



Ending of filibusters for Supreme Court nominees is long overdue

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The ending of filibusters for Supreme Court nominees is the long overdue denouement of a process that began not with Senate Republicans' refusal to vote on Merrick Garland, or even Harry Reid's elimination of the filibuster for lower-court nominees in 2013, but with Reid's unprecedented partisan filibusters in 2003.

Recall especially the record seven failed votes to end the filibuster of Miguel Estrada, who was blocked primarily because Democrats didn't want President George W. Bush to appoint the first Hispanic Supreme Court justice.

What this means for Judge Neil Gorsuch's nomination is obvious: He will now be confirmed 30 hours after this "nuclear option" was invoked, so late Friday. What it means for future nominations is equally obvious: a president will be able to nominate people who have majority support, not unlike Clarence Thomas (who was confirmed 52-48) and Samuel Alito (who was confirmed 58-42), without worrying about some mythical 60-vote bar.

This came a dozen years too late, but late is better than never. I lament all the excellent nominees and would-be nominees who should have been on federal courts throughout the country all these years.

Of course, it would be even better if super-majorities could confirm super-qualified nominees, but I don't begrudge senators of either party voting no (without filibustering) on nominees they think would make for bad judges. So the real debate needs to be over why jurisprudential philosophies—originalism/textualism versus living-constitutionalism/purposivism—are so different and which method is better. (Why they now track political parties is obvious: the parties have completed their wrong realignment towards ideological cohesion, though this could be short-lived given our Trumpian world.)

In any case, the Senate is now restored to the status quo ante. That's a good thing. RIP Partisan Filibuster of Judicial Nominees (2003-2017).

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