

Monday, January 19, 2009

Dan Patrick responds: “The partisanship of the Democrats brought us to this point.”

posted by paulburka at 11:44 AM

Senator Dan Patrick responded to my post about the future of the 2/3 rule by e-mailing me his observations, which he requested that I post. They appear below.

The only way the two-thirds rule can survive is if the minority, regardless of party, understand that if they totally refuse to compromise or negotiate on an issue, they force the majority to find a legal way around the rule. Partisanship swings both ways. It is just as partisan to be against something as it is to be for something. Why is it people believe only Republicans acted in a partisan manner last week? It was the partisanship of the Democrats who brought us to this point.

The two-thirds rule was designed best as a tool for a one-party-ruled Senate. When the Democrats had a huge majority they needed the rule to decide what bills came to the floor. Even with a huge majority Bill Hobby discovered he had to find a way around the rule to bring bills that he considered important on occasion.

When I first came to the Senate I pleaded with the members to change the rule to three-fifths. I lost that vote, 30-1. Now just two years later, there is much greater support to change the rule to three-fifths. I was pleased to see my Republican colleagues stand together last week. What should we have done, go home and tell our folks that even though we are the majority we couldn't pass this key bill because the Democrats didn't like it? When the minority draws a line in the sand and says they will not negotiate they are acting as the “tyranny of the minority.”

I have said many times that I would support going to three-fifths even if the Democrats had the majority. For me it is the principle of doing the work of the people. The two-thirds rule creates gridlock on many key issues that never even get a fair public debate. What will we do if one day the Senate is split 17-14 or 16-15? Neither side will get to 21 on a tough issue. Remember, it's not the easy bills that we fight over, it's the tough ones. We should be expected to have public debate on the tough issues and to take tough votes—that is why we were sent here by the people.

As you know, 85% or more of the bills we pass are passed along non-partisan lines. We work well together in the Senate on many issues. But when it comes to a few key issues, there is a real difference between the two parties. On those issues the people expect their side to win. That is why the people vote for one party or the other. We did our best to find common ground on this issue. They refused to yield. We had no choice but to find a way to pass this legislation. It is my hope we move to three-fifths in the future to bring all bills to the floor. I tried to convince the Democrats that moving to three-fifths now would be to their advantage. There are many issues that the 12 Democrats might

be able to find 7 Republicans to join them on that they cannot get to the floor now.

I am pleased that I'm no longer alone in my view on the two-thirds rule. I will continue to work with Democrats when I can. But, in the end I have a responsibility to my voters and my party to represent them first, just as my friends across the [a]isle have the same responsibility to represent their voters.

Last week was a great week for the Senate. Senator Williams did a great job of presenting his view and the Democrats did a fine job of presenting their view. Both sides were respectful. It was good debate on a tough issue. I'd like to see more of that type of debate. We would have more of that type of debate with a three-fifths rule.

Senator Dan Patrick

I am not going to repeat the arguments I made in the original post, save one: I believe that there is no such thing as a "tyranny of the minority." The concept defies reason. The majority can always achieve its ends by changing the rules. The most famous example of this in modern American history was one that is appropriate to remember on this Martin Luther King birthday weekend: the Civil Rights Act of 1964. The Southern Democrats were a minority that resisted passage of the bill. This "tyranny of the minority" was easily defeated by resorting to seldom-used procedures.

The bill was bottled up in the House by Rules committee chairman Howard Smith of Virginia. Civil rights advocates filed a discharge petition to move it to the friendlier Judiciary committee. In the Senate, majority leader Mike Mansfield removed the bill from the Judiciary committee, chaired by James Eastland of Mississippi, and moved it to the Senate calendar. The minority never had a chance. It never does. That is why adherence to the 2/3 rule is important. Still, when public opinion is strongly in favor of an issue, such as civil rights, the rules will never provide the minority with sufficient protection to resist the majority.