



P E R S P E C T I V E S



by **Rinaldo S. Brutoco**

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Escaping Minority Rule: The Filibuster *Challenging the Tyranny of One*

What kind of a word is “filibuster,” how did we get stuck with it, and what the heck does it mean? Those of us old enough to remember seeing the 1939 classic *Mr. Smith Goes to Washington*, starring the legendary Jimmy Stewart, grew up with a badly distorted view of what the filibuster actually is today. In 1939 to stall a bill through a filibuster in the US Senate required one to take the floor of the Senate and literally stand there talking until you physically collapsed or until one or more Senators joined with you in taking turns talking to prevent a vote on a particular bill. It required enormous dedication, as the brilliant Frank Capra displayed in the movie, and was only undertaken for the most extreme reasons. Think of a filibuster as the ultimate tool in Minority Rule—one person can block the rest of the entire US Senate and every single piece of legislation by engaging in a filibuster.

Unfortunately, the committed “Mr. Smith” would not recognize what the filibuster has evolved to.

Today, any single Senator can “filibuster” without even opening their mouths. All they need to do is put up an objection saying they are thereby filibustering, and the Senate comes to a halt. No Jimmy Stewart ever has to take to the floor to gain news coverage of the issue they are standing for. In fact, they don't even have to give a reason why they are filibustering. They just express the objection and then they can continue playing golf if they like. That's so unworkable it is crazy.

In today's dysfunctional Washington, the power of the filibuster remains enormous. Any Senator can block any piece of legislation despite every other Senator being for it, the House of Representatives having passed it, and the then serving President committing to sign it if it passes. How can we tolerate such an inequitable and foolish practice? More to the point, must we?

The US Senate has a long tradition of unrestricted time for debate. The theory is that any Senator should be allowed the opportunity to say as much as s/he wants as

an inherent privilege for members of that body. Long speeches are not merely a modern inconvenience. Historians record that Cato the Younger spoke for endless hours on the floor of the Roman Senate, unsuccessfully, to block Caesar's rise to power.

This ability to speak endlessly has been the source of major unpleasantries in the past, like when Southern segregationist Senator Strom Thurmond set the record for the longest speech on the Senate floor. He stood and spoke for 24 hours and 18 minutes in 1957 to filibuster, that is say prevent the passage of a major civil rights bill. Even worse was an 83-day filibuster to stop the Civil Rights Act of 1964! That filibuster was ended only when two-thirds of the Senate voted for cloture, which is a fancy word for stopping debate. You read that correctly, if one single Senator wants to hold any and all legislation hostage s/he can do it unless a super majority (60 percent) of the Senate wants to stop them. Given our highly partisan political reality that number will almost never be achieved.

So, if one person can hold 365,000,000 Americans hostage to their policy decisions, we have the absolute perfect example of Minority Rule. Clearly that shouldn't be acceptable to any of us. What can we do about it?

The good news: there is no requirement to allow filibusters anywhere in the Constitution. Also, good news is the fact it is not enshrined in any lawful statute. You see, the filibuster “rule” is merely a creation of whatever the Senate wants at any given session. Right now, there is a pitched battle going on where **Mitch McConnell**, now the minority leader who only recently took joy in referring to himself as “the grim reaper” (because he stalled all legislation in the Senate) trying to blackmail Senate Leader **Charles Schumer** into keeping the filibuster alive. McConnell wants veto power over President **Biden's** agenda.

We can't persist in allowing this logjam that leaves the nation in a constant state of crisis. The best way to stop

this insane “procedural” rule is to eliminate it. Let the filibuster go the way of the dodo bird and we’ll all be better off. Our democracy could actually work again!

So why don’t we? Some give the spurious answer that: One day the Democrats will be in the minority and they’ll want to enjoy filibuster protections. Preposterous! When Mitch McConnell was afraid, he wouldn’t be able to pack the Supreme Court by adding arch-conservative **Neil Gorsuch** he immediately suspended the filibuster rule, thereby denying the Democrats the ability to use it, so he could proceed with a simple majority vote on Gorsuch. Object lesson: McConnell only wants a filibuster rule if Republicans are in the minority—never when they have a majority and he’ll pull it away for momentary convenience on a heartbeat.

So, what’s the holdup? Senator **Joe Manchin**, a “Blue Dog” Democrat—meaning a Democrat when it is convenient and a conservative when he can get away with it. It would be wise for the progressive elements of the Democratic party to threaten a primary challenge to Manchin as a way of demonstrating that no one, not even a Democrat, is allowed to “play politics” with their responsibility to vote for what they know to be right. For Manchin to provide that much “protection” for McConnell means he should be removed by Democrats as he’s not really one of them anyway. Enough with playing politics for momentary advantage.

For those who believe that we can’t immediately eradicate the filibuster as a toxic control device to enshrine Minority Rule, we could at least require that any Senator who really wants to be heard must stand on their own feet, utilizing their physical reserves, to speak as long as they want—and when they sit down, the filibuster ends. That would be a “halfway” measure, but 1000 percent better than we have now. Better yet, how about we run the US Senate as a “one woman, one vote” establishment and get on with the business of democracy. It’s long past time we freed ourselves of what President **Barack Obama** called “this Jim Crow throwback” and let democracy prevail over Minority Rule.