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Gene Healy: In defense of Senate 'obstructionism'

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In a party-line vote at 1:17 a.m. yesterday, Senate Democrats cleared a key procedural obstacle to a federal takeover of health care. With Saturday's buyoff of Sen. Ben Nelson, D-Neb., a pre-Christmas vote now looks likely.

But Obamacare's far from a done deal. There are large and contentious differences -- on abortion, taxes, the "public option" -- between the Senate bill and the one that passed by five votes in the House. The GOP Senate leadership intends to filibuster whatever emerges from conference as well.

Liberals are screaming bloody murder about Republican obstructionism. But thank God for obstructionism, and the Senate rules facilitating it -- because the longer this debate goes on, the less Americans like what the Dems are trying to sell them.

No wonder Senate Majority Leader Harry Reid, D-Nev., is desperate to force a vote before senators go home: As CBS's Nancy Cordes put it, he otherwise runs "the risk that any Democrats change their minds over the holidays or get swayed by all those tea party protests."

Because Senate rules empower a determined minority to shut business down, the Senate has always prized collegiality. The ongoing fight over Obamacare reveals what happens when senators "stop being polite and start getting real."

On Wednesday, Sen. Tom Coburn, R-Okla., demanded that a 767-page amendment be read aloud on the floor for hours on end. Coburn's ally, Sen. Jim DeMint, R-S.C., explained, "if Reid won't slow down this debate, we will do it for him."

In yesterday's Washington Post, E.J. Dionne cursed "the bizarre habits of the Senate," which show that "we are no longer a normal democracy." In a "normal democracy," apparently, you get to ram through a scheme that the public opposes 52 to 38 percent, according to the latest RealClearPolitics polling average.

But GOP stalling tactics are perfectly defensible on small "d" democratic principles. If democracy

means anything, it has to mean that the people's representatives comprehend the laws they pass and expect us to follow. Yet when Coburn asked that each senator certify that he or she has read and understands the bill, Sen. Max Baucus, D-Mont., objected: "I cannot certify that members of the Senate will understand what they're reading" (!).

As it stands, the senators will have less than a week to read a 2,000-plus page monstrosity that, as Sen. Olympia Snowe, R-Maine., protested, "no one has had the opportunity to fully consider." Maybe the "world's greatest deliberative body" ought to try to live up to its name.

Indeed, by trying to derail this juggernaut, the Republicans honor small "r" republican principles as well. Our entire constitutional architecture is based on the idea that it should be hard to do big things. As Hamilton put it in Federalist 73, "the injury which may possibly be done by defeating a few good laws, will be amply compensated by the advantage of preventing a number of bad ones."

Krugman points out that the 60-vote requirement for cloture "appears nowhere in the Constitution." While he's got the document out, maybe he can enlighten the Times' readers as to where Congress finds the power to force all Americans to buy health insurance.

Having overthrown the constitutional doctrine of enumerated and limited powers, liberals now want to remove a Senate rule that serves as an imperfect, but necessary substitute -- a jersey barrier to unconstitutional federal expansion. Thankfully, Senate rules still give a determined minority the tools to help them stand athwart the federal juggernaut, yelling "stop!"

The Center for American Progress' Matt Yglesias argues that "welfare state entrenchment" is a key reason liberals should abolish the filibuster. They should make it easier to pass universal entitlement programs, because "nobody dismantles public commitment to these goals once they're achieved."

It's that dynamic that has us careening toward fiscal apocalypse. Attempts to grease that slide ought to be met with the fierce urgency of "never."

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