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Why Democrats should unilaterally disarm and kill filibuster for their own benefit

by JOSHUA SPIVAK

Following a frustrating two years topped off with their crushing losses on Election Day, Senate Democrats should start looking for creative solutions to improve their chances in 2016 and beyond. There has been chatter about replacing Harry Reid as leader, but even that step is not a game changer. Instead, the Democrats should take the one bold move that shows they care more about governing than politics, the move that could help reverse the current slide of Congress into partisan irrelevance and eventually help the Democrats accomplish some of their legislative goals whenever they eventually regain the majority: Kill the Filibuster.

This move may seem to be counterintuitive, as the filibuster is currently being credited for the Republicans' recent climb back to power. This belief in the filibuster's power only holds if you ignore the mountain of historical evidence that shows that the president's party almost always seems to suffer in an off-year election. 2014 may have been a Republican tidal wave, but there's little reason to think that the filibuster was anything but a minor cause.

That's not to say that the filibuster hasn't played a real and detrimental role in politics. What has happened is that as the Senate has gotten more partisan, the filibuster has become the rock that the minority party can use to gain some measure of influence on the political process. It also has the added benefit of driving the majority party crazy. It is not like the filibuster was ignored before, but it has now become the de facto weapon of choice for the minority.

The result is a continual cycle that starts up whenever the Senate changes hands. The two parties are constantly jockeying for political position. The majority claims the use of the filibuster is ahistorical and illegitimate and needs to be reined in. The minority immediately starts shouting about tyranny. On the political level, the minority seems to win this battle, as it both succeeds in delaying the Senate from taking substantive action and, no matter who is right, presents the majority party as vindictive and obsessed with technicalities. The success is why the filibuster is a hard habit to break.

But now is exactly the time to disarm the filibuster. It is easy to promote the change when your party is in the majority and the change will help you. The time to move against the filibuster is when it hurts you, and when you can show you are making a sacrifice for the future. In some ways, it would actually be a gutsy vote. There's no political gain — the voters who actually decide general elections most likely don't care that much about legislative procedure. Instead, the minority party will also lose some of the ability to force the majority to take embarrassing votes that could be used against sitting Senators in future ads. The senators would also be taking an intraparty risk — the voters who actually care about deeply procedure are exactly the type to run primary campaigns against members of their party for letting the opposition off the hook with a filibuster reform.

But the principle holds on multiple levels. For one, the Democrats can call the Republicans' bluff — you won the majority, you got the power, you rule. Let's see how you do. But the bigger point is the long term gain. If the Democrats can force through a filibuster removal that hurts them in the near term — not just a patchwork reform, but a full change in the

rules — they would be able to set the precedent for future Congresses and allow either themselves or their successors the power to actually use the Senate to pass meaningful laws whenever they get back the throne.

What makes this change a no-brainer is that the Democrats wouldn't be risking all that much. With the Republicans in control of the House, the Democrats weren't passing any substantive laws in the first place. The filibuster would be used to on the margins, not the big pieces of new laws. Furthermore, the big fights may just be on presidential nominations, a place where the filibuster is of limited use if you actually want the nomination to go through. Even more importantly, for the next two years, the party has something much more valuable than a filibuster — it has a presidential veto pen. Barack Obama has only vetoed two bills in his tenure, but he will now have a chance to dust off that power, secure in the knowledge that the Republican majorities in the Senate and the House will have little hope of overriding his veto on anything that is remotely partisan.

In order to return to power in a future Congress, the Democrats should start thinking big. A filibuster reform is unlikely to be the cause of any great legislative accomplishments passing in the next Congress. But it could be the step the Democrats need to take to get Congress back on the path of action. After an electoral drubbing, bold action is worth taking. Throwing its biggest weapon to the ground is exactly the step needed to get the party back on track.

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