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Dan Tillman, Mortgage Client Advocate, Real Estate, CitiMortgage

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## Health Care Arena

An ongoing discussion on the health care debate

Mar. 11, 2010

### Driving the Conversation:

Arena Ref: [Fred Barbash](#)

## Filibuster Follies

Does the health care morass show the "unlimited debate" rule be scrapped? Are Democrats expressing selective outrage after blocking George W. Bush's agenda through the filibuster?

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### David Boaz

Executive VP, Cato Institute :

Selective outrage indeed. Classic red team, blue team stuff. I wrote in 2005:

*Republicans who once extolled the virtues of divided power and the Senate's role in slowing down the rush to judgment now demand an end to delays in approving President Bush's judicial nominees. President Bush says the Democrats' "obstructionist tactics are unprecedented, unfair, and unfaithful to the Senate's constitutional responsibility to vote on judicial nominees."*

*Democrats who now wax eloquent about a "rubber stamp of dictatorship" replacing "the rights to dissent, to unlimited debate and to freedom of speech" in the Senate not too long ago sought to eliminate the filibuster altogether.*

But I said then that in fact the filibuster does protect minority rights and serve the Senate's purpose of deliberation. And I warned the Republicans: *No party holds a majority forever, and some day Republican senators will need to use the filibuster again to stop big-government legislation and slow down a Democratic president's most liberal nominees.*

Actually, both parties are probably back to their natural, comfortable positions. Democrats generally want to pass more legislation (most of it ill-advised, in my view), and Republicans usually play the conservative role of resisting new legislation and new federal programs. Still, neither party seemed to have any great difficulty picking up the other side's arguments during the era of Republican domination.

The Republicans were wrong in 2005 and thereabouts. They're right now. As Norman Ornstein of the American Enterprise Institute writes, the filibuster "is a fundamentally conservative tool to block or retard activist government." For those of us -- conservative, libertarian, Jeffersonian, or merely prudent -- who think there are too many government programs, too many agencies, too much spending, the filibuster is one of the many limitations that our system places on majoritarian impulses. We're fortunate that the Republicans failed to abolish it when they controlled Congress.

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