

court issue. But, you can close the court issue by simply taking them out of the process within the context of the implementing legislation.

Mr. President, I believe, if you read the Federalist Papers, they make it about as clear as it could be. In Federalist 22, Hamilton called a quorum of more than a majority "poison for a deliberative assembly." That is what is being created here—what Hamilton called poison. He pointedly notes:

The necessity of unanimity in public bodies, or of something approaching towards it, has been founded upon a supposition that it would contribute to security. But its real operation is to embarrass the administration, to destroy the energy of Government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority.

That is about as clear as you can get. He goes on to say:

The public business must in some way or other go forward. If a pertinacious minority, respecting the best mode of conducting it, the majority in order to something may be done must conform to the views of the minority; and thus the sense of the smaller number will overrule that of the greater and give a tone to the national proceedings.

Hamilton was worried that the requirement of more than a majority would allow the minority to rule simply by not showing up.

When you require the fixed number of a House, not the fixed number of those present and voting, you have given to the minority the capacity not even to participate, and by not participating, they win. That is a tyranny of the minority. That is not majority rule.

Hamilton said, "Its situation must always savor of weakness, sometimes border on anarchy."

Mr. President, Hamilton feared that requiring more than a majority would effectively paralyze the Government's ability to act and could result in anarchy. Harsh and outrageous as that possibility may sound, those who threaten majority rule could threaten the power of the Federal Government by limiting its ability to act at all. All of us know how frustrating it can be to bring some issue to the floor, how long it takes, and how easy it is for one or two Members to frustrate the process. If you have to find that magical number, more than the majoritarian rule, you are already shifting the power in a remarkable way. A minority could limit the Government's ability to raise revenue, however unpopular that might be, or its ability to expend funds, and therefore limit what Hamilton called in Federalist 33 "The most important of the authorities of the Federal Government."

This amendment as drafted, Mr. President, is political dogma disguised as economic policy. It is the continuation of the ongoing effort to demonize certain national interests by demonizing those who promote any kind of national program to protect the American concept of community.

Mr. HATCH. Mr. President, is the Senator finished?

Mr. KERRY. Mr. President, I will yield for a question.

Mr. HATCH. How much longer will the Senator be?

Mr. KERRY. Mr. President, I have probably another 10 or so minutes. I know there is a 3 o'clock deadline. I do not want to delay any of my colleagues. If I could, I will ask unanimous consent that I could finish my comments, and I would be happy to yield for the purpose of permitting an amendment to be called up, if I can retain my rights to the floor thereafter.

Mr. HATCH. I appreciate my colleague for saying that. At 2:55, would it be OK if our colleague would yield so the distinguished Senator from California can call up an amendment and I can call up four amendments?

Mr. KERRY. I would be happy to delay for a moment now and let my friend from Utah call them up, or anybody else, if there is an understanding that I can simply return to complete my comments.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Massachusetts?

Without objection, the Senator may yield without losing his right to the floor.

Mr. KERRY. I thank the Chair.

Mr. HATCH. If I could ask the Senator, we just need to call these up right before the time expires at 3. Ours have to be called up last.

UNANIMOUS CONSENT AGREEMENT

Mr. HATCH. I ask unanimous consent that right before 3 o'clock the Senator from California be allowed to call up her amendment, and I then be permitted to call up the amendments I have on behalf of the majority leader and myself.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KERRY. Reserving the right to object, and I will not, I want to say that I would like to also be able to call up one amendment prior to the 3 o'clock deadline.

Mr. HATCH. If I can amend my request to say that the last three people to be recognized for amendments—unless somebody else comes in—will be the distinguished Senator from California to call up an amendment, the distinguished Senator from Massachusetts to call up an amendment, and I to call up a number of amendments for and on behalf of Senator DOLE and myself; I further ask unanimous consent that immediately following the calling up of these amendments, the ability to call up of amendments be closed, and that the amendments I called up to be the last ones to be called.

The PRESIDING OFFICER. Is there objection to the request?

Mr. KERRY. Reserving the right to object for the basis of our side, I do not see anybody here, and I presume that it assumes the 3 o'clock deadline has been passed.

Mr. HATCH. Right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Will the Senator yield for one more unanimous consent request?

Mr. KERRY. I am happy to.

UNANIMOUS CONSENT AGREEMENT

Mr. HATCH. I ask unanimous consent that the Senator—except for that interruption—be permitted to complete his remarks today, and then the Senator from Missouri be able to complete his remarks, and the Senator from Florida be able to complete his remarks and then the Senator from California be able to complete her remarks, in that order, following the amendments.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The Senator from Massachusetts has the floor.

Mr. KERRY. Mr. President, it is my fear that this amendment as it is currently drafted—and I want to emphasize that—begins the process that may permit an erosion of Government's ability to protect certain interests of every American based on a concept of majority rule. It begins to institutionalize a particular judgment, an economic judgment, against a whole set of other judgments which may, at some point in the not too distant future, be the majority view or general interest of the country, but not sufficient to gain 60 votes—but, nevertheless, sufficient to have 51 votes. They could be precluded from then representing those interests. That is, I think, upon reflection, a genuine threat to the notion of the democratic process.

I do not question the sincerity or the intention of those who believe that this is a bad idea whose time has come. But, Mr. President, I think we have to wonder whether we are not on a very dangerous path to fundamental changes in how we govern without the due process that our democracy demands.

The potential of minority rule on an issue as fundamental as raising revenues, I think, begins a dangerous process of beginning to dissolve whatever is left of America's spirit of community by limiting our ability to make decisions that go beyond city limits and State borders, and that may, in fact, be very unpopular, but we have to, if we are going to serve the Nation, preserve the flexibility and capacity for that kind of unpopular decision to be made.

So this debate is not really about specifically spending cuts. It is not about good economic policy. It is about the proliferation into the Constitution itself of a particular philosophy of the moment that almost suggests that the concept of community is lesser than the concept of individual interests. I do