

The filibuster is bad for democracy

## **No matter which party controls the Senate**

From the Editors in the [December 16, 2020](#) issue



The US Senate makes and remakes its own rules each term. In 2013, Democrats changed a rule so that confirmation votes for most presidential appointees could no longer be filibustered: instead of a 60-vote supermajority, it now requires just a 51-vote majority to move a confirmation forward. Four years later, Republicans extended this rule to Supreme Court nominees.

We don't yet know who will control the Senate next year. But the first thing they should do is end the filibuster for legislation, too.

The filibuster goes back to an 1806 rule allowing unlimited debate time—and thus the power for a senator to halt progress simply by talking. Filibusters were rare until the 20th century, when the Senate made a series of additional rule changes. It empowered senators to end debate by cloture—requiring a supermajority vote, not the usual simple majority. It created a way for unrelated business to continue on a separate track instead of grinding to a halt. Eventually it even allowed filibusters to skip the talk-till-you-drop part.

These rule changes narrowed the filibuster's power to disrupt policy making. They also softened its political consequences for senators, who responded with more frequent filibusters. Today, the filibuster has evolved from a dramatic, costly gambit to a quiet understanding that all major bills need 60 votes to pass.

Defenders often frame the filibuster as an important check on the majority's power. But as Ezra Klein argues at *Vox*, the US system already has checks and balances in spades. What it doesn't have, thanks to the filibuster, is a functional legislative process. Laws are routinely written in convoluted ways to shoehorn them into the congressional budgeting process, which follows special, filibuster-proof rules. Anything the budget can't accommodate tends not to be taken up at all. All this leads to unaddressed problems, public disillusionment, and unilateral presidential action to fill the gap.

The filibuster is also praised for forcing minority voices to be heard, potentially leading to productive compromise and wiser lawmaking. In reality, the voices behind most of the "talking filibusters" of the 20th century were those of segregationists—who wanted to railroad civil rights legislation, not improve it. And in any case, the filibuster is straightforwardly antidemocratic: it prevents an elected majority from enacting an agenda. In exchange it offers not compromise but gridlock and dysfunction.

Nor does the filibuster promote bipartisanship. Like other features of the US system, it takes as given that senators are loyal to the Senate and want it to function. But today's elected officials are loyal mostly to their party, and the filibuster can't change this—it simply assumes bipartisanship that no longer exists. Indeed, the filibuster likely neutralizes what marginal bipartisanship does persist: two or three senators could cross the aisle and reverse a vote's outcome, if only a simple majority were enough to win.

A more expansive bipartisanship would require far more than parliamentary rule changes. In the meantime, Congress needs to be able to govern—and the filibuster is standing in its way. Americans often urge lawmakers to work together. We should be urging them to change rules that prevent them from working at all.

*A version of this article appears in the print edition under the title "Let the majority rule."*