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STUDENT COMMENTS

SINGLE SUBJECT RESTRICTIONS AS AN ALTERNATIVE TO THE LINE-ITEM VETO

NANCY J. TOWNSEND*

INTRODUCTION

The astronomical growth of the federal deficit\(^1\) has generated a public demand for greater control over government spending.\(^2\) Spending control may be achieved in one of two general ways: (1) limiting Congress itself; or (2) enhancing the President's veto power. Although ostensibly the Constitution gives the President the power to veto legislation,\(^3\) the practice of logrolling\(^4\) appropriation bills\(^5\) weakens the execu-

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2. In a public opinion poll of 1,267 adults, seventy-one percent considered a $200 billion dollar deficit to be "very serious," eighteen percent considered it "somewhat serious," and only five percent considered it "not very serious." (Poll conducted for Business Week in December of 1983 by Louis Harris and Associates, Inc., reported in Cutting the Deficit: Hard Choices, 16 NAT'L J. 1495 (1984).

For an analysis of the economic effects of the deficit, see Woodward, CRS Discusses Effect of Deficits on the Economy, 20 TAX NOTES 825 (September 5, 1983). Aside from any as to the economic impact of deficits in the credit market, interests costs of the federal deficit consume government dollars which could otherwise be used for valuable public services. See Manvel, Another 'Squeeze' From Huge Federal Deficits, 21 TAX NOTES 512 (Nov. 7, 1983).


4. As used here, logrolling includes other legislative practices such as attaching riders of new and unrelated enactments as amendments to bills; the addition of funding for projects which are local in nature, often referred to as legislative "pork-barreling"; and so-called "Christmas trees," which are legislative bills adorned with other, usually unrelated, bills at the end of a Congressional session. See Andrews v. Governor of Maryland, 294 Md. 285, 449 A.2d 1144, 1148 (1982); Wass v. Anderson, 312 Minn. 395, 398-399, 252 N.W.2d 131, 135 (1977); Gellert v. Alaska, 522 P.2d 1120 (1974).
tive's ability to act as an external check on Congressional spending. 8

"Logrolling" refers to the practice of combining several different subjects of legislation, any of which might not pass on its own merits, into a single bill in order to achieve majority support for the combination. 9 This combining of unre-

5. The legislative process is customarily described as a two-step procedure: authorization of programs as recommended by substantive legislative committees, followed by the financing of those programs by appropriations committees. Appropriation bills are bills which direct the executive to cause money to be drawn from the treasury in specified amounts. For a thorough discussion of the process, see Fisher, Authorization-Apportionment Process in Congress, 29 Cath.U.L.Rev. 51 (1979); See also Andrus v. Sierra Club, 442 U.S. 347, 356-364 (1979) (the Supreme Court endorses the distinctions between the appropriation and authorization stages).


7. Two theorists of the decision-making process, James Buchanan and Gordon Tullock, define logrolling to refer broadly to legislative vote-trading. Their definition includes two distinct types of conduct. The first involves a relatively small group of individuals who openly vote for each others' measures as they arise in a continuing sequence of measures. The second type of conduct included in Buchanan and Tullock's definition of logrolling is a stricter of logrolling. It is used throughout this discussion and only includes the of different voting issues into a single piece of legislation allowing only a single yes or no vote. Buchanan and Tullock call this conduct "implicit logrolling." It occurs where large bodies of voters are called on to decide a number of complex issues but each voter gets only one vote. The vote-seeker combines the mixture of policies which will attract the greatest support and alienate the fewest voters. Distinct provisions are actually tacked onto each other and "rolled" together. Buchanan and Tullock suggest that this type of logrolling is characteristic of modern democratic institutions. Buchanan and Tullock, The Calculus of Consent: Logical Foundations of Constitutional Democracy (1962).

For variations of this definition which have been used by the federal judiciary and that of various states, see Andrews v. Governor of Maryland, 294 Md. 285, 449 A.2d 1144, 1148 (1982) ("two or more propositions essentially dissimilar in subject matter are submitted to electorate in one amendment so that voter is bound, in order to secure enactment of provision which he favors, to vote for others of which he may disapprove"); Bengzon v. Secretary of Justice of the Philippine Islands, 299 U.S. 410, 415 (1937) ("in order to secure the requisite majority to carry necessary and proper items of appropriation, unnecessary or even indefensible items are sometimes included"); Tolson v. Police Jury, 119 La. 215, 43 So. 1011 (1907); ("combining of several questions so that a voter cannot exercise his inde-
lated subjects into a bill upon which the President has but a single veto has weakened the power of the executive veto. The President cannot make full use of his Constitutional veto power over multisubject legislation because often a multisubject bill contains some provisions the President approves and some he disapproves. Logrolling occurs with both substantive and appropriations legislation, which is legislation permitting disbursements of federal monies. When faced with a multisubject spending bill containing some objectionable provisions, the President must choose between signing the entire bill, thus approving objectionable provisions, or vetoing the entire bill, and thus delaying or blocking funding for essential government programs.

For example, knowing that the Reagan administration strongly opposed a federal bill to fund two Boston highway projects and dozens of other road-building proposals, House Speaker Thomas P. O'Neill, Jr. added an amendment which, if enacted, would substantially reduce federal funding to states which did not raise their legal drinking age to twenty-one. O'Neill knew that the President strongly favored the twenty-one year old minimum drinking age and believed that Reagan would not veto a bill containing such a provision. O'Neill's strategy worked and Boston got its highway projects. By logrolling, O'Neill forced Reagan to approve of the road-building projects, which he considered unwise federal spending, in order to enact the wholly unrelated drinking age portion of the bill.

The item veto has been proposed as one way to reverse the effects of logrolling on the executive veto. An item veto power would allow the President to veto individual items of a spending bill while still enacting the remainder of the legislation. Such a veto would purportedly alleviate the effects of logrolling by allowing the President to dismantle multisubject


bills into their distinct spending items and then exercise his veto power over those that are objectionable.

For example, in the Boston road-building example referred to above, the item veto would have allowed the President to veto the highway projects, which he disapproved, while still enacting the amendment that would cut funds to states which refused to raise the legal drinking age to twenty-one. O'Neill's road-building provisions, because they were a separate line item, would have been subject to a veto without interfering with Reagan's desire to enact the drinking age amendment.

The item veto approach is essentially an effects-focused solution to the problem of logrolling. That is, it does not confront the underlying causes of logrolling, but merely provides an after-the-fact discretionary check.

Another type of approach to achieving spending control is to place limits on Congress itself. This type of approach seeks to impose external constraints whereas the item veto imposes no control on the action of Congress but applies only to the fruits of those actions. One such method of imposing external constraints, which is not discussed here, is the widely debated Balanced Budget Amendment. A second method, is a Single Subject Amendment prohibiting bills from embracing more than a single subject of legislation.

This article examines the Single Subject Amendment proposal and concludes that the most effective and appropriate means of eliminating the adverse effects of legislative logrolling is to eliminate the practice itself. Part I identifies and describes the problem of legislative logrolling; Part II explores the item veto as a solution to the problem of legislative logrolling; and Part III proposes a Constitutional amendment to prohibit Congressional bills from encompassing more than a single subject and explains how a Single Subject Amend-

10. See Nat'l J., supra note 8 and accompanying text.

11. One version of the so-called Balanced Budget Amendment, embodied in Senate Joint Resolution 5 received President Reagan's endorsement as a method of "making the government live within its means" and the President suggested that "doing so will ultimately do more to bringing down interest rates and put our unemployed back to work than anything else we could do." 128 Cong. Rec. S8555-8556 at S8556 (daily ed. July 19, 1982) (text of President Reagan's speech at the kick-off rally for the Balanced Budget Amendment on the steps of the U.S. Capitol). For a discussion of the superiority of the Balanced Budget Amendment over the Line Item Veto as a solution to federal fiscal problems, see letter to the the editor by Lewis K. Uhler (President of the National Tax-Limitation Committee) Wall St. J., Sept. 22, 1983, at 31, col. 1.
ment would address the shortcomings of the line item veto.

I. LEGISLATIVE LOGROLLING

In addition to increasing federal spending, logrolling makes legislators less accountable by giving them an excuse for their votes in Congress that contribute to record-breaking spending deficits. That is, a legislator may report to his constituents that he felt obliged to vote for an excessive appropriations bill because it contained a spending program that directly benefits his constituents. Thus, the legislator can deny responsibility for aggregate spending levels even though he might have voted in favor of each of the appropriations he contends were unavoidable parts of the package. He can tell his constituents that, notwithstanding the tax and deficit implications of his voting, his vote was principled, responsible, and necessary because it helped to acquire the federal spending programs beneficial to local interests.

A requirement that bills be separated into their distinct logical units, would allow a legislator to vote against spending measures that add costs to the federal spending program without contributing sufficiently offsetting benefits. Legislators would still be free to bargain and trade votes on separate bills and it is therefore quite possible that many of the local spending programs could receive majority support when presented individually. That is, requiring the separation of logically distinct subjects of legislation would not necessarily foreclose the enactment of federal spending for local interests. It would, however, block the enactment of such spending unless that project could, on its own merit or by actual agreement, generate majority support.

At first glance, it may be difficult to imagine Congress enacting a rule to place procedural limits on itself. However, imposing limits on the practice of logrolling would, in some important respects, increase the voting flexibility and power of choice for individual members of Congress.

A. Logrolling and the Federal Budget Process

In order to understand this proposition, some discussion of the federal budget process is necessary. The Congressional Budget and Impoundment Control Act of 1974 (Act) currently governs the Congressional budgetary process.12 The

12. 2 U.S.C. §601 et. seq. The Act placed restrictions on presidential impoundments of funds, provided for the formation of the Congressional
Act sets budgeting timetables for some of the standing committees including: authorizing committees, the Ways and Means Committee (both an authorizing and revenue-raising committee), and the Appropriations Committee. The Act requires committees to submit a report to the Budget Committee of cost estimates for programs under their jurisdiction by March 15 each year. The Joint Budget Committee then uses those estimates to develop the first concurrent budget resolution. The Act requires the authorization committees to report on any legislation providing new authorization by May 15 of the year prior to the fiscal year for which it would become effective.

The Act also distinguishes between two sorts of legislation: budget authorization and appropriations. The Act uses the term "budget authority" to refer to "authority provided by law to enter into obligations which will result in immediate or future outlays involving Government funds" excluding authority to insure or guarantee the repayment of indebtedness incurred by another person or government. This authorizing legislation, "enacted by the Congress to set up or continue the operation of a federal program or agency" is normally a prerequisite for subsequent appropriations. In the authorization process, substantive legislative committees set an expenditure ceiling for substantive governmental programs. Appropriations committees then allocate fixed dollar amounts to those programs previously authorized by the substantive committees. Appropriations legislation directly grants federal agencies the authority to incur financial obligations and to make payments of federal monies.

Budget Office, and altered the dates of the fiscal year among other effects.

16. Id.
17. Id.
18. U.S. CONST. art. I, §9. For example the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act of 1985 directly appropriated money in the Treasury to fund those agencies for the fiscal year ending September 30, 1985. The bill contained appropriations for the administration of these agencies as well as for substantive programs within their jurisdiction. One example of the latter was funding the federal interest subsidies for medical facilities, of the Department of Health and Human Services. The funding provided by this appropriations legislation was previously authorized by the Public Health Service Act.
Logrolling occurs in the process of budget making decisions, because a legislator with a passionate interest in a given measure has an equal vote with a legislator who is only slightly interested in that measure. If all voting members have identical intensities of preference across all issues, then no vote trading is possible. If the individual voter feels as strongly about one issue as any other, he will never rationally agree to trade his vote for a reciprocal favor. The intense supporter of a given measure will exchange his vote on other issues about which he is relatively indifferent to elicit the support for his measure from others. These others are presumably indifferent on this issue, but intense on others.

This vote trading is facilitated by logrolling because these deals can be worked out in the context of a single bill. Appropriations bills tend to attract rather than alienate positive votes because acquiring appropriations beneficial to constituents is closely related to reelection support. Thus, the more appropriations subjects in a single bill, the greater power that bill has to attract the votes it needs for passage.

As more subjects are logrolled into a bill, representatives pick up votes which they did not actually have to solicit. For example, if a member of Congress wishes to enact a military procurement project to be located in his home district, he can attract more votes by attaching his proposal to any essential appropriations bill. By so doing, that member may gain majority support without soliciting votes or making the political trades which are presumably the foundation of a logrolled bill.


20. Buchanan and Tullock suggest that "under the rules within which . . . assemblies operate, exchanges of votes are easy to arrange and to observe." Id. at 135.

21. “[A]s the citizens of one state find that money, to raise in which they in common with the whole country are taxed, is to be expended for local improvements in another state, they demand similar benefits for themselves, and it is not unnatural that they should seek to indemnify themselves for such use of public funds by securing appropriations for similar improvements in their own neighborhood. Thus, as the bill becomes more objectionable, it secures more support.” (speech of President Arthur, 1882). 7 Richardson, Messages and Papers of the Presidents 121 (1898).

22. One commentator wrote of appropriation bills long ago that “[s]ometimes indeed the advocates of good causes actively support the bad ones, because they need the support of the grafters . . . [t]he whole thing is a mixture of ‘log-rolling’ and ‘blackmail.’” Editorial by George Harvey, North American Review, Aug. 1916 at 178-179.
B. Logrolling and Legislative Politics

The government of ancient Rome may have been the first to adopt and then restrict the practice of legislative logrolling. In 98 B.C., a rule was enacted forbidding the proposal of laws containing unrelated provisions. Since then many governments have recognized the impact of logrolling. As early as 1852, Senators were tacking nongermane spending provisions onto appropriation bills and one senator recognized that this strategy provided a tool by which to carry spending proposals through Congress that "had not merit within themselves to be carried through by themselves." American presidents have likewise recognized the effects of Congress' system of logrolling appropriations legislation. Nearly every president, since Grant, has requested an item veto power to curtail the negative impact of legislative logrolling on the executive veto.

The Presentment Clause requires bills that have passed the House and the Senate to be presented to the President for approval or veto. It was chiefly designed to thwart a legislative attack on the constitutional powers of the executive and to give the President the power to veto a legislative act

23. LUCE, LEGISLATIVE PROCEDURE 545 (1922). This rule against logrolling blocked the enactment of an omnibus bill which might have prevented the insurrection of the Italian allies who caused the great Roman Civil Wars.

24. Id. at 549.

25. Civil and Diplomatic Appropriations Bill of 1852, Ch. 108, 10 Stat. 76 (1852).

26. CONG. GLOBE, 32d Cong., 1st Sess. 1287 (1852) (remarks of Sen. Jesse David Bright (D-IN)). See also LUCE, supra, note 24, at 1286. This argument parallels the argument in favor of the line item veto that the current legislative system effectively forces the President to accept nonmeritorious spending proposals when they are ensconced in essential appropriation bills.

27. In 1873, Grant recommended to Congress that it recommend an amendment "to authorize the Executive to approve of so much of any measure passing the two Houses of Congress as his judgment may dictate without approving the whole, the disapproved portions or portions to be subject to the same rules as now." 7 RICHARDSON, MESSAGES AND PAPERS OF THE PRESIDENTS 242 (1898). See also 9 CONG. REC. 117 (1879) (remarks of Rep. Garfield) and 9 CONG. REC. 560 (1879) (remarks of Rep. Burrows). In 1883, Woodrow Wilson noticed the "mutual understanding" among representatives that each will vote in (Committee of The Whole) for the grant desired by the others, in consideration of the promise that they will cry 'aye' when his item comes on to be considered." W. WILSON, CONGRESSIONAL GOVERNMENT (1959) at 121 (written in 1883).

"in which the public good was evidently and palpably sacrificed." Thus, Hamilton wrote:

The primary inducement to conferring the power in question upon the Executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws through haste, inadvertance, or design.

The Supreme Court and many commentators interpret such language as an expression that those who drafted and ratified the Presentment Clause contemplated its use as a means of blocking legislation contrary to the President's policies.

The practice of logrolling erodes the executive veto power and thereby inhibits his primary check against legislative encroachments and misjudgments. President Reagan perceives logrolling as an intrusion on the veto power and has advocated the enactment of an item veto power to authorize the dissection of logrolled bills.

Some writers speculate that President Reagan, and presidents generally, do not actually want the item veto power. In some respects the President can capitalize on the restraints which logrolling place on him by shifting the blame for high spending to a logrolling Congress. Eliminating the impact of logrolling would remove one excuse from a president's repertoire of reasons for being unable to control federal spending. Thus, some limit on logrolling would increase the executive's accountability for national spending levels.

In the same way that logrolling encroaches on the president's exercise of veto discretion, it impairs the exercise of

29. *The Federalist Papers* No. 73 at 445 (Hamilton) (C. Rossiter ed.).
30. *Id.* at 443.
34. *See e.g.* Reagan to Seek a Law Allowing Him to Veto Item in Money Bill—Is His Aim to Reduce the Budget or Cut Embarrassment?, *Wall St. J.* (Jan. 5, 1984).
voting discretion by members of Congress. Logrolling enables some members of Congress to secure federal money for local projects without such projects undergoing scrutiny from other members. Federal projects such as water projects or military procurement projects greatly enhance the local economies where they are located. A member of Congress who is able to secure such a project for his constituents thereby acquires better chances of reelection. Thus, securing federal money for use within a representative’s district becomes a primary concern. A member commands the vote of other members by tacking his proposals onto those of others. Since all of these members then have a direct interest in securing the passage of the entire logrolled bill, the bill gets their vote without much scrutiny of the merits of the individual proposals. Indiscriminate and inefficient expansion of federal spending is thus facilitated by Congressional logrolling.

Federal spending projects are highly attractive to constituents in local districts in which they are located. Consequently, these constituents might be tempted to accept the indiscriminate spending which results from logrolling because they think it a lesser evil than losing federal funds for local projects. Under closer scrutiny, however, individual constituents should recognize that they have an interest in eliminating the practice of logrolling. A member of Congress may believe he is doing a constituent service by gaining popularity through his unconditional votes in favor of other members’ local spending projects. Perhaps he believes that he is benefiting his constituents by making friends in the legislature by voting for their proposals without questioning the content and purpose of the proposals. Constituents, however, as federal taxpayers have an interest in demanding that their representatives vote against federal spending which imposes costs on them but does not confer corresponding benefits on them. If certain spending proposals do not benefit a representative’s

36. See In Highway Bill Lobbying, the Touch is Local, 42 Cong. Q. 2194 (Sept. 8, 1984); Berman, In Congress Assembled 324 (1964); Robert Wallace, Congressional Control of Federal Spending 32-33 (1960).
constituents, either as citizens of the local district or as citizens of the nation as a whole, then those citizens should demand a justification from a representative who votes for such proposals. Logrolling precludes a member of Congress from casting a vote against many spending subjects that he considers unwise because it prevents a member from simultaneously opposing others' proposals that he believes to be profligate and supporting his own or others' spending measures that he believes to be wise and expedient federal spending.

Representative government, by its nature, demands that its legislators harbor a plurality of loyalties. Representatives enter office after having made promises and incurred obligations to a number of interests including a political party, friends, lobbyists, and perhaps religious and civic organizations. Conflicts arise when national interests require a governmental decision that is inconsistent with a previous promise or a present request that the representative has obligated himself to satisfy. Federal spending decisions present one such case.

Because securing federal funding to benefit constituents is a more visible good than is blocking unwise federal funding, and because representatives find it politically advantageous to engage in visibly good deeds, securing federal funds takes a higher priority than blocking irresponsible spending. When legislators allow a procedure such as logrolling to persist, and ignore the fiscal consequences to the nation as a whole, they fail in their obligation both to their constituents and to the country. By focusing exclusively on the short-term benefits to constituents, legislators ignore their obligation to use their judgment and political expertise to make decisions that inure to the good of the nation as well as to the good of their constituents.

In 1744, Edmund Burke wrestled with this conflict between short-term local interests and longer-term national concerns. In his address to the Electors of Bristol, as a candidate to represent the city of Bristol in Parliament, he expounded the desirability of a representative's maintaining close communication with his constituents. While constituents' wishes deserve great attention, and a representative has a duty "above all, ever, and in all cases" to prefer the interest of the constituents to his own, the representative has an obligation to his own conscience which is superior to his obliga-

40.  *Id.*
tion to be responsive to his constituents:

[A representative's] unbiassed opinion, his mature judgment, his enlightened conscience, he ought not to sacrifice . . . to any man, or to any set of men living . . . [a representative] owes . . . not his industry only, but his judgment; and he betrays, instead of serving [his constituents] if he sacrifices it to [their] opinion.41

Nowhere is this obligation to exercise considered judgment more important than in the area of appropriations and government spending which so significantly affects the overall economy. Because a representative sits to make laws for the good of the republic, the interests of the nation as a whole must take precedence over the narrow interests of his constituents when these interests conflict. The legislator must listen to the expressed opinion of his constituents as to specific matters, their use his judgment and experience to discern what these constituents would want if they had heard the debates and had the political experience and judgment for which they chose him. His judgment and knowledge must substitute for deficiencies in judgment and knowledge among his constituents.

C. Congressional Rules Restricting Content of Legislation

Since 1789, the House of Representatives has had a rule requiring amendments to be germane to the subject of the bill under consideration.42 The rule has been interpreted to allow a committee to report a bill embracing different subjects and merely makes it out of order during consideration on the floor in the House to introduce a new subject by way of amendment.43 The rule applies only to amendments and, therefore, the House does not sustain an objection on grounds that an appropriation which is reported by the committee within a general appropriation bill is not germane to the rest of the bill.44

41. Id.
42. House Rule XVI, provides that "... no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment." JEFFERSON'S MANUAL & RULES OF THE HOUSE OF REPRESENTATIVES, 95th Cong. (1977).
43. 5 HINDS' PRECEDENTS, §5826 (1907-08).
44. Thus, when a representative raised a point of order that an appropriation to increase certain fringe benefits to governmental officers was not germane to a foreign aid spending bill, the point of order was overruled. Because the committee reported on the fringe benefit provision with
The Senate has a rule prohibiting amendments to a general appropriation bill which are not germane or relevant to the subject matter of the general appropriation bill.\textsuperscript{45} The rule is very narrow in that it applies only to amendments to the general appropriations bill and not to all bills which are considered in the Senate. However, it does permit nongermane amendments under specified conditions.\textsuperscript{46}

Because of this narrow application of the rules on germaneness, appropriation bills which contain diverse and distinct subjects of appropriation frequently pass in both the House of Representatives and the Senate. Appropriation bills with distinct subjects that are reported out of committee are not subject to a point of order in either House under these rules. This is one way by which multiple subjects become included in an appropriation bill. Additionally, as indicated above, rules against adding non-germane amendments are not enforced in either House unless a member of Congress raises a point of order to bar consideration of the nongermane amendment. They are not inherently invalid.

D. Logrolling and Special Interests

Even though logrolling precludes the President and Congress from considering logically disconnected spending measures on their individual merit, some scholars and commentators argue that logrolling is a legitimate legislative practice.\textsuperscript{47}

\textsuperscript{45} Senate Rule XVI provides:

\begin{quote}
On a point of order made by any Senator, no amendments shall be received to any general appropriation bill the effect of which will be to increase an appropriation already contained in the bill, or to add a new item of appropriation, unless it be made to carry out the provisions of some existing law, or treaty stipulation, or act or resolution previously passed by the Senate during that session; or unless the same be moved by direction of the Committee on Appropriations or of a committee of the Senate having legislative jurisdiction of the subject matter, or proposed in pursuance of an estimate submitted in accordance with law.
\end{quote}

\textsuperscript{46} Id.

\textsuperscript{47} Some view logrolling as the only power, apart from impeachment, that Congress has against the oppressive use of the veto power by the President and that depriving Congress of that power would destroy the constitutional balance of powers and make the will of the legislature subject to the will of the Executive. See generally, Wilkenson, Observations on
Logrolling has been praised as "the most characteristic legislative process" because it embodies the give and take between competing interests which lies at the heart of the American democratic process. One theory is that logrolling permits a system of practical compromises and trading by legislators. This analysis fails to recognize, however, that legislators are not pressured to arrive at "give and take" compromises in formulating appropriations legislation. With no effective ceiling on federal spending, each legislator continues to "take" limited only by the force of other members' desires to "take" as well.

In some cases a logrolled bill may represent legitimate vote-solicitation by legislators. Conduct by which one member of Congress explicitly agrees to exchange one vote for another permits minority interests to band together to acquire each of their desires. When measures come up for vote in a continuing sequence and legislators have agreed openly to vote for each others' measures as they arise, individual members can vote on distinct issues or separate appropriations as they choose. Their own appropriations proposals are not directly jeopardized if they are independently worthy of passage. The only direct restraint on any member's vote is any previous commitment he may have made to vote for a particular measure. As Madison noted in The Federalist, this accommodation of a rich variety of interests affords protection against any one party being able to outnumber and oppress the rest.

If, however, legislators combine a multiplicity of minority interests into a single bill or tack minority proposals onto an unrelated proposal with majority support Madison's accommodation of a rich variety of interests may become an accommodation of every interest. Many complex issues enter into each appropriations bill and each member must weigh all of these issues and cast a single vote for or against the multisubject appropriations bill. Logrolling enables a member of

49. Id.
50. FENNO, CONGRESSMEN IN COMMITTEES (1973), at 58 suggests that House Committees attempt "to process and pass all requests and . . . do so in such a way as to maximize the chances of passage . . . .".
51. For a detailed explication of this argument, see Wildavsky, Item Veto Without a Global Spending Limit: Locking the Treasury after the Dollars Have Fled, 1 Notre Dame J. L., ETHICS & PUB. POL'Y 165 (1984).
52. THE FEDERALIST PAPERS No. 10 (J. Madison)
Congress to garner the votes of others by simply adding his own proposal to those of another member without necessarily striking an agreement to do so. Members of Congress feel obliged to vote for a grant of funds to benefit their constituents and some of them may do so regardless of the bill to which such a spending grant is attached. Further, they may do so without having engaged in the give and take which theoretically characterizes legislative democracy.

For example, if an appropriations bill contains a sufficient collection of local spending projects to directly benefit the constituents of 218 members of the House it stands a good chance of passage in the House. Even though none of these individual proposals can fairly be deemed to have independent majority support, each nonetheless passes by a majority. Although a vote in favor of an omnibus bill implies assent to all the provisions therein, such a vote is more symbolic of the strength of the support of each in favor of his own proposal. Because an omnibus bill may contain a provision a member of Congress feels obliged to support, his support for that provision and obligation to oppose is unavoidably translates into support for other unwise provisions. Thus, the effect of logrolling on the judgment of each Congressman is often similar to its effect on the executive’s exercise of judgment.

Because logrolling facilitates and encourages pork-barrel spending, it drives up the cost of government. Because it camouflages such spending in necessary legislation, it reduces legislative accountability. Finally, because it enables weak proposals to bypass legislative scrutiny, it violates principles of legislative advocacy and support solicitation. It concomitantly robs the executive and the legislator of the effective exercise of that judgment for which each was elected. In short, it can be seen as a decidedly undemocratic practice in a democratic process.

The following sections will examine two possible solu-

53. Although Congressmembers superficially approve of logrolling by their affirmative vote on a logrolled bill, that affirmative vote no more represents an approval of logrolling than the President’s affirmative vote on a piece of logrolled legislation. Presidential approval of such a bill is an indication that he views a particular spending provision as absolutely essential, notwithstanding the repugnant provisions to which it is attached. A Congressmembers approval of such a bill makes the same statement although often he considers it essential because his Congressional career is riding on it because of constituent pressures.

54. Berman, In Congress Assembled (1964)
tions to the problem of logrolling. The first is the line-item veto. The line item veto is essentially a symptom-focused solution, permitting logrolling where the President does not object to its results. The second solution, a proposed Single Subject Amendment, not only alleviates the symptoms, but focuses on eliminating logrolling altogether.

II. Item Veto Amendment Proposal

A. Description and Purpose of Line Item Veto

The line item veto\textsuperscript{55} has been heralded as a means of restoring executive control over unwise federal spending that the current executive veto cannot control because of legislative logrolling.\textsuperscript{55} Proponents argue that legislative logrolling has weakened the executive veto as a check on Congressional appropriations and has thereby upset the constitutional balance of powers\textsuperscript{57}

Several bills have been proposed in Congress to grant the President the power to veto individual items of appropriations. Senate Joint Resolution 128, the leading item veto proposal in Congress, proposes a constitutional amendment allowing the President to veto any item of appropriation, except appropriations for the legislative or the judicial branches of government.\textsuperscript{58} Items not vetoed would become law and

\textsuperscript{55} Unless otherwise specified, this discussion of the item veto refers to the power of the Chief Executive to veto items from appropriations bills as that power is proposed in S.J. Res. 128, 129 \textsc{Cong. Rec.} S13591 (daily ed. Oct. 5, 1983) by Sen. Mack Mattingly.

\textsuperscript{56} See remarks of Senators Alan Dixon and Mack Mattingly on the Senate floor. 130 \textsc{Cong. Rec.} S5297-S5321 (daily ed. May 3, 1984) and 130 \textsc{Cong. Rec.} S837 (daily ed. Feb. 1, 1983).

\textsuperscript{57} \textit{Id.}

\textsuperscript{58} Proposed amendment S.J.Res. 128 provides:

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

"Article—

The President may disapprove any item of appropriation in any Act or joint resolution, except any item of appropriation for the legislative branch or the judicial branch of the Government. If an Act or joint resolution is approved by the President, any item of appropriation contained therein which is not disapproved shall be-
items vetoed may be enacted over the president’s veto in the same manner prescribed by article I, section 7 of the Constitution. 69

Other variations of the line item veto proposal have been introduced in Congress as well. 60 One such variation is Senate Joint Resolution 26 which proposes a constitutional amendment to allow the President to disapprove or reduce distinct items or amounts of an appropriations bill, if doing so would not affect the other purposes and provisions of the bill. 61 Under this proposal, Congress could override the veto of any appropriations item by a simple majority of each house, rather than a two-thirds majority.

The line item veto would purportedly reduce excessive federal spending resulting from legislative logrolling 62 by allowing the President to excise individual items 63 from appropriation bills. 64 Its proponents claim that by striking out items in appropriations bills, a president can intercept spending

...
measures he thinks unwise or otherwise opposes and thereby reduce federal spending.\textsuperscript{65} Without the item veto, the President will continue to lack recourse against spending measures Congress may tuck within multisubject appropriations legislation.\textsuperscript{66} It is argued that the line item veto returns power to the President by permitting him to remove items from appropriations bills.\textsuperscript{67}

B. \textit{Item Veto Impact on Logrolling}

The item veto is inadequate as a vehicle to eliminate the adverse effects of logrolling because it ignores the effects that logrolling has on the appropriations process in Congress itself. Just as a multisubject bill forces the President to consider the bill as an entirety, so must a member of Congress make that choice between approving or rejecting an entire appropriations bill which contains spending provisions, some of which he or she may consider unwise. Although Congress as a group is responsible for multisubject appropriations bills, individual members are powerless to remedy the system of logrolling that pervades the process.

When the rules of Congress permit logrolling, those rules violate the duty of all members of Congress to vote for each measure on its own merits, and thereby comprise the integrity of the lawmaking process. In much the same way that legislating multifaceted bills abridges the power of the executive to veto or approve a specific object of legislation on its own merit, such practices remove the power of a member of Congress to vote for or against a particular measure without also voting the same way on unrelated measures to which it is attached. Although the line item veto would reduce some logrolling incentives, the item veto cannot eliminate the practice of logrolling. The item veto would only eliminate that logrolling incentive created by the Constitutional limitation that a president must veto or approve bills in their entirety.\textsuperscript{68}

Because of that limitation, when Congress attaches a nongermane amendment to a bill which funds fundamental governmental operations, the amending provision will often

\textsuperscript{65} See Remarks of Senator Alan Dixon and Mack Mattingly on the floor of the Senate. 130 \textsc{Cong. Rec.} S5297-S5321 (daily ed. May 3, 1984) and 130 \textsc{Cong. Rec.} S837 (daily ed. Feb. 1, 1983).

\textsuperscript{66} Id.


\textsuperscript{68} U.S. \textsc{Const.} art. I, \S 7.
survive the presentment stage of the current legislative process.\textsuperscript{68} This result will occur when the President, in weighing the balance between the repugnance of one spending subject and the necessity of another, resolves the issue in favor of the necessity of one subject and enacts the entire bill. The item veto would prevent Congress from restricting the President in this manner and would thereby remove this Presidential presentment incentive, for logrolling.

This veto disincentive of the item veto cannot, however, eliminate many of the other incentives which perpetuate the practice of logrolling in Congress. Often, the only way a member of Congress can muster majority support for a local project is to attach an amendment to an essential spending bill which has sufficient support to pass the legislature. This enhanced likelihood of passage at both the executive review and legislative formulation stages is a major incentive to encourage legislative logrolling. Because the item veto does not eliminate these strong incentives the practice of logrolling will continue even if the President has the item veto power.

Because the item veto would permit the practice of logrolling to continue, it would not solve the decisional dilemma which logrolling creates for members of Congress. Under the item veto system, logrolling would continue to force individual members of Congress to consider logically unrelated spending provisions as an entirety and vote on the complex issues within such a bill as if it were a single issue.

An additional effect of the item veto would be to decrease Congressional accountability and responsibility for federal spending.\textsuperscript{70} It would be an excuse for Congress to abandon its search for an effective and efficient appropriations process.\textsuperscript{71} The item veto system would allow members of Congress to battle for federal spending to benefit their constituents and then shift the unpopular decision to eliminate some of the programs to the highly visible and politically sensitive office of the President. It would decrease the Congressional budget responsibility which Congress sought to acquire

\textsuperscript{68} Fisher, \textit{Authorization-Appropriation Process in Congress}, 29 Cath. U. L. Rev. 51 (1979);

\textsuperscript{70} Former economist for the Reagan Council of Economic Advisers, Benjamin Zycker, suggests that the item veto "would allow congressmen to boast to constituents about all the manna from Washington for which they are battling endlessly, while permitting the president to masquerade as the last bastion of frugality, with little net effect on the budget totals." Zycker, \textit{An Item Veto Won't Work}, Wall St. J., Oct. 24, 1984, at 32, col. 4.

\textsuperscript{71} \textit{Id.}
by placing constraints on the executive impoundment power in 1974.\textsuperscript{72}

C. \textit{Item Veto Impact on Executive and Legislative Power}

Without addressing the merits and demerits of increased executive power,\textsuperscript{73} this section shall explore some of the ramifications of the item veto regarding the relationship of the executive and legislative branches.

Under either an item veto system or the current system, the President may continue to suggest programs and spending measures which he believes to be wise and recommend appropriate federal spending levels for those programs when he introduces his budget to Congress. If the item veto amendment is adopted, however, the President's budget suggestions could become imperatives to members of Congress faced with the possibility that failure to enact the proposals of the President may sound an item veto death knell to the funding of their own projects. The power to suggest the object and amount of spending, coupled with the coercive force of an item veto, would greatly increase the President's power over the legislature. It would allow his spending desires to carry excessive weight with a legislature whose members' local spending programs, and thus reelection, could fall with one slash of the pen by a President with the item veto power.

Taking this power of "suggestion" a step further, one

\textsuperscript{72} In a meeting of the Jefferson Foundation, a nonprofit organization dedicated to the study of public affairs, one member recognized that "the balance of power between the executive and the legislative branches, so finely honed by the founding fathers, a balance as necessary to the defense of freedom and liberty of citizens today as it was deemed necessary in 1787, has become unbalanced heavily in favor of the executive. Certainly the hand that holds the sword must be steadfastly denied a grasp upon the purse strings. Empowering the President with the line item veto authority might well serve as the death knell to legislative checks on presidential power . . ." 130 CONG. REC. S5623 (daily ed. May 10, 1984) (remarks of Paul Slayton). Not until Jackson's time did a President begin to substitute his purely personal opinion for the opinion of Congress in deciding whether to veto legislation. W. WILLOUGHBY, CONSTITUTIONAL LAW 658 (2d ed. 1929).

\textsuperscript{73} The Impoundment Control Act of 1974, 2 U.S.C. §631, was a Congressional reaction to President Nixon's repeated refusals to obligate funds which had previously been validly appropriated. The Act imposed procedural oversight provisions which Congress could control Presidential attempts at impoundment. By enacting the Congressional Budget Act of 1974, Congress sought to take control of Federal spending. According to most critics, it has failed in that undertaking. See \textit{Budget Solution}, Wall St. J., Sept. 14, 1983, at 32, col. 1.
recognizes the possible abuse of the item veto as a political weapon. For example, if a Republican president set his sights on an individual Democrat in Congress, he could slash spending items which would otherwise inure directly to the benefit of that member's constituents and practically destroy the reelection chances for that member.\(^\text{74}\) In the subsequent election campaign, a Republican Congressional candidate could have two cogent arguments with which to win votes. He or she could argue (1) that the Democrat failed to obtain a federal program for the local district and (2) that he or she can be more effective in acquiring local spending for the district and in avoiding additional executive vetoes by the President of his or her own party. Although this danger seems to exist when the President has a veto of any kind, the line item veto would give the President a focused instrument with which to attack his political opponents and yet avoid harming his allies.

Giving the President the item veto power would also allow him to so tamper with the allocation of funds that he may undermine the purpose of the legislation. Allowing the executive to eliminate items or parts within that program could distort the general legislative objective of the program without requiring the President to admit, through a full veto, that he disagrees with the general legislative purpose. If a president disapproves the relative spending allocated within a specific program, he implicitly disagrees with the legislative purpose of that spending subject and should be required to approve or veto that subject in its entirety.

III. Single Subject Amendment Proposal

A. Background and Purpose of Single Subject Amendment Proposal

A Single Subject Amendment to prohibit Congress from combining unrelated subjects of legislation would restore the power of the executive to veto distinct subjects of legislation. In this respect, it would accomplish the same object as the line item veto. In addition, however, a Single Subject Amend-

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74. The line item veto is a dangerously potent political weapon. John Palffy, a policy analyst for the Heritage Foundation, has noted the objection of many Congressmembers that "the President could use the threat of a line-item veto to further his political interests. He could, for instance hold hostage discretionary projects supported by Congress to force significant increases in defense spending, they argue, or he could target his veto against his political opponents in election years." Palffy, Line-Item Veto: Trimming the Pork, HERITAGE FOUNDATION BACKGROUNDER 343, April, 1984.
ment would deliver the Congress from the decisional dilemma created by logrolling.

Forty-two states have single subject provisions in their constitutions. In 1844, New Jersey was the first state to adopt an anti-logrolling provision as part of its constitution. The provision was specifically intended “to avoid improper influences which may result from intermixing in one and the same act such things as have no proper relation to each other...” Many of these states except appropriations bills from the single subject requirement because their constitutions provide the governor with a veto over individual appropriation items.

The following is a proposed amendment to the United States Constitution.

75. ALA. CONST. art. IV, §45; ALASKA CONST. art. II, §13; ARIZ. CONST. art. IV, part II, §13; CAL. CONST. art. IV, §9; Colo. CONST. art. V, §21; DEL. CONST. art. II, §16; FLA. CONST. art. III, §6; GA. CONST. art. III, §VII, Parag. 4; HAWAII CONST. art. III, §14; IDAHO CONST. art. III, §16; ILL. CONST. art. IV, §§8(c); IND. CONST. art. IV, §19; IOWA CONST. art. §29; KAN. CONST. art. II, §16; KY. CONST. §51; LA. CONST. art. III, §15; MD. CONST. art. III, §29; MICH. CONST. art. §24; MINN. CONST. art. IV, §17; MISS. CONST. art. IV, §69; MO. CONST. art. III, §23; MONT. CONST. art. V, §11; NEB. CONST. art. III, §14; NEV. CONST. art. IV, §17; N.J. CONST. art. IV, §VII, parag. 4; N.M. CONST. art. IV, §16; N.Y. CONST. art. VII, §6; N.D. CONST. art. IV, §33; OHIO CONST. art. II, §15; OKLA. CONST. art. V, §57; OR. CONST. art. IV, §20; PA. CONST. art. III, §3; S.C. CONST. art. III, §17; S.D. CONST. art. III, §21; TENN. CONST. art. II, §17; TEX. CONST. art. III, §35; UTAH CONST. art. VI, §22; VA. CONST. art. IV, §12; WASH. CONST. art. II, §19; W.VA. CONST. art. VI, §30; WIS. CONST. art. V, §10; WYO. CONST. art. III, §24.

76. N.J. CONST. art. IV, §VII, parag. 4.

77. Id.; See also LUCE, LEGISLATIVE PROCEDURE 546 (1922).

78. The text of this amendment is roughly similar to the Single Subject provision in the Florida constitution which provides:

Sec. 6. Every law shall embrace but one subject matter and matter properly connected therewith, and the subject shall be briefly expressed in the title.

Sec. 12. Laws making appropriations for salaries of public officers and other current expenses of the state shall contain no other subject. FLA. CONST. art. III.

The Florida item veto allows the Governor to veto any specific appropriation in a general appropriations bill. Since the general appropriation bill in Florida contains only “salaries for public officers and other current operating expenses of the state,” the item veto in Florida is a relatively innocuous power.
Single Subject Amendment

Article

Section 1. Except for the general appropriations bill, Congress shall not pass any bill which embraces more than a single subject. Upon receiving a bill and finding that it contains a subject or subjects not directly related to the subject of the bill, the President shall report that finding to the Congress and refuse to execute the unrelated subject(s) without affecting the remainder of the bill.

Section 2. The general appropriation bill may contain distinct subjects which will be necessary to provide for the salaries of public officers, and other current operating expenses of the federal government but shall not contain provisions on any other subject.

B. Application of Single Subject Amendment

Appropriations bills originate in the House of Representatives. After introduction in the House, the bill would be referred to the House committee(s) and undergo the usual committee scrutiny under a single subject system. If the committee decided to consider the bill, it could approve, amend, or even entirely rewrite it. Most importantly, with a Single Subject Amendment, the committee would be required to exercise those portions not reasonably and directly related to the subject of the bill. Under the constraints of a Single Subject Amendment, each measure would be required to be "cognate, attingent, and germane" to the subject of the bill.

When the bill reached the Senate, that body would likewise be required to consider it under the constraints of the single subject rule. Finally, if House and Senate versions of

79. U.S. CONST. art. 1, §7, cl. 1.

80. The germaneness test which specifies that measures embrace but a single subject so long as they are "cognate, attingent, and germane" to the subject of the bill is the test which was used by the State of California in Ex parte Hallawell 99 P. 490, 491, 155 Cal. 112 (1909). California has a constitutional requirement that a bill shall embrace but one subject matter, and declares that any matter foreign to the title of the bill shall be void. CAL. CONST. art. IV, §9.

81. The language of Proposed Amendment Section 1 that "Congress shall not pass any bill which embraces more than a single subject" would make it futile for Congress to consider multi-subject legislation because Congress could not constitutionally pass such legislation.
a bill differed, the joint conference would have to hammer out a compromise within the limits of the single subject rule and could not agree to include extraneous matter to achieve a compromise.

The increase in the aggregate number of bills necessitated by the Single Subject Amendment would seem to present a time problem for Congress, considering the difficulty which Congress encounters in getting the current thirteen appropriations bills out in time for the start of the fiscal year. However, the decreased breadth of single-subject bills, would render some of them relatively uncontroversial and thus tend to make them easier to pass. It seems likely, in fact, that many of these uncontroversial appropriations bills, including the general appropriations bill, could be passed relatively early in the federal appropriations process because they would require only minimal debate.

C. Enforcement of the Single Subject Amendment

The primary enforcement mechanism of the Single Subject Amendment would be the political interaction between the executive and legislative branches. The proposed Single Subject Amendment gives the President the power to “refuse to execute the unrelated subject(s) without affecting the remainder of the bill.”

82. As of Sept. 29, 1984, Congress had only passed four of its regular thirteen appropriation bills and so attempted to pass a massive continuing appropriation bill before its fiscal year ended on Oct. 1, 1984. (Congress loads up emergency funding bill, 42 CONG. Q. 2355 (Sept. 29, 1984).) It did not pass the resolution in time for the start of the fiscal year and President Reagan shut down the government for lack of federal spending authority to keep it going without an appropriation bill. (Last-minute appropriations bill tripped up, 42 CONG. Q. 2420 (Oct. 6, 1984)). One point of contention in passing the continuing resolution was language in the bill which prohibited any military aid to anti-government guerillas fighting the leftist government of Nicaragua. This provision would have been summarily excluded from the appropriation bill if Congress had been adhering to its rule that matters of substantive policy should not be permitted in appropriations legislation. Id. at 2418.

During that session Congress did enforce its germaneness rules to exclude a provision to regulate the sale of armor piercing ammunition in order to protect law enforcement officers which had been included in an appropriation bill. Id. at 2421.

83. Proposed Amendment §1.
tions would operate as an incentive for Congress to adhere closely to the Single Subject Amendment. If a President refused to enact a provision under this Amendment, the Congress could reconsider the bill as a new piece of legislation, restricting the scope of the bill to a single subject.

This enforcement process appears similar to the item veto amendment proposal in Senate Joint Resolution 26,\textsuperscript{84} which provides for a majority Congressional override of line items vetoed by the President. However, the differences between these proposals are substantial. Under either the Single Subject Amendment or S.J. Res. 26, a majority of Congress can "repass" items of legislation vetoed by the President. "Repassage" under S.J. Res. 26 is absolute: if a majority of each House of Congress votes to override the President's veto, the vetoed portions of the bill become law. Under the Single Subject Amendment, however, Congress' "repasses" the portions that the President refused to execute by recasting them into separate bills. This legislation is then subjected to the normal political processes, including another exposure to Presidential veto and the requirement of a two-thirds override.

This second possibility of a veto would also differ from Presidential rejection of the subject under the Single Subject Amendment grounds because the single subject objection is based on the form of the bill whereas the veto pursuant to Article I, Sec. 7 is based on disagreement with the substance of the proposed subject of legislation.

Another difference between the operation of the Single Subject Amendment and the various item veto proposals relates to the specificity with which the President may reject legislative provisions. Under the proposed Single Subject Subject Amendment, the President's rejection of items is limited to those not related to the subject of the bill. Under the item veto proposals, however, the President may exercise his item veto arbitrarily in that any individual spending item to which Congress has designated a specific amount of federal funds, is subject to veto by the President.

D. Taxpayers Standing

Private parties might claim that they have been injured by a legislative matter enacted in violation of the Single Subject Amendment or by a legislative matter rejected because

\textsuperscript{84} See supra note 57 and accompanying text.
of the misapplication of the Single Subject Amendment. However, federal rules of standing would preclude federal courts from exercising jurisdiction over taxpayers who claim injury by a violation of the Single Subject Amendment. The Supreme Court’s rulings in *Frothingham v. Mellon*\(^{85}\) and *Flast v. Cohen*\(^{86}\) establish rigid and narrow taxpayer standing requirements according to which taxpayers would lack standing to challenge violations of the proposed Single Subject Amendment.

E. **Standing of Congressmen**

In addition to suits by taxpayers challenging a violation of the proposed amendment, it is conceivable that a member of Congress would seek redress in federal court claiming a violation of the Single Subject Amendment. Such a claim might arise where a member Congress asserts that Congress itself has violated the proposed Amendment by including unrelated subjects in a piece of legislation or that the President has violated the proposed amendment by wrongfully refusing to execute portions of a bill sufficiently related to the Single Subject of the bill.

Of the standards set forth in the Supreme Court’s decisions on standing a Congressman must at least establish specific injury in fact to a cognizable legal interest resulting from the alleged violation of the Single Subject Amendment.\(^{87}\) At

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85. 262 U.S. 447 (1923).
86. 392 U.S. 83 (1968).
87. *Frothingham* articulated several elements related to the type of injury required to confer standing; *Flast* then narrowed the *Frothingham* rule. In *Flast*, the Court stated that taxpayer must show a logical nexus between his status as taxpayer and the claim sought to be adjudicated. The Court then found that the logical nexus would only be present when (1) the taxpayer is challenging Congressional exercises of the taxing and spending power and (2) the challenged enactment exceeds specific Constitutional limitations imposed in the taxing and spending power. The Court in *Flast* found that the history behind the establishment clause of the first amendment demonstrated that the establishment clause was enacted as a specific limitation on the taxing and spending power and therefore held that the taxpayer had standing. Since *Flast*, the only Congressional enactments which have been found to “exceed specific limitations imposed on the exercise of the taxing and spending power” and therefore meet the *Flast* test have been enactments challenged under the establishment clause of the first amendment. Although the proposed amendment is directly related to the taxing and spending power, it cannot fairly be considered a specific limitation on the power of Congress to spend. Rather, it is a specific limitation only on the manner in which Congress can exercise an established power to spend. In the establishment clause cases where the Court has
least one Court, has held that a Congressman can establish a sufficiently specific injury by asserting that a violation of the origination clause of the United States Constitution\textsuperscript{88} violated his cognizable legal interest in having the opportunity to debate and vote at the origination of legislation.\textsuperscript{89} Without analyzing the decision of that case and speculating on future Supreme Court decisions, one can conclude that courts might find that a member of Congress has standing to bring suit against the Congress for putative violations of the Single Subject Amendment. If the Congressman could show a significantly specific injury to a cognizable legal interest in enforcing the single subject amendment.

F. Justiciability Generally

Another situation which a violation of the proposed amendment might is in the context of a suit by a Congressman claiming that the President has violated the Single Subject Amendment by wrongfully refusing to execute legislative provisions sufficiently related to the single subject of the attached bill. This situation, as well as one in which a Congressman sued Congress, would likely constitute a nonjusticiable political question.

The Supreme Court holds that the federal judiciary should refuse to consider certain types of cases involving the relationship between the coordinate branches of the federal

found such a specific limitation on the spending power, the taxpayers challenge the very power of Congress to spend for an allegedly unconstitutional purpose. Under a claim that the Single Subject Amendment has been violated, however, the taxpayer would not be challenging the actual power of Congress to spend. Consequently, it is unlikely that federal courts would be willing to expand the narrow holding of \textit{Flast} by accepting a taxpayers assertion that the Single Subject Amendment qualifies as a "specific limitation on the taxing and spending power of Congress." 426 U.S. at 103. Gladstone Realtors v. Village of Bellwood, 441 U.S. 91 (1979); Simon v. Easten Kentucky Welfare Rights Organization, 426 U.S. 26 (1976); Warth v. Seldin, 422 U.S. 490 (1975); Association of Data Processing Service Organizations v. Camp, 397 U.S. 150 (1970). See for example, the refusal to grant taxpayer standing in Simon v. Eastern Kentucky Welfare Rights Organization, 426 U.S. 26 (1976) and especially Justice Stewart's concurring opinion in which he commented that "I cannot now imagine a case, at least outside the First Amendment area, where a person whose own tax liability was not affected ever could have standing to litigate the federal tax liability of someone else." (426 U.S. 26, 46 (Stewart, J., concurring)).

88. \textsc{U. S. Const.} art. I, §7, Cl. 1.

government. Such cases are thought to be best resolved by the political process and are not suitable for judicial review.

The text of the proposed amendment demonstrates that the issue of whether a president has violated the proposed amendment is a political question left to the review of Congress in the procedure by which Congress can reconsider allegedly non-germane portions of a bill after the President refuses to execute them. The text of the proposed amendment also demonstrates that the issue of whether the Congress has violated the proposed amendment is a political question left to the review by the President in the procedure by which the President can refuse to execute legislative provisions that violate the Single Subject Amendment. Therefore, even if private taxpayers and individual members of Congress did have standing to sue in federal court, the courts would find that the issue of whether the Single Subject Amendment had been violated is a nonjusticiable political question.

G. Comparison of Single Subject and Item Veto Proposals

Unlike the item veto, the single subject proposal strikes at logrolling itself. The proposed amendment would thwart Congress' tendency to attach spending proposals of questionable independent support onto essential appropriations bills to second passage. By prohibiting logrolling distinct legislative subjects, the proposed amendment would permit both the president and members of Congress to apply their political expectation and judgment separately to each legislative subject. The Single Subject Amendment would thereby increase the integrity of the legislative process by permitting legislative decision-makers at each level to vote for or against any single subject on its own merits. Members of Congress could support spending to benefit their constituents and at the same time vote against spending which consumes tax dollars without an offsetting benefit to his constituents.

Another advantage that the Single Subject proposal has over the Line Item Veto proposals is that the item veto would decrease Congressional accountability for federal spending, the Single Subject proposal would likely increase the visibility members' votes on federal spending. Because each subject would be a separate bill and members would vote separately on each subject, each member would be on

91. Id. at 217.
record as to what federal spending subject he or she supported. Under such a system, Congress would retain primary responsibility for federal spending and a member would no longer have available the excuse that he or she voted for so much federal spending because much of it was attached to what he or she considered essential spending subjects.

A final and significant difference between the Single Subject Amendment and the Line Item Veto lies in the impact of each on the respective powers of the legislative and executive branches. Because the focus of the single subject requirement is on separating subjects of legislation rather than items of spending, the veto power under a single subject system would somewhat increase the specificity of the presidential veto but would be significantly less specific than under an item veto system. The item veto could be narrow enough to target an individual member of Congress whereas a veto under the single subject system could only operate as a blunt instrument. The presidential veto of any subject that has majority support of Congress will have greater ramifications regarding the President's party and political allies than would a given item veto. Consequently, a president would have less freedom under the Single Subject system to veto solely for political advantage than he would have under an item veto system.

In addition, the single subject rule would not allow a president to approve a spending subject after having tampered with the Congressional policy of the subject through selective item vetoes. Therefore, it would preserve the Congressional policy in each bill unless the President was willing to admit his disagreement with the policy behind a particular spending subject by vetoing the full bill.

**Conclusion**

Under a single subject system, both the President and Congress have the opportunity to make decisions based on logically connected pieces of legislation. Members of Congress would be on record by rollcall votes as to how much money they had allocated to each particular subject of federal government spending. The few members with specific constituent interest in a particular subject might find it politically beneficial to have recommended allocation of a large amount of federal funds for a specific subject. Most of the members, however, would have less of a reelection stake in a given bill because it would embrace fewer items. Legislators who were relatively indifferent or slightly opposed to the pas-
sage of particular subject of spending could vote against the
subject without jeopardizing the programs which they
strongly favored. Only those who had actually agreed to sup-
port a particular subject of funding or had a direct interest in
the passage of a given bill would have reason to vote for it.

Congressional logrolling is a reaction to the reelection
wishes of every member of Congress. The danger of logroll-
ing is that it permits the inclusion, in appropriations bills, of
many spending subjects which have not received the scrutiny
of each member of Congress. In this way, logrolling contrib-
utes to uncontrolled federal spending. It also undermines the
presidential veto as a check on legislative appropriations.

Without an enforceable rule to prevent logrolling and its
effects, logrolling will continue. The line item veto is an un-
acceptable solution to the problem of legislative logrolling
because it would permit the practice of logrolling to continue
and would unnecessarily increase the legislative power of the
president. The Single Subject Amendment proposed in this
article, would eliminate legislative logrolling without impair-
ing Congress's prerogatives.

A representative has a duty to make decisions which are
responsive to the interests of his constituents, but he has an
even higher duty to protect the interests of the nation as a
whole. His highest responsibility as a legislator, is to his own
"mature judgment" and "enlightened conscience." Enlight-
ened and principled spending decisions are nearly impossible
in Congress because logrolling pits short-term interests in re-
election against the less immediate obligation to further the
interests of the nation.

A legislator who seeks to serve all of his political masters
including his constituents, his country and his conscience,
should recognize the value of the Single Subject Amend-
ment. The value of the Single Subject Amendment to a con-
cscientious legislator lies in its ability to prevent that legislator
and other legislators from succumbing to the temptation of
blindly accepting the proposals which other legislators attach
to appropriations bills in Congress. This temptation must be-
come overwhelming to a legislator who recognizes that de-
spite whatever spending proposals other members attach to
his own proposal, his future as a legislator may hinge on the
passage of his own proposal. It is reckless for a legislator to
place himself in this vexatious position. Regardless of the
merit of the individual measures in a multisubject spending

bill, a legislator should shun any procedure which permits logrolling and, thereby, practically requires him to vote unconditionally for any spending measures which other members may attach to a provision which he intensely supports.