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Health Care Arena

An ongoing discussion on the health care debate

Jan. 19, 2010

Driving the Conversation:

Arena Ref: [Fred Barbash](#)

The message from Massachusetts What now for the Democratic agenda?

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Roger Pilon

Vice President for Legal Affairs, Cato Institute :

Walter, my good friend, where were you all during the Bush '43 years? I recall seeing you often in town, when you weren't teaching down in Durham. But if I may judge from **your Arena concern** today that Republican senators, after the late unpleasantry in Massachusetts, may now filibuster an Obama Supreme Court nominee, you must have missed the unprecedented and repeated Democratic filibusters of Bush appellate court nominees over several of those years. Did you forget that after the Democrats took control of the Senate in May 2001, following Jim Jeffords becoming an Independent, eight of Bush's first eleven May 2001 appellate court nominees had not had so much as a Judiciary Committee hearing as we were coming down to the 2002 elections? And after the Democrats lost control of the Senate in those elections, when they could no longer stall by refusing to hold hearings, they moved to the filibuster -- over no fewer than ten nominees. Did you forget that our good friend, the eminently qualified Miguel Estrada, one of Bush's May 2001 nominees, finally withdrew his name from consideration in September 2003, after 28 months in limbo and six failed cloture votes?

To be sure, those were *appellate* court nominees, but **the principle** is the same -- and Bush's Supreme Court nominees escaped a filibuster, let me remind you, only after the "gang of 14" finally reached a compromise, failing which the "nuclear option" would have brought an end to the unprecedented Democratic filibuster of Bush's nominees. (I ignore the 1968 Abe Fortas case, which had special circumstances.)

If Republicans were to filibuster an Obama nominee, therefore, instructions for doing so would be readily at hand. I'm not suggesting they do so, however. The filibuster is, as you know, an extra-constitutional procedure, with something of a checkered history. For better or worse, it has served as an additional check on the passions of the lower chamber, but its use for executive nominations, as distinct from legislation, raises

Finally a bipartisan decision...



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difficult separation-of-powers questions, which are your main concern, I'm sure.

Archives

Subject	Date
Open Mic Massachusetts	Jan. 15, 2010
The 2010 race: a Republican House-real shot, long shot or no shot?	Jan. 14, 2010
Has Obama changed the way Washington works? Bonus babies: Are big banker bonuses "ridiculous and offensive," (as Christina Romer says)? What, if anything, should be done about them? Massachusetts: Does the the closer-than-anyone-expected race jeopardize the Democratic agenda?	Jan. 13, 2010
Dear Harold (Ford) Mass. Senate: Is a close call a victory for the GOP? "Game Change": Lessons of a much-hyped book	Jan. 12, 2010
What should happen to: A)Harry Reid B)Michael Steele? Does the news media (aided and abetted) spend way too much time and space "huffing and puffing" about gaffes?	Jan. 11, 2010
Open Mic	Jan. 09, 2010

Arena Players

Current and Former Elected Officials

Marsha Blackburn	John A. Boehner
Christopher S. 'Kit' Bond	Barbara Boxer
Phil Bredesen	Jeb Bush
John Campbell	Michael B. Coleman
Jim Cooper	John Cornyn
Mario M. Cuomo	Tom Daschle
Rosa DeLauro	Jim DeMint
Manny Diaz	Cal Dooley
Byron Dorgan	Jim Doyle
Mickey Edwards	John Ensign
Victor H. Fazio	Bob Filner
Lee Fisher	Martin Frost
Ettore Greco	Gary Hart
Jeb Hensarling	John Hostettler
Steny H. Hoyer	Mike Johanns
Ted Kaufman	John Kerry
Paul Kirk	Larry LaRocco
Jim Leach	Carl Levin

Do you feel safer from terrorism today than you did the day before? Assess Obama's response.

Jan. 08, 2010

John Lewis	Trent Lott
Edward Markey	Kevin McCarthy
Howard P. (Buck) McKeon	Jeff Merkley
Barbara Mikulski	Thomas Nelson
Randy Neugebauer	Don Nickles
Martin O'Malley	David Orentlicher
Tim Pawlenty	Mike Pence
Paul Ryan	Linda Sanchez
Bernie Sanders	Rick Santorum
Patricia Schroeder	Donna Shalala
Louise Slaughter	Michael S. Steele
Zach Wamp	

Strategists, Scholars and Authors

Karen Ackerman	Richard Albert
Edward Alden	David All
Richard V. Allen	Jeanne Allen
Mike Allen	Anita L. Allen
Whit Ayres	Andrew J. Bacevich
Dean Baker	Ross Baker
Jack M. Balkin	Brad Bannon
Jan Baran	Henri J. Barkey
Randy Barnett	Bruce Bartlett
Gary L. Bauer	Robert Bauer
Daniel F. Becker	Paul Begala
Georges C. Benjamin	Mary Frances Berry
Rick Beyer	David Biespiel
Bill Bishop	Bradley A. Blakeman
Paul Bledsoe	Robert J. Blendon
David Boaz	Adam Bonin
Ron Bonjean	Robert L. Borosage
Rob Bradley	Lee Brenner
Matthew Brooks	Susan Brophy
Anna Burger	Stuart Butler
Bill Buzenberg	Steven G. Calabresi
Charles W. Calomiris	Michael F. Cannon
James Carafano	Maria Cardona
Maurice (Mickey) Carroll	James Carville
Guy-Uriel E. Charles	Craig Charney


Andrei Cherny	William Jelani Cobb
Michael A. Cohen	Michele Combs
Cesar Conda	Rhodes Cook
Rory Cooper	Chester Crocker
Al Cross	S.E. Cupp
Jackie Gingrich Cushman	Lanny Davis
Katon Dawson	Christina DeConcini
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Phil Duffy	Will Durst
Greg Dworkin	William Easterly
Myron Ebell	Diana Eck
Marian Wright Edelman	Patrick J. Egan
Christopher L. Eisgruber	Robert M. Eisinger
Marc Elias	Mo Elleithee
Charles D. Ellison	Steve Elmendorf
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Amitai Etzioni	Stephen D. Eule
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Bruce Fein	Michael Feldman
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Bernard I. Finel	Karen Finney
Carly Fiorina	Douglas Fischer
Raffaele Fitto	Ari Fleischer
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Andrew Freedman	Al From
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Ron Haskins	Kevin A. Hassett
Nicole Heller	Keith Hennessey
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Gary Clyde Hufbauer	Glenn Hutchins
Patrick Hynes	Sherrilyn Ifill
Karen Ignagni	Bud Jackson
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Scott Jennings	Hannah Jones
Jim Jordan	Timothy Stoltzfus Jost
Robert Kagan	Elaine C. Kamarck
Victor Kamber	Daniel M. Kammen
Steffen Kampeter	Rosabeth Moss Kanter
Brian Katulis	Michael Kazin
Richard Keil	Colleen M. Kelley
Rory Kennedy	Karen Kerrigan
Linda Killian	Josh King
Martin Luther King III	Tom Korologos
Joel Kotkin	William L. Kovacs
Ivan Krastev	Celinda Lake
John Larsen	Matt Latimer
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Lawrence Lessig	Curt A. Levey
Michael A. Levi	Yuval Levin
Bertha Lewis	Thomas W. Lippman
Robert Litan	Eric Liu
James R. Locher III	Joe Lockhart
Kristin Lord	Glenn C. Loury
Sylvia L. Lovely	Mindy S. Lubber
Meizhu Lui	Kevin Madden
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Jeffrey Mankoff	Thomas E. Mann
David Marchick	Lisa Margonelli
David Marin	Will Marshall
Andres Martinez	Gebe Martinez
Joe Mathews	Anita McBride
Nolan McCarty	Susan McCue


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Mark Mellman	Allan Meltzer
Caren DeWitt Merrick	Patrick Messerlin
Eugene B. Meyer	Tom Miller
Matt Miller	Robert Moffit
Molly Moore	Minyon Moore
Yousef Munayyer	Alexander Mundt
Phil Musser	John Nagl
Grover Norquist	Lawrence H. Norton
Joseph S. Nye, Jr.	Michael O'Hanlon
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Christine Pelosi	Mark Penn
Dana Perino	Roger Pilon
Andre Pineda	James P. Pinkerton
John Podesta	Trevor Potter
Eswar Prasad	Jack Quinn
Raghuram Rajan	John N. Raudabaugh
Diane Ravitch	Robert B. Reich
Barak D. Richman	Thomas E. Ricks
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Andrew Rotherham	Pierre Rousselin
Manik Roy	Malika Saada Saar
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Andrea Batista Schlesinger	Jake Schmidt
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Alan Schroeder	Kenneth E. Scott
Tracy Sefl	Elizabeth A. Sherman
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Amity Shlaes	Robert M. Shrum
Phil Singer	Theda Skocpol
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Heather Smith	Bradley A. Smith
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