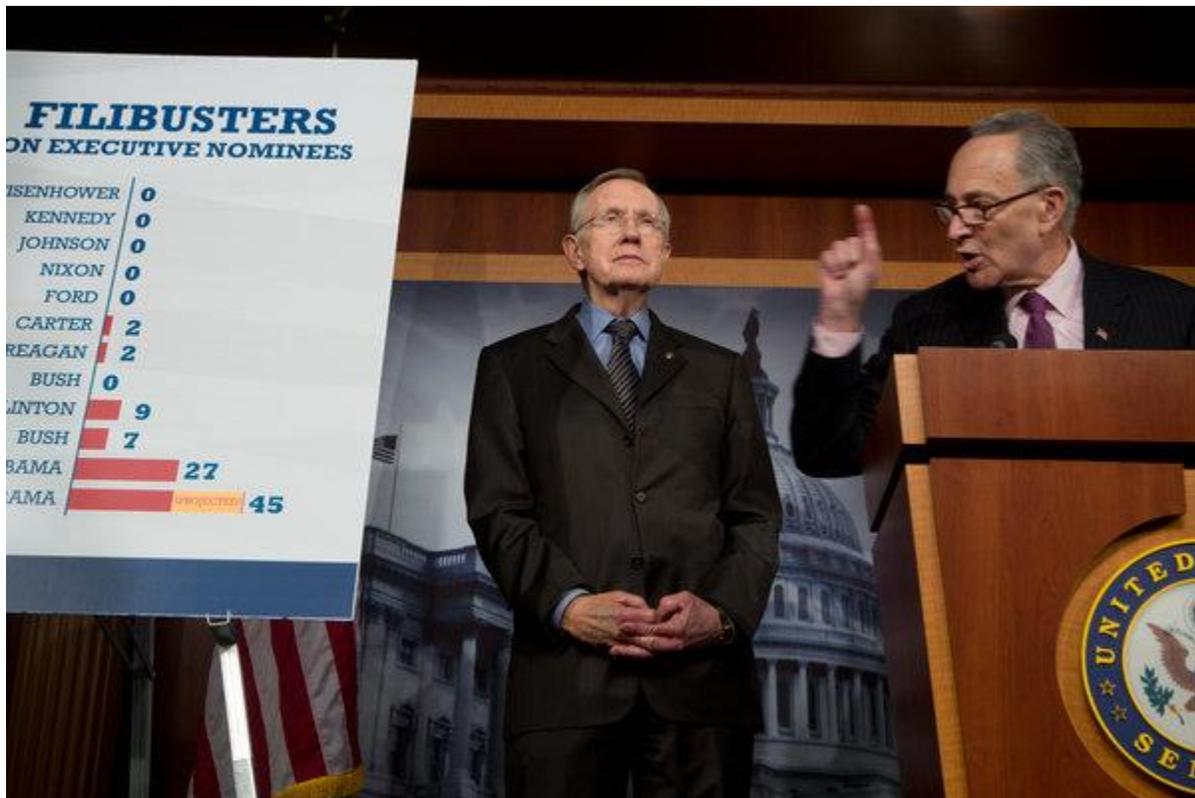


# Senate Vote Curbs Filibuster Power to Stall Nominees



Stephen Crowley/The New York Times

Senators Harry Reid, the majority leader, and Charles E. Schumer on Thursday.

By JEREMY W. PETERS, The New York Times National Edition, November 22, 2013, 1, A16.

WASHINGTON — The Senate approved the most fundamental alteration of its rules in more than a generation on Thursday, ending the minority party’s ability to filibuster most presidential nominees in response to the partisan gridlock that has plagued Congress for much of the Obama administration.

Furious Republicans accused Democrats of a power grab, warning them that they would deeply regret their action if they lost control of the Senate next year and the White House in years to come. Invoking the Founding Fathers and the meaning of the Constitution, Republicans said Democrats were trampling the minority rights the framers intended to protect. But when the vote was called, Senator Harry Reid, the majority leader who was initially reluctant to force the issue, prevailed 52 to 48.

Under the change, the Senate will be able to cut off debate on executive and judicial branch nominees with a simple majority rather than rounding up a supermajority of 60 votes. The new precedent established by the Senate on Thursday does not apply to Supreme Court nominations or legislation itself.

It represented the culmination of years of frustration over what Democrats denounced as a Republican campaign to stall the machinery of Congress, stymie President Obama's agenda and block his choices for cabinet posts and federal judgeships by insisting that virtually everything the Senate approves be done by a supermajority.

After repeatedly threatening to change the rules, Mr. Reid decided to follow through when Republicans refused this week to back down from their effort to keep Mr. Obama from filling any of three vacancies on the most powerful appeals court in the country.

This was the final straw for some Democratic holdouts against limiting the filibuster, providing Mr. Reid with the votes he needed to impose a new standard certain to reverberate through the Senate for years.

"There has been unbelievable, unprecedented obstruction," Mr. Reid said as he set in motion the steps for the vote on Thursday. "The Senate is a living thing, and to survive it must change as it has over the history of this great country. To the average American, adapting the rules to make the Senate work again is just common sense."

Republicans accused Democrats of irreparably damaging the character of an institution that in many ways still operates as it did in the 19th century, and of disregarding the constitutional prerogative of the Senate as a body of "advice and consent" on presidential nominations.

"You think this is in the best interest of the United States Senate and the American people?" asked the Republican leader, Senator Mitch McConnell, sounding incredulous.

"I say to my friends on the other side of the aisle, you'll regret this. And you may regret it a lot sooner than you think," he added.

Mr. Obama applauded the Senate's move. "Today's pattern of obstruction, it just isn't normal," he told reporters at the White House. "It's not what our founders envisioned. A deliberate and determined effort to obstruct everything, no matter what the merits, just to refight the results of an election is not normal, and for the sake of future generations we can't let it become normal."

Only three Democrats voted against the measure.

The changes will apply to all 1,183 executive branch nominations that require Senate confirmation — not just cabinet positions but hundreds of high- and midlevel federal agency jobs and government board seats.

This fight was a climax to the bitter debate between the parties over electoral mandates and the consequences of presidential elections. Republicans, through their frequent use of the various roadblocks that congressional procedure affords them, have routinely thwarted Democrats. Democrats, in turn, have accused Republicans of effectively trying to nullify the results of a presidential election they lost, whether by trying to dismantle his health care law or keep Mr. Obama from filling his cabinet.

Republicans saw their battle as fighting an overzealous president who, left to his own devices, would stack a powerful and underworked court with judges sympathetic to his vision of big-government liberalism, pushing its conservative tilt sharply left. The court is of immense political importance to both parties because it often decides questions involving White House and federal agency policy.

Republicans proposed eliminating three of its 11 full-time seats. When Democrats balked, the Republicans refused to confirm any more judges, saying they were exercising their constitutional check against the executive.

Senator Pat Roberts, Republican of Kansas, said Democrats had undercut the minority party's rights forever. "We have weakened this body permanently, undermined it for the sake of an incompetent administration," he said. "What a tragedy."

With the filibuster rules now rewritten — the most significant change since the Senate lowered its threshold to break a filibuster from two-thirds of the body to three-fifths, or 60 votes, in 1975 — the Senate can proceed with approving a backlog of presidential nominations.

There are now 59 nominees to executive branch positions and 17 nominees to the federal judiciary awaiting confirmation votes. The Senate acted immediately on Thursday when it voted with just 55 senators affirming to move forward on the nomination of Patricia A. Millett, a Washington lawyer nominated to the Washington appeals court. Two other nominees to that court, Cornelia T. L. Pillard and Robert L. Wilkins, are expected to be confirmed when the Senate returns from its Thanksgiving recess next month.

The filibuster or threats to use it have frustrated presidents and majority parties since the early days of the republic. Over the years, and almost always after the minority had made excessive use of it, the Senate has adjusted the rules. Until 1917, the year Woodrow Wilson derided the Senate as “a little group of willful men” that had rendered the government helpless through blocking everything in front of it, there was no rule to end debate. From 1917 to 1975, the bar for cutting off debate was set at two-thirds of the Senate.

Some would go even further than Thursday’s action. Senator Jeff Merkley, Democrat of Oregon, said that he would like to see the next fight on the filibuster to be to require senators to actually stand on the floor and talk if they wanted to stall legislation.

The gravity of the situation was reflected in an unusual scene on the Senate floor: Nearly all 100 senators were in their seats, rapt, as their two leaders debated.

As the two men went back and forth, Mr. McConnell appeared to realize there was no way to persuade Mr. Reid to change his mind. As many Democrats wore large grins, Republicans looked dour as they lost on a futile, last-ditch parliamentary attempt by Mr. McConnell to overrule the majority vote.

When Mr. McConnell left the chamber, he said, “I think it’s a time to be sad about what’s been done to the United States Senate.”

NEWS ANALYSIS

# Partisan Fever Likely to Rise



Gabriella Demczuk/The New York Times

Senate Majority Leader Harry Reid spoke to the press on the vote to limit filibusters on presidential nominees on Capitol Hill on Thursday in Washington.

By JONATHAN WEISMAN, The New York Times National Edition, November 22, 2013, 1, A16.

WASHINGTON — President Obama will get a short-term lift for his nominees, judicial and otherwise, but over the immediate horizon, the strong-arm move by Senate Democrats on Thursday to limit filibusters could usher in an era of rank partisan warfare beyond even what Americans have seen in the past five years.

Ultimately, a small group of centrists — Republicans and Democrats — could find the muscle to hold the Senate at bay until bipartisan solutions can be found. But for the foreseeable future, Republicans, wounded and eager to show they have not been stripped of all power, are far more likely to unify against the Democrats who humiliated them in such dramatic fashion.

“This is the most important and most dangerous restructuring of Senate rules since Thomas Jefferson wrote them at the beginning of our country,” declared Senator Lamar Alexander, Republican of Tennessee. “It’s another raw exercise of political power to permit the majority to do whatever it wants whenever it wants to do it.”

The decision to press the button on the so-called nuclear option was no doubt cathartic for a Democratic majority driven to distraction by Republican obstructionism. President Obama had predicted his re-election would break the partisan fever gripping Washington, especially since the Tea Party movement swept Republicans to control of the House. It did not.

“Doing nothing was no longer an option,” said Senator Tom Udall of New Mexico, one of a new breed of Democrats who have pressed to reform Senate rules.

But the fever is hardly gone. The rule change lowered to a simple 51-vote majority the threshold to clear procedural hurdles on the way to the confirmation of judges and executive nominees. But it did nothing to streamline the gantlet that presidential nominees run. Republicans may not be able to muster the votes to block Democrats on procedure, but they can force every nomination into days of debate between every procedural vote in the Senate book — of which there will be many.

And legislation, at least for now, is still very much subject to the filibuster. On Thursday afternoon, as one Republican after another went to the Senate floor to lament the end of one type of filibuster, they voted against cutting off debate on the annual defense policy bill, a measure that has passed with bipartisan support every year for decades.

“Today’s historic change to Senate rules escalates what is already a hyperpartisan atmosphere in Washington, which is already preventing Congress from addressing our nation’s most significant challenges,” said former Senator Olympia Snowe, a Republican, and former Representative Dan Glickman, a Democrat, in a joint statement from the Bipartisan Policy Center.

Republican senators who were willing to team with Democrats on legislation like an immigration overhaul, farm policy and a reauthorization of the Violence Against Women Act will probably think twice in the future.

“We’ll have to see, but I think it was certainly unfortunate,” said Senator Susan Collins, a Maine Republican who has often worked with Democrats.

Senator Mitch McConnell of Kentucky, the Republican leader, made clear that he hoped to exact the ultimate revenge, taking back control of the Senate and using the new rules against the Democrats who made them. “The solution to this problem is at the ballot box,” he said. “We look forward to having a great election.”

David Axelrod, a former top adviser to Mr. Obama, said retaliation by Republicans against the president’s broader agenda would end up hurting them more than Democrats. “If their answer is, ‘Oh yeah, we can make it even worse,’ I think they do that at great risk,” Mr. Axelrod said. “They have to make a decision about whether they want to be a shrinking, shrieking, blocking party, or if they are going to be a national party.”

From the moment Mr. Obama took office, the president who proclaimed that there was no red America and blue America, only the United States of America, has strained to maintain some pretense of bipartisanship — through protracted and fruitless efforts to woo Republicans on his economic stimulus plan and health care law, through dinner dates with some handpicked Republican “friends,” through the nomination of Chuck Hagel, a former Republican senator, to lead the Defense Department.

In the raucous and dysfunctional House of Representatives, any bill, no matter how inflammatory, has been dubbed bipartisan so long as it attracts a handful of Democratic votes. While Senate leaders have held up for praise any legislation that has secured strong bipartisan majorities — a farm bill, an immigration overhaul, a reauthorization of the Violence Against Women Act — Democrats have seethed as one presidential nominee after another fell to procedural blockades and major initiatives like gun control collapsed when they could not reach the 60-vote threshold.

Then on Thursday, before a solemn, almost funereal gathering on the Senate floor, the pretense came to an end.

“It became clear even to reluctant members that their strategy of gridlock helped them more than us because we are the party that believes government has to be a force for good,” said Charles E. Schumer of New York, the third-ranking Senate Democrat.

At the White House, officials from the president down came to the same conclusion.

“Enough is enough,” [Mr. Obama said](#) after the votes in the Senate. “The American people’s business is far too important to keep falling prey day after day to Washington politics.”

If Harry Reid or future majority leaders extend the new rules to curb filibusters on legislation, a core group of moderates could emerge with new muscle. The Senate is usually narrowly divided, and it would not take a large coalition in the center to hold partisan legislation hostage.

Already, a group of former governors, led by Senator Joe Manchin III, Democrat of West Virginia, Senator Alexander and Senator Tom Carper, Democrat of Delaware, have begun banding together.

Mr. Obama expressed hope that a bipartisan spirit “will have a little more space now.” And White House officials said it was still in the interest of Senate Republicans to find a way to legislate, rather than to simply obstruct for the rest of Mr. Obama’s term.

For now, with legislative progress in the House all but doomed by Republican opposition, officials said the president could at least get a full team in place so that he can move forward with executive action, when possible, when Republicans block his agenda in Congress.

That’s what Republicans fear.

“This is nothing more than a power grab in order to try to advance the Obama administration’s regulatory agenda,” Mr. McConnell said.

*Michael D. Shear contributed reporting.*