

EDITORIAL BOARDS RECOGNIZE THE IMPORTANCE OF MAINTAINING SENATE RULES THAT PERMIT FILIBUSTERS OF JUDICIAL NOMINEES

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National Review Online (Dec. 15, 2004)

Let them filibuster: A Senate rules change may not be wise

[W]e sympathize with those Republicans who have been proposing to change the Senate rules to make it easier to confirm nominees who have majority support. Nevertheless, we think the idea is a mistake.

. . . Some conservatives argue that the . . . use of the filibuster effectively creates a supermajority requirement, which, on this argument, is unconstitutional. It is, in our view, an implausible argument. . . .

Conservatives are on stronger ground in arguing that a simple majority of senators should be able to rewrite the rules. But whether it would be prudent for Republicans to act on this insight is another question.

It may be wiser to insist on political accountability for filibusters of judicial nominees than to change the rules to prevent them. In the 2002 and 2004 elections, Republicans took Senate seats from the Democrats. The Democrats' filibusters against Bush's judge picks were an issue in all of them.

* * *

Republicans could change the rules, but they have no constitutional obligation to do so. And the best moment for changing the rules, during a Supreme Court fight, would also be the moment when a change would be least necessary. So let the Democrats filibuster - and pay the price.

Newsday (Dec. 7, 2004)

STOP WITH THE POLITICS: GOP would be wise to vet nominees

Republicans have hinted darkly that they may try to change Senate rules to prevent filibusters. That would ignite a battle they may not win. Even some Republicans are wary of stripping the minority party of the filibuster because they themselves will, at some point, be in the minority. Bush should chose comity over confrontation.

Roll Call (Nov. 29, 2004)

Faced with the prospect of more Democratic-led filibusters, the Majority Leader embraced the idea of rendering the legislative tactic moot, for no better reason than that he has the votes to do it.

Austin American-Statesman (Nov. 29, 2004)

If Republicans change Senate rules, it could come back to bite them

Republicans have used the Senate rules to maintain a balance of power in the past. They should recognize that they may well be the minority party again in a few years and will have to rely for power on the rule they are now so eager to change. . . .

Wiser GOP heads - those who remember the years of wandering in the minority-party wilderness - should prevail on Frist to abandon his plan to change the filibuster rules.

The New York Times (Nov. 28, 2004)

The Constitution expressly authorizes the Senate to "determine the rules of its proceedings." That is precisely what it has done. . . .

Senators appreciate their chamber's special role, and much of its uniqueness is based on traditions like the filibuster. . . .

[I]t is actually one of the checks and balances that the founders, who worried greatly about concentration of power, built into our system of government. . . . People who call themselves conservatives should find a way of achieving their goals without declaring war on one of the oldest traditions in American democracy.

The Herald Tribune [Sarasota, FL] (Nov. 26, 2004)

Busting the filibuster: Republicans should beware of altering Senate tradition

Any curtailing of the tradition of the filibuster could fundamentally and permanently change the nature of the Senate. . . . the Constitution is silent on the issue of a "simple majority vote" in the case of judicial confirmations or any other Senate vote.

And there is no reason to believe that the framers would want debate over something as important as a lifetime appointment to the federal judiciary to require less deliberation than other issues. . . .

Senate Republicans may not always be in the majority. Someday, they may want the filibuster to moderate judicial nominations.

St. Louis Post-Dispatch (Nov. 21, 2004)

THE COURTS: Avoiding nuclear war

The Democrats have overused the filibuster, but Republicans invite gridlock if they eliminate this powerful procedural tool. . . .

[E]ven under pressure, Mr. Specter had the good sense not to agree to block filibusters.

The Morning Call [Allentown, PA] (Nov. 21, 2004)

The bottom line is that the Senate GOP is five votes short of ending filibusters, and that will moderate the whole confirmation process.

Daytona Beach News-Journal (Nov. 20, 2004)

Filibusters are rare pieces of political theater -- but they're also important safeguards against abuse of power in the Senate. . . .

Republicans have a clear majority in the House and Senate. But they should remember that they are charged with representing a nation (and in most cases, their own districts) evenly split between the two major parties, and respect the rules that are meant to ensure the smoothest, fairest and most cooperative representation possible.

Palm Beach Post (Nov. 20, 2004)

GOP: Rules are for others

[T]he GOP could abuse its power and change the filibuster rule on its own.

Democrats never took drastic, arbitrary action when Republicans were blocking votes on a far higher percentage of Bill Clinton's nominees.

The Philadelphia Inquirer (Nov. 19, 2004)

Senate Republicans have been contemplating a rule change to end the filibuster, thereby removing Democrats' ultimate weapon. That inadvisable move would poison an already partisan chamber. And it would underscore the hypocrisy of GOP senators who did everything in their power, including employing the filibuster at least four times, to block President Clinton's more controversial judicial nominees.

Houston Chronicle (Nov. 17, 2004)

NO CHECKS

The Constitution, with its checks and balances, was expressly designed to keep such blanket exemptions from happening. The Senate rule requiring 60 votes to close debate has the same purpose and effect. These restrictions are frustrating to politicians eager for change. To date, however, the nation has suffered less harm from the checks and balances than it would suffer without them.

Roll Call (Nov. 17, 2004)

'Nuclear' Truce

Republicans should refrain from trying to change the chamber's rules by simple majority vote. The alternative could produce the legislative equivalent of nuclear war: a wasteland.

The Baltimore Sun (Nov. 16, 2004)

Tyranny of the minority

If Dr. Frist truly wants to avoid tyranny . . . he's headed in the wrong direction.

Pittsburgh Post-Gazette (Nov. 16, 2004)

Specter's moment / Republicans must beware their own hubris

Not for nothing is the filibuster-killing amendment dubbed "nuclear." It would blow collegiality away and with it any sense that the parties could retreat from fiercely partisan positions. Capitol Hill would be scorched with ill will.

Republicans need to beware of hubris.

The Washington Post, EDITORIAL (Nov. 10, 2004)

A New Start on Courts

There is talk of changing Senate rules so that a minority could no longer engage in filibusters to block judicial nominations, the one point of leverage that Democrats in the Senate retain. Pressure for unilateral action will be hard for Mr. Bush to resist, even if he wants to.

But he should. The judicial nominations process has been in a downward spiral for two decades. The ultimate losers are the courts and Americans' faith in impartial justice. . . .

With 55 Republicans coming into the Senate, Mr. Bush may decide he can overcome such tactics with raw power. He would do the country a far greater service if he took this opportunity to break the spiral.

He could do so without jettisoning any of his principles or campaign promises. . . . Most of Mr. Bush's appellate nominees have been confirmed without controversy -- a fact that neither Republicans keen to paint Democrats as obstructionists, nor Democrats keen to paint Mr. Bush's nominees as right-wing extremists, like to emphasize. Some have even provoked energetic support from Democrats. There are plenty of qualified conservative candidates, in other words, who could command broad ideological support. By turning to them, rather than to obviously confrontational nominees, Mr. Bush could bring a cease-fire to the judiciary wars -- and demonstrate true leadership.

Pittsburgh Post-Gazette (Aug. 03, 2003)

Can they talk? / Filibusters have a place in Senate deliberation

Senate Republicans who take the long view will hope the filibuster rules stay as they are.

The Asheville Citizen-Times [NC] (November 16, 2003)

What makes all this galling is the fact that Republicans now in control used various rules and tactics happily to stall nominees in the past and are now muttering about changing some of the very rules they used.

The Berkshire Eagle (November 15, 2003)

Filibuster Hypocrisy

[T]he GOP doth protest too much.

The filibuster is the last defense against the tyranny of the majority. Each party knows there is no telling when they will need it next.

The Charleston [WV] Gazette (November 14, 2003)

Hypocrisy; Senatorial Temper Tantrum

Democrats in the Senate have been far more accommodating to the Bush administration's choices for judges than their Republican counterparts were to the Clinton administration.

The St. Louis Post Dispatch (November 14, 2003)

A Game Of Chicken

[W]hen a president attempts to stack the federal courts... a filibuster is sometimes warranted. The Senate should reject... a proposal... to bar use of filibusters in judicial nominations.

The Springfield [MO] News Leader (November 14, 2003)

It's OK for us, but not for you. Indeed, those complaining most loudly about the Democrats' use of the filibuster today were among the loudest supporters of blocking Clinton's nominations then.

The great value in a Senate that does not rubber stamp every nomination is that it leads to a judiciary more likely to be independent. The extremists from both sides will be culled out.

The Miami Herald (November 14, 2003)

The marathon debaters would change that balance, which has been a bedrock and strength of our democracy for more than 200 years. They are wrong and should not prevail. ...

Mr. Frist and the majority are saying that if the president nominates a judge, that person should be approved. Period. But that wasn't the Founders' intent in making the judiciary a co-equal branch.

In blocking nominees not to their liking with threats of filibuster, Senate Democrats are doing no less than their Republican counterparts have done when they were the minority party. That, too, represents a strength of our Constitution.

The Atlanta Journal-Constitution (November 13, 2003)

Most Americans believe in the Constitution's advice and consent provision, designed by the forefathers to prevent the executive from packing the courts with cronies or ideologues. But now, the GOP is pushing to eliminate the honored Senate filibuster rule, which has proved useful in holding up questionable court nominees.

The Longview [TX] News-Journal (November 13, 2003)

[W]hen critics of the current Senate standoff complain about many judicial seats remaining open, they fail to point out that the vacancies existed before Bush took office because a Republican majority in the Senate wouldn't let many Clinton nominations come to the floor for a vote.

...standoffs such as we see now in Washington probably serve a purpose by forcing presidents to seek out and nominate not only highly qualified judges, but centrists...

...reassuring that we have a system steering the selection process to the middle of the road.

The Minneapolis Star Tribune (November 13, 2003)

Democrats have been doing what senators are supposed to do -- reviewing judicial appointments, consenting to the many that pass muster and holding back on the few that don't.

The St. Petersburg Times (November 12, 2003)

Despite their claims to the contrary, Republicans have filibustered judicial nominees in the past, including Abe Fortas' nomination to the Supreme Court. And there are occasionally good reasons to do so.

The Eugene [OR] Register-Guard (November 11, 2003)

[The] filibuster...has proved to be an important - and valued - part of the Senate's legislative process.

The problem lies not with the Senate Democrats or the filibuster or confirmation processes.

Palm Beach Post (November 7, 2003)

Keep Up the Filibusters

[T]he president can't credibly complain that he has had trouble getting the judges he wants.

But when any president appoints someone who is a judicial extremist, any Senate is duty-bound to contest that choice.

Los Angeles Times (October 10, 2003)

By picking extreme judicial candidates, President Bush has forced Senate Democrats to swallow hard and back nominees they don't like or filibuster them.

Though filibusters against judicial candidates hold little appeal, the Bush administration's stubborn advocacy of unpalatable like Pickering makes it a senatorial option of last resort.

The Oregonian (September 14, 2003)

Nation's Filter for Judges Working

It's the Senate's job to keep the president's considerable power over the judicial branch in check. If that means a few well-timed filibusters, so be it.

The Atlanta Journal-Constitution (August 4, 2003)

Dems' Judicial Filibusters Needed

Senate Majority Leader Bill Frist is threatening to circumvent the filibuster process on judges-- but as conservative pundit George Will wrote in defense of the filibuster in 1993: "Democracy is trivialized when reduced to simple majoritarianism."

The Baltimore Sun (July 6, 2003)

Senators Going Nuclear

[N]ot only short-sighted and foolhardy but also threatens the American system of government.

This, in part, is what the Senate was designed for, to be a counterbalance to the House, where even the narrowest majority tightly controls the rules and always prevails if it keeps its own troops in line.

No judicial candidate is worth such an evisceration of Senate power. And senators should understand that better than anyone.

The Charleston (WV) Gazette (June 30, 2003)

Republicans want to change Senate rules, banning filibusters when judges are up for confirmation. We hope that West Virginia's senators, Robert C. Byrd and Jay Rockefeller, do their utmost to hold the line against extremist judges.

Chicago Tribune (May 27, 2003)

Why We Need the Filibuster

But the constitutional argument is a dubious claim that would upset two centuries of accepted practice. The filibuster has been a Senate fixture since at least 1806...

The Constitution, moreover, says each house "may determine the rules of its proceedings," which is a pretty broad grant of authority. If the filibuster is unconstitutional, then so would be methods used by Republicans to block Clinton's court nominees, such as letting committees refuse to send nominations to the floor.

The need to jettison this mainstay of Senate procedure is hardly obvious.
...the fate of these nominations is not so critical that it warrants a drastic change in rules.

[I]t has been one of many useful restraints that help to prevent hasty government action based on a consensus that may prove transient. Republicans should be the last people to suggest we need fewer of those.

The Mercury News [CA] (May 21, 2003)

Coup in the Courts

[S]enators must exercise their constitutional veto over nominees whose values and judicial philosophy are way out of the mainstream.

The Buffalo News (May 18, 2003)

He's within his rights to try, but the Senate is equally within its rights to stand in his way. An independent judiciary is vital to America, and the system is designed to limit the ability of any one president to turn the judicial branch into a rubber stamp, however temporarily, for the executive branch.

The News Journal [Wilmington, DE] (May 15, 2003)

When they controlled the Senate, Republicans simply stalled Clinton nominees in the Judiciary Committee. If that didn't work, Republicans employed a Senate tradition even more pernicious than the filibuster: They put a private hold on a nominee's name.

The Republican hypocrisy on filibusters and judicial nominees is so transparent that portraying the process as broken is laughable.

The Clarion-Ledger [Jackson, MS], EDITORIAL (May 13, 2003)

Filibusters: Troubling, but rule change more so

Bush and Frist are right. The Senate should give the nominees a straight up-or-down vote. But an attempt to change the Senate rules to force a vote is not in the long-term best interest of the Senate or the nation. . . .

Such a rule change would cut both ways, depending on who holds the majority. With the razor-thin majorities of recent Congresses, the stakes get much higher and require more compromise and agreement on key issues.

Again, the Democrats are wrong to block the votes. The Republicans also were wrong during the Clinton administration. The question is are both sides willing to wreck the judiciary over stubborn partisanship. . . .

The Senate should not change its rules; it should do its job.

The New York Times (May 11, 2003)

Filibusters, which prevent Senate action through endless debate, have a long tradition, including use against judicial nominations.

As for Senator Frist's proposal itself, it would damage our constitutional system if Senate Republicans tried to rewrite longstanding rules for advice and consent for immediate partisan gain.

The Capital Times (January 23, 2003)

It's Right To Filibuster

Schumer and Durbin were right to promise a filibuster. And Wisconsin's Democratic senators, Russ Feingold and Herb Kohl, should make it clear now that they will support a filibuster.

Detroit Free Press (January 21, 2003)

[T]he filibuster. This procedural delaying tactic should not be wielded often, lest the minority party look obstructionist. But keeping the courts within the realm of mainstream jurisprudence is a worthy use.

Presidents are allowed to nominate whomever they want. The Senate is there to keep things in check when the executive branch reaches too far.

San Francisco Chronicle (January 10, 2003)

Senate Democrats are vowing to filibuster the Pickering nomination if it reaches the Senate floor. They should.

The Capital Times [Madison, WI] (November 13, 2002)

[I]f Bush does attempt to place extremists on the high court, Wisconsin's senators must be prepared to support the dramatic - and dramatically necessary - strategy of launching and maintaining a filibuster to block those nominations.
