

Bobby Bunting

Government Gridlock:

Reexamining the Filibuster

Introduction

The COVID-19 pandemic has been an extraordinary life-altering event that has greatly impacted everyday life all around the world. The year 2020 was largely defined by the shutdown of numerous business and public locations in an effort to provide increased health and safety related measures to the general public. Due to global wide restrictions, citizens were forced to stay home and limit public interactions. In many instances, they were left without work and pay because their jobs and ability to earn a living were negatively impacted by the onset of the virus. Particularly, the poorer and disadvantaged segments of society appear to be suffering the most while attempting to cope with the ongoing pandemic due to the inability of our leaders to agree on providing them assistance. The inability for bipartisanship within Congress delayed supplying the much needed stimulus aid to individuals and families for many months while in the midst of the tragic occurrence of the pandemic. Partisan policies which often leveraged the filibuster have delayed the ability for Republicans and Democrats to come to mutual agreement with the goal of legislating meaningful public policy that benefits the public at large. It is becoming clear that something needs to be addressed with the filibuster in order to get our government to function properly. While Congress should have been focusing on the needs of their constituents, they regularly appear to become deadlocked in a complete stalemate with the opposing side. In the end, all parties lose as nothing gets accomplished in an expedient and efficient manner.

Legislative Actions

Filibusters are planned and prolonged deliberations by members of Congress utilized in order to delay or block legislation from being passed. Historically, we have witnessed filibusters used in both the House of Representatives and Senate before ultimately being changed to only allow the Senate to have unlimited length debates.² In order to avoid the strict threshold requirements of the filibuster, the Senate has started to leverage a special procedure called budget reconciliation. Budget reconciliation involves the changing of federal spending and revenue. This includes raising and lower taxes, subsidies, and other fiscal initiatives. Instead of the sixty votes needed to pass a bill in the Senate, budget reconciliation allows legislation to pass with a simple majority. Recently, Democrats successfully used this procedure to pass a \$1.3 trillion COVID-19 relief bill that did not get any supporting votes from Republican members. With a 50-50 split in the Senate, Vice President, Kamala Harris, was the tie breaking vote needed to move forward with the relief package. In this instance, our leaders have developed a creative workaround to provide relief and desperately needed financial aid.⁶

Historical Usage of the Filibuster

In the most recent decade, filibuster usage within the Senate has skyrocketed. During Clinton's presidency, filibusters were utilized to block his policy or delay a nominee's confirmation only fifteen times. From 2009 to 2017 under President Obama, this increased to 175 instances of the filibuster usage. Under President Trump, filibusters were conducted another 314 times which nearly doubled the rate under his predecessor. With regards to historical precedents, the number of examples of filibusters being used under

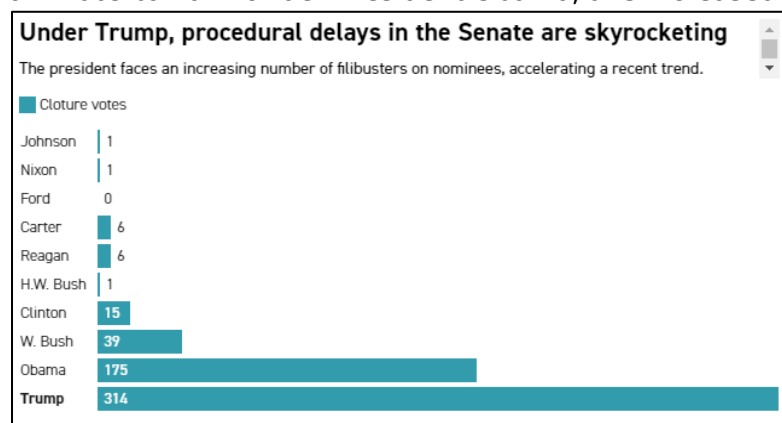


Figure 1: Under Trump, procedural delays in the Senate are skyrocketing
Retrieved From: Burgess Everett and Marianne LeVine, *The Senate's record-breaking gridlock under Trump*, POLITICO

<https://www.politico.com/news/2020/06/08/senate-record-breaking-gridlocktrump-303811> (June 8, 2020)

President Trump numbered 70 times more occurrences than all of the previous administrations combined. Before the Trump administration, the filibuster was only leveraged on 214 occasions combined during the time period from Johnson to Obama.³ Obviously, the usage of this tool by both political parties has gained enormous traction in recent history. Both sides, when not in the majority, have instituted the filibuster to stall certain agendas. While the idea of the value of maintaining a system of checks and balances is something that most people would agree upon, the current disturbing trend of bringing almost everything to a complete standstill must be adjusted in order to truly serve the public.¹

Public Opinion

The majority of the public oppose Congress's usage of the filibuster as we have witnessed in most recent history. The filibuster has become weaponized by both parties at times to alter the course of movement for various pieces of legislation. According to a survey conducted by The Hill, 47% of American citizens believed that there should be more restrictions against the filibuster while 41% think it should remain the same.¹ The general public has experienced the outcomes associated with the filibuster and increasingly believe that something needs to be done to restrain the practice by both parties.

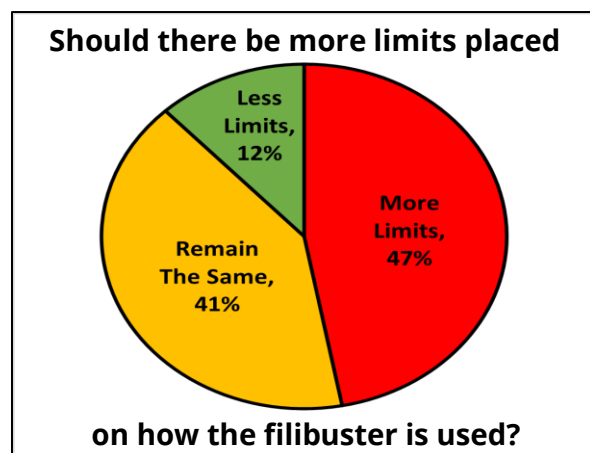


Figure 2: Should there be more limits placed on how the filibuster is used?

Reproduced From: Tess Bonn, *Poll: 47 percent back limits on Senate filibuster*, TheHill, <https://thehill.com/hilltv/what-americas-thinking/460261-47-percent-back-limits-on-senate->

Furthermore, a survey issued by Data for Progress discovered almost just as many Republicans dislike the filibuster as Democrats. Approximately 59% of Democrats strongly supported eliminating the filibuster compared to the 56% of the Republicans.⁷ Throughout history, both political parties have attempted to utilize the filibuster to their advantage

when the opposing party has control of the office. The attitude towards the filibuster by both parties has changed based upon whether or not they have a majority vote in Congress. When they have majority power, they are in favor of less restrictions. When they

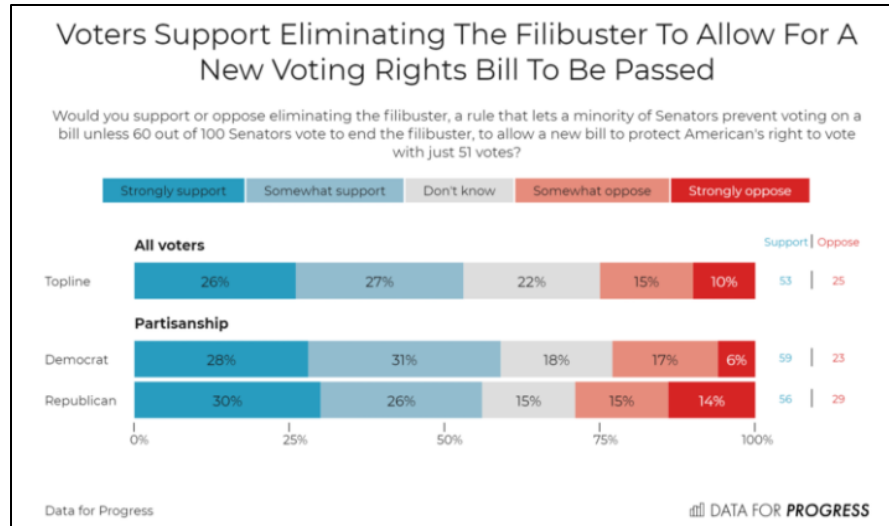


Figure 3: Voters Support Eliminating The Filibuster To Allow For A New Voting Rights Bill To Be Passed

Retrieved From: Ethan Winter, *Voters Support Eliminating The Filibuster*, Data For Progress, <https://www.dataforprogress.org/blog/2020/8/13/voters-support-eliminating-the-filibuster>

don't have majority power, they want the ability to enact more restrictions.¹ Republicans attempted to use the filibuster during the Obama administration to limit the passage of Democratic backed legislation and judicial appointees.⁴ During President Trump's presidency, Democrats used the filibuster in September and October 2020 to halt Republicans from passing COVID relief legislation immediately before the run up to the November presidential election.⁴ Now that the Democrats have control of the Presidency, the House, and the Senate, they are ramping up rhetoric to end the filibuster to allow them increased ability to drive policy decisions. Therefore, we can see that party perspectives about the filibuster have a way of flip flopping back and forth over time depending on the current political landscape and composition.

Senate Cloture Rule

The Senate Cloture rule was formed after anti-war senators prevented a bill to arm United States vessels against German submarine warfare in World War I. The original Senate Cloture rule mandated that in order to end a filibuster, two-thirds of Senators were required to be agreement to end the debate. In subsequent years, this policy has been

tweaked and small adjustments have been done to reflect changing viewpoints. The current Senate Cloture rule mandates that 60 members of the U.S. Senate must agree and vote to end the debate. All too frequently that threshold creates a significant obstacle towards enacted legislation. Proponents of the tactic argue that it forces opposing sides to collaborate and work together towards a greater good. However, even though on its merits that sounds good, in practice quick resolutions seem increasingly hard to produce. We need to find a solution that promotes positive progress while still maintaining the ability for each side to have a say in matters of public policy. The knee jerk reaction to dissolve the filibuster in its entirety will only ensure a single party rule which could have disaster implications as it would limit our system based on checks and balances in decision making processes.²

Recommendations to Remove Gridlock

In order to attempt to create a better process, I would recommend lowering the threshold from the current 60 member agreement to something like 55 members. In the scenario in which we currently find ourselves today with a 50 50 split in the Senate, this would lower the barrier to progress while still motivating members to collaborate and find some level of mutual agreement. Additionally, I think that anonymous voting could help alleviate some of the pressure from members of Congress to vote purely along party lines. Under this scenario, political figures wouldn't have to worry about their constituents finding out they voted against party ideals when they believed it was in best interest of the people. Today, members of Congress feel compelled to vote along party lines as their vote is known and they become fearful that varying from the party vote would be used against them in a damaging fashion in the future. Conversely, some people would argue for the need to maintain transparency and the need for the public to be informed about the voting records of their elected officials. For this reason, I think

that this alternative might be less likely to gain momentum versus the idea of reducing the current 60 vote threshold to a more reasonable number while still embracing incentives for parties to work together towards common goals.

Conclusion

Many people might contend that altering the existing filibuster rule would violate existing traditions and present a danger to our democracy since any one party would be able to push forward their agenda without any input from the minority party. While, we definitely still want to encourage a system based upon a good set of checks and balances, it has become obvious that the current situation is not really producing much benefit for anyone. Perhaps, by just slightly ratcheting down the 60 vote threshold, we might be able to change the deadlock in Congress and direct efforts toward meaningful new legislation that is focused on delivering relief to those in a time of need. The current COVID pandemic has necessitated the need to move rapidly to respond to the ever changing landscape. With just a small tweak downward on the 60 vote threshold, our elected officials will still need to work together in a bipartisan fashion. However, we can reduce the stalemates that have recently been developing that function as a significant barrier to accomplishing much for the people.

Bibliography

- ¹ Bonn, Tess, "Poll: 47 Percent Back Limits on Senate Filibuster." *TheHill*, Sept 6, 2019 <https://thehill.com/hilltv/what-americas-thinking/460261-47-percent-back-limits-on-senate-filibuster/> (Apr. 11 2021)
- ² Chang, Alvin, "How The Filibuster Broke The US Senate." *Vox*, June 17, 2019, <https://www.vox.com/videos/2019/6/17/18681798/filibuster-senate-broke-video> (Apr. 11, 2020)
- ³ Everett, Burgess, and Marianne LeVine, "The Senate's Record-Breaking Gridlock Under Trump." *POLITICO*, June 8, 2020, <https://www.politico.com/news/2020/06/08/senate-record-breaking-gridlocktrump-303811> (Apr. 11, 2020)
- ⁴ Hayes, Christal, "Senate Democrats Block \$300 Billion Coronavirus Stimulus Package, Leaving Little Hope for Relief before November." *USA Today*, Sept. 10, 2020, <http://www.usatoday.com/story/news/politics/2020/09/10/coronavirus-senate-set-vote-bill-democrats-vow-block/5762727002/> (Apr. 11, 2020)
- ⁵ Hurst, Steven R. "Analysis: Republicans Setting Filibuster Record." *NBCNews.com*, Mar. 1, 2010, <http://www.nbcnews.com/id/wbna35643530> (Apr. 11, 2020)
- ⁶ Scott, Dylan, "9 Questions about Budget Reconciliation You Were Too Afraid To Ask." *Vox*, Jan. 25, 2021, <https://www.vox.com/22242476/senate-filibuster-budget-reconciliation-process> (Apr. 11, 2020)
- ⁷ Winter, Ethan, "Voters Support Eliminating The Filibuster." *Data For Progress*, Aug. 13, 2020, <http://www.dataforprogress.org/blog/2020/8/13/voters-support-eliminating-the-filibuster> (Apr. 11, 2020)