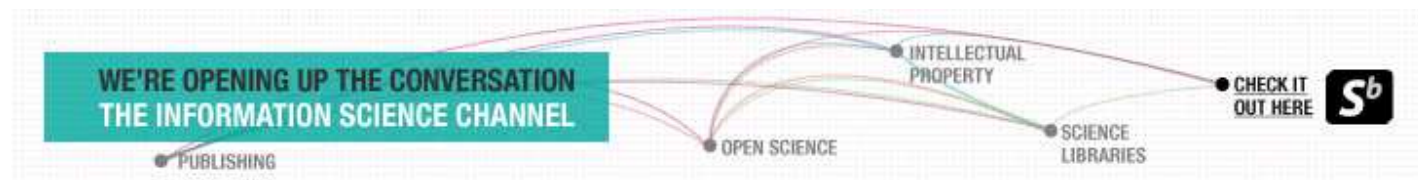


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Ed Brayton is a journalist, commentator and speaker. He is the co-founder and president of [Michigan Citizens for Science](#) and co-founder of [The Panda's Thumb](#). He has written for such publications as The Bard, Skeptic and Reports of the National Center for Science Education, spoken in front of many organizations and conferences, and appeared on nationally syndicated radio shows and on C-SPAN. Ed is also a Fellow with the Center for Independent Media and the host of [Declaring Independence](#), a one hour weekly political talk show on WPRR in Grand Rapids, Michigan.(static)

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- [June 2009](#)
- [May 2009](#)
- [April 2009](#)
- [March 2009](#)
- [February 2009](#)
- [January 2009](#)
- [December 2008](#)
- [November 2008](#)
- [October 2008](#)
- [September 2008](#)
- [August 2008](#)
- [July 2008](#)
- [June 2008](#)
- [May 2008](#)
- [April 2008](#)
- [March 2008](#)
- [February 2008](#)

- [January 2008](#)
- [December 2007](#)
- [November 2007](#)
- [October 2007](#)
- [September 2007](#)
- [August 2007](#)
- [July 2007](#)
- [June 2007](#)
- [May 2007](#)
- [April 2007](#)
- [March 2007](#)
- [February 2007](#)
- [January 2007](#)
- [December 2006](#)
- [November 2006](#)
- [October 2006](#)
- [September 2006](#)
- [August 2006](#)
- [July 2006](#)
- [June 2006](#)
- [May 2006](#)
- [April 2006](#)
- [March 2006](#)
- [February 2006](#)
- [January 2006](#)
- [December 2005](#)
- [November 2005](#)
- [October 2005](#)
- [September 2005](#)
- [August 2005](#)
- [July 2005](#)
- [June 2005](#)
- [May 2005](#)
- [April 2005](#)
- [March 2005](#)
- [February 2005](#)
- [January 2005](#)
- [December 2004](#)
- [November 2004](#)
- [October 2004](#)
- [September 2004](#)
- [August 2004](#)
- [July 2004](#)
- [June 2004](#)
- [May 2004](#)
- [April 2004](#)
- [March 2004](#)
- [February 2004](#)
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Ed Brayton also blogs at [Positive Liberty](#) and [The Panda's Thumb](#)

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## [The Right's Glaring Hypocrisy on Judicial Filibusters](#)

Posted on: June 3, 2009 9:16 AM, by [Ed Brayton](#)

Sen. Jon Kyl is not alone in displaying rank hypocrisy on the subject of judicial filibusters. A conservative group called the Third Branch Conference, headed by Manuel Miranda, has [written a letter](#) to all 40 Republican Senators demanding that they filibuster the Sotomayor nomination. Oh, they try and make a distinction between what they call a "Democratic filibuster" and a "traditional filibuster" but we'll see how little that means in a moment. Here's their fanciful rationalization:

There has been much distraction in discussing whether the Republican Minority would or could

muster a "*Democratic filibuster*," i.e., a filibuster used to obstruct a Senate confirmation vote. We recognize that Senate precedent has been altered by the systematic use of the "*Democratic filibuster*."

As Senator Ben Nelson of Nebraska (D) recently pointed out, a minority of Senators may now be well-entitled to prevent a cloture vote of a Supreme Court nominee who is, as Senator Nelson put it, an "activist." Such a result could similarly be justified by a nominee who is unqualified, with no judicial or jurisprudential record, or who is clearly an adherent of "Living Constitution" jurisprudence, or otherwise likely to bring to the court their personal politics.

We remind you that the Republican Party Platform, which almost all Republican Senators voted to adopt, establishes that you will not support a "stealth nominee" or a nominee who does not display fidelity to the Constitution.

Even so, no credible person, if any, has called on Senate Republicans to brandish a "*Democratic filibuster*." We call on you instead to display leadership, if the nominee merits it, in preparing for the use of the *traditional filibuster*, not intended to obstruct, together with moderate Democrats, so that the debate on the Senate floor is appropriately long and, therefore, suitably catalyzed to the American people.

So is there really a distinction between a "Democratic filibuster" and a "traditional filibuster"? Not really. Senate rules no longer require that in order to filibuster, a Senator or group of Senators continue talking 24 hours a day. Under current rules, it is enough merely to vote not to close the debate, which famously takes 60 votes to do.

But whether one keeps the debate open by talking hour after hour, or keeps the debate open merely by voting against cloture, the result is exactly the same - no final vote can be taken on the matter. So whether they do this in the traditional manner or not, if the Republicans filibuster the Sotomayor nomination it will be under the exact same rules, and for the same result, as those newfangled Democratic filibusters. The nomination still will not get a vote unless 60 Senators vote to end the debate.

Now let's set Professor Peabody's Wayback Machine to 1995 and look at a [letter sent to the Republican Senators](#) by a group calling itself the Coalition to End Judicial Filibusters. That letter implored Senate Republicans, then in the majority, to change the Senate rules to do away with the very action they are now advocating.

In recent times, partisan special interests have threatened judicial independence again by inserting ideology into the Senate confirmation process of federal judges. Now the Minority has changed 215 years of Senate tradition by abusing the filibuster for the first time against nominees with clear majority support.

The Senate must act as steward of the federal courts by returning the power to confirm judges to the Constitution's simple majority requirement. While it is the right of the President to expect the Senate to give Advice and Consent within a reasonable period of time, it is the duty of every Senator to offer Advice and Consent through an honest, up or down vote.

Moreover, the unprecedented abuse of the filibuster is a device intended to undermine the prerogatives of the Presidency as well as the tradition of the Senate. It must not stand. You must not waver. The President, this President, must have the freedom to nominate appellate judges and Supreme Court justices who will restore the courts to their constitutional role.

We are convinced that the proof of history is overwhelming that the Constitutional Options are a conservative response that do not threaten but will restore Senate debate rules and tradition.

So let's take a look at the signatories of those two letters. Here's the group that signed the new letter demanding a judicial filibuster:

Manuel A. Miranda, Chairman Richard Viguerie, ConservativeHQ.com David Keene, American Conservative Union Gary Bauer, American Values Grover Norquist, Americans for Tax Reform Larry Pratt, Gun Owners of America Dr. Virginia Armstrong, Eagle Forum's Court Watch Colin Hanna, Let Freedom Ring Mark R. Levin, President, Landmark Legal Foundation Tom Minnery, Focus on the Family Wendy Wright, Concerned Women for America Rev. Miguel Rivera, National Coalition of Latino Clergy & Christian Leaders Dr. Carl Herbster, AdvanceUSA Donald E. Wildmon, American Family Association Niger Innis, Congress of Racial Equality Willes K. Lee, Hawaii Republican Party. Immediate Past Chairman Ron Robinson, Young America's Foundation Michael P. Farris, Esq., Home School Legal Defense Association Peter Flaherty, National Legal and Policy Center Kelly Shackelford, Liberty Legal Institute Dana Cody, Life Legal Defense Foundation. Susan Carleson, American Civil Rights Union Phillip Jauregui, Judicial Action Group, Ilya Shapiro, Esq., Cato Institute Dean John C. Eastman, Dean, Chapman University School of Law Dean Mathew D. Staver, Liberty Univ. School of Law (Founder, Liberty Counsel) Prof. Teresa S. Collett, University of St. Thomas School of Law, Minnesota Prof. Ronald D. Rotunda, Chapman University School of Law Michelle Gress, J.D., The Westchester Institute for Ethics L. Brent Bozell III, Media Research Center Thomas A. Glessner, JD, National Institute of Family and Life Advocates Denise Singleton, American Federation of Senior Citizens Jim Martin, 60 Plus Association Rev. Rick Scarborough, Vision America Rev. Louis Sheldon, Traditional Values Coalition Andrea Lafferty, Traditional Values Coalition Keith Wiebe, American Association of Christian Schools Debbie Joslin, Alaska Eagle Forum, Republican National Committeewoman, Alaska Bruce Ash, Republican National Committeeman, Arizona Steve Scheffler, Iowa Christian Alliance, Republican National Committeeman, Iowa W. Ross Little, Jr., Republican National Committeeman, Louisiana Curly Haugland, Republican National Committeeman, North Dakota Cathie Adams, Texas Eagle Forum, Republican National Committeewoman, Texas Kathy Terry, Republican National Committeewoman, Virginia David Ridenour, The National Center for Public Policy Research Amy Ridenour, Americans for the Preservation of Liberty Jeffrey Mazzella, Center for Individual Freedom William H. Shaker, Rule of Law Committee William J. Murray, Religious Freedom Coalition J. C. Willke, MD, International Right to Life Federation Bradley Mattes, Life Issues Institute Fr. Thomas J. Euteneuer, Human Life International Dr. Patricia McEwen, Life Coalition International Austin Ruse, Catholic Family & Human Rights Institute Jennifer Kimball, Culture of Life Foundation Eric Scheidler, Pro-Life Action League John Jansen, Generations for Life Mark L. Melcher - The Political Forum Deal W. Hudson, Catholic Advocate Brian Burch, Fidelis and CatholicVote.org John-Henry Westen, LifeSiteNews.com Tom Shields, Coalition for Marriage and Family Chuck Muth, Citizen Outreach William Greene, Ph.D., RightMarch.com Jimmy LaSalvia, GOProud Mychal Massie, Project 21 Linda Harvey, Mission America David Crowe, Restore America Sandy Rios, Culture Campaign Robert Peters, Morality in Media C. Preston Noell III, Tradition, Family, Property, Inc. Dave Bydalek, Family First Richard Ford, Heritage Alliance Peter LaBarbera, Americans for Truth Tim Echols, Teenpact Leadership Gary Palmer, Alabama Policy Institute Bryan Fischer, Idaho Values Alliance Mary Anne Hackett, Catholic Citizens of Illinois James Dunlap, Citizens for Community Values of Indiana Micah Clark, American Family Association of Indiana Dr. Don Racheter, Iowa Wednesday Group Dennis K. Baxley, Christian Coalition of Florida Kent Ostrander, The Family Foundation (Kentucky) Gene Mills, Louisiana Family Forum Jason Stern, Louisiana Family Forum Action Brian Camenker, MassResistance Kris Mineau, Massachusetts Family Institute Joseph Ureneck, The Fatherhood Coalition, Massachusetts Gary Glenn, President, American Family Association of Michigan Pastor Paul Blair, Reclaiming Oklahoma for Christ Diane Gramley, American Family Association of Pennsylvania Fran Bevan, Pennsylvania Eagle Forum Harry Levine, Victory NH Carolee Adams, Eagle Forum of New Jersey Marie E. Tasy, New Jersey Right to Life Bill Brooks, North Carolina Family Policy Council Action Bobbie Patray, Tennessee Eagle Forum Beverly Roberts, Texas Concerned Women for America Betty Anderson, Eagle Forum of Montgomery Co., Texas Daniel J. Cassidy, Editor, Sunlit Uplands, South Carolina Steve Milloy, JunkScience.com Jim Sutherland, California Lester J. Larsen, Colorado Chris Dickson, Indiana Don Feder, Feder Associates,

Massachusetts Doug Reaume, Michigan Didi Lima, Nevada Ed Holdgate, New Hampshire Stephen M. De Luca, New Jersey Candace deRussy, New York John C. Armor, Esq., North Carolina Ed Gehringer, North Carolina Jerry Stevens, South Carolina Janet M. LaRue, Esq., Jan LaRue Consulting, Texas Donna Garner, Texas Larry Cirignano, Virginia Kenneth D. Whitehead, former Assistant Secretary of Education, Virginia Jeffrey Lord, author, *The Borking Rebellion* Mark I. Sutherland, author, *Judicial Tyranny* Martha Zoller, "The Martha Zoller Show", Georgia News Network Janet Parshall, Nationally Syndicated Talk show Host

And here's the group that signed the 2005 letter demanding an end to judicial filibusters:


C. Boyden Gray, Committee for Justice Kay R. Daly, Coalition for a Fair Judiciary Harvey Tettlebaum, Republican National Lawyers Association David A. Keene, American Conservative Union Gary L. Bauer, American Values Grover Norquist, Americans for Tax Reform Paul Weyrich, Free Congress Foundation Dr. James Dobson, Focus on the Family James D. Daly, Focus on the Family Tony Perkins, Family Research Council James J. Fotis, Law Enforcement Alliance of America Chuck Colson, Prison Fellowship Ministries Mark Earley, Prison Fellowship Ministries Connie Mackey, Family Research Council Lisa DePasquale, Clare Booth Luce Policy Institute L. Brent Bozell III, Conservative Victory Committee Dr. William A. Donohue, Catholic League for Religious and Civil Rights Jim Backlin, Christian Coalition of America Dr. Carl Herbster, AdvanceUSA Ray Ruddy, Gerard Health Foundation Kurt Entsminger, Care Net Dr. Virginia Armstrong, Eagle Forum's Court Watch Duane Parde, ALEC (American Legislative Exchange Council) Matt Kibbe, Freedom Works Peter A. Samuelson, Americans United for Life Clarke D. Forsythe, Esq. AUL's Project on Law and Bioethics Richard Land, Southern Baptist Ethics & Religious Liberty Commission Dr. Barrett Duke, Southern Baptist Ethics & Religious Liberty Commission Dr. John C. Eastman, The Claremont Institute Center for Constitutional Jurisprudence Jay Sekulow, American Center for Law and Justice James Bopp, Jr., James Madison Center for Free Speech Samuel B. Casey, Christian Legal Society Kelly Shackelford, Liberty Legal Institute Mathew D. Staver, Liberty Counsel Alan E. Sears, Alliance Defense Fund Roy Innis, Congress of Racial Equality (CORE) Niger Innis, Congress of Racial Equality (CORE) Lanier Swann, Concerned Women for America Dr. Keith Wiebe, American Association of Christian Schools Jeffrey Mazzella, Center for Individual Freedom Brian McCabe, Progress for America Phyllis Berry Myers, New Black Leadership Coalition Nancie Marzulla, Defenders of Property Rights Kevin W. Blier, Center for American Cultural Renewal Steven Mosher, Population Research Institute Ken Connor, Center for a Just Society Rick Scarborough, Vision America Michael Valerio, Vision America Gary Marx, Judicial Confirmation Network Ron Robinson, Young America's Foundation Michael Howden, Stronger Families Manuel Lujan, Jr., Hispanic Alliance for Progress Institute James L. Martin, 60 Plus Association Penny Nance, Kids First Coalition Charles W. Jarvis, USA Next (United Seniors Association) Dr. D. James Kennedy, Coral Ridge Ministries Dr. Gary Cass, Center for Reclaiming America Mark Sutherland, Joyce Meyer Ministries Dr. S. Dale Burroughs, Biblical Heritage Institute Mike Snyder, The Wilberforce Forum Bishop Keith Butler Pastor Rod Parsley, Center for Moral Clarity Fr. Frank Pavone, Priests for Life Rev. Louis P. Sheldon, Traditional Values Coalition Andrea Lafferty, Traditional Values Coalition Jeff Ballabon, Center for Jewish Values Bill May, Catholics for the Common Good Oliver N.E. Kellman, Jr., National Faith Based Coalition Rev. Rusty Thomas, Eijah Ministries Dr. Paige Patterson, Southwestern Baptist Theological Seminary Dr. Steve Lemke, New Orleans Baptist Theological Seminary Dr. Craig Blaising, Southwestern Baptist Theological Seminary, Fort Worth, Texas Austin Ruse, Culture of Life Foundation Thomas Glessner, National Institute of Family and Life Advocates Leslee Unruh, Abstinence Clearinghouse Thomas A. Shields, Coalition for Marriage and Family Bradley Mattes, Life Issues Institute Warren Kelley, National Center for Freedom & Renewal Robert B. Carlson, American Civil Rights Union Chuck Muth, Citizen Outreach Jennifer Bingham, Susan B. Anthony List Paul Caprio, Family-PAC Federal Larry Cirignano, CatholicVote.org William Greene, RightMarch.com C. Preston Noell III, Tradition, Family, Property, Inc. Phil Burress, Citizens for Community Values Alvin Williams, Black America's PAC (BAMPAC) Donald E. Wildmon,



American Family Association Stephen M. Crampton, AFA Center for Law & Policy Dr. Patricia McEwen, Life Coalition International Rev. Keith Tucci, Life Coalition International Richard Ford, Heritage Alliance Karen Testerman, Cornerstone Policy Research Gregory K. Blankenship, Illinois Policy Institute Mary Anne Hackett, Catholic Citizens of Illinois Irwin Essinfeld, Renew Illinois Foundation Mary T Erickson, Illinois Citizens for Life Peter LaBarbera, Illinois Family Institute Thomas Smith, America 21 (Tennessee) Tom Brejcha, Thomas More Society, Pro-life Law Center (Chicago) Denise Mackura, Ohio Right to Life Russell Johnson, American Restoration Project (Pastor, Fairfield Christian Church, OH) James E. Barrett, Michigan Chamber of Commerce Gary Glenn, American Family Association of Michigan Len Deo, New Jersey Family Policy Council Dr. Steven J. Kidder, New York State Family Policy Council, Inc. Michael S. Heath, Christian Civic League of Maine Kenneth Endean, Maine Association of Christian Schools Lisa E. Roche, Esq, Maine Right to Life Committee Cathie Adams, Texas Eagle Forum Kris Mineau, Massachusetts Family Institute Diane Gramley, American Family Association of Pennsylvania Dr. Ed Johnson, Minnesota Association of Christian Schools Tom Prichard, Minnesota Family Council Michael N. Duff, United Families Idaho Julie Lynde, Cornerstone Institute of Idaho Chuck Hurley, Iowa Family Policy Center Kelly M. Rosati, JD, Hawaii Family Forum Dr. James Efaw, Colorado Association of Christian Schools Gene Mills, Louisiana Family Forum Sadie Fields, Christian Coalition of Georgia Rev. Reece Yandle, South Carolina Association of Christian Schools Brad Fleming, Maryland Association of Christian Educators Douglas P. Stiegler, Family Protection Lobby - Maryland Dr. Ronald Konopaski, United For Life- San Francisco Dr. Joe Haas, North Carolina Christian School Association Bill Brooks, North Carolina Family Policy Council Robert E. Regier, South Dakota Family Policy Council Kent Ostrander, The Family Foundation of Kentucky David Bydalek, Family First (Nebraska) Len Munsil, The Center for Arizona Policy Micah Clark, American Family Association of Indiana John Stemberger, Florida Family Action, Inc Forest Thigpen, Mississippi Center for Public Policy Michael L. Jestes, Oklahoma Family Policy Council Julaine K. Appling, The Family Research Institute of Wisconsin Joe Bob Mizzell, Alabama Baptist Christian Life Commission Tim Parish, Rocky Mountain Association of Christian Schools. Dr. Ken Hutcherson, Antioch Bible Church, Redmond, WA William F. Large, Alaska Republican Party Hiram Lewis, Esq., West Virginia GOP Dorcas K. Harbert, GOP County Chair, Monongalia County, Morgantown, WV Charles Bolen, Past Chairman, West Virginia Young Republicans Former Congressman Mick Staton (R-WV) West Virginia Senator Larry Kimble (R-WV) Mark Coyle, former Communications Director, WV Republican Party Grant M. Lally, Irish American Republicans Brian McCarthy, Irish-American Republicans Don A. Daughtery, Wisconsin Republican National Lawyers Association Chapter Maclin Davis, Tennessee Republican National Lawyers Association Chapter Mark E. Foster, Oregon Republican National Lawyers Association Chapter Craig Hymowitz, Philadelphia Republican National Lawyers Association Chapter Jefferson Knight, Florida Republican National Lawyers Association Chapter Paul D. Seyferth, Kansas Republican National Lawyers Association Chapter Frank B. Strickland, Georgia Republican National Lawyers Association Chapter William M. Todd, Ohio Republican National Lawyers Association Chapter Corey R. Weber, California Republican National Lawyers Association Chapter Thomas E. Wheeler, Indiana Republican National Lawyers Association Chapter William B. Sellers, Alabama Republican National Lawyers Association Chapter Brian T. Egan, New York Republican National Lawyers Association Chapter Ann Browning, California Republican National Lawyers Association Chapter Cameron Quinn, Virginia Republican National Lawyers Association Chapter Lee Goodman, Virginia Republican National Lawyers Association Chapter David Blackwood, Maryland Republican National Lawyers Association Chapter Mark Chadwick, Southern Arizona Republican National Lawyers Association Chapter Keith Carlson, Orange County (CA) Republican Lawyers Association Rhet Miles, Chairman of the Benton County, Arkansas, Republican Committee Ron Shuping, The Inspiration Television Networks Janet Parshall, nationally syndicated Radio and TV host Martha Zoller, Radio Talk Show Host and Political Analyst (Georgia) Kevin P. Doran, Radio Talk Show host (New York) Mike Siegel, Radio host and author of Power Talk: The Influence of Talk Radio Chris Dickson. "The Dickson/Chappell Report", (Midwest) Dom Giordano 1210 AM Radio (Philadelphia) Adam

McManus, Radio Host of "Take A Stand" (Texas) Dave "Doc" Kirby, Radio Host (Alabama) Inga Barks, Radio Host (Southern CA) Marta Montelongo, Radio Host (Central CA) Vicki McKenna, Radio Host, News/Talk 1310 WIBA (Wisconsin) Brian Farrar, Syndicated talk show host, Michigan Talk Radio Network Mark R. Levin, author of Men in Black Craig Shirley, author, "Reagan's Revolution; The Untold Story of the Campaign that Started it All." Carol A. Taber, FamilySecurityMatters.com (former publisher, Working Woman and Working Mother magazines). Victor K. Williams, Professor of Law, Catholic University of America School of Law Clint Bolick, Esq. (Arizona)

How many names can you spot that are on both lists?

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## Comments

1

The filibuster is unconstitutional. The Constitution specifically lays out the 2 circumstances in which a supermajority is required-conviction for an impeachable offense and over-ride of a presidential veto. Otherwise, a simple majority should suffice. It's time to either enshrine the filibuster in the constitution by amendment or consign it to the dustbin of history. A full and open debate? By all means, but that should not mean allowing a minority to endlessly delay action.

Posted by: JusticeLeague | [June 3, 2009 9:42 AM](#)

2

Senate rules no longer require that in order to filibuster, a Senator or group of Senators continue talking 24 hours a day.

I dont believe this is true. Cloture is a procedural motion to prevent a filibuster, but technically, not voting for cloture is not itself a filibuster: The leadership could still bring the subject to the floor and once all Senators have had their say, bring the matter to a vote. Of course, without the 30 hour limit on debate that cloture brings, the minority could then filibuster by each requesting their 2 speeches and talking for as long as they can. At the same time, if the leadership was willing to risk that, the minority would need to keep talkin 24 hours a day to make good on their threat of a filibuster. Personally, I wonder if that wouldnt be a good idea: In this day and age of youtube, CSPAN and 24 hour a day media, an actual filibuster stands a good chance of backfiring on its perpetrators as the nation sees them holding up a vote on a serious issue by reading War and Peace or whatever other nonsense they use to fill up their speeches.

Posted by: Dave | [June 3, 2009 10:00 AM](#)

3

Re JusticeLeague

Mr. JusticeLeague may be correct that filibusters are unconstitutional. The problem is, who is going to challenge them in court. Clearly, no Senators of either of the two political parties are going to mount or support such a challenge as they are aware that neither of them will always be in the majority in the Senate. That leaves the issue of standing, which is probably how the courts will evade having to rule on the issue.

Posted by: SLC | [June 3, 2009 10:03 AM](#)

4

JusticeLeague:

The Constitution also says:

"Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member."

The first clause explicitly states that each chamber determines its own parliamentary procedure, and cloture/filibuster are issues of parliamentary procedure.

Posted by: [Benjamin Geiger](#) | [June 3, 2009 10:16 AM](#)

5

The Constitution says each House of the Congress shall make its own rules of procedure; so if they have a rule allowing a filibuster, it's not unconstitutional. Furthermore, it's not uncommon for groups to have rules requiring some sort of "supermajority" to *close debate*, which is, for a deliberative body, a decidedly radical measure, and SHOULD only be done when an overwhelming majority agrees that there's no point in further debate.

(And yes, I believed the same thing when the Republicans were in the majority. I may be ambivalent on this subject, but I'm not inconsistent.)

Posted by: Raging Bee | [June 3, 2009 10:24 AM](#)

6

I have long opposed the filibuster on principle, no matter which party is in the majority. This procedure has traditionally been used by bigots to thwart bills extending liberty to all American citizens. It also gives the minority disproportionate power and influence. A rule that allows each senator a reasonable amount of floor time to express their opposition to a bill would ensure that all points of view get a fair hearing without allowing an obstructionist minority to stand in the way of the democratic process.

Posted by: Ken in Tucson | [June 3, 2009 10:32 AM](#)

7

I do agree that challenging a filibuster in court would be a longshot, as judges would be very leery of interfering in the operational details of Congress. However, it would seem to me that if the intent of the framers was for all legislation to be subject to a super-majority vote, then they would have said so. In fact they required super-majorities only for veto overrides and removal from office.

Bee-Certainly private groups can have all sorts of rules. Some require consensus and will talk late into the night in an attempt to get there. But the Senate is an official body and as far as I know, most official bodies in the US and elsewhere require only a simple majority with rare exceptions.

At a minimum, I would like to go back to requiring those who wish to filibuster to actually do so as Dave suggests. At least in the "good old days" filibusters were limited to only those issues which a majority held very passionate opinions on. Unfortunately, those were usually related to segregation, but at least segregationists were publically exposed as such, and perhaps as fools to boot.

Posted by: JusticeLeague | [June 3, 2009 10:45 AM](#)

8

*A rule that allows each senator a reasonable amount of floor time to express their opposition to a bill would*

*ensure that all points of view get a fair hearing without allowing an obstructionist minority to stand in the way of the democratic process.*

No, it would not. Suppose I used my allotted time to say my piece, and then someone from the other party used his time to make an inflammatory accusation that I knew was false and deserving of an immediate response. If I was unable to get additional time, then the falsehood would stand unchallenged, and that would not be fair. (And besides, I, and others in the same position, would try to jigger the rules -- whatever the rules were -- to GET the additional time; so the rule you propose might not get the result you want.)

Technically, the supermajority is not required to PASS a measure; only to wrap up debate on the measure and force a vote on passage. Those are two different things, even though some do use the latter to prevent the former. Getting rid of the rule won't necessarily give us a more just result; the best alternative is simply to see that misuse of the rule comes back to haunt the abusers at the polls.

Posted by: Raging Bee | [June 3, 2009 11:03 AM](#)

9

The first list, calling for a filibuster of Sotomayor, has 121 names. The second list, from 2005, demanding an end to judicial filibusters has 183 names. They share 39 or 40 people in common. (I'm unsure whether the Rick Scarborough in the first list is the same person as Rev. Rick Scarborough in the second, hence the imprecision.)

So approximately 1 in 5 people who wanted to end filibusters are now demanding one. Or looked at from the other direction, about 1 in 3 people who want Sotomayor filibustered previously condemned the practice.

The common names are:

Andrea Lafferty  
Austin Ruse  
Bill Brooks  
Bradley Mattes  
C. Preston Noell III  
Cathie Adams  
Chris Dickson  
Chuck Muth  
David Bydalek  
Diane Gramley  
Donald E. Wildmon  
Dr. Carl Herbster  
Dr. Patricia McEwen  
Dr. Virginia Armstrong  
Gary Glenn  
Gary L. Bauer  
Gene Mills  
Grover Norquist  
Janet Parshall  
Jeffrey Mazzella  
John C. Eastman  
Keith Wiebe  
Kent Ostrander  
Kris Mineau  
L. Brent Bozell III  
Mark R. Levin  
Mark Sutherland

Martha Zoller  
Mary Anne Hackett  
Mathew D. Staver  
Micah Clark  
Niger Innis  
Peter LaBarbera  
Rev. Louis P. Sheldon  
Richard Ford  
Ron Robinson  
Thomas A. Shields  
Thomas Glessner  
William Greene

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Rick Scarborough?

This has been your OCD moment of the day.

Posted by: Abby Normal | [June 3, 2009 11:34 AM](#)

10

Nice job, Abby.

Posted by: [Bourgeois Rage](#) | [June 3, 2009 11:44 AM](#)

11

My study of the Senate filibuster is that it is both constitutional and actually a prime example of how a constitutional republic differs from a democracy (though not a liberal democracy). I support the Senate's use of cloture and the filibuster but would object to its use by the House as a matter of policy and principle.

As a matter of policy, I fiercely object to Congressional Committees burying presidential nominations without expeditiously sending them to the floor with a vote and recommendation. That is a far more harmful structural problem than this debate though not as dramatic. Elena Kagan on the left and I'm sure there are victims on the right though their names escape me, have been victims of this harmful practice. The net effect is good judges do not get the career path deserving of their performance and we ultimately end up with SCOTUS candidates who are not as competent.

The poster who noted that filibusters were the primary lever that allowed southern conservative Senators to obstruct the protection of rights to African-Americans for seventy-five years is a very worthy rebuttal to my position and one I consider when testing my position. However I am of the mind we get the politicians and results we deserve and in a free society, bad behavior by citizens, including bigotry and voting patterns, will lead to bad results.

Posted by: Michael Heath | [June 3, 2009 12:33 PM](#)

12

"The poster who noted that filibusters were the primary lever that allowed southern conservative Senators to obstruct the protection of rights to African-Americans for seventy-five years is a very worthy rebuttal to my position and one I consider when testing my position. However I am of the mind we get the politicians and results we deserve and in a free society, bad behavior by citizens, including bigotry and voting patterns, will lead to bad results."

Michael, perhaps we do get the politicians and we results we deserve, but it should be those that 50.1% deserve, not 60%.

Posted by: JusticeLeague | [June 3, 2009 1:37 PM](#)

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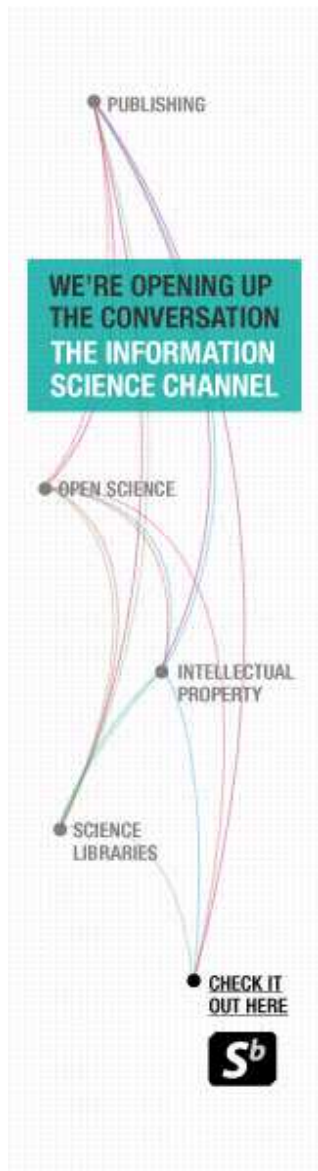
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