

# MINNPOST

## Why the filibuster is oddly misplaced in the U.S. Senate

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For a country that was admonished by its first president to avoid entanglements with Europe, the U.S. has been dragging along quite a bit of Old World baggage. The Founders and those who came after them, for example, had a sweet spot for anything ancient Roman: literature, architecture, and a funny thing that still happens today in the Senate. It's called the filibuster.

“Buster” sounds English, doesn't it? That's what I thought too. But the word “filibuster” actually looks back on a breathtaking zigzag through European languages that starts in the 17<sup>th</sup> century with the Dutch word for freebooter (*vrybuyter*). It got butchered by the English (*flibutor*), then by the French (*fribustier*) and finally the Spanish (*filibustero*) before sounding acceptable to American ears (minus the “o”) in the 1850s.

The term was originally used for pirates who found self-employment too stressful and preferred a steadier job with the government — hijacking hostile ships for the king or, as in Sir Francis Drake's case, the queen.

And hijacking the legislative process on behalf of their leader is what Republican freebooters are doing today in the Senate when they execute or threaten a filibuster — speaking endlessly, not yielding the floor and talking proposals or pending votes to death.

What does this have to do with ancient Rome? Well, it wasn't called a filibuster back then, but Cato the Younger used it anyway — albeit unsuccessfully — to prevent the Senate from making Julius Caesar dictator. Today it's used — alas successfully — by Mitch the Elder and his followers in the U.S. Senate to prevent just about anything from happening. No surprise that the Cato Institute, a conservative think tank in Washington D.C., and formerly known as the Charles Koch Foundation, is an ardent defender of the filibuster.

Here is my take on it. As much as the Founders loved Roman history and the lessons it had to teach, the U.S. legal system was deliberately not based on Roman law, which eventually became the law of continental Europe. Instead, the Founders, many of them dyed-in-the-wool WASPs, couldn't help but import the entire legal system — just like many other things — from England. Common law, as it is called on both sides of the Atlantic, goes back to Anglo-Saxon tribal customs, which, for example, allowed your neighbor across the street to sit on a jury and decide if you are guilty of murder or not. That's very un-Roman and Cato would have insisted on

having trained jurists or magistrates on the panel instead of legal amateurs. But I am digressing. What I am trying to say is that with everything else in the U.S. not being grounded in Roman law, Cato today would find the filibuster — his very own Roman invention — oddly misplaced in the U.S. Senate. Unless someone's trying to run for dictator, of course.