rhetoric says they want to do, but the actions certainly don't conform to.

Thank you.

LEACH: Well, thank you, Mr. McCollum.

Mr. Vento.

VENTO: Thanks, Mr. Chairman.

The government has been in some form of shutdown for almost a quarter of the current fiscal year. And Congress has yet to successfully complete action on spending bills. Key programs are either under-funded, or unfunded as Congress, through continuing resolution, does a patchwork job of funding through March 15.

Today, the ultimate government shutdown is threatened by the Republicans. Did the Speaker push to enact a clean debt ceiling last week, or even a compromise debt ceiling bill?

No. Instead we passed a politically motivated debt extension, which its literal intention is to prevent social security checks from bouncing March 1, and leaves a shadow over all the other credit claims.

In an effort to gloss over the possibility of default March 1, and explain away the risk of default, we no doubt will hear that this measure stays the guillotine of default until March 15, or 21st.

This partial measure was a step backwards. In truth, the signals from the Republican majority are at best mixed and at worse disingenuous in the matter of preventing U. S. default. After all, we are dealing with real credit life of our nation, not some cabbages in this GOP self-made guillotine crisis.

The -- our -- at this time of crisis, the House and the Senate majority party leadership has postponed consideration of the necessary legislation until the eleventh hour. And have offered the convoluted political, social security debt measure as cover to protect their political hides. The Republican majority is playing a high stakes game with one of the fundamental benchmarks of the U. S. economy.

This is not the type of leadership behavior that the market or the American people expect, but rather the threats and actions of those who are politically motivated. The 104th Congress continues to fiddle, while the good U.S. credit rating burns.

U.S. default would be a crisis. Even the threat of it could tip our U.S. economy into recession. And at the very least, it will mean higher mortgage interest rates, student loan interest rate increases, higher rates for pensions, for auto loans and consumer credit loans which are linked to Treasury paper.

The government will see higher costs of borrowing. And the resulting increase in our debt as we pay those costs. What thought process grips this Republican leadership and majority in the 104th Congress, one can only speculate. Apparently the true believers of flat size tax cuts and dismantling the federal government, believe their own rhetoric.

But even if they are correct about their untested, questionable and inequitable policy proposals, doesn't the majority Republicans understand that the economic shock wave of default and tarnished credit rating will eclipse any assumed benefit from the GOP federal budget schemes?

In lieu of responsible action, of course, the Secretary of the Treasury has had to take necessary and legal steps to avoid U. S. government default.

VENTO: He told us that he will run out of viable options on February 29th or March 1st. Secretary **Rubin** supposedly will have to have the ability now to hold on until mid March. And the thanks he'll probably receive again are threats of impeachment for such actions.

U.S. default is simply unthinkable, but some of the Republican leadership have proudly held up this default as a trump card for the past year, in spite of the serious and certain negative economic ramifications. They have used the threat of government default for budget negotiation posturing, and to blackmail the country into accepting their budget prescription to choke the economy.

This is outside the reasonable contact and assumptions of the Constitution, that anticipate cooperation in the public interest of the American people, not confrontation to further the political interest of candidates.

I must, again, commend Secretary **Rubin** for taking the legal and prudent steps. I commend you, Chairman Leach, for having the courage and willingness to air what has become a charged issue this past month.

But this hearing will tell us what we all should know. Pass a clean extension of the debt ceiling and pay your bills, and save the political posturing and threats for the campaign.

I look forward to the testimony today, Mr. Chairman, and hopefully a conclusion to this sorry story.

LEACH: I thank the gentleman.

Mr. Roth.

ROTH: Mr. Chairman, I think this is absolutely the right time, the right committee, the Banking committee, to review this debt ceiling. After all, we're raising this debt ceiling -- or being asked to raise it -- from $4.9 trillion to $5.5 trillion.

That means that the average American is going to have much more debt. That means that the average American out there is going to have higher interest rates. And that means that the average American out there is going to have a harder time finding and keeping a good-paying job.

To prepare for this hearing, I called a number of citizens in my district -- small business owners, bankers, retirees -- the real taxpayers. I asked them what their attitude is toward the national debt, and toward the plan to borrow more money.

Everyone I talked to had the same reaction. They simply don't understand why the government can't cut spending and balance the budget -- not in seven years, but this year.

One banker said if the federal government was his customer, he would cut off any more credit until the government started paying down the existing debt. In other words, he would put the government on a workout plan.

A businessman, a very successful entrepreneur, told me that the government should be treated like everyone else -- no more credit unless the budget is balanced and you start paying off what you already borrowed.

A retiree said, and this I quote, "Would you take money from your children and give it to someone who has borrowed an immense amount of money from you before, who hasn't even tried to pay back anything? Would you loan such a debtor more money?"

The point is, people in the Midwest think that the government spending is totally out of control.

Now, this Congress is not going to default. We know that. But we have an obligation to start asking some questions when we're again asked to increase the debt ceiling from $4.9 to $5.5 trillion.

I was looking at the President's budget, and I know all of you were. I noticed that under the President's budget, spending keeps going up year by year. After seven years, we spend much more than we do today. Under this plan, under the President's budget, revenues are raised, no cuts in spending, and as a result, you pile on another $755 billion in debts.

ROTH: It's right here, on page 19. It comes out to $755 billion in additional debt over the next seven years, another three-quarters of trillion dollars. This budget that's before us, I think that this would make Marion Barry proud, this budget: no cuts, more spending, more taxes and more debt.

If the President took this budget out to my district, the constituents would laugh out loud. The people I represent seem to understand better than most that you don't balance the budget by raising taxes. If you don't cut spending, you'll never get there.

But here's the President's budget, more spending every year as far as the eye can see. So, I'm forced to conclude that President Clinton believes in the Marion Barry School of Economics, throw up your hands, do nothing and just keep spending.

Well Mr. Chairman and members of this committee, we owe the American people a sense of trust. They have put their confidence in us. So, before we raise this national debt ceiling on them again, and their children, from $4.9 trillion to $5.5 trillion, I think it behooves us to ask some tough questions. Thank you, Mr. Chairman.

LEACH: Does anyone else on this side -- Mr. Schumer.

SCHUMER: Thank you, Mr. Chairman. And last week, I want to thank you for holding these hearings. Last week you stated that, "Nothing would be more irrational than to have any question of default of the government at any time," not just don't default, don't have a question of default. That's my words.

Back to you, Mr. Chairman, "Whatever the status of the budget talks, this or any year, Congress has no choice but to ensure that default never occurs."

Well, I couldn't have stated it better myself. I applauded you then, I do so again today for your clear, forthright assertion of one of our nation's most vital interests.

Unfortunately, as our hearing will sadly show today and has already been shown by some statements from the other side, there are members of your party who continue to question that wisdom. They continue to insist, as Bill Archer, Republican Chairman of the Ways and Means Committee, did on the same day you spoke out, that there should be no debt ceiling extension unless it's attached to Republican proposals on budget, taxes and entitlements.

And to my good friend Toby Roth from Wisconsin, I doubt his constituents don't understand this unless he explained it to them wrong. One of them said the government should be treated the same as everyone else. Well go ask that small business owner, Mr. Roth, after he's incurred a debt, is he allowed not to pay it? Not cut down your spending in the future, but you went and incurred a debt last year or the year before.

The small business man in Sheboygan is not going to get the opportunity to say, "No, I'm not going to pay," but Mr. Roth and some of the other colleagues think that Uncle Sam should have that right even though every American, once they incur debt, should have to pay.

And so, it's incredible that this obstinance persists despite the shocking announcement by Moody's Investor Service that it may be forced to downgrade U.S. Treasury Bonds for the first time in our nation's history. Yes, the Congress passed a two-week stay of execution last week, but we're still on the road to default unless we act decisively and quickly to pass a clean extension of the debt ceiling.

SCHUMER: Why are we in this fix? One word -- politics. We are not bankrupt. We can pay our debts, as Moody's warned, non-partisan Moody's, "the positions being taken in the current debate over the budget, and the debt ceiling have significantly increased the risk of default."

Simply put, the extremists in Congress are playing with fire. And if they're not very careful, we'll all get burned. They say all they want is to reduce the government deficit. That's a worthy goal. And first they said, President Clinton had to come out for a balanced budget.

He did. They didn't like that. So, then they said, he had to come out for a balanced budget in seven years. He did. They didn't know what to do then. Then they said, well, it has to be a balanced budget in seven years with CBO numbers, he said yes again.

Ladies and gentlemen, we know what the story is here. The 80 or 100 extremists in the Republican caucus, they don't want to balanced budget. They want deep tax cuts. That's the only way they want a balanced budget. Clinton's way, seven years, CBO numbers, but not as deep tax cuts, and not as deep government cuts, balances the budget every bit as well as the bill applauded by the extremists that passed this House.

So, we know what's going on here. And when everyone else says, we want to reduce the deficit. No, they're saying only reduce the deficit, some of these extremists, "my way." Two hundred seventy billion in tax cuts, which many Americans say is not the way to go.

But you know what, that is what politics is all about, to decide which way to balance the budget, now that both sides have agreed on all the parameters of how many years, what numbers, and whether there should be a balanced budget.

That should be debated in Congress. That's a fair debate. But holding the debt ceiling hostage. Now, many people watching today, just can't believe that a small number of those, not very well schooled in how finance works, even though the business man in Sheboygan would know it in a minute, say, "Oh, no. This Congress wouldn't be brazen enough to default."

Well, let me tell you something, that's what they said about closing down the government. It was substantively wrong. It was politically stupid. And yet, this Republican Congress did it not once, but twice. And so, I'm worried they may be wrong now. And you know if you think it's just 80 freshman Republicans, well. I won't use an expression, but look at the head. Look at the top. It's Newt Gingrich. Where do you think these guys got this goofy idea. It didn't come themselves. Here's what he said.

"The President will veto a number of things, and we'll put them all on the debt ceiling. And then he'll decide how big a crisis he wants." That was quoted not by some publication of the liberal establishment but by none other than the most accurate, "newspaper in Washington, D.C." according to some, the Washington Times.

Now, I'm having a good time, Mr. Chairman.

LEACH: You are sir.

SCHUMER: And let me just do one other thing, one other thing. I'll read one other quote from the Speaker.

SCHUMER: But skipping my paraphrasing. He's what he said, quote, "I don't care what the price is. I don't care if you have no executive offices and no bonds for 30 days, not at this time."

Who's to blame that we haven't resolved this debt ceiling crisis? Who's to blame that we don't have a clean debt bill while we debate the politics of how to balance the budget? I would blame the Speaker.

(UNKNOWN): Will the gentleman yield?

SCHUMER: Well, I would yield with the Chairman's permission.

LEACH: The time of the gentleman has expired, but maybe if we go in regular order someone else would yield to you briefly, if that's all right. Mr. Bachus.

BACHUS: Thank you, Mr. Chairman. Mr. Chairman, I think it was one week ago that many of us signed a civility pledge?

(LAUGHTER)

I think we ought to pause for a minute of silence...

(LAUGHTER)

SCHUMER: Well, when you have nothing to say you may as well be quiet.

BACHUS: ... in memory of rest-in-peace civility pledge, I guess. Because of that civility pledge, my remarks are going to be somewhat thinned because I hope that -- I think that pledge was a major pledge towards reforming the reputation of this body.

When Bruce Vento earlier, or Representative Vento said, accused Republicans of being disingenuous, I didn't realize at the time it might be the kindest thing that was said about us to date, so I'll accept that as a compliment.

(LAUGHTER)

And I will say this -- For some time the Clinton Administration has been calling on Congress to adopt a clean debt ceiling increase. Two months ago, Secretary **Rubin** appeared before this same committee, this very committee and argued that there was no relationship between the debt ceiling and spending. And I want to beg to disagree with that statement.

I think the people of this country recognize, and they're becoming united in their views that there is a clear linkage between deficit spending and the national debt. They're clearly inter- related. The more you spend, the greater the debt.

And because of that, there's nothing clean about continued deficit spending. There's no such thing as a clean debt ceiling increase. It's not -- it's a contradiction. So, when we consider raising the debt ceiling, it's not a clean thing that we do. It's dumping more and more debt onto our children.

Now, the children of this country already come into this world with a debt of $187,000 in taxes over their lifetime just to pay the interest on the national debt.

And that is why those of us in Congress, on just about every opportunity that we get, we talk about that it is not wise to increase the debt ceiling, that when we do that we're passing the buck to our children.

BACHUS: And we are going to continue to be dragged kicking and screaming into increasing the National debt.

Now, the Clinton Administration, once again, has requested that Congress increase the debt ceiling. And I will say this -- it's up to Congress, and Congress has the responsibility, and Congress alone can make this difficult decision whether or not we're going to raise the debt ceiling and to permit an increase in the borrowing authority.

And I will say this -- I recall that just last week, we passed a bill, I think February the 29th, to increase the debt ceiling temporarily, so there was no question that we've done that. We did it last week, and actually, I guess we did it last week and the President, it was my understanding, signed it this morning. So, we've acted. The debt ceiling has been increased this morning.

But now's the time for us to get on with important work, and I want to quote from Secretary **Rubin's** speech that he has passed out to us today. It says, "Now Congress and the President must agree on legislation that addresses the debt limit problem on a long-term basis."

Legislation that addresses the debt limit problem on a long-term basis, and that's a balanced budget. That's what legislations that addresses the debt limit problem on a long-term basis is -- it's a balanced budget.

And until we do that, we're going to continue to have these dirty little debt ceiling increases, where we pass the buck to our children and our grandchildren. And I hope we will not again consider or talk about these as clean legislation.

Thank you, Mr. Chairman.

LEACH: Thank you for those thoughtful observations.

Mr. Frank?

FRANK: Thank you, Mr. Chairman.

The first thing we ought to remind people is that if we had signed into law the Republican budget plan, I think the deficit would have had to -- the debt limit would have had to be increased because the Republican seven-year budget plan calls for $700 or $800 billion, maybe closer to $1 trillion, in additional debt.

We are in fantasy world here, and I apologize if the word "fantasy" strikes you as uncivil. I'm not sure what the standards of civility are. My colleague was accused of incivility for quoting the speaker.

LEACH: Let the gentleman yield. The Chair would rule that "fantasy" is an appropriate term for the committee.

(LAUGHTER)

FRANK: I thank the Chair. I will submit my fantasies to him for further ruling.

(LAUGHTER)

LEACH: The Chair would rule that, that would be inappropriate.

(LAUGHTER)

FRANK: Lost the opportunity.

The gentleman from New York quoted the Speaker and was accused of incivility. I can understand why that would be embarrassing, why it would be inconvenient, but I do not believe it was uncivil.

Let's remember that only a few weeks ago -- and I think this is very important to note -- members of the Republican leadership were outrageously suggesting that the Secretary of the Treasury ought to be impeached for doing his job. Now, they've forgotten that. We've gone from impeachment to civility.

I'm sure at some point maybe a Attila went from war to tea parties. We've had that kind of spectrum change.

FRANK: But let's not talk outrageously, inappropriately, unfairly about impeaching a hard working, respectable public official of great integrity. And then, a few weeks later to say, you quoted the Speaker, unfair.

Now let's also go back to the point about the debt limit. The Republican seven year plan adds hundreds and hundreds and hundreds of billions of dollars to the debt. To get your own plan into effect, you have to increase the debt limit. The suggestion that there is somehow something wrong about increasing the debt limit is nonsensical because the Republican plan says in the year 2001 let's have a deficit, a national debt that is hundreds of billions of dollars more than this one.

Here is what happened. The Republicans didn't like the Constitution of the United States because the Constitution says, if you want to make very drastic changes in basic law, you either have to have two-thirds of both houses of Congress, or you've got to get a presidential signature.

Now they didn't have a presidential signature on their plans to gut Medicaid, to make severe reductions in what Medicare would otherwise be spending to prevent tax cuts that we didn't like. To undo the earned income tax credit so they didn't have two-thirds to override the President, they didn't have the President's signature, so they thought, as the gentleman from New York has indicated, and others, that they could bludgeon the President into in effect suspending his veto by threatening government chaos.

And the President wouldn't give in. The Speaker was quoted in the Washington Post as saying he was surprised the President wouldn't give in. Well, some of us weren't surprised. But that's the fact. So, the Republicans threatened these things.

At one point, they of course, accused the Secretary of the Treasury of exaggerating the effects of shutting down the government through not raising the debt limit. They said he was crying wolf.

Then, they criticized him because he took steps to avoid it. Now, they are back to criticizing him because he is again saying it might happen. There was a total inconsistency here, because this argument is based on such water. And I find it particularly odd that the Republicans on the one hand are threatening to shutdown the government by not raising the debt limit to try and get the leverage over the President. But then they object when we say that they were doing that.

Now what they are saying is, well, of course, no one was going to shut down the government. Of course, no one here was going to refuse to raise the new debt ceiling. Well, I guess we have to ask your forgiveness for taking seriously what you said. Republican leaders kept saying, Republican members kept saying we won't vote for it unless the President gives in. Well, we knew that the President was not going to acquiesce in the de facto suspension of his veto power.

He wasn't going to allow you to change Medicaid and other things, or earned income credit so drastically. So, that is what happened. And we have had this total inconsistency. You have attacked the Secretary of the Treasury first for saying that we shouldn't shut down the government -- then for keeping the government from being shut down. I have no idea what this hearing is about. And I guess, if I could sing better, I would sing, I'll just recite, the old song. First you say you will and then you won't. And then you say you do and the you don't. You're undecided now so what are you going to do?

I know what you're going to do. You're going to have a hearing that simply waste everybody's time. Why don't we simply vote out an increase in the debt limit. Let's even, I'll make this deal with you. I'll go for one that would only accommodate the amount of debt that you plan to add to the federal government's debt between now and 2001.

Let's just settle for about $800 billion or $900 billion, whatever you're planning to add. Let's get your debt accommodated, the one you're going to add. And then we'll work on other things.

LEACH: Time is almost expired.

Mr. Watts?

WATTS: Thank you, Mr. Chairman.

It is interesting how I see the minority party complaining and moaning about the effort of the Congress to balance the budget.

WATTS: I've got some interesting quotes here from some of the minority members, back in 1990 when President Bush was the President of the United States. Mr. Obey from Wisconsin, stated, "For the Congressional Budget Process to work, the President has to be involved from the beginning, with real budgets, real numbers, and real deficit reductions."

Mr. Panetta said, in October of 1990, "The fact is that we are a nation at risk. We are a nation at risk economically, facing a slow but steady erosion of our economy a frustrating inability to confront the difficult issues that face us and the rising likelihood of recession."

Mr. Gephardt said, in October of '90, with all my heart, the country is at stake. These deficits cannot go on. Mr. Fazio said, we have to reject this effort to wipe clean the hand of the President from this fiasco. We need to grow up. We need to stop being carping critics, recriminating from one end of Pennsylvania Avenue to the other.

So, this was concerning the government shut down and deficits and the things that was going on when George Bush was the President of the United States. So, it seems, many seems to gotten amnesia and not remembered what was happening back in 1990.

I liked to thank the Chairman for holding this hearing on a most timely and pertinent topic, our nation's debt management. I'd also like to welcome and thank our panelist for being here today and look forward to hearing your testimony.

Mr. Chairman, Article I, Section 8 of the Constitution clearly states that it is the Congress who has the power to borrow money on the credit of the United States, not the President or the Executive Branch. The problem that continues to trigger increases in the debt limit is the failure to balance the federal budget.

Balancing the budget is the first step in paying off the ever mounting debts that have accumulated for future generations. Passing the Balanced Budget Act of 1995 can be the best gift we ever give our children, but this cannot be done without the Administration's help.

We offered the President a balanced budget which included a raised debt ceiling, but the President vetoed it. And I'm baffled that we are continued to be called extremists because we want our kids not to be strapped with the debt and a deficit that will require them to pay 80 percent of their income in some government tax.

We're extremists because we were called extremists because we want to give our kids and grandkids a chance to accomplish the American dream. Instead of negotiating a balanced budget plan, the President permitted the Treasury to raid two federal trust funds.

And I recall in the State of the Union Address, the President stated that the Congress should not allow private employers to raid trust funds or pension funds of employees. But it's interesting to me that the President's not raising a hand, not saying a thing when we find our Treasury secretary taking a toll of about $61.3 billion from the Civil Service retirement and Disability Fund and the Federal Employees Thrift Savings Fund. By shifting these funds, the President bought more time to allow the government to skirt the debt limit and avoid the default.

WATTS: While no one wants to default, this investing in retirement funds to free up room under the debt ceiling circumvents the debt limit as well as Congress' role in authorizing federal borrowing. Moreover, it allows the Administration to avoid having to change its spending habits, a change which the American people have demanded.

The Administration says that those funds will be repaid with interest but that interest is going to have to come from somewhere. Every dollar the Administration removes from the trust funds can then be spent by issuing new debt to the public. Again, we're left with another government bill with more interest payments at taxpayers' expense.

I would appreciate if the Secretary and other panelists can incorporate into their statements where the money for these interest payments comes from and the accounting methods used in performing such transactions. A case in point are the figures from the Treasury Department. Living within ones means is the financial reality that individual Americans confront every day and we cannot continue to call the bank or the financial institution and ask them to continue to raise our limit on spending and not worry about how this thing is going to be paid back.

In closing, a case in point are the figures from the Treasury Department's annual report for fiscal year 1995. The total amount of money received by the U.S. government was $1 trillion, 350 billion, 600 million; the amount of money paid out by the U.S. government was $1 trillion, 514 billion, 400 million resulting in a deficit of $163.9 billion.

If this continues, there will be no funds left in any of the government's trust accounts to pay any Social Security, any veterans checks or any pension fund.

We must stop piling, compiling this debt and this deficit and compiling an insurmountable burden on the youth and the young people and children and the grandchildren of America's nation. Thank you, Mr. Chairman.

LEACH: Well, thank you for that economics lecture. The gentleman from Utah.

ORTON: Thank you, Mr. Chairman. I would ask unanimous consent to submit my full statement into the record and just make a couple of brief comments at this time.

LEACH: Before doing that let me say unanimous consent requested accepted; but I'd also ask unanimous consent that all the opening statements of members be allowed to be revised and extended and all of the congressional panelists as well. Without objection, so ordered.

ORTON: Thank you, Mr. Chairman. The subject matter of this particular hearing is the extension of the debt ceiling, extending the limit of the amount of borrowing that our Treasury Department can engage in order to keep our government operating and functional.

As the Chairman has stated and quoted in the news in the past, it should never be a question as to whether or not our country will default on its liabilities, on its debts. The full faith and credit of the United States is far too serious an issue to use as a political bargaining chip, regardless of what the final goal is to be attained.

It is wrong for either political party to politicize this issue, now or in the past. The most irresponsible act I could imagine -- as a legislator or as an administrator would be to attempt to put our country into default.

ORTON: I can imagine nothing more irresponsible.

It has been suggested that the debt limit, the debt ceiling, is a way, and perhaps the only way to limit our country's continued spending, and thereby to force a balanced budget. I take a back seat to no one in an effort to balance the budget.

But I disagree that the debt ceiling ought to be a bargaining chip in that balanced budget effort. In fact, I'd like to quote from the non-partisan Congressional Budget Office's economic and budget outlook in August, 1995, wherein it stated, quote, "Limiting the Treasury's borrowing authority is not a productive method of achieving deficit reduction. Significant deficit reduction can only be accomplished by legislative decisions that reduce outlays or increase revenues."

Those are the tough decisions. Where are we going to cut spending or where are we going to raise revenue? Those are the two choices in balancing the budget. Everyone in both political parties, in the Congress and in the Administration, should be totally embarrassed by the way we have handled ourselves in the last year.

Our failure to listen to one another, our failure to negotiating good faith, our failure to find compromise, common sense solutions to solve the problems and move forward. We should be embarrassed by that. We should be embarrassed by the way this has been handled. We should be embarrassed by statements that each political party has made.

In November of 1995 we hit the debt ceiling. Our country is prohibited by statute from borrowing anymore money. At that point in time the Secretary of Treasury had two options: default on the debt or attempt to use money management techniques that previous administrations have used in shifting sort-term and long-term debt instruments among funds within the government in order to stave of default.

The Secretary of Treasury took, I believe, the responsible action to avoid default. He was criticized and there were calls for impeachment. Congress on several occasions attempted to pass legislation which would have forced immediate default. Those are irresponsible acts.

We need to drop the partisanship. We need to listen to one another. We need to find a common-sense solution.

I would suggest to you that it is not too late to balance the budget. In fact, last week I and over a dozen of my colleagues on the Democratic side and a dozen of my colleagues on the Republican side of the isle, submitted to the Speaker, the President, the Majority Leaders of both Houses, a letter suggesting that there is consensus in the middle of both parties that we should in fact separate the issues of balancing the budget and tax cuts, have separate votes, but we should be moving forward to finding the solutions.

I am hopeful that we can do that, and I hope that this committee, in our hearing today and deliberations, will indeed, as my friend from Alabama said, adopt the civility pledge simply listening to the witnesses.

ORTON: I commend them for attending and look forward to the information that we will receive.

LEACH: Thank you, Mr. Orton. Mr. Ehrlich?

EHRLICH: Mr. Chairman, I haven't been here for a while, and I really wasn't sure where I was. I walked in the room here, and I sat down. Within two minutes, I was called an extremist, and then I knew I was back in Washington, D.C.

I want to hear what our colleagues have to say, but I hope that we can get something done today and not just the name-calling. Thank you.

LEACH: Thank you, Mr. Ehrlich. Mr. Jackson?

JACKSON: Thank you, Mr. Chairman, for the opportunity to address this issue of paramount importance to our nation's economic future.

Before I begin, I would like to first say how honored I am to be representing the people of the second congressional district of Illinois in this esteemed body and how pleased I am to have received an appointment to the Committee on Banking and Financial Services. I look forward with great anticipation to joining all of you, and those members of the committee who are not present today, as we engage in a very productive legislative calendar for the remainder of this Congress.

Mr. Chairman, I encourage all members to look at this issue with an open mind as we face a very serious predicament; for, as we know, the full faith and credit of the United States is at stake.

As we go through this process we must remember what is important: our children and our seniors upon whom our personal character and our infrastructure as a nation was built. We must not forget our working people and the backbone of this nation. In the interest of our country let us work together to build upon the broad support for passing a clean debt limit bill. Mr. Chairman, I thank you.

LEACH: Mr. Bono?

BONO: Thank you, Mr. Chairman. First of all, I'd like to say to my colleague, Barney Frank, if he's ever going to go on the road as a singer...

(LAUGHTER)

... OK, I'll go with you. But after hearing you sing, you have to take the harmony.

FRANK: Will the gentleman yield?

BONO: The gentleman will yield.

FRANK: I think someone said that to you, too.

(LAUGHTER)

BONO: You always have to get in the last word, don't you?

(LAUGHTER)

OK. On this issue that we're talking about. You know, I get a little disgusted when we continue with this name calling and everybody is outraged that we are now dealing with the nation's debt ceiling and we're dealing with the CRs and we've taken it this far. And, you know, I come from the streets. And if I ever get into an issue and into a confrontation, of course I would love to resolve that confrontation; but if someone, if the opposition continues with the confrontation, the notion that I'm just going to go, "Oh, OK, you're continuing with this confrontation, I'll leave and forget everything I've done."

BONO: Please understand that we came here a year ago with a vision of balancing the budget, and we have come this far to getting to that point, and now it's hard ball.

Unfortunately, it's hard ball but that's where it's at now so the notion that how dare we play hard ball when we have two different philosophical positions and not capitulate to the President and just walk away from this thing because it's serious. Well, of course it's going to be serious -- this is 40 years of opposing philosophy coming to a head and why that isn't recognizable, I don't know. But that's where we are.

So, for me to come here and just drop it at this point, the reason I wanted this job was to try to achieve what we're trying to achieve as a conference, as a Republican conference. So, we are at the rough portion of it, but we have to hang in there now -- so if it gets to a debt ceiling, if it gets to a CR, if it gets to these rough issues -- unfortunately, they're very rough. But the point is we're serious.

We want a balanced budget and the nation wants a balanced budget. So, I don't believe in quitting, and we don't believe in quitting. So, where ever it goes -- it's going to go but we're not going to give up.

Thank you, Mr. Chairman.

LEACH: Thank you, Mr. Bono. We'll now turn to our panel. And let me say you're all welcomed to summarize your statements. They will be in the record.

Our four panelists are Donald Jim Saxton, John Mica, Paul Kanjorski and Joe Kennedy. Mr. Kanjorski and Mr. Kennedy are members of this panel, this committee. Mr. Saxton's a former as the distinguished co-Chairman of the Joint Economic Committee. And Mr. Mica is the distinguished Chairman of a relevant subcommittee of the Government Operations Committee.

I thought what I would do is begin with Mr. Saxton and then alternate and go to Mr. Kanjorski, and then Mr. Mica, and Mr. Kennedy if that's all right?

Mr. Saxton?

SAXTON: Thank you, Mr. Chairman. I appreciate the opportunity to be here. The purpose of my appearance here, today, Mr. Chairman and members is to summarize the end-term results of a Joint Economic Committee investigation of the Treasury Department as relates to the debt limit increase, particularly as it related to the events surrounding the November 15th deadline.

Let me say, Mr. Chairman, as you said in your statement -- the public has been ill served by the political games that have been played with this issue. And I would just like to make three very general points this morning in my testimony. The first is that our investigation shows that there was a deliberate effort on the part of Treasury officials, including Secretary **Rubin**, to mislead the country relative to the November default.

SAXTON: A default that has become known as the default hoax. Second, that the White House and the Office of Management and Budget were partners in the default hoax. And finally, that Treasury, subsequently, went to great lengths to conceal information relative to the planning that preceded the default hoax.

Our inquiry into the disinvestment of the debt limit and debt limit issues was initiated on November 17 by a letter to Secretary **Rubin**, signed by myself and by Majority Leader Armey. Our letter requested, and I quote, copies of all the documents related to this decision making process. Though the administration has still not provided all the documents covered by our request, we do have enough information to draw several conclusions which I have just outlined.

In fact, Treasury and other administration officials have gone out of their way to keep information from us which has been very discouraging. I will get to that shortly, but now let me just get to the crux of the issue. And that is, that the American people and the Congress were mislead on the matter of the November default. And of course, we are hearing much of the same language again today relative to a drop dead date of March 1. And someone mentioned today a March 15 deadline.

First of all, available documents show that early last summer, June 27 to be exact, the administration had identified trust funds as a source of financing during a protracted debt limit impasse. These documents reflect a very detailed plan to disinvest, or borrow from the civil service retirement trust fund as well as a number of other funds.

The internal Treasury Department show that inaction by Congress when the debt limit was reached in November, 1995 would not trigger a default. And again, I remind you, this was on June 27. Those in possession of the information contained in these documents knew that disinvestment or borrowing from the trust funds, not default would be the consequence of a debt impasse.

It is now an indisputable fact, in my view, that disinvestment of the trust funds was listed in the Treasury memo as early as June 27 as a way of managing the debt limit. Nonetheless, a number of high ranking Clinton administration officials created the misleading impression that inaction on the debt limit could lead to default and catastrophic economic consequences.

For example, on September 13 of last year, the Los Angeles Times reported, and please let me quote. "Treasury Secretary **Rubin** has warned that fiscal disaster could occur unless the debt ceiling is raised by November 15." And the Treasury memos clearly show that anyone with access to this information had to know that inaction on the debt limit would lead to disinvestment, not default.

And so, while high ranking Clinton officials in the Treasury Department and elsewhere were publicly raising a misleading impression of default risk, privately, Clinton officials had been preparing for disinvestment plans all summer.

One high Treasury official was asked at a press conference if he had been crying wolf about default. He explained that legal clearance for the disinvestment had only just occurred shortly before the decision was announced on November 15, or perhaps it was the 14th.

SAXTON: However, the Treasury documents show that legal analysis of these issues began early in the summer. So, they mislead the press, they mislead the American people, and they created a nervous markets in this country as well as around the world.

On to point number two. The default hoax was not confined to the Treasury Department, but it was partnered by the Whited House, and the Office of Management and budget. The evidence shows that the default hoax was part of a larger administration political strategy.

Like Treasury officials, other administration officials also knew the default last November was not going to happen, but that disinvestment would. The political origins of the default hoax may not have originated in the Treasury Department at all.

But perhaps in the White House, White House officials participated in perpetuating the default hoax, in a series of inflammatory statements. For example, Leon Panetta said, of the Republicans, "they will send a budget to the President of the United States, including a debt ceiling, and if he doesn't sign it, they'll let the country go to hell and basically default on the debt."

But when Panetta said this we now know the administration had already been planning to use trust funds for four full months. An administration spokesman has confirmed in a press account, as a matter of fact, it was on February the 2nd, of this year in the Washington Times, administration spokesman confirmed that top administration officials in the White House and other offices outside the treasury were involved in the debt limit decisions and that these decisions were related to politics.

He also added, "obviously, the debt limit got all wrapped up in the budget debate which was political." The President is very concerned about dealing with this, and other budget issues at the same time." The default ruse was used in concert by a variety of Clinton administration officials in a way that suggests some degree of coordination as called for in the June 27th Treasury memo.

Point number three, the Treasury evidence -- the Department of the Treasury went to great lengths to conceal information regarding this series of events. The information that I have laid out thus far was extremely difficult to obtain. It is quite obvious that officials at Treasury didn't want us to have it.

For over two months, beginning on November 17th, the Treasury Department attempted to withhold information from Congress by various delaying tactics and extensive censorship of documents. For example, a June 27th memo, of the kind targeted by our investigation was provided only after more than a month of delay and when we finally received it, 90 percent of the memo its attachments were deleted.

Across the room here, on this wall, is the memo which we received. Beginning on the left, and if you'll note each page which has been blown up, has a number down in the bottom right hand corner which was placed there by Treasury. So, we didn't take pictures of anything they didn't send us.

But you can see that this is a memo which had deletions.

SAXTON: In order to try to satisfy us, I suppose, by being able to tell the public we forward the document. And this is what they sent us. And when we finally received this, of course, we were extremely disappointed. Of the ten pages, the text of seven pages were entirely deleted before providing -- when it was provided to us.

It is impossible in my opinion to regard this kind of response as anything other than an attempt to conceal information. Perhaps the Treasury Department will attempt to excuse this inexcusable obstruction of our inquiry by pretending that there was a misunderstanding about the nature of our requests or that we did not request all the material related to the decision-making process.

However, our requests originally and in all follow-up occasions specifically covered all documents and all information. We received, finally, the uncensored version of this memo of June 27 and several other documents only after the Joint Economic Committee's staff called Treasury's bluff and requested a meeting to review the uncensored documents in the original.

This review of documents which included the participation of staff from other committees established that there was no justification for the censorship of the Treasury documents. Though we finally received these documents on January 24, two and a half months after they were requested, we still have not received all of the documents covered under our requests.

Ironically, yesterday afternoon, Treasury had delivered to us additional documents. These are the documents that we received yesterday afternoon -- volumes of them. It is obvious that they were withheld until the last minute so as to make it impossible for us to review and understand them before today's hearings. Unfortunately, the Treasury has refused to provide other administration documents on debt limit planning. We were informed just a few minutes ago that they are now on the way. And so we thank you, Mr. Chairman, for having this hearing which has helped us pry loose these documents.

I would just like to remind -- I would just like to use this opportunity, Mr. Chairman, to call on Secretary **Rubin** to immediately release the rest of the documents to the Joint Economic Committee without delay. Further efforts to withhold relevant information can only reinforce the conclusion that the Treasury Department is intent on keeping all of this information from Congress, the press, and the public as long as possible.

Thank you, Mr. Chairman.

LEACH: I thank you, Mr. Saxton. Mr. Kanjorski.

KANJORSKI: Mr. Chairman, thank you, very much. Mr. Chairman, you don't, very often, as a member of Congress get an opportunity to sit at this table and listen to the committee give their various positions on an issue like this and it's most enlightening to tell you the truth. In a way, I'd like to critique us all.

(LAUGHTER)

The American people out there -- and now I understand why they're frustrated with Washington and the congressional process. We sound like a bunch of arguing children over an obvious issue. The obvious issue is, we owe a debt and we have two choices. We either fund it and pay it, or we default on it. Then what are the consequences of that default.

All the waiting or tiptoeing, as my good friend Mr. Saxton's pointed out -- the hoax, was going to happen on November 15, or January 1 or February 15? Does it really matter? And is there anybody that doubts if we don't refund the debt of the United States, we will at some point in time in the not too distant future end up in default? And then what are the consequences of that default?

Interestingly enough, maybe the best explanation in my critique here is made by our good friend Mr. Bono. This is really the culmination of 40 years of political and philosophical difference that has come together before the American people's eyes in the Congress and in the government of the United States to resolve some very fundamental issues; but, unfortunately, are appearing to be superficial in nature.

I was sitting here thinking of an analogous of default. The only thing I could think of to describe it would be the famous "cocktail" in Jonestown. It's the Washington "cocktail." If we are so fervent in our belief that this is the only way to accomplish a balanced budget or some other philosophical triumph, that we are willing to kill our political and economic system, then we should drink of the glass of default; because I think it will accomplish just that. And all the believers, indiscriminately, Republicans, Democrats, Independents, all Americans will die. That will satisfy I'm not sure who. Perhaps our enemy somewhere else.

On the other hand, I hear gloom and doom. Every year the expenditures of the American government goes up. Does that surprise anybody? Every year the population of the United States for the last 208 years has grown. If you take a per capita cost of running the United States government, per individual, it would be reasonable to assume -- if logic prevail -- that the cost of government every year would go up.

Is that such a shocking revelation that we should shock the American people and not explain why that occurs? Should we not explain to the American people why we have the debt that we have? Not to get too political, but my friends on the right, 60 percent, or over $3 billion -- $3 trillion of this debt that we're about to vote on is debt that was run up during the administration of those two great conservatives, Ronald Reagan and George Bush when they ran the presidency of the United States.

It is this President that in 1993 and this side of the aisle with 218 votes in the House that responsibly voted to bring down the deficit and have accomplished the same so that this coming year we'll be able to brag that for the first time in more than three decades the deficit of the United States will have decreased four years in a row.

But is that something to brag about? Well, not if you're a terribly fiscally conservative person that can't stand debt at all. But to explain debt from the standpoint that bankers can't stand debt, but my friends on the Republican side, bankers wouldn't be in business if their customers didn't have debt. That's what they do. They lend money for people to buy homes; they lend money for people to build businesses or to educate their children and make a long-term investment.

That's what America has done. But, above and beyond that what we don't tell the American people is a good portion of this debt that we're about to refund went to finance the third World War.

KANJORSKI: It went to finance the trillions of dollars spent from 1945 to 1990. That did incur more than $4 trillion in debt as a result of -- a partial result of that. But, also, it didn't account for one live, new graveyard to be built in America to house our veterans in a classic confrontation of the Soviet Union and the United States.

Is that something to brag about? I think it is.

Now, we may differ on that philosophically. We probably could have lessened our population problems both in the United States and throughout the world. We could have had a different political perspective in the world if we'd gone to that third World War. We can debate that all night.

But let's not confuse the American people that somebody came to Washington and burnt money, purposely thinking that in 1996 we are going to get back at all those

Americans and their future children by destroying the credit of the United States and have justification for doing the same.

And then, we hoist favorite things here. We bring the Secretary of Treasury, like past secretaries of Treasury, and think that if we ram them hard enough and insult them long enough, they'll either resign, be impeached, or leave for some other thought-up reason -- as so many in the past have -- when, in fact, they're doing their job. They're paying the bills of the United States, and they're raising the revenues of the United States. Neither of those functions are particularly popular.

They're certainly not too popular for us in the Congress who like to mislead the American people so that they'll continue to return us here. If we yell that we're fiscally responsible long enough, and believe in a balanced budget -- but don't tell them that the budget's not going to be balanced for seven years from now and that it's going to run up more debt than almost a trillion dollars before it ever has a chance to get to balance -- we think we've accomplished something.

There's nobody on my right side, here, that is voting this year, or any time that I've been in Congress, for a balanced budget this year. It's just an unmitigated misstatement of fact. Some people could say a lie -- a political lie -- but we go with those lies.

Mr. Bono said there's 40 years of coming together, and I believe he's right. And I believe, as Mr. Frank said, you have to believe in the Constitution again. If you don't have two-thirds of both bodies of the House and the Senate, you cannot prevail. The American Constitution will not allow you to do that.

How can you prevail? You have a majority of the House and the Senate, and you elect a president of the United States in November; and you will prevail without that two-thirds approval.

And what isn't better, under our Constitution and our system of government, but to take this issue to the people? I could be facetious politically and say, "If it is a clash," as Mr. Bono said, "is it a clash that the Democratic Party is in favor of Medicare and Social Security and education and the environment, and that the Republican Party is not in favor of those things?"

I could say that. Those issues that we're fighting over were developed and passed for 60 years under the Democratic Party since Franklin Roosevelt. But that would be misleading and political.

It isn't that. Some of my friends on the Republican side have voted for Social Security; have voted for Medicare; have voted for education; have voted for environment -- not all. We have a new element of the majority party.

Some of us on our side -- and editorialists, have referred to them as extremists, maybe they're not as extreme as that word implies -- but they certainly are of a different philosophical and political bent than the average legislator that has served in the Congress for the last 30 years.

And they're exactitude in their way.

KANJORSKI: They want their solution now -- almost in a Parliamentary form of government, again forgetting that we live under the Constitution and live under a different form of government, that a single election does not provide you the methodology or means to attain your end without the checks and balances and magnificence of the American Constitution.

Mr. Chairman, I hope we do take today to listen to Mr. **Rubin** and any other witnesses that may come forth, not with the idea that we're going to solve and reduce the deficit or that we're going to solve the debt of the United States or anything else, but just that reason prevails today in America. And I think the election results out there that we're seeing both in '94 and '95 and in the recent elections -- the American people are just fed up.

They aren't Republican. They aren't Democrat. They're American. And they want us just to do the best we can in the best way we can with the best judgement we can, and to stop politicizing issues such as this that are so fundamental to them, to their children and their grandchildren.

And that we do them little service if we balloon and exaggerate, we misstate and we don't stick to truth.

And I hope that we give the opportunity to the Secretary of the Treasury to let him tell us why, in fact, he took the actions he took, that he did by, taking such action, prevent default, and that he hasn't told us probably as bluntly as he should. He ought to come up here and say, "Now, cut your nonsense. Get out there. Pass a debt ceiling. Stop playing politics with us. Stop playing philosophy with it. Let's get on."

And that can either be handled in the rest of the course of the second session of the 104th Congress or ultimately in November of 1996.

Thank you, Mr. Chairman.

LEACH: Thank you, Mr. Kanjorski. Mr. Mica.

MICA: Thank you, Mr. Chairman. I welcome your committee's efforts today to examine recent actions taken by the Clinton administration in dealing with our federal indebtedness. Quite frankly I believe this administration's disinvesting the Civil Service Retirement and Disability Trust Fund and stopping routine reinvesting of federal employees' contributions to the G Fund borders on the illegal and is at least a breach of trust.

This administration has broken faith with federal employees and its' annuitants.

This fiscal mismanagement represents really the ultimate failure of this nation and our Congress to bring its finances and its indebtedness into order.

Treasury Secretary **Rubin** really has stretched the -- in my opinion -- the language of Title V beyond the breaking point to rationalize this administration's unprecedented raid on the Civil Service Retirement and Disability Fund. Section 8348K(2) clearly prohibits the Secretary from disinvesting more than is necessary to make authorized payments from the fund during a, and I quote from the law, "A **debt issuance** suspension period."

The purpose of that language is quite clear. Congress wanted to protect the retirement funds on which our federal employees and annuitants depend. As then-Senator from Tennessee Al Gore stated, the statute was intended to -- and let me quote from him, "Preserve the sanctity of those contributions that these employees have made towards their retirement."

By making them -- and I'll continue the quote, "Usable only for the payment of civil service retirement and disability benefits."

To achieve Senator Gore's objective, Congress enacted strict limits on the Secretary's authority to disinvest that fund. Secretary **Rubin** has broken faith with that objective by arbitrarily setting the length of the quote, "**Debt issuance** suspension period."

MICA: First, he set it at one year. Later he extended it to 14 months. The longer the period, of course, the more he can rob from the fund and the longer the Clinton administration can avoid getting a runaway federal spending program under control.

Until we get spending under control, we'll really continue to have this reoccurring crisis in managing the growth of our federal debt before us.

The bitter irony of all this, Mr. Chairman, is that even after all of the skullduggery, Secretary **Rubin** had the gall recently to say without a higher debt ceiling, he wouldn't be able to pay civil service retirement benefits in March. Let me repeat, Mr. Chairman, the law says Secretary **Rubin** can only disinvest the Civil Service Retirement and Disability Fund to pay retirement benefits.

The Secretary disinvested, but he still says he won't have the money to pay civil service retirement benefits. Where did all that money go? Down the federal spending rat hole. That's where.

When I assumed responsibility as chairman of our subcommittee over the federal retirement system, I was absolutely shocked to discover that Civil Service Retirement Trust Funds carried an unfunded liability -- this is -- this is the report issued by this administration September 30th, 1994 -- this is one fund. This one fund is $540 billion, and I hope the staff will pass this -- this page out so you can see the shape this fund is in.

The General Accounting Office is completing right now a review of more than 50 federal retirement systems. This is just one of them. That review should be a wake-up call that a huge, incredible, unfunded obligation exists in nearly every single one of our federal retirement funds.

Not only are there multi-billion unfunded liabilities but the so- called assets of the federal employee retirement trust funds have been replaced with non-marketable government securities. So, Mr. Chairman, these funds have been deleted of real assets and replaced by an accumulation of IOUs so that you have an unfunded -- unfunded liability here -- over half a trillion dollars.

Then in this one fund, they've stolen and replaced with IOUs somewhere in the neighborhood right now of $360 billion. That should be in the assets right now. Not there. Again, these IOUs.

As a result of these past practices, taxpayers will shell out billions of dollars in annual retirement costs, and last year paid $24 billion on interest on the trust funds IOUs -- you know the $360 I just told you about? Last year, because there's no money in that fund, just the IOUs, out of the general treasury, we paid $24 billion.

So we've created incredible unfunded liabilities. We've stolen trust funds. We pay a huge amount of interest on missing trust money.

MICA: And now, the ultimate is we rob the final pickings of the retirement fund carcass. That's how bad this has gotten. Our true national debt, actually is understated by more than $1 trillion because of the unfunded liabilities. In really just two of these funds, our civil service and military system retirement funds which are kept off the books.

Now comes the ultimate insult which is the President's strategy to divert public attention from the debt issue by telling senior citizens and our retirees, our federal retirees that he'll be forced to stop social security payments and retirement payments.

Unfortunately, this administration believes it can legislate, appropriate and extend the indebtedness of our nation in spite of the Constitution, in spite of the Congress. This fiscal irresponsibility in managing the future obligations of the American taxpayer must end.

By obscuring the real cost of retirement and misusing these funds, we understate the full cost to the taxpayer of every federal employee on the payroll by about, grab this, 30 percent. These real costs are concealed from today's taxpayers in a fiscal footnote to the Office of Personnel Management accounts.

In 1986, the federal employees retirement system was created, well they knew in '86 the whole thing was going to collapse. So they created a new system to fix the growing retirement fund problems. They created FERS, federal employee retirement system. And in that, they created a thrift savings plan keeping employees contributions outside the budget. By taking these contributions out of the budget, not merely calling them off budget, Congress intended to safeguard at least a portion of these retirement funds. Now, that fund is the fund that the Secretary has been taking from.

This safeguard was intended to prevent the very manipulations that we've witnessed over the past few months. Now as we look into the status of the G fund in the thrift savings plan we find that old bad habits still prevail. The G fund has become merely another bundle of cash for an insatiable federal appetite for spending.

The Secretary of the Treasury, **Rubin**, really in my opinion, has bastardized reinvestment of this fund to the tune of $21.8 billion. All together the civil service retirement funds have provided a slush fund to the tune of $61 billion which you've heard earlier. The Secretary of the Treasury has, again in my opinion, illegitimately used these funds to evade the debt ceiling that the Congress has imposed by law.

I ask how much lower can the executive branch of our government stoop to avoid fiscal responsibility. The ultimate result really, to taxpayers and retirees is the shameless robbing of the very last shreds of cash flow from the federal retirement system.

This whole exercise pursued by the administration in the name of managing fiscal resources is really hidden debt. The Secretary of the Treasury may be moving numbers on ledgers, or raising the interest bearing debt, and replacing it with IOUs. But our obligation to federal employees and retirees cannot evaporate with a computer key stroke.

We will have to first of all restore every cent that has been stolen.

MICA: We will have to pay interest on every dime that has been hidden through fiscal gimmickry. We will have to redeem every dollar of our obligations to the people who work long and hard in public service. Unfortunately, this administration's legacy will be more debt, more red ink and more robbing Peter to pay Paul.

During his State of the Union address, President Clinton asserted, and these are his words, "We should also protect existing pension plans. Two years ago, with bipartisan support, we protected the pension plans of eight million working people and stabilized the pensions of 32 million more. Congress should not let companies endanger workers pension funds." That's what the President said.

Meanwhile, back at the federal ranch, trail boss **Rubin** was raiding the last cash at the federal retirement corral. Unfortunately, only private citizens can go to jail if they abuse or misuse employee pension funds in this fashion.

When private sector employers attempt to invest surplus funds in their pension accounts, the Secretary of Labor and other cabinet official tells them, hands off, if they try to use the funds even to create new jobs, he threatens criminal prosecution. One employer that the Secretary of Labor should speak to real soon is the Secretary of the Treasury. He needs to hear the message loud and clear. Hands off federal employee's pension funds.

Payroll deductions from federal employees should never again be used to finance this administration's deficit spending. Since the Secretary of Labor is not likely to deliver that message, it is especially important that this Congress send the signal in its clearest possible terms.

We should be providing more protection to our underfunded government system that private employers are required to provide for their underfunded systems. Instead, we're providing less. I applaud the chairman of the Ways and Means Committee for proposing that we fence off federal employee pension funds from these financial shenanigans, and I support his initiative and will support any other positive action to protect federal employees pension funds.

Finally, I recommend that Congress act now to move these funds into real assets and investments. At the very least, we can require that the thrift savings board start moving into marketable securities rather than non-marketable bookkeeping entries.

Federal employees deserve something more tangible than a bookkeeping entry when they're ready to retire. We must not allow this mismanagement of our debt to continue in this irresponsible manner. I thank you.

LEACH?: I thank you, Mr. Mica. Mr. Kennedy?

KENNEDY: Thank you very much, Mr. Chairman. First of all, I want to thank you, Mr. Chairman, and other members of the committee for hosting this hearing this morning. I think it is important that we have a complete airing of what the implications of defaulting on the national debt might be.

We had a hearing last week where we heard from a number of experts on Wall Street as to exactly what the implications of a debt default could perhaps take, not only in the United States but throughout the world. It was an eye-opener.

The estimates were that interest rates overnight would rise by a minimum of one percent. That would create an overnight increase in the amount of debt that we'll pay in this country over the course of the next seven years about $175 billion. We could see an average home mortgage rate rise by over $1200.

KENNEDY: We see the potential default on not only the national debt of the country, but the ability of people to get everything from Social Security checks to veterans' checks.

So, it seems to me, whether you're a Democrat or whether you're Republican, everybody can agree that a default scenario is a bad scenario. None of us want this country to default on our debt.

So, then I'm trying to understand, if that's the case, what Mr. Saxton and Mr. Mica are really objecting to. Are they objecting to the fact that we are facing a default scenario where Mr. Archer, the Chairman of the Ways and Means Committee, had proposed a bill on the House floor that would have actually forced us to go into a default in early December by not allowing the Secretary of the Treasury to have any flexibility in terms of paying off our debts.

So, what they seem to be complaining about, and now calling gross mismanagement and fiscal irresponsibility and all these words, are really the attempts by the Secretary of the Treasury to avoid the very default that is by some legislative tool being issued as a threat against the agenda which the Republicans somehow view as the Democratic agenda.

So, what is the underlying concern that has brought us to a point where we're even discussing default? I'm trying to understand. What is the issue that the Republicans care so much about that they would issue the kind of threat that Speaker Gingrich talked about when he said that he wanted to use the default mechanism as a way of ramming through his program.

Now, I'm a supporter of the balanced budget. So, I figure, well, maybe it's because of the balanced budget. But, then, President Clinton agreed to a balanced budget. So then it wasn't that it was the balanced budget -- it was that it wasn't a balanced budget within seven years. So, President Clinton agreed to a balanced budget within seven years.

Then there was a whole discussion about whether it was a balanced budget within seven years using CVO numbers. And then President Clinton agreed to a balanced budget, seven years, CVO numbers.

So, then it was balanced budget, seven years, CVO numbers with a tax cut. President Clinton agreed to seven years, CVO numbers, with a tax cut.

So, I guess what we're really talking about is the size of the tax cut because I would think that anybody on the Republican side would recognize that if you take a look at the total number of dollars, that you'd send the country into debt over the course of the next seven years, is roughly equivalent to the total number of dollars that the Democrats will send the country in debt over the next seven years.

Nobody should think that just because we get to zero in seven years that means we haven't run up a deficit between now and seven years from now. The truth is we do. And both of our numbers are roughly the same.

So, the real issue here is not whether or not we run up debt. You agree that we're going to run up debt. The budget that you have proposed, that most of you have voted for, runs up the debt. So, it's not the fact that you're running up the debt. That issue isn't what you're concerned about. It's not the fact that we're going to get to a balanced budget, it's how we get to a balanced budget.

KENNEDY: Now, if we're done to the level of the cuts that we're going to make in Medicare and Medicaid in order to achieve a tax cut of $245 billion, isn't that something we ought to be able to talk about and work out? I mean, do you really have to issue a threat on defaulting on the national debt to be able to get to a point where we can negotiate that out?

I mean, do we really have to issue a threat on defaulting on the national debt to be able to get to a point where we can negotiate that out?

This is guerrilla tactics, it's zealotry, it is the tactics of a party that cannot get their legislative mandate through the constitutional means that have been laid out and have been adhered to over 208 years or 215 years of United States history.

What we have is a situation where, if you want to get your budget passed in the House floor, you need 218 votes. You can get several different versions of a balanced budget passed with 218 votes. All of us know that. The Blue Dog budget had passed with 250 votes. There are a whole stack of budgets. There's probably some I'd vote for and every member of this committee would vote for. But that's not good enough.

What you have to do is you have to get every single Republican to sign off on your version of a balanced budget before you'll ask for one democratic vote. And that's all it comes down to. It would be as though Barney Frank and I went and drew up our version of a Democratic budget and said, "We won't allow a single Republican to vote until we get every Democrat to vote for it."

We couldn't get our version of a balanced budget through. But you can't get all of your right-wingers to come to the middle and come up with a compromise. And that's all this takes. You start to cut off those individuals that are insistent upon not just a tax cut but a huge tax cut that goes to the richest Americans. You cut them off and come to grips with a reasonable balanced budget within seven years that, yes, cuts back on Medicare, yes cuts back on Medicaid and, yes, deals with welfare reform.

We can get this done. But if all you do is insist upon this right-wing agenda then you're going to get into this very tough rhetoric and name calling. And it comes not because, in my opinion, an aggressive democratic agenda. We don't have one. It comes in response to an overly aggressive Republican agenda.

So, if we're really interested in doing what's best for this country, if we're interested in not defaulting on the debt, then the purpose of this hearing or getting together here in Washington today should be to work out the budget.

This notion of we're going to spend days or the next few hours grilling Bob **Rubin** over the fact that he had some staffers come to grips with the Treasury Department to avoid going into default -- what would you expect him to do? I mean, think of your secretaries of the Treasury. Do you think that if we were trying to jam our agenda down their throat and say that we were going to issue a default mechanism if they didn't do it, don't you think that your past secretaries of the Treasury would be in asking their people to try to come up with some ways to avoid default?

It's a reasonable expectation that anybody running a federal agency is going to come to grips with, with their staff.

KENNEDY: So, let's try to figure out why we're coming to grips with this default mechanism. If we answer that today, then these hearings will have proved fruitful. If all we do is use this to try to throw some spears at the Secretary Treasury or his staff because they tried to avoid the default of this country, this will be a continued sham and a continued sense of people just name-calling rather than dealing with the underlying crisis that this country faces.

Thank you, Mr. Chairman.

LEACH: I thank the gentleman.

The Secretary of the Treasury has been kept waiting a little bit longer than we predicted, and so I don't expect a lot of questions, but members are certainly entitled to ask any questions.

I would like to make a 15-second observation. Some of what Mr. Kennedy says I think is valid, but I think it also valid to point out that the last two major budget resolutions in '90 and '93 were tied to major debt ceiling resolutions to budget agreements, and so that is commonplace and not unusual, and that the real distinction between the parties today is that the Republicans are favoring an inflation- adjusted freeze in spending, Democrats would like a somewhat greater level of spending -- whatever that might be.

I would also say that just in terms of compromise -- when the President finally submitted in January a CBO-scored balanced budget, within a few days Republicans offered a compromise which included many of the numbers of the conservative wing of the Democratic party, which was immediately rejected.

And I only lay that on the table because that was the last proposal of the Republican party which did envelope many of the compromises that were certainly of a different ilk than some more conservative Republicans felt comfortable with. And so, I just think in terms of historical record, that should be understood.

KENNEDY: May I respond, Mr. Chairman? Briefly?

LEACH: Yes.

KENNEDY: I would only make the point that if, in fact, President Clinton's offer of just taking the agreed-upon numbers on how to reduce the deficit over the course of the next seven years and every major account of the Government were to be accepted -- the same proposals that the Republicans and Democrats have both agreed upon -- without a tax cut, you'd get and arrive at a balanced budget within seven years. President Clinton has made that offer to the Republicans and the Republicans have rejected that.

There, Mr. Chairman, I believe is, in fact, enough common ground to achieve a balanced budget. But I think that if all we do is just sit here and play ping-pong with whose fault it is, it isn't going to work. And I think that if you try to make certain that this hearing doesn't evolve into another ping-pong game, then you'd serve the entire...

LEACH: Well, I will tell you -- I think this hearing is intended to meet out perspectives from both sides. There is going to be truth in virtually all of the perspectives. There is also going to be some misleadingly in virtually all of the perspectives, and it's up to the public to take that into consideration.

Does anyone else want to ask the panel...

UNKNOWN: Yes, Mr. Chairman.

LEACH: All right, well, let me turn first to Mr. Vento. Yes?

VENTO: Mr. Chairman, I have an observation, and the observation would be that the debt ceiling really, I think, when you can't argue it on the merits, what's happening here is we're confounding it with processes -- who gave us what papers, what your innermost thoughts were in terms of the Department of Treasury, with regard to...

I mean, I don't understand, you know. The whole argument is going to be on who's right on the budget when we all know that there's a difference of agreement on the budget. OK, so we set that aside. But the issue is -- is there going to be default or not?

I mean, it seems to me that my colleagues come and suggest -- you shouldn't have done this, you were planning on doing this earlier, you shouldn't have done it. I mean, that would mean that we would then be in default right now. So, if it's the intention not to have default, then why haven't we dealt with it?

Apparently, you've been unable to convince anyone to come up with a clean solution. I mean, obviously, we all can say we want our agenda annealed to whatever is going in terms of the debt ceiling.

VENTO: Habeus corpus, as I recall, was one of the suggestions to be put on there at one point.

So, I mean I just think that it -- the issue is you know we disagree on this, but what we shouldn't disagree on is we shouldn't risk the credit and default of the United States on its obligations. It is not, it does not presuppose a certain outcome in terms of budget because we honor the obligations that we have. I think you could put together a debt ceiling for whatever period of time to avoid default that would not pre-conceive what the outcome was going to be in terms of the policy decisions. That really is what the issue is.

There's no advantage. But the point is that hasn't been the case. The debt ceiling is attempting to be used for the purposes of achieving a goal that you can't sell or haven't been able to sell to date on its merits. It's clear and simple.

And so, you can talk about, what you did was, you know, improper or illegal, although I see no court cases coming up on that, so I'm unimpressed with an argument that comes from a certain view or persuasion. Or you can argue about we didn't get the papers back and you're not sharing everything with us and that you had actually planned that -- I guess that's good for pointing out what the innermost political thoughts of the Secretary of Treasury or somebody is in the end, if in fact that's the case.

But it doesn't really address what the issue is. Are we going to avoid default or not? And so we took you words, we take your actions, we look at them, and they suggest that that's where they're going, that's where you're going.

ROTH: Mr. Chairman.

VENTO: Thank you, Mr. Chairman.

ROTH: I just have a short ...

LEACH: Yes, of course.

ROTH: Thank you, Mr. Chairman. I want to compliment our panel this morning, the four, our four colleagues for the excellent statements I think all of them have made. This idea of going to comity, I think that we are hopefully are going in that direction and I think we are.

Joe or Mr. Kennedy, I was interested in your analysis. You had mentioned the words right wing extremists. There are people, of course, who are very much dedicated to balancing the budget. And then you had mentioned that you and your colleague from Massachusetts and you came up with a budget. I'm just interested in this right center left -- where would you and your colleague from Massachusetts come down on the budget.

KENNEDY: Well, Mr. Roth, I have proposed a balanced budget, and written one up. It would not have the $7 billion increase in national defense spending which your party insisted upon. It would not contain a $245 billion tax break. It would go after a lot of the corporate welfare that exists in this country that provides enormous support to everything from the oil and gas industry to the mining interests to the lumber interests in this country at the expense of keeping the Medicare system sufficiently funded, at the expense of looking out after the education system in this country and looking out after our environment.

I don't expect that those are your priorities, but I do expect that we can find ways of compromising on the positions that I might have in order to try to get a budget that looks out after the overall interests of this country.

ROTH: I understand what you budget does, and I compliment you for, you know, taking the initiative. But my question remains unanswered. If the people over here who want to balance the budget are right wing extremists, where do you come down on this?

KENNEDY: Well, I had voted once for the Blue Dog budget, if that's what you're asking me, Mr. Roth. I mean, I think that goes a long way towards achieving the kind of level of compromise that I think would pass on the floor of the House.

If that budget were put forward by Speaker Gingrich this afternoon on the floor of the House, I think it'd get over 250 votes, don't you, Mr. Roth? Do you agree with that?

ROTH: It might, it might. I don't know.

KENNEDY: But, no. I'm asking your opinion now, Mr. Roth. Don't you think that the if Blue Dog budget ...

ROTH: My opinion...

KENNEDY: ... if the Blue Dog budget were put on the House floor, it would probably get 250 votes?

ROTH: My opinion is there's a lot of folderol going on when you see that...

KENNEDY: A lot of what?

ROTH: ... when you see the President's budget go from increase for the next seven years in spending and the tax is increased. When we're increasing the fed, we're being asked to increase to answer your question. And when we're being asked to increase the national debt ceiling from $4.9 trillion to $5.5 trillion, that in no way is...

KENNEDY: Toby, Toby, hold on. Time out -- one second.

ROTH: ... helping the small business person, small, the youngsters, anyone in this country.

KENNEDY: Toby, doesn't your budget increase the deficit by about $1 trillion in the next seven years? Doesn't it do that?

ROTH: Joe, our budget balances in seven years.

KENNEDY: Well, so does ours. But, I'm just saying -- over the course of the next seven years -- doesn't your budget, in fact, increase the national debt by somewhere between $800 billion and a trillion dollars?

ROTH: No, no. We balance and we start paying off the debt.

KENNEDY: No. You...

ROTH: But, I see -- I'm just referring to the...

KENNEDY: Now, just be reasonable. Don't mislead people.

LEACH: There be regular order. It's the gentleman from Wisconsin's time.

(UNKNOWN): Thank you, Mr. Chairman.

(LAUGHTER)

(UNKNOWN): I'll yield back.

LEACH: Are there further?

FRANK: Yes. Mr. Chairman.

LEACH: Mr. Frank?

FRANK: Mr. Chairman, first I want to sympathize with the gentleman from New Jersey. I'm sorry that his enlarger broke because apparently he's got that redacted memo up there. He's had the full version of it for two weeks. And apparently, he didn't have a new enlarger, so he had to have the old one up there.

He could have, of course, had the full memo up there and I hope he can buy a new enlarger. But people should understand if they're watching up on television that for two weeks now he's had the full thing. Maybe they're copying it by hand and we're going to get an illuminated manuscript for the next hearing.

(LAUGHTER)

But I would like to ask him because it seem to me there was a great contradiction between the gentleman from New Jersey and the gentleman from Florida, the gentleman from New Jersey was criticizing the Secretary of the Treasury for claiming there would be a crisis when he all along had the ability to do certain things. Then we heard the gentleman from Florida, apparently having not been here when we discussed the civility pledge, say that this was, it was stolen, it was bastardized, it was a hoax. All these very civil words.

So, I would ask the gentleman from New Jersey -- do you agree with the gentleman from Florida that all those things that were done that the Secretary of the Treasury stole from the trust fund and bastardized it because if he did, then all the things he was planning to do, he shouldn't have done? So, I'm not sure how you come out of it. Would you agree with the characterization that all these things were as dastardly as the gentleman from Florida suggests?

SAXTON: My purpose for being here this morning, I would say the gentleman from Massachusetts is to simply say that if we are going to move down a road toward a balanced budget together which seems to me most of now agree on, that we have to tell each other the truth, the whole truth, and nothing but the truth. And not perpetuate what I characterize as a hoax.

FRANK: Good. Well, that's what I'm trying to elicit from you is the truth. This notion that you came only to do this, I had not understood that we couldn't ask you about other topics of the hearing. You have said that it was a hoax because the Secretary of Treasury knew very well he could do certain things to avoid a default.

FRANK: But the gentleman from Florida has said that those very things that you said he could do were terrible, dastardly acts of theft, that he stole things.

And I need to know that, because, I mean, is it your opinion that what the Secretary of the Treasury was planning to do were those terrible things? In that case, maybe it wasn't such a hoax. I mean, so really am interested in your opinion. Do you agree with the characterization of those steps that the Secretary of Treasury took? (OFF-MIKE)...

SAXTON: It's not purpose to agree or disagree...

FRANK: Well, I know it's not your purpose, but it's my question. Are we allowed only to ask you things that are your purpose? You're going to give a list of your purposes when you testify?

SAXTON: Let me just respond to your question by saying that the gentleman from Florida, as the Chairman of a subcommittee, and he has taken it upon himself and his subcommittee's, as a subcommittee task to deal with that issue. I have spent untold hours dealing with a separate issue, whether or not the Secretary told the American people the truth. And I characterize what he told the American people is a hoax.

FRANK: Thank you for failing to answer because I think it shows intellectual inconsistency here. On one hand, we have a Republican who says, the Secretary of

Treasury claimed there was crisis and there wasn't one. Of course, he could have done all these things, and he knew it. Then once he does them, the gentleman from Florida says, look at all these terrible things the Secretary of Treasury did.

It is clear that the Republican Party has formulated for the Secretary of Treasury the old psychological question, who do you like better, your mother or your father, to which there is no right answer because if in fact he had allowed things to default, then he would have been criticized. And if he avoids default, he's criticized.

The gentleman from New Jersey says, how dare he suggest that there was crisis. He had all this ability to avoid it. But apparently, the things he did to avoid it, according to the gentleman from Florida, are dastardly acts. He stole from the trust funds. And no one thinks he stole from the trust funds. No one thinks the trust funds are going to be diminished. "Stole" is an entirely inappropriate word.

But the fact is, that there was this fundamental conflict in the Republican approach. Should the Secretary of Treasury have done that, or shouldn't he? And let me ask the gentleman from Florida, do you think he should instead of doing what the did, should he have allowed there to be a default? I mean, given that we had not increased the debt limit to accommodate, by the way, the $600 million the gentleman from Wis -- $600 billion the gentleman from Wisconsin talked about -- came from the Republican reconciliation plan. That's where the $600 billion came from that he said wasn't helping.

But let me ask the gentleman from Florida. Do you think the Secretary of Treasury, (a) should have done what he did, (b) allowed us to default, or (c) done something else, what would that be?

MICA: If I could respond, Mr. Chairman. First of all, I think Mr. Saxton outlined the planning of how the Administration planned the robbery and executed the robbery. And I detailed the effects of the robbery on the people of this nation. And you can make light of this, but I'm telling you...

FRANK: Would you answer the question. Am I going to get answer?

MICA: I don't want to be interrupted, Mr. Chairman...

FRANK: I know that, but it's life.

MICA: I'm answering the question.

FRANK: Will you answer the question? My time is running out, Mr. Chairman, it's my time, as you instructed Mr. Kennedy to defer to Mr. Roth.

MICA: Could I have the courtesy of responding.

LEACH: Let the (OFF-MIKE). There'll be regular order. It is the gentleman from Massachusetts's time, but it is the tradition of the committee that witnesses should have the right to answer in their own way, and I...

FRANK: OK, Mr. Chairman. It is my time. You did tell Mr. Kennedy to defer to Mr. Roth. I asked a specific question, which the gentleman doesn't want to answer. Should the Secretary of Treasury have done what he did, or should have allowed default, or should he have done something else? And he apparently doesn't intend to answer that.

MICA: Mr. Chairman, if I may, I'd like to respond. Again, I think that Mr. Saxton investigated the planning and execution of this, and I consider it stealing from these funds. I think I also cited the current Vice President, who was Senator, who spoke about how these funds, and I again you have to look at what they took. Is the last vestige of any cash was picked from the G fund.

MICA: We've already stolen $540 billion in unfunded liability. There are reckless IOUs left in what should be a trust account. So now we're down to the very last pickings. And I say it borders again on the illegal. He described, in fact, what led up to this. But I'm telling you, members of this panel, this is only one example. I don't have time to go into the details today ...

FRANK: Mr. Chairman, this has nothing to do with my question. Mr. Chairman, I would like to reclaim my time.

MICA: ... and how low this Congress and this administration has stooped in stealing funds to extend the indebtedness and spending of this country ...

LEACH: If the gentleman will ...

FRANK: Mr. Chairman ...

MICA: ... and we should, in fact, act in a responsible fiscal manner. Thank you.

LEACH: ...call the time of the gentleman.

FRANK: Well, I would just ask, the last seconds to point out he did not answer the question. He repeated his statement. We haven't gotten from either of these gentlemen what they think the Secretary of the Treasury should have done. And the gentleman from Florida has explicitly refused the answer the question which I understand given the position he has taken.

LEACH: Alright, are there any further questions?

Mr. Bachus.

BACHUS: Thank you.

Mr. Chairman, I hope we can reach consensus on one thing. And that's that when we ask the Secretary of the Treasury what potential actions are you considering here's his answer. Hold up, hold up the document. Now that is what he supplies to Congress.

FRANK: Will the gentleman yield?

BACHUS: And when we ask the Secretary of Treasury what options are you considering, what does he -- hold that answer up.

FRANK: Will the gentleman yield?

BACHUS: No, I will not yield.

FRANK: You have the full page though, of course.

BACHUS: When we ask the Secretary of the Treasury: share your legal opinions with us and your legal analysis, these are the answers we get. And I want to applaud Mr.

Saxton for doing some heavy lifting and simply, and I don't think that what he said is all that irrational. He is simply saying, please provide us with answers. Please provide us with the documentation.

And I hope that all of us can agree that when we ask for a legal analysis, does Treasury have any legal analysis and we're given this. I hope that all of us would say that's not an answer. And if we're going to make decisions can we make those decisions based on those answers. I don't think that we can. We have asked the Secretary of Treasury for all his information, legal opinions, legal analysis, options in confronting the debt ceiling and he has supplied to this Congress less information than I supply to the IRS when I file my income tax.

We have gotten less documentation than I have to supply to the IRS. And he may say 5,000 pages of information, but look at some of those pages. I mean, can't we agree that this doesn't lead to bipartisan cooperation. That this doesn't lead to us making rational, reasonable decisions.

You know, I could take that information there, I could probably buy a $1 lottery ticket based on that information. But I don't think, I certainly wouldn't make a decision involving billions of dollars.

BACHUS: And let me say this, I'm going to give two more illustrations. We have been not only asking for this legal opinion and this legal analysis since early last fall, and Mr. Frank, the gentleman from Massachusetts, says two weeks ago we finally got a complete document.

You know, it's sort of like a guy in a jail cell who's been kept in the dark without food or drink, for six months. Finally, somebody hands him a glass of water through the jail cell. I don't know whether we're supposed to be grateful or still annoyed about all this, Mr. Saxton.

Maybe we just ought to accept after six months two weeks and after a lot of these actions already taken, they finally give us the document. I do have some good news and I want to compliment the Secretary of Treasury that not only did we get that document, the gentleman from New Jersey, but late yesterday afternoon we got another August 16, 1995 legal analysis that we've been asking for since at least November.

And we've been told it didn't exist, it might exist, it's being prepared. And then we get it and it's dated August 16. And we got it late yesterday afternoon. You probably don't even -- I don't know that you've ever seen this?

SAXTON: I have not seen that document. But I would like to point out to the gentlemen also, that there are still, you know, or we strongly believe there are still a lot of documents that we've not received from the White House or from OMB.

BACHUS: Here's one of them. It's sort -- I don't whether they found this in a closet on the third floor or where.

LEACH: Will the gentleman yield?

BACHUS: But, but...

LEACH: Will the gentleman yield? Will the gentleman yield?

BACHUS: Well, I only have a second. But let me say this. And I think that any, everyone in America can understand this. I wrote a letter on December the 15 as Chairman of the Oversight Committee and simply asked for the names of those persons attending the meeting between Treasury and representatives of the Wall Street security firms, which was reported in the Washington Post on December 15.

I was promised these answers for two weeks. I tell the representative from New Jersey, I received them finally a month and a week later. And get your pen out, I want to tell you who these people were at the meeting, write these names down.

Question, that I asked, please provide the names and positions of all Treasury officials involved in the meeting. Answer, we will be providing you the names. That's the answer.

LEACH: Will the gentleman yield?

BACHUS: And -- I will yield for...

SCHUMER: All those documents are in the living quarters of the White House if you go down and check and (OFF-MIKE).

BACHUS: And then the second question, please identify the security firms in their respective representatives attending the meeting. Answer, we will be providing you with the names. And the third one is, please supply a copy of all documents that relate to the meeting. Answer, we are searching for copies of all documents.

At least it didn't say we were shredding all documents.

UNKNOWN: Will the gentleman yield?

UNKNOWN: Mr. Bachus...

UNKNOWN: Will the gentleman yield?

BACHUS: But now that...

UNKNOWN: Mr. Bachus...

BACHUS: But now that...

UNKNOWN: Mr. Bachus, can I answer what your objection is?

LEACH: The gentleman's time has expired.

UNKNOWN: Now, wait a second, you're going to let him go on rattle on and then you're not going to let us answer?

UNKNOWN: If he can -- if he can ask me a question, I'd like to ask to ask him a question, but...

UNKNOWN: I'm trying to answer...

UNKNOWN: If the time is...

UNKNOWN: ...if that was the question...

UNKNOWN: ...if the time is that of gentleman...

UNKNOWN: ...what you're charge is.

UNKNOWN: ...the witness...

UNKNOWN: Mr. Chairman, Mr. Bachus...

UNKNOWN: The witnesses haven't been as...

UNKNOWN: He's captain of the civility team -- I think his team lost.

BACHUS: No, I didn't -- I just said these are the answers.

LEACH: There will be regular order. Are there...

BACHUS: The facts speak for themselves.

SCHUMER: Mr. Chairman...

BACHUS: Is that an answer to my question?

LEACH: Are there further ...

SCHUMER: Mr. Chairman?

LEACH: Mr. Schumer.

SCHUMER: Yes. Thank you.

LEACH: And I hope members will bear in mind we do want to get to the Secretary...

SCHUMER: Right.

LEACH: ... and I think he would like to...

SCHUMER: Right.

LEACH: ... come as well.

SCHUMER: Understand that. I would just make two points. One I would ask all members of the press to check with the gentleman from New Jersey, my good friend's staff. They got all these documents two weeks ago and yet, since they -- and just ask them did they get them two weeks ago. They did.

Second, look at them. The whole reason people are worried about redacted documents is there something bad or nefarious in them. There's nothing there. It's all bureaucratic gobbley-gook. I would just ask that all those documents be made public and before any allegation of some kind of impropriety is brought up, they're looked at.

And finally, I would just repeat Mr. Frank's question to the gentleman from Florida, because we've heard no answers here. We've heard a lot of ranting and raving and no answers; and using the word "stealing" and things like that which are pretty gross in my judgment and don't fit Mr. Bachus' civility model.

But, in any case, I would ask him a simple question and ask him to please answer it. If you were Secretary **Rubin** on the dates when the government would have been unable to pay its already accumulated debts, you've said what you wouldn't do -- you wouldn't have borrowed from some of these trust funds -- what would you have done.

What would you have done to prevent default? Or do you not care about default? And please answer the question as opposed to more unfounded rhetoric that really demeans, not really the Secretary of Treasury whose integrity is second to none, but I think demeans people who use the language such as stealing.

MICA: First of all I think I tried to paraphrase the intent that Senator Gore had laid out when the set up, again, these last funds and set them aside and hopefully wouldn't be taken in this fashion. And I may term it "stealing" or "robbing" or "bastardization." I think that that is an adequate characterization.

But, more fundamentally, if I were the Secretary of Treasury and saw what was going on, to see the indebtedness of this country, to see how we've stooped to robbing from our retired federal employees and our senior citizens -- we've basically robbed every fund, folks. The cookie jars are all gone -- I would have encouraged the President to sit down, make some adjustments to this spending and this out-of- control indebtedness and get this nation's finances and working...

SCHUMER: I'm reclaiming my time.

MICA: ... with the Republicans and the Democrats...

SCHUMER: Reclaiming my time.

MICA: ... and all reasonable people.

SCHUMER: You haven't answered the question; because they were sitting down at that time. They couldn't come to an agreement. We all know that. The Secretary of Treasury could have whispered to the President till the cows came home, come to an agreement. He might have even said, go along with the Republican plan.

But that didn't happen. And you know it wasn't going to happen. You're faced with a fiscal choice. Not the policy on the budget. But, whether to take the money from the trust funds -- borrow; whether to allow the country to default or some third fiscal mechanism. If you don't have a third fiscal mechanism then you would, then, by logic, you would say, let the country default. I'm waiting for your third fiscal mechanism that would have been available to the Secretary of Treasury.

MICA: Well, I serve, also, on the task force that the Speaker has on the debt limit, and there are a variety of other choices. All of them are pretty grim.

SCHUMER: Name one.

MICA: Stealing from the gold reserve ...

SCHUMER: Name one.

MICA: Well, he also lists them in his memo from the 22nd -- some of the other options. But I think again, we've stooped to a new low in this country when we choose to rob the trust funds of the employees of this nation.

It is a low point. It should be a low point with Congress. It should be a low point for this administration.

Again, if I were the Secretary of Treasury, I would have brought this to the public's attention rather than using it as a scare tactic ...

SCHUMER: You don't have ...

MICA: ... on the senior citizens and retirees.

SCHUMER: OK. Reclaiming my time, it is obvious the gentleman has no solution. This is rhetorical ranting. He has not pointed to a single action that the Treasury Secretary could undertake, other than default, except for "some pretty horrible actions." We rest our case.

FRANK: Gentleman yield?

SCHUMER: Be happy to yield.

FRANK: I thank the gentleman for asking the question, because now I don't take it personally that he refused to answer.

It's clear that they want to make accusations and not try to deal responsibly with what the alternatives were.

LEACH: Time of the gentleman has expired.

SCHUMER: He laid out the alternatives in his memo.

LEACH: We're hopeful that there won't be too many more questions, but Mr. Bentsen is entitled.

Yes?

Excuse me -- Mr. Orton precedes Mr. Bentsen. I'm sorry.

ORTON: Thank you, Mr. Chairman.

I do want to hear the Secretary, and so I will be very brief. But, in the interest of accuracy of the record, Mr. Kanjorski and Mr. Kennedy have raised the issue of the need for additional debt limit extension regardless of which balanced budget proposal would be enacted.

Let me cite from the Congressional Budget Office:

"The Republican conference bill would result ..." This is the Balanced Budget Act passed by the House and Senate -- the conference report according to CBO. "... would result in deficits in 1995 -- $164 billion; 1996 - $151 billion; '97 - $159 billion; '98 - $127 billion; '99 - $97 billion; 2000 - $73 billion; 2001 - $34 billion; 2002 - a surplus of $3 billion. The net increase in deficit -- therefore, the required addition to the federal debt limit under the Republican conference report over the next seven years -- $638 billion."

"Under their final offer, according to the Senate Budget Committee, the final Republican offer would result in the following deficits: '95 - $164 billion; '96 - $159 billion; '97 - $165 billion ..."

Note that two years from now, the deficit would actually be higher than it is in this fiscal year. "... '98 would be $148 billion; '99 - $125 billion; 2000 - $102 billion; 2001 - $60 billion; 2002 - a surplus of $1 billion, for a net required increase in the debt limit of $758 billion."

"Under either Republican scenario, you would have to increase the debt limit, over the next seven years, from $638 to $758 billion."

ORTON: The coalition budget of which I was the principal sponsor in the House would raise the debt limit or would be required to raise the debt limit as a result of deficits over the same seven-year period by $517 billion.

Regardless of which approach we take to balancing the budget, we must increase the debt limit. Let me -- and I will end with two other additional quotes from CBO.

This is CBO, page 48 of the Economic and Budget Outlook: Voting separately on the debt limit -- on the debt -- is ineffective as a means of controlling deficits because the decisions that necessitate borrowing are made elsewhere. By the time the debt ceiling comes up for a vote, it is too late to balk at paying the government's bills without incurring drastic consequences.

And finally, from page 54 of the same report: Failing to raise the debt limit in a timely manner -- though perhaps bringing a difficult vote on legislation to a head -- only serves to make the Treasury's job of paying the government's bills more difficult. An extended delay could have a significant effect on the government's credibility and the interest rates that it must pay on future borrowing.

That is the non-partisan CBO. I would also like to hear an answer to the question what the Secretary of Treasury should do when faced with ultimate default. There are numerous occasions -- which I won't go into -- since the 1950s -- in the Eisenhower administration, the Reagan administration, the Bush administration -- where similar types of efforts by the Secretary of Treasury to avoid default have been conducted and I look forward to the Secretary's comments.

VENTO: Will the gentleman yield to me?

Will the gentleman yield briefly to me?

ORTON: I would yield.

VENTO: Mr. Chairman and members, I think really it's the fundamental importance in terms of one of the major prerogatives of the Congress in terms of control over financing that is really being raised here with regards to the actions of the Secretary or the administration under --

We have obviously various laws in terms of the Anti-deficiency Law and others that safeguard that particular prerogative, Mr. Chairman. So I think it's, you know, we began to make allegations, I think they have to be backed up.

I mean, I would think that -- and I would hope that if, in fact, there is a conclusion that in fact this is the case, that the Speaker and the Majority Leader of the Senate would take such action to preserve -- one of the fears I have quite frankly, Mr. Chairman, in the way the conduct of this has gone on is that I think there really is a question here whether or not Congress will be in the end losing some of the responsibility or power it has because of the precipitous type of actions.

So I think when you look over this -- we've had after all Mr. Zelliff and others here that were instrumental in writing the laws and legislation in '86 and '87 with regards to the authority to in fact borrow from these funds.

But if there is either such a great misunderstanding or I'm misunderstanding what is being alleged here, then I think that the full legal exploration and extinguishing of those particular questions ought to have been -- ought to have been done immediately in terms of one of our basic powers.

So I just find the absence of that suggests to me that -- that this is more political rhetoric than it is in fact substantive legal questions that are being raised.

LEACH: I thank the gentleman for his constructive observation. Mr. Bentsen.

And I hope -- I believe this will be the last question. The Secretary will be notified to that effect.

BENTSEN: Thank you, Mr. Chairman. I apologize for not being here earlier. Let me say as a new member, this hearing underscores my understanding as to why Congress has such a low positive rating from the American public.

Let me ask a couple of questions. I appreciate Mr. Orton for talking about the Blue Dog budget. I supported that budget. I'm not a Blue Dog. I'm a beige dog, I think, but I did support the budget and he does underscore the fact that all of these plans add to the debt, and so my colleague was incorrect when he said that the Republican budget would not add to the debt.

BENTSEN: And I think the American public needs to understand that. Mr. Mica, let me ask you a question. Presumably, you're an expert as the chairman of the subcommittee that oversees government -- the government pension plan so I would imagine you're an expert. You've read all the things.

Doesn't the law provide that the -- that the Secretary of Treasury will restore all the funds plus accrued interest to those pension funds? Doesn't the law require that? Just a yes or no is sufficient.

MICA: The law does require that, however, if you start looking at the projections of...

BENTSEN: So the law does require that.

MICA: ...of replacing some of these funds -- for example...

BENTSEN: No, I don't have much time so...

MICA: You weren't here when I pointed out to the obligations...

BENTSEN: I appreciate it -- I'm going to get to that.

MICA: ...that we now have.

BENTSEN: I'm going to get to that. I just need a yes or a no.

MICA: Some of the projections.

BENTSEN: Mr. Chairman.

MICA: Some of the projections of the funds that must come out of the general treasury -- for example, I said out of the current trust account, the obligation which you as a congressman must make to meet that deficit is now $24 billion a year...

BENTSEN: OK...

MICA: Money we took out of that. By the time of 2002 it goes to...

BENTSEN: Mr. Chairman.

MICA: ...$53 billion by the time...

BENTSEN: Mr. Chairman.

MICA: ...within three decades...

LEACH: Full regular order.

MICA: ...that goes to...

LEACH: Excuse me, if the gentleman will hold back. It is the gentlemen's...

BENTSEN: He answered my question. The answer was yes they are restored plus accrued interest.

Just a second, Paul, let me just -- I just need to follow up real quick.

You also said in your testimony that non-marketable securities are put in there and inferred, I believe, that somehow those securities' value was less than a marketable security. Now, for purposes of the government -- for the government's accounting purposes, isn't it true that those securities also bear interest and pay interest and therefore would have the same value to the bottom line. So isn't it incorrect to infer otherwise?

MICA: Well, again, this is part of the interest that we're paying out of the general treasury, which I just spoke to -- currently $24 billion.

BENTSEN: The question, Sir, the question...

MICA: If those assets were in fact maintained separately...

BENTSEN: The question, Sir, is ...

MICA: ... you would have...

BENTSEN: The question, Sir, is your statement infers that someone is stealing from pension plans.

MICA: Well...

BENTSEN: Just a second please. That is what you infer in your testimony. But isn't it true -- doesn't the document, the non- marketable security which is put in there, doesn't that pay interest and therefore on the ledgers for the purposes of the pension funds, accrues interest and therefore -- therefore, the full faith and credit of the United States government backs the payment of those pension funds. Is that not true? As the chairman of the subcommittee that oversees that?

MICA: I -- again, you're not talking about what we're talking about here.

BENTSEN: No, I'm talking about accounting.

MICA: We're talking about...

BENTSEN: And we're talking about how the government keeps its books...

MICA: ...about taking from G Funds...

BENTSEN: ...and how it pays its full faith and credit.

MICA: ...which are not part of that particular fund. And G- funds is what we're talking about -- G-funds that were set aside separately and he's chosen not to reinvest those G-funds.

BENTSEN: But he's put non-marketable securities which do pay interest.

MICA: I'm not talking about the $360 billion they've robbed from the trust fund. That's the -- that's what we're paying the $24 billion on interest on.

BENTSEN: All right. Mr. Chairman, could we have a little regular order?

MICA: We're talking about G-funds which is a separate amount.

BENTSEN: We have a sort of a -- let me ask you a question. You said that the Secretary stole -- in your testimony -- that he stole from pension trust funds. Would you then assume that Jimmy Baker who was Treasury Secretary in '85 and '86 that he stole? And Paul if you want to answer this as well.

KANJORSKI: May I answer that? I'm a member of the same committee Mr. Mica is on, and I've sat here containing myself, particularly in light of the caveat that Mr. Bachus said on civility.

To use the words "robbery," "stolen," and "theft" in association with the Secretary of Treasury and what he did to defend the full faith and credit of the United States is a malignant growth of this institution.

I think, Mr. Mica, you ought to apologize, as you were cited on the floor of the House for referring to the President of the United States incorrectly.

This is wrong. This is uncivil, and it's absolutely incorrect. The fact of the matter is, what the Secretary of the Treasury did was perfectly allowed by law, had previously been done, and no action has been taken by any American, including Mr. Mica, who could have brought a cause of action if he really felt there was some illegality or impropriety there.

It wasn't done, it hasn't been done, it won't be done. This is only misstated hyperbole for the purposes of political advantage, and it should leave today, now.

We ought to allow the Secretary of the Treasury to come here, tell us what he did, tell us why he did it, and tell us what we should do as a responsible Congress.

MICA: I thank the gentleman. I think the facts are fairly clear, and I thank the Chairman.

LEACH: I would like to thank the panel.

LEACH: It's been a long morning.

(LAUGHTER)

LEACH: Our next witness is the honorable Robert E. **Rubin**, Secretary of the Treasury. And let me just say to my colleagues that it's the position of our party at this time that not only is default not on the table, neither are Constitutional remedies on the table.

Mr. **Rubin**.

RUBIN: Mr. Chairman.

LEACH: Why don't we wait just a minute. The committee will recess for one minute.

RUBIN: OK.

LEACH: The committee will reconvene. The committee will now hear from the honorable Robert **Rubin**, Secretary of the Treasury.

Please proceed, formally or informally, whatever is your preference, Mr. **Rubin**.

RUBIN: OK.

Thank you, Mr. Chairman.

I appreciate once again being before your committee to discuss an issue of enormous national importance, the debt ceiling and an extension, an increase in the debt ceiling.

In the past week, Mr. Chairman, the debt limit discussion has reached a new stage and has proceeded in a welcome spirit or bipartisan cooperation.

On February 1, Majority Leader Dole, Speaker Gingrich, Majority Leader Armey wrote to the President and committed to enact a debt ceiling increase acceptable to both the President and the Congress by February 29th in order to ensure that the United States continues to meet its obligations.

That same day, Congress passed the Archer Legislation, legislations authorizing Treasury to borrow $29 billion outside the debt limit. This bill, HR2924, will enable us to deal with the March 1st crunch date of benefit payments. It was adopted with the full support of the Congressional minority, which has urged action on the debt limit throughout this process.

RUBIN: President Clinton signed that bill in the Oval Office this morning.

Now, we need to move on and put in place legislation that addresses the debt limit problem on a long term basis. By insuring the this country can meet its obligations, we will protect the holders of government securities, Social Security recipients and other beneficiaries from any additional risk. It is clearly time to get this job done now.

Since my last appearance before this committee, Mr. Chairman, much has changed. We have reached a common understanding of how important it is to protect the credit-worthiness of the United States, a vital, national interest that must never be tarnished by anyone for any purpose. It is now time that comity replace conflict and the debate over the debt limit be drawn to a close.

Last December, I testified before this committee that the actions I had taken and anticipated taking to protect America's credit- worthiness absent adoption of a clean debt limit. I will only briefly review that history today and then turn to more current issues.

In July, 1995 our administration began asking Congress to adopt a clean debt limit bill. Our communications on this matter were consistent and clear. I said first, default is unthinkable. Second, the United States will not default because in the final analysis, Congress will fulfill its responsibilities and pass acceptable debt limit legislation.

Third, if Congress did not adopt such legislation, Treasury would be forced to use extraordinary means subject to resolving legal and practical problems to avoid default. Fourth, that I would notify Congress before taking any extraordinary actions to insure that the United States government fulfilled its obligations. Fifth, passage of a clean bill would permit the debate to proceed on its own terms, the debate on the budget, unencumbered by risks to the nation's credit.

Because the debt limit was not increased last fall, it was necessary for me to take the actions that I did take that we had cash and debt limit capacity so the nation could meet it's obligations. I will not recite the list of those actions, Mr. Chairman, but they are in my submitted testimony. I will comment only on one and that was the final and critical action on November 15th.

On November 15th I was forced to invoke statutory authority in the civil service retirement fund and disability fund provided to Treasury secretaries by a Republican Senate and a Democratic House and signed into law by President Reagan. November 15th was the date when we would have been out of debt limit room and out of cash and unable to meet the financial obligations of the United States of America. We were on the eve of default.

Counsel, both in Treasury and at the Office of Legal Counsel at the Justice Department, had consistently advised me that this decision with respect to the civil service fund and the application of that statute could only be made in the context of the facts that existed on the eve of default.

It was only at that time that I was able to determine that we could make the judgments necessary to replace approximately $40 billion in securities from the Civil Service Retirement and Disability Fund and $21.4 billion in securities from the so-called G Fund with non-interesting bearing cash credits.

RUBIN: As I said to this committee in December, workers and retirees are fully protected by the statutes that authorized those actions. The asset value of those funds was reduced by not one nickel and the statutes provide for full and automatic restoration of unpaid interest. Both of those statutes explicitly refer to the use of those statutes for debt limit management purposes.

Finally, on December 29th, I took an additional $14 billion step. And as I told the committee last year that measure has enabled us to continue meeting the financial obligations of this country through January and will continue to enable us to meet those obligations to February 15th, that is to say through February 14th.

Each action I mentioned was necessary because a debt limit increase had not been put in place. Each action fit my criteria of only employing those means that were within my legal authority, were practical and prudent. Everyone of them was driven by my responsibility as Secretary of the Treasury to protect the full faith and credit of the United States of America and only, only by that concern.

As we entered the new year Treasury continued to examine other options. As I promised this committee when last I appeared before you, we would report our findings to Congress and the American people. On January 22nd I announced that by February 29th or March 1st, absent enactment of a debt limit increase we would not be able to meet the nation's obligations. I reported that there were only three remaining options available consistent with what was legal, prudent and practical that could be exercised by February 15th in order to pay obligations due on that date.

These actions approved by our department's Office of General Counsel and the Justice's Department's Office of Legal Counsel include one: suspending the reinvestment of the approximately $3.9 billion of dollar denominated assets in the exchange stabilization fund, an action that has been taken by several prior secretaries of the Treasury. Two: amending my November 15th determination on the length of the debt issue and suspension period under the civil service fund to 14 months, thus permitting the redemption of the approximately $6.4 billion.

However, let me point out that the final decision on the civil service redemption cannot be made once again until we are on the eve of what otherwise would be a failure to meet our obligations just as was the case on November 15th. And finally exchanging approximately $9 billion of assets in the portfolio of the Federal Financing Bank for an equivalent amount of treasury securities held by certain government trust funds.

RUBIN: This action is authorized by statute. There are no additional legal and prudent measures that I can take to meet our obligations.

We reached that conclusion after considering and rejecting other actions because they failed to meet the criteria that I've already discussed.

I will not delay mailing tax refunds owed to the American people. I will not sell the nation's gold. I cannot legally go beyond the nine billion dollars in exchange assets -- in asset exchanges -- with the Federal Financing Bank.

Delaying tax refunds would hurt more than 70 million Americans and would still provide only a short-term deferral, not a long-term solution to the problem.

Secretary Baker dismissed selling gold in 1985 and said, and I quote, "It would undercut confidence here and abroad based on the widespread belief that the gold reserve is the foundation of our financial system, and because Congress clearly has the power to prevent a default by assuming its responsibility with respect to the debt limit." That was Secretary Jim Baker in 1985. Exactly the same arguments prevail today.

I do not have legal authority to divest any of the other 189 government trust funds for debt management purposes -- only the G-Fund and the Civil Service Fund without authority is explicitly provided.

In addition, the President took Social Security off the table, though, as I said a moment ago, I also didn't have the legal authority to disinvest Social Security for debt management purposes.

As to the balance of the Federal Financing Bank assets, I have been advised by counsel that the Federal Financing Bank assets we have identified our the only such assets that can be sold within my legal authority.

Let me also say, Mr. Chairman, that all of these measures and the measures that I have taken -- though in the case of the ones I have taken their use was absolutely necessary to avoid default -- are no way for a great nation to manage its financial affairs.

For all of these reasons, the commitment of the leadership to move debt limit legislation acceptable to the President and to the Congress by February 29th, and the enactment of the Archer legislation which allows for orderly financing and relieves anxieties with respect to the beneficiary payments due on March 1st and shortly thereafter, are steps of enormous importance with respect to the debt limit and meeting the obligations of the United States government.

The conclusive and correct answer is right before us: the Congress should pass a debt limit increase for at least one year to separate this issue from the budget debate and to get this issue out beyond the election. That would end the risk both for our credit and for federal beneficiaries. And I think it is important -- I think it is critical -- that we do exactly that and do that now.

This debate began last year when some people said that default was an acceptable price for getting the version of the budget law they preferred enacted into law.

RUBIN: That kind of comment is not being heard anymore. I believe that is because people now have a better understanding of the enormous stakes involved in making sure that this country meets its financial obligations. In that sense, much has been accomplished during this difficult period.

The nation's financial reputation is an invaluable asset. Its credit-worthiness is a sacred trust. Our reputation has enormous practical importance for this country. It should not be called into question. It ought not to be subject to uncertainty for any purpose.

We must honor interest and principal obligations and we need to protect Social Security recipients, veterans, indigent children, military personnel, civilian employees, contractors with the federal government -- indeed anyone who counts on the full faith and credit of the United States of America.

National leaders, regardless of party, have always acted to protect our credit worthiness. In my December testimony I read affirmations of this principle form Alan Greenspan, Paul Voelker, two Republican and four Democratic former Treasury secretaries and comments from the major international rating agencies. These quotes are on the record. I shall not repeat them.

Protecting the nation's credit is a bipartisan -- indeed, a non- partisan tradition.

LEACH: Alright thank you, Mr. Secretary.

Let me just say the Congressional leadership is, as you cited committed. (audio gap) has never defaulted and I'm confident this Congress would not have. One of the key things to know though, in a legislative sense, you know, what are the time constraints of these decisions. And that has been revealed as the end of this month, now mid March.

But it has been my personal view that this time constraint issue has been unfortunately not taken advantage of this year in ways that it could otherwise. That is prolongation of this whole debt ceiling issue has clearly made compromise on the budget resolution less likely. And quite frankly has led to greater social splintering.

And here, as you know, and as we've talked about before. I think some is symbolized in the Medicare issue. And you've heard some concerns today from some on my side of the aisle about documents that people believed were not provided on a timely basis that were requested.

I would express some concern about information that wasn't provided that was not requested. That is, it appears that we've had a change in the basic status of the Medicare trust fund. That is, instead of earning $4.7 billion last year, they lost $35 million, but that's a change. And it is an issue that is under review in the whole budget circumstance.

The Republicans balanced budget approach which included lifting the debt ceiling was vetoed. And in partial measure because Republicans were alleged to be gutting Medicare. And so, one of the questions I would have is, where was Treasury on this issue of the change in status of the Medicare trust fund. And why did you not advise the Congress and did you advise the executive branch and other parts. And where has Treasury been?

RUBIN: Mr. Chairman, let me respond, if I may, to your questions in a little different order than you presented them. In terms of the Medicare trust fund, there was about a $36 million shortfall in 1995. On October 27, 1995, this document from the Treasury and the OMB was sent to every member of Congress. Fifty copies of it were sent to each of the budget committees. And it fully discloses the $36 million shortfall that you are referring to.

So as of October 27, 1995 which is when the official document was prepared, these numbers were fully available. Not be fully available when there was a Congress. They were sent to each Congressional office. As I said, 50 copies of each were sent to each of the budget offices.

I think that the central point that this document makes though, Mr. Chairman, is that it is absolutely critical as the President has said consistently from the health care debate of 1994 on to deal with Medicare.

RUBIN: And there is no question that the exhaustion date is approaching. It is currently estimated to be 2002. Our guess is that, our best guess, best estimate is that this shortfall will not change that. If it does, it will change it by a few months, or perhaps get it into 2001.

But with the shortfall approaching what is necessary to put in place are reductions in the rate of growth or Medicare, but in such a way as to maintain an effective program. And that's precisely what the President has advocated, and if his Medicare proposal were enacted, that would extend the exhaustion date out to 2011. It is possible with this shortfall that you get down to 2010.

So I would say that the primary import of the change in the Medicare numbers, which were fully disclosed to members of Congress on October 27 of 1995, would be to say we ought to get on with the Medicare changes that the two parties, roughly speaking, can agree on. And that is the President's program, both in magnitude and underlying policy. The other policy areas which we disagree on Medicare are the kinds of things that need to be debated out, and if necessary, taken to the electorate in November.

On the question of prolongation, Mr. Chairman, the only reason we had a prolongation of the budget process was because the two parties, the congressional majority and the President, could not agree. The only objective that we ever had with respect to the debt ceiling increase was to meet the obligations of the United States of America. That was the only animation (ph) with respect to any of the actions that we took.

That issue, the debt ceiling and meeting our obligations could readily have been taken off the table by passing a debt ceiling increase. And in fact, we consistently advocated that the debt ceiling be separated from the budget process and let the budget process proceed on its own two feet.

In terms of documents, Mr. Chairman, we, I have here a list of the documents that were provided, and the dates that they were provided. I think it was a very full provision of documentation with respect to the request, the opinions on our November 15 actions were provided, if I read this correctly, on November 22, which was seven days after the actions were taken.

And from then till now, something like 4,300 pages of documents have been produced. We believe that we are in full compliance with the requests that have been made. If there are shortfalls in that compliance, Mr. Baucus, I can assure you that we would, we are fully prepared to share everything that we have with you.

In terms of redactions, I gather that two weeks ago there another production of documents which cured most of those redactions. There were additional documents provided yesterday. And we continue to be ready to participate and cooperate with you in any sort of production that is consistent with the request that you have made.

And I think, Mr. Chairman, that responds to the three items you've mentioned.

LEACH?: Mr. Gonzalez.

GONZALEZ: Thank you. Mr. Secretary, as a follow-up, the Republican leaders of the House and Senate sent the letter to the President on February the 1st, 1996. But it expressly commits the congressional Republicans to pass a mutually agreeable debt limit by February the 29th. Mr. Chairman, I would unanimous consent to place that letter into the record at this point.

Mr. Secretary, what progress has been made toward such an end? And are you confident that the Republican leadership will fulfill its commitment? Also, would you consider an attempt by the Republicans to load up the bill with controversial and unacceptable measures to be a breach of that commitment?

RUBIN: Mr. Gonzalez, I think that that letter was a very constructive step because it was precisely what you just said it was and on its terms what it said was that the congressional leadership would provide an increase in the debt ceiling that was acceptable to both Congress and the President.

And I think that's precisely the kind of increase in the debt ceiling that we have been calling for from the very beginning of this debate. We have not since then had meaningful work with respect to fulfilling that commitment, but I don't take that as anything other than the fact that people simply haven't gotten to the point of working on this. But I would assume that everybody will act in an appropriate fashion and I will take that, I'd take that commitment as being a very, very positive development.

Now, in terms of the last piece of your question ...

GONZALEZ: They're harmful.

RUBIN: No. I think the letter on its terms says that the debt ceiling increase will be what it should be -- which is not loaded up, not used as a measure to try to pressure anybody -- either Congress or the President into doing things that they're not otherwise willing to do. But rather, will only have attached to it, mutually acceptable, other measures -- if any.

LEACH: All right, sir. Thank you very much. Mr. McCollum.

MCCOLLUM: Thank you very much, Mr. Chairman. Mr. Secretary, back in November, a lot of us remember and a lot of the public remembers that you were letting us know in no uncertain terms that there was a great concern in your mind that we might default, and we'd have a debt crisis. In fact, today, you've pointed to the November 15th date as a pretty important date in terms of those things which you had to make decisions on. And I realized that you have a track record of being very meticulous about how you've gone about things. You've always done that. And that, I do respect.

There's a saying in the law when it comes to judges, there's the appearance of impropriety at times -- it's just as bad in many ways as taking the step across the breach. And, there are those who are saying right now that you screamed so loudly about the potential debt crisis that we had, and yet at the same time you knew that you had the powers that you've outlined to us today. And that in fact, while you may not have technically made the decision to use those powers that you indeed were certainly in your mind not going to let the default occur at that point.

And yet you created a great impression out there with a lot of people in the general public that the nation was on the brink of default in November. I would ask you -- how do you respond to the critics who say with some appearance of justification that instead of Republicans creating the debt crisis, that we were accused of creating back in that period of time -- that indeed, you -- yourself -- by making those shrill statements and not letting us know in a public and open way that you were not that concerned about what was going to happen in the immediate future? You, yourself, created that debt crisis? At that moment.

RUBIN: I think the best answer, Mr. McCollum, is simply to recite what actually happened.

Every time that I referred to the impending debt ceiling problem which was actually October 31 and the potential default problem which was November 15th, I having spent 26 years on Wall Street running trading operations and being exceedingly conscious of the importance of not undermining confidence in the markets always said, always said that this nation will not default because Congress will fulfill its responsibility.

RUBIN: And if not, Treasury will take measures subject to the caveat that there were legal and practical uncertainties, which indeed there were.

Secondly, the decision that we made two or three days before November 15th were not technically made that day, Mr. McCollum. We met for several hours -- I believe it was on a Sunday night -- in the main conference room of the Treasury to look at the facts as they then existed and at the statute. We got the Office of Legal Counsel Attorneys on the phone at the Justice Department, and we went through the application of the statute to the facts.

Having spent many, many years as I have making very complex legal decisions, I can absolutely assure you that that was not a five-minute technicality. That was a many-hour discussion of the application of that statute to those facts.

Up until that time, there could not have been a certainty that we, in fact, could have obtained the resources necessary to get through the November 15th and December 1 dates. Those were the two dates, which you may remember, together required about $60 million if we were going to avoid a default.

In terms of shrillness of tone, which is a phrase you used, I'd like to go back to that, if I may, for one moment, too. And I'm repeating myself to some extent, but I think it's a very important thing for me to say.

All through this period -- given, as I said a moment ago, the experience I'd had with respect to markets -- I was exceedingly conscious of the importance of not creating a problem in markets. And I think the best evidence of the success in that respect is the fact the markets, in fact, took the problems that we had with a calmness that I think was very, very important to this country.

MCCOLLUM: Mr. Secretary, with all due respect to the decision- making that you just outlined -- and I don't doubt you went through some deliberations on that -- the memorandum is redacted up there, but which we now have had an opportunity to see, which you've produced to us, shows that long ago, before November, you had legal analysis showing you what indeed your path could be.

Now, I know there was debate. I'm sure there was. And you've described it rather succinctly to us today, but it seems to me that you would have served the Nation far better had you been on television, on the "Brinkley" show or elsewhere outlining -- "these are the powers that I see I've got," you know, "I've got this analysis yet to do, but I anticipate analyzing this in this way," and that, "while I don't like the idea of being put in this position," whatever, "the Nation's not going to go into default because of these reasons."

Instead it's my impression -- and correct me if I'm wrong -- that maybe it was by error of simple misspeaking, but you actually said on the "Brinkley" show in the time frame that the auctions that were going to take place the following day were canceled, when, in fact, they weren't.

How do you respond to that?

It's very difficult for me, even though I know the technical niceties here, to understand why you went about creating this. I mean, a lot of people think this was all part of -- and I can see why they might think that -- an administration effort to bring pressure on the Republicans and this whole budget discussion instead of the other way around.

MCCOLLUM: A very strange political maneuver that you obviously don't agree with. But nonetheless has a ring of appearance in truth.

RUBIN: Mr. McCollum, I think the facts are at variance with the interpretation. On October 17, I think that date is correct, you can check your files. On October 17 we sent a letter to the Speaker and Majority Leader saying that there were measures that we could take subject to legal and practical uncertainties.

On October 31 we sent another letter, I believe in response to a question from the leadership outlining the conditions that were requisite with respect to civil service funds. I think on October 24, although I won't swear to the absolute date, our staff briefed the staffs of, certain Congressional staffs at least with respect to the civil service fund.

And I believe it was, on a subsequent Brinkley show that I think was sometime a little later, sometime in November, that I in fact, did say that we would be using the civil service fund. The point is, that we were always very clear that there were measures we could take. But we also were very clear, and I think had to be very clear because it was the case that these were measures that we could not be absolutely certain that we could use until we got to the point that we could in fact make the decision about applying the statute to the facts.

MCCOLLUM: But didn't you actually say on the Brinkley show, mistakenly or otherwise, the auctions were going to be cancelled the next day when they were in fact not.

RUBIN: We either cancelled, I believe we did cancel, where is, that upset a lot of folks. Yeah, they were postponed. And the reason they were postponed, Mr. McCollum, is because October 31 would have been the settlement date. Had we proceeded with the auctions on a regular basis, then we would have had settlements on that date that would have put us $3 billion or $4 billion over the debt limit. So we had to do two things.

One, we had to postpone the auctions and two, we had to reduce the auctions by $3 billion or $4 billion in order to remain under the debt limit.

MCCOLLUM: Well, my time is up, but I believe the problem was maybe your linguistics that day in using the term cancel instead of postpone. But you can check the record.

Thank you very much, Mr. Chairman.

RUBIN: Well, could I respond to that, if I may. I don't think there was any question, Mr. McCollum, that we had to treat those auctions, we had to defer or cancel. We had to change the security, the amounts of securities that were being issued and we had to conduct the securities in an unusual fashion because of the fact that we had a debt limit date on October 31. So I don't think there was any difference in import of what I said and what we in fact did.

MCCOLLUM: The impression you left though was one of great deal more crisis by doing that than you otherwise would have left. And that's what I'm concerned with. That is the whole point of this.

LEACH: The gentleman's time has expired.

Mr. Vento.

VENTO: The, yeah, I remember them being cancelled as a matter of fact. I don't know what you said, but they were in fact cancelled. The question though, let's get back to this in terms of, you know, has the President, to your knowledge Mr. **Rubin**, or have you advised him not to sign a debt ceiling extension at any time that was not a claim.

RUBIN: Mr. Vento, the President has been consistent from the very beginning. Number one, he wanted to have a clean increase in the debt ceiling so that we could get the credit worthiness issue off the table and separated from the budget. And number two, I think that he has been the foremost person in the country in decades with respect to fiscal responsibility because of the debt reduction program put in place in 1993 and his advocacy now of a balanced budget.

VENTO: Well, I understand that the debt ceiling at times has been attached to other measures that have received majority of votes and have received the signature of the President. So the fact is that there is this issue about cleaning out. I mean, that the issue is that you obviously do that in the tenure of where you have agreement, where you have compromise, and of course that is what's absent here.

VENTO: The issue of course is that if this is going to be a tactic to in fact accomplish what you're goal is, I would suggest to my colleagues that then I think it would be appropriate for the President, I mean if this is going to be the tactic if the debt ceiling is one of the tools in the arsenal of trying to accomplish what you want to do, than to refuse to sign it unless they have my Medicare program on there.

Unless they have my health care program on there. And of course, Mr. Secretary, you would not advise that particular conduct if it was the President who wanted to achieve that goal, and/or were members of Congress, is that correct?

RUBIN: Mr. Vento, I can assure you that the only objective we ever had was to protect the credit worthiness of the country by getting in place a clean debt ceiling increase. It was never even contemplated that we would attempt to use the debt ceiling increase in any other way, and for any advantage of our own.

VENTO: So, I see no demonstration of that. In fact, it's quite the contrary. Now, you know, here we are. We're almost three months without an extension of the debt ceiling. In other words, we're without three months. Do you know, Mr. Secretary, what the longest period of time was prior to this for a debt ceiling was not extended?

RUBIN: What happened -- there has never been period even remotely like the one that we're going through just now. In the past what has happened when there have been disputes around budgets or other matters at a time that a debt ceiling was pending, you would have a series of temporary debt ceilings increases.

VENTO: You're saying this is unprecedented.

RUBIN: Oh, this is unprecedented by a vast multitude of whatever the previous time period was.

VENTO: And so I mean the concerns about default and the concerns about credit rating, in terms of your expressions have to be considered in the context that this unprecedented. My understanding is that the longest period of time was maybe three or four days.

RUBIN: My impression, Mr. Vento, is that that is probably right. There is also never, at least. We have never been able to find in the record, any evidence that in the past people have talked about default as an instrument in attempting to accomplish another legislative purpose.

VENTO: So, we're operating, really in a twilight zone in terms of what is -- what is going on in terms of how we might conduct ourself. The truth, the fact is, that when you talk about debt ceiling, the debt ceiling has not been increased. And so you have been doing activities and actions under the context, under the ceiling of the debt ceiling, within the context of the normal revenue and spending flow and borrowing of the federal government, is that correct?

RUBIN: And within the context of our clear legislative authority.

VENTO: Now, one of the concerns here had been expressed and will be expressed by a later witness, and I apologize to him. But I wanted to get the issue out because I think you probably can give some better feedback than most of us could to this particular response. And that is that if the market looks at this and suggests that this is not a fundamental economic underlying economic problem in terms of default, or a problem in terms of default, but recognize it as a political source, that it will discount that and that it will have little impact or little meaning.

RUBIN: I think just the opposite, Mr. Vento. I think that the notion that a nation, that the United States of America would default, not out of financial necessity, but as a matter of political will, is actually in some ways, rather more pernicious in terms of how we are perceived in the years and decades going forward.

Clearly, this nation has the political ability to meet its obligations. But if a you (ph) develops in the financial markets, that is a matter of political will, we are prepared not to meet our obligations for political purposes. I think that that is exceedingly dangerous.

Fortunately, we know have a bipartisan coalescence around dealing with the debt limit -- increasing the debt limit, doing it in a non- coercive fashion, and getting on with our business.

VENTO: Well, I don't want to anything to upset that particular tenor, Mr. Secretary, but I would say that, you know, after all, I suppose that since we have the workings of what was going on in terms of your thought process here, that I would like to have those of the speaker and others that have made statements to the contrary in terms of how the debt would be, in fact, delayed. How it would be, how a default would not be that big a problem. And so I think that, you know, it would be good to have, I think, on both sides of this the full expansion of that.

Mr. Secretary, one further question. And that is, have you been in any way legally challenged by any of the actions taken to date to your knowledge, in any shape, form or manner?

RUBIN: Mr. Vento, I think there is absolutely zero question about our statutory authority with respect to everything we have done. And we have not had anybody, we have had nobody challenge us in court, and nobody has suggested they'll challenge us in court, and we have not been notified by anybody saying that they would consider challenging us in court.

VENTO: Well, I knew this new legal reform measure that the Republicans were going to put in place, Mr. Chairman, were effective. I didn't realize that they were quite this effective.

(LAUGHTER)

So I would suggest, again, as I said earlier, Mr. Chairman, I'm sort of jealous, really, of, I suppose all of us are, the prerogatives of Congress with regards to our spending authority, and I think that seriously, if we have concerns about that, I don't care for what purpose it is, I think that that's a constitutional prerogative that we ought to uphold.

So it doesn't give great comfort to the Secretary or his staff, but I think that since none have been forthcoming, that is an indication of the lack of merit in terms of the criticism.

LEACH?: I take your meaning. You wanted to lead the challenge.

VENTO: Well, I may will do it if I saw the need for it, Mr. Chairman.

LEACH?: Thank you. Mr. Roth.

ROTH: Mr. Chairman. Secretary **Rubin**, I've had a chance to look at your testimony and also I heard your statement before our committee. And I have to agree with you, Congress is not going to default, I would have to conclude that, you know, this issue of default is really a red herring, and somewhat disingenuous to bring it up because it tries to refocus and to de-focus what is really taking place.

I think the basic issue here is that the debt ceiling goes up, and up, and up. And now you are again coming before Congress and asking us to increase the debt ceiling from $4.9 to $5.5 trillion. Now you, as mentioned before, that you have been on Wall Street for 26 years. You know, people always accuse Congress of not living in the real world, so I asked a couple of our people back home. I called people back home and asked, what you ask the Secretary when he, you know, appears before the committee?

And one lady said, I would ask him, would he take money from his children and give it to someone who has borrowed an immense amount of money from his before, who hasn't even tried to pay anything back? Would he loan such a debtor more money?

What would he tell such a borrower? And I was just interested what you would tell here.

RUBIN: Mr. Roth, the $5.5 trillion increase, which is, I do believe what Congress should do, was the number that appeared in the Republican budget resolution of last year. And that's where we got that from. And the reason it was in the Republican budget resolution is a recognition that in order to meet the obligations that will exist under either of our budgets going forward, the debt ceiling simply has to increase.

I might as another comment that the debt of the, the debt of the federal government quadrupled from 1980 to 1992, a period during which ...

ROTH: And Mr. Secretary, if I may be so bold, but I've taken a look at your budget you submitted to Congress day before yesterday, and it has seven years.

ROTH: In the seven years, nothing but spending increases; next seven years, nothing but tax increases. And how is that going to do -- as you had mentioned in your testimony -- "the President's primary concern is to raise the standard of living for average Americans? That doesn't seem to jive; that doesn't seem to fit.

RUBIN: Mr. Roth, I believe that the deficit reduction program that we put in place in 1993, which was the first serious attack on the deficit in a long, long time; that has brought the deficit down by roughly 50 percent -- if I just may finish -- has been the primary, not the only, but the primary factor with respect to the recovery we've had for the last three years.

The budget that we introduced this past Monday, with our estimates of CBO scoring would bring us to balance in seven years -- just as with the congressional majority -- and would continue on that track of fiscal discipline toward balance. And I think it is a continuation of exactly the policies that have brought us the prosperity of the past three years.

ROTH: Unless my eyesight is deceiving me, here are the total outlays, increased spending every single year; revenues increase every single year and I see a big minus sign in front of 755, which tells me that there is going to be increase of over three-quarters of a trillion dollars in spending.

RUBIN: Mr. Roth, in a growing economy you will find that revenues increase under our budget, they increase under the congressional majority's budget. That's because tax revenues increase with the increase in the economy. As you know, both our budget and the congressional majority's budget have a tax cut, although they are very different in magnitude. I agree with you on that. And they are different in the purposes and the direction for those who would be the beneficiaries.

ROTH: You know, in all due deference, Mr. Secretary...

RUBIN: And, secondly, they both have...

ROTH: ... I want you ...

RUBIN: ... both budgets have increased expenditures. The question is can we go to balance. And I think the answer is clearly yes. The President put forth a budget that had been developed actually with Senator Daschle, that the Congressional Budget

Office scored that's reaching balance in seven years -- which is exactly what the congressional majority is doing.

ROTH: Right.

RUBIN: And then he put forth another budget on Monday toward the same purchase.

ROTH: You know, Mr. Secretary, we hear that same scenario year after year after year. And debt keeps climbing year after year after year. I've only so much time but I have to make one statement here. I wonder if your putting the right spin on this letter because. as I read this letter, it says that "Committed to act by this date in a manner acceptable to both you and the Congress."

Boy that is a big loophole. The way you interpret it, so, hey, it's a fait accompli, everything is done. But, the way I interpret it, wow, you could drive semis through that thing.

RUBIN: Well, if you think that the majority leadership signed a letter that was designed to have a big loophole, then I think...

ROTH: No, I...

RUBIN: ... that's something that...

ROTH: No, I'm not saying that.

RUBIN: ... you need to discuss with them.

ROTH: I'm not saying ...

RUBIN: I took it at its face value. It said they committed to -- I don't have it in front of me -- committed to increase the debt limit in a manner acceptable to the Congress, which is themselves, and to the President.

ROTH: All I'm saying is that...

RUBIN: I would not have imputed to them that it's alright to put a loop hole in that letter.

ROTH: Well, neither would I, neither would I.

RUBIN: Oh, OK.

ROTH: But, it's still, it's a matter of interpretation. And I'm just saying I think maybe you're misinterpreting that letter. Is that possible?

RUBIN: I really just take it at its face, Mr. Roth.

ROTH: Well,...

RUBIN: ... at face value.

ROTH: ... so do I. Yes.

(LAUGHTER)

SCHUMER: I'm glad we have agreement, Mr. Chairman.

LEACH: I thank the gentleman. I think the Chair ought to make it clear. I'm confident the words in the letter were sincerely presented.

LEACH: Mr. Schumer?

SCHUMER: Well, thank you. And I thank you, Mr. Secretary for having to endure this. I want to thank you for coming here to be criticized for saving us from default. I'll bet you've never thought you'd experience that in all your days. And the bottom line to me is when some, my friend from Florida said, well this is the Democrats' crisis for default. It's sort of like putting the hostage on trial for the crimes of the kidnappers. It's just unbelievable -- the double speak here is appalling to me.

And it's almost embarrassing. I will, again, lest we think that this issue of default was brought about by the Secretary in some memo that no one has paid any attention to, I'm going to read again the quotes from Speaker Gingrich. Quote, last April, "The President will veto a number of things and then we'll put them all on the debt ceiling. And then he'll decide how big a crisis he wants." And later Speaker Gingrich said about the budget debate, "I don't care what the price is. I don't care if we have no executive offices, no bonds for 30 days."

The bottom line is a simple one, Mr. Secretary. You know it, I know it, everyone in this room who is not totally partisan and biased knows it and that is that just as at one point some in the majority thought shutting the government down would be a good strategy and would bring the President to his knees -- there was a smaller, but very vocal group in the majority, who thought going to default would be the same type of strategy. And now that they realize it's not such a good strategy they're trying to figure out how to work their way out of the box.

And so we have my good colleague from Wisconsin, first saying we will never default. And then saying all the people are saying you shouldn't raise the debt ceiling. Well, you can't have it both ways. Nor can they say to you ... They're saying to you -- oh, you came up with these mechanisms and yet you were still worried about default. How could you know that there might be other ways to borrow and yet still be worried about default? And what they don't mention is at the very same time they were putting to legislation on the floor of the House of Representatives to prevent you from using those mechanisms.

I remember, I remember personally talking to the Secretary about it and people in Treasury as well. And how worried they were that if that legislation had passed, then we would indeed defaulted. So, there's no contradiction in saying, yes, we know that there may be some other mechanisms. Untried, uncertain how they'd work until you did them, but at the same time worrying that if they didn't work or if legislation passed that -- the Congress majority-inspired legislation -- that it wouldn't happen.

So, I guess I'd like you to address that point. How much ... How did the awareness of the fact that the majority might cut off your ability to borrow from these other trust funds play into your worries about default?

RUBIN: Mr. Schumer, I think that the thing that unique about this situation, having now looked at a couple of decades at least of past circumstances around budgets and debt limits and like -- is this is the only time that we've been able to determine in which there was serious talk by people in positions of responsibility of using default or the threat of default as a measure in an attempt to pressure or coerce -- in a budget negotiation -- and that was part of the context.

RUBIN: And that was part of the context. That really was the context within which this discussion began.

Our entire objective during this entire period -- and we conducted ourselves in the context I just mentioned -- was to do everything possible to make sure that, number one, we met all our obligations, and, number two -- I'm sorry that Mr. McCollum isn't still here because I think this is a very important point in relation to something he said -- number two, on the one hand urge Congress to pass a debt ceiling increase, because that was absolutely essential, and at the same time not create anxiety in the markets.

And I think the best evidence that we succeeded in pursuing those dual paths was the fact that the markets did not in fact react adversely to the circumstances and we have managed our way through a very difficult period to the point now where seems to be a real coalescence around doing what needs to be done without having adverse market reactions. Mr. Chairman, I yield back my time.

LEACH: Thank you. Mr. Bachus?

BACHUS: Thank you. I appreciate your being here, Mr. Secretary.

RUBIN: Thanks.

BACHUS: I do want to tell you this: I think I've told you this privately but I want to say it publicly -- that this talk about impeachment, that sort of talk, I have told you that I felt that was inappropriate and it was non-constructive.

RUBIN: I tended to have the same view, Mr. Bachus.

(LAUGHTER)

BACHUS: So, you know, this is, you know, when I hear members attribute that as some view of the Republicans, you know, it's troubling to me. I want to make that clear to you.

I also wanted -- you mentioned today sort of an assurance to give us disclosure of information. And I will tell you, like this August the 16th document that we finally got late yesterday -- when you read that document it actually at least has supported and justified some of your actions. At least it -- I would think it was favorable to the actions you've taken. It at least showed carefully thought out legal opinion that much of what you did, you know, I may disagree with the policy but at least legally you had grounds for that.

So, you know, when we finally get the documents there's nothing in there that, you know, I certainly did not imply there was something in there that indicated you had done anything improper. So, it just sort of puzzled me sometimes. And I would like to say in that regard two things, and ones I mentioned to your staff, in information you supplied to us.

They had mentioned that sometime this information could be used by the financial markets. And I would say to you I don't want that information. I would say simply slap on there something that this disclosure, something to indicate that. I would rather not have the burden of having that information and having it get out. But at least as opposed to just a blank sheet of paper, give us some indication of that, and then if we want to pursue it, which I don't think we would, let us know.

Secondly, we have a problem. Sometimes, and I'll give you an example. The February 7 letter to Jim Saxton, where you mentioned that there were materials which were pertinent but which had been supplied by other third agencies or other agencies other than Treasury, that was in your files; third agency material and Treasury files.

Sometimes it's hard for us if we don't know what that information is we can't request it from someone else. So, I'm not sure that some of that information we shouldn't have.

BACHUS: I'd like to work a little closer on that.

RUBIN: Mr. Bachus, let me say that there is absolutely nothing in any of our files on anything with respect to debt limit that we aren't -- that isn't totally consistent with everything we've been doing.

I can't speak to the August 16th document because I just don't know why you got it so late.

BACHUS: Sure. I'm not...

RUBIN: The fact that it was consistent with what we've done is on the one hand, I suppose, a positive. On the other hand I can't tell you why it cam up as late in the production as it did.

BACHUS: Sure.

RUBIN: But I can tell you that we have made a full-faith effort to comply with the request that we have received. I think we've turned over something like 4300 pages. But if there are things that we haven't turned over that you need or you think that in some way this isn't working the way it should be, we will continue to work with you until you have what you need.

BACHUS: Yes. I'd just say let's sort of build on some cooperation and try to do -- and I think a lot of the confusion is simply we didn't get it and when we did we wondered why we hadn't before.

Now let me move on and ask you about a different subject -- one that concerns me, and I know at the Summit for the Americas, laundering of drug money came up. And I think that's an important issue. You're here on something else, but would you like to comment on what steps have been taken since the Summit for Americas? I think you went to Argentina.

RUBIN: Right.

BACHUS: And if I've put you on the spot, I...

RUBIN: No, no, that's all right, Mr. Bachus. That is, I think, an exceedingly important issues and one that I suspect is going to receive a lot more attention in the years ahead.

As you know, because you wouldn't have otherwise asked the question, money laundering is absolutely essential to organized crime and to drug trafficking because it's only through money laundering they can take the illegally-gotten gains and turn them into usable gains.

One of the prime law-enforcement objective of this administration has been to try to cut that cord. Eight years ago Treasury set up a separate organization within its law-enforcement capabilities to focus on precisely these kinds of issues but most specifically money laundering.

About some months ago -- I've forgotten exactly when -- I went to Argentina, as you said, and chaired a money laundering conference at which we had, I think, 34 nations, all the nations that took part in the Summit of the Americas. And our objective is to get the other nations of the Americas to join with us in this focused effort with respect to dealing with money laundering.

And I think there was actually quite a successful conference and we've had some good results even in this relatively short period since the conference. But I think that you have correctly identified what will be a prime focus not only in this administration but I suspect in administrations to come.

BACHUS: I would just like to encourage you to continue with your initiatives and let us know in that regard. You know, obviously, that's something that affects us every day and we need to spend more time on it. So...

RUBIN: We'd be delighted to do that and we'd be delighted if you'd like to come by our office at some point and discuss what's going on. Because I think it's a very, very important subject.

LEACH: The gentleman's time has expired. Let me also make mention to the committee that we will be holding a hearing on February the 28th on this and related subjects. Mr. Frank?

FRANK: I thank you, Mr. Chairman. I would like to just say that I was pleased that the gentleman from Alabama repudiated that impeachment talk that others had said. I refer to it and I repudiated it to some members of the Republican leadership because it came from the Chairman of the Rules Committee and it came from, I believe, the gentleman from California who is the head of the Republican Policy Committee. But I'm glad to have it repudiated.

I'm also glad that we have had repudiated by silence the wholly intemperate and unfair attack on you, Mr. Secretary, from the gentleman from Florida, Mr. Mica.

FRANK: Mr. Mica in your absence made these outrageous accusations appropriately characterized by Mr. Kanjorski, and I am delighted to see that not one member of the majority has picked them up or carried them forward, and I think it ought to be very clear that this is dissociation by silence that is entirely appropriate.

What I am curious about here is this theory, apparently I was surprised to hear you accuse of having come up with this whole strategy of default -- now I had been under the impression that this was something the Republicans were talking about, but I guess they've said it isn't true. So, I find myself somewhat in the position of Groucho Marx's interlocutor, when Groucho said to him who are you going to believe me or your own eyes. I guess I'll believe them for a while.

And I then want to congratulate you because it seems to me the strategizing you have been credited with doing is even greater in its brilliance than has been said because apparently you somehow provoked them into raising this default issue. That was the rope-a-dope strategy of all time. There you were going about your business, dropping your guard, sticking your chin out, and suggesting that they deal with default because it did seem to me looking at it that they threatened to default and thought that would force you, you being the administration, to give in.

And then you found a way to avoid that using the trust funds. Half of them decided to accuse you of stealing the trust funds, the other accused you of doing something that was so routine, they didn't know why you made a crisis, but all of it seems to be all your fault. And how you managed to plant that idea in Speaker Gingrich's head, I do not know.

Mr. Schumer read those quotes from Speaker Gingrich, and your cleverness in leading Speaker Gingrich into threatening default -- it certainly sets new heights. I don't think Andrew Mellon or Alexander Hamilton combined could have approached that degree of cleverness, and I guess I would have to congratulate you for it.

The only thing though I would like to say is the criticism that you got for some of your department stuff (OFF-MIKE) don't let the lawyers overdo this. This stuff got redacted because somebody gave some overly legalistic interpretation. Listen to the lawyers, but understand there's a broader political context, and people are right to have complained that this stuff didn't come in originally, although, I must say the tactic of putting up blank sheets of paper when you have in fact had for two weeks what's really on the paper seems to me to be fairly tawdry. But you let yourself into. So, the next time you are brilliantly strategizing and leading them into this briar patch for you of the default, don't ruin it with that.

Finally, let me just ask you, if you would, I think it is fair for you to comment. Mr. Mica said that you had stolen funds from the retirement system, that it was robbery, that it was the lowest thing ever. As I said, several of us on this side have expressed our extreme distaste for that kind of language and the members on the other side have made clear by not talking about it how little they think of it. But it does seem to me, you having been accused of this stuff, you ought to have a chance to respond, so I would ask you to do that.

RUBIN: I think, Mr. Frank, that I would commend to Mr. Mica the statute itself which I think is the best response to the ...

FRANK: Well, he might need some help in interpreting it, so maybe you wouldn't want ...

RUBIN: ... to his comments.

RUBIN: Well, we have legal counsel that can do that. In fact, we have opinions from both our counsel and from the Office of Legal Counsel at the Justice Department. But the statute clearly on its face says that the actions that we have taken can, rather let me put it differently. That once you make the requisite findings, then you can use the resources of the funds to the extent that you make the findings for debt management purposes.

FRANK: Two points, let me just ask you. In the notion this was all so carefully pre-planned. You just made a clear point there about making the findings. You could not have in fact made the specific factual findings until very close to the moment, is that right?

RUBIN: No, that's exactly right because what you needed to do was to make a finding with respect to a **debt issuance** period. And how long a time might it be during which you might not be able to issue debt in the usual fashion. So obviously you can't know the answer to that until you get right up against the eve of default and then you can see what the facts are. And that will enable you to make a determination as to what in fact is the period during which you might not be able to issue debt in the usual fashion.

FRANK: To last points quickly. One quick question. Are any of the retirees, present or future of the federal government in any financial jeopardy, as a result of anything you've done?

RUBIN: The answer to the question, Mr. Frank, is absolutely not. As I said in my statement, what happened was that non marketable government securities which are offered to the fund on special terms, they actually do better than they would in the market, are redeemed. But in their stead, are put credits on the books of the United States government backed by the full faith in credit of the United States government with statutory requirements that the interest be made good once the **debt issuance** period is passed. And there be full restoration of interest.

FRANK: I thank you for that. And of course private companies are not comparable because they don't have the full faith in credit.

The last point is, I would like your assurance that the whole business of the trust funds leading to Mr. Mica's denunciation of you for robbing and theft. I would like your assurance that this was not another clever pot of yours, that you led poor Mr. Mica into making these accusations and he's going to have to repudiate them and blame you for them a couple of months from now.

RUBIN: This is all much too clever for me, Mr. Frank. All I tried to do was protect the credit worthiness of the United States of America. And make sure we could meet our obligations and utilize what is clearly in my statutory authority towards those ends.

Thank you.

LEACH: Mr. Baker.

BAKER: Thank you, Mr. Chairman.

Good morning, Mr. Secretary.

RUBIN: Good morning, Mr. Baker.

BAKER: Thank you.

I'm trying to go back and look at what has actually happened over the course of the last four or five months and make sure I'm understanding properly the flow of events. You were just looking at the statute I take it that authorizes the actions from the G fund and the CORRY fund that clearly establishes legal precedent for you to take whatever actions in your determination are warranted on the eve of a principle of default. And you'll make that assessment.

On that basis, there was some $21.5 billion from the G fund, $39.8 billion from the CSR fund. Something in excess of $61 billion transferred via that mechanism not only to forestall the immediate default, first question, but for residual operations for the remainder of the year. Is that correct?

RUBIN: Well, the two periods that we actually were looking at, at the time that we made the decision were the November 15 date which would have been a default date.

BAKER: Correct.

RUBIN: And then the December 1 date, when there were additional substantial obligations. And it was really those two periods that we looked at together although we did it on the eve of what would otherwise have been a default date, which was November 15.

BAKER: So you really had two funding principles. One was the November 15 trigger which you acted on just prior to, on say November 14. But you also contemplated a later cataclysm on December 1, which you funded at the same time?

RUBIN: Yes, although, let me make a point that I perhaps wasn't clear enough about. With respect to those...

BAKER: Those are the two dates we looked at, that is correct?

RUBIN: But the determination under the civil service statute was not driven by the amounts of money we needed. It could only be driven by the period with respect to which we felt we might not be able -- there was reasonable chance that we would not be able to issue.

Well, we could not be sure that we could issue that in the usual fashion. And that gave you an amount of money. That amount of money...

BAKER: But that's my point, I guess is that it was not a distinct, clearly identifiable debt that we're going to resolve.

RUBIN: No.

BAKER: There was Part A which was a debt, and then some future commitments, possibly operations, future debt resolution, that was at some foreseeable time in the future, two to three weeks later, perhaps.

RUBIN: Well, no. I think, if I could just put it slightly differently, if I may.

BAKER: Sure.

RUBIN: The G-fund is an amount that doesn't role over if your at the debt limit, and then you can use that for debt management purposes on the its own terms.

BAKER: You had to take it when you could get it, is your point.

RUBIN: Yes, correct.

BAKER: And that you could only do when you're at the debt limit.

RUBIN: The G-fund, what you have to do is to make a judgement about a **debt issuance** suspension, period. That was the judgement we made. That gave us an amount of money. That we made on its own merits. But if you take those two amounts together, what it did do was get us through the November 15, what would otherwise have been default period, and also get us through the December 1 period.

BAKER: What are these residual assets in the CSR fund today?

RUBIN: My recollection -- you mean total amount?

BAKER: (OFF-MIKE) About $300 billion?

RUBIN: I think they're more like -- if you count, which I think you should count, the credits on the books that were established to replace the...

BAKER: What was earlier...

RUBIN: ...the redeemed fund -- Yes, I think it's closer to 350.

BAKER: My point is that you know have the ability under the statutes you referenced to make the judgements about events that may take place not tomorrow morning but at some date certain in the future, based on the availability of the CR fund assets to you to manage, with a fund that now has $350 billion dollars in its pocket.

What are the reasons for the stated consequential default if all of those facts are in your favor?

RUBIN: No, because that's why I made the point. I made the distinction I made. I'm glad you're -- I raised that question. It is our judgement. You don't go at that way. You don't look at the monies in the fund and then look at the...

BAKER: ... you look at the problem.

RUBIN: ... the needs going forward. No, you don't look at the problems and say how much do you need. It's a rather curiously drafted statute.

BAKER: I think so. If you don't look at the money, and you don't look at the problem. What are we looking at?

RUBIN: What you look at is you -- you look at how long a period you can reasonably judge, you might be able to issue debt, in the usual and normal fashion. That gives you a number of months. You take that number of months and you multiply it times the amount of benefits paid per month.

That will give you an aggregate amount of money. And that's what you can take out. That actually is unrelated to...

BAKER: And this all happens in a few minutes?

RUBIN: Well, we've spent a few hours doing it. But...

BAKER: But when did you first start thinking about debt resolution, processes. Did you do you it early November, late September?

RUBIN: No, we began, thinking about continuously planning sometime I believe in June of...

BAKER: June 27 perhaps?

RUBIN: On June 27. Well, that -- no, I think we actually began a little before that. We looked at all kinds of ideas almost all of which turned out to be not available to us legally.

BAKER: So, that from your extensive work, from June, probably, till the time of the day before the default, the only mechanism you could determine that was available was only this statute authorizing you to make this action based upon whatever might be available in that on that date certain for events that may or may not take place the next day?

RUBIN: No. Let me ... Well, let me put this slightly different, if I may. When we started -- We started with a wide range of ideas. Some of which, I at least thought, were reasonably promising. As we went through the period, not only up to November 15th but beyond November 15th -- almost all of the ideas we had ultimately were determined not within our authority by our counsel or the counsel at OLC.

November 15th ...

BAKER: I hate to interrupt. I'm out of time. I need to get one more record, one more ...

RUBIN: ... wait a minute. November 15th, we could not have gotten through without the Civil Service Fund.

BAKER: Thank you sir. I appreciate your courtesy. My last point is that and this is meant with true respect for your abilities as a Wall Street participant with some measured degree of success, I might add, you were viewed as a very knowledgeable participant in that process.

During the course of this projection, from September to when ever, today, with the repeated comment of default being imminent and the crises that would result as a consequence thereof the stock markets run up 500 points. Why aren't your friends on Wall Street listening to what you're saying?

RUBIN: Oh, I think they have listened to what I've said. And I think, that was the point you may not have come in at the time, Mr. Baker but was ...

BAKER: My timing's always bad, but ... Go ahead.

RUBIN: No, that's all right. You didn't miss all that much.

(LAUGHTER)

Let me, let me just on that particular point make a comment if I may. I really had to meet, had tried to accomplish two things at the same time. And I was exceeding conscious of that need -- having spent as much time I had with markets. On the one hand, I had to urge Congress to put in place a clean debt ceiling increase because it was only by so doing that we can find a long-term solution to this problem.

And at the same time, I was exceeding conscious of not doing anything that would create uncertainty in the markets.

BAKER: Well, that was clear. A 500-point run ...

RUBIN: And I think that I ... No, let me say -- I think that we managed to accomplish both purposes at the same time and it we did, or I did it I suppose predominantly by saying on the one hand, we must do this. And on the other hand, I do not believe -- and if you look back at my statement you'll see ... You see, I always said this -- I do not believe we will default because Congress will fulfill its responsibility.

BAKER: Well, I agree and I credit that. The only thing I would come to is a slightly different conclusion because there were published accounts in the media saying, "Here's the statutory authority, here's the two funds, here's the amount of assets. Friends, it ain't happening. The Secretary can do what he needs to do in order to get this problem resolved. And the political consequences were of a different matter. But, there point is there were sufficient resources at your disposal to avert any potential default. And that was evident to the markets because they knew at not time would there likely be a default.

RUBIN: Mr. Baker, let me tell you -- having lived in markets, what markets think is a, I think, a very complicated question. But let me tell you what actually happened.

BAKER: They buy the rumor and sell the fact. I know.

BAKER: Well, if it was that simple you could make -- one could do well rather easily. No. Let me tell you what actually happened. What actually happened is precisely what I said which is that early in the process we identified a relatively wide range of possibilities. Almost all of them got knocked out if we did a legal analysis.

The Civil Service Fund was one that clearly available to us on its face. It was equally clearly the case, that we could not make that decision, and therefore nobody could be certain whether we could get enough money out of that to get to November 15th until the eve of default. And that's when we had a several-hour meeting at Treasury during which we analyzed the application of that statute to the facts that exist ...

BAKER: Are you certain of that now? Or has the CSR Fund been fully exploited? There's no room to move now?

RUBIN: It is our judgment that we cannot take anything out of the Civil Service Fund in addition to the 12 months we have taken plus the two that we maybe able to take and I expect we will be able to take on the eve of February 15th.

BAKER: Even though the funds have been replenished that were taken out?

RUBIN: It has nothing to do with that, Mr. Baker. It has to do with the kind of finding that you have to make with respect to a dead issuance period. It's a very technical standard that has to be met.

RUBIN: And, in our judgement, if we do the full 14 months, that will be the most that we can do.

BAKER: Thank you, Mr. Chairman.

LEACH: Thank you, Mr. Baker. Mr. Kanjorski.

KANJORSKI: Thank you very much, Mr. Chairman. Mr. Secretary, I'm not sure why we're here, but since we're here and we have to occupy this time, we might as well. Is it not correct that under your leadership and President Clinton's leadership, this is the first time in decades that the deficit of the United States will decrease four years in a row?

RUBIN: Mr. Kanjorski, I think that it is the first time -- I know it is the first time since Mr. Truman was President that that has occurred.

KANJORSKI: Is it...

RUBIN: In fact, it's the first time since Mr. Truman was President that the deficit has decreased three years in a row; four years might take you back even further.

KANJORSKI: Isn't it correct that in inflation-adjusted dollars, the deficits during the Clinton Administration are smaller than those of either the Bush or the Reagan Administration?

RUBIN: On an inflation-adjusted basis the deficits are lower; but, even on a non-inflation-adjusted basis, I believe, they are lower. And they are certainly lower, in fact, I -- the last deficit projected by the out-going Bush Administration was in the neighborhood of $300 billion.

The deficit of the last year of the Bush Administration was, I think, $290 some-odd billion. You better check my number, I'm not sure. This year's deficit was about, near just passed $164 billion. The deficit as a percentage of the couple economy which may, in some ways, be the most useful measure, has fallen by more than 50 percent.

We now have the lowest deficit as a percentage of our total economy amongst the G-7 nations. I really and truly believe that the last three years with respect to fiscal responsibility have been the most important three years probably in decades, with respect to establishing fiscal responsibility in this country.

KANJORSKI: In reality, Mr. Secretary, if you took the period of time 1945, when the United States ended the second World War, you took the gross domestic product of the United States and the gross debt of the United States at that time, and you compare them; and you compare the gross domestic product today and the gross debt today, it's actually percentage-wise less today than it was when we ended the war in 1945.

RUBIN: When we ended the war?

KANJORSKI: Yes.

RUBIN: Yes, that's correct. You mean debt as a percentage of the total economy?

KANJORSKI: Right.

RUBIN: Oh, yes, that is correct.

KANJORSKI: And the reality was that from 1945 until 1980, when we had a new theory put in of supply-side economics, the real debt of the United States under that 25 years of democratic control of the Congress, the real debt of the United States decreased by almost 60 percent, isn't that correct?

RUBIN: That number I truly don't know, but I do know Mr. Kanjorski that it decreased very substantially and then it quadrupled from 1980 to 1992.

KANJORSKI: That's right. Over 60 percent of what we're trying to refinance today was debt run up under supply-side economics that said you could cut taxes significantly; you could increase spending on defense significantly; and you could get to a balanced budget by, I think, 1984, or I wouldn't run for reelection. Wasn't that the promise in '80?

RUBIN: I truly don't remember.

KANJORSKI: We couldn't recall that anyway, probably; or the people that were engaged in making that commitment. Is there any reason in the world -- I mean, actually, you're being watched by probably, at least, five, six million Americans.

Is there any reason in the world why we should be terribly pessimistic as to the economic future of the United States, of where we're going, where we can attain and what this whole land is about today?

KANJORSKI: Or, do you view the future of America as I do? It's probably one of the most pessimistic times. And the world indeed is perhaps almost a revisit to the renaissance period of centuries ago. That we are about to explode in intellectual pursuit in science and technology like we've never before.

And maybe the correct perception of the whole country is that our institutions of government, or maybe that indeed is the world is one of our bigger problems.

RUBIN: In my -- as Secretary of the Treasury, I spend a reasonable amount of time with the finance ministers of other countries and that we meet the G-Seven finance ministers. The seven big industrial countries meet on a roughly quarterly basis.

It is very interesting at those meetings, Mr. Kanjorski, because what you do is, you reflect on the strengths and weaknesses with respect to countries. I think this country is remarkably well positioned for the future. But I think it is very, very important if we're going to realize our potential that we have in place the right public policies. And on the one hand, I think that does require that we continue with the fiscal discipline the President started in 1993 and go toward a balanced budget.

But I think similarly, it requires that we have appropriate public investment in education, and training, technology and the environment. And the other areas, in the President's judgment, I think is absolutely right, are essential if we are going to be competitive and productive five, ten, fifteen, twenty years from now.

KANJORSKI: Thank you very much, Mr. Secretary.

LEACH: Thank you very much, Mr. Kanjorski.

Mr. Ehrlich.

Mr. Cremeans.

CREMEANS: Thank you, Mr. Chairman.

Thank you, Mr. **Rubin**, for being here this morning, or this afternoon and offering testimony. I only have at least one question. A statement and then I'll yield back the balance of my time.

You know, I've heard testimony saying that -- from you this morning, that the $4.9 trillion debt limit, really needs to be raised to $5.5 trillion in order to avoid default on our government obligation.

You alluded earlier, Mr. **Rubin**, to, or perhaps referenced a remark to the effect that maybe a Congressional committee, or some other organization, in which you led me to believe that you yourself may be puzzled about the $5.5 trillion. For the record, do you agree that the $5.5 trillion figure is in your opinion, the best estimate as to where we should raise this?

RUBIN: Well, the $5.5 trillion was the debt ceiling increase contained in the Republican budget resolution of last year. And it seemed when we analyzed the Republican budget resolution that their analysis was correct. And that was a number that would put us, would protect us with respect to meeting our obligations for quite some period in the future. So we adopted their number.

CREMEANS: But you would agree yes, that that is a figure that you would support?

RUBIN: I would support that number, yes.

CREMEANS: OK. You know, Mr. **Rubin**, let me, in all honesty, and let me be honest with you, you know, I like the idea of attaching budget constraints and entitlement reforms to debt ceiling legislation. You know, the President, members of the minority, and yourself are all on record as favoring a so-called clean debt limit bill.

CREMEANS: Not only is there historical precedent for a loaded debt bill, but the most notable of which is the last one -- which contained the largest tax increase in American history and played a role in getting me here today.

The budget constraints in entitlement reforms -- actually, the majority intends to add to this debt ceiling -- I hope will make future debt limit increases unnecessary.

That's my comment. If you have a response to that?

RUBIN: Well, I guess the best response is that the -- whether you put in place the President's balanced budget proposal -- he's actually at two now: one was scored by CBO -- that was the one developed by Senator Daschle, but the President said he would sign it; or you take the one that he proposed last Monday, which we've estimated by CBO procedures -- though it obviously hasn't been submitted yet -- in either case, you're going to need an amount of additional debt ceiling room that's roughly the equivalent to that that you're going to need with the congressional majority's budget.

That's why I say it seemed to us a sensible thing to take the congressional majority's $5.5 trillion estimate -- and their budget resolution -- and endorse that.

As far as historical precedence is concerned -- in 1993, there was no use of the debt ceiling. There was no need to -- well, forget "no need to." There was no use of the debt ceiling. There was no talk of default. What you had was a budget that I think made it -- not I think -- clearly made an enormous impact on the fiscal responsibility, fiscal position of this country -- adopted well before the debt ceiling would otherwise have been hit.

Furthermore, if you go back in time, I think that you will find that there has never been a period until now when there's been serious talk about using default as a method for attempting to accomplish a budgetary purpose. I think the leadership should be commended -- and I really think they have been extremely constructive -- in the letter they provided the President on February 1 saying that they are committed to providing an increase in the debt ceiling without taking any measures that are not acceptable to the President or the Congress.

KENNEDY: Thank you, Mr. **Rubin**. I yield back, Mr. Chairman, the balance.

LEACH: Mr. Kennedy?

KENNEDY: Thank you, Mr. Chairman.

I want to just follow up on the point you just made, Mr. Secretary.

You know, I thought at an earlier point in the hearing, Mr. Chairman, you mentioned the fact that there would be no question that the debt ceiling would, in fact, be raised, and that we would not default on the debt of the country. That's the kind of language that I think people are looking for, and that's the kind of message that I think would avoid a lot of the angst and concern that people have had over this issue.

The trouble is, as you know, that while some responsible members of your party have voiced those sentiments, at the same time there have been these sort of fits and starts where other members come out -- such as I saw a couple of weeks ago -- Dick Armey saying that perhaps this wasn't going to be able to move forward, and then Mr. Archer also sent a letter indicating that he had certain measures that he wanted to attach to the debt ceiling that perhaps would not have -- in fact, would not have certainly gotten past President Clinton.

KENNEDY: So, the question is really fundamentally, whether or not you believe there is a real commitment by the Republican leadership and the members of Republican party to allow this issue to get behind us.

KENNEDY: You've done it, I think, again in the remarks that you just made, and I think it's a testament to your leadership that you can come out an deal with an issue that is this divisive in the straightforward manner you just did.

I appreciate it.

I don't know, Mr. Secretary, if you had anything you wanted to add, Mr. Kennedy.

RUBIN: If I could just add one comment, Mr. Kennedy.

It is certainly true that in the past, debt ceiling increases have been associated with budgets, but it is my impression, Mr. Chairman, having talked to former chairmen of budget committees as well as being involved, that there's never been an effort to use default of the debt ceiling as a means for pressuring a president into signing a budget that he did not otherwise agree with.

Instead what you had were a series of temporary increases rather than an attempt to use the threat of default as a mechanism for achieving a political or a legislative purpose.

LEACH: Let me respond briefly to the distinguished Secretary.

I think very explicitly there are one or two instances where that did occur -- I think '90 or '91, time frame was one -- but putting that aside, there is always the implicit understanding that debt ceilings had to come with the budget priorities in the Congress. I mean, that's why the last two were in the over bill that is the basic budget agreements.

But in the '80s, it was very well understood. And this is one of the reasons, for example, that Republicans would largely have voted against debt ceilings in the '80s, Democrats would largely have supported -- was the understanding that the debt ceiling was designed to accommodate a magnitude of spending and that what the Executive Branch -- and when you talk about -- because implicit here is coercion of Congress vis-a-vis the Executive Branch or the Constitutional role of Congress vis-a-vis the Executive Branch.

But as all of us will recall, President Reagan articulated more than any American president discomfort with the social programming agenda. And yet, he had to swallow that as president of the United States because of the Majority in Congress. It was a little bit of a different view. And he wanted also to pass somewhat increased defense spending, and so the combination for an increase in defense was an even greater increase in the social side, and that all of that was implicitly involved in the debt ceiling debate.

And what the debt ceiling has provided, in my judgment, over time has been the discipline of some timing decisions that, unfortunately, have not taken place in precisely the right way or precisely an orderly way at this time.

LEACH: I agree in part with what you said, and I'll just give you a slight of impression.

I think what you said is correct, but at least is my understanding of what happened in the past. If you first have the budget debate -- as you said, President Reagan was forced to accept certain things he didn't want because he wanted the defense spending -- then the debt ceiling got attached to the budget bill.

But I don't think there was ever a time when it was turned around the other way and a president was told, "If you don't accept our version of the budget, then we will count as the possibility of default." And that's why in 1990, I think it was,

RUBIN: It was something like six short-term temporaries while the administration and the Congress tried to work out, I guess, it was the budget and I think Gramm-Rudman at the same time.

LEACH: Well, there are of course issues here, and maybe there's been a little different emphasis, but I would be very careful -- I mean, you know it's always fair, I mean, for a political critic to quote someone and I've always found in my life the worst things are when they quote you accurately.

And so it is true that you have some accurate quotes about the Speaker of the House.

On the other hand, it's also true that the Congress in the final measure did not precipitate default and that the Congress in the final measure has kept trying to negotiate with the executive branch. And so you -- you have differences of judgement and I...

KENNEDY: Mr. Chairman.

LEACH: Yes.

It is the gentleman's time, so I don't...

KENNEDY: I appreciate that, Mr. Chairman.

LEACH: And I will allow him several additional minutes because the gentleman has entered into a debate that I have taken from that time.

KENNEDY: That's fine, Mr. Chairman. I appreciate that. But the only point I would make is that when you say that the Congress has not precipitated a default, the truth of the matter is that the only reason why it's avoided the default was because of the actions taken by the Secretary, which he has been so terribly criticized for, and I think very personally attacked even in this committee today.

And I think that it's -- he is attacked for the -- for the tactics that he employed to avoid the default, and yet he would have been even more attacked if he'd allowed the country to go into default.

So while I appreciate the sentiment that you're trying to get across, which is one of some kind of conciliation here, I also think that it's -- it would be wrong to suggest that somehow this has been a complicit strategy of the Congress to go along with the Secretary in allowing the country to avoid default.

I would say that the Secretary has jumped through about 87 different hoops in order to make certain that the country avoided default and now, as you point out, Mr. Chairman, when it has come to the reality -- the Congress has come to the reality that this strategy of trying to jam the President is not going to work, there is an accommodation that I think in the last few days is starting to develop.

And that I think is a very positive development and one that I think I certainly welcome and it sounds like the Secretary welcomes as well.

LEACH: Well, if the gentleman will yield for just half a second and his time, I'm sorry to say, has basically expired, but let me just say at the risk of the tritest kind of analogy, I look on debt ceilings and time constraints much the way you look at a college term paper. Often you don't do your work until the end. And when they keep getting prolonged, it -- the key thing is to have certitude.

Once you have certitude of timing, the history of this country is Congress has always abided by that timing deadline, and so we now have certitude Congress is going to abide. I just personally would have wished that we'd had a certitude at an earlier time period but I do not challenge and have never challenged the legality of the Secretary's steps.

Mr. Orton.

ORTON: Thank you, Mr. Chairman. And Mr. Secretary, welcome. Appreciate your coming before the committee today. I am somewhat surprised by the suggestion from some of my colleagues that there was perhaps some impropriety on the part of the Treasury Department in as early as June considering alternatives to default.

It would seem to me that it would be malfeasance in office not to consider alternatives to default.

ORTON: Following the suggestion that it was not the Congress precipitating default, it is the Congress which sets the statutory limit and it is the Congress's obligation to enact an extension of that limit in a timely manner or result in default.

I would like to ask: Is it your opinion if in October of '95, if you had not postponed the auction and subsequently reduced the amount of securities auctioned in that auction, would it not have been the result that we would have exceeded the statutory debt limit and thereby been in statutory default?

RUBIN: Oh, there's no question about that. That's just a factual matter, Mr. Orton, and the answer is absolutely yes.

ORTON: OK. Also, in November -- by November 15th, you told this body that in fact we had hit the statutory limit and that if you did not exercise your obligations under the statute to conduct cash management transactions using the civil service retirement fund that in fact we would go into default. If you had not replaced those securities within the civil service fund with the long-term obligations and used those to avoid default, is it not your opinion that the country would have been defaulted at that point in time?

RUBIN: Yes, but once again, Mr. Orton, that's not a matter of opinion. There was about a roughly -- I think a $25 billion interest payment due that date, and had we not taken the actions that we took, we could not have met that interest payment and that would have constituted default.

ORTON: Is it not also correct that on at least two or three occasions in late November and early December that Congress -- the House of Representatives specifically -- the majority attempted to enact legislation which would specifically limit and prohibit the types of cash management transactions that you were conducting to avoid default?

And if in fact they had been successful in prohibiting those cash management transactions that the country would have also gone into default at that point in time?

RUBIN: Yeah. You're talking about the legislation that was introduced about a day before November 15th?

ORTON: Yes.

RUBIN: Yes. Had that legislation passed, I believe -- my recollection is that we would have been in immediate default on November 15th.

ORTON: Is it not also correct that in 1986, there was specific statutory authority to which you have referred giving the Secretary of Treasury the flexibility to disinvest specific trust funds to avoid default?

RUBIN: That is correct.

ORTON: And is it not true that previous administrations have used similar types -- not exactly the same cash management techniques but suspension of reinvestment in trust funds and so on -- in November of 1957 -- the Eisenhower administration -- in March of '79 and June of '80 -- the Carter administration -- in 1984 -- September of '84, September of '85, October of '86 -- the Reagan administration -- in August of '89, November of '89 and October of '90 -- the Bush administration.

The secretaries of treasury in each of those administrations on those occasions have also used similar cash management techniques to avoid default.

RUBIN: Mr. Orton, other secretaries have used various means to avoid default for a short period of time. The periods, one of your colleagues pointed out earlier, the period of time during which this has had to of been done is unprecedented. But it is true that other secretaries have had brief periods during which they've had to manage similar kinds of situations and have taken extraordinary measures to do so.

ORTON: OK. Thank you Mr. Secretary. I would just commend you for your integrity and your actions in office to avoid default. I think it is the most irresponsible action that a Congress could even consider to put at risk and in jeopardy the full faith and credit of the United States Treasury Department to be used as a political chip in a negotiation.

That is irresponsible. We all should be embarrassed by it. It shouldn't happen again. And I would commend you for the job that you did in finding ways to avoid default.

I hope that, in fact, we will do as the leadership has now stated we will do and pass an extension of the debt limit. I hope that you will not be called upon again to find those legal mechanisms to avoid default but I commend you for keeping us out of default. It would have been absolute disaster in this country and worldwide if the United States had defaulted.

And it was through no fault of the Congress that we did not default. It was through your specific actions, your positive actions taken to avoid default and I commend you for it.

RUBIN: Thank you, Mr. Orton.

LEACH: Mr. Bentsen.

BENTSEN: Thank you, Mr. Chairman. One of the advantages or disadvantages of being a junior member is that you get to sit around and hear every other member on the panel talk. Unfortunately, you don't get to engage in the same hit and run tactics as some of the other members like to do.

Now, Mr. Secretary, I was shocked to hear you say that the Republican budget that passed both Houses would actually add, I think, around $600 billion to the national debt. This is the same budget that my colleague from Wisconsin, Republican colleague from Wisconsin, voted for and was talking about how they didn't want to add anymore to the national debt. But you say that their budget would add $600 billion to the national debt?

RUBIN: It would add at least that, Mr. Bentsen. I think actually the aggregate deficits may be somewhat higher than that but in order to make allowance for the debt that would be generated by the congressional majority budget, in their budget resolution they propose increasing the debt limit to $5.5 trillion.

BENTSEN: Six hundred or $400 billion, real money.

RUBIN: You're right about the $600 million and the $5.5 trillion. I just don't know if that would have involved (PH) all of the deficits through the last years of the budget. I do not recollect. But they certainly needed at least that much.

BENTSEN: I think it's important that we make the record very clear.

RUBIN: I believe, Mr. Bentsen if I may, I believe that was actually a number that was only supposed to...no, that number wouldn't even begin to absorb the full magnitude that would be need for a seven year period. Because remember, you have to absorb in your debt limit not only your deficits but also the incoming investments to your trust funds and I believe that $600 million would only have been sufficient for about two years.

BENTSEN: So the Republican budget would actually add in excess of $600 billion to the national debt.

BENTSEN: So when we hear all this talk...

RUBIN: Most substantially in excess.

BENTSEN: ... when we hear all this talk about how they don't want to add any more to the debt, we now find out that is not entirely accurate.

RUBIN: One thing one needs to remember, Mr. Bentsen, you know this I know. If we had zero deficit, zero, we would still be adding to the national debt because of the need to invest the incoming proceeds to the trust funds.

BENTSEN: Right.

Let me ask you very quickly. While it's not good to add to our children's and grandchildren's debt, that they have to incur. Would it equally not be as good to leave them with bad debt, debt that you had defaulted on?

RUBIN: Oh, I think that, as Chairman Greenspan said and others have said, I think that if we defaulted once, we would create a question in the international markets about our integrity with respect to meeting our obligations that would affect this nation for decades. And I believe it would affect our credit worth, or how our credit worth is perceived, the interest rates we pay, and would really be a profoundly mistaken action to have taken with respect to the future of this country.

BENTSEN: About two weeks ago, the long treasury market lost almost a point, maybe in excess of a point in one day. It was the same day, I think, that there was some discussion as to whether or not there would be an auction if a debt limit could be achieved. The New York Times business section which regardless of what you think of their editorial position, their business section is generally well regarded on Wall Street and in financial markets throughout the world, alluded to the fact that that was because of the uncertainty over projected auctions.

In addition, Treasury has said that your needs for this quarter are about $55 billion in needed auctions of medium and long term debt. The Congress before it left for an extended recess a week or so ago, and I have a follow up question for that, passed a convoluted measure which would allow you $29 billion of refinancing in order that you could send out March 1 social security checks.

My question to you is, if between the cash that you received, and the $29 billion that you can refinance or raise, when, do you have an estimate as to how long before you have to have more money? Presumably, you're going to have March 15, if I recall correctly, treasuries pay first and fifteenth. You're going to have some needs coming up. Do you know what those are and when you'll need that?

RUBIN: Well, we do Mr. Bentsen and we are still analyzing the full effects of both the legislation that was passed and the projected revenues and outlays of the federal government. But as you know, the legislation on its own terms, is such that the debt obviously is valid and remains outstanding on the 15th. But the debt limit remains $4.9 trillion. So that we will then have -- and the debt comes back into the calculation for debt limit purposes.

So on the 15th, the debt outstanding will be substantially in excess of the debt limit. There will still be valid debt, but substantially in excess of the debt limit. That will obviously substantially impede our ability to raise additional funds. So sometimes shortly thereafter we will cease having adequate resources to meet the obligations of the United States. But I cannot give you an exact projection right now although it is a matter that we have been looking at very carefully.

BENSTEN: If the Chairman will indulge me -- I know it's late, and I've already stood up my wife and children for lunch -- I do have a couple of more questions.

Are you aware from your experience in working with businesses, American business here of any business that would be facing a note payment or a debt payment in short order that where the board of that business would decide to go on vacation or take a leave or go to Hawaii as opposed to call a meeting and figure out where they might be able to come up with the $40 billion or $50 billion that they might need to make their note payment?

Any business that's still in business today?

RUBIN: Well, let me say this, Mr. Bentsen. I do think it is absolutely imperative -- as I think I've said in my statement -- that we put in place a long-term debt ceiling increase and that we do it very, very quickly.

I think the actions that the Congress took at the end of last week -- the Archer bill, the Letter for Leadership -- were very constructive steps and very important steps. But I agree with you. It is imperative that we get on with our work and get this thing done and get it done as quickly as possible.

BENTSEN: Well, the Congress ought to be in session working on this, and unfortunately it's not.

And I will close just by asking this question. I know you had a long discussion with the Chairman about attachment of legislation to the debt limit. As I recall, the Gramm-Rudman-Hollings bill was attached to the debt limit in the Senate in 1985 and was actually forced upon the House and the administration. By then, the Junior Senator from Texas, now the Senior Senator, Senator Gramm -- so it has been used by both sides in a partisan measure.

I think it's a mistake to use this in partisan politics. Certainly Democrats are not here using this in partisan politics. If we wanted to be partisan about the debt limit, we would stand aside and let the Republicans force you into default because we would then probably be in the majority for the next 100 years as a result of that.

But let me ask you this question -- because there's been a lot of...

RUBIN: Just for facts, if I may. It is my understanding that we can look into this and get back to you. That in 1985 President Reagan actually wanted Gramm-Rudman so that it was not forced upon him, I believe, but we can research that.

BENTSEN: Let me ask this, then, because there's been a lot of discussion with respect to the '93 OBRA act, the '93 budget act.

Are you aware of any measure that has been introduced in this Congress in your capacity as Treasury Secretary in the 104th Congress or any measure that has been put forth by the Republican leadership of this Congress which would repeal any portion of the '93 budget act other than the one portion which directed funds from the Social Security tax fund to Medicare Part A, the hospital insurance trust fund?

Other than that, are you aware of any efforts by the Republican leadership to repeal the increase in the marginal tax rate, the four cent gas tax or any of that? And if not, why?

RUBIN: Mr. Bentsen, I can't answer the why question, but I don't believe there was anything in OBRA '93 that was repealed in the ultimate reconciliation bill that went to the President.

RUBIN: I think that's correct.

BENTSEN: So you're saying that the new leadership of this Congress, the Republican leadership, none of which voted for the '93 bill, all of who said would, that the bill would drive the country into a recession, none of them have put forth legislation to repeal all those things that they are against.

Do you think that's because they're using that to predicate their budget that they're putting forth now? That without the OBRA '93 and the deficit reduction that occurred as a result of that, that their budget wouldn't be balanced in seven years, as they're advocating?

RUBIN: I can answer the factual question. I do not believe that anything in the reconciliation bill repeals anything that was contained in OBRA '93, which I think was an extraordinarily constructive piece of legislation. I wouldn't, can't speculate on motivation.

BENTSEN: Thank you. Thank you for your indulgence, Mr. Chairman.

LEACH?: Mrs. Maloney.

MALONEY: Thank you, Mr. Chairman. Secretary **Rubin**, do you need a debt limit increase? Do we need to increase our debt limit?

RUBIN: I think the nation needs one, yes.

MALONEY: And have you been able to achieve it?

RUBIN: Not to date.

MALONEY: Why not?

RUBIN: Well, a debt limit increase can only be put in place by Congress, and the Congress has thus far chosen not to adopt a clean or straightforward debt ceiling increase.

MALONEY: Is it fair to say it's because the Republican majority has tried to attach to the debt limit increase reductions in Medicare, in Medicaid, the environment, education, student loans, that we have not been able to come forward with a clean debt increase limit. They've tried to attach, really, policies and programs to what should be just a clean debt limit bill. Is that a fair statement?

RUBIN: It is absolutely correct that the Congress has not passed a clean or straightforward debt ceiling increase, and that the reconciliation bill, which was presented to the President, was one that he felt was wrong for the future of this country, and he as a consequence vetoed.

MALONEY: And they used the same tactics with the reconciliation bill. They attached many things to the reconciliation bill that the President didn't agree with. Again, cutbacks in Medicare and Medicaid, education, the environment, and they took the extreme step of closing down the government for 21 days. Secretary **Rubin**, you and I are from the same area of New York.

RUBIN: We are, indeed.

MALONEY: I wonder if your office received as many phone calls as I did from people who couldn't get passports, business loans, people out of work, could not send their children back to school because they were out of work because of the government shutdown. In fact, maybe you're aware of the conference in New York on economic development in Hungary. Only no one could get a Visa to come into our country. It was an international disgrace, a national disgrace.

So I think it's fair to say that the tactic of my-way-or-no-way, winner-take-all didn't work, and they didn't open up the government. What has changed since then? Could you comment on the Gingrich letter and the Archer bill? Are those the two changes that have taken place?

RUBIN: Both of those measures, both of those events occurred Thursday of last week.

RUBIN: And as I said in my opening statement, I believe they were both very constructive and I believe what we now need to do is put in place a long term debt ceiling increase, one that one last for at least a year. But I think we've entered a new and I think constructive and bipartisan phase of the debt limit debate which hopefully will lead to a conclusion to this debate in a very short order.

MALONEY: So possibly it's fair to say that maybe they got the message that default, coercion, blackmail didn't work and that it's more responsible to work together in a bipartisan way to come up with some solutions.

We are both from the great state of New York and as you know we have a very strong two-party system there. And in all of our budget fights there are disagreements. But there's never been a shutdown or a default or a threat or blackmail. In our state both parties sit down and they reach a conclusion and I think this model should be followed on the federal level, wouldn't you say?

RUBIN: Well, I think clearly the budget battle can only be resolved by the Administration and the Congress working together. And the President, as he said from the very beginning, is very much committed to achieving a balanced budget and has been ready, willing and able to work, as I think no President in history has been, in personally involving himself toward that end.

MALONEY: But it sort of reminds me of Stairmaster politics. At first the Republicans said they wanted a seven year balanced budget. The President came forward with one. Then they demanded one with CBO numbers. The President came forward with one. But the minute he meets one of their demands they like raise the bar. Come up with another demand that impacts on policies and his fundamental values.

Mr. Secretary, I'd like to ask you, are there any examples from other countries who defaulted on their debt that would give us some idea of what we could expect if the United States ever defaulted?

RUBIN: I believe, in this century at least, that the only countries that have defaulted on debt that's denominated in their own currency are countries that were either less developed countries or transitional or, well, they're basically less developed countries. Countries that are not in the same category as the United States would be as a major industrial nation.

I can tell you from having worked with a lot of countries as they faced the prospect of having to deal with default that it is an action that they all, that they do everything possible to avoid. And it's precisely because of the consequence of default. And one reason why it would be so tragic if this country defaulted as a matter of political will, is because that would then set an example to other nations in the world. And I think one of the real problems, and we're not going to default period.

I am confident of that. But were we to default, would be would set an example in the international marketplace which I think really would have an effect on other nations dealt with the same issue. Nations that unfortunately do not have the financial resources we do and therefore have to go to great, take measures that are extremely difficult to take in order to avoid default.

MALONEY: Do you think if you defaulted the consequences would be lasting or temporary or would have a lasting effect on our credit rating?

RUBIN: Oh, I think default would, were it to occur, and it will not occur, I am confident of that. But were it to occur it would affect us for years, and I think in fact, for decades to come.

MALONEY: Well, I would like to thank you for everything that you're doing and have done to avoid default. My time is up.

RUBIN: Thank you.

LEACH: Thank you Ms. Maloney. Mr. Jackson.

JACKSON: Let me take this opportunity, first and foremost, Mr. Secretary, to thank you for the very prudent and the very responsible way in which you've clearly handled this very difficult situation.

JACKSON: I do want to take exception to one thing that the gentleman from Texas, Mr. Bentsen, indicated a little earlier. And he said that one of the most troubling aspects of being one of the minority members and new members on this committee is that you're not able to really take the pot shots and the hit and runs at panelists.

I might add that being the most minority and member on this committee, the problem from my perspective is that most questions that you would have asked earlier have been asked and answered.

And so I want to ask just one question from you, Mr. Secretary.

And I also want to take this opportunity to thank the majority for the assurances that they have given us that default is no longer a threat.

But, Mr. Secretary, my question for you is one that really is explanatory for the American people. And that is, if you could help us understand what the drastic impact of such an occurrence, such as a default would be without a clean debt limit being passed. And more specifically, attempts by this Congress to limit your ability in the future to use such legal devices as those that you did use to help the nation avoid default.

RUBIN: I think, Mr. Jackson, that a default by our country would have at least three consequences of some very real significance. One, I think once you create the question mark about your integrity with respect to meeting obligations, that that affects how you are viewed in credit markets not for years to come, but for decades to come. It creates an uncertainty. And when you have uncertainties than markets will ask for premium interest rates, some premium.

I think that is a particularly serious problem when the country has difficult circumstances. And when your reputation in the credit markets are most important. And finally, all of which by the way, would effect not only the interest rate of the federal government, but the private sector as well. I think it would attain to the way the public sector handles debt and deals with meeting commitments would effect how all American debt was perceived.

And finally, it is the consequence I mentioned before. I think if the largest economy in the world went into default as a matter of political will. I think that would effect credit worthiness around the world as other much less fortunate countries faced the excruciating difficult decisions that are involved and they are staying out of default.

But fortunately, I think that this, though a very important issue to focus on, will turn out to be academic. I do believe that, there is no question in my mind, we are not going to go into default.

JACKSON: And, Mr. Secretary, your response to attempts by this Congress to limit your ability to use such legal devices as you employed in the future?

RUBIN: I think the statutory authority was created by a Republican Senate and a Congressional House of Representatives and signed by President Reagan was very wise at the time because what it did was, it provided an escape valve. So that if we were at what would otherwise be a default time, and the political circumstance was such that it looked like that couldn't get resolved, it was a mechanism to let some of the steam out of the system until things settled down. And the Congress and Administration could function in a more orderly fashion and deal with the nation's problems.

So I think that it is very important that those tools be kept in place for any future President, any future Secretary of the Treasury whoever it may be and whatever party they may be.

RUBIN: Just as President Reagan obviously felt...

VENTO: Would the gentleman yield?

RUBIN: ...when he signed them into law.

VENTO: Well I think that -- the gentleman yield to me -- that one recent, this temporary measure that was passed, obviously the President signed it. Did you draft that particular measure with regards to the social security check protection?

RUBIN: Did I draft it?

VENTO: Well, were you involved in it? Is that the ideal piece of legislation for 15 days of avoiding default or whatever the days are?

RUBIN: Oh, well (LAUGHING) I think Mr. Vento it was very useful because I think what it will do is it will give us time to do orderly financing instead of being crunched into a short period of time...

VENTO: Well I voted, I mean I don't have much time here and I want to make certain that I -- but my point is that you didn't draft it. There is some confusion about it to say the least because as I read my descriptive material on it, it suggested that it only covered social security checks.

RUBIN: Well...

VENTO: Obviously money is fungible. I understand but I'm just suggesting that some of the same critics and others may be delivering to you the same sort of criticism. I mean it raises the, and other essence that you can raise or raise the debt ceiling or pay the check, it doesn't really raise the debt ceiling but then it springs back in 15 days to the original. So this is obviously not a deal or a very good...it's helped in terms that it gives relief. I appreciate that. But I just want to point out that it's hardly the ideal.

RUBIN: Oh, this is a very short term deferral. It doesn't in any way change what needs to be done which is to put in place an acceptable debt ceiling increase and do it very, very quickly. But I do think it was constructed for the reasons I said before but you're right. It does not change the situation. It does not change anything that needs to be done. It just defers it for a very short period of time.

VENTO: I would just point out, Mr. Chairman, is that the explanation that we had in one of our insight sheets that we get, the nonpartisan source of information, explained it completely different. Just as an example, you know, in it, it had the intention that we were going to do something. Well, intentions don't count. We're dealing here with real ceilings and furthermore I think it opens up the avenue. I mean if you wanted to say that somebody's being duplicitous, as you read that, the literal reading of it suggested social security. Obviously, the explanation's on the floor and the legislative history is clear. That you can take the money and do a variety of other things. So I don't want in any way to limit you but I'm just suggesting that this is less than an appropriate way. It's helpful but it is obviously, I think, a lot of misunderstandings. That's why I refer to is as sort of a convoluted way of doing what we need to do in terms of getting a true debt ceiling raised over a longer period of time. And I hope we can do that. And I thank the gentleman from Illinois, Mr. Jackson, for yielding to me.

JACKSON: Thank you, Mr. Vento. I yield back the balance of my time, Mr. Chairman.

LEACH: Thank you, sir. Mr. Bachus you have a request.

BACHUS: I've got three technical questions and if you want to answer them later in writing that would be fine.

LEACH: I think maybe that's appropriate.

BACHUS: Yeah, that would be fine. Let me tell you what they deal with. One deals with the airport fund. I just didn't know why the airport fund had been involved.

RUBIN: Airport fund?

BACHUS: Aren't we involving the...

RUBIN: Oh, I'm sorry. The sale of the assets in the FF...

BACHUS: To the airport fund.

RUBIN: The statutory authority with respect to the two assets that we're selling. But we'd be happy to get back to you with an explanation for it.

BACHUS: And then another one is when we transfer assets for Treasury specials. Those Treasury specials have different maturity dates and interest rates. Does that create technical problems for you?

RUBIN: You're talking about when we replenish the civil service fund?

BACHUS: Yes.

RUBIN: We will have to replenish the civil service fund or the statute so that it is in exactly the same position it would have been if we hadn't taken the action, and technically, that obviously is a very difficult task, but it is one that we can accomplish.

BACHUS: OK. The third one was the ESF. I mean you're only getting the cash assets and not the other assets of the ESF. I just -- I'm going to ask you a question about that in writing.

RUBIN: OK. We'd be delighted to respond.

LEACH: Thank you. Mr. Gonzalez.

GONZALEZ: Thank you, Mr. Chairman. Well, first I want to thank and commend Secretary **Rubin** for his forthright and very patient efforts to avert the default.

The Secretary has acted prudently and clearly within the law, and his efforts have, in fact, saved the Congress from its own folly. What is left is for the majority having now been through any number of rationalizations to get on with the job of authorizing the debt limit increase necessary to protect the nation's credit. I want to also apologize to the Secretary for the behavior of those who have accused him falsely.

I heard one claim that the whole debt limit crisis was a hoax, and another say that the Secretary robbed the trust funds to prevent default. These accusations and similar others I have heard today are untrue, unfounded, irresponsible and to me embarrassing personally. I apologize to the Secretary for those accusations which ought never to have been made in the first place, in which I know my Chairman does not support or condone.

Finally, Mr. Secretary, it is plain that we must pay our bills on time or suffer the consequences of impaired credit. It is incumbent on us to act so that we can protect and you can protect our credit. It is time for responsible, adult action by the Congress. If default occurs, the blame will lie with the Congress alone which authorizes spending that the debt must finance.

Today's hearings hopefully laid to rest the last of the fantasy notions that we need not act. Again, I commend you, Mr. Secretary, for your patient and courageous actions in the face of unprecedented irresponsibility by the Congressional majority. To be accused as you have been of improper acts is scandalous to me. But consider the source of the insult, and I think you will see then as a badge of honor. And I thank you again.

LEACH: Thank you, Mr. Gonzalez. Well, let me first remind the panel that, or the committee, we have a very distinguished panel of private sector people coming to particularly put some of these issues in a long-term economic perspective which is critical of our considerations. But in concluding your appearance, Mr. Secretary, I'd just like to know that we've heard a lot of voices, times raised this morning, and I'd like to underline a few points, some of which may reflect consensus of members.

First, there's a bipartisan agreement that default is off the table. The United States will not default on its obligations. Second, the underlying problem facing the country which is symbolized in the debt ceiling debate is the continued accumulation of debt as a result of budgets that have been out of balance. Third, while it appears from the comments my colleagues on both sides of the aisle have made this morning that there's a growing commitment in Congress to balance the budget in seven years. Strong differences do remain on how to reach this balance.

LEACH: We began last year with the executive branch advocating an approach that would have precipitated over $800 billion more debt that the Republican alternative during this time period. But we begin this year with the President proposing a budgetary approach closer to the majority in Congress but one which involves a somewhat higher tax environment.

We are structurally, in other words, closer together than the rhetoric of both sides would indicate.

Fourth, as reflected in the views expressed this morning, there has been an unfortunate breakdown in trust between the executive and legislative branches, which I believe imperils the capacity of government to function effectively.

Fifth, there remain questions about the Department of Treasury's commitment to make full disclosure, at least on a timely basis, of its contemplated actions on the debt ceiling, and about the administration's strategy of politicizing the Medicare issue despite the unanticipated negative cash flow in the Medicare Trust Fund in 1995.

Sixth, the Congress needs to take another look at debt ceiling legislation to insure that the options available to the Secretary of the Treasury are not a matter of dispute but are clear to all parties.

Seventh, it must be understood that just as no Congress has ever precipitated default, the debt ceiling issue provides not only a philosophical framework for budgetary decisions in Congress but time constraints in which decisions should on an orderly basis be made.

The prolongation of discourse on the debt ceiling has had the effect -- unfortunate effect -- of delaying and making less likely a budget compromise and accelerating social discord.

It's my hope that the airing of conflicting views this morning will in the final measure help to serve to advance resolution of these issues, and let me just say with regard to your comments, I think they've been forward -- very helpful, very straightforward, and very constructive to the process at this time. We thank you for you testimony.

RUBIN: Mr. Chairman, thank you.

LEACH: The committee will now recess for two minutes as our next panel -- our next group of witnesses are impaneled.

RECESS

LEACH: The committee will reconvene and let me apologize to the panelists for keeping them a little bit later than they might have expected.

Let me also say that the committee -- that this is an extraordinarily estimable group of panelists and I read their testimony in advance and it is -- it is very important testimony.

In introducing the panel, let me first say our first witness will be Mr. Rudolph Penner. Mr. Penner is managing director of Barants Group, of Peat Marwick in Washington. Prior to joining Peat Marwick, Mr. Penner was a senior fellow at the Urban Institute and served as director of the Congressional Budget Office.

Our second panelist is Dr. Mickey Levy. Dr. Levy currently holds the position of chief economist for NationsBank Capital Markets, Inc. Previous positions include chief economist at CRT Government Securities, Limited; research associate for the American Enterprise Institute; and economist for the Congressional Budget Office.

Our third panelist is Dr. William Poole. Dr. Poole is the Herbert H. Goldberger Professor of Economics at Brown University and serves on advisory panels for the Federal Reserve Bank of New York, the Federal Reserve Bank of Boston, and the

Congressional Budget Office. Dr. Poole formerly served as a member of President Reagan's Council of Economic Advisors.

Why don't we begin with Dr. Penner. Sir.

PENNER: Thank you, Mr. Chairman, for this opportunity to testify. I believe that an increase in the debt limit should be enacted as quickly and as cleanly as possible.

PENNER: There is absolutely nothing to be gained from threatening the creditworthiness of the United States while there's a great deal that could be lost.

An increase in interest rates and fallen bond prices stemming from a failure to pay interest in a timely fashion would cause the concomitant fall in the stock market, a very bad time in the history of the current business cycle.

Economic recovery is becoming more and more fragile. It will not take much to tip it into recession.

No one knows what increase in interest rates would follow a delay in paying interest due on the public debt. But it is worth pointing out that each one percentage point increase in the rate would cost American taxpayers well over $200 billion accumulated over the following seven years. That's about as much as the tax cut contains in the balanced budget act.

Even a small threat of default undoubtedly adds a significant amount to our interest bill.

Some see debt limit legislation as the only horse that can carry some needed deficit reduction. I'm as strongly in favor of deficit reduction as anyone, but I think that it has to be passed on its own merit. The only way that it will be sustainable is if it's understood and accepted by a majority of the American people.

And befuddling the debate by simultaneous talking about the threat of defaulting is not the way to enhance understanding of the merits of balancing the budget.

In the longer run, I would like to see us get rid of debt limit legislation all together. It's completely illogical to enact tax and spending legislation that implies a certain deficit and a certain amount of borrowing by the U.S. Treasury and at the same time to have a piece of legislation on the books that prohibits that borrowing from taking place.

Tax and spending laws are the only appropriate mechanisms for controlling the size of the national debt. Debt limit legislation does not provide any independent source of fiscal discipline, yet debates over it are often time-consuming. Historically, the debt limit has served largely as a vehicle for attaching extraneous legislation that would have difficulty being enacted on its own merits.

It is, in my view, very important to focus all our energies on the substance of the budget debate. Our country faces a fiscal crisis when baby boomers start to retire after 2010. Even if we succeed in balancing the budget in 2002, it will be difficult to keep it balanced for very long after that.

That is another way of saying that the fiscal measures debated during 1995 and early '96, though extremely helpful, provide only a down payment on what will be required eventually to contend with this demographic problem.

The bipartisan Commission on Entitlement and Tax Reform reported in '94 that given the policies and the economic and demographic assumptions in effect at that time, the budget deficit would exceed 10 percent of the GDP by 2020, and almost 20 percent of the GDP by 2030.

Such numbers are not thinkable.

PENNER: If the deficit rises toward those levels and is combined with the net withdrawals from pension funds that are likely during the same time period, it is likely that U.S. net saving will become negative.

The country cannot grow at a decent pace without saving, and the economy is likely to go into a cumulative accelerating decline.

That makes the deficit problem much worse than in the commission projections, which assume continued growth.

At some point, countries typically stop borrowing. They default on their debt in one or two ways -- either they default explicitly or they begin to finance government by printing money. The latter is much more likely, and the resulting hyperinflation makes the debt worthless.

It is also not thinkable that we can avoid the situation solely by raising taxes in the 2020. The Federal tax burden would almost have to double, and that would have a negative impact on economic growth as well. The bulk of the correction has to come on the spending side of the budget.

My testimony goes on to point out that the major problems come from Medicare and Medicaid. Social Security is a smaller version, but still a significant one when the demographics deteriorate.

I think, though, a really important point to end with is that the sooner we confront the fiscal implications of the demographic problem, the easier it will be.

Every reduction of the deficit has a compounding beneficial impact.

For example, if the spending path of an entitlement program can be lowered by $1 for seven years, the public debt will be reduced by more than $7 at the end of the period. Not only do we have to debt finance a cumulative of $7 less in program spending, but we save on the interest billed and the interest on the interest and so forth.

Given current interest rates, every reduction of a dollar in a program expenditure path saves roughly another 40 cents in interest at the end of seven years.

As I noted above, the deficit cuts once contemplated by the balanced budget act for fiscal years '96 through 2002 represented only a down payment on the serious budget problem that lies ahead.

It is highly disappointing to see the probability of that down payment fall so far. Perhaps the probability could rise again if we could focus public attention on the severity of the long-run budget outlook. A prolonged and confusing debate over the debt limit would only distract from that effort.

Thank you very much, Mr. Chairman.

LEACH: Thank you very much, Mr. Penner.

Dr. Levy.

LEVY: Yes.

Mr. Chairman and members of the committee, I appreciate the opportunity to present my views today.

Achieving fiscal responsibility and credibility, which should be your objectives, must not be lost in the political maneuvering that has entangled the Federal debt ceiling and budget policy issues.

I recognize that a compromise on fiscal policy that is a meaningful fiscal policy compromise is difficult precisely because it involved programmatic changes to key spending programs, and not just artificial deficit targets.

As a result, programmatic change is crucial. The costs are rising.

And I'd just like to make a point. Not just today, but over the last 10 years, I think Washington has gotten too caught up in deficit bean counting and the debt, and these are residuals that are determined by spending and taxing structures.

LEVY: Like to make several key points today. First, the federal debt ceiling has not been and will not be an effective economic mechanism for achieving fiscal responsibility, and it is not a substitute for addressing the flawed structures of the spending of programs that are the sources of the deficit spending and rising debt.

The diminishing cloud of the debt ceiling in constraining deficits should not come as a surprise to any of us, in light of the sharp increase in the share of federal spending that are for entitlements. Let's think about it for a second.

There is a blatant, logical inconsistency between open-ended entitlement programs, in which legislation entitles qualified recipients the benefits, whether they're finance through taxation, borrowing, or debt monetization, and the legal debt ceiling.

LEVY: Rates have fallen as a reflection of what's going on in the economy. Fourth point -- the unprecedented deficit spending in recent decades has been a result of rising outlays for entitlement programs while taxes have remained fairly constant as a percent of GDP. Now, insofar as, the mix of federal spending has been increasingly toward entitlement programs there's been less resources toward investment-oriented activity.

In fact, the higher tax burdens and rising debt in recent decades has effectively financed a declining share of government purchases of goods and services. And a rising share of transfer payments that are simply redistributed through the budget from taxpayers to beneficiaries.

In terms of the public's perception as well as economic performance this increasingly distributional role of the federal budget is as important as is the magnitude of deficit spending. And this trend will continue. My fifth point is the major economic problem facing the U.S. is not the budget deficit per se, but rather the mix of deficit spending and the structure of the tax burden that combined to generate a misallocation of resources that suppresses national saving, discourages work and investment, and constrains economic growth and long-run standards of living.

Simply put, if you read through the annual report of a corporation and got to the end of the pages and all it talked about is the deficit and the debt -- wouldn't you ask a question -- what are they doing with the capital? That's what needs to be discussed rather than the game playing about the debt ceiling.

One point I'd like to make is the way in which you cut the deficit is crucially important and perhaps as important as the magnitude by which you cut it. Let me give you an example about an issue that was brought up today. One of the primary reasons in the debate about the 1993 deficit-cutting package was to reduce the current account deficit. There's no question but that the 1993 deficit package did reduce the deficit, but it didn't achieve any of its objectives.

Consider the following. The lower deficit reduced the government's dissaving, but insofar as it was largely offset by higher taxes which reduced private sector saving it was simply a redistribution of wealth. And did not close the gap between national saving and a national investment. Therefore, the current account deficit is higher than ever and we're borrowing more and more from abroad. Once again, we have to consider very carefully how we're reducing the deficit and get away from the deficit bean counting game.

My sixth point is achieving fiscal responsibility and credibility necessarily require slowing spending growth and non-means tested entitlements. These entitlements are very large and let me go on and say that the deficit targets even for the separate categories like Medicare and Medicaid and food stamps are less important than how we change the structure of those programs to put in place incentives to reduce the existing disincentives.

LEVY: Once you change the legislation that changes these structures, the saving will come. So the deficit targets you're talking about, let's be honest, they just provide a framework for changing the structural legislation.

Having said that, my seventh point is once you achieve this fiscal responsibility, the political crutch provided by a legal debt ceiling has not contributed to fiscal reform, serves no economic purpose, causes probably more harm than good -- it should be abolished.

Now, I'm definitely a fiscal conservative and would like for the government to restructure public policy and fiscal policy. But relying on the debt ceiling -- it's already happened and is a crutch.

My eighth point is cutting a credible deficit-cutting package based on slowing the growth in non-means tested entitlements would not hurt the economy in the short-run and would unambiguously be positive for long-run growth.

And here again I get to the point that a cut in transfer payment, unlike a reduction in government purchases, only redistributes wealth, so its largest impact would be to change the mix of economic output that is reduce consumption, reduce demand and provision of medical services while increasing the nation's output for investment and reducing the trade and current account deficits. The long-run impact is unambiguously positive and mounting.

My ninth point is tax reform should focus on the tax bias, against saving that contributes to the long-run problem of the nation's low rate of national saving, and avoid temporary tax cuts that only fuel consumption. OK.

What both Republican and Democratic packages are now are not tax reform and they should not be used as a way to delay tax reform.

My tenth point is that the failure to include Social Security in the fiscal debate is a glaring omission. It only raises future costs and distortions to the program, it increases the magnitude of the corrective actions that will eventually be needed, and it exerts high cost on other spending programs that we're trying to slow their spending growth and achieve deficit targets.

And addition, with regard to Social Security, we all know that putting in place a fair change in Social Security takes at least a decade to implement. And so, better now than ever.

My eleventh point is an obvious component of a fiscally responsible deficit-cutting package is adjusting the collas (ph) on entitlements to reflect CPI's overstatement of inflation. In fiscal 1995 about 450 billion of federal outlays were indexed for inflation. Economists on both sides of the political aisle recognized that the CPI overstated inflation and, I might note, accentuates a lot of the undesirable and unintended wealth redistributions.

LEVY: Adjusting the collas (ph) by about half a percent below the CPI would save over $100 billion over your seven-year projection period and that half of percent is well within the estimates of the CPI's biased estimated.

My final point is that the Federal Reserve monitory policy cannot offset the economic effects of irresponsible fiscal policy. Monitory and fiscal policy are very different political tools with different economic effects that are not substitutable.

Therefore, I encourage Congress to pursue meaningful fiscal reform, with the goal not just of achieving fiscal responsibility and credibility, but to create an environment conducive to long-run economic growth, job creation and raising standards of living.

That means you have to carefully consider the way in which you're going about it.

And finally I'll simply note that the Congress's efforts must be conducted independently of the Federal Reserve's monitory policy. Thank you.

LEACH: Well thank you very much, Dr. Levy. Dr. Poole.

POOLE: Thank you, Mr. Chairman. I'm pleased to be here to contribute to this debate -- put in my two cents' worth.

My statement begins with some debt limit issues, turns to related budget issues and then goes back to the debt issues.

Now, as a matter of accounting, as Penner has emphasized, the difference between government spending and government revenue must be financed by issuing debt to the general public or printing money -- some combination. Fortunately, no one has suggested that current budget issues could be resolved by printing money. And so the government has in fact been issuing new debt to the public equal to the difference between spending and revenue.

This fact is obscured by the inter-governmental transfers. A number of government trust accounts hold securities issued by the Treasury. But these inter-government accounts, useful for a number of purposes, have no bearing whatsoever on this accounting identity that for the federal government as a whole, the difference between total spending and total revenue is financed by selling additional bonds to the public.

So the thousands upon thousands of hours of time put in by the Congress and the Treasury and others on this issue in recent months has not affected by one dollar the amount of debt in the hands of the public.

If the debt held by the public is not permitted to rise, and if revenue is determined by existing tax law, then enough spending must be cut to live within the existing revenue short of printing money.

If Congress and the administration cannot agree on what spending to cut then the Treasury must somehow decide what bills not to pa, or to defer paying. Treasury cannot write checks on an empty checking account.

The battle over the debt ceiling is not just a part of the overall budget battle, but is the same thing as the budget battle given this accounting identity. It may seem politically convenient to argue over the debt ceiling rather than over revenue and spending, but I doubt that anyone's views on budget issues are much affected by putting the debate this way.

Now, on the surface it might appear that the federal government would be OK if it were to stop paying interest on its debt. Excluding interest, spending is now below revenue and therefore, if we don't pay the current interest, there will be some money, plenty of current revenue to cover the current outlays for other purposes. But of course, this would degrade dramatically the value of the existing debt where the interest was not being paid. Many financial institutions would be quickly insolvent if the value of their government debt declined dramatically. Which means that the federal government would be immediately faced with huge demands to make good on deposit insurance.

POOLE: Of course just starting to spin out a scenario like this shows how silly the whole exercise is. The federal government will not walk away from its debt because the voters would demand that the government live up to its obligations.

Now some people have talked about a temporary default, for say two weeks. That would resolve nothing. At the end of two weeks, the government would still have to sell bonds to finance the difference between its spending including interest and revenue. One way or another, Congress and the administration must decide this year's spending and revenue and finance the difference if any with new debt.

Now let me turn to the budget debate for just a moment. This debate started in earnest during the Reagan years. President Reagan spoke often and eloquently of the need for our society to trim government. The budget deficit that arose in the early 1980s drew additional pension through the budget issues.

President Reagan was successful in constraining growth in total spending. But he was not successful in rolling back spending in any significant way. More importantly, he was not successful in addressing the need for major structural reforms in social security and Medicare.

President Reagan was unsuccessful because the Congress in those days, including most Democrats and most Republicans and the American voting public were not prepared in the 1980s to face the reality of our budget situation. It is instructive to look closely at the Reagan budget for fiscal year 1986 which was perhaps the most complete and serious effort during those years to introduce fundamental reforms in spending programs.

This budget proposed spending reductions in numerous politically sensitive areas including many affecting traditionally Republican constituencies. Reagan proposed reductions in subsidies to business, to upper income groups, to agriculture, to Amtrak, and to many others. You have proposed reductions in Medicare and certain veterans benefits and retirement programs for military and civilian government employees. And there is a lot of political hot spots in all of those words that I have mentioned, those groups.

I brought with me a photocopy actually of the Washington Post article on how that budget was received. It says, President's budget meets opposition on Capitol Hill. Democrats attack middle class cuts and of course the budget went no where. But it is still true, I think, that this budget effort during that period was very worthwhile because many of the ideas that we're talking about now were first raised during that period.

And there are new proposals on the table reflecting equal political courage. This battle is a battle over budget priorities and the role of government in our society. Our nation will survive if fewer wasteful programs are cut than I would prefer. But the really big issue is social security and Medicare. Our society will truly be shaken to its foundations if we do not face this issue soon before the great retirement begins.

POOLE: At present, there are about 3.3 workers for each social security beneficiary. Just five years from now, that ratio will begin a rapid decline, reaching only 2.0 workers per beneficiary by 2030 according to the mid-range population estimates.

Financing existing social security and Medicare benefit schedules might require an addition to the payroll tax of 20 percent of the covered wage base as more and more and more retired workers will have to be supported by each member of the labor force.

If we do not act to introduce structural fundamental reforms on the spending side of those programs, within 25 years we face a generational conflict between retirees and workers totally unprecedented in our history.

We need to adjust the social security and Medicare programs to encourage later retirement and more efficient use of medical resources. This adjustment would have been easier if we had started ten years ago, and easier yet if we'd started 20 years ago, and all those numbers were on the table back then. The problem was known and was discussed, but not addressed. The longer we wait, the more difficult this adjustment will be and the greater the chance of very serious generational conflict.

The current budget debate includes proposals for revisions to Medicare. The Congress would do more and the administration would do less. Neither Congress nor the administration would address social security at this time. Some future Congress and administration will address social security because the demographic facts cannot be brushed away.

Much of the acrimony over the debt limit reflects the political pain of retirement policy issues. I'm very sympathetic to those who ask this question -- if we cannot begin now by introducing what a really relatively minor reforms to Medicare, how will we ever be able to begin again before it is too late to tackle the even more difficult issues that surround social security?

Now, let me get back to the debt limit. I understand the frustration of those in the Congress who want to begin to set our fiscal affairs on a sustainable long-run and are willing to hold up and increase in the debt limit until the administration negotiates a satisfactory budget deal.

Nevertheless, I believe that the debt limit is the wrong place to force this confrontation. Despite our divisions, Americans share a strong bond on certain policy fundamentals, and fortunately so for otherwise our government would be totally completely chaotic, rather than just a little chaotic. The unwritten rules of political engagement do not include risking the credit of the United States government.

Now, some argue that the market has reacted benignly whenever threat of default was raised in recent months. And other attribute interest rate increases, the little ones that we've seen from time to time, to the threat of default. But both these views misread the evidence. In fact, the evidence is absolutely clear in my view that the market has never assigned any significant probability to default.

If default talk had changed views in the market, in the bond market, we would have seen a dramatic narrowing of the spread between high quality corporate securities not subject to default, and the Treasury securities, and we haven't seen any such thing. I've got three examples in my statement which are there for the record and you can look at them if you're curious.

POOLE: Now, this debt ceiling battle has, certainly, from time to time created some uncertainty in the markets, but the uncertainty has been about the general course of fiscal policy and how this debate over policy was going to come out and not over default, per se.

The market simply does not believe that default can occur. We should really be comforted by this finding, for it demonstrates that our nation's finances are truly strong. Default is the unthinkable and the market believes that the political process will find a way -- somehow or other -- to service the debt.

Neither political party will jump over that cliff. I believe that the Congress should recognize that the public sentiment for honoring our federal government obligation is overwhelming and I think that that's clear, that Congress does recognize that. The issue of default should be put behind us by routine action to increase the debt limit, whenever required for the government to pay its bills, without interruption. No constructive purpose is served by forcing the Treasury to engage in strange financial gymnastics..

The debate over the debt limit has served the useful purpose of emphasizing just how important our budget issues are. Our disputes are over spending and taxes, though, and not over servicing the debt. It's time to put this phase of the political debate behind us. Congress should pass and the President should sign, a simple extension of the debt limit.

But the larger budget issue must not be allowed to die. We must make some choices and the sooner we make them the better off we will be. I offer this guarantee: If we do not begin to address these issues this year, we will have to face them next year and they will be more difficult. We are going to face budget issues, indeed, for the indefinite future, but the longer we wait the more difficult the job is going to be. Thank you.

LEACH: Well, thank you very much. I think your last sentence capsulized the problem we have heard. Let me just ask a couple of questions. First, there are two parameters of statistics that really stick out from the testimony, beginning with you, Mr. Penner.

On page two you cite the bipartisan commission on entitlements and tax reform and you point out -- and this is just a stunning thought -- that, within a generation, the budget deficit, unless we do something about it to change its current path will exceed 10 percent of the gross domestic product; and a decade later, 30 percent.

You also point out, just because these figures, they're so large, they're so abstract that what are the consequences of that and you say that U.S. savings will become in a net basis, negative. And what that means is the country instead of growing at a decent pace will actually go into an economic decline.

Well, those are extraordinary conclusions and it sets one really in a position of saying there are certain things you duck at one's peril, as a public official. So, I just would like you to flush out those thoughts, if you will and let me say, I mean, from my perspective, it strikes me that if we look at the history of this country -- particularly this century -- we've won the great philosophical battles in market economies versus closed and structured economies.

LEACH: We've provided a great sacrifice in terms of political and strategic effort and we've defeated all these "isms" of hate, but what this statistic says is that we've lost self-discipline internally and the question then is can we lead the next century like we did the last.

And are we going to be capable of that if this comes to pass?

PENNER: Well, there may be some who disagree with the details of the scenario I lay out, but I don't think anyone can disagree with the enormous deterioration we face in our fiscal status as the baby boom retires.

Economists aren't good at predicting things but you don't have to predict much to know the severity of that crisis. The people who will cause it have already been born. Some of them are sitting right behind you on the lectern there.

We know that we are going to face a very, very dire situation and it isn't that far away as you point out. I am enormously frustrated that this situation does not get more attention in the current debate, does get more attention in the press, and so on.

Because it would cast, I think, a whole different tone to the current debate. As I said in my testimony, the debate this year has been about rather trivial changes in the path of spending and taxes relative to what will eventually, eventually be required.

And as Bill Poole suggested, if we can't even get those minor changes in Medicare that have been debated this year, how are we going to contend with the situation that I lay out which implies that Medicare and Medicaid -- even if we find a way of control costs -- will be taking four percentage points of the GDP out there.

Four percentage points -- that's about 25 percent of our current tax burden. No way we're going to solve it by raising taxes that much.

So it is indeed frustrating, Mr. Chairman, that these things that we know will happen if we do nothing are not getting more attention.

LEACH: Let me just turn then quickly to Mr. Poole or Dr. Poole. The other statistic that is -- I mean, we sometimes reference it in political speeches but I don't know if we really comprehend the magnitude. I mean, you -- you point out that we have 3.3 working Americans for every retiree today and soon we'll start a trend towards 2.0 to be reached, I think, in 2030 -- in 35 years.

Can you -- you know -- indicate the magnitude of that, the economic consequence of that circumstance? Will we have interest -- can we deal with that if interest on the national debt is greater than Medicare expenditures?

POOLE: The issue is not so much the national debt. We would have a problem even if we had no national debt because the working people are providing the goods and services, the labor that produces the goods and services, the food, the housing, that the whole society is consuming.

And if you don't have very many working people for the number of retired people, the working people are supporting a very large burden and that's independent of whether you've got a large inherited national debt at that time.

POOLE: What has to be done is to reduce the demands of the retired people on the working people and the only way that that can be done is by having the retired people bear more of those costs themselves and retire later.

We should remember that the retirement age of 65 that we've become accustomed to was determined at a time when not very many people lived beyond 65. We've had these enormous medical advances and we have lots of good examples of very productive people well past age 65 including in this body obviously.

And there's no reason why the society as a whole shouldn't expect the normal working life to extend longer and that's what's going to have to happen independent of whether we've got an inherited budget deficit or inherited large debt at that time.

A large debt makes the problem more difficult because you have to raise taxes to service the debt to pay the interest on the debt and the higher and higher is that tax rate the greater and the greater is the disincentive for people to work and to provide capital and the more difficult it is to deal with the issue.

So it's not just a deficit issue. It's not just a financial issue. But it's a matter of the number of people in the society at work supporting those at leisure.

LEACH: My time has expired. Let me turn to Mr. Gonzalez. But before doing that though, I'd like to ask unanimous consent to -- to put a statement in the record by Professor Murray Weidenbaum (PH) who is as most people know a former CEA chairman. Mr. Gonzalez.

GONZALEZ: Thank you. It just -- just a sort of a theoretical question. If the debt progresses on a geometric progressive basis, and the other on an arithemetic as obviously your statements indicate, what eventually is the solution or the method of meeting the future obligations?

POOLE: I guess, if you're addressing that to me, I guess I don't understand what -- what's growing at an arithmetic basis? The debt grows geometrically as interest compounds.

GONZALEZ: That's right.

POOLE: But what is it that's growing at an arithmetic basis?

GONZALEZ: Well, I guess you would say the ability to finance that debt. I guess that's the best way to put it.

POOLE: Well, the debt service is -- comes out of the taxes that are levied on the economy.

GONZALEZ: That's right.

POOLE: And the economy is growing and that's why economic growth is critical to resolve -- not resolving but reducing the magnitude of the problem. If we not only end up with a large inherited debt and with this high dependency ratio because of all the retired people, but in addition, we end up with a low-growth or a declining economy, which is the great danger of a very high tax burden that destroys incentives for people to work and to produce, then we are on a downward slide very quickly and in that case what will happen is there will be a default all right, not so much necessarily on the debt, but there will be a default on the Social Security obligations.

Because what will happen is that the working people will simply say: We are not going to pay those taxes. We're going to -- there's still more of us than there are of you retired people. I'll be one of those retired people.

(LAUGHTER)

And my kids will say we're not going to support you anymore. We're cutting taxes and cutting your benefits. And if you don't like it, too bad.

PENNER: They may, too, as I pointed out in my testimony, may say: Sure, we'll give you the benefits but we can't borrow any more to do it so we'll print up money to do it.

GONZALEZ: Um, hum.

PENNER: And that is what you see going on in many of the newly independent states and recently working in the Ukraine, it's just interesting to note what can happen under those circumstances. There was a time when the ruble was declared to be equal to the dollar. Now 1,000 rubles in the Ukraine is equal to about half a cent.

PENNER: So you can see what 4,000 percent inflation a year can do to you. I think that is -- that is the ultimate danger of a debt that continues to grow geometrically in excess of our income.

LEVY: Let me add a point. The situation you've described is being approached now by Italy, Canada and Belgium. All of them have debt -- total national debt outstanding to GDP ratios above one. And it's not surprising that Italy and Canada have major social and political turmoil and Canada has the highest inflation-adjusted interest rates in the -- among G-7 nations.

Once you get to that point, just like now, closing the gap is not an arithmetic exercise. It's an economic exercise because raising taxes can create disincentives. It can -- it can -- as the 1993 tax increases did, can simply redistribute wealth from the private sector to the public sector.

And I'll just get back to the one point and it embellishes on Rudy Penner's statement -- it's not just the persistent deficit spending increases that are adding to the debt. It's the fact that the deficit spending is for transfer payments that primarily fuel consumption and don't add to the nation's long-run capacity to grow thereby we're increasing the national debt, and not matching that with increasing the productive capacity and when get to the debt issue, everything that Bill Poole and Rudy Penner have talked about -- about Social Security -- all of these obligations, future obligations, are embodied in estimates of the unfunded liabilities that aren't counted toward the debt ceiling and those numbers are already in the trillions of dollars for people who are already born.

GONZALEZ: Thank you very much.

LEACH: Mr. Vento.

VENTO: Thanks, Mr. Chairman. Mr. Levy I had raised this question you notice with the Secretary from your material. I don't know if you were glad that I read your material ahead or are displeased that I actually took away some of your splash. But I thought we'd both benefit from hearing the Secretary's response.

But you know, your suggestion is of course that the market can differentiate between a true economic phenomena and a political one. And a suggestion that really because we would be different than, let's say, Argentina.

LEVY: Yes.

VENTO: That's your contention anyway but of course we don't know. I mean this is obviously, you know, somewhat speculative, is it not?

LEVY: No, the fact that interest rates have come down, the dollars has firmed and the stock market's gone up since November suggests that the market is not placing a high probability on default. It's as Mr. Poole said, very rational. But yes, financial market participants are...

VENTO: But, excuse me, you go even beyond that. I only have five minutes. But I mean you really go beyond that and say well even if default did occur, it would be discounted or do I misunderstand your...am I misstating your statement?

LEVY: No, my point is if the government were to delay some interest payments due to default, everybody -- not just in the United States but worldwide is looking at all the same, seeing all the same data and all the same speeches -- would recognize exactly that's is due to political game playing.

VENTO: I would hope they would realize that.

LEVY: Yes, and if interest rates were to spike up dramatically like some people today have mentioned, I know a lot of traders who buy everything in site and rates would come right back down because...

VENTO: Let me just say, I mean, I think that all the constituent parts for a healthy economy exist in Argentina, too. But if they don't have their stuff together, you know, that's sort of they can't get their act together politically, then unfortunately, I think that it has an effect on the economy.

I mean, I don't know...what is Moody's doing then? Or is Moody wrong about this or are they premature? Are they overreacting?

LEVY: I don't have a clue what Moody's is doing or why they did what they did.

VENTO: I talked to some of my corporate constituents and they felt the same way when Moody's gave them a bad rating. I mean...

LEVY: Simply put, there's no question nobody...the cost of default way out weigh any benefits.

VENTO: I just don't want to see anyone get any comfort from your statement, Dr. Levy, or any of the statements. I mean I think that this should be off the table as our former CBO Director Mr. Penner has said and I guess Mr. Poole.

And I just want to make it clear, you know, in my mind's eye, I just think that this is not the area to negotiate. Frankly, I mean I think very quickly what's happened here, I know with your's and Dr. Poole's statement, Dr. Levy, is that you've all been to a broader discussion of the budget and entitlements and so forth and so on. And frankly I mean I'm a little...I mean I understand.

One of the suggestions, let me just move into in terms of one of the points you point out is the COLA and, I mean, I agree.

VENTO: I mean, I remember Gene McCarthy, my predecessor, saying we can't have, you know, this government or the economy on automatic pilot. We need to reserve these judgements. Unfortunately, the models of the economists and all of the things that we do aren't adequate that we ought to reclaim that.

But isn't it true that, as much as we have Social Security or some of the other programs on automatic pilot, don't we also have the -- for instance -- the changes in the tax rates on automatic pilot in terms of the adjustments that are made. Wasn't that one of the phenomena that occurred during the 1980s that has, in fact, whatever your belief is, has, in fact, required us -- in other words, things happen without us making a decision on them. Unfortunately, this isn't as fine a tuned watch as some might like to believe.

LEVY: One final point on the impact of default. I think if it were a temporary default, everybody would recognize it as such. It would not drive up interest rates. If you look back to the last time Congress entangled the debt ceiling with the budget debate -- 1993 -- rates were coming down. The time before when there was, like a, nearly...

VENTO: But, Mr. Levy...

LEVY: ... two months ...

VENTO: ... I found out in a statement that I made that this has been 90 days versus three days, or three or four days then...

LEVY: Go back to the late summer and fall of 1990 and it lasted nearly two months with seven temporary extensions and there was threat of default and rates came down the whole time. But I'd like to -- I did put in the statement, I think, that the debt ceiling is a crutch and should be abolished and default, even if it doesn't affect interest rates has other costs that may not show up in interest rates.

VENTO: Mr. Penner, did you have any comment on my "automatic pilot" observation?

PENNER: Well, I think you're exactly right, sir. When we indexed Social Security way back in the early 70s, ironically, many -- including me -- thought it was a money-saving measure. And I think it has turned out to be anything but.

VENTO: Gene McCarthy probably voted for it too.

(LAUGHTER)

PENNER: You're right that -- well, let me put it the other way. I do believe that the indexing of the whole system was a mistake -- in part because the indices are so inaccurate -- and that the Congress should make these kinds of changes in a discretionary fashion.

VENTO: There are of course, Mr. Chairman and members, automatic increases that go into affect like interest on the debt which, of course, are -- you know, that outrightly conflicts with the debt ceiling itself. I mean, even if we did -- I mean, that principally would be if we wouldn't have it, we wouldn't you know ... so, I mean, there are these.

I fail to see -- I don't know that in economics, whether, you know, that you treat transfer payments versus entitlement payments versus other types of dollars different in terms of how they affect us; in terms of tax expenditure's different than how they affect the bottom line.

My assumption was that we are actually, as we compared ourselves to Italy -- incidentally, Italy has had a rather politically unstable environment for some 40 or 50 years, Dr. Levy. It isn't just the last couple of years. In fact, I think they're probably -- they may have been a little more volatile, but I think they've had some problems for some time.

VENTO: But my observation would be that we actually as a percentage of gross national product have a smaller amount. Now, we have a bigger gross national product. There's no model that we can follow that's exactly reflective, I would say, of our economy. So it's not any excuse.

It's not certainly my goal to...and I think most of us say we want to balance the budget but how we do it in terms of where we're going...I've seen expressions here about what has happened and what hasn't happened in terms of spending. But I would just say this to each of you and I would say that a fiscal deficit is a problem, so is a human deficit, so is not investing in people.

You talked about why we have so many people that are relying on the system of disability and so forth today and I would point to education and training where people no longer can be brought back into the world of work and so they take the least common denominator and go to where they have to survive. And so, our goal has to be, of course, to invest in people.

We do a lot in terms of capital. In fact, you'd have a hard time pointing out where there's a shortage of capital expenditures in this country. In terms of research, we need to do it. But the one thing that is lacking and that a lot of other withdrawal from the business cycle and others are not making the investment today and that's in people, investing in people. And fundamentally, that's one of our concerns in terms of what we're trying to do here. And I think that if we did and were able to meet that challenge, we're going to be able to go a long way.

And I, you know, that doesn't mean that every government expenditure in those areas is appropriate but certainly as I look at the needs in my district and across the nation, I think that we could balance the budget here and end up with far worse problems in terms of a nation if we do not have the type of human investment that we need and I see it lacking in your statements. I don't see it reflected and I think it should be reflected. Thank you, Mr. Chairman.

LEACH: Mr. LaFalce (DOESN'T"T SOUND RIGHT)

LAFALCE: Mr. Levy, I'm familiar with your firm. In my former life, my firm actually did business with your firm and you all were well known particularly in the Treasury market and your abilities there.

I think, you raise the issue that, if I understand you correctly, that if there was a short term default, a non-payment, that would be a political default not an economic default. But if you have a train wreck, it may be because the conductor wasn't paying attention or it maybe because a car was on the track, but in the end you still have a wreck. And you have cars spread all over the place.

And wouldn't it be true, even in a temporary default, that was for political reasons that you would have escrows backing securities or $290 billion worth of municipal bonds which are backed by Treasury escrows that would at least technically be in default. Some would have payments problems if they held securities that actually were due to be paid and weren't paying.

Wouldn't you have problems with pension funds, some of your clients, which have a prudence requirement that they would have to divest defaulted securities that their indentures would not allow them to hold defaulted securities? And wouldn't you have a situation where you probably would have a lack of a secondary market or you'd have an artificial secondary market?

Certainly the price of treasuries right now has gone up and it's gone up for economic reasons. But wouldn't we have a technical situation that would drive the price down and the lack of a secondary market?

LEVY: The answer is nobody knows. My assessment is it would only have a minor affect. It would be an absolute nightmare in terms of back office operations. It could change spreads and affect the money market. Pension funds, their investment policy committees would have the difficult choice. I don't think they'd have any choice but to continue investing in U.S. treasury. It's the most liquid market in the world.

I'm just making the point, if it is temporary -- and there's no question the U.S. is by far the wealthiest nation in the world and the strongest and is perceived to be such -- I think the impact would be temporary.

LAFALCE: But there would be a payments problem that would occur and, certainly, the investment committees of these funds or any other type of fund, I mean, they'd have to go to their lawyers to get an interpretation. They would have to look at the bankruptcy code; they would have to look at a number of things. And, in many cases, don't you think some would punt?

LEVY: It would be an extraordinarily inefficient and costly process to go through that. But, would it drive up interest rates? Not that much and I think only temporarily.

LAFALCE: Let me ask you this: The question of Moody's was raised and I would give you two things to think about with that. One, I think Moody's does have to look at political risk. Certainly, in the municipal market, they look at political risk and political risk should be associated with treasuries at this point in time.

In fact, if you look at their statements for the last 40 years, or 50 years, versus what they said two or three weeks ago, they went from saying that you would invest in treasuries to obtain a Triple A rating because there would never be a question of default. Three weeks ago they said that question -- the specter of a default -- has now been raised.

So, I think it is probably appropriate for Moody's to look at it. Let me back that up by saying my experience with Moody's and Standard and Poor's, as well, is while they have always looked at Treasury obligations as -- is a full faith and credit obligation, a general obligation of the United States government backed by the taxing power of the United States government, they have not viewed debt of the United States government, subject to annual appropriation, in the same manner, for the simple reason that it depends on one Congress to the next Congress on an annual basis as to whether or not they will follow through.

If you've looked at various lease obligations of the United States government where the rating agencies have looked at them, they have been uncomfortable to assign that same Triple A rating. Wouldn't you think possibly that Moody's is looking at this and possibly Standard and Poor's and Fitch (ph) and they're saying, perhaps now we're getting to a period where, because the debt ceiling has become political, that it may now fall under that same category as annual appropriations.

LEVY: My answer is maybe, but maybe the reason why they're doing what they're doing is simply they've been asked a lot of questions about it and feel like they have to say something. So, they said the logical thing that provided no value added to anybody's understanding of the issue.

LAFALCE: OK. Mr. Chairman, if I might, very quickly, I'd ask Mr. Penner and anyone else -- this is somewhat related.

LAFALCE: As you know the last year there's been a major debate over the budget in Congress and there's been a major debate about Medicare and Medicaid and there's been a war of semantics going on as to whether or not Medicare and Medicaid are being cut or whether or not food stamps are being cut. The three of you all are trained economists. My question to you would be -- and some say it's not a cut; it's a reduction in the rate of growth.

I would argue that it's both. Isn't if fair to say that if you are reducing the rate of growth in a program -- whether it's Medicare or Defense -- below what the real rate of inflation would be as determined by their cost -- that program's cost of goods and services and its customer base and the increase or decrease of its customer base -- wouldn't that not be a cut, wouldn't that be a real cut? There might be a nominal increase, but if that increase is below the real rate of inflation for that program, is that not a cut under the laws of economics?

LEVY: Well, I don't find that particular semantic debate very useful in understanding what's going on. I think it's much more important to look at what the programmatic changes are and what the distribution of harm or benefits from those changes are. I think to the degree that you reduce the value of the entitlement, it may be called a cut even though its worth -- you have to spend more money to provide even a reduced entitlement.

But, they're different components of the changes that are being proposed. There's the increase in the premium; there is the reduction in the amount you pay providers. Now, the beneficiaries would not see the latter as a cut, obviously; the providers might see it as a cut.

But all of that, I think, pales or should pale in favor of really, actually, studying the kind of programmatic changes that you're making, asking what their long run effects are and, I think, also asking whether they're sustainable. I think some of the problems I have with the balanced budget act is I wonder if some of the components are truly sustainable.

LAFALCE: Well, I don't disagree with your contention and I voted for cuts or reductions in growth, or whatever, myself. I guess I'm just searching for the truth more and I agree we need to look at these things in a long-term context. But, we've been in this intense debate and it's the political side, not the economic or accounting side which -- we tend to spend more time in the political side.

But, I'm really looking for an answer so when I talk to my constituents, half of them think they're cuts; half of them think they're reductions in growth. I just want to give them at least a reasonably honest academic answer. But, I'm willing to say I voted for these Orton-Stenholm budget, which gets us to a balanced budget in seven years and actually adds less debt to the nation than the other budgets.

LAFALCE: And it cuts, in my opinion, Medicare and Medicaid albeit far less than the Republican budget. But -- so that's where I'm trying to get.

I agree with you on the question of sustainability, the question of what the impact is on beneficiaries and looking at the long-term view. But wouldn't you agree that if you only provide a nominal increase, rather than a real increase to match the real rate of inflation, that that is a cut?

PENNER: Well, I would call it a real cut, as opposed to a nominal cut. Yes, I think you just have to be more careful with the language, but I wish the debate would turn to the actual programmatic changes that are being proposed, here. And I wish you could explain to your constituents just exactly what's going to happen to them and they could judge themselves how much pain or benefits that's going to cost.

LAFALCE: Well, few Americans have the complete understanding of the federal process that you do as a former CBO chief, but we do try and do that and it is complicated. But I just had a problem where some have on the one side used nominal figures, particularly on the Medicare-Medicaid side, but then they use real figures when they inflate their baselines to inflate the level of the cuts they say they're achieving in their budget.

It's kind of like past tense and present tense. Our English teacher has always told us you had to write in one tense and not more than one tense, and I think when you're discussing budgets you need to either talk in either terms of real or nominal but not both, because that's sort of burning the candle at both ends.

PENNER: I will say that with regard to the baseline, I do believe that it's much more useful to have a baseline that looks at what is necessary to sustain programs and real terms and what is necessary to finance the entitlements that are on the books.

I think it is very confusing to look at baselines that are constant in nominal terms.

LYNCH: Dr. Poole, do you want to respond?

POOLE: May I make a quick comment on that? I think the baseline idea is very sound but it does depend, when you actually look at the numbers, it depends importantly in how you convert nominal dollars to real. That is the price indexes. And I know the Congress has been addressing the issue about biases and the CPI and whether there's overindexing in the Social Security, and so forth.

And this problem is particularly acute in the medical area -- medical services -- because the measurement biases, the problems of constructing price indexes.

So, whereas economists might say that for the overall CPI that maybe there's the bias of a percentage point or one and a half -- a half -- depending. But when you're talking about the medical area where it is so terribly difficult to define what you mean by real service in the first place, much less sort of try to figure out what it really costs, the concept of what it is that you get in a hospital or a doctor's visit is very, very difficult.

So that's why it seems to me in the arguments over Medicare particularly, relying on conventional definition of a real baseline is likely to be quite, quite misleading because the price deflators in the medical area are almost meaningless, almost meaningless.

LAFALCE: Well, are there -- I know my time is up, but in both in terms of the (OFF-MIKE) as it relates to collas (ph) for some of these programs, but the medical care rate of inflation or whatever the index is labeled, people have said they possibly overstate a point or half a point or something.

LAFALCE: What I've always wondered is that up or down or is it up or down. I mean do we know -- is -- a lot of times it seems it's just that they're overstating but are they potentially understating as well?

POOLE: There's always a possibility for understatement, but that possibility arises primarily in economies where you've got a lot of controls intervention that causes the product to be degraded by the producer, but in our economy where most markets are pretty open and free and not subject to price controls, there is a tremendous amount of quality improvement going on all the time and you see it every day, you know, in car batteries and tires and this, that and the other thing, computers, medical services, the knowledge of the medical profession and so what you get for a day in the hospital is simply -- which is the kind of thing that goes into the price index -- a day in the hospital -- is a dramatically different service than what you got in a day in the hospital ten years ago or 20 years ago.

And how you make those adjustments nobody knows.

LAFALCE: It is ironic as you have more entrants into the marketplace and apparently more competition in health care and greater innovation, technological innovation, prices go up rather than go down, which is...

POOLE: But what is priced is a day in the hospital. Let me give you a very specific example. Take cataract surgery. Used to be that for cataract surgery, a person would spend a week in the hospital and it was very long and uncomfortable and you would come out and you would wear these real thick glasses -- maybe you remember -- remember those days or you may remember seeing people in that situation.

So the total cost of treating the cataract problem involved all those days in the hospital. Now what's done is a cataract can be done on an outpatient basis with implanted lens and it's entirely different.

Now the -- you know, the cost of the half-day in the outpatient clinic or wherever it's done, you know, per hour, is far higher than per hour in the hospital the way this was done 25 years ago. But the cost of the cataract treatment itself is probably a lot lower particularly if you take account of the difference in lost working time and so forth.

But there's no effort to put into the price indexes in the medical area the total cost of treating a particular disease or particular problem and so the price indexes are almost meaningless in this area.

LAFALCE: Mr. Chairman.

VENTO: (OFF-MIKE) briefly.

LEACH: Yes, Mr. Vento.

VENTO: I would just -- I wish all of the medical practices were as the cataract example. Unfortunately, I think that the proliferation of what can be done to us to keep us going is running far ahead of what -- what limitations or what is not necessary.

One of the questions that ran through Dr. Poole and Dr. Levy's comments were the savings rate and reduction in tax, reduction in government expenditures, at least in a certain -- in a quantitative way. I don't know about the qualitative differences that you have between, you know, what you were referring to.

I wonder if they really exist in the economic world.

But let me just say we have had -- there's been a lot of controversy over what the savings would be, that there are other factors that are external to what the tax rate is or treatment that there would be, for instance within the context of tax policy transfers to avoid taxation so it would not accumulate to -- accumulate to a greater savings rate.

VENTO: And so, is this really something that is cultural and wound up with a type of economic security and well-being that we have here as well as it is with tax policy. All I'm trying to suggest, I don't want to get into a debate with you about whether, but aren't there a lot of other factors that are involved than simple rate of taxation and some of the factors that you are raising here, Dr. Poole?

There is a debate at the very least, whether or not...I know you probably have a position but isn't there a debate concerning that particular rate of savings?

POOLE: I would say that there is no consensus on why the savings rate has declined...

VENTO: OK.

POOLE: ...in the last 10, 20 years. There are many more hypotheses than there are data points.

VENTO: Well, our point is that if we want to accomplish something what you really do is hire the best guys that you can with Gucci shoes and they go over to the Ways and Means Committee here and sell their particular story.

I just think we ought to start out understanding, you know, that probably isn't the area that we ought to...I mean, I just think it ends up with having a lot of other vectors that come out of there than the sort of the single direction that has been pointed out here. Dr. Levy may have different view. Dr. Levy, did you want to go first or you're looking at Mr. Penner?

LEVY: No, I think there are...there may be a whole host of issues, societal issues and demographic issues that affect the rate of national saving. But I do think taxes and the way we deficit spend contributes significantly to our lower rate of saving. It's empirical, it's very difficult to control for all the sociable, demographic issues...

VENTO: Variables, yeah, yeah.

LEVY: But, I think there's no question but that fiscal policy and not just the deficit, per se, but how we spend and the burden of taxes has a decidedly negative impact on national saving and that is why we have a wide gap between national saving investment and current count (PH) deficit.

VENTO: Well, it's a fact that Dr. Penner you've been through this particular discussion, I imagine many times in your former role.

PENNER: Well, I agree there are thousands of variables that affect the saving rate but I do think a large portion of those thousand variables involve public policy one way or another. I don't think you can generalize and simply say a tax cut would cause an increase in private saving. Both economic theory and the empirical research are ambiguous on that matter.

But there are things that could be done that where economic theory is less ambiguous. And for example, a revenue neutral tax reform, whatever you think of the flat tax, for example, if it were truly neutral -- and that wouldn't be at a 17 percent rate, it'd be at like a 21 percent rate or something like that -- there's very little doubt in my mind that it would increase saving quite substantially. An economic theory would suggest the same in that case. The result or the conclusion would not be ambiguous.

VENTO: If they...well I don't know.

VENTO: There are some cultural factors. I mean, I don't know if that means there's no taxation on interest or dividends. I don't know what that means, but I guess that's what you get into.

But I would just point out, Mr. Chairman, the same sort of thing holds true for -- you know -- interest rates and the demand for credit and how elastic and how our interest rates drop.

Also, I would say just that since I've been here for 20 years, we've been cutting Social Security benefits, believe it or not. There are some efforts to expand them. That is the Social Security retirement benefit and other types of benefits we've not been expanding.

There have been expansion of SSI, there have been changes in terms of Medicaid policy, but by and large, we have not done that so every year you look, you'll find that there -- my recollection is that we've modified many of the formulas and some changes to reduce benefits -- you know -- such as the -- the notch group or whatever.

It was right to do it. I don't mean to imply that what we did was wrong. I think it was the right thing to do. But I just suggest that there -- it isn't as though we're not responsive and have not been responsive. In fact, Mr. Chairman, the last '93 budget package that we passed cut the deficit $500 -- over $500 billion.

The package that we had before us put before us by the majority in this session over the next five years would have cut the deficit about half that -- about half that.

So I would look at it not as a down payment, Mr. Chairman, but an installment on what needs to be done and I might say that this isn't the first group that's come to town that has suggested that they're for a balanced budget or that they want to do it, and I don't doubt their good intentions, I just question the way that we get there.

Thank you, Mr. Chairman.

LEACH: Thank you, Mr. Vento. Let me bring this to conclusion and Mr. Vento had mentioned earlier the -- as several of the panelists -- that the problems of other countries including Italy. My first meeting of this -- that I attended as part of this committee -- a colorful former colleague of ours, Mr. Annunzio, railed against Arthur Burns for red-lining and as it worked out, he was complaining about red-lining Italy.

(LAUGHTER)

And it struck me that if you pull together all the comments of this panel that what you're suggesting is if we don't get a little greater fiscal discipline, we could in effect cause a red-lining of the United States at least in terms of making this country a place where internal investment and external lending might become substantially less attractive.

And so it is a very serious long-term issue.

In any regard, I want to thank all three panelists for very interesting perspectives all of which provide what I think is probably the most important thing and that is a context in the longer term of some of the shorter term decisions that this body might be making. Thank you very much.

The committee is adjourned.

END

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August 1996

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Analysis of Actions During the 1995-1996 Crisis

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Obama could cite 14th amendment powers to tackle **debt limit**
USA Today
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Sharpton: Debt Fight About 'Your Mama,' Not Obama
NPR
by AP The fight in Congress about raising the nation's **debt limit** isn't about President Barack Obama, but rather, "your mama," the Rev. Al Sharpton said Wednesday. The New York-based civil rights activist told the National Urban League convention in **...**
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Says reining in government spending more important than raising **debt limit**
Danbury News Times
Notice the threats and lies regarding the debt ceiling coming from President Obama, who said the country must raise taxes or he will starve old people, and that the government has no money. This is neither presidential nor true. **...**
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Bachmann hits Obama on economic policy, **debt limit** increases in National Press **...**
MinnPost.com
Bachmann reiterated her belief that the economic calamity caused a failure to raise the **debt limit** predicted by the White House, the Treasury Department and politicians on both sides of the aisle is overblown. She pointed to a plan she introduced to **...**
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Is the **debt limit** vote like the TARP vote?
CBS News
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Wall Street CEOs tell Washington to strike deal on **debt limit**
The Hill (blog)
By Peter Schroeder - 07/28/11 10:39 AM ET A group of top financial executives is pressuring policymakers to strike a deal on the **debt limit**, warning that inaction would yield "very grave" consequences. Top Wall Street executives such as Bank of **...**
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Subject:	WaPo: Some seek silver lining, some an escape
Date:	Wednesday, July 27, 2011 9:36:03 PM

Some seek silver lining, some an escape

By David S. Hilzenrath, Wednesday, July 27, 9:15 PM

If the showdown over the debt ceiling ends badly, it could be good for some investors. They might get a long-awaited chance to snap up stocks and bonds at bargain prices.

"Chaos creates opportunity," said Stewart R. Massey, chief investment officer at Massey, Quick & Co., which helps endowments, foundations and wealthy families manage more than $3 billion of investments.

If the stock market plunges by more than 10 percent, "we would start to be fairly aggressive buyers," Massey said.

With less than a week remaining before the U.S. government could default on its debt, some investors are thinking about worst-case scenarios, and as they see it even a disaster could have a silver lining.

"You always want to buy when there's blood on the Street," said David W. Fenstermaker, a financial adviser at Raymond James.

According to one school of thought, the political deadlock and the shock to the market would be temporary, even if there are lasting effects.

Until this week, investors around the world had generally shrugged off the drama in Washington as the inevitable prelude to a last-minute deal, taking it for granted that the politicians would avert a disaster.

But anxiety is spreading, and some investors are running for cover.

A so-called fear index known as the VIX, which measures expected volatility in the stock market, rose to 27.98 on Wednesday, up from 17.52 on Friday, before a breakdown in negotiations between President Obama and House Speaker John A. Boehner (R-Ohio). The index is based on bets investors are placing that stocks will move sharply.

The cost of hedging against a default on Treasury bills has also leapt. A one-year insurance contract on $10 million of debt soared to $80,000 Wednesday from less than $23,000 on May 17.

Investors were paying more Wednesday to insure against a loss on U.S. debt than they were to hedge against a default by Turkey, Thailand, the Philippines or the Slovak Republic. The cost was about four times the price for British debt, almost twice the price for Russian debt, and more than double the price for IOUs issued by Panama.

Increasingly, investors in garden-variety stock mutual funds have also been heading for the door.

Outflows from long-term stock mutual funds totaled $6.8 billion during the week that ended July 20, the Investment Company Institute reported Wednesday. That was nearly double the prior week's total, and it was before the debt ceiling showdown entered a more perilous stage.

One of Fenstermaker's clients telegraphed his intentions Monday morning, as markets reacted to the blowup between Obama and Boehner.

"If gridlock in Washington causes the stock market to take a big hit this week, I will be a buyer," the client, an accountant in his 60s with two children in college, told Fenstermaker by e-mail.

By late Wednesday afternoon, Fenstermaker was helping another client craft a plan to liquidate a chunk of her retirement savings, the financial adviser said. That client, a Washington lobbyist, was panicked about the latest developments and looking for "a time out," Fenstermaker said.

With investors increasingly tuned in to the debt negotiations, some say there is little they can do to prepare for a bad outcome. Not only do they view it as improbable, but the consequences could be far-reaching.

"It's a bit like a nuclear bomb going off in your home town," said hedge fund manager Dinakar Singh of TPG-Axon Capital. "My guess is it'd be pretty hard to hide from that."

U.S. Treasury bonds have long been considered the safest of investments. They are part of the bedrock of the banking system, making up much of the capital that banks hold to support their lending. They serve as collateral for complex transactions between corporations, and as a haven for the risk-averse.

If their bankability is suddenly in doubt, investors ask, what's the alternative?

"I can't think of a risk-free asset left that would not be impacted by a default," said Michael C. Schlachter of Wilshire Associates, who advises big pension plans.

Brian Reid, chief economist at the Investment Company Institute, said the mutual fund industry group has heard from members that money market funds have been working to become “more flush with cash” as securities they hold mature.

That could help them handle customer withdrawals in a crunch.

Investors have also become increasingly reluctant to hold Treasury bonds that mature in early August. The Obama administration has said the debt ceiling must be raised by Aug. 2.

Yields on Treasurys that come due in early August are more than twice as high as yields for comparable bills maturing in September, meaning that investors are demanding higher interest rates on federal IOUs that are seen as more likely to be affected by any disruption.

The scarcity of alternatives leads some analysts to predict investors generally will stick with U.S. government bonds even if the government defaults.

But the fact that so many investors are still counting on a political compromise could make the reaction even sharper if they’re wrong.

Institutions and other investors sitting on cash could seize the moment by buying assets at discount prices. Others could face tantalizing frustration, like homeowners longing to trade up in a depressed market but unable to buy a new home until they sell the one they already own.

Staff writer Neil Irwin contributed to this report.

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When it come to the **debt limit**, all raises are temporary
USA Today
By Gregory Korte, USA TODAY WASHINGTON — If Americans are disappointed with the summer political drama known as the **debt-limit** debate, when should the sequel come out? House Republicans want to extend the nation's borrowing authority by $900 billion **...**
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Race on to get debt plans in form for vote
USA Today
By Gregory Korte and Jackie Kucinich, USA TODAY House and Senate leaders were scrambling Wednesday to put their separate **debt-limit** proposals into a form that colleagues could actually vote on — even as questions emerged about whether there was enough **...**
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THE INFLUENCE GAME: Lobbying on **debt limit** fight
The Associated Press
That uncertainty — coupled with a widespread expectation that lawmakers will ultimately agree on a **debt limit** extension anyway — help explain why lobbying on the issue has been relatively low key. That's a stark contrast to the high-profile lobbying **...**
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McCain blasts "bizarro" Tea Party **debt limit** demands
CBS News
"That is not fair to the American people to hold out and say we won't agree to raising the **debt limit** until we pass a balanced budget amendment to the Constitution," McCain said on the Senate floor today. "It's unfair, it's bizzaro. **...**
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Despite **debt limit** debate in Washington, Maryland completes $512.4M bond sale
Washington Post
By AP, ANNAPOLIS, Md. — Maryland completed its effort to borrow $512.4 million Wednesday by selling general obligation bonds, getting a good response from investors despite the financial uncertainty churning around the **debt limit** debate in Washington. **...**
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Gridlock as US **debt limit** deadline nears
Aljazeera.net
Jay Carney, the White House spokesman, urged legislators to reach an agreement on Wednesday and highlighted on partisans' "need to come together now" to settle on an increased **debt limit**. "We believe that there is a place to find compromise," Carney **...**
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House Democrats to Obama: Raise **debt limit** by invoking 14th Amendment if necessa

Washington Post (blog)
The notion of invoking the 14th Amendment in order to raise the debt ceiling has gained traction among some Democrats, including former President Bill Clinton, as a means of averting default in case Congress does not reach a **debt-limit** agreement by Aug **...**
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Treasury Department stands by August 2 **debt limit** deadline
CBS News
Treasury Secretary Timothy Geithner, second from left, makes remarks after a meeting with Democrats about the **debt limit**, Thursday, July 14, 2011. The Treasury Department pushed back on Wednesday against claims that the deadline for raising the debt **...**
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Date: Wednesday, July 27, 2011 8:13:30 PM

Boehner releases new debt ceiling plan, issues stern warning to GOP skeptics

By Lori Montgomery, Felicia Sonmez and Paul Kane, Updated: Wednesday, July 27, 6:59 PM

House Speaker John A. Boehner on Wednesday urged skeptical House Republicans to drop their opposition to his plan to raise the federal borrowing limit in two stages, and he released a revised proposal that would cut even more deeply into agency budgets.

An analysis by the nonpartisan Congressional Budget Office said Boehner's new plan would reduce deficits by about $915 billion over the next decade, a figure closer to his target than the $850 billion in deficit savings the budget office had said his initial proposal would have achieved. But it still fell short of the $1.2 trillion by which Boehner and House Republican leaders had projected their plan would reduce budget deficits.

Earlier in the day, in a closed-door meeting with GOP House members, Boehner (Ohio) told skeptical conservatives to "get your ass in line" and drop their opposition to his plan to raise the borrowing limit in two stages tied to deep spending cuts. Boehner had planned to bring the bill to the House floor Wednesday, but he postponed a vote on it until Thursday at the earliest in the face of resistance from tea party-allied conservatives, who saw the plan as falling short of the fiscal restraint that Republicans promised when they took control of the House in 2010.

An a separate analysis, the CBO said early Wednesday that a Senate proposal to lift the legal limit on the national debt would slice $2.2 trillion from the federal deficit over the next decade, short of its $2.7 trillion target but far more than the cuts in Boehner's plan.

That analysis found that the measure drafted by Senate Majority Leader Harry M. Reid (D-Nev.) would cut about $840 billion from agency budgets through 2021, roughly the same as the proposal by Boehner. But Reid also claims significant savings from winding down the wars in Iraq and Afghanistan. The CBO found that those savings account for more than $1.1 trillion, making up about half of Reid's debt-reduction package.

Republicans have dismissed the inclusion of war savings as a budget gimmick, arguing that the nation has no intention of spending that money.

Faced with the partisan gridlock in Congress and a looming Aug. 2 deadline to raise the debt ceiling or risk U.S. default on its obligations, House Democrats on Wednesday urged President Obama to invoke the 14th Amendment to the Constitution as a "failsafe" mechanism to increase the federal borrowing limit unilaterally. They referred to a clause in the amendment saying that the "validity of the public debt of the United States . . . shall not be questioned," which some have interpreted to mean that the president has the authority to raise the debt ceiling without congressional approval. However, the Obama White House has not endorsed that interpretation.

If congressional Republicans refuse to send Obama a debt-limit increase he can sign, Rep. James E. Clyburn (D-S.C.) told reporters Wednesday, the president "should sign an executive order invoking the 14th Amendment to this issue." Clyburn, the third-ranking Democrat in the House, said this would "bring calm to the American people" and "needed stability to our financial markets."

Rep. Xavier Becerra (D-Calif.) charged that the Republicans were taking the American people "into the twilight zone." He said he and other Democrats are telling Obama, "the Republicans through their failure have given you license to do whatever it takes to not let the American family go down into that abyss with House Republicans."

For their part, GOP leaders told the meeting of the House Republican Conference in the basement of the Capitol that their party must remain united and rally around Boehner's bill. Boehner said his bill will be rewritten to either cut more from the deficit or to raise the debt ceiling by less than the initial $900 billion he proposed earlier this week, thus keeping his promise that spending cuts would exceed the increase in the debt limit.

"We're making progress," Boehner told reporters after Wednesday morning's meeting. Asked whether he thought the CBO report had dealt a blow to his plan and whether a vote was still scheduled for Thursday, Boehner declined to say.

The new CBO report on Reid's plan came barely 12 hours after a similar report led House leaders to scuttle the Wednesday vote on their measure. Senate leaders were also expected to make adjustments based on the CBO report in order to meet a dollar-for-dollar target for spending cuts and a debt-limit increase.

While the Senate package would reduce spending more overall, by the CBO's accounting, it would also cut more deeply next year. The House bill would reduce next year's budget deficit by only about $5 billion, the CBO said, while the Senate bill would trim $30 billion from a one-year deficit expected to approach $1.1

trillion.

The CBO's analysis Tuesday dealt Boehner's measure a potentially devastating setback. It said spending cuts included in the House bill would save only about $850 billion over the next decade — far less than the $1.2 trillion advertised.

The Reid plan would also create a joint congressional committee to propose further deficit reduction, the CBO noted.

Senate Republicans denounced the Reid plan Wednesday, saying it calls for a $2.7 trillion increase in the debt ceiling to cover two years of borrowing in exchange for about $1 trillion in actual cuts to cover 10 years of spending. According to Stephen Miller, a spokesman for the Republican staff of the Senate Budget Committee, Reid's plan arrives at savings of $2.2 trillion over 10 years by adding $1 trillion in war savings plus interest to about $950 billion in cuts to discretionary and mandatory spending. However, "the war savings are not real cuts or real savings," Miller said.

On Tuesday, Boehner and Reid scrambled to build support for their proposals, but both plans appeared doomed without significant bipartisan modifications.

Boehner delayed a vote on his bill, which had been set for Wednesday.

The news on the Boehner proposal from the CBO alarmed conservatives, who were already balking at what they considered timid spending reductions. It also meant Boehner's bill would not meet his own demand that the cuts exceed the size of the $900 billion debt-limit increase he proposed.

House Republicans raced Tuesday night to rewrite portions of the measure to bring those numbers into line, most likely by identifying additional savings, aides said.

As Boehner pressed toward a cliffhanger vote as soon as Thursday in the House, President Obama signaled that he is likely to veto the measure because it would force another battle over the debt limit early next year. Meanwhile, Reid pronounced the bill "dead on arrival" in the Senate, where Democrats were struggling to rally votes for Reid's plan to raise the debt ceiling by $2.7 trillion — enough additional borrowing authority to cover the nation's bills into 2013.

The legislative maneuvering played out against a backdrop of public outrage, as callers jammed the Capitol switchboard and visitors swamped congressional Web sites, apparently heeding a call Obama made Monday in a prime-time national address for Americans to contact their representatives in Congress.

At the height of the deluge, the Capitol was receiving 40,000 calls per hour, twice the normal rate. Some people encouraged lawmakers to stand firm, while others demanded a resolution to the weeks-long stalemate that threatens to undermine the sputtering U.S. recovery and damage the nation's global standing. Still others were simply worried that the impasse could prevent their Social Security checks from arriving on time.

Kate Cyrul, a spokeswoman for Sen. Tom Harkin, said the Iowa Democrat's office had received more than 700 e-mails and letters overnight, the majority of which "expressed frustration with the debt process and said that we should reach a compromise."

The national debt has already hit the $14.3 trillion legal limit. Unless Congress acts by next Tuesday, Treasury officials say they could begin running short of cash for federal health-care and retirement benefits, military salaries and payments due investors, potentially throwing the U.S. government into default for the first time. Even if a default is avoided, credit-rating companies are threatening to downgrade the nation's AAA rating, a move that could drive up interest rates for governments at all levels, as well as for ordinary Americans.

Some Republicans have challenged the Treasury's warnings, arguing that the economic impact of cutting off the Treasury's borrowing power would be limited.

While Boehner was facing major hurdles in persuading the House to approve his proposal, Reid was faring no better in the Senate. Democratic aides acknowledged that the Senate bill is unlikely to pass as written, because it lacks Republican support.

That backing was not forthcoming Tuesday. Senate Minority Leader Mitch McConnell (R-Ky.) criticized the Democratic alternative, saying it contains "highly suspect spending reduction features." He argued that more than a third of Reid's $2.7 trillion savings estimate would come from winding down the wars in Iraq and Afghanistan — and therefore would count as savings money that Obama never intended to spend.

With less than a week left to reach a deal, Reid spoke with Boehner by phone Tuesday morning and later met with McConnell about a potential compromise. But the leaders remained deeply divided over the size and duration of an increase and the mission of a debt-reduction committee that each measure would create.

Under Boehner's bill, the bipartisan 12-member panel would be required to deliver $1.8 trillion in additional savings by the end of the year. Adoption of a debt-reduction package would clear the way for Obama to increase the debt limit into 2013 without explicit congressional approval. But if the committee did not act, or Congress did not adopt its recommendations, policymakers would face another harrowing battle on the matter.

Late Tuesday, congressional leaders were still searching for a way to ensure that Congress adopts a far-reaching strategy — or to guarantee that lawmakers would raise the debt limit into 2013 without such a plan. McConnell said that they were close to a deal Sunday but that Obama rejected it.

"We're going to have to get back together and get a solution here. We cannot get a perfect solution, from my point of view, controlling only the House of Representatives. So I'm prepared to accept something less than perfect," McConnell told reporters. "We are trying to get a result here, and we know we can't get a result without something that can pass a Republican House, a Democratic Senate, and be signed by a Democratic president."

Democrats said one option under discussion is reviving recommendations from the Senate's so-called Gang of Six — an idea that has won support in both parties. For example, negotiators discussed adding a mechanism for moving a cost-cutting plan forward if the debt-reduction committee did not do so.

In that case, 10 senators — five from each party — could bring their own plan before the Senate without fear of amendment or filibuster. In theory, the group of 10 would be composed of moderates more inclined to compromise on raising taxes and cutting entitlement spending than the 12 committee members, whom party leaders would choose.

"We need to do whatever we can do to reassure capital markets and make sure we don't have a downgrade to our debt. And part of that is going to be creating a path forward to give the markets confidence that we are going to act comprehensively on our debt and our deficit," said Sen. Michael F. Bennet (D-Colo.), a Gang of Six supporter who huddled with more than a dozen Senate Democrats on Tuesday in search of a solution.

If Boehner's bill can't clear the House, Reid's talks with McConnell about winning GOP backing for the Senate measure would take on even greater urgency.

Even before the CBO analysis became public, Boehner faced trouble among lawmakers on his right flank, who argued that his measure would do too little to curb government spending. According to the CBO report, the Boehner bill would cut agency's authority to spend money by $44 billion next year, but it would actually reduce next year's budget deficit by only $5 billion.

Key conservative and pro-business groups were split over the measure. The U.S. Chamber of Commerce and Americans for Tax reform endorsed it, while the Club for Growth and Heritage Action did not. More than a dozen House Republicans and five GOP senators announced their opposition to the plan, while many more House members said they were leaning against it.

The cost estimate could only hurt, not least because it offered an eerie reminder of the disappointing CBO report that earlier this year revealed that a government funding bill for 2011 would also save much less than expected — nearly killing a plan to avert a government shutdown.

In a sense, House Republicans were paying a price for their own success. The CBO said Boehner's bill would save $1.1 trillion over the next decade compared with the budget as it stood in January, before Congress adopted sharp reductions to the 2011 budget for domestic agencies.

Boehner won that fight, cutting nearly $250 billion from projected spending over the next decade, the CBO said. But that forced the agency to draw up new budget projections in March. Measured against the new figures, Boehner's debt-limit bill would save only $850 billion through 2021, the CBO said.

Democrats said they were stunned that Boehner seemed unprepared for the news. "They should have known this was coming for months," one party aide said.

White House budget director Jacob J. Lew encouraged lawmakers not to judge Boehner too harshly, noting in a blog post that all the debt-reduction plans on offer — from the House Republican budget adopted in April to Obama's own framework for slicing $4 trillion from projected borrowing over the next 12 years — used the same January starting point.

"Throughout our weeks of talks, all parties have worked off a January baseline because we all recognized that we needed to start from the same place," Lew wrote. "There is a lot in Speaker Boehner's plan that we do not like and actively oppose. But, as this debate continues and intensifies in the coming days, it's important that we compare apples to apples, and make sure that we are all understanding the facts."

Boehner, meanwhile, pledged to fix the problem.

"We're here to change Washington — no more smoke-and-mirrors, no more 'phantom cuts.' We promised that we will cut spending more than we increase the debt limit – with no tax hikes – and we will keep that promise," Boehner said in a written statement. "As we speak, congressional staff are looking at options to adjust the legislation to meet our pledge."

Until the CBO issued its report on Boehner's bill, House Republican leaders believed support for it was growing, although its passage was far from certain. Few if any Democrats are expected to support the measure, and House Minority Whip Steny H. Hoyer (Md.) was urging those few Democrats who might be inclined to back it to hold their votes until Republicans had produced a majority on their own.

With 240 Republicans in a chamber with 433 lawmakers, that means Boehner can afford only about two dozen defections.

Some key conservatives were trying to help, notably Rep. Allen West (Fla.), a freshman who has built a reputation for outspoken media appearances and publicly questioning the motives of his leaders.

At a closed-door meeting Tuesday morning, West gave a passionate speech in favor of the plan, even though it only delivers on “75 percent” of the GOP’s objectives. West later told reporters that, during his Army days, the most effective soldiers were those who took 75-percent plans and “executed them 100 percent” rather than trying to be perfect from the start.

Rep. Jeff Flake (R-Ariz.), a longtime deficit hawk who criticized the idea of punting spending decisions to a special committee, said he remains undecided. However, he said he could not support the Reid plan or a government default.

“I have issues with it,” Flake said of Boehner’s bill. But, he said, “it may be the last train leaving the station.”

From:	Paustenbach, Mark
To:	_DL_FYI; _DL_Communications
Subject:	(npr) Bill Daley: Lawmakers See Perils Of Debt Inaction
Date:	Wednesday, July 27, 2011 9:04:07 AM

AUDIO: http://www.npr.org/2011/07/27/138730677/bill-daley-lawmakers-see-perils-of-debt-inaction?ps=cprs

Bill Daley: Lawmakers See Perils Of Debt Inaction

NPR's Steve Inskeep sat down Tuesday with Bill Daley, President Obama's chief of staff, and asked him about the president's address on cutting the deficit and raising the debt ceiling. The following is the transcript of the interview:

Steve Inskeep: Why does the president seem to be advocating this week for a bill that doesn't exist, that's not being considered in either the Senate or the House?

Bill Daley: Well, when the president spoke to the American people [Monday] night, and people in this town would probably be surprised to know that most American people have probably not focused on the debate that's been going on here. But as we enter this last week, and a very important discussion, he thought it was important that the American people understood what was at stake, what his position has been.

Obviously, he believes that there ought to be a balance to the real solutions to the deficit. There ought to be a balanced approach including revenue. He's disappointed that at this point neither bill includes revenue that's primarily being discussed. But he thought it was important to lay the entire discussion out to the American people, and not just on the bills that were before the Congress.

Inskeep: But doesn't this emphasize that for all practical purposes, even your allies in Congress have effectively surrendered? You're talking about different versions of the Republican version of events — the way to get out of this.

Daley: Well, that's not true. Sen. [Harry] Reid has a bill that has almost $3 trillion of deficit reduction. Let's remember, the president brought to this debate, this discussion, the issue of deficit reduction. ... Debt ceiling has been extended numerous times over the last number of years. But over the last, since I've been here, six months, the president has talked about serious deficit reduction, that would probably coincide with the fact that the debt ceiling had to be extended. So from the point of view of whether this has been a good debate to get the American people and the political system to finally address the deficit, I think that's been successful. It's unfortunate right now that it looks as though ... neither of the bills are going to include revenue, which is seriously needed if we are going to have a serious attempt to reduce the deficit.

Inskeep: When I asked people on Twitter what they would do if they had the opportunity to ask you, one of the questions came back: "Why are the Democrats folding while the Republicans stand firm?"

Daley: Democrats aren't folding at all. I think there is an attempt to get to a compromise. There is, as the president stated last night, there is a very large group within the House Republican caucus that has steadfastly said they will do nothing about a balanced approach, including revenue. So we have attempted, as has been made public, to strike a deal with Speaker Boehner that would have included revenue. We came very close. It was a serious attempt by both sides. It's unfortunate that didn't succeed, because I think the American people would have felt very good about leadership bringing to conclusion negotiations that would have been well-balanced.

Inskeep: Interesting that you say it was a serious attempt by both sides, because the Democratic Senatorial Campaign Committee has sent out an email — I presume it's gone to activists and reporters — which says, among other things, [House Speaker John] Boehner and the GOP will walk away from any plan that doesn't cripple President Obama. Do you believe that and, if so, why were you negotiating with him at all?

Daley: Well, I think we were negotiating because he is the speaker and represents the majority of the United States House, and obviously in our system the House has to vote for a package. And we believe that the speaker was well-motivated to do a deal. I think his difficulty was selling his leadership and his caucus that a deal that would include any revenue would, was going to be passable in their caucus. I think there is no question that their deal would have passed the House of Representatives, maybe not with the number he'd need in his caucus. But that's unfortunate because the American people would have benefited by such a deal.

Inskeep: Meaning you think that Boehner was sincere, not that he's determined to walk away from any deal?

Daley: I don't think he's determined to walk away from any deal. I think the speaker has political realities as the head of his party in the House that he's got to deal with, as does the president. The president heard enormous blowback in a negative way from his supporters and from many constituent groups that have special interests that were going to be affected by serious deficit reduction. The president was willing to take that criticism because he believed that a deal that strengthened Medicare, strengthened Medicaid and was balanced was the right approach.

Inskeep: Is the situation any closer to a resolution, as we speak, late on this Tuesday afternoon, than it was 24 hours ago?

Daley: I would think that more and more people by the hour are coming to realize the catastrophic potential negatives that would occur if the United States Congress did not act to meet their obligations.

Inskeep: People in Congress?

Daley: It is a vote of Congress. Congress has the obligation — not the president — to deal with the debt and the extension of the deficit. ... I think they are beginning to realize the seriousness. Not only are they hearing from their constituents — they're hearing from business interests, even though the markets have not reacted in a substantially negative way yet. One is playing with fire if they think that they can dabble with the full faith in credit of the United States of America.

Inskeep: You were seen as someone who could talk to the business community, who was trusted by the business community, who could explain this president to a very suspicious business community. The Chamber of Commerce, just across the park from the White House here, has put out a statement that I read as supporting Speaker Boehner's plan, the plan that he is pushing in the House, which is deemed unacceptable by the White House. What do you make of that?

Daley: Well, I spoke with Mr. [Thomas] Donahue, who runs the Chamber of Commerce, about an hour ago, and he indicated to me that he was sending a letter to all the Congress, encouraging them to bring this to some resolution so that it was not done in a — so the impasse would not negatively affect the economy. He did not indicate to me that he was supportive of Speaker Boehner's plan at all. So I've not seen the letter, but in my discussion with him, he sure did not indicate that to me.

Inskeep: This was a letter that seemed to be very positive about this bill, as well as about the importance of doing something.

Daley: Well, that's unfortunate, because for most of Mr. Donahue's members, or others who are not members of the chamber, every business leader I've talked to has said to me, 'What we need out of Washington is certainty.' Six months is not certainty. If you're in a business, you don't plan six months — you try to plan on an annual basis. Most companies at this time of year are preparing their [20]13 budgets and their plans, and their boards will vote on them in September. They don't do six-months plans. That's not the way you run a government. To keep this uncertainty and have the prospect that in six months, during a difficult economy, that we would go through this process again in order to solve the problems of the nation is not the way a great nation operates.

Inskeep: When you say six months, you are referring to the Boehner bill, which would lead to another debt ceiling debate.

Daley: Yeah. The one you're referring to that Mr. Donahue allegedly has endorsed.

Inskeep: Because you mention certainty and the desire for certainty — as you read the Constitution, as you read the laws and the political situation, does the president, by some means, have the power to assure certainty? To state that if Congress does not come to an agreement, the president can deal with the situation by the following means?

Daley: The lawyers which the president has received advice from, and just about every serious constitutional lawyer out there, has dismissed the notion that the president could usurp the obligations of Congress and take it upon himself the ability to act when Congress doesn't.

Inskeep: Let me make sure I am clear on this. There is the 14th Amendment route ...

Daley: Yeah, that's what I'm talking about.

Inskeep: ... There are other routes that have been discussed ...

Daley: Such as?

Inskeep: ... There is simply defying the law as President Lincoln did during the Civil War.

Daley: [Laughing] I don't think the American people would find it appropriate for the president of the United States to defy the laws of the nation and its Constitution, without their belief that that president should be impeached. And this president isn't going to do anything against the Constitution, against the laws of the United States of America.

Inskeep: So is the president powerless in this situation?

Daley: The Congress has the power to act. They have the obligation to act. The president cannot usurp the power that's in the Congress. So it's up to the Congress to live up to their obligation and act, and we expect that they will.

Inskeep: Well, let me ask another question related to that. You clearly have Republicans in Congress that are willing to go past Aug. 2, risk default or whatever might happen after that date. If a bill reaches the president's desk and it is unacceptable for you — for example, it would only last for six months and then there'd be another debt-ceiling fight — and that's the only bill the president has, and it's Aug. 1 or Aug. 2, will the president veto that bill?

Daley: It doesn't do any good to go through. The president has talked and the senior advisers have said that the House bill ... is unacceptable to him. And the senior advisers will recommend the veto of that bill. That bill will not pass the Senate as it may pass the House. So a hypothetical and jumping around, but the fact of the matter is the Boehner bill that's been presented will not pass the United States Senate as it is presented at the House of Representatives.

Inskeep: Will the president veto any bill?

Daley: I'm not going to get into hypotheticals. Every leader of the Congress — the leadership on the Democrats and the Republican sides in the United States have said that they believe the ceiling will be extended. They will not — they will reach their obligations and extend the debt ceiling so that the full faith and credit of the United States is upheld.

Inskeep: Two quick questions. There's been reference by the White House spokesman to a Plan B. What is it?

Daley: [Laughing] I'd like to know. I have no idea what Plan B is.

Inskeep: There was a reference by [White House Press Secretary] Jay Carney to "working" on a Plan B.

Daley: I think there's lots of ideas being floated around on the Hill and in conversations here, but there is no secret plan that's been agreed to by anybody. Again, this is an obligation of Congress.

Inskeep: One last thing. Speaker Boehner has insisted that his last offer was still on the table. It included increased revenues — $800 billion over the course of a decade — as well as substantial spending cuts. It wasn't exactly what the president wanted, but it included revenue increases and a lot of spending cuts. Why not just call back the speaker and say yes to that?

Daley: Well, I think we're still waiting for a call back from the speaker. The question isn't whether Speaker Boehner's plan, which the president and he had negotiated on for a long time and Congressman [Eric] Cantor was involved with, they walked away from that deal. They walked away from their own deal. And ...

Inskeep: He's publicly said it's still on the table. Why not just accept it? See what happens?

Daley: Well, we'd like to see the deal that the speaker's referring to. The one that we had negotiated, and the one that the speaker and the president thought was very close — we probably were, in reality, about 85 percent of the way there. The speaker had not agreed to everything on his own, that you referred to as his own deal, and there were still items to be negotiated. My sense was it could have been brought to conclusion very quickly. And that's what we were attempting to do when there seemed to be radio silence from the Hill. But I think if at some point, right now, the speaker has been very straightforward and public in saying that's off the table, and he is moving forward on a plan that he's attempting to pass ... and I think until the House acts, we probably ought to wait and see exactly the position of the speaker and the Republican Party ...

Inskeep: And are you sure that Aug. 2 is the last time you have ... ?

Daley: Yeah.

Inskeep: Because there have been public estimates from the outside of tax revenues coming in suggesting you have another few days.

Daley: Well, look it — some people as far as I've heard about the public speculation, I guess if you were to run down ...

Inskeep: Well, these are investment firms making estimates.

Daley: So, well, there are a lot of investment firms that didn't do right by their shareholders or the American people. If there are some who believe that the checkbook of America should be run down to zero and then take action, well, I don't think you, a family, runs their finances that way, and the United States government shouldn't run their checkbook down to zero before they begin to take action. So there is no doubt Aug. 2 is the date. To go beyond that is not possible. Some people would dream of that to avoid making a decision, but that's not the real situation that America faces right now. The reality is Aug. 2 is the deadline.

Inskeep: Mr. Daley, thank you very much.

Daley: Thank you very much.

From:	Robertson, William
To:	_DL_Communications; _DL_FYI
Subject:	Reuters-White House rules out Constitution debt option
Date:	Tuesday, July 26, 2011 4:02:53 PM

White House rules out Constitution debt option
3:49pm EDT
* White House rules out using 14th Amendment on debt limit

* Obama has no "luxury" to debate constitutional law

* Only Congress has authority to borrow - White House

By Alister Bull

WASHINGTON, July 26 (Reuters) - President Barack Obama will not use a clause in the U.S. Constitution to bypass Congress and raise the federal government's debt limit on his own, the White House said on Tuesday.

"It's not available," White House press secretary Jay Carney said in the administration's firmest dismissal of the 14th Amendment as a way to avoid a U.S. default if Congress fails to lift the $14.3 trillion debt limit by an Aug. 2 deadline.

"The Constitution makes clear that Congress has the authority, not the president, to borrow money and only Congress can increase the statutory debt ceiling. That is just a reality."

The 14th Amendment stipulates the U.S. public debt "shall not be questioned" -- which some legal scholars argue would allow Obama, a Democrat, to sidestep lawmakers and raise the borrowing limit on his own.

The White House has persistently poured cold water on the idea that a provision in the Constitution stemming from the Civil War in the 1860s to make sure Union debts were honored and Confederate obligations were not could be a way around the debt impasse.

But some influential Democrats have continued to see it as a legitimate strategy to sidestep a Congress deadlocked over the debt limit because of fiscally conservative Tea Party Republicans who will not compromise on any tax increases.

Former President Bill Clinton, a Democrat, has said that if it came to averting a U.S. default, he would invoke the 14th Amendment, raise the debt ceiling and "force the courts to stop me."

Obama played down this notion on Friday, when he said White House lawyers were "not persuaded that that is a winning argument." But his remarks did signal the 14th Amendment route was at least being reviewed by his administration.

That impression remained intact after comments by Treasury Secretary Timothy Geithner on Sunday that bypassing Congress was "not a workable option," which also appeared to stop short of a flat-out rejection.

On Tuesday, Carney went out of his way to rule it out.

"You can have an esoteric discussion about constitutional law and what could not or should not be," he said. "But we don't have the luxury or the time. The law is as it is. That is how we view it and that is why we have to reach a compromise." (Additional reporting by Laura MacInnis and Caren Bohan; Editing by John O'Callaghan)

From:	Anderson, Charlie
To:	_DL_Communications; _DL_FYI
Subject:	NYT Op-ed (Posner and Vermeule): Obama Should Raise the Debt Ceiling on His Own
Date:	Friday, July 22, 2011 8:11:04 PM

July 22, 2011

Obama Should Raise the Debt Ceiling on His Own

By ERIC A. POSNER and ADRIAN VERMEULE

PRESIDENT OBAMA should announce that he will raise the debt ceiling unilaterally if he cannot reach a deal with Congress. Constitutionally, he would be on solid ground. Politically, he can't lose. The public wants a deal. The threat to act unilaterally will only strengthen his bargaining power if Republicans don't want to be frozen out; if they defy him, the public will throw their support to the president. Either way, Republicans look like the obstructionists and will pay a price.

Where would Mr. Obama get his constitutional authority to raise the debt ceiling?

Our argument is not based on some obscure provision of the 14th amendment, but on the necessities of state, and on the president's role as the ultimate guardian of the constitutional order, charged with taking care that the laws be faithfully executed.

When Abraham Lincoln suspended habeas corpus during the Civil War, he said that it was necessary to violate one law, lest all the laws but one fall into ruin. So too here: the president may need to violate the debt ceiling to prevent a catastrophe — whether a default on the debt or an enormous reduction in federal spending, which would throw the country back into recession.

A deadlocked Congress has become incapable of acting consistently; it commits to entitlements it will not reduce, appropriates funds it does not have, borrows money it cannot repay and then imposes a debt ceiling it will not raise. One of those things must give; in reality, that means that the conflicting laws will have to be reconciled by the only actor who combines the power to act with a willingness to shoulder responsibility — the president.

Franklin D. Roosevelt saw this problem clearly, and in his first inaugural address in 1933, addressing his plans to confront the economic crisis, he hinted darkly that "it is to be hoped that the normal balance of executive and legislative authority may be wholly equal, wholly adequate to meet the unprecedented task before us."

"But it may be," he continued, "that an unprecedented demand and need for undelayed action may call for temporary departure from that normal balance of public procedure." In the event, Congress gave him the authorities he sought, and he did not follow through on this threat.

The basic problem today is that the president and the House Republicans are locked in a classic bargaining game. The worst outcome for both is default on the debt, but each side holds out for a favorable deal. They will certainly go to the wire, but economists who have studied bargaining games have shown that there is always a real possibility of breakdown rather than compromise, because only by refusing to deal can each side convey the seriousness of its position. That is why labor strikes occur even though workers and managers do jointly better if they make a deal. Failure to raise the debt ceiling, however, is not akin to any old plant shutdown: it would be catastrophic.

A proposal has been floated by Senator Mitch McConnell of Kentucky, the Republican minority leader, under which Congress would delegate to the president the power to raise the debt ceiling, subject to some minor procedural constraints. Mr. McConnell's ploy is suspect, because it assumes away the problem that it attempts to solve: the internal paralysis of Congress. Congress probably cannot act on its own — for example, by creating a veto-proof budget — because it is internally deadlocked. Not only do Democrats and Republicans disagree, but so do the Republican leaders, who want to avoid a debt default, and the Tea Party-inspired Republican back-benchers, who appear to believe that only a purifying Götterdämmerung can put public finances back in order. The latest proposed deal negotiated by House Speaker John A. Boehner and President Obama is vulnerable to the same problem.

Discussions of an earlier proposal to rely on the 14th Amendment for the

President's authority to raise the debt level centered on whether the debt issued after the president's action would be under a cloud. Commentators pointed out that the language in the 14th Amendment, which commands that the validity of legally authorized public debt shall not be questioned, does not explicitly authorize the president to do anything. But debt under a cloud is better than default. It would be better if the parties made a deal, but if they don't, default is the worst outcome.

The 14th Amendment is a red herring, however; even if its debt provision did not exist, the president would derive authority from his paramount duty to ward off serious threats to the constitutional and economic system.

Mr. Obama needs to make clear that he will act unilaterally to raise the debt ceiling if Congress does not cooperate; if he does so, then we predict that Congress will cooperate by enacting the McConnell plan or a similar fig leaf, and so Mr. Obama will not need to follow through on his threat, and the constitutional crisis will pass — just as it did with Roosevelt. Republicans will be publicly outraged, but privately relieved. They do not want an economic catastrophe; they can avoid violating their no-taxes pledge; and they retain the power to fight the budget battle another day. As for the president, he really has no other choice.

Eric A. Posner, a professor of law at the University of Chicago, and Adrian Vermeule, a professor of law at Harvard, are the authors of "The Executive Unbound: After the Madisonian Republic."

From:	Anderson, Matthew
To:	_DL_FYI
Subject:	NYT: House Speaker Pulls Out of Talks to Raise Debt Ceiling
Date:	Friday, July 22, 2011 6:45:27 PM

NYT: House Speaker Pulls Out of Talks to Raise Debt Ceiling

By CARL HULSE and HELENE COOPER

WASHINGTON — An angry and frustrated President Obama demanded that Congressional leaders return to the White House Saturday morning after House Speaker John A. Boehner broke off debt talks Friday afternoon.

Mr. Obama said Mr. Boehner had stopped returning his calls on Friday as it became clear that Republicans would not accept the package of spending cuts and tax increases that Mr. Obama was proposing.

The president said the legislative leaders must get serious about finding a way to increase the nation's debt ceiling before the deadline on Aug. 2.

"I want them here at 11 a.m. tomorrow," Mr. Obama told reporters in a hastily called news conference at the White House. "They are going to have to explain to me how it is that we are going to avoid default."

Those leaders include Mr. Boehner, the Senate Republican leader Mitch McConnell, the House Democratic leader Nancy Pelosi and the Senate Democratic leader Harry Reid. Time is running out to reach a deal by Aug. 2 to avert a default, he said.

Mr. Boehner announced in a letter to his Republican colleagues Friday night that he was walking away for a second time from negotiations with the president.

"A deal was never reached, and was never really close," Mr. Boehner wrote. "In the end, we couldn't connect. Not because of different personalities, but because of different visions for our country."

In his comments, Mr. Boehner said that Mr. Obama wanted to raise taxes too high and would not make "fundamental changes" to benefit programs like Medicare. Mr. Boehner is now expected to work with Senate leaders on an alternative aimed at averting a market-rattling, first-ever federal default.

At the news conference, Mr. Obama said that Republicans have walked away from an "extraordinarily fair deal" to trim the deficit and raise the debt ceiling.

"I have gone out of my way to make compromises," Mr. Obama said.

"Essentially what we had offered Speaker Boehner was over a trillion dollars in cuts to discretionary spending, both domestic and defense," Mr. Obama said. "We then offered an additional $650 billion in cuts to entitlement programs_ Medicare, Medicaid, Social Security. We believed that it was possible to shape those in a way that preserved the integrity of the system, made them available for the next generation and did not affect current beneficiaries in an adverse way."

The developments came a few hours after the Senate rejected a House plan to substantially cut government spending and raise the federal debt limit contingent on a balanced budget proposal, leaving Congress up in the air about how to resolve its impasse over the federal debt ceiling and avoid a government default.

Senators voted 51 to 46 along party lines to set aside the measure, known as the "cut, cap and balance" bill, which was sent to the Senate by the House this week and seen by conservative House members as their preferred option for increasing the debt ceiling. For many House Republicans, the legislation was their best offer in the continuing standoff with President Obama and Congressional Democrats.

After the vote, Mr Reid, the Nevada Democrat and majority leader, said the Senate was for the moment abandoning its fallback plan and would not immediately move ahead with a procedural maneuver proposed by Mr. McConnell of Kentucky to increase the debt limit. H

"The path to avert default now runs through the House of Representatives," Mr. Reid said after Democrats voted against the House plan. He said that he was canceling plans to keep the Senate in session over the weekend and that lawmakers would instead reconvene Monday, just more than a week before the Aug. 2 deadline set by the Treasury Department for increasing the $14.3 trillion limit.

The debt fight was turning into what Senator Mark Pryor, Democrat of Arkansas, described as a "cliffhanger moment," with no resolution in sight even as talks continued between the president and the speaker.

Mr. Obama said at a town hall meeting where he was taking questions Friday morning that he was willing to agree to "historic" spending cuts in an effort to trim the nation's budget deficit, and urged Congressional factions to come together and reach a deal. He said it was not conceivable that the United States would default on its debt.

"This is a rare opportunity for both parties to come together and choose a path where we stop putting so much debt on our credit card," Mr. Obama said.

But he repeated his demand that spending cuts be accompanied by revenue increases, and said tackling the rising costs of Medicare and Medicaid was necessary in order to preserve those programs.

Before a friendly audience, he spoke, sometimes in stark terms, of the concessions that Democrats will have to make in order to get the budget deal passed.

"I've agreed to also target some programs that I actually think are worthwhile," the president said. "They're cuts that some people in my own party aren't too happy about. And frankly, I wouldn't make them if money weren't so tight."

Even before he has reached a sweeping budget and debt deal with Mr. Boehner, Mr. Obama is trying to sell his concessions to Congressional Democrats, many of whom fear a "grand bargain" will undercut their party's ability in the 2012 campaigns to use Republicans support of deep cuts in Medicare, Medicaid and Social Security against them.

On the campus of the University of Maryland in College Park, Mr. Obama thrust himself deep into heavily Democratic country — there were few Republicans to be found among the audience of around 2,500 at the town hall meeting in Ritchie Coliseum on Friday. Mr. Obama fielded an array of questions that in many ways showcased the deep mistrust with which some on the left are viewing the budget negotiations.

One man said he had cerebral palsy and needed health services ("Please don't leave us holding the bag," he said, to cheers from the audience). Another woman who said she was a teacher asked Mr. Obama how she was supposed to teach her students about compromise when Republicans never did so.

"I'm sympathetic to your view that this would be easier if I could do this on my own," Mr. Obama said to another man who suggested that Republican demands for deeper cuts be tossed aside. "But that's not how our democracy works, and Americans made a decision about divided government."

Though the Senate would not be in session, Mr. Reid said meetings would be occurring all weekend to try to resolve the impasse. "I hope this weekend brings good sense, common sense and vitality to the work that is being done in the House of Representatives," Mr. Reid said.

Republicans criticized Democrats for their rejection of the House plan.

"Senate Democrats have defied the will of the American people who overwhelmingly support real spending cuts, caps on future spending and a balanced budget to create a better environment for private-sector job growth," Mr. Boehner said.

But the outcome was a foregone conclusion and leaders of both parties said the Senate needed to dismiss the House plan to show Republicans that the proposal was dead, clearing the way for an alternative, though exactly what that alternative would be was unclear.

Mr. Obama for the first time addressed — and ruled out — the idea that the Constitution empowers a president to increase the debt limit to prevent default and, as he put it, "basically ignore" the federal law requiring that the debt ceiling be set by statute. The argument of "the constitutional option," which President Bill Clinton — like Mr. Obama a former constitutional law instructor — endorsed in an interview this week, is based on the 14th Amendment's provision that the validity of the United States debt "shall not be questioned."

"I have talked to my lawyers," Mr. Obama said, and "they are not persuaded that that is a winning argument."

Michael D. Shear and Jackie Calmes contributed reporting.

From: Robertson, William
To: _DL_Communications; _DL_FYI
Subject: WSJ-Bracing for Chaos If Debt Talks Fail
Date: Friday, July 22, 2011 5:46:31 PM

Bracing for Chaos If Debt Talks Fail

DAMIAN PALETTA
WASHINGTON—Top government officials intensified discussions about how they would handle the chaos in financial markets that could ensue if the debt ceiling weren't raised by Aug. 2, evidence the Obama administration is weighing scenarios it swore for months would never occur.

Treasury Secretary **Timothy Geithner**, Federal Reserve Chairman Ben Bernanke, and Federal Reserve Bank of New York President William Dudley met Friday to talk about challenges they likely will face if no deal is struck in time. They discussed a number of issues that officials hope never materialize, including what would happen if the government's debt were downgraded by ratings firms.

"While we remain confident that Congress will raise the debt ceiling soon, officials from the Treasury, Federal Reserve Board and the New York Fed met today to discuss the implications for the U.S. economy if Congress fails to act," the three said in a joint written statement after the 90-minute meeting.

Administration officials have determined they don't have the power to raise the debt ceiling without Congress, and likely have no power to avoid an eventual default on government debt. That has put their focus on trying to determine what financial turmoil might unfold if the debt ceiling isn't raised, and what powers they might have to try and blunt any fallout.

A key concern for regulators is Treasury's expected move to replace $87 billion in maturing debt on Aug. 4. Investors are still expected to line up for an auction, but the government might have to pay more if the debt ceiling isn't raised, given the higher risk the government could someday default. If the auction "fails" because investors don't show up, it could trigger a financial crisis.

The Federal Reserve would likely play a central role in managing any such crisis, by lending to banks or money market mutual funds if they faced cash shortages.

But the central bank wouldn't have the ability to lend the government money. It is permitted to buy U.S. Treasury securities, purchasing $900 billion in recent years as part of its efforts to support the broader economy. But by law it can buy Treasurys only "on the open market," meaning from investors and not directly from the U.S. Treasury. That means the Treasury can't turn to the Fed for cash if it is restricted from issuing new securities to the public by the debt limit.

"I want to eliminate any expectation that the Fed through any mechanism could offset the impact of a default on the government debt," Mr. Bernanke told Congress last week.

If Treasury runs short of cash and must decide whether to pay some people (such as overseas bondholders) and not others (such as Social Security recipients), it would need to manage that through the Fed's payment systems. That would be a Herculean task.

Fed and Treasury officials studied whether they could shut off some payments but not others during the debt-limit debates in the mid-1990s and concluded that the government's systems weren't up to the complexity of the task, said Donald Kohn, the Fed's former vice chairman and currently a Brookings Institution scholar.

Given the lengthy process of changing the computer coding in Fed and Treasury systems that would have been required, "it was just impossible to cut off some payments and not others," Mr. Kohn said, but noted he didn't know if the current situation was more flexible.

The Treasury Department's Financial Management Service office processes about a billion payments annually, which works out to more than 2.7 million payments a day and more than 114,000 payments per hour, not including payments made by the military, which are handled on a different system.

President Barack Obama said Friday that he had spoken with his lawyers about whether he could invoke the 14th amendment to avoid having the government default on its debt if the debt ceiling is raised. The amendment, among other things, says the validity of the U.S. debt "shall not be questioned."

"They are not persuaded that that is a winning argument," Mr. Obama told a crowd in Maryland.

—Jon Hilsenrath contributed to this article.
Write to Damian Paletta at damian.paletta@wsj.com

From:	Anderson, Charlie
To:	_DL_Communications; _DL_FYI
Subject:	NYT: Senate Rejects House Budget Plan; Obama Calls for Deal
Date:	Friday, July 22, 2011 1:08:42 PM

July 22, 2011

Senate Rejects House Budget Plan; Obama Calls for Deal

By CARL HULSE and HELENE COOPER

WASHINGTON — The Senate on Friday rejected a House plan to substantially cut government spending and raise the federal debt limit contingent on a balanced budget proposal, leaving Congress up in the air about how to resolve its impasse over the federal debt ceiling and avoid a government default.

Senators voted 51 to 46 along party lines to set aside the measure, known as the "cut, cap and balance" bill, which was sent to the Senate by the House this week and seen by conservative House members as their preferred option for increasing the debt ceiling. For many House Republicans, the legislation was their best offer in the continuing standoff with President Obama and Congressional Democrats.

After the vote, Senator Harry Reid, the Nevada Democrat and majority leader, said the Senate was for the moment abandoning its fallback plan and would not immediately move ahead with a procedural maneuver proposed by Senator Mitch McConnell of Kentucky to increase the debt limit. He said the Senate would instead await the results of negotiations between Mr. Obama and the House speaker, John A. Boehner of Ohio, over a broad deficit reduction package.

"The path to avert default now runs through the House of Representatives," Mr. Reid said after Democrats voted against the House plan. He said that he was canceling plans to keep the Senate in session over the weekend and that lawmakers would instead reconvene Monday, just more than a week before the Aug. 2 deadline set by the Treasury Department for increasing the $14.3 trillion limit.

The debt fight was turning into what Senator Mark Pryor, Democrat of

Arkansas, described as a “cliffhanger moment,” with no resolution in sight even as talks continued between the president and the speaker.

Mr. Obama said at a town hall meeting where he was taking questions Friday morning that he was willing to agree to “historic” spending cuts in an effort to trim the nation’s budget deficit, and urged Congressional factions to come together and reach a deal. He said it was not conceivable that the United States would default on its debt.

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But he repeated his demand that spending cuts be accompanied by revenue increases, and said tackling the rising costs of Medicare and Medicaid was necessary in order to preserve those programs.

Before a friendly audience, he spoke, sometimes in stark terms, of the concessions that Democrats will have to make in order to get the budget deal passed.

“I’ve agreed to also target some programs that I actually think are worthwhile,” the president said. “They’re cuts that some people in my own party aren’t too happy about. And frankly, I wouldn’t make them if money weren’t so tight.”

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But the outcome was a foregone conclusion and leaders of both parties said the Senate needed to dismiss the House plan to show Republicans that the proposal was dead, clearing the way for an alternative, though exactly what that alternative would be was unclear.

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Michael D. Shear and Jackie Calmes contributed reporting.

(b) (5)

From: Morning Money[SMTP:MORNINGMONEY@POLITICO.COM]
Sent: Tuesday, July 19, 2011 5:41:52 AM
To: Alt_TFG75
Subject: POLITICO's Morning Money: Flash: Clinton would invoke the 14th - Johnson defends CFPB - Chamber on Dodd-Frank - Gensler says nation still 'unprotected'
Auto forwarded by a Rule

By Ben White (
mailto:bwhite@politico.com
bwhite@politico.com ; Twitter:
http://go.politicoemail.com/?qs=45fc5139e040d7a129aace28e3c92530ff28ae7b0e9c7ef58329671c5250f420
@morningmoneyben)

FLASH: CLINTON WOULD INVOKE THE 14TH - Former President Bill Clinton told National Memo's Joe Conason last night that if he were still in office and all else failed he would invoke the 14th Amendment and raise the nation's debt ceiling unilaterally to avoid default and then "force the courts to stop me."
http://go.politicoemail.com/?qs=c93896705c3df85e7ef2faab38c59f26a9f3890a167df5d6a73c5a95e34e5eb9
http://go.politicoemail.com/?qs=c93896705c3df85e7ef2faab38c59f26a9f3890a167df5d6a73c5a95e34e5eb9

M.M. TAKE - It's easy to argue the opposing side on the 14th question. And the current occupant of the Oval is said to have ruled it out. But in practical terms it makes sense as a final firewall against catastrophe because a challenge would take time (possibly a lot) affording a longer window for a solution. In fact, with his back against the wall President Obama probably would have no choice but to invoke the 14th. The alternative is not acceptable.

HAPPY ANNIVERSARY - Two days before the official Dodd-Frank anniversary, the fierce lobbying battle over the legislation's future will play out all over Washington this morning. M.M. has exclusive first looks at the biggest speeches and events. ...

FIRST LOOK I: LUCAS DECLARES "ENOUGH ALREADY" - From House Agriculture Committee Chairman Frank Lucas' remarks to be delivered at today's U.S. Chamber of Commerce Dodd-Frank anniversary event: "The truth is that financial reform is not a black-and-white, support-or-repeal issue. ... But instead of looking at how we can improve these rules and regulations ... the Administration is retreating behind a smokescreen of rhetoric, framing this debate in black and white terms. ...

"It's a symptom of a larger problem within the debate about Dodd-Frank-any efforts to urge regulators to consider the economic costs of the new regulations is cast as an attack on Dodd-Frank, aimed at its repeal. Enough already. It's time for an honest debate about how these regulations are reshaping the derivatives markets, and affecting the way businesses across the country can manage risk."

FIRST LOOK II: JOHNSON DEFENDS CFPB - From Senate Banking Committee Chairman Tim Johnson's opening statement to be delivered at this morning's hearing on consumer financial protection, a hot topic given the GOP's steadfast refusal to confirm Richard Cordray-or anyone else-as CFPB chair without significant structural changes to the agency:

"As we approach the one-year anniversary ... we should all be reminded of a basic lesson we learned from the Great Recession - failing to protect consumers has consequences not only for individuals and families, but also for the health of America's economy ...The CFPB will help -- by promoting an equitable and transparent marketplace and leveling the playing field between those responsible actors and the unregulated companies that preyed unchecked on consumers."

FIRST LOOK III: CHAMBER ON DODD-FRANK - At its event, the U.S. Chamber will release a report offering fixes to what it calls "five major holes" in our financial system: "This includes rationalizing the regulatory structure (with FSOC addressing the most egregious conflicts), reforming the regulatory agencies so they have the right operational capacity and technology, making nongovernment policymakers accountable (FINRA and ISS should be held to same rules as other regulators), restoring integrity to litigation and enforcement, and improving our global competitiveness by not enacting rules where the rest of the world is unlikely to follow (eg. Volcker Rule)."

David Hirschmann, head of the Chamber's Capital Markets Division, will say: "The problem with our regulatory structure is not the quantity of regulations, but the quality ... By exposing these weaknesses and offering solutions, we can strengthen our regulatory system to ensure the competiveness of American markets for decades to come." Chamber event schedule: Full schedule:
http://go.politicoemail.com/?qs=86a3a42cef6f6b7cabcec40b596bb03faf695497cd172282f875bd1690939c6b
http://go.politicoemail.com/?qs=86a3a42cef6f6b7cabcec40b596bb03faf695497cd172282f875bd1690939c6b

FIRST LOOK IV: GENSLER SAYS NATION STILL "UNPROTECTED" - From CFTC Chair Gary Gensler's opening remarks to be delivered at today's open meeting to consider and vote on three more final Dodd-Frank derivative rules: "The Dodd-Frank Act includes critical swaps market reforms to protect the American people. ... Though the crisis had many causes, it is clear that the swaps market played a central role. Swaps added leverage to the financial system with more risk being backed by less capital. ... [U]ntil the CFTC completes its rule-writing process and implements and enforces these new rules, the public remains unprotected." Full remarks:
http://go.politicoemail.com/?qs=c445c2a1d9f331b8ea9be15606b7f253e56f53557d8941cff51bbd44fcd42e40
http://go.politicoemail.com/?qs=c445c2a1d9f331b8ea9be15606b7f253e56f53557d8941cff51bbd44fcd42e40

M.M. FLASH BACK: CORDRAY EDITION - On May 4th, M.M. scooped: "CORDRAY FALL BACK? - Another person close to the situation suggested that if the White House decides not to nominate Warren, then former Ohio Attorney General Richard Cordray, currently head of enforcement at the CFPB, would be a natural fall-back candidate."

We had actually forgotten about this until the aforementioned "person close to the matter" reminded us and suggested we "take a victory lap." Consider the lap taken and the horn tooted.

From:	Anderson, Charlie
To:	_DL_Communications; _DL_FYI
Subject:	The Atlantic (Megan McArdle): The Giant Disconnect Between Wall Street and Washington
Date:	Wednesday, July 13, 2011 9:32:31 PM

The Giant Disconnect Between Wall Street and Washington

By Megan McArdle

Over the last week, I've been thinking a lot about the disconnect between the bond markets, and the people here in politics who are driving the bond market outcomes. After all, one answer to the question "Where are the bond market vigilantes?" is "they don't really understand what's going on."

I don't mean that they are not smart--they are. They're deeply knowledgeable about the math of default (a metric by which the United States is in basically okay shape, especially when you consider the most plausible alternatives--heavily indebted Japan, with its deficit even larger than ours; a European superstate that seems to be on the brink of a currency crisis; Chinese markets that are illiquid, less-than-transparent, and fairly tightly controlled by the government; and various small nations that don't really have the asset base to absorb the amount of capital the world wants to stash somewhere "safe").

But it is politics, not math, which matters right now. In the immediate future, what matters is whether we'll get it together and raise the debt ceiling; in the longer-term, what matters is whether we can cut some sort of deal over entitlements that puts the government on sound, sustainable fiscal footing.

And about that, Wall Street knows less than we here in Washington. I dialed into a sell-side conference call last week to hear what sort of high-level analysis the bond vigilantes were doing, and the answer seemed to be that they knew less than I did. I didn't hear anything about the process that I couldn't have read in the pages of the *New York Times* or the *Wall Street Journal*--or my own blog. Listening, I thought of the frustration I've often had with people in New York who blithely lay out political strategies for their favored party that couldn't possibly actually work, either because said New Yorkers don't understand the institutional barriers, or because they don't understand what is actually popular outside of Manhattan and Brooklyn. Even a misunderstanding of small technical questions--like the need for a CBO score, the vulnerability of bills to amendment, or the time it takes to whip votes--lead people outside of Washington to frequently underestimate the difficulties of doing the "obvious" thing.

On the flip side, it's also clear to me that many people in Washington are living in a bubble where procedure and politics often shut out common sense. I know I'm losing valuable intelligence about what's happening in the financial sector, because I'm simply not marinating in it every day. On that same call, I heard an analyst made a point about proposed 14th Amendment bypass of the debt limit, which was so obvious that I couldn't believe I hadn't thought of it: to wit, even if the Treasury simply went ahead and issued more debt, who was going to buy these instruments of dubious legality? And at what price? Yet all the DC people I'd seen writing about the "14th Amendment Solution" had focused on the legality of the move, or the political fallout; no one had thought about, like, finding customers for the debt.

Washington almost never really thinks about the customers for our debt. They're useful bogeymen who can be deployed against policies you don't like. You see liberals claiming that bondholders will be horrified if we cut Social Security benefits (they won't, though they might be horrified if this becomes necessary because we don't lift the debt ceiling--but that worry will be a fear that Congress is crazy, not a fear that this means we're defaulting on our "obligations" to seniors) You see Republicans claim that they'll be spooked by tax hikes (maybe if we were hiking them from 70% to 80%, but no, the bond market does not care whether top marginal rates are 35% or 45%.) But on questions where it's actually important, we ignore the core problem of finding customers in favor of arguing about constitutional arcana. I had an email exchange with someone about the legitimacy of the 14th amendment route, to whom I pointed out that it didn't seem very practical, and he replied "practicalities aside . . . " Practicalities aside? Who cares whether it's constitutional for the Treasury to issue bonds no one buys?

And don't get me started on the people who think that some sort of "technical" default wouldn't be a problem.

There are people in Washington who get Wall Street, and people on Wall Street who get Washington. But they are a small minority in both places--and in both places, outcomes depend on the majority. I submit that this disconnect is dangerous. Wall Street is giving us too much rope to hang ourselves because they don't really understand the barriers to achieving fiscal sanity--and Washington is taking it, because they don't really understand how Wall Street thinks, and what the bond traders will do when they finally decide that we're likely to default.
This article available online at:

http://www.theatlantic.com/business/archive/2011/07/the-giant-disconnect-between-wall-street-and-washington/241889/

From: Google Alerts
To: Pulliam, Joel
Subject: [spam] Google Alert - "debt limit"
Date: Wednesday, July 13, 2011 5:21:01 PM

News **4** new results for **"debt limit"**

Top Democrats laud GOP **debt-limit** move; Fed chief warns of 'calamity' if US ...

Washington Post
"Currently, there is not a single **debt limit** proposal that can pass the House of Representatives," Cantor said in a statement issued 90 minutes before the fourth straight day of White House negotiations on debt reduction. As rank-and-file Republicans **...**
See all stories on this topic »

Bachmann: Obama should 'tell the truth' about debt ceiling

Washington Post
Treasury Secretary Timothy M. Geithner has warned that failure to raise the **debt limit** could cause the country to default on its loans and trigger a global financial crisis, and Obama has recently suggested that the elderly may not get their Social **...**
See all stories on this topic »

CRS analysis: Obama can't use 14th amendment to circumvent **debt limit**

Washington Times (blog)
by Stephen Dinan The non-partisan Congressional Research Service has issued a new report saying that if Congress refuses to raise the government's borrowing limit, the White House cannot do so unilaterally under the Constitution's 14th Amendment. **...**
See all stories on this topic »

Washington Times (blog)

Dem senator: Exempt Social Security from **debt limit**, if necessary

The Hill (blog)
Bill Nelson of Florida said Wednesday that he was ready with legislation that would keep Social Security payments from counting against the **debt limit**, in case lawmakers do not raise the $14.3 trillion ceiling by the Aug. 2 deadline. **...**
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Tip: Use site restrict in your query to search within a site (site:nytimes.com or site:.edu). Learn more.

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Avoiding The Debt Ceiling
By Stephen J. Marmon

$90,785,744,400 in Treasury Bills come due on August 4th. If the debt ceiling isn't raised, the federal government will have only $16 billion available to redeem them. That's a full-blown, downgrade to junk status, default.

President Obama can prevent the worldwide financial crisis that catastrophe would cause. But he won't need to claim, as some have, that the debt ceiling law is unconstitutional. He can use the rarely discussed power of executive discretion.

After announcing that he is forced to choose between conflicting but constitutional laws – paying the legally mandated federal expenditures or adhering to the debt ceiling requirement – Mr. Obama can order Treasury Secretary Geithner to sell $250 billion of new notes. That will cover the shortfall through the end of this fiscal year.

For 152 years the United States had no ceiling on its debt. Whenever we spent more money than we got in, specific laws were enacted to authorize the necessary bonds. That policy lasted until 1941, when overall debt limits finally were established.

Congress normally has raised the debt ceiling since then to pay for expenditures. But now it has enacted laws that set expenses significantly higher than revenue, while the debt ceiling law seems to bar the additional borrowing needed to make up the shortfall.

That conflict between the otherwise constitutional debt ceiling law and the various appropriations bills is the problem. Executive discretion, which is an established presidential prerogative, allows Mr. Obama to decide which of the conflicting laws to execute if there is no debt limit increase by August. The Supreme Court held in 1936 that the president has a "degree of discretion and freedom from statutory restriction."

The president clearly could argue that only he can resolve the dilemma and could point to the separation of powers doctrine to ward off judicial interference. Noting that the dispute is one for the government's political branches to decide, he could expound on the virtue of judicial restraint and warn the courts not to intercede.

A claim of institutional injury to Congress is highly unlikely, as the Democratically-controlled Senate never would agree to such a resolution. However Mr. Obama would win on that point as well, since the president has the sole authority to execute laws, not Congress. Any legal challenge by Speaker Boehner and the Republican House majority

From:	Robertson, William
To:	_DL_Communications; _DL_FYI
Subject:	OVERSIGHT July 5 to 11
Date:	Monday, July 11, 2011 3:49:56 PM

OVERSIGHT July 5 to 11

5th July

Associated Press Financial Wire

Borrowers sue over apparent loan mod mishaps

BYLINE: By JACOB ADELMAN, Associated Press

It seemed Maria Campusano's financial problems were behind her when the mortgage on her Victorian home in a Massachusetts mill town was chopped by hundreds of dollars a month.

Los Angeles Times

WALL STREET; Goldman boosts D.C. lobby force; Departing from its under-the-radar style, the investment giant is putting more money and muscle into its Capitol presence.

BYLINE: Jim Puzzanghera

Facing the wrath of the public and the government after the global financial crisis that hit three years ago, Wall Street titan Goldman Sachs Group Inc. has opened a new front for its aggressive business tactics -- the nation's capital.

Roll Call

In Need of a Calculator

Former Missouri Treasurer Sarah Steelman is kind of bad at math.

The Republican, who is challenging Sen. Claire McCaskill (D-Mo.) in 2012, touts her economic background and state treasurer experience in her campaign literature.

The Associated Press

GOP uses budget, other tools to sap financial law

BYLINE: By ALAN FRAM, Associated Press

Congressional Republicans are greeting the one-year anniversary of President Barack Obama's financial overhaul law by trying to weaken it, nibble by nibble.

6th July

The Bond Buyer

Calif. Treasurer Urges IRS to Boost Conduit Compliance

BYLINE: RANDALL JENSEN

SAN FRANCISCO -California Treasurer Bill Lockyer has waded into the issue of tax compliance by conduit tax-exempt bond issuers.

The Seattle Times

An insult to taxpayers

WAGE-EARNING, taxpaying Americans ought to be outraged by stealth

8th July
American Banker
GOP Grills CFPB No. 2 On Servicer Settlement
BYLINE: Kevin Wack
WASHINGTON -The topic of a House hearing Thursday was supposed to be mortgage

The Detroit News (Michigan)
Words belie auto bailout motives
BYLINE: By, Daniel Howes / The Detroit News
Ron Bloom, the president's former auto czar, knows the seven words you probably don't want to say in connection with Team Obama's taxpayer-financed bailout of two Detroit automakers:

Democrats back power to block state consumer laws
By Dave Clarke
WASHINGTON (Reuters) - Two Democratic senators are defending a top U.S. regulator's power to shield the nation's largest banks from certain state consumer financial laws.

9th July
Concord Monitor (New Hampshire)
Ayotte is on the wrong side of this important fight ; At issue: protection of U.S. consumers
BYLINE: John S Hancock, For the Monitor
Elizabeth Warren is a tenacious advocate for the American people who deserves to be nominated by President Obama and confirmed by the U.S. Senate as director of the new Consumer Financial Protection Bureau. This agency is a vital component of the Dodd-Frank financial reform law designed to prevent Wall Street's "too big to fail" banks or other institutions from bilking the government and threatening the destruction of the world economy.

10th July
The Lexington Herald Leader (Kentucky)
Obama has power to raise debt limit; kentucky voices
BYLINE: Richard W. Waterman
Moody's Investors Service recently announced that if the U.S. government does not make progress in raising the debt ceiling by mid-July it might be forced to downgrade the U. S. government's current AAA credit rating.

The New York Times
Sheila Bair's Bank Shot
BYLINE: By JOE NOCERA

It is time for Elizabeth Warren to become director of the Consumer Financial Protection Bureau.
(John S. Hancock lives in Concord.)

10th July
The Lexington Herald Leader (Kentucky)
July 10, 2011 Sunday
Obama has power to raise debt limit;
kentucky voices
BYLINE: Richard W. Waterman
SECTION: D; Pg. 1
LENGTH: 890 words
Moody's Investors Service recently announced that if the U.S. government does not make progress in raising the debt ceiling by mid-July it might be forced to downgrade the U. S. government's current AAA credit rating.
Matthew E. Zames, chairman of the Treasury Borrowing Advisory Committee, notes, "Any delay in making an interest or principal payment by Treasury even for a very short period of time would put the U.S. Treasury and overall financial markets in uncharted territory, and could trigger another catastrophic financial crisis."
A virtual unanimous chorus of economists likewise warns that a failure to raise the debt ceiling could precipitate a double-dip recession, while some more pessimistic voices prophesy a cataclysmic global depression.
While almost all financial experts agree that serious deficit reduction is needed, there also is a growing level of concern in financial circles that political ideology may trump common sense, resulting in at least a temporary default.
What makes the present political and economic situation so perilous is that other than citing a provision in the 14th amendment, there appears to be no other constitutionally acceptable options to possible congressional inaction or an eventual stalemate between the president and Congress.
There is, however, another alternative.
In recent decades, presidents have relied on a series of unilateral powers such as executive orders, executive agreements and presidential signing statements. The development of unilateral presidential power has been controversial.
In my own research, I have expressed serious concerns about the accretion of presidential power at the expense of the legislative branch. Presidential use of unilateral power often violates the basic precepts of our precious system of checks and balances and separation of power.
Still, while unilateral power can be unwarranted, there are times when it is appropriate for presidents to use these powers to promote the interests of the American people. President Abraham Lincoln employed such

emergency executive powers during the Civil War, for example.
The inherent risks of the present financial crisis are so potentially catastrophic, that unilateral power is both justifiable and warranted to prevent irreparable harm to our nation's economy and its people. The problem is that existing unilateral powers do not appear to be legally justifiable under the present circumstances.
A new form of unilateral power, what I call an emergency order, is, however, constitutionally defensible.
An emergency order combines the powers of an executive order, which has the standing of law, with the president's authority as commander in chief. It also is premised on an idea quite familiar to the founders -- a prerogative by which a president can act unilaterally in the best interest of our country in an emergency situation.
The president is then held accountable by the specter of subsequent congressional oversight and, in the most egregious of cases, by the penalty of impeachment.
As with an executive order, an emergency order also would be subject to contravention by the legislative process.
How would President+++ Barack Obama issue an emergency order to suspend the debt limit? The president would have to:
Specify that a state of emergency exists or will exist without immediate remedial action.
Explain how national security would be affected by inaction.
Clearly define the action to be taken.
Explain why inaction would result in irreparable harm to the nation.
Provide a remedial action limited to ameliorating the present crisis.
All five conditions must be met. Does the present situation meet these criteria? Most economists and many business leaders believe that an inability to raise the debt ceiling would have damaging and potentially catastrophic economic consequences.
Certainly, an already vulnerable American public would suffer, with increased interest rates, delays in payment for military personnel and the elderly, as well as a suspension of a variety of other vital services.
Since our nation is currently at war in both Iraq and Afghanistan, there also is a serious risk to our nation's troops overseas and to our strategic international interests. The case therefore is strong that our nation would suffer immediate and quite likely irreparable harm if the debt ceiling is not raised.
Consequently, the current economic situation satisfies the criteria for issuing an emergency order so long as that action is limited to ameliorating the present crisis -- simply eliminating or lifting the debt ceiling.
A strong case therefore can be made that the president would be acting in the best interests of the nation to ameliorate a potentially catastrophic national emergency.
If Obama and Congress are unable to reach an agreement, the only winners of the subsequent and inevitable blame game will be whichever set of politicians can persuade the public they are not to blame.

Given the high potential for continuing political stalemate and the potentially disastrous costs of inaction, if Congress is unwilling or unable to pass legislation, I urge Obama to issue an emergency order suspending the national debt.
We cannot leave America's future in the hands of the usual game of politics.
About the author Richard W. Waterman is a political scientist at the University of Kentucky.

The New York Times
July 10, 2011 Sunday
Late Edition - Final
Sheila Bair's Bank Shot
BYLINE: By JOE NOCERA
SECTION: Section MM; Column 0; Magazine Desk; Pg. 24
LENGTH: 6171 words
'They should have let Bear Stearns fail,'' Sheila Bair said.
It was midmorning on a crisp June day, and Bair, the 57-year-old outgoing chairwoman of the Federal Deposit Insurance Corporation -- the federal agency that insures bank deposits and winds down failing banks -- was sitting on a couch, sipping a Starbucks latte. We were in the first hour of several lengthy on-the-record interviews. She seemed ever-so-slightly nervous.
Long viewed as a bureaucratic backwater, the F.D.I.C. has had a tumultuous five years while being transformed under Bair's stewardship. Not long after she took charge in June 2006, Bair began sounding the alarm about the dangers posed by the explosive growth of subprime mortgages, which she feared would not only ravage neighborhoods when homeowners began to default -- as they inevitably did -- but also wreak havoc on the banking system. The F.D.I.C. was the only bank regulator in Washington to do so. During the financial crisis of 2008, Bair insisted that she and her agency have a seat at the table, where she worked -- and fought -- with Henry Paulson, then the treasury secretary, and Timothy Geithner, the president of the New York Federal Reserve, as they tried to cobble together solutions that would keep the financial system from going over a cliff. She and the F.D.I.C. managed a number of huge failing institutions during the crisis, including IndyMac, Wachovia and Washington Mutual. She was a key player in shaping the Dodd-Frank reform law, especially the part that seeks to forestall future bailouts. Since the law passed, she has made an immense effort to convince Wall Street and the country that the nation's giant banks -- the same ones that required bailouts in 2008 and became known as ''too big to fail'' institutions -- will never again be bailed out, thanks in part to new powers at the F.D.I.C. Just a few months ago, she went so far as to send a letter to Standard & Poor's, the credit-ratings agency, suggesting that its ratings of the big banks were too high because they reflected an expectation of government support. If a too-big-to-fail bank got into

From: Google Alerts
To: Pulliam, Joel
Subject: Google Alert - "debt limit"
Date: Monday, July 11, 2011 10:53:02 AM

News **4** new results for **"debt limit"**

[Tribe smacks Geithner twice over **debt limit** posturing]
Washington Examiner (blog)
Madison wrote: "Contrary to Professor Laurence Tribe's assertion (Op-Ed, July 8), Secretary Geithner has never argued that the 14th Amendment to the US Constitution allows the President to disregard the statutory **debt limit**." I understand from press **...**
See all stories on this topic »

Cattle Queen of Wyoming 'Splains Why She's Voting No on **Debt-Limit** Increase
Reason Online (blog)
who says she was leaning toward voting for an extension, explains why she is voting no on any **debt-limit** increase that doesn't do anything except give Congress a little more rope by which to hang our financial future. Because she's from Wyoming, **...**
See all stories on this topic »

Dan Webster's just-in-case **debt limit** legislation
Florida Independent
By Travis Pillow | 07.11.11 | 7:52 am The latest news from the negotiations between President Barack Obama and federal lawmakers over the federal **debt limit** is hardly encouraging, and while there's still time, legislation offered by one Central Florida **...**
See all stories on this topic »

DC Ahead: Debt Talks, Bernanke Will Be Major Washington Events This Week
NASDAQ
By Michael R. Crittenden, Of DOW JONES NEWSWIRES WASHINGTON -(Dow Jones)- The **debt limit** fight will continue to be the center of Washington's focus this week, though market participants will be keen to see key inflation figures and Federal Reserve **...**
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Subject: Google Alert - "debt limit"
Date: Sunday, July 10, 2011 12:36:08 PM

News **2** new results for **"debt limit"**

Legality of '14th amendment solution' under fire

The Hill

Advocates argue that if neg tiations to broker an agreement on raising the **debt limit** break down ahead of an Aug. 2 deadline the president could bypass Congress to avoid defaulting. Talk of the idea, which has persisted over the past few weeks of **...**

See all stories on this topic »

Jim DeMint Calls Treasury Secretary 'Irresponsible' On Debt Talk

Huffington Post

C.) said on Sunday that Treasury Secretary Timothy Geithner has been "irresponsible" in talking about the **debt limit**, arguing the federal government could continue into August without a debt ceiling increase and not default on its loans. **...**

See all stories on this topic »

Tip: Use a minus sign (-) in front of terms in your query that you want to exclude. Learn more.

From: Google Alerts
To: Pulliam, Joel
Subject: Google Alert - "debt limit"
Date: Friday, July 08, 2011 5:18:42 PM

News **4** new results for **"debt limit"**

Treasury Official Disputes 14th Amendment Wiggle Room on **Debt Limit**
Wall Street Journal (blog)
Treasury General Counsel George Madison, in a letter responding to an op-ed in Friday's New York Times, wrote that “like every previous Secretary of the Treasury who has confronted the question, Secretary Geithner has always viewed the **debt limit** as a **...**
See all stories on this topic »

FOREX-Dollar likely to weaken without US **debt limit** progress
Reuters
NEW YORK, July 8 (Reuters) - The dollar is likely to trend lower in the week ahead in the aftermath of an abysmal US jobs report on Friday and without clear signs of progress on the approaching US debt ceiling deadline. The US dollar fell against the **...**
See all stories on this topic »

Debt ceiling debate colors Nevada 2012 elections
San Antonio Express
Nevertheless, their response to the **debt limit** crisis is already shaping their 2012 Senate campaigns. They are being closely watched by National Democrats and Republicans and both candidates' ultimate vote on the issue will likely be used against them **...**
See all stories on this topic »

User's Manual to the **Debt Limit** Negotiations
Fox News (blog)
by Chad Pergram | July 08, 2011 The story evolved from a chess match Thursday where everyone was afraid to flinch, into full-blown hand-to-hand combat on the Democratic side of the aisle. Democrats are incensed about potential cuts to entitlement **...**
See all stories on this topic »

Tip: Use a plus sign (+) to match a term in your query exactly as is. Learn more.

From:	Robertson, William
To:	_DL_Communications; _DL_FYI
Subject:	Treasury Official Disputes 14th Amendment Wiggle Room on Debt Limit
Date:	Friday, July 08, 2011 4:27:14 PM

Treasury Official Disputes 14th Amendment Wiggle Room on Debt Limit

By Damian Paletta
Treasury Department Secretary Timothy Geithner has not asserted that the Constitution's 14th Amendment can be used to circumvent the government's debt ceiling, a top agency official wrote on Friday.

Treasury General Counsel George Madison, in a letter responding to an op-ed in Friday's New York Times, wrote that "like every previous Secretary of the Treasury who has confronted the question, Secretary Geithner has always viewed the debt limit as a binding legal constraint that can only be raised by Congress."

The op-ed, written by Harvard Law professor Laurence Tribe, said that "Several law professors and senators, and even Treasury Secretary Timothy F. Geithner, have suggested that section 4 of the 14th Amendment, known as the public debt clause, might provide a silver bullet."

The question of whether the White House can invoke the 14th Amendment to avoid a default on U.S. government debt has created a buzz in Washington in recent weeks. Treasury Department officials believe the U.S. government will hit the $14.29 trillion debt ceiling on Aug. 2, and that the country could default on its obligations if Congress doesn't vote to raise the ceiling.

Many lawmakers will only raise the ceiling if there's a broader deal to reduce the deficit, and negotiators are still working to see if they can put together a deal in time.

If time runs out, what about the 14th Amendment?

The Reconstruction-era amendment, in part, reads: "The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."

But a statutory limit has restricted total federal debt since 1917. Congress has raised it repeatedly–10 times since 2001.

Mr. Geithner has read parts of the 14th Amendment in public to emphasize the importance of the U.S. debt, something that led some to believe that he was asserting that the 14th Amendment gave the Obama administration a constitutional Plan B.

Not so, Mr. Madison wrote Friday.

"Secretary Geithner has never argued that the 14th Amendment to the U.S. Constitution allows the President to disregard the statutory debt limit," he wrote.

President Barack Obama sidestepped a question about whether the 14th Amendment could be invoked to avoid a default, saying on Wednesday he didn't "think we should even get to the constitutional issue."

Administration officials have repeatedly been artful in their responses to questions about the 14th amendment issue. None have said that they would absolutely rule out the possibility of invoking it if a default appeared imminent. Instead, they say it doesn't seem realistic and it's not something they plan on doing.

From: Rose, Lacey
To: _DL_FYI
Subject: DJ: CORRECT: Geithner Doesn"t View 14th Amendment As Way Around US Debt Limit -Official
Date: Friday, July 08, 2011 3:32:35 PM

CORRECT: Geithner Doesn't View 14th Amendment As Way Around US Debt Limit – Official

("Geithner Doesn't View 14th Amendment As Way Around US Debt Limit -Official," published at 2:04 p.m. EDT misstated the name of the amendment referred to in the sixth paragraph. The correct version follows:)

By Tom Barkley
Of DOW JONES NEWSWIRES WASHINGTON (Dow Jones)--Treasury Secretary Timothy Geithner doesn't believe the 14th Amendment could provide a way to skirt the debt ceiling, and has never made such an argument, a Treasury official said Friday in response to a newspaper column.

George Madison, Treasury's general counsel, sought to correct an assertion made by constitutional scholar Laurence Tribe in an opinion piece in Friday's edition of the New York Times that Geithner has suggested the constitutional amendment could be used to issue more debt if Congress refuses to raise the country's legal borrowing limit.

"Secretary Geithner has never argued that the 14th Amendment to the U.S. Constitution allows the president to disregard the statutory debt limit," Madison said in a letter to the editor sent to the paper.

Instead, Geithner has cited the clause that the "validity of the public debt of the United States ... shall not be questioned" as an argument that Congress has an obligation honor the government's obligations, said Madison.

Agreeing with the point being made by Tribe that the Constitution gives Congress borrowing authority, not the president, the Treasury official said Geithner believes the debt limit is a "binding legal constraint" that only lawmakers can raise.

As Tribe notes in his op-ed, a handful of politicians and academics have floated the idea of invoking the 14th Amendment to avoid a U.S. default if Congress fails to raise the limit before the government runs out of borrowing room. The Treasury says the deadline is Aug. 2.

President Barack Obama sidestepped a question about it during the Twitter town-hall meeting Wednesday, saying he expects to be able to strike a deal with lawmakers.

"I don't think we should even get to the constitutional issue," said Obama.

A statutory limit has restricted total federal debt since 1917, though Congress has raised it repeatedly--10 times since 2001.

-By Tom Barkley, Dow Jones Newswires; 202-862-9275; tom.barkley@dowjones.com
--Jeffrey Sparshott contributed to this article.

From:	Rose, Lacey
To:	_DL_FYI
Subject:	DJ: CORRECT: Geithner Doesn"t View 14th Amendment As Way Around US Debt Limit -Official
Date:	Friday, July 08, 2011 3:32:33 PM

CORRECT: Geithner Doesn't View 14th Amendment As Way Around US Debt Limit – Official

("Geithner Doesn't View 14th Amendment As Way Around US Debt Limit -Official," published at 2:04 p.m. EDT misstated the name of the amendment referred to in the sixth paragraph. The correct version follows:)

By Tom Barkley
Of DOW JONES NEWSWIRES WASHINGTON (Dow Jones)--Treasury Secretary Timothy Geithner doesn't believe the 14th Amendment could provide a way to skirt the debt ceiling, and has never made such an argument, a Treasury official said Friday in response to a newspaper column.

George Madison, Treasury's general counsel, sought to correct an assertion made by constitutional scholar Laurence Tribe in an opinion piece in Friday's edition of the New York Times that Geithner has suggested the constitutional amendment could be used to issue more debt if Congress refuses to raise the country's legal borrowing limit.

"Secretary Geithner has never argued that the 14th Amendment to the U.S. Constitution allows the president to disregard the statutory debt limit," Madison said in a letter to the editor sent to the paper.

Instead, Geithner has cited the clause that the "validity of the public debt of the United States ... shall not be questioned" as an argument that Congress has an obligation honor the government's obligations, said Madison.

Agreeing with the point being made by Tribe that the Constitution gives Congress borrowing authority, not the president, the Treasury official said Geithner believes the debt limit is a "binding legal constraint" that only lawmakers can raise.

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-By Tom Barkley, Dow Jones Newswires; 202-862-9275; tom.barkley@dowjones.com
--Jeffrey Sparshott contributed to this article.

From: Gudmundson, Erika
To: _DL_FYI
Subject: Treasury Notes: FACT CHECK: Treasury General Counsel George Madison Responds to New York Times Op-Ed on 14th Amendment
Date: Friday, July 08, 2011 2:04:59 PM

http://www.treasury.gov/connect/blog/Pages/FACT-CHECK-Treasury-General-Counsel-George-Madison-Responds-to-New-York-Times-Op-Ed-on-14th-Amendment.aspx

FACT CHECK: Treasury General Counsel George Madison Responds to New York Times Op-Ed on 14th Amendment

By: Erika Gudmundson
7/8/2011

Treasury's General Counsel George Madison submitted to the New York Times today the following letter to the editor:

July 8, 2011

The New York Times
620 Eighth Avenue
New York, NY 10018

To the Editor:

Contrary to Professor Laurence Tribe's assertion (Op-Ed, July 8), Secretary Geithner has never argued that the 14th Amendment to the U.S. Constitution allows the President to disregard the statutory debt limit. As Professor Tribe notes, the Constitution explicitly places the borrowing authority with Congress, not the President.

The Secretary has cited the 14th Amendment's command that "[t]he validity of the public debt of the United States… shall not be questioned" in support of his strong conviction that Congress has an obligation to ensure we are able to honor the obligations of the United States. Like every previous Secretary of the Treasury who has confronted the question, Secretary Geithner has always viewed the debt limit as a binding legal constraint that can only be raised by Congress.

Sincerely,

George W. Madison
General Counsel

Posted in: Debt Limit

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

GENERAL COUNSEL

July 8, 2011

The New York Times
620 Eighth Avenue
New York, NY 10018

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Sincerely,

George W. Madison
General Counsel

From:	Robertson, William
To:	_DL_Communications; _DL_FYI
Subject:	WSJ-The Debt Ceiling and the Constitution
Date:	Thursday, July 07, 2011 1:15:33 PM

The Debt Ceiling and the Constitution
Nearly everyone is in shock at how quickly the 14th Amendment option has become a real alternative.

By STEPHEN MOORE
Nearly everyone in Washington is in shock at how quickly the 14th Amendment option on the debt ceiling has gone from an impractical idea touted by law professors to a real alternative under consideration.

The 14th Amendment says, "The validity of the public debt of the United States, authorized by law . . . shall not be questioned." Some are now saying that this gives Treasury Secretary **Timothy Geithner** authority to borrow money even if the statutory debt limit established by Congress has been exceeded. The White House has been investigating this option as a possible way around the debt ceiling that is scheduled to be exceeded after Aug. 2 if Congress has not approved an extension.

What the 14th Amendment language exactly means in terms of honoring Uncle Sam's debt obligations is a subject of controversy. Republican Sen. Pat Toomey of Pennsylvania believes that it means the government can't default on its debt and that bondholders have to be paid first. Heritage Foundation legal scholar Andrew Grossman argues that "unilateral action by the president to borrow money would be an unconstitutional usurpation of the legislative power" and that "the president lacks the authority to, on his own accord, make expenditures which have not been authorized by Congress . . . or to undertake borrowing that has not been authorized by Congress."

But longtime budget guru Stan Collender says that many Democrats disagree and think they have found an escape hatch. According to Mr. Collender, Democrats hope that "the 14th Amendment supersedes any legislative [debt] limits." If this is correct, he adds, "The White House will have a self-executing way around the debt-ceiling impasse."

What happens if Mr. Obama invokes the 14th Amendment and congressional Republicans object to this White House power grab? One option is for Congress to sue in court. Another possibility would be impeachment proceedings if Congress believes that Mr. Obama has not faithfully executed the laws of the U.S.

But all of this ignores the political expediency of allowing the president to unilaterally raise the debt ceiling. The reality is that the 14th Amendment option would let both parties off the hook. As one House leadership aide in on the budget negotiations tells me, "you have to understand [that] nobody wants to vote to raise the debt ceiling." Both parties might be so deadlocked that they may choose to let Mr. Obama raise the debt ceiling on his own. That way, no one in Congress has to take the blame.

To read more stories like this one, please subscribe to Political Diary.

From:	Robertson, William
To:	_DL_Communications; _DL_FYI
Subject:	WSJ-The Debt Ceiling and the Constitution
Date:	Thursday, July 07, 2011 1:15:31 PM

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From:	Pulliam, Joel
To:	Meade, Christopher
Cc:	Bieger, Peter
Subject:	CBS News story: GOP senators pre-empt Obama on "debt limit dodge"
Date:	Thursday, July 07, 2011 1:14:22 PM

GOP senators pre-empt Obama on "debt limit dodge"

Two Republican senators launched a pre-emptive strike today against any attempt President Obama may make to ignore the nation's debt limit and continue paying off America's loans.

Sens. Lindsey Graham of South Carolina and John Cornyn of Texas introduced a resolution making clear that Mr. Obama does not have the authority to pull off a "debt limit dodge," as they called it -- an issue that may arise if Congress doesn't agree to raise the debt limit within a matter of weeks.

"I strongly disagree with those who suggest the president has the unilateral authority to put the American people in even great levels of debt," Graham said in a statement. "Every time the debt ceiling has been raised it has been through an act of collaboration between the president and Congress... We have a president, not a king."

The president is currently in negotiations with congressional leaders to forge a debt reduction deal. Republicans have insisted on creating a deficit and debt reduction plan as a condition of voting to raise the debt limit -- the amount of money the U.S. is allowed to borrow.

The president and his economic team have repeatedly warned of catastrophic consequences for the U.S. and global economy if Congress does not increase the $14.3 trillion debt ceiling by August 2.

Should Congress fail to raise the debt ceiling, some have suggested that the 14th Amendment to the Constitution gives the president authority to tell the Treasury Secretary to continue financing the nation's deficits through the sale of Treasury notes and bonds. The relevant section of the 14th Amendment says in part, "The validity of the public debt of the United States, authorized by law... shall not be questioned."

Graham and Cornyn said they reject that argument.

"Unfortunately, this is the latest attempt by big-spending Democrats to short-circuit the Constitution in order to avoid making tough budget choices," Cornyn in a statement.

In his Twitter town hall yesterday, Mr. Obama was directly asked whether he would allow Treasury Secretary Tim Geithner to continue issuing debt, pursuant to the 14th Amendment. As he has in the past, Mr. Obama dodged the question.

"I don't think we should even get to the constitutional issue," he said. "Congress has a responsibility to make sure we pay our bills. We've always paid them in the past. The notion that the U.S. is going to default on its debt is just irresponsible."

While the president has avoided the issue, Geithner has made clear he believes the 14th Amendment gives the president authority to keep issuing debt.

"I think there are some people who are pretending not to understand it, who think there's leverage for them in threatening a default," Geithner said at a Washington event in May, the Huffington Post reported. "I don't understand it as a negotiating position."

Geithner went on to read the 14th Amendment aloud, remarking that the phrase "shall not be questioned" is the "important thing."

http://www.cbsnews.com/8301-503544_162-20077573-503544.html

From:	Pulliam, Joel
To:	Meade, Christopher
Cc:	Bieger, Peter
Subject:	CBS News story: GOP senators pre-empt Obama on "debt limit dodge"
Date:	Thursday, July 07, 2011 1:14:00 PM

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From: Fitzpayne, Alastair
To: Patterson, Mark (DO); Wallace, Kim; Vandivier, David; Goldstein, Jeffrey; Miller, Mary; Madison, George; Meade, Christopher; Siewert, Jake; LeCompte, Jenni; Murray, Colleen; Valverde, Sam; Anderson, Charlie
Subject: fyi - david frum on the debt ceiling debate
Date: Thursday, July 07, 2011 1:09:52 PM

Obama plays nice, GOP turns tough
Washington (CNN) -- Why aren't the Democrats rebelling?
The debt ceiling negotiations have amounted to a succession of retreats and concessions by President Obama.
At this point, the president confronts two possible outcomes in the coming weeks:
Outcome 1: The president and congressional Republicans reach agreement on a budget package weighted overwhelmingly in favor of the GOP. The president opened negotiations by offering $3 of spending cuts for every $1 of tax increases. His current offer tilts even further to the GOP: $6 of spending cuts to $1 of tax increases.
Better still (from a Republican point of view), the spending cuts come from programs Republicans dislike, like Medicaid, rather than programs they like, like the farm budget. The tax increases meanwhile are designed to be as acceptable as possible to the GOP: no increases in tax rates, but instead trimming some of the less defensible deductions in the tax code.
Outcome 1 represents a very big win for Republicans over the future shape of the federal government, and a correspondingly big defeat for the president.
Outcome 1 also represents the president's best-case scenario.
The worst-case is Outcome 2. Republicans reject the president's concessions as insufficient. They refuse to lift the debt ceiling. Denied the legal authority to borrow further, the federal government exhausts its cash sometime in the next three to four weeks.
At that point, the United States will face some kind of federal bankruptcy: paying some claims, deferring others, plunging the U.S. government into financial crisis and probably plunging the whole world into renewed economic crisis.
Debt ceiling deadline coming soon
How in the world did the president arrive at this disastrous predicament?
You can blame his opponents if you want. Yes, the House Republicans have played politics very rough. Not since the era of the Vietnam War has a house of Congress used the threat of national bankruptcy to gain its way on a policy point.
But the roughness of the president's opponents does not excuse the president's own mistakes and weakness. On the contrary: from the point of view of the president's supporters, the roughness of the president's opponents makes all the more inexcusable the president's mishandling of the situation.
As Marc Ambinder of the National Journal suggested at the time, the president could have included an increase in the debt ceiling in the December deal to extend the Bush tax cuts. The Republicans dearly wanted that extension. Obama did not use leverage when he had it -- and so he became a victim of leverage when he lacked it.
Then, as Republicans discovered the power of their new tool, the president

decided to assume they were bluffing, that they would never actually do anything so reckless. Waking up to the reality of the situation too late, he commenced bargaining by offering what he assumed would be an irresistible deal. Wrong again. The Republicans did resist. So Obama offered an even better deal -- which predictably only whetted the GOP appetite for still more.

Obama never publicly branded the debt ceiling as "if the Republicans force this country into bankruptcy." He issued no public call to constituencies like the financial industry to bring pressure to bear on the issue. He did not warn that he would manage any crisis in ways that Republicans would not like. ("If the Republicans in Congress deny me the authority to pay everybody, then I'm going to have to choose some priorities. I don't think it's likely that Texas-based defense contractors will find themselves at the top of my list.") Instead, he appealed again and again to Republicans' spirit of responsibility. Good luck with that.

Talks have now broken down altogether. The crisis is drawing close. And once again Obama is throwing away his leverage.

Obama's team is publicly discussing what they are calling the "constitutional option," contesting the validity of the debt ceiling altogether.

Section Four of the 14th Amendment provides that the public debt of the United States shall "not be questioned."

Some experts argue that the very existence of the debt ceiling raises questions about the public debt, by empowering Congress to repudiate borrowing made necessary by Congress' own taxing and spending decisions. (The debt ceiling, for you history buffs, is a concept invented as a temporary emergency measure during the First World War, one more confirmation of the ancient rule that there is nothing more permanent than a temporary measure.) It's not a crazy argument -- and just for that reason, the president's team is crazy to be talking about it.

The "constitutional option" talk signals two immediate things to the House GOP:

(i) they can be as intransigent as they want at no ultimate cost to themselves, because the president will invent a solution to the crisis they caused;

(ii) the president dreads financial crisis more than they do, so he can always be counted on to blink first.

Public talk of the "constitutional option" creates a third even more dangerous incentive:

It opens the door to a future in which the president and the secretary of the Treasury issue bonds over the refusal of the House of Representatives.

Yet Article I, Section 7 of the Constitution provides that "all bills for raising revenue shall originate in the House of Representatives." Bonds raise revenue. You don't need a crystal teacup to foresee how the Tea Party will react to a bond issue in disregard of the debt ceiling. They will accuse the president of trashing the U.S. Constitution, and somebody will commence impeachment proceedings.

This shift of topic is pure win-win for the Tea Party. Unperturbed by the risk of national bankruptcy, they can now hurl charges of tyranny and usurpation against the president through 2012, reserving impeachment as a back-up plan should the GOP candidate somehow lose.

Some may say: What could a president do faced with such implacable opponents? But the opponents didn't start implacable. Back in January, Speaker John Boehner said the possibility of a government default was "not even on the table."
The president's weakness, however, empowered the most radical Republicans. Would one more hard push extract one more big concession? The answer was always, "yes." So the radicals pushed -- and pushed again -- and incidentally pushed would-be dealmakers to the side.
Through it all, Obama has played nice, again and again entreating his Republican opponents to emulate his example and play nice too. It's not what Lyndon Johnson would have done. It's not what Franklin Roosevelt would have done. I doubt it's what Hillary Clinton would have done.
Which brings me back to my starting question: Why don't the Democrats rebel? Presumably, they elected Obama to stand up for their shared principles. But he's not standing up. He's rolling over. Or being rolled.
The opinions expressed in this commentary are solely those of David Frum.

--

Alastair Fitzpayne
Deputy Chief of Staff and Executive Secretary
Department of the Treasury
202 622 5780 direct
202 531 0928 cell

From: Google Alerts
To: Pulliam, Joel
Subject: Google Alert - "debt limit"
Date: Thursday, July 07, 2011 2:01:51 AM

News **4** new results for **"debt limit"**

Bondholders May Vie With Farmers If U.S. Must Choose in Default
Bloomberg
By Mike Dorning and John Detrixhe - Thu Jul 07 04:01:00 GMT 2011 Failure to reach a deal to raise the US **debt limit** may force President Barack Obama to choose between paying Chinese bondholders or American soldiers, and between Iowa farmers or elderly **...**
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The **debt limit**: Obama, lawmakers continue to discuss
Washington Post
Richard J. Durbin (D-Ill.) talks to reporters about the looming deadline on raising the federal **debt limit**. House Majority Leader Eric Cantor (R-Va.) said he's willing to consider Democratic demands on tax breaks as long as the final deal does not **...**
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White House Seeks 'Positive' Revenue as **Debt-Limit** Talks Resume
BusinessWeek
The Obama administration and congressional leaders are seeking an accord to lower the deficit during the next 10 to 12 years to pave the way for a vote to increase the $14.3 trillion **debt limit /b>, and the tax issue looms as the major obstacle to a deal. ...**
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Sen. Chuck Grassley: 14th Amendment may present path out of **debt limit** debate
The State Column
Iowa US Senator Chuck Grassley said Wednesday that the 14th Amendment may present President Obama with the ability of bypassing Congress in order to raise the nation's debt ceiling before an August 2 deadline. In a conference call with Iowa reporters, **...**
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Subject: Google Alert - "debt limit"
Date: Wednesday, July 06, 2011 6:29:26 PM

News — **3** new results for **"debt limit"**

A **debt-limit** failure would be indefensible

Washington Post (log)

Since 1939 when the first legislative limit covering all public debt was imposed, an unbroken succession of Congresses has voted to raise the **debt limit** when requested by the president. Whether Capitol Hill was under the control of Republicans or **...**

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Grassley: 14th Amendment may provide way out of **debt limit** impasse

Mason City Globe Gazette

Chuck Grassley, R-Iowa, said he's not comfortable with it, but he broached the idea Wednesday that a provision in the 14th Amendment to the Constitution may provide a way out of the **debt limit** impasse. In a conference call with Iowa reporters, **...**

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Cantor opens the door to possible compromise in **debt-limit** talks

CNN (blog)

(CNN)-A day before congressional leaders meet with President Barack Obama to discuss how to raise the **debt limit**, the number-two House Republican opened the door to possible compromise, saying Wednesday he is open to closing some of the tax "loop oles" **...**

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Date:	Wednesday, July 06, 2011 9:09:12 AM

News **3** new results for **"debt limit"**

Bring On the Constitutional Crisis
msnbc.com
By now you may have heard of the idea that the administration can simply raise the **debt limit** unilaterally, and to blazes with the Congress, based on Section 4 of the 14th Amendment. If you have, then you probably also know that some worry that such a **...**
See all stories on this topic »

Debt limit, debt ceiling talks to take place on Thursday
The State Column
Speaking Tuesday, Mr. Obama rejected a proposal put forth by Republicans for a short-term increase of the **debt limit**. "I've heard reports that there may be some in Congress who want to do just enough to make sure that American avoids defaulting on our **...**
See all stories on this topic »

Letter: Secure obligation by raising **debt limit**
The Columbian
As the center wrote, if the **debt limit** isn't increased, "handling all payments for important and popular programs (eg, Social Security, Medicare, Medicaid, Defense, active-duty pay) will quickly become impossible." At the moment, the GOP has blown up **...**
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Subject: [spam] Google Alert - "debt limit"
Date: Tuesday, July 05, 2011 1:40:37 PM

News **4** new results for **"debt limit"**

Can President Obama just ignore the **debt limit**?

Christian Science Monitor

Some economists suggest that the 14th Amendment renders the **debt limit** conversation moot (and maybe unconstitutional): the US must pay its debts. Period. President Obama speaks during a Democratic National Committee event in Philadelphia on June 30. **...**

Christian Science Monitor

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If Obama ignores the **debt limit**, he'll totally get away with it

Washington Examiner (blog)

For months Treasury Secretary Tim Geithner has been warning Congress that a failure to raise the federal government's $14.3 trillion **debt limit** would have "catastrophic economic consequences." But now that financial Armegeddon is supposedly just weeks **...**

See all stories on this topic »

NYT: Medicare and Medicaid Could See $340 Billion in Cuts in **Debt-Limit** Deal

National Journal

By Althea Fung President Obama may offer tens of billions in cuts to Medicare and Medicaid as part of a deal to close the deficit and raise the **debt limit**, according to The New York Times. The newspaper quotes White House officials as saying the **...**

See all stories on this topic »

The week ahead on the Hill: The Senate votes on Libya; Democrats to talk debt **...**

Washington Post (blog)

By Felicia Sonmez (AMR ABDALLAH DALSH - REUTERS) The Senate's back in town after having canceled its regularly-scheduled recess to continue working toward a **debt-limit** compromise. Most of this week's floor action, however, will be devoted to Libya. **...**

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Tip: Use site restrict in your query to search within a site (site:nytimes.com or site:.edu). Learn more.

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From:	Rose, Lacey
To:	_DL_FYI
Subject:	USA Today: Obama and the debt: A 14th amendment solution?
Date:	Tuesday, July 05, 2011 10:05:31 AM

Jul 05, 2011

Obama and the debt: A 14th amendment solution?

http://content.usatoday.com/communities/theoval/post/2011/07/obama-and-the-debt-a-14th-amendment-solution/1

Does the government -- specifically President Obama -- even need a debt ceiling?

Some analysts say no -- and that Obama can simply order the Treasury to pay its bills even if Congress refuses to raise the $14.3 trillion debt ceiling.

"Preventing default is no less justified than using American military power to protect against an armed invasion without a congressional declaration of war," writes Bruce Bartlett in *Fiscal Times*.

Like others, Bartlett cites a section of the 14th amendment to the U.S. Constitution, which says "the validity of the public debt of the United States, authorized by law ... shall not be questioned."

"This could easily justify the sort of extraordinary presidential action to avoid default that I am suggesting," Bartlett writes.

Garrett Epps, writing on *The Atlantic*'s website, said Obama could give a speech saying he has ordered Treasury Secretary Timothy Geithner to "begin issuing binding debt instruments on the world market sufficient to cover all the current obligations of the United States government, even in default of Congressional action to meet those obligations."

Writing in the form of an Obama speech, Epps said the debt provision of the 14th amendment "makes clear that both the monies our nation owes to bondholders, and the sums promised in legislation to those receiving pensions set by law from the federal government, must be paid regardless of the political whims of the current congressional majority."

Obama declined to comment on the 14th amendment during last week's news conference, but Democratic lawmakers said they have discussed it in the midst of tough talks with Republicans about raising the debt ceiling.

Sen. Charles Schumer, D-N.Y., said the idea is "certainly worth exploring," but added "it's probably not right to pursue at this point."

"You wouldn't want to go ahead and issue the debt and then have the courts reverse it," Schumer said.

And Republicans -- who are holding out for big spending cuts, without tax hikes, before agreeing to increase the debt ceiling -- would no doubt howl if Obama acted unilaterally by citing the 14th amendment.

"That's crazy talk," said Sen. John Cornyn, R-Tex., speaking on *Fox News Sunday*. "It's not acceptable for Congress and the president not to do their job and to say somehow the president has the authority then to basically do this by himself. We ought to sit down and work together."

From: Google Alerts
To: Pulliam, Joel
Subject: Google Alert - "debt limit"
Date: Sunday, July 03, 2011 12:39:47 PM

News **1** new result for **"debt limit"**

John Cornyn: Invoking The 14th Amendment On The **Debt Limit** Is 'Crazy Talk'
Huffingto Post
is rejecting one solution to the **debt limit** impasse being floated by Democrats that argues the president has the authority to ignore the ceiling because it is unconstitutional under the 14th Amendment. "That's crazy talk," said Cornyn on "Fox News **...**
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Section 4 of the 14th Amendment VS The **Debt Limit**
The Moderate Voice
There has been a lot of talk ecently that if congress fails to increase the **debt limit** Obama should simply tell the Treasury Secretary to ignore it because it's unconstitutional. Doug Mataconis has a good post on the pros and cons of this argument **...**
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(b) (5)

From: Murray, Colleen
Sent: Thursday, June 30, 2011 2:05 PM
To: _DL_Communications; _DL_FYI
Subject: HuffPost: Tim Geithner: 14th Amendment Says Debt 'Shall Not Be Questioned'

Tim Geithner: 14th Amendment Says Debt 'Shall Not Be Questioned'

First Posted: 06/30/11 01:47 PM ET Updated: 06/30/11 01:49 PM ET

WASHINGTON -- At a briefing with reporters on Wednesday, President Obama was asked whether he believed that the debt ceiling was constitutional or whether the 14th Amendment required the government to meet all of its obligations regardless of the debt-limit statute.

Obama dodged the question. "I'm not a Supreme Court Justice, so I'm not going to put my constitutional law professor hat on here," he said about the debt ceiling and a question on the war in Libya.

Treasury Secretary Tim Geithner, however, is less afraid of wearing that hat. At a Politico Playbook breakfast on May 25th, Geithner was asked by host Mike Allen about the negotiations over default and the debt ceiling.

"I think there are some people who are pretending not to understand it, who think there's leverage for them in threatening a default," Geithner said. "I don't understand it as a negotiating position. I mean really think about it, you're going to say that-- can I read you the 14th amendment?"

Geithner whipped out his handy pocket-sized Constitution. Allen tried to brush it aside. "We'll stipulate the 14th Amendment," he said.

"No, I want to read this one thing," Geithner insisted.

"It's paper clipped!" Allen observed, noting that Geithner's copy of the Constitution was clipped so that it would open directly to the passage in question.

"'The validity of the public debt of the United States, authorized by law, including debts incurred for the payments of pension and bounties for services in suppressing insurrection or rebellion' -- this is the important thing -- 'shall not be questioned," Geithner read.

Watch Geithner:

"So as a negotiating strategy you say: 'If you don't do things my way, I'm going to force the United States to default--not pay the legacy of bills accumulated by my predecessors in Congress.' It's not a credible negotiating strategy, and it's not going to happen," Geithner insisted.

On Tuesday, HuffPost reported that rank-and-file Senate Democrats are increasingly looking at the 14th Amendment as a solution to the default impasse. The Treasury Department says that on Aug. 2, the government will no longer have the ability to meet its obligations without raising the debt ceiling and will default, sending capital and bond markets into chaos.

The conservative blog RedState suggested Thursday that if Obama embarked on such a course, House Republicans would be wise to begin impeachment proceedings. The Democratic-controlled Senate would be unlikely to go along, however, embroiling Washington in a constitutional crisis. Republicans impeached a Democratic president in 1998 and suffered politically for the overreach. Impeaching the president for insisting on paying past bills on time could be equally devastating for the GOP.

Nearly a month before Geithner read the Constitution to a gathering of reporters, Bruce Bartlett floated the option of 14th Amendment invocation in The Fiscal Times.

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Colleen Murray
Spokesperson, Domestic Finance
U.S. Treasury Department
(202) 622-4993

From: Google Alerts
To: Pulliam, Joel
Subject: Google Alert - "debt limit"
Date: Thursday, June 30, 2011 12:58:33 PM

News **2** new results for **"debt limit"**

Senate to work next week on **debt limit** impasse
msnbc.com
The Senate abandoned plans for a July 4 break as time dwindled for lawmakers to strike a compromise on avoiding a government default and reducing mammoth federal deficits. When using Facebook Connect your image and name may display on Powerwall. **...**
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Wall Street Journal (blog)
–**Debt Limit** Constitutionality: Bruce Bartlett says the 14th amendment makes the **debt limit** unconstitutional. "A more radical solution, Plan B, would be to simply disregard the **debt limit** altogether on constitutional grounds, an idea I suggested in The **...**
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From: Anderson, Charlie
To: _DL_Communications; _DL_FYI
Subject: Ezra Klein: The debt ceiling might be unconstitutional, but now is not the time to find out
Date: Wednesday, June 29, 2011 1:39:16 PM

Posted at 10:50 AM ET, 06/29/2011

The debt ceiling might be unconstitutional, but now is not the time to find out

By Ezra Klein

(Evan Vucci - AP)

The Huffington Post reports that some Senate Democrats are arguing that the debt ceiling is unconstitutional and can potentially just be ignored. The New Republic called a few left-leaning legal scholars and budget wonks to flesh out the idea. As a legal theory, that might well be correct, but as a practical solution to the debt-ceiling standoff, it shouldn't be tried.

If Congress blows past the debt ceiling and the Treasury Department simply continues borrowing to pay our debts, there'd be two primary obstacles to anyone trying to sue the administration: standing and the Constitution.

Standing — essentially, the right to sue — is tough because of a 1998 decision in which Chief Justice William Rehnquist, writing for the majority, threw out a suit brought by a group of congressmen alleging that the line-item veto reduced their power. Rehnquist said that the policy did not harm them in a "personal and individual way," and so they didn't have standing to sue. There's no obvious reason a suit over the debt limit would fare any better.

Then there's the Constitution itself. Section Four says "The validity of the public debt of the United States, authorized by law … shall not be questioned." Bruce Bartlett argues, I think quite convincingly, that this could be read to invalidate any congressional actions — like the debt ceiling — that call the security of our debt into question. Whether the conservative Supreme Court would read it that way is, of course, a whole other question.

But back the conversation up for a moment. The danger of the debt limit isn't that America won't eventually make good on its debts. We have more than enough money to cover our bills, and the market knows that perfectly well. It's that the fight over paying our debt will be so brutal, so irresponsible, and so unsettling that the market will reevaluate the faith it puts in America's political system to pay our bills, reduce our deficit and make sound economic decisions in the years to come. Put slightly differently, the danger isn't that investors never get paid, but that the way they get paid makes them lose faith in the country's management, which in turn forces the entire financial system to reevaluate the safety of a bedrock asset — which is essentially exactly what happened in the last financial crisis, but on a much larger scale.

Layering a constitutional crisis over political gridlock may work in the sense that the Obama administration will win the court case. But it'll fail terribly in terms of sustaining the market's confidence in our political system. That's a step toward total breakdown, not evidence that agreement can eventually be reached and economic renewal achieved. The debt ceiling needs to be resolved in a way that assures investors that America's other economic problems will be resolved, too. A court case that affirms the executive's right to rack up more debt and the political system's inability to agree on a reasonable deficit reduction package is the precise opposite of that.

You know those old Looney Tunes where the Roadrunner and Wile E. Coyote would both run across an abyss, but the Roadrunner would get to the other side, while Wile E. would look down and fall? That's sort of where we are with the markets. Right now, they're confident that we'll get everything under control, even though our finances are a mess and our political system is as paralyzed and gridlocked as it's been in modern times. They're the Roadrunner, in other words. In that context, the debt ceiling isn't just about paying our bills. It's about keeping the market from looking down.

By Ezra Klein | 10:50 AM ET, 06/29/2011

From:	Robertson, William
To:	_DL_Communications; _DL_FYI
Subject:	The Hill-Geithner confident on debt talks, debt limit
Date:	Wednesday, May 25, 2011 11:04:10 AM

Geithner confident on debt talks, debt limit

By Peter Schroeder - 05/25/11 10:41 AM ET

Treasury Secretary Timothy Geithner expressed confidence Wednesday lawmakers would reach an agreement on reforming the nation's fiscal picture, and even greater confidence Congress would raise the debt limit.

However, he also jabbed at Republicans and other opponents of the administration's financial efforts, while admitting that the the push to overhaul the corporate tax code will be put on the back burner as negotiations over raising the debt limit continue.

Speaking at an event hosted by Politico, Geithner said ongoing debt talks hosted by Vice President Joe Biden had a "quite good" prospect of yielding a large deal.

"I think you're seeing a fair amount of pragmatism, openness" from both camps, he said. "Ultimately, nothing's going to happen unless people are overall comfortable with the basic balance, but I think we have a good chance of doing it."

He said that since various stakeholders are in agreement on the need to lower the deficit by a substantial amount, it bodes well for the talks.

"When you see that broad a consensus in the American political spectrum about what has to be done, and the debate is only about how to do it...then that has changed expectations about the probability of an outcome that's good," he said.

But it was clear the administration was not entertaining a proposed Medicare overhaul floated by House Republicans in Rep. Paul Ryan's (R-Wis.) budget. Subject to much Democratic criticism, Ryan's plan would end Medicare and convert it into a voucher-type system.

"We will not dismantle that basic commitment to seniors," said Geithner. "It's not going to happen. We would never support it."

If those talks fail to yield a deal, Geithner was still unflinching in his expectations that Congress will raise the $14.3 trillion debt limit in time to avoid a first-ever default, which he said would be a "catastrophic failure of basic governance."

He said the Treasury has no contingency for a default, underlining the need for lawmakers to boost the limit in time.

"Our fallback plan is for Congress to pass the debt limit," he said.

He even went so far as to pull a copy of the 14th Amendment out his pocket to read to the audience, emphasizing Section 4, which states that "the validity of the public debt of the United States...shall not be questioned."

However, ongoing talks between parties over what spending reforms should be tied to that debt limit boost is slowing work on the administration's push to overhaul the corporate tax code, according to Geithner.

While he said progress had been made with top congressional taxwriters to build a "framework" of reform options, the ongoing debt talks need to be dealt with first.

"We need to get through that before we start this [tax reform] process more formally," he said. "We don't want to do anything that makes those budget discussions harder, because they're hard enough."

Revisiting the financial crisis, Geithner touted the success of the administration's bailout efforts. There was been a string of good news in that area recently, as Chrysler paid back its government funds and the Treasury sold its first shares of American International Group since its bailout.

While pleased with the taxpayer return on those once-reviled efforts, he also acknowledged that economic pain is still evident across the nation.

"We're still living with the damage," he said. "It is not possible for [the economy] to be dramatically stronger today...it takes time to work that off."

He added that reforms enacted under the Dodd-Frank financial reform law will help prevent future crises of that magnitude.

While optimistic about the post-crisis state of the financial markets, he warned of a "war of attrition" being waged by the financial industry and congressional Republicans to roll back some of Dodd-Frank's reforms. Pushing small budgets of Wall Street regulators and blocking nominations to fill key spots were two tactics he cited.

"It's very clear what they're doing. They're trying to starve the agencies of funding so they can't enforce protections for investors," he said. "We're not going to let that happen."

In fact, Geithner was dismissive of any attempt to wind down Dodd-Frank.

"Really, think of it, think of what this crisis caused," he said. "You think people have a credible prospect of legislative reforms that would undo...It's not going to happen."

He went on to blast Dodd-Frank foes for making the confirmation process "untenable" for most qualified candidates, making it difficult for the administration to fill spots.

"The reason why all those jobs are sitting empty is because they've raised the bar so high," he said. "That is a mistake and irresponsible and terribly bad for the country."

And when asked what companies did the right thing during the financial crisis, Geithner offered no quarter.

"I don't think any of them covered themselves in glory," he said. "They all got caught up in a race to the bottom on care and prudence, they all got caught up in the pressures that led to more leverage, more risk-taking, and they all got caught up in a terribly damaging compensation race built on completely unrealistic expectations.

"No one distinguished themselves," he said.

Source:
http://thehill.com/blogs/on-the-money/801-economy/163165-geithner-confident-on-debt-talks-debt-limit

(b) (5)

----- Original Message -----
From: Joel Pulliam (b) (6)]
Sent: Wednesday, May 11, 2011 10:11 PM
To: Pulliam, Joel
Subject:

The Constitution and the Debt-Ceiling Debate
May 12, 2011

By DAVID B. RIVKIN JR.
AND LEE CASEY

Congressional Republicans debating how to use the government's debt ceiling to control runaway federal spending should examine one of the Constitution's relatively obscure clauses: Section Four of the 14th Amendment. This provision, which forbids any default on outstanding federal debt, appears to limit the leverage Congress can exercise in this increasingly frequent showdown with the president. In fact, Section Four can become a powerful hammer for the budget hawks if Congress simply reclaims its constitutional pre-eminence in the borrowing process.

The Constitution's 14th Amendment was adopted shortly after the Civil War. In part, its purpose was to ensure that the statutory citizenship and legal rights granted to the newly freed slaves were not denied by the states, or repealed by a later Congress once the Southern states were fully represented again.

But that wasn't the only concern. Vast federal debts had been incurred to fight that war, and Congress also acted to ensure that these obligations could not be disavowed in the future. Thus, in addition to guaranteeing rights to citizenship, due process of law, and equal protection, the 14th Amendment forbids dishonoring "[t]he validity of the public debt of the United States, authorized by law."

As a result, unlike most other sovereign states, the U.S. constitutionally cannot default on its financial obligations. In particular, it must continue to make payments, interest and principal, on its bonds, effectively requiring Congress to provide sufficient authority for that purpose. This fact, which should be highlighted at every opportunity, makes the U.S. a better credit risk than it may otherwise seem—especially since U.S. Treasury obligations, if it came to it, could be enforced in the courts by their owners.

Consistent with its obligations under Section Four, Congress should promptly increase the debt ceiling, but with one key caveat: The increase can be used only for borrowing to service existing obligations. By anchoring this action in a specific constitutional obligation, Congress would make it difficult, if not impossible, for the Obama administration to oppose this resolution of the debt-ceiling battle. At the same time, Congress should reclaim immediate control of the issuance of all other new debt obligations.

The Constitution gives Congress power over the national purse, permitting it to tax, to spend and "to borrow money on the credit of the United States." From the time of the founding until the passage of the First Liberty Bond Act in 1917, Congress itself voted on each and every new government bond issue, specifying the amount to be borrowed and the terms involved. Today, exercise of this power has been delegated to the Treasury Department, which generally can borrow up to the debt limit. Yet this practice can easily be changed. It wouldn't even be necessary to repeal the existing "debt ceiling" statutory framework, an action that President Obama might well veto. Congress can simply refuse to use it. In other words, Congress cannot renege on debt already incurred, but it can condition, decrease and even stop issuance of new U.S. debt.

This strategy would put Congress's fiscal conservatives very much back in the driver's seat. The need for new government borrowing is constant; currently nearly 40 cents of every dollar the government spends is borrowed. Anytime Congress and the president cannot agree on how new borrowing should be accomplished (and for what purposes), and what additional spending cuts should be implemented to avoid increasing the nation's overall debt burden, spending will simply be cut across the board by 40%. That is one very big incentive for agreement.

Of course, were Congress to reclaim this authority and separately approve each new U.S. debt issue, it would once again be directly responsible for government borrowing in a way that it has avoided for nearly 100 years. With political power comes political accountability. And that, more than anything else, is what the voters who brought a Republican majority back to the House of Representatives wanted.

This true type of fiscal responsibility would also be far more consistent with the vision of our Founders. They believed that public borrowing was an important governmental tool, but one that should be used sparingly on discreet occasions. As Thomas Jefferson once wrote, "no generation can contract debts greater than may be paid in the course of its own existence." This was the practice for much of the nation's history. Today, we are spending with abandon and burdening generations to come. It is up to Congress to end this perfidious practice.

Messrs. Rivkin and Casey, Washington D.C.-based attorneys, served in the Department of Justice during the Ronald Reagan and George H.W. Bush administrations.

From:	Pulliam, Joel
To:	Meade, Christopher; Bieger, Peter
Cc:	Krulic, Alexander
Subject:	WSJ on 14th amendment
Date:	Wednesday, May 11, 2011 10:15:23 PM

Below is an op-ed that looks like it is going to run in tomorrow's Wall Street Journal. (It went up on their website this evening).

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May 12, 2011

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From:	Meade, Christopher
To:	Pulliam, Joel
Subject:	Re: The Atlantic: The Speech Obama Could Give: "The Constitution Forbids Default"
Date:	Friday, April 29, 2011 1:54:17 PM

Thanks, Joel.

From: Pulliam, Joel
To: Meade, Christopher
Sent: Fri Apr 29 11:55:32 2011
Subject: FW: The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

As far as I can tell, this Atlantic piece's first appearance was yesterday.

It has been getting a lot of attention from liberal bloggers today.

From: Anderson, Matthew
Sent: Thursday, April 28, 2011 4:20 PM
To: _DL_FYI
Subject: The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

By Garrett Epps

Imagining a presidential address confronting Republicans who want to risk the nation's credit for political reasons

My fellow Americans, I am speaking to you tonight to let you know the steps I have taken to ensure that America lives up to its obligations during the current political crisis. As you know, the continuing recession and the pressures of running two wars have made it necessary for the government to borrow money on the world market in order to meet our commitments at home and abroad, see to it that our armed forces receive their pay and equipment, and fulfill our obligations to the retired, the unemployed, and those in need of medical care.

Unfortunately, Congress has not passed an increase in the statutory debt limit as the deadline approaches. Members of the House majority have informed me that they will not agree to an increase in the debt limit without imposing restrictions on the government budget that will threaten our nation's recovery, imperil the national defense, and cause widespread suffering. I have offered to negotiate in good faith, as I did during the budget crisis, but they have shown no interest in real negotiations.

As of midnight tonight, the government's statutory borrowing authority will be exhausted. If no measures are taken, the government must either default on its bonded indebtedness or on its obligations to seniors on Social Security, to unemployed workers dependent on federal insurance payments, and to American service personnel serving in areas of armed conflict.

That is what the Framers intended: to set the debt obligations of our country beyond the reach of Congressional meddling.

For this reason, I have ordered that Secretary of the Treasury Timothy Geithner immediately begin issuing binding debt instruments on the world market sufficient to cover all the current obligations of the United States government, even in default of Congressional action to meet those obligations.

I take this action to fulfill the oath I took as president of the United States. The Constitution explicitly requires me, under my duty to "take care that the laws be faithfully executed," to meet and pay all debts of the United States.

This requirement is absolute. It is contained in Section Four of the Fourteenth Amendment, which directs, in no uncertain terms, that **"the validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."**

This provision makes clear that both the monies our nation owes to bondholders, and the sums promised in legislation to those receiving pensions set by law from the federal government, must be paid regardless of the political whims of the current congressional majority. All obligations that the nation has undertaken by drawing on its credit must at all times be rendered current.

As a former professor of constitutional law, I want to explain to you the origin of Section Four. After the Civil War, political leaders in the defeated South announced their intention of resuming their seats in Congress and of using their power--augmented by increased Congressional representation for the freed slaves--to compel the federal government either to pay off all debts of the Confederacy or to default on the national debt which had been borrowed to finance the Union war effort. They also intended to present to the nation a huge bill for what they claimed was the value of the slaves that had been freed by the Emancipation Proclamation and the Thirteenth Amendment.

For this reason, the Framers of the Fourteenth Amendment wrote into our fundamental law an absolute prohibition against defaulting on the national debt. Its language establishes a complete firewall against the misuse of governmental power by one political faction to get its way by wrecking the public credit. Only one other provision of the Constitution--the Thirteenth Amendment's categorical prohibition on slavery--is as rigid as the language of Section Four. That language is not binding only on Congress, but on all parts of the government, including the executive branch.

For nearly a century and a half, the absolute language of the Fourteenth Amendment was not even questioned. I regret to say, however, that today our nation faces exactly the threat Section Four was designed to guard against. A vocal and determined political minority--what our great Founder James Madison would have called a "faction"--is determined to use its dominance in one House of Congress as a weapon to circumvent the democratic process. It wants to find a back-door way to undo programs and policies that have been democratically enacted over a 75-year period. It wants to impose a narrow vision of government and

America that has been rejected by our people repeatedly over the same period.
This determined minority is now prepared to defy the Constitution to get its way. Some of its voices have begun to say that national default would be welcome, even if it wrecks our international credit and leads the U.S. to default not only on its bonded obligations but on the debts due to its armed forces in the field--debts that are even more sacred than "pensions and bounties for services" already performed by veterans in previous wars. Indeed, I am convinced that the only reason why the framers of Section Four did not explicitly include "payments to military personnel in the field during congressionally authorized military action" is that it was *literally unthinkable* even to the most hardened partisans among them that *any* faction within the United States Congress would countenance cutting off payments to those who carry our flag in foreign nations under hostile fire.
Some may ask why I do not simply use my executive authority to juggle accounts and cook the federal books in order to pay the most pressing obligations while I implore this determined minority to honor their oaths to uphold the Constitution. I do not have the luxury of partial or halfhearted compliance with the *absolute command* of our nation's fundamental law. Section Four does not say that the national debt "shall be paid sooner or later," or "shall be stretched out as long as possible," or "shall be paid in some areas but not in others." It also does not say "shall not be questioned unless Congress really wants to."
As long as I remain president, the national debt of the United States shall not be questioned. It says it "shall not be questioned." The national debt must be paid in full, on time, regardless of any political division within our Congress. That is what the Framers intended: to set the debt obligations of our country beyond the reach of Congressional meddling. Those obligations will not be questioned as long as I am president of the United States.
This action requires me to authorize borrowing that is not in conformity with the debt-limit statute. But *no congressional statute can command or permit our government to violate the Constitution*. I find the debt limit, to the extent that it could be construed to require national default on any obligation of our nation, to be in the words of the great chief justice John Marshall, repugnant to the Constitution and thus void.
I regret that the intransigence of a small minority of members of Congress have forced our nation into this situation. I know that some of these same political leaders will now charge me with violating the Constitution -- the same Constitution that they apparently have no desire either to read or to follow. If they truly believe this to be true, I challenge them to bring Articles of Impeachment against me. The charge should be that I did what was necessary to support our troops in the field, to bolster our public credit, and to prevent destitution and despair among American families. I welcome that debate.
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(b) (5)

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To: Meade, Christopher
Sent: Fri Apr 29 11:55:32 2011
Subject: FW: The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

As far as I can tell, this Atlantic piece's first appearance was yesterday.

It has been getting a lot of attention from liberal bloggers today.

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Sent: Thursday, April 28, 2011 4:20 PM
To: _DL_FYI
Subject: The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

By Garrett Epps

Imagining a presidential address confronting Republicans who want to risk the nation's credit for political reasons

My fellow Americans, I am speaking to you tonight to let you know the steps I have taken to ensure that America lives up to its obligations during the current political crisis. As you know, the continuing recession and the pressures of running two wars have made it necessary for the government to borrow money on the world market in order to meet our commitments at home and abroad, see to it that our armed forces receive their pay and equipment, and fulfill our obligations to the retired, the unemployed, and those in need of medical care.

Unfortunately, Congress has not passed an increase in the statutory debt limit as the deadline approaches. Members of the House majority have informed me that they will not agree to an increase in the debt limit without imposing restrictions on the government budget that will threaten our nation's recovery, imperil the national defense, and cause widespread suffering. I have offered to negotiate in good faith, as I did during the budget crisis, but they have shown no interest in real negotiations.

As of midnight tonight, the government's statutory borrowing authority will be exhausted. If no measures are taken, the government must either default on its bonded indebtedness or on its obligations to seniors on Social Security, to unemployed workers dependent on federal insurance payments, and to American service personnel serving in areas of armed conflict.

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For this reason, I have ordered that Secretary of the Treasury Timothy Geithner immediately begin issuing binding debt instruments on the world market sufficient to cover all the current obligations of the United States government, even in default of Congressional action to meet those obligations.

I take this action to fulfill the oath I took as president of the United States. The Constitution explicitly requires me, under my duty to "take care that the laws be faithfully executed," to meet and pay all debts of the United States.

This requirement is absolute. It is contained in Section Four of the Fourteenth Amendment, which directs, in no uncertain terms, that **"the validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."**

This provision makes clear that both the monies our nation owes to bondholders, and the sums promised in legislation to those receiving pensions set by law from the federal government, must be paid regardless of the political whims of the current congressional majority. All obligations that the nation has undertaken by drawing on its credit must at all times be rendered current.

As a former professor of constitutional law, I want to explain to you the origin of Section Four. After the Civil War, political leaders in the defeated South announced their intention of resuming their seats in Congress and of using their power--augmented by increased Congressional representation for the freed slaves--to compel the federal government either to pay off all debts of the Confederacy or to default on the national debt which had been borrowed to finance the Union war effort. They also intended to present to the nation a huge bill for what they claimed was the value of the slaves that had been freed by the Emancipation Proclamation and the Thirteenth Amendment.

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For nearly a century and a half, the absolute language of the Fourteenth Amendment was not even questioned. I regret to say, however, that today our nation faces exactly the threat Section Four was designed to guard against. A vocal and determined political minority--what our great Founder James Madison would have called a "faction"--is determined to use its dominance in one House of Congress as a weapon to circumvent the democratic process. It wants to find a back-door way to undo programs and policies that have been democratically enacted over a 75-year period. It wants to impose a narrow vision of government and America that has been rejected by our people repeatedly over the same period.

This determined minority is now prepared to defy the Constitution to get its way. Some of its voices have begun to say that national default would be welcome, even if it wrecks our international credit and leads the U.S. to default not only on its bonded obligations but on the debts due to its armed forces in the field--debts that are even more sacred than "pensions and bounties for services" already performed by veterans in previous wars. Indeed, I am convinced that the only reason why the framers of Section Four did not explicitly include "payments to military personnel in the field during congressionally authorized military action" is that it was *literally unthinkable* even to the most hardened partisans among them that *any* faction within the United States Congress would countenance cutting off payments to those who carry our flag in foreign nations under hostile fire.

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THE HILL'S

BLOG BRIEFING ROOM

DAY'S END ROUNDUP

By Jordan Fabian - 04/28/11 05:00 PM ET

FROM THE BLOGS:

The speech Obama could give: 'The Constitution forbids default'
The Atlantic's Garrett Epps envisions the president's potential response to those who don't want to raise the nation's debt ceiling.

Superman no more?
The popular superhero is thinking about renouncing his U.S. citizenship. Jonathan V. Last comments at the *Weekly Standard*.

One step forward, one step back on DADT repeal
The implementation of the repeal of the military's gay ban is happening unevenly, writes Adam Weinstein at MoJo.

OTHER NEWS SOURCES:

McConnell pledges to force Senate vote on Obama's budget
The Senate GOP leader is looking to expose divisions in the Democratic caucus, The Hill reports.

Petraeus would helm an increasingly militarized CIA
The Washington Post analyzes the significance of President Obama's decision to appoint the top general to serve as chief of the nation's top intelligence agency.

US growth slows
The Wall Street Journal breaks down the sluggish gross domestic product numbers in the first quarter.

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Accomack County Democrats

Updates for Eastern Shore of Virginia Democrats

POLITICAL WIRE'S HEADLINES – 4/29

Posted April 29, 2011 by fvmoore
Categories: Candidates, National, Politics

Romney Leads in Poll of GOP Contenders

Though several other recent surveys have shown Donald Trump surging into the lead of potential Republican presidential candidates, a new Fox News poll finds Mitt Romney in front with 19%, followed by Mike Huckabee at 17%, Sarah Palin at 9%, Trump at 8%, Newt Gingrich at 7% and Ron Paul at 7%.

Network Not Commenting on Trump's Plans

NBC declined to say whether Donald Trump has committed to another season of*Celebrity Apprentice*, the AP reports.

The television network will formally announce its 2011-12 season schedule on May 16 and likely already knows if the show and Trump will return.

Earlier this month, NBC executives were reportedly "unconcerned" that Trump might leave his show to run for president.

Is the Debt Limit Unconstitutional?

Garrett Epps makes the case that the debt limit set by Congress violates the 14th Amendment which directs that "the validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."

In short: "This provision makes clear that both the monies our nation owes to bondholders, and the sums promised in legislation to those receiving pensions set by law from the federal government, must be paid regardless of the political whims of the current congressional majority. All obligations that the nation has undertaken by drawing on its credit must at all times be rendered current."

Obama's iPad

A newly-released White House photo shows an iPad on President Obama's desk in the Oval Office. Another photo shows him walking with an iPad tucked under his arm.

April 28, 2011

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- Virtually Unelectable (Taegan Goddard's Political Wire)
- Yes, Obama Could Lose (Taegan Goddard's Political Wire)
- Network Not Commenting on Trump's Plans (Taegan Goddard's Political Wire)
- The Secrets of Grover Cleveland (Taegan Goddard's Political Wire)

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Todd Kennedy
PragPro/gmail

THURSDAY, APRIL 28, 2011

National Political Intelligence Estimate 4.28.11 (Updated Through Day)

1. Garrett Epps makes the case that the debt limit set by Congress violates the 14th Amendment which directs that "the validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."

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2. *The ninth drive to get enough signatures to force a recall election of a Wisconsin state senator has apparently succeeded, NBC News reports.*

Of the nine recall efforts, six target Republican state senators and three target Democratic state senators. Three other recall campaigns aimed at Democrats failed to collect the required number of signatures.

The Milawaukee Journal Sentinel reports the recall elections would probably be held on July 12.

3. Mark Halperin: *"Most Republican brainiacs fear that potent GOP talking points about high gas prices, health care quagmires and stubborn unemployment will evaporate in the face of Obama's fundraising and political talent and the advantages of incumbency. Running for President often means giving up your day job, and it always means unrelenting (and possibly life-changing) scrubbing from political opponents and the media. The pending decisions of Daniels and Huckabee will tell us a lot about whether the Republican Party truly thinks Obama can be toppled."*

4. *A new Public Policy Polling survey in West Virgina finds Sen. Joe Manchin (D-WV) leading Shelley Moore Capito (R) in a possible 2012 match up, 48% to 40%, a margin similar to that he had over John Raese (R) in last year's special election.*

5. *It will be interesting to see how well Jerome Corsi's Where's the Birth Certificate? sells now.*

Even though the book doesn't come out until May 17 it's currently one of Amazon's bestsellers.

6.

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President Barack Obama,
(Accomplishments):
"I am a Pragmatic Progressive."

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THE BEST OF 2011

The best posts of 2011 (updated through April): click here for the list. Also, click here for the best of 2010.

THURSDAY, APRIL 28, 2011

Is the US Debt Limit Unconstitutional?

The 14th amendment case. (PoliticalWire)

POSTED AT 5:19 PM LABELS: POLITICS

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THIS WEEK'S MOST POPULAR POSTS

- The Office: Rent Song for Michael's Goodbye
- SNL: Rubbing Balloons and Static Electricity Gone Wrong
- Colbert Report: Barack Obama's Birth Certificate, No Proof He's a Black Man
- SI NFL Mock Draft April 27
- NFL Draft 2011 Drinking Game
- 2011 NFL Mock Draft April 24
- The Onion: Fast Five Written by Five Year Old Screenwriter
- 2011 NFL Mock Draft April 25
- Colbert Report: Donald Trump and Fresh Prince of Bel-Air
- Oregon Basketball Court Causes Distracting Glare

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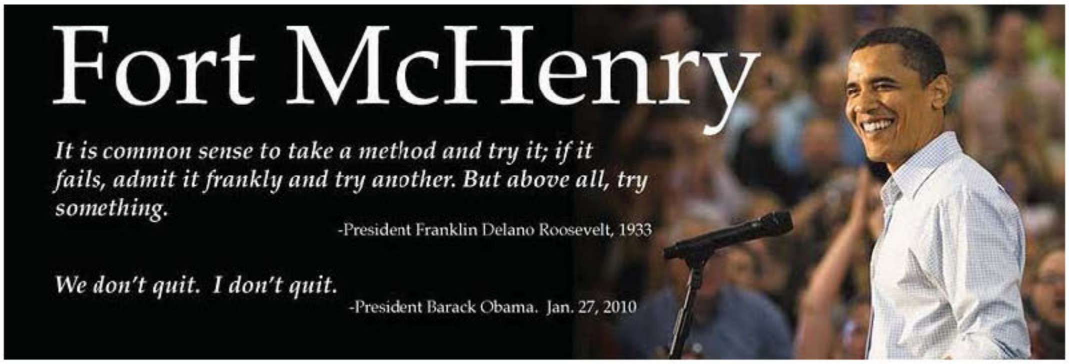

What this Blog is About

MALCOLM JOHNSON

Fort McHenry defended Baltimore, Maryland (my home state) from the British Navy during the War of 1812. Francis Scott Key wrote "The Star Spangled Banner" while a prisoner on a British ship. The "rockets red glare" and "bombs bursting in air" were bursting over Fort McHenry. I've decided to use this blog as my own "Fort McHenry" for President Obama, using this space to occassionally defend and explain his actions.

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Labels

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9/11 (2)
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Accomplishments (2)
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Africa (26)
Agriculture Dept. (11)
AIDS (1)
Airlines (2)
Alabama (1)
Alaska (10)
Analysis (787)
Apple (1)
Argentina (2)
Arizona (31)
Arkansas (4)
Asia (6)

THURSDAY, APRIL 28, 2011

The argument that the Debt Limit Vote is Unconstitutional...and not in the way the Teabaggers think!

From Taegan Goddard, but first posited by Garrett Epps:

> ***The 14th Amendment directs that "the validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."***
>
> *In short:* ***"This provision makes clear that both the monies our nation owes to bondholders, and the sums promised in legislation to those receiving pensions set by law from the federal government, must be paid regardless of the political whims of the current congressional majority.*** *All obligations that the nation has undertaken by drawing on its credit must at all times be rendered current."*

Posted by admiralmpj at 2:17 PM

Labels: Analysis , Budget , Democrats , Economy , Election 2012 , Obama , U.S.

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Notices

1. The Speech Obama Could Give: 'The Constitution Forbids Default'

   constitution debtceiling 1

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The Speech Obama Could Give - 'The Constitution Forbids Default' - Garrett Epps - Politics - The Atlantic (theatlantic.com)
1
about 19 hours agoby Garance Franke-Ruta

thegarance Does the Constitution forbid default? Garrett Epps sketches the speech he says Obama should give. http://bit.ly/mLQcRP
about 19 hours agoby Garance Franke-Ruta, Politics Editor, The Atlantic

Trending on Muck Rack

- Endeavour
- #royalwedding
- #shuttle
- #FF
- Friday's
- Donald Trump
- Alabama
- Jack Adams
- Cape Canaveral

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Legal Insurrection
Maggie's Farm
Macs Mind
Greg Mankiw
Marginal Revolution
Megan Mcardle

Thursday, April 28, 2011

Deep in the Fourteen Amendment

Here's an interesting take from the Atlantic: "**The speech Obama could give: 'The Constitution forbids default.'**" Apparently there's a section in the 14th amendment that states: "*...the validity of the public debt...shall not be questioned*."

Oh, I don't question the debt's validity. Just like Standard & Poors, I question our capability of paying it.

posted by Eric at **7:16 PM**

Comments: Post a Comment

HOME

(b) (5)

From: Pulliam, Joel
To: Meade, Christopher
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(b) (5)

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Sent: Thursday, April 28, 2011 4:42 PM
To: Madison, George; Wolin, Neal; Patterson, Mark (DO)
Subject: FW: The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

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For nearly a century and a half, the absolute language of the Fourteenth Amendment was not even questioned. I regret to say, however, that today our nation faces exactly the threat Section Four was designed to guard against. A vocal and determined political minority--what our great Founder James Madison would have called a "faction"--is determined to use its dominance in one House of Congress as a weapon to circumvent the democratic process. It wants to find a back-door way to undo programs and policies that have been democratically enacted over a 75-year period. It wants to impose a narrow vision of government and America that has been rejected by our people repeatedly over the same period.

This determined minority is now prepared to defy the Constitution to get its way. Some of its voices have begun to say that national default would be welcome, even if it wrecks our international credit and leads the U.S. to default not only on its bonded obligations but on the debts due to its armed forces in the field--debts that are even more sacred than "pensions and bounties for services" already performed by veterans in previous wars. Indeed, I am convinced that the only reason why the framers of Section Four did not explicitly include "payments to military personnel in the field during congressionally authorized military action" is that it was *literally unthinkable* even to the most hardened partisans among them that *any* faction within the United States Congress would countenance cutting off payments to those who carry our flag in foreign nations under hostile fire.

Some may ask why I do not simply use my executive authority to juggle accounts and cook the federal books in order to pay the most pressing obligations while I implore this determined minority to honor their oaths to uphold the Constitution. I do not have the luxury of partial or halfhearted compliance with the *absolute command* of our nation's fundamental law. Section Four does not say that the national debt "shall be paid sooner or later," or "shall be stretched out as long as possible," or "shall be paid in some areas but not in others." It also does not say "shall not be questioned unless Congress really wants to."

As long as I remain president, the national debt of the United States shall not be questioned.
It says it "shall not be questioned." The national debt must be paid in full, on time, regardless of any political division within our Congress. That is what the Framers intended: to set the debt obligations of our country beyond the reach of Congressional meddling. Those obligations will not be questioned as long as I am president of the United States.

This action requires me to authorize borrowing that is not in conformity with the debt-limit statute. But *no congressional statute can command or permit our government to violate the Constitution.* I find the debt limit, to the extent that it could be construed to require national default on any obligation of our nation, to be in the words of the great chief justice John Marshall, repugnant to the Constitution and thus void.

I regret that the intransigence of a small minority of members of Congress have forced our nation into this situation. I know that some of these same political leaders will now charge me with violating the Constitution -- the same Constitution that they apparently have no desire either to read or to follow. If they truly believe this to be true, I challenge them to bring Articles of Impeachment against me. The charge should be that I did what was necessary to support our troops in the field, to bolster our public credit, and to prevent destitution and despair among American families. I welcome that debate.

But as long as I remain president, the national debt of the United States shall not be questioned. That is my pledge to you, to the world, and to the memory of the brave men and women who gave the last full measure of devotion to rescue the United States from forces who long ago sought its destruction.

Good night. And God bless America.

(b) (5)

From: Anderson, Matthew
Sent: Thursday, April 28, 2011 4:20 PM
To: _DL_FYI
Subject: The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

The Atlantic: The Speech Obama Could Give: 'The Constitution Forbids Default'

By Garrett Epps

Imagining a presidential address confronting Republicans who want to risk the nation's credit for political reasons

My fellow Americans, I am speaking to you tonight to let you know the steps I have taken to ensure that America lives up to its obligations during the current political crisis. As you know, the continuing recession and the pressures of running two wars have made it necessary for the government to borrow money on the world market in order to meet our commitments at home and abroad, see to it that our armed forces receive their pay and equipment, and fulfill our obligations to the retired, the unemployed, and those in need of medical care.

Unfortunately, Congress has not passed an increase in the statutory debt limit as the deadline approaches. Members of the House majority have informed me that they will not agree to an increase in the debt limit without imposing restrictions on the government budget that will threaten our nation's recovery, imperil the national defense, and cause widespread suffering. I have offered to negotiate in good faith, as I did during the budget crisis, but they have shown no interest in real negotiations.

As of midnight tonight, the government's statutory borrowing authority will be exhausted. If no measures are taken, the government must either default on its bonded indebtedness or on its obligations to seniors on Social Security, to unemployed workers dependent on federal insurance payments, and to American service personnel serving in areas of armed conflict.

That is what the Framers intended: to set the debt obligations of our country beyond the reach of Congressional meddling.
For this reason, I have ordered that Secretary of the Treasury Timothy Geithner immediately begin issuing binding debt instruments on the world market sufficient to cover all the current obligations of the United States government, even in default of Congressional action to meet those obligations.

I take this action to fulfill the oath I took as president of the United States. The Constitution explicitly requires me, under my duty to "take care that the laws be faithfully executed," to meet and pay all debts of the United States.

This requirement is absolute. It is contained in Section Four of the Fourteenth Amendment, which directs, in no uncertain terms, that **"the validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned."**

This provision makes clear that both the monies our nation owes to bondholders, and the sums promised in legislation to those receiving pensions set by law from the federal government, must be paid regardless of the political whims of the current congressional majority. All obligations that the nation has undertaken by drawing on its credit must at all times be rendered current.

As a former professor of constitutional law, I want to explain to you the origin of Section Four. After the Civil War, political leaders in the defeated South announced their intention of resuming their seats in Congress and of using their power--augmented by increased Congressional representation for the freed slaves--to compel the federal government either to pay off all debts of the Confederacy or to default on the national debt which had been borrowed to finance the Union war effort. They also intended to present to the nation a huge bill for what they claimed was the value of the slaves that had been freed by the Emancipation Proclamation and the Thirteenth Amendment.

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Good night. And God bless America.

FINANCIAL HISTORY OF THE UNITED STATES

BY
PAUL STUDENSKI
HERMAN EDWARD KROOSS

BeardBooks
Washington, DC

A RESOURCE OF WAR—THE CREDIT OF THE GOVERNMENT MADE IMMEDIATELY AVAILABLE.

HISTORY

OF THE

LEGAL TENDER PAPER MONEY

ISSUED DURING THE

GREAT REBELLION.

BEING A

Loan without Interest and a National Currency.

PREPARED BY

Hon. E. G. SPAULDING, Chairman,

OF

THE SUB-COMMITTEE OF WAYS AND MEANS, AT THE TIME THE ACT WAS PASSED.

In such a nation as this, there is one and only one RESOURCE for loans s ficient to carry hrough the expenses of a GREAT WAR, namely, fundable Treasury Notes fitted for circulation as money, and based upon adequate taxation.

"That in the interval between war and war, all the outstanding paper should be called in *coin permitted to flow in again*, and hold the field of circulation, until *another war* should re quire its yielding place again to the NATIONAL MEDIUM."—JEFFERSON.

BUFFALO:
EXPRESS PRINTING COMPANY, 14 EAST SWAN STREET,
1869.

The President and the Debt.
New Yo k Times (1857-1922) Dec 11 1868
P oQuest Historical Newspapers The New York T mes (1851 2007)
pg 4

The President and the Debt.

The President, in his Message, says that "various plans have been proposed for the payment of the public debt." He might have added that quite as many have been proposed for *not* paying it. But the one which he recommends is at once the most barefaced, shameless and disgraceful. Here it is:

"It may be assumed that the holders of our securities have already received upon their bonds a larger amount than their original investment, measured by a gold standard. Upon this statement of facts it would seem but just and equitable that *the six per cent. interest now paid by the Government should be applied to the reduction of the principal in semi-annual installments, which in sixteen years and eight months would liquidate the entire national debt.* Six per cent. in gold would at present rates be equal to nine per cent. in currency, and equivalent to the payment of the debt one and a half time in a fraction less than seventeen years. This, in connection with all the other advantages derived from their investment, *would afford to the public creditors a fair and liberal compensation for the use of their capital, and with this they should be satisfied.*"

This is susceptible of but one construction. The interest on the bonds which represent the national debt, is paid to the holders,—those who have loaned their money to the Government, and who have a right to *annual interest* for its use and repayment of the *principal* when it becomes due. Mr. JOHNSON proposes that payment of the interest shall be stopped, and that the amount due as interest shall be paid only on the principal,—and shall thus go *toward extinguishing the debt! In this way* he says the debt can be paid in sixteen years and eight months. What a pity it is that the Government did not agree to pay *ten* or *twenty* per cent. interest for the use of the money, for in that case, by refusing to pay any interest at all, we could have got rid of the debt a great deal sooner. Ten per cent. would have paid the debt in *ten* years and twenty per cent. would have paid it in *five*. Indeed, if we had promised to pay 100 per cent., and then refused, we should not have any debt at all!

COLERIDGE says "a knave is only a roundabout fool." Mr. JOHNSON illustrates the doctrine. What does he think he gains by his talk about using the interest to pay the principal? Why does he not propose, openly and without circumlocution, to repudiate the debt wholly and completely? Applying the interest to reduce the principal, is simply *confiscating* the interest and using the amount of which the creditor is thus robbed toward paying the debt. The interest is as much due the creditor as the principal; and to talk about withholding the one, to pay the other, is to talk nonsense, and very dishonest nonsense at that.

It is said that Mr. JOHNSON intends to go into politics, and to run for Governor of Tennessee, after he ceases to be President. It is easy to see what ground he will take, and by what appeals he will try to hold it. He will make it his special aim to build up, first in Tennessee, and then throughout the South and the Union, a *party of repudiation:* and he will resort to the lowest arts of the lowest demagogue to ensure success. So bad a cause could not be in better hands. The only danger there has ever been that repudiation might succeed has been that it might be covered up, and made plausible by some indirection, and be urged by men of ability, standing and influence. In Mr. JOHNSON's hands that danger vanishes. He will make the scheme so barefaced that nobody can mistake it,—and so infamous that nobody will dare to support it. All the amateurs who have thus far dabbled in the dishonor will quit the field when Mr. JOHNSON enters it. We expect to see Gen. BUTLER speedily bring forward a bill in Congress to pay the principal of the bonds in gold, and the interest fully and promptly as it may fall due. He cannot afford to allow Mr. JOHNSON to come to his aid, in the scheme he he has supported of semi-repudiation.

We are glad President JOHNSON has made a "clean breast" of it, and put forth clearly and distinctly his views and policy in regard to the national debt. We have tried very hard to hold our original faith in his personal honesty, and to attribute his disastrous action to errors of judgment and infirmities of temper. The struggle has often been difficult, and we can maintain it no longer. We give it up. It is impossible to reconcile his language in regard to our national debt with integrity of purpose, or any sincere regard for the honor and welfare of the nation. We only regret that foreigners should be able to cite a President's Message in seeming proof of our national dishonor and disgrace.

ANDREW JOHNSON.
New Yo k Times (1857-1922) May 31 1871
ProQuest Historical Newspapers The New York Times (1851 2007)
pg 2

ANDREW JOHNSON.

His Address to the Tennessee Mechanics—He Still Clings to the Constitution, Gives His Views on Capital, Labor, Great Britain, Prisons, and the Public Debt, and Favors Repudiation of the Interest.

Ex-President ANDREW JOHNSON delivered, on Saturday, his long-promised address in Knoxville, Tenn., in the presence of a large and intelligent audience, composed of mechanics and other citizens of Knoxville and the surrounding country. The correspondent of the *Richmond Dispatch* gives the following report:

"A procession of mechanics and citizens was formed at an early hour in the morning, and was about one mile in length. President JOHNSON rode in a carriage in the tailors' part of the procession; and after marching through several of the principal streets of the city, the procession moved to the Fair Grounds, though the weather was excessively hot. Mr. JOHNSON spoke amid great disadvantages, owing to the confined atmosphere in the Exposition building and the loud noise made by visitors walking in the upper story. He nevertheless spoke nearly three hours.

He stated that he was a mechanic, and was proud, indeed, to acknowledge it. He would address his audience in reference to measures involving the highest interests of the labor and mechanism of the country. He then spoke against the policy of the State in allowing Penitentiary labor to come in conflict with honest labor. As a general thing, he thought prisons and penitentiaries did not tend to the reformation of the criminal. In regard to capital and labor, he said that capital was always seeking to obtain labor on the most favorable terms, and labor is always seeking to obtain the highest wages. His profound sympathies were with the working classes. He was with them heart and soul.

Referring to the late civil war in this country, he said that England was not a friend of the South, but was disposed to aid the South in her conflict with the North with a view merely to weakening a great and overpowering commercial rival.

The Ex-President spoke of the high position which industrious and frugal mechanics might reach, and instanced his own case as an illustration. He also spoke at some length of the national debt, and said that the annual interest upon it was $150,000,000 at six per cent. This large amount had to be paid by the labor of the country. No nation had ever yet paid any large public debt without repudiation. The debt contracted in the Revolutionary war was nearly all repudiated, and we have no right to make this debt permanent. He said it would be just and equitable that the six per cent. now paid by the Government as interest should be applied to the reduction of the principal in semi-annual instalments. This plan would, in sixteen years and eight months, liquidate the entire national debt.

He also discussed the great principles of the Constitution, and said that every good citizen should cling to it as the right arm of national safety, and as the best means of insuring public peace and private prosperity."

THE

GENERAL PRINCIPLES

OF

CONSTITUTIONAL LAW

IN THE

UNITED STATES OF AMERICA.

BY

THOMAS M. COOLEY, LL.D.,

AUTHOR OF "CONSTITUTIONAL LIMITATIONS," ETC.

THIRD EDITION

BY ANDREW C. McLAUGHLIN, A.M., LL.B.,

PROFESSOR OF AMERICAN HISTORY, UNIVERSITY OF MICHIGAN.

BOSTON:

LITTLE, BROWN, AND COMPANY.

1898.

THE CONSTITUTION

OF THE

UNITED STATES

DEFINED AND CAREFULLY ANNOTATED.

BY

GEORGE W. PASCHAL,

OF THE BAR OF THE SUPREME COURT OF THE UNITED STATES: AUTHOR OF "PASCHAL'S ANNOTATED DIGEST," "A TREATISE ON CHARITABLE USES," ETC., ETC.

WASHINGTON, D. C.:
W. H. & O. H. MORRISON, LAW BOOKSELLERS,
PUBLISHERS, IMPORTERS, AND STATIONERS.
1868.

LECTURES

ON

THE CONSTITUTION

OF

THE UNITED STATES

BY

SAMUEL FREEMAN MILLER, LL.D.
LATE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES

NEW YORK AND ALBANY
BANKS AND BROTHERS, LAW PUBLISHERS
1891

CORNELL LAW QUARTERLY

VOLUME XIX DECEMBER, 1933 NUMBER 1

A FORGOTTEN SECTION OF THE FOURTEENTH AMENDMENT

PHANOR J. EDER†

Section four of the Fourteenth Amendment to the Constitution of the United States of America, reads as follows:

> "4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void."

This section has lain dormant for years. No cases under any part of it ever seem to have arisen in the courts, nor with a single exception[1] does it ever seem to have been referred to. The leading commentators on constitutional law make only cursory mention of it.

The second part of the section dealing with the non-recognition of the Confederate debt is of historic interest only. The first part however "that the validity of the public debt of the United States, authorized by law, shall not be questioned" has been thrust suddenly into the arena of debate by reason of the Joint Resolution of Congress signed by the President, June 5, 1933. This declares the public policy of the United States and provides that every obligation heretofore or hereafter incurred which purports to give the obligee a right to require payment in gold shall be discharged, dollar for dollar, in any coin or currency which at the time of payment is legal tender for public and private debts. It further provides that all currencies, including paper money, shall be legal tender for public and private debts.[2]

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†Member of the New York Bar.

[1]Branch v. Haas, 16 Fed. 53, 54 (C. C. Ala. 1883) dealing with Confederate bonds.

[2]The full text of the resolution is:

"JOINT RESOLUTION TO ASSURE UNIFORM VALUE TO THE COINS AND CURRENCIES OF THE UNITED STATES.

"Whereas the holding of or dealing in gold affect the public interest and are, therefore, subject to proper regulation and restriction; and

"Whereas the existing emergency has disclosed that provisions of obligations which purport to give the obligee a right to require payment in gold or a

BEYOND BALANCED BUDGETS, FOURTEENTH AMENDMENT STYLE

Michael Abramowicz†

This Article raises a historical constitutional puzzle in an effort to shed light on a modern one. The historical puzzle concerns an obscure constitutional provision buried in a prominent constitutional amendment. Section 4 of the Fourteenth Amendment states that "[t]he validity of the public debt of the United States . . . shall not be questioned," but the courts have never applied this provision to constrain congressional budgeting. What did this provision once mean, and why has it effectively fallen out of the Constitution? This Article argues that originalist adherence to the provision would have had several significant consequences for modern congressional budget practice. While the provision could have served as a weak version of a Balanced Budget Amendment, today it is clearly dead. This Article asks why and provides an unsettling answer—the Clause was effectively forgotten. For even if the Clause is dead, the principle underlying it illuminates a modern constitutional puzzle, if and how lawmakers should amend the Constitution to tame the growing national debt. This Article begins by arguing that a Fiscal Commitments Amendment, similar to the Public Debt Clause but more clearly stated, might be an economically sound alternative to a Balanced Budget Amendment.

CONTENTS

† Olin Fellow in Law, Economics and Public Policy, Yale Law School (J.D. expected 1998); B.A., Amherst College (1994). The author is currently Executive Editor of the YALE LAW JOURNAL. For comments on previous drafts, the author thanks Mark Abramowicz, Ian Ayres, Darren Eicken, Jessie Liu, and Kate Stith. For helpful citations and ideas, the author thanks Akhil Reed Amar and Burke Marshall.

COMPARATIVE AND INTERNATIONAL ASPECTS OF AMERICAN GOLD CLAUSE ABROGATION

ARTHUR NUSSBAUM†

THE Joint Resolution of Congress of June 5, 1933, abrogating the gold clause,[1] has provoked considerable and pertinent legal examination of the subject.[2] This examination has so far been restricted to a single problem: the constitutionality of the new law. But numerous other questions are involved, such as those relating to the different types of gold clauses, their interpretation, and their effect in the case of nonperformance or of invalidity; and more important still, there arises the problem of delimiting the operative scope of the Joint Resolution itself. The disregard of these and other inherent problems is understandable because at present the issue of constitutionality is the dominant one. The writer, however, will not presume to enter very deeply into the question of American con-

†Visiting Professor of Law, Columbia University; formerly Professor of Law, Berlin University.

1. The essential provisions of the Joint Resolution read as follows: "That (a) every provision contained in or made with respect to any obligation which purports to give the obligee a right to require payment in gold or a particular kind of coin or currency, or in an amount in money of the United States measured thereby, is declared to be against public policy; and no such provision shall be contained in or made with respect to any obligation hereafter incurred. Every obligation, heretofore or hereafter incurred, whether or not any such provision is contained therein or made with respect thereto, shall be discharged upon payment, dollar for dollar, in any coin or currency which at the time of payment is legal tender for public and private debts. Any such provision contained in any law authorizing obligations to be issued by or under authority of the United States, is hereby repealed, but the repeal of any such provision shall not invalidate any other provision or authority contained in such law.

"(b) As used in this resolution, the term 'obligation' means an obligation (including every obligation of and to the United States, excepting currency) payable in money of the United States; and the term 'coin or currency' means coin or currency of the United States, including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations. . . ." 48 STAT. 113 (1933), 31 U. S. C. A. 463 (1933).

2. Barry, *Gold* (1934) 20 VA. L. REV. 263; Collier, *Gold Contracts and Legislative Power* (1934) 2 GEO. WASH. L. REV. 303; Garris, *The Gold Clause* (1933) 165 ANNALS 219; Hanna, *Currency Control and Private Property* (1933) 33 COL. L. REV. 617; *Federal Currency Restrictions and Gold Contracts* (1933) A. B. A. J. 349; Johnson, *Constitutional Limitations and the Gold Standard* (1933) 67 U. S. L. REV. 187, 239; King, *The Gold Clause: Can It Constitutionally Be Abrogated By Legislation?* (1934) 2 GEO. WASH. L. REV. 131; Nebolsine, *The Gold Clause in Private Contracts* (1933) 42 YALE L. J. 1051; Post and Willard, *The Power of Congress to Nullify Gold Clauses* (1933) 46 HARV. L. REV. 1225; Thorpe, *Contracts Payable in Gold*, SEN. Doc. No. 43, 73d Cong., 1st Sess. (1933); see further the report in Gordon, *Force and Effect of Clauses Providing for Payment of Private Indebtedness in Gold* (1933) 31 MICH. L. REV. 953, and von Baumhauer, *De goudclausule in de Americaansche wetgeving, literatuur en Rechtspraak* (1933) NEDERLANDSCHE JURISTENBLAD No. 43.

The Economist

Economics
Free exchange

The debt ceiling and default

Jan 13th 2011, 17:48 by G.I. | WASHINGTON, DC

ALMOST everyone takes it for granted that a failure to raise the debt ceiling will eventually force the United States to default on its Treasury debt. This notion is superficially puzzling. The question is addressed in this week's issue of *The Economist* (http://www.economist.com/node/17906039) . I'll dig into it a bit more here.

A default would result from failure to pay principal or interest. The debt ceiling doesn't bar either. Treasury can roll over maturing issues so long as the overall stock of outstanding debt doesn't rise. (A caveat: Treasury must invest surplus Social Security and Medicare taxes by issuing non-marketable debt to the plans' trust funds, which erodes the remaining capacity for marketable debt.) As for interest, even in today's straightened circumstances, revenue is more than enough to cover interest charges. The helpful table below from Lou Crandall of Wrightson ICAP shows that in every month this year, projected cash receipts comfortably exceed interest payments; the narrowest margin comes in November, when receipts exceed interest by $131 billion.

All figures $billions	Cash Receipts	Interest	Other outlays	Cash deficit
January, 2011	249	11	306	-68
February, 2011	176	32	385	-241
March, 2011	229	8	446	-224
April, 2011	345	5	373	-33
May, 2011	193	37	306	-151
June, 2011	271	8	329	-66
July, 2011	166	7	293	-134
August, 2011	185	37	340	-192
September, 2011	258	8	341	-91
October, 2011	165	5	281	-120
November, 2011	164	33	289	-158
December, 2011	223	3	306	-86

What this clearly means is that Treasury can easily remain current on existing debt, provided it is willing to suspend some non-interest outlays. Does it have the authority to do so? What is the relative seniority of creditors of the United States government? States often specify the relative seniority of their bondholders either in their constitution or statute; in California, for example, bond holders stand ahead of all creditors except schools. Illinois has remained current on its bond debt while racking up some $6 billion in unpaid bills to other creditors.

I have yet to find a similar ranking for the federal government. This should not be surprising; the United States has never defaulted. There is the fourteenth amendment to the constitution which says: "The validity of the public debt of the United States… shall not be questioned." The purpose of this section was to forbid the United States from honouring Confederate debts. The Supreme Court has apparently ruled that it also bars Congress from voiding a government bond, although not from abrogating the gold clause as it did in 1934.

I've poked around on this, and it seems to be a legal black hole. A bond is in essence a contract; does a contractual obligation rank ahead or behind a statutory obligation such as Social Security cheques? This is a matter of interpretation that, I am told, is largely up to the federal government itself. Without explicit guidance otherwise, Treasury would pay obligations in the order that they come due, which could clearly mean missing an interest payment.

However, some statutes, and the actions of the Clinton Administration in 1995-96, suggest that non-interest obligations are not sacrosanct. Several laws explicitly consider the possibility of late payment; the Prompt Payment Act dictates the interest penalties the federal government must pay for late payment to commercial vendors while the Internal Revenue Code does the same for late tax refunds. During the government shutdown of 1995-1996 (which was triggered not by the debt ceiling but by failure to enact appropriations), the Office of Management and Budget apparently did establish priority among various outlay categories. However, that would not have addressed bond interest which is subject to a permanent appropriation.

In early 1996, Bill Clinton warned that because the debt ceiling had not been raised, Social Security cheques might be late. This scared Congress into passing a small increase in the debt ceiling solely to meet Social Security payments. Treasury could acquire considerable additional borrowing room by not issuing non-marketable debt to the Social Security and Medicare Trust funds and by failing to rollover existing issues as they come due, and issuing IOUs in their place, as it does with the civil-service pension funds. While it seems to have rejected that option in the past, I'm not sure it is legally off limits. (Though this simply means replacing one IOU with another, it would be politically explosive; the public thinks of the trust funds as inviolable lock boxes, not accounting entries.)

Thus, it seems to me that if Tim Geithner has to make a choice, he can, and should, prioritise bond interest. To be sure, failure to pay Social Security cheques or any other payment on time would cause hardship for recipients, provoke a public backlash against the administration, Congress or both, and embarrassment for the United States; after all, how can the world's most powerful economy not pay its bills on time? But even a brief default on Treasury debt would be unprecedented, with widespread systemic ramifications. Would banks around the world have to classify Treasury holdings as non-performing? Would money-market mutual funds break the buck? Would all federal entities lose their AAA-credit rating? Would the Federal Deposit Insurance Corporation's ability to backstop the nation's banks come into question? Would foreign central banks start to shift out of dollars? Since no one doubts the ability of Treasury to pay once the debt ceiling is lifted, it's conceivable the damage would be containable; but why take the risk?

The consequences of defaulting on other obligations should not be minimised, either. The federal government now has to borrow about 40 cents of every dollar it spends. A prolonged inability to meet 40% of its obligations would sow economic disarray, trigger litigation, and eventually raise doubts about its ability to meet any obligations. Illinois's gaping credit-default-swap spreads suggest its inability to pay non-interest bills factors into the market's assessment of its ability to service bond debt. Failure to raise the debt ceiling need not entail default; but it would still ding Uncle Sam's credit rating.

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James Macdonald on US sovereign default

JAN 17, 2011 09:28 EST

DEFAULT | SOVEREIGN DEBT

After I blogged Greg Ip's post on the dangers of a US debt default if the debt ceiling isn't raised, it became clear that we were very much lacking an expert take on the matter. So I asked James Macdonald, author of my favorite book about sovereign debt, if he might weigh in. Here's what he replied:

Constitutional issues:

In the event of a refusal by Congress to raise the debt ceiling, would public debts have precedence over other government obligations? Some commentators have referred to the Fourteenth Amendment, passed in the aftermath of the Civil War, which states that "the validity of the public debt… shall not be questioned." Is the public debt of the United States constitutionally sacrosanct in ways that its other obligations are not?

The Fourteenth Amendment was needed because, as the ex-Confederate states rejoined the Union after the Civil War, they were likely to hold a great deal of power in Congress, just as they had before 1860. In fact southern whites had been over-represented thanks to the extraordinary provision of the original Constitution that States could count 60% of their slave populations towards their seat allocations in Congress even though slaves had no rights. The main purpose of the amendment was to ensure that emancipated slaves could not be deprived of the right to vote, and as an additional weapon the amendment stated that States would only be entitled to seats in Congress in proportion to their voting populations.

The clause on public debt was the amendment's final provision, and reads:

"The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void."

There are a number of issues raised here. As the southern states regained power in Congress they might have refused to honour war pensions to Union veterans unless an equivalent provision was made for Confederate soldiers. Or they might have demanded equivalent treatment for the war debt of both sides. The amendment put exiting debts, agreed while the Confederate states were not in the Union, out of bounds of discussion. The most striking aspect of the clause may be the second sentence. It rode roughshod over States' rights by prohibiting them from paying any Confederate war debts, even if they wanted to. It also set aside the protection of property rights enshrined in the Fifth Amendment ("nor shall private property be taken for public use without just compensation") by making it illegal to compensate slave owners for the loss of their property, even those in States that had not joined the Confederacy. It is perfectly possible that without the Fourteenth Amendment, slave owners could have taken to government to the Supreme Court on the basis of the Fifth Amendment.

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What implications are there for the present situation? Prior to the Fourteenth Amendment, the main constitutional protection for public creditors was the Fifth Amendment. It is not clear just how much the Fourteenth Amendment added to that protection in the case of debt securities, which, as a form of property, are protected by the Fifth Amendment anyway. Where the Fourteenth Amendment might have some implications is in the case of state pensions, and by extension Social Security benefits, which could be deemed to be protected in the same way as post-Civil War veterans' pensions. The Amendment also has a bearing on any attempt by the government to default on some debts while honoring others. (What happens to Chinese holdings of US Treasuries if China invades Taiwan triggering economic war between the two superpowers?)

Neither the Fifth nor the Fourteenth Amendments protected creditors in 1934, when the US declared that, as part of removing gold from circulation, it would no longer honor the "gold clause" that required the government to pay its bonds in gold coin of a fixed standard. The matter went to the Supreme Court, which found for the government on the basis that section 8 of the Constitution allowed Congress to determine what constituted money; so if it wanted to demonetize gold, it could. This, of course, did not mean the the government had not defaulted, merely that the Constitution allowed it to default under certain circumstances.

Since the Constitution gives the government the power to redefine money at will, it could be argued that the government might find a way around the debt ceiling by some monetary sleight of hand. However, the Constitution would not help in this instance, since the power is vested in Congress, not the administration.

Historical precedents:

The power of the debt ceiling can be very effective. The closest historical analogy to the present situation – other than the shutdown of government under Clinton in 1995 – is the run-up to the French Revolution. The French government was running a chronic deficit, although nothing like so large as the present US deficit in relation to GDP. There was no elected assembly in France, but registration of government loans by the Parlement of Paris, an unelected body of lawyers, was required to give them the force of law. In 1788 the Parlement refused to register the loan needed to cover the annual deficit unless the Estates General was reconvened. The government responded by disbanding the Parlement and imprisoning its leaders, but its access to the credit markets was frozen. In the end it was forced to summon the Estates General in 1789, and the rest, as they say, is history.

Thoughts on the present situation:

Clearly the US does not have to default just because the debt ceiling is reached – for the reasons outlined in this blog and elsewhere. It can temporarily cut back, or delay, its expenses. There is very unlikely to be a problem covering interest on this basis, since the interest on the market debt is only running at $16bn per month and only represents 5% of spending.

The problems could occur for other reasons:

- Given a budget deficit of $1,500 billion per year, new debt has to be issued at a average rate of $130 billion per month. The government would therefore have to reduce/delay spending by $145 billion per month to cover interest and avoid increasing its debt. This is a far more serious problem than finding a mere $16 billion per month, and represents 44% of total spending.

- The market could take fright and refuse to refinance existing debt as it matures, leading to default. Since, quite apart from bond maturities, there are around $2 trillion of T-bills outstanding, the government is on a very short leash when it comes to its credit standing. However, I do not take this risk seriously, since the Fed will simply lend the government the money to roll over the debt if the market refuses to do so.

Given that the the prices of government bonds have not collapsed, the market clearly assumes that that Congress will blink first and there will be no crisis. Personally, I am pretty confident that the market is right. However, there is a risk that, precisely because the only thing that the government can do legally to avoid default is to reduce spending, which is what the Republican right wants, there is an incentive for the Republicans to continue with the game of chicken until it is arguably too late.

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At that point, even if the government does avoid default, the battle may be such a "damn close run thing" that the markets may decide that American politics is in so parlous a state that the risk premium on government bonds needs to rise sharply.

PS. Diverting the Social Security surplus (as per your blog) is not an option. Because of the recession, the program is currently running at a deficit, although it is supposed to return to surplus as employment increases.

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JAN 17, 2011
10:58 AM EST

Keith Hennesssey recently gave a crash course on the budget process to GOP legislators, which he published. Since Republicans are threatening to not raise the debt ceiling because they want budget cuts I thought it might be of interest: http://keithhennessey.com/wp-content/upl oads/2011/01/budget-process-intro.pdf

@Chris Gaun
chrisgaun@gmail.com

Posted by Chris Gaun | Report as abusive

JAN 17, 2011
2:53 PM EST

All very enlightening, Felix, but what we here in the peanut gallery are really hungry for, is your no-doubt prestidigitatious take on the Goldman-Facebook implosion.

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AMENDMENT XIV. CITIZENSHIP; PRIVILEGES AND IMMUNITIES; DUE PROCESS; EQUAL PROTECTION; APPOINTMENT OF REPRESENTATION; DISQUALIFICATION OF OFFICERS; PUBLIC DEBT; ENFORCEMENT

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

<Section 1 of this amendment is further displayed in separate documents according to subject matter,>

<see USCA Const Amend. XIV, § 1-Citizens>

<see USCA Const Amend. XIV, § 1-Privileges>

<see USCA Const Amend. XIV, § 1-Due Proc>

<see USCA Const Amend. XIV, § 1-Equal Protect>

<sections 2 to 5 of this amendment are displayed as separate documents,>

<see USCA Const Amend. XIV, § 2,>

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<see USCA Const Amend. XIV, § 4,>

<see USCA Const Amend. XIV, § 5,>

Current through P.L. 111-311 (excluding P.L. 111-259, 111-267, 111-275, 111-281, 111-291, 111-296, and 111-309) approved 12-15-10

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Supreme Court of the United States.
PERRY
v.
UNITED STATES.

No. 532.
Argued Jan. 10, 11, 1935.
Decided Feb. 18, 1935.

On Certificate from the Court of Claims.

Suit by John M. Perry against the United States. Defendant demurred to the petition, and the Court of Claims certifies certain questions.

One question answered.

See, also, Norman v. Baltimore o r. c/o., 294 U.S. 240, 55 S.Ct. 407, 79 L.Ed. 885; Nortz v. United States, 294 U.S. 317, 55 S.Ct. 428, 79 L.Ed. 907.

Mr. Justice McREYNOLDS, Mr. Justice VAN DEVANTER, Mr. Justice SUTHERLAND, and Mr. Justice BUTLER, dissenting in part.

West Headnotes

[1] United States 393 91

393 United States
393VI Fiscal Matters
393k91 k. Bonds. Most Cited Cases
(Formerly 396k91)

Provision in Liberty Loan gold bond that principal and interest were payable in United States gold coin of "present standard of value"*held* intended to afford protection against loss by setting up standard or measure of government's obligation and to assure obligee that he would not suffer loss through depreciation in medium of payment. Second Liberty Bond Act § 1, as amended by Third Liberty Bond Act § 1, 31 U.S.C.A. § 752.

[2] United States 393 91

393 United States
393VI Fiscal Matters
393k91 k. Bonds. Most Cited Cases
(Formerly 396k91)

That gold clause in existing government obligations, if permitted to remain in force, would interfere with exercise of constitutional authority of Congress to regulate value of money and fix monetary policy, *held* not to authorize Congress to invalidate such clause, in view of distinction in such respect between power of Congress to control or interdict contracts of private parties and its power to alter or repudiate substance of own engagements incurred under power to borrow money on credit of United States. U.S.C.A. Const. art. 1, § 8, cls. 2, 5.

[3] United States 393 79

393 United States
393VI Fiscal Matters
393k79 k. Power to Incur Indebtedness or Make Expenditures. Most Cited Cases

Under constitutional power to borrow money on credit of United States, Congress may fix amount to be borrowed and terms of payment and is authorized to pledge credit of United States as assurance of payment as stipulated. U.S.C.A. Const. art. 1, § 8, cl. 2.

[4] United States 393 79

393 United States
393VI Fiscal Matters
393k79 k. Power to Incur Indebtedness or Make Expenditures. Most Cited Cases

Right to make binding obligation is a power attaching to sovereignty.

[5] Constitutional Law 92 637

92 Constitutional Law
92V Construction and Operation of Constitutional Provisions

92V(D) Construction as Grant or Limitation of Powers; Retained Rights
92k636 United States Constitution
92k637 k. In General. Most Cited Cases
(Formerly 92k27)

In United States, sovereignty resides in people, who act through organs established by Constitution.

[6] United States 393 79

393 United States
393VI Fiscal Matters
393k79 k. Power to Incur Indebtedness or Make Expenditures. Most Cited Cases
(Formerly 396k79, 396k125(1))

United States 393 125(3)

393 United States
393IX Actions
393k125 Liability and Consent of United States to Be Sued
393k125(3) k. Necessity of Waiver or Consent. Most Cited Cases
(Formerly 393k125(1))

Where United States has constitutionally and lawfully borrowed money and pledged its credit therefor, the binding quality of the promise is of essence of credit so pledged, and Congress cannot thereafter alter or destroy such obligation, and, while Congress need not provide remedy through courts and United States may not be sued without its consent, essential obligation still exists and remains binding on the conscience of the sovereign. U.S.C.A. Const. art. 1, § 8, cl. 2.

[7] United States 393 91

393 United States
393VI Fiscal Matters
393k91 k. Bonds. Most Cited Cases

Provision of Fourteenth Amendment, that validity of public debt of United States authorized by law **shall not** be **questioned**, *held* to apply to government bonds issued after, as well as those before the amendment, and phrase "validity of public debt" embraces whatever concerns the integrity of the public obligations. U.S.C.A. Const.Amend. 14, § 4.

[8] Payment 294 3

294 Payment
294I Requisites and Sufficiency
294k3 k. Constitutional and Statutory Provisions. Most Cited Cases

United States 393 34

393 United States
393I Government in General
393k34 k. Mints, Assay Offices, Coinage, and Money. Most Cited Cases

Joint Resolution declaring gold clause in obligations to be against public policy, and providing for discharge of such obligations on payment, dollar for dollar, of legal tender coin or currency at time of payment, *held* unconstitutional as applied to pre-existing Liberty Loan gold bond issued by government. Gold Repeal Joint Resolution § 1, 31 U.S.C.A. § 463; U.S.C.A. Const. art. 1, § 8, cls. 2, 5, and Amend. 14 § 4.

[9] United States 393 91

393 United States
393VI Fiscal Matters
393k91 k. Bonds. Most Cited Cases

As remedy for breach of gold clause in Liberty Loan gold bonds, which clause Congress sought unconstitutionally to abrogate, holder could recover no more than loss actually suffered and of which he might rightfully complain, since he was not entitled to be enriched. Second Liberty Bond Act § 1, as amended by Third Liberty Bond Act § 1, 31 U.S.C.A. § 752; Gold Repeal Joint Resolution § 1, 31 U.S.C.A. § 463.

[10] Federal Courts 170B 1073.1

170B Federal Courts
170BXII Claims Court (Formerly Court of Claims)
170BXII(A) Establishment and Jurisdiction
170Bk1073 Particular Claims, Jurisdiction
170Bk1073.1 k. In General. Most Cited Cases

(Formerly 170Bk1073, 106k449(1))

Court of Claims has no jurisdiction to entertain action for nominal damages.

[11] United States 393 34

393 United States
393I Government in General
393k34 k. Mints, Assay Offices, Coinage, and Money. Most Cited Cases

Under authority to deal with gold coin as medium of exchange, Congress could authorize the prohibition, by executive order, of exportation of gold coin and placing of restrictions upon transactions in foreign exchange, and restraint thus imposed on holders of gold coin was incident to limitations inhering in the ownership of the coin and gave holders no right of action. Emergency Banking Relief Act § 2, amending Trading with the Enemy Act § 5(b), 12 U.S.C.A. § 95a; Gold Reserve Act of 1934, § 13, 31 U.S.C.A. § 824; Executive Orders, Nos. 6111, 6260, 6560, 12 U.S.C.A. § 95 note.

[12] United States 393 34

393 United States
393I Government in General
393k34 k. Mints, Assay Offices, Coinage, and Money. Most Cited Cases

Statutes authorizing prohibition, by executive order, of exportation of gold coin and placing of restrictions upon transactions in foreign exchange, *held* not invalid as being arbitrary or capricious. Emergency Banking Relief Act § 2, amending Trading with the Enemy Act § 5(b), 12 U.S.C.A. § 95a; Gold Reserve Act of 1934, § 13, 31 U.S.C.A. § 824; Executive Orders, Nos. 6111, 6260, 6560, 12 U.S.C.A. § 95 note.

[13] Federal Courts 170B 1073.1

170B Federal Courts
170BXII Claims Court (Formerly Court of Claims)
170BXII(A) Establishment and Jurisdiction
170Bk1073 Particular Claims, Jurisdiction
170Bk1073.1 k. In General. Most Cited Cases

(Formerly 170Bk1073, 106k449(1))

Holder of Liberty Loan bond, called for redemption April 15, 1934, and presented May 24th, to which holder government refused payment in gold and tendered payment in legal tender currency, *held* not to have suffered actual loss, and was therefore not entitled to recover in Court of Claims legal tender currency in excess of face amount of bonds, notwithstanding devaluation of gold dollar, in view of restrictive use of gold in domestic transactions, and restraints on transactions in foreign exchange or export of gold. Thomas Amend. § 43(b)(2), as amended by Act Jan. 30, 1934, § 12, 31 U.S.C.A. § 821; Proclamation No. 2072, 31 U.S.C.A. § 821 note.

United States 393 125(3)

393 United States
393IX Actions
393k125 Liability and Consent of United States to Be Sued
393k125(3) k. Necessity of Waiver or Consent. Most Cited Cases

United States can only be sued by own consent.

****433 *333** Mr. John M. Perry, of New York City, for Perry.

***341** Messrs. Homer S. Cummings, Atty. Gen., and Angus D. MacLean, Asst. Sol. Gen., of Washington, D.C., for the United States.

Mr. Chief Justice HUGHES delivered the opinion of the Court.

The certificate from the Court of Claims shows the following facts:

Plaintiff brought suit as the owner of an obligation of the United States for $10,000, known as 'Fourth Liberty Loan 4 1/4 % Gold Bond of 1933-1938.' This bond was issued pursuant to the Act of September 24, 1917, s 1 et seq. (40 Stat. 288), as amended, and Treasury Department circular No. 121 dated September 28, 1918. The bond ***347** provided: 'The principal and interest hereof are payable in United States gold coin of the present standard of value.'

Plaintiff alleged in his petition that at the time the bond was issued, and when he acquired it, 'a dollar in gold consisted of 25.8 grains of gold .9 fine'; that the bond was called for redemption on April 15, 1934, and, on May 24, 1934, was presented for payment; that plaintiff demanded its redemption 'by the payment of 10,000 gold dollars each containing 25.8 grains of gold .9 fine'; that defendant refused to comply with that demand; and that plaintiff then demanded '258,000 grains of gold .9 fine, or gold of equivalent value of any fineness, or 16,931.25 gold dollars each containing 15 5/21 grains of gold .9 fine, or 16,931.25 dollars in legal tender currency'; that defendant refused to redeem the bond 'except by the payment of 10,000 dollars in legal tender currency'; that these refusals were based on the Joint Resolution of the Congress of June 5, 1933, 48 Stat. 113 (31 USCA ss 462, 463), but that this enactment was unconstitutional, as it operated to deprive plaintiff of his property without due process of law; and that, by this action of defendant, he was damaged 'in the sum of $16,931.25, the value of defendant's obligation,' for which, with interest, plaintiff demanded judgment.

Defendant demurred upon the ground that the petition did not state a cause of action against the United States.

The Court of Claims has certified the following questions:

'1. Is the claimant, being the holder and owner of a Fourth Liberty Loan 4 1/4 bond of the United States, of the principal amount of $10,000, issued in 1918, which was payable ****434** on and after April 15, 1934, and which bond contained a clause that the principal is 'payable in United States gold coin of the present standard of value', entitled to receive from the United States an amount in legal tender currency in excess of the face amount of the bond?

***348** '2. Is the United States, as obligor in a Fourth Liberty Loan 4 1/4 % gold bond, Series of 1933-1938, as stated in Question One liable to respond in damages in a suit in the Court of Claims on such bond as an express contract, by reason of the change in or impossibility of performance in accordance with the tenor thereof, due to the provisions of Public Resolution No. 10, 73rd Congress, abrogating the gold clause in all obligations?'

[1] First. The Import of the Obligation. The bond in suit differs from an obligation of private parties, or of states or municipalities, whose contracts are necessarily made in subjection to the dominant power of the Congress. Norman v. Baltimore & Ohio R. Co., 294 U.S. 240, 55 S.Ct. 407, 79 L.Ed. 885, decided this day. The bond now before us is an obligation of the United States. The terms of the bond are explicit. They were not only expressed in the bond itself, but they were definitely prescribed by the Congress. The Act of September 24, 1917, both in its original and amended form, authorized the moneys to be borrowed, and the bonds to be issued, 'on the credit of the United States,' in order to meet expenditures needed 'for the national security and defense and other public purposes authorized by law.' Section 1, 40 Stat. 288, as amended by Act April 4, 1918, s 1, 40 Stat. 503, 31 USCA s 752. The circular of the Treasury Department of September 28, 1918, to which the bond refers 'for a statement of the further rights of the holders of bonds of said series,' also provided that the principal and interest 'are payable in United States gold coin of the present standard of value.'

This obligation must be fairly construed. The 'present standard of value' stood in contradistinction to a lower standard of value. The promise obviously was intended to afford protection against loss. That protection was sought to be secured by setting up a standard or measure of the government's obligation. We think that the reasonable import of the promise is that it was intended ***349** to assure one who lent his money to the government and took its bond that he would not suffer loss through depreciation in the medium of payment.

The government states in its brief that the total unmatured interest-bearing obligations of the United States outstanding on May 31, 1933 (which it is understood contained a 'gold clause' substantially the same as that of the bond in suit), amounted to about twenty-one billions of dollars. From statements at the bar, it appears that this amount has been reduced to approximately twelve billions at the present time, and that during the intervening period the public debt of the United States has risen some seven billions (making a total of approximately twenty-eight billions five hundred millions) by the issue of some sixteen billions five hundred millions of dollars 'of non-gold-clause obligations.'

[2][3][4][5][6][7][8] Second. The Binding Quality of the Obligation. The question is necessarily presented whether the Joint Resolution of June 5, 1933, 48 Stat. 113 (31 USCA ss 462, 463), is a valid enactment so far as it applies to the obligations of the United States. The resolution declared that provisions requiring 'payment in gold or a particular kind of coin or currency' were 'against public policy,' and provided that 'every obligation, heretofore or hereafter incurred, whether or not any such provision is contained therein,' shall be discharged 'upon payment, dollar for dollar, in any coin or currency which at the time of payment is legal tender for public and private debts.' This enactment was expressly extended to obligations of the United States and provisions for payment in gold, 'contained in any law authorizing obligations to be issued by or under authority of the United States,' were repealed.[FN1] Section 1(a), 31 USCA s 463(a).

> FN1 And subdivision (b) of section 1 of the Joint Resolution of June 5, 1933, provided: 'As used in this resolution, the term 'obligation' means an obligation (including every obligation of and to the United States, excepting currency) payable in money of the United States; and the term 'coin or currency' means coin or currency of the United States, including Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations.' 31 USCA s 463(b).

***350** There is no question as to the power of the Congress to regulate the value of money: that is, to establish a monetary system and thus to determine the currency of the country. The question is whether the Congress can use ****435** that power so as to invalidate the terms of the obligations which the government has theretofore issued in the exercise of the power to borrow money on the credit of the United States. In attempted justification of the Joint Resolution in relation to the outstanding bonds of the United States, the government argues that 'earlier Congresses could not validly restrict the 73rd Congress from exercising its constitutional powers to regulate the value of money, borrow money, or regulate foreign and interstate commerce'; and, from this premise, the government seems to deduce the proposition that when, with adequate authority, the government borrows money and pledges the credit of the United States, it is free to ignore that pledge and alter the terms of its obligations in case a later Congress finds their fulfillment inconvenient. The government's contention thus raises a question of far greater importance than the particular claim of the plaintiff. On that reasoning, if the terms of the government's bond as to the standard of payment can be repudiated, it inevitably follows that the obligation as to the amount to be paid may also be repudiated. The contention necessarily imports that the Congress can disregard the obligations of the government at its discretion, and that, when the government borrows money, the credit of the United States is an illusory pledge.

We do not so read the Constitution. There is a clear distinction between the power of the Congress to control or interdict the contracts of private parties when they interfere with the exercise of its constitutional authority ***351** and the power of the Congress to alter or repudiate the substance of its own engagements when it has borrowed money under the authority which the Constitution confers. In authorizing the Congress to borrow money, the Constitution empowers the Congress to fix the amount to be borrowed and the terms of payment. By virtue of the power to borrow money 'on the credit of the United States,' the Congress is authorized to pledge that credit as an assurance of payment as stipulated, as the highest assurance the government can give, its plighted faith. To say that the Congress may withdraw or ignore that pledge is to assume that the Constitution contemplates a vain promise; a pledge having no other sanction than the pleasure and convenience of the pledgor. This Court has given no sanction to such a conception of the obligations of our government.

The binding quality of the obligations of the government was considered in the Sinking Fund Cases, 99 U.S. 700, 718, 719, 25 L.Ed. 496. The question before the Court in those cases was whether certain action was warranted by a reservation to the Congress of the right to amend the charter of a railroad company. While the particular action was sustained under this right of amendment, the Court took occasion to state emphatically the obligatory character of the contracts of the United States. The Court said: 'The United States are as much bound by their contracts as are individuals. If they repudiate their obligations, it is as much repudiation, with all the wrong and reproach that term implies, as it would be if the repudiator had been a State or a municipality or a citizen.'[FN2]

FN2 Mr. Justice Strong, who had written the opinion of the majority of the Court in the Legal Tender Cases (Knox v. Lee), 12 Wall. 457, 20 L.Ed. 287, dissented in the Sinking Fund Cases, 99 U.S. page 731, 25 L.Ed. 504, because he thought that the action of the Congress was not consistent with the government's engagement, and hence was a transgression of legislative power. And, with respect to the sanctity of the contracts of the government, he quoted, with approval, the opinion of Mr. Hamilton in his communication to the Senate of January 20, 1795 (citing 3 Hamilton's Works, 518, 519), that 'when a government enters into a contract with an individual, it deposes, as to the matter of the contract, its constitutional authority, and exchanges the character of legislator for that of a moral agent, with the same rights and obligations as an individual. Its promises may be justly considered as excepted out of its power to legislate, unless in aid of them. It is in theory impossible to reconcile the idea of a promise which obliges, with a power to make a law which can vary the effect of it.'

***352** When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference, said the Court in United States v. Bank of the Metropolis, 15 Pet. 377, 392, 10 L.Ed. 774, except that the United States cannot be sued without its consent. See, also, The Floyd Acceptances, 7 Wall. 666, 675, 19 L.Ed. 169; ****436**Cooke v. United States, 91 U.S. 389, 396, 23 L.Ed. 237. In Lynch v. United States, 292 U.S. 571, 580, 54 S.Ct. 840, 844, 78 L.Ed. 1434, with respect to an attempted abrogation by the Act of March 20, 1933, s 17, 48 Stat. 8, 11 (38 USCA s 717), of certain outstanding war risk insurance policies, which were contracts of the United States, the Court quoted with approval the statement in the Sinking Fund Cases, supra, and said: 'Punctilious fulfillment of contractual obligations is essential to the maintenance of the credit of public as well as private debtors. No doubt there was in March, 1933, great need of economy. In the administration of all government business economy had become urgent because of lessened revenues and the heavy obligations to be issued in the hope of relieving widespread distress. Congress was free to reduce gratuities deemed excessive. But Congress was without power to reduce expenditures by abrogating contractual obligations of the United States. To abrogate contracts, in the attempt to lessen government expenditure, would ***353** be not the practice of economy, but an act of repudiation.'

The argument in favor of the Joint Resolution, as applied to government bonds, is in substance that the government cannot by contract restrict the exercise of a sovereign power. But the right to make binding obligations is a competence attaching to sovereignty.[FN3] In the United States, sovereignty resides in the people who act through the organs established by the Constitution. Chisholm v. Georgia, 2 Dall. 419, 471, 1 L.Ed. 440; Penhallow v. Doane's Administrators, 3 Dall. 54, 93, 1 L.Ed. 507; McCulloch v. Maryland, 4 Wheat. 316, 404, 405, 4 L.Ed. 579; Yick Wo v. Hopkins, 118 U.S. 356, 370, 6 S.Ct. 1064, 30 L.Ed. 220. The Congress as the instrumentality of sovereignty is endowed with certain powers to be exerted on behalf of the people in the manner and with the effect the Constitution ordains. The Congress cannot invoke the sovereign power of the people to override their will as thus declared. The powers conferred upon the Congress are harmonious. The Constitution gives to the Congress the power to borrow money on the credit of the United States, an unqualified power, a power vital to the government, upon which in an extremity its very life may depend. The binding quality of the promise of the United States is of the essence of the credit which is so pledged. Having this power to authorize the issue of definite obligations for the payment of money borrowed, the Congress has not been vested with authority to alter or destroy those obligations.***354** The fact that the United States may not be sued without its consent is a matter of procedure which does not affect the legal and binding character of its contracts. While the Congress is under no duty to provide remedies through the courts, the contractual obligation still exists, and, despite infirmities of procedure, remains binding upon the conscience of the sovereign. Lynch v. United States, supra, pages 580, 582, of 292 U.S. 54 S.Ct. 840.

FN3 Oppenheim, International Law (4th Ed.) vol. 1, ss 493, 494. This is recognized in the field of international engagements. Although there may be no judicial procedure by which such contracts may be enforced in the ab-

> sence of the consent of the sovereign to be sued, the engagement validly made by a sovereign state is not without legal force, as readily appears if the jurisdiction to entertain a controversy with respect to the performance of the engagement is conferred upon an international tribunal. Hall, International Law (8th Ed.) s 107; Oppenheim, loc. cit.; Hyde, International Law, vol. 2, s 489.

The Fourteenth Amendment, in its fourth section, explicitly declares: 'The **validity** of the **public debt** of the United States, authorized by law, * * * **shall not** be **questioned**.' While this provision was undoubtedly inspired by the desire to put beyond question the obligations of the government issued during the Civil War, its language indicates a broader connotation. We regard it as confirmatory of a fundamental principle which applies as well to the government bonds in question, and to others duly authorized by the Congress, as to those issued before the amendment was adopted. Nor can we perceive any reason for not considering the expression 'the **validity** of the **public debt**' as embracing whatever concerns the integrity of the public obligations.

We conclude that the Joint Resolution of June 5, 1933, in so far as it attempted to override the obligation created by the bond in suit, went beyond the congressional power.

[9][10] Third. The Question of Damages. In this view of the binding quality of the government's obligations, we come to the question as to the plaintiff's right to recover damages. That is a distinct question. Because the government is not at liberty to alter or repudiate its obligations, it does not follow that the claim advanced by the plaintiff should be sustained. The action is for breach of contract. As a remedy for breach, plaintiff can ****437** recover no more than the loss he has suffered and of which he may rightfully complain. He is not entitled to be enriched.***355** Plaintiff seeks judgment for $16,931.25, in present legal tender currency, on his bond for $10,000. The question is whether he has shown damage to that extent, or any actual damage, as the Court of Claims has no authority to entertain an action for nominal damages. Grant v. United States, 7 Wall. 331, 338, 19 L.Ed. 194; Marion & Rye V. Railway Co. v. United States, 270 U.S. 280, 282, 46 S.Ct. 253, 70 L.Ed. 585; Nortz v. United States, 294 U.S. 317, 55 S.Ct. 428, 79 L.Ed. 907, decided this day.

[11][12][13] Plaintiff computes his claim for $16,931.25 by taking the weight of the gold dollar as fixed by the President's proclamation of January 31, 1934 (No. 2072, 31 USCA s 821 note), under the Act of May 12, 1933, s 43(b)(2), 48 Stat. 52, 53, as amended by the Act of January 30, 1934, s 12, 48 Stat. 342, (31 USCA s 821), that is, at 15 5/21 grains nine-tenths fine, as compared with the weight fixed by the Act of March 14, 1900, s 1, 31 Stat. 46 (31 USCA s 314), or 25.8 grains nine-tenths fine. But the change in the weight of the gold dollar did not necessarily cause loss to the plaintiff of the amount claimed. The question of actual loss cannot fairly be determined without considering the economic situation at the time the government offered to pay him the $10,000, the face of his bond, in legal tender currency. The case is not the same as if gold coin had remained in circulation. That was the situation at the time of the decisions under the legal tender acts of 1862 and 1863. Bronson v. Rodes, 7 Wall. 229, 251, 19 L.Ed. 141; Trebilcock v. Wilson, 12 Wall. 687, 695, 20 L.Ed. 460; Thompson v. Butler, 95 U.S. 694, 696, 697, 24 L.Ed. 540. Before the change in the weight of the gold dollar in 1934, gold coin had been withdrawn from circulation.[FN4] The Congress had authorized the prohibition of the exportation of gold coin and the placing of restrictions upon transactions in foreign exchange. Acts of March 9, 1933, ***356** 48 Stat. 1 (Emergency Banking Relief Act, s 2, amending Trading with the Enemy Act, s 5(b), 12 USCA s 95a); January 30, 1934, 48 Stat. 337 (Gold Reserve Act of 1934, s 12, 31 USCA s 824). Such dealings could be had only for limited purposes and under license. Executive Orders of April 20, 1933 (No. 6111), August 28, 1933 (No. 6260), and January 15, 1934 (No. 6560), 12 USCA s 95 note; Regulations of the Secretary of the Treasury, January 30 and 31, 1934. That action the Congress was entitled to take by virtue of its authority to deal with gold coin as a medium of exchange. And the restraint thus imposed upon holders of gold coin was incident to the limitations which inhered in their ownership of that coin and gave them no right of action. Ling Su Fan v. United States, 218 U.S. 302, 310, 311, 31 S.Ct. 21, 23, 54 L.Ed. 1049, 30 L.R.A.(N.S.) 1176. The Court said in that case: 'Conceding the title of the owner of such coins, yet there is attached to such ownership those limitations which public policy may require by reason of their quality as a legal tender and as a medium of exchange. These limitations are due to the fact that public law gives to such coinage a

value which does not attach as a mere consequence of intrinsic value. Their quality as a legal tender is an attribute of law aside from their bullion value. They bear, therefore, the impress of sovereign power which fixes value and authorizes their use in exchange. * * * However unwise a law may be, aimed at the exportation of such coins, in the face of the axioms against obstructing the free flow of commerce, there can be no serious doubt but that the power to coin money includes the power to prevent its outflow from the country of its origin.' The same reasoning is applicable to the imposition of restraints upon transactions in foreign exchange. We cannot say, in view of the conditions that existed, that the Congress having this power exercised it arbitrarily or capriciously. And the holder of an obligation, or bond, of the United States, payable in gold coin of the former standard, so far as the restraint upon the right to export gold coin or to engage in transactions in foreign exchange is concerned, was in no better case than the holder of gold coin itself.

FN4 In its Report of May 27, 1933, it was stated by the Senate Committee on Banking and Currency: 'By the Emergency Banking Act and the existing Executive Orders gold is not now paid, or obtainable for payment, on obligations public or private.' Sen. Rep. No. 99, 73d Cong., 1st Sess.

***357** In considering what damages, if any, the plaintiff has sustained by the alleged breach of his bond, it is hence inadmissible to assume that he was entitled to obtain gold coin for recourse to foreign markets or for dealings in foreign exchange or for other purposes contrary to the control over gold coin which the Congress had the power to exert, ****438** and had exerted, in its monetary regulation. Plaintiff's damages could not be assessed without regard to the internal economy of the country at the time the alleged breach occurred. The discontinuance of gold payments and the establishment of legal tender currency on a standard unit of value with which 'all forms of money' of the United States were to be 'maintained at a parity' had a controlling influence upon the domestic economy. It was adjusted to the new basis. A free domestic market for gold was nonexistent.

Plaintiff demands the 'equivalent' in currency of the gold coin promised. But 'equivalent' cannot mean more than the amount of money which the promised gold coin would be worth to the bondholder for the purposes for which it could legally be used. That equivalence or worth could not properly be ascertained save in the light of the domestic and restricted market which the Congress had lawfully established. In the domestic transactions to which the plaintiff was limited, in the absence of special license, determination of the value of the gold coin would necessarily have regard to its use as legal tender and as a medium of exchange under a single monetary system with an established parity of all currency and coins. And, in view of the control of export and foreign exchange, and the restricted domestic use, the question of value, in relation to transactions legally available to the plaintiff, would require a consideration of the purchasing power of the dollars which the plaintiff could have received. Plaintiff has not shown, or attempted to show, that in relation to buying power he has sustained any loss whatever. On ***358** the contrary, in view of the adjustment of the internal economy to the single measure of value as established by the legislation of the Congress, and the universal availability and use throughout the country of the legal tender currency in meeting all engagements, the payment to the plaintiff of the amount which he demands would appear to constitute, not a recoupment of loss in any proper sense, but an unjustified enrichment.

Plaintiff seeks to make his case solely upon the theory that by reason of the change in the weight of the dollar he is entitled to $1.69 in the present currency for every dollar promised by the bond, regardless of any actual loss he has suffered with respect to any transaction in which his dollars may be used. We think that position is untenable.

In the view that the facts alleged by the petition fail to show a cause of action for actual damages, the first question submitted by the Court of Claims is answered in the negative. It is not necessary to answer the second question.

Question No. 1 is answered 'No.'

Mr. Justice STONE (concurring).

I agree that the answer to the first question is 'No,' but I think our opinion should be confined to answering that question, and that it should essay an answer to no other.

I do not doubt that the gold clause in the government bonds, like that in the private contracts just considered, calls for the payment of value in money, measured by a stated number of gold dollars of the standard defined in the clause, Feist v. Socie te Intercommunale Belge d'Electricite , (1934) A.C. 161, 170-173; Serbian and Brazilian Bond Cases, P.C.I.J., series A., Nos. 20, 21, pp. 32-34, 109-119. In the absence of any further exertion of governmental power, that obligation plainly could not be ***359** satisfied by payment of the same number of dollars, either specie or paper, measured by a gold dollar of lesser weight, regardless of their purchasing power or the state of our internal economy at the due date.

I do not understand the government to contend that it is any the less bound by the obligation than a private individual would be, or that it is free to disregard it except in the exercise of the constitutional power 'to coin money' and 'regulate the value thereof.' In any case, there is before us no question of default apart from the regulation by Congress of the use of gold as currency.

While the government's refusal to make the stipulated payment is a measure taken in the exercise of that power, this does not disguise the fact that its action is to that extent a repudiation of its undertaking. As much as I deplore this refusal to fulfill the solemn promise of bonds of the United States, I cannot escape the conclusion, announced for the Court, that in the situation now presented, the government, through the exercise of its sovereign power to regulate the value of money, has rendered itself immune from liability for its action. To that extent it has relieved itself of the obligation of its domestic bonds, precisely as it has relieved the obligors of private bonds in Norman v. Baltimore & Ohio R. Co., 294 U.S. 240, 55 S.Ct. 407, 79 L.Ed. 885, decided this day.

****439** In this posture of the case it is unnecessary, and I think undesirable, for the Court to undertake to say that the obligation of the gold clause in government bonds is greater than in the bonds of private individuals, or that in some situation not described, and in some manner and in some measure undefined, it has imposed restrictions upon the future exercise of the power to regulate the currency. I am not persuaded that we should needlessly intimate any opinion which implies that the obligation may so operate, for example, as to interpose a serious obstacle to the adoption of measures for stabilization of ***360** the dollar, should Congress think it wise to accomplish that purpose by resumption of gold payments, in dollars of the present or any other gold content less than that specified in the gold clause, and by the re-establishment of a free market for gold and its free exportation.

There is no occasion now to resolve doubts, which I entertain, with respect to these questions. At present they are academic. Concededly they may be transferred wholly to the realm of speculation by the exercise of the undoubted power of the government to withdraw the privilege of suit upon its gold clause obligations. We have just held that the Court of Claims was without power to entertain the suit in Nortz v. United States, 294 U.S. 317, 55 S.Ct. 428, 79 L.Ed. 907, because, regardless of the nature of the obligation of the gold certificates, there was no damage. Here it is declared that there is no damage because Congress, by the exercise of its power to regulate the currency, has made it impossible for the plaintiff to enjoy the benefits of gold payments promised by the government. It would seem that this would suffice to dispose of the present case, without attempting to prejudge the rights of other bondholders and of the government under other conditions which may never occur. It will not benefit this plaintiff, to whom we deny any remedy, to be assured that he has an inviolable right to performance of the gold clause.

Moreover, if the gold clause be viewed as a gold value contract, as it is in Norman v. Baltimore & Ohio R. Co., supra, it is to be noted that the government has not prohibited the free use by the bondholder of the paper money equivalent of the gold clause obligation; it is the prohibition, by the Joint Resolution of Congress, of payment of the increased number of depreciated dollars required to make up the full equivalent, which alone bars recovery. ***361** In that case it would seem to be implicit in our decision that the prohibition, at least in the present situation, is itself a constitutional exercise of the power to regulate the value of money.

I therefore do not join in so much of the opinion as may be taken to suggest that the exercise of the sovereign power to borrow money on credit, which does not override the sovereign immunity from suit, may nevertheless preclude or impede the exercise of another sovereign power, to regulate the value of money; or to suggest that, although there is and can be no present cause of action upon the repudiated gold clause, its obligation is nevertheless, in some manner and to some extent not stated, superior to the power to regulate the currency which we now hold to be superior to the obligation of the bonds.

Mr. Justice McREYNOLDS, Mr. Justice VAN DEVANTER, Mr. Justice SUTHERLAND and Mr. Justice BUTLER, dissent. For opinion, see Norman v. Baltimore & O.R. Co., 294 U.S. 240, 55 S.Ct. 407, at page 419, 79 L.Ed. 885.

U.S. 1935.
Perry v. U.S.
294 U.S. 330, 55 S.Ct. 432, 95 A.L.R. 1335, 79 L.Ed. 912

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Law is murky on whether Obama can act on his own

Michael Levenson

With just days until the nation hits its **debt limit**, rattling the American economy, President Obama is under mounting pressure from some members of his own party to invoke an obscure Civil War-era constitutional provision that they say would allow him to unilaterally raise the **debt limit**

The notion that the president could cite Section 4 of the **14th Amendment** to raise the debt ceiling without congressional approval seemed, just days ago, to be an academic debate, mostly among legal scholars. But now, with Congress deeply divided over a resolution, and the deadline alarmingly near, the idea has taken on a new life in the halls of the Capitol.

Steny H. Hoyer and James E. Clyburn, the second- and third-ranking Democrats in the House, and John Larson and Xavier Becerra, the chairman and cochairman of the House Democratic Caucus, have said they would back Obama if he uses the amendment to avoid a default.

Senator John F. Kerry and Bill Clinton, the former president, have also supported the idea, with Clinton saying he would invoke the amendment "without hesitation and force the courts to stop me."
Others in the party, however, say the move would be politically and legally disastrous, because it could spark divisive court battles and even impeachment proceedings in the GOP-controlled House. Some legal scholars warn that it would be an abuse of power for the president to wield the provision as a means of raising the **debt limit**.

Ratified during Reconstruction to ensure that the North could overcome potential Southern opposition to paying down Union war debts, it has never been invoked by a president and has rarely been tested in court

"We shouldn't fool ourselves into thinking the **14th Amendment** gives him this authority," said Laurence H. **Tribe**, a Harvard Law School professor and Obama mentor who was until last year a White House adviser. Nothing in the amendment gives the president the power to trample Congress, which has the sole authority to borrow money, he said. "It's just a fantasy."

On the other end of the ideological spectrum, John C. Yoo, a former legal adviser to President George W. Bush, agreed that Obama would be on shaky constitutional ground.

"The president doesn't have the constitutional authority to unilaterally raise the **debt limit**, and I'm not a shrinking violet on executive power," said Yoo, whose expansive views of presidential power informed controversial memorandums he wrote authorizing the harsh treatment of terrorism suspects.

"The Framers wanted the president to exercise emergency power in response to national security threats, not over domestic affairs where Congress and the president have had plenty of time to deliberate and figure out a solution," he wrote in an e-mail.

Section 4 of the **14th Amendment** states that "the validity of the public debt of the United States, authorized by law . . . shall not be questioned."

The idea of dusting it off to prevent a default first surfaced in May when Treasury Secretary Timothy F. Geithner, at a breakfast in Washington, criticized Republicans who have threatened not to raise the debt ceiling.

nobody seemed to think it meant that, would severely exacerbate this sense of distrust and anger," Frank said. "It is an unwarranted gift to the irresponsible elements in the Republican Party."

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14th Amendment: Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

section was inserted into the Amendment because of a very real concern that Southern political leaders, and their Northern allies, would gain the upper hand in Congress in the 1866 or 1868 elections and vote to repudiate the national debt.

The Lincoln administration had borrowed freely to finance the war machine. As Reconstruction dawned, white Southerners complained bitterly that they would now be taxed to repay the funds that had been borrowed to defeat their cause. "What, ruin us, and then make us help pay the cost of our own whipping?" one asked a Northern journalist in 1865. "I reckon not."

Southerners were used to having their way in Congress--they had dominated the institution from 1787 until secession in 1861--and many believed that when their representatives arrived in House and Senate, they would be able to tear up the nation's IOUs.

Section Four was the response; its language is extraordinary. First, it does not simply say that the national debt must be *paid;* it says that its "validity ... shall not be *questioned."* Only one other section of the Constitution--the Thirteenth Amendment's proclamation that "[n]either slavery nor involuntary servitude ... shall exist within the United States, or any place subject to their jurisdiction"--is as unqualified and sweeping.

Second, it suggests a broad definition of the national debt: "...including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion."

From this language, it's not hard to argue that the Constitution places both payments on the debt and payments owed to groups like Social Security recipients--pensioners, that is--above the vagaries of Congressional politics. These debts have to be paid, the argument would be, in full, on time, without question. If Congress won't pay them, then the executive must.

On the other hand, the language could be seen as simply forbidding outright repudiation, not temporary default. Default on U.S. bonds would, in this analysis, not dispute the "validity" of the debt; it would simply delay repayment. But remember the strict language. Suppose you lend $10,000 to your cousin. When the debt comes due, he says, "Listen, I'm good for the money, but I'm a little short right now. Trust me, I will get it to you sooner or later." That's not repudiation. But on the other hand, you might think the validity was now at least being "questioned."

For the Obama administration to adopt the broad reading of Section Four would be bold (and I hasten to say I don't expect them to do it); but it would hardly be unusual in the recent discourse of presidential power--especially the Republican party's theory of the presidency.

(b) (5)

Can Obama Extend the Debt Ceiling on His Own?
Ronald Dworkin

Jewell Samad/AFP/Getty Images

President Barack Obama speaking with House Speaker John Boehner in the Cabinet Room at the White House, July 23, 2011

As the debt ceiling fiasco continues unresolved and increasingly dangerous, with no agreement among the House, the Senate and the White House yet in sight, an obscure and forgotten constitutional clause has suddenly come under scrutiny. The Fourteenth Amendment, adopted after the Civil War, provides that "The validity of the public debt of the United States, authorized by law … shall not be questioned." Does that clause mean that it is unconstitutional for Congress to refuse to raise the debt ceiling – the amount the nation is legally permitted to borrow – in our present circumstances, and that the President is therefore constitutionally permitted to borrow money on his own authority? The present Congressional authority will expire on August 2; it is far from certain what will happen to our economy if that authority is not extended before then. It seems very likely, however, that if the President does not then act on his own the nation will default on its treasury bonds and other solemn legal obligations, including payments due millions of citizens under Social Security.

The "debt shall not be questioned" clause was added to the Fourteenth Amendment for a specific and immediate purpose: to prevent the new Southern members of Congress, should they gain a majority, from cancelling the debt the Union had incurred in the war. But constitutional interpretation is not a catalogue of historical anecdotes; it is a matter of principle and we are therefore required to identify the principle on which the authors of the clause had to rely. As Chief Justice Hughes said of the clause in 1935, speaking for a unanimous Supreme Court, "While this provision was undoubtedly inspired by the desire to put beyond question the obligations of the government issued during the Civil War, its language indicates a broader connotation. We regard it as confirmatory of a fundamental principle … "

The general contours of that fundamental principle seem clear enough. Congress does not have authority, even by a substantial majority, to dishonor the nation by repudiating outstanding debts it has authorized the nation to incur. The fiscal integrity of the United States is sacred and requires constitutional protection. Does that principle apply to the debt ceiling crisis?

Of course the principle does not prevent Congress from refusing to authorize new obligations. Obviously, Congress may modify or even extinguish the Social Security or Medicare programs prospectively. But the Republican majority in the House now refuses to permit the country to meet debts duly authorized in the past that remain duly authorized now, unless the Democrats and the President agree to a radical reduction in essential public services that they would never otherwise accept. That is playing blackmail with the nation's honor. It threatens exactly the kind of forced default that the principle behind the debt clause declares it has no authority to inflict. I believe the best, principled, interpretation of the clause gives the president authority to ignore that blackmail and to borrow enough to meet the nation's standing legal obligations.

Many academic and other constitutional lawyers agree, and even Senator Chuck Grassley, a conservative Republican, says that this constitutional argument cannot be dismissed. However, Professor Lawrence Tribe of the Harvard Law School, a very distinguished constitutional lawyer, disagrees. He writes that the argument I have just endorsed proves too much. "It would mean that any budget deficit, tax cut or spending increase could be attacked on constitutional grounds, because each of those actions slightly increases the probability of default." But I believe Professor Tribe has confused the principle I describe with a different one: that Congress lacks authority to make any decision that might decrease the nation's treasury and so make national default "slightly" – even if only theoretically – more likely. This would indeed be absurd. But the Republicans now threaten action that they know would make default inevitable: indeed that inevitability is essential to their blackmail strategy. That violates the very different principle I described and that Chief Justice Hughes had in mind: it claims Congressional authority knowingly to make it legally impossible for the nation to act honestly.

Of course it is an entirely different question whether it would be politically wise for the President to rely on the "debt" clause of the Fourteenth Amendment to ignore Congress's failure to extend the debt ceiling. Obama has said that he has "talked to my lawyers" and "they are not persuaded that [relying on the debt clause] is a winning argument." That is a careful statement. It does not say that either his lawyers or he are persuaded that it is not a winning argument, and of course there is a difference between a "winning" argument, which means one a court would probably accept, and a "correct" argument that he himself could honestly endorse.

Some Republicans have declared that if the President does accept the constitutional argument, and acts without their consent, they will try to impeach him. That would take only a majority of the House, which the Republicans control. Impeachment would be a tragedy because, even though the Democratic Senate would certainly refuse to convict, the process would waste a huge amount of the President's time at a crucial and difficult moment of our history. But surely even the Tea Party representatives can understand that they would make fools of themselves by declaring that a president is guilty of "a high crime or misdemeanor" whenever he interprets the Constitution in a way they believe wrong, particularly when a substantial number of the nation's lawyers agree with him.

One enormous consequence of the shaming national disgrace we are now enduring will not be known until November of 2012. But I doubt very many now uncommitted voters would disapprove of a president who acted under a reasonable interpretation of the law to allow the government payments on which they rely to continue, and to prevent damage to our international credit that would inevitably increase their taxes and might well eventually savage their standard of living.

July 29, 2011 11:58 a.m.

(b) (5)

From: Larry Tribe (b) (6)
Sent: Saturday, July 30, 2011 08:44 AM
To: Patterson, Mark (DO)
Subject: On the "constitutional option"

Mark:

I hope you won't mind my sharing my current thinking on this situation and hope you and Tim might find it at least somewhat helpful.

Although a growing chorus of voices, including that of President Clinton, is calling on the President to employ the so-called "constitutional option" that the Secretary has said is off the table, I've held my ground on the proposition that the President has no more support in the 14th Amendment to borrow beyond the authority granted him by Congress than he has to impose taxes beyond the authority Congress has granted. I continue to think the contrary reading of the 14th Amendment is insupportable (despite the emergence of some support both among a few academics and among many politicians and pundits) and that, even though it's almost certain that no court would interfere with the President's decision to borrow above the statutory ceiling should that decision be made, it would nonetheless be a mistake to ground any such decision in the 14th Amendment.

In this circumstance, prioritization of payments to avoid default would still seem to me to be the principal lawful alternative should Congress fail to raise the ceiling in time. Against claims that such prioritization is itself illegal under the anti-impoundment and line-item-veto decisions and that the President should have gone the 14th Amendment route instead, my inclination would be to interpose a defense of impossibility. Because the Treasury would no doubt be sued by vendors or claimants whose checks were being delayed by whatever prioritization the executive branch chose to employ, an opportunity (albeit an unwelcome one) might then arise to litigate the question whether the option of borrowing in violation of the debt ceiling had been open to the President after all.

Needless to say, the litigation chaos that would ensue, in addition to the financial disaster, might lead the President to reconsider the wisdom of taking some more extraordinary action to disregard the debt ceiling, perhaps in the name of the "Take Care" clause and of his Oath rather than in the name of the

14th Amendment. Whether that would be a wise step would depend on balancing the downside of financial and legal meltdown against the downside of setting a genuinely dangerous precedent of ignoring the rule of law. If the President were nonetheless to pursue that course in the event that efforts at compromise in Congress fail, I would obviously understand a decision not to announce any such possibility in advance lest doing so reduce pressure on Congress to do what surely ought to be done before August 2, even at the 11th hour.

If you think that discussing any of this with me in confidence would be of any use, please know that I'd be more than happy to talk. (b) (6) . (b) (6)

Best of luck with this terrible situation.

Larry

Laurence H. Tribe

Carl M. Loeb University Professor and

Professor of Constitutional Law

Harvard Law School

Hauser 420

1575 Massachusetts Avenue

Cambridge, MA 02138

-----Original Message-----
From: Mark.Patterson@treasury.gov [mailto:Mark.Patterson@treasury.gov]
Sent: Friday, July 08, 2011 7:54 PM
To: Larry Tribe
Subject: RE: Letter re Secretary Geithner's position on the "constitutional option"

Professor Tribe:

Thanks for this. I will of course share it with Tim.

If you'd like to discuss further, I think I could shed some more light on the issues you raise in your letter. But I certainly understand if you'd prefer not to.

I would say that I was present at the Mike Allen interview and I don't believe Mike, or anyone else I talked to, thought the Secretary's reference to the 14th Amendment indicated he supported or was considering the constitutional option. That would have been a major news story. (It wasn't.) When Tim said "it's not going to happen," he was clearly saying, as he has said many times publicly, that he was confident Congress is not going to fail to raise the debt ceiling and cause a default. That's definitely how it came through.

However, in the ensuing days and weeks some people in the blog world and other outlets, most of whom seem to support the constitutional option, latched onto the Secretary's 14th Amendment reference in the interview to try to buttress their case in favor of the idea. They have an agenda and we understand that. One such posting I saw included a photo of Tim holding up the Constitution, and it's possible that image may have influenced people who didn't see or read the actual interview. It's true we didn't rebut those things but the Secretary doesn't generally respond to that kind of stuff, and in fact it's impossible for us to respond to every erroneous thing that's written or said about him on the internet or on cable TV. The quantity of bad information and shoddy reporting out there is just overwhelming.

When Laurence Tribe writes something, however, it's a much bigger deal, which is what prompted my call. I only wish you had been able to check with the Secretary or anyone at Treasury before characterizing his position publicly on this very important issue.

Non Responsive

Sorry to have had the slightly tense exchange on this with you today. As I said, I'm a longtime admirer of yours and have the greatest respect for your work. But everyone at Treasury cringed this morning when we saw the reference to Tim in your otherwise excellent piece, and I just felt I had to call.

Thanks again,

Mark

-----Original Message-----

From: Larry Tribe [(b) (6)]

Sent: Friday, July 08, 2011 4:11 PM

To: Patterson, Mark (DO)

Subject: Letter re Secretary Geithner's position on the "constitutional option"

Importance: High

Mark:

As you'll see from the attached letter, although your General Counsel took me to task (in his letter to The Times) for having made an "assertion" that the Secretary had "argued" that the constitutional option was a valid one (whereas in fact my op/ed took care to say only that Secretary Geithner had "suggested" that the public debt clause "might" provide such an option), I decided not to make anything of that distinction but chose to say simply that I hadn't intended to "mischaracterize the Secretary's position," that I'm delighted to learn that the Secretary has now expressly "disavowed" the option of unilateral executive action, and that I take you at your word that he had "never intended to suggest that the option had ever been under active consideration."

I nonetheless thought it important, given the care and thought that I put into the op/ed and the importance I attach to being as accurate as I can, to explain why I, like so many others, had understood the Secretary otherwise until his most recent clarification. I trust you will forward the attached letter to the General Counsel and to Secretary Geithner, for whom I have the greatest respect.

Hopefully, this will put the matter to rest.

All the best,

Sincerely,

Larry

Laurence H. Tribe

Carl M. Loeb University Professor and

Professor of Constitutional Law

Harvard Law School

Hauser 420

1575 Massachusetts Avenue

Cambridge, MA 02138

-----Original Message-----

From: Mark.Patterson@treasury.gov [mailto:Mark.Patterson@treasury.gov]

Sent: Friday, July 08, 2011 2:19 PM

To: Larry Tribe

Subject: RE: Final version of Treasury letter to NYT

Thanks but I don't quite understand -- does that mean you find something to take issue with in the G.C. letter?

-----Original Message-----

From: Larry Tribe (b) (6)

Sent: Friday, July 08, 2011 1:43 PM

To: Patterson, Mark (DO)

Subject: RE: Final version of Treasury letter to NYT

Mark:

Thank you for sharing this with me. Having now reviewed the record for myself, I am in the process of writing a response to the General Counsel's letter. I will be sending it as soon as possible.

Sincerely,

Larry

Laurence H. Tribe

Carl M. Loeb University Professor and

Professor of Constitutional Law

Harvard Law School

Hauser 420

1575 Massachusetts Avenue

Cambridge, MA 02138

From: Mark.Patterson@treasury.gov [mailto:Mark.Patterson@treasury.gov]

Sent: Friday, July 08, 2011 1:26 PM

To: tribe@law.harvard.edu

Subject: Final version of Treasury letter to NYT

Professor Tribe:

Attached is the final version of the letter we sent to the NYT. It has one change from the text I sent you earlier: we deleted the last sentence regarding the Secretary's remarks at yesterday's meeting with the congressional leadership. (We dropped that sentence because, although the substance of the Secretary's statement was reported in today's Times, there was an agreement in the room not to characterize the discussion publicly.)

Thanks again,

Mark

(b) (5)

-----Original Message-----
From: Stephen J. Marmon [mailto:smarmon@mac.com]
Sent: Tuesday, July 12, 2011 3:24 PM
To: Murray, Colleen
Subject: OpEd

Colleen --

Philadelphia Inquirer plans to run this tomorrow, fyi. Please let me know asap if you have any comments.

Thanks,
Steve Marmon

Avoiding The Debt Ceiling

By Stephen J. Marmon

$90,785,744,400 in Treasury Bills come due on August 4th. If the debt ceiling isn't raised, the federal government will have only $16 billion available to redeem them. That's a full-blown, downgrade to junk status, default.

President Obama can prevent the worldwide financial crisis that catastrophe would cause. But he won't need to claim, as some have, that the debt ceiling law is unconstitutional. He can use the rarely discussed power of executive discretion.

After announcing that he is forced to choose between conflicting but constitutional laws – paying the legally mandated federal expenditures or adhering to the debt ceiling requirement – Mr. Obama can order Treasury Secretary Geithner to sell $250 billion of new notes. That will cover the shortfall through the end of this fiscal year.

For 152 years the United States had no ceiling on its debt. Whenever we spent more money than we got in, specific laws were enacted to authorize the necessary bonds. That policy lasted until 1941, when overall debt limits finally were established.

Congress normally has raised the debt ceiling since then to pay for expenditures. But now it has enacted laws that set expenses significantly higher than revenue, while the debt ceiling law seems to bar the additional borrowing needed to make up the shortfall.

That conflict between the otherwise constitutional debt ceiling law and the various appropriations bills is the problem. Executive discretion, which is an established presidential prerogative, allows Mr. Obama to decide which of the conflicting laws to execute if there is no

12.30.2013.426

From: Sam Stein <samstein@huffingtonpost.com>
To: Brundage, Amy
Sent: Thu Jul 07 22:00:33 2011
Subject: this true?

http://www.nytimes.com/2011/07/08/us/politics/08fiscal.html?pagewanted=2&hp

In addition to his warnings about the cost of a default, officials said, Mr. Geithner told the lawmakers the White House did not believe it had the authority, under the Constitution, to continue issuing debt if it reached the debt ceiling. Nobody in the room disputed Mr. Geithner's bleak assessment, the officials said.

--
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Political Editor and Reporter
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646 510-4205
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(b) (5)

-----Original Message-----
From: rachelle.younglai@thomsonreuters.com [mailto:rachelle.younglai@thomsonreuters.com]
Sent: Tuesday, July 05, 2011 1:51 PM
To: Murray, Colleen; Anderson, Matthew
Subject: debt ceiling story

Hi,

We are planning on running a story that says there is growing concern that Treasury insists there is no contingency plan post Aug 2. Some have said it is deeply irresponsible for Treasury not to have a plan.

Along that vein, we have heard there is a small group within Treasury and the Fed examining options and legal issues including the 14th amendment. The team is headed by Miller and includes Gregg, Rutherford and Kim.

We have two sources saying Treasury has been looking at the legal options on prioritizing payments post Aug 2.

Do you have any comment or anything to add?

Thanks

(b) (5)

-----Original Message-----
From: Ryan Grim [mailto:ryan@huffingtonpost.com]
Sent: Friday, July 01, 2011 11:53 AM
To: Murray, Colleen
Subject: schumer

Just spoke favorably about the 14th amendment option, but said maybe it's not ready for this time around since it's a new idea. Anything new I can report on this whole thing? Do you know if it's now being discussed seriously? OLC involved?

Remember how I was wondering if the story I was writing would be able to push it into the debate? I wasn't sure, but you guessed it would. Point for you.

--
Ryan Grim
Desk: x40241 (Senate Daily)
Cell: 202-368-0859
AIM: ryanwebstergrim
@ryangrim

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From: Glenn Kessler [mailto:kesslerg@washpost.com]
Sent: Tuesday, June 28, 2011 11:45 AM
To: Murray, Colleen; LeCompte, Jenni
Subject: Query from Washington Post Fact Checker columnist re debt limit

Greetings,

I'm delving into the debt limit issue today. I think I have a good understanding why the proposals to spending pay interest on the debt but cut spending (ie as DeMint and Bachmann suggest) would not work.

But I notice that US officials say a default would be unprecedented. Why is this different than the 1933 refusal by the Roosevelt administration to pay holders with bonds in gold coin, as they were promised? As you may know, this went all the way to the Supreme Court, which ruled 5-4 the government had the right to default on this commitment.

Some might also argue that Nixon's taking the nation off the gold standard was a default of Bretton Woods obligations, but it seems that is a bit different. The 1933 case, however, involve commitments made to bond holders which the USG simply decided it would no longer honor.

Thanks,

Glenn Kessler
columnist, "The Fact Checker"
The Washington Post

http://www.washingtonpost.com/factchecker

(202) 334 7326

From: Das, Himamauli
To: Meade, Christopher
Subject: FW:
Date: Tuesday, June 28, 2011 4:20:25 PM

You're already likely aware of this but…

Himamauli Das / Himamauli.Das@treasury.gov / (202) 622-1147

From: Sobel, Mark
Sent: Tuesday, June 28, 2011 3:10 PM
To: Das, Himamauli
Subject:

(The author is a Reuters Breakingviews columnist. The opinions expressed are his own.)

By Reynolds Holding

NEW YORK, June 28 (Reuters Breakingviews) - A federal default is no option under the U.S. Constitution. Rating-agency warnings and budget-talk walkouts aside, America's founding document probably won't let the government stiff its creditors. That's no reason to derail a deal on the debt ceiling. But if push comes to shove, the White House may have the greater legal leverage.

Politics drive the conceit that the debt cap is inviolate. So long as it isn't breached, the Treasury Department, rather than Congress, can keep the power to issue debt. That's why the Obama administration predicts economic "catastrophe" if the ceiling isn't raised. Republicans, on the other hand, can hold an increase hostage to deep cuts in spending, healthcare and retirement obligations.

But a mere statute created the ceiling. The Constitution trumps statutes. And a clause in the Fourteenth Amendment essentially says that the feds cannot renege on debts, meaning the cap could, if it came down to a court decision, be declared unconstitutional.

There's some doubt, because the clause has rarely been tested. It was enacted in 1868 to ensure payment of Civil War obligations, but the Supreme Court has twice confirmed that it also covers current debts backed by the United States. Government bonds qualify, and Social Security may as well, because the clause includes "debts incurred for payment of pensions."

The language is so sweeping -- public debt "shall not be questioned" -- it seems to require on-time payment in full. That could be a problem if money trouble forces the Treasury Secretary to choose which obligations to cover first. During a spat over the cap in 1985, the Government Accountability Office said prioritizing payments would be OK, but it didn't mention the Constitution.

It's hard to believe the debt clause will come into play. Congress has raised the ceiling 10 times since 2001. But if Congress insists on forcing Uncle Sam into acting like a deadbeat, the president has a clear -- if unprecedented -- response. He can declare default unconstitutional and arrange to pay the nation's debts unilaterally. That would certainly demonstrate that the United States is a better credit risk than anyone thought.

CONTEXT NEWS

-- President Barack Obama and U.S. senators tried on June 27 to break the impasse over budget cuts but made little progress as Republicans and Democrats held fast to their opposing views. GOP leaders insist on trillions of dollars in reductions without any tax increases, while the Democrats argue that tax hikes must be part of any agreement. Republicans have said a deal is necessary before they will agree to raise the $14.3 trillion debt ceiling by the Aug. 2 deadline.

-- Debt ceiling or not, Section 4 of the Fourteenth Amendment to the U.S. Constitution requires the United States to pay its obligations. The section states that the "validity of the public debt of the United States ... shall not be questioned." It was inserted into the 1868 amendment to address concerns that Southern political leaders would vote to repudiate the loans incurred to fight the Civil War. In 1934 and again in 1986, the U.S. Supreme Court confirmed that the federal government could not constitutionally stop paying its debt "simply in order to save money."

-- Reuters story: Obama confident U.S. debt deal can be struck [ID:nN1E75P06P]