

The Ultimate Republican Threat by Paul Starr

It is one of the anomalies of today's politics: The party that professes absolute fealty to the Constitution in its original form is also the most eager to change it. Exhibit A is the amendment pushed by Republicans to require a balanced budget every year, cap federal spending at 18 percent of gross domestic product, and bar any increase in taxes without a

supermajority of two-thirds of Congress or any increase in the national debt without a supermajority of three-fifths.

The immediate explanation for the amendment may seem obvious. Republicans in Congress want to please their party's base. But why is the base so interested in putting government in a straitjacket?

A party that sees itself as likely to win future elections is generally not interested in limiting its own powers. But according to Ran Hirschl, a legal scholar in the field of comparative law, parties expecting their fortunes to decline often attempt to entrench their views in constitutional provisions while they have the power to do so. Hirschl calls this pattern "hegemonic preservation," and the Republican Party's eagerness to amend the Constitution is a perfect example.

Republicans know in their gut that theirs is a demographically declining party. The GOP does poorly among younger voters, and it has little appeal to ethnic minorities who represent a rising share of the population. The native-born whites at the party's base worry that they are losing control of American society, and they see themselves as the source of the nation's wealth and values, besieged by

claimants on the public treasury who steal their money through taxes. Locking in low taxes through the Constitution would offer them protection even after they can no longer dominate elections.

The Constitution did not omit limits on taxes and borrowing because of an oversight. Under the Articles of Confederation, the federal government had been paralyzed because of its inability to raise revenue, and one of the chief purposes of the Constitution was to give the government the fiscal powers it had previously been denied. During the ratification debate, those fiscal powers were at the heart of the Anti-Federalist case against the Constitution—to which Hamilton responded, in "Federalist No. 30," that limiting those powers would be unwise because there was no telling what demands the government might face in the future.

Hamilton was right. The nation would never have flourished if the Anti-Federalists had gotten their way. Now the Republicans—true heirs to the Anti-Federalists—are trying to entrench the kind of arbitrary fiscal limitations and requirements for congressional supermajorities that the Founders rejected.

Supermajority require-

ments empower minorities. If you like the filibuster, you'll love the provision of the balanced-budget amendment that would enable just one-third of either house of Congress to block an increase in taxes. No doubt the amendment's backers see it as a barrier to liberal programs. But one day when they favor an increase in, say, defense spending, the amendment could well blow up in their faces and

budgetary conventions that determine, for example, what counts as "on" or "off" budget?

The amendment is not just unwise—it's breathtakingly stupid. The Constitution is admirable for its parsimony. As Hamilton argued, the Founders did not believe they could anticipate all the demands that the government might have to meet in centuries to come. Today's Republicans are missing that humility; they think they can make economic policy for all future generations.

The amendment does make sense, however, as the effort of a party desperate to lock in its views while it can. A big

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possibly endanger the nation's security. In a recession, the cap on government spending at 18 percent of gross domestic product would require cuts proportional to the economy's decline—a good recipe for turning recessions into depressions.

The amendment would not just empower minorities but also remove authority from the elected branches altogether. How would a cap be enforced in a year when spending exceeded 18 percent of GDP? Presumably, the Supreme Court would determine which programs would be cut. Would the Court also rule on the economic forecasts that underlie deficit projections? Would it prescribe the

victory for the Republicans in 2012 could enable them to accomplish via a constitutional amendment what would otherwise be politically difficult to sustain for long. Polls show that the public prefers tax increases on the wealthy and corporations to cutting Social Security and Medicare; the amendment could make a rollback of social protection virtually irreversible, forcing the public to accept outcomes it opposes. Far worse, it would make government incapacity and paralysis a permanent feature of the political system. Surely there must be Hamiltonian conservatives who understand the mortal threat the amendment poses to the republic itself. ■