

Protect the Minority, Protect the Filibuster

The Friends Committee on National Legislation (FCNL), has sent this Action Alert out to their networks and urged Presbyterians and other faith groups to join with them in this effort. FCNL is more commonly called Quakers. They are a religious minority that looks at these issues of majority vs. minority in a unique light. They urge us as Presbyterians to join with them as they contact Senators. You may go to our Presby Legislative Action Center to send an email to each of your Senators at www.capwiz.com/pcusa/mail/compose

Simply state in your message: "Protect the rights of minorities by allowing for the filibuster."

Protect the Minority, Protect the Filibuster

April 26, 2005: The Senate is heading fast for a showdown about the procedure it will follow when it considers judicial nominees for confirmation. Majority plans to eliminate extended debate in the Senate threaten fundamental protection for minority views in the United States. Your action now may persuade senators to defend the provision for extended debate - the filibuster - and thereby help to ensure the right of the minority to express its views in Congress.

Please contact your senators. Tell them that you value the Senate's historic role to assure respect for minority views. This role was established by the nation's founders when they created the House as a "majoritarian" body but gave large states and small states equal numbers in the Senate. The filibuster (also called "extended debate") was included in the Senate's rules over 200 years ago to reflect that plan, allowing all points of view equal potential for control of the Senate's attention. The Senate's unique role ensures that our nation's determinations are not steamrolled by a majority (no matter which group controls the majority at any given time). Without the filibuster in the Senate, there is no body in the federal government dedicated to making sure that the voices of the minority are part of federal debates and decision-making.

As a once-persecuted minority that was subordinated to majority views, Quakers have long advocated the provision for extended debate, even when it was used for purposes with which FCNL as a Quaker organization disagreed. In today's Senate, we face a historic moment. You can help to determine the outcome: will the Senate turn toward majoritarian domination, or will it sustain democracy by assuring that minorities have the right to be heard in extended debate?

Take Action Now: Please contact your senators today. Urge your senators to vote against the point of order challenging the filibuster of judicial nominees. It is important that we contact all senators. Those senators who already agree that the filibuster should be preserved will be reinforced; those who have announced opposition will be given at least some pause; and those who have not yet decided will be given wisdom from the most important source: their constituents.

Background: The filibuster issue goes to a fundamental Quaker concern - respect for minority views - and to a fundamental element of U.S. democracy, a political process that keeps governance open to minority views. The

effort by the Republican leadership to eliminate extended debate in the Senate threatens democracy in the U.S. This issue is of vital urgency and importance, going as it does to the heart of U.S. political structure, balance, and character.

Under the U.S. system of legislation, developed under the Constitution's framework, the minority is protected against the tyranny of the majority by the Senate, in no small part by the Senate rule providing for "extended debate" - the filibuster. And the filibuster, in turn, is protected by Senate rules, rules that are subject to change, but not unless more than two-thirds of the Senate approve the change.

The Republican leadership has threatened to circumvent the filibuster rules by invoking a mere procedural objection to the debate, a "point of order," ruled on by the President of the Senate (today, Vice President Dick Cheney). The ruling of the President of the Senate can be sustained by a bare majority (51 votes). However, the procedural objection under consideration here is not a "point of order." It is a change in the rules of the Senate concerning "extended debate." And, a formal proposal to change the rules is a debatable motion that requires a super-majority (67 votes) to surmount objection to the attempt to change the rules.

If the Senate carries out this method of changing the rules by breaking the rules, three disastrous results would surely follow. First, this truncated method of circumventing the Senate's own rules would inevitably be used in the future for substantive legislation as well as presidential nominations. The acquisition of power is seductive and whets the appetite for yet more power. The desire for accumulation of power must be anticipated and contained, and our nation's founders did so by creating a tri-partite government of checks and balances to protect the voice of the minority from the power of the majority. In the Senate, each state, small or large, has equal power and equal voice, and the minority is protected through the Senate's institutional rules. If those rules are ignored or broken, the Senate would become majoritarian, just as the House is, and the protection of the minority would be lost.

Second, the minority, if thus stymied by an illegitimate rule change passed through the raw power of the majority, has threatened to retaliate by shutting down of the flow of the day-to-day work on the Senate floor for all but the most critical issues, work that is conducted largely by a traditional comity between the parties. Congress would grind to a crawl. The damage to our nation would be devastating.

Third, the filibuster, while seeming merely to delay or tie up the Senate, actually creates the space for discussion and compromise. Faced with the possibility of filibuster, the majority on any single nomination or substantive issue is forced into meaningful debate about the vote; the parties must make the compromises necessary to move the legislation; and every senator, whether in the majority or in the minority, can work behind the scenes, using the filibuster as justification for doing so. Confirmation votes seem to have no room for compromise in the vote itself, but the conversations of compromise occur during the process of determining which candidates will be sent to the Senate for nomination.

"Fairness" does not dictate an up-or-down vote on every nomination. Fairness is served when each candidate has a full, public hearing, and

there is meaningful opportunity for debate on the Senate floor. At that point, the Senate's rules dictate the procedure for constitutional "advice and consent." If there is a successful filibuster on a nominee, the Senate has responded to the President: this candidate does not have the confidence of sufficient senators to be confirmed under the rules of the Senate.

And, judicial nominations carry their own special responsibility. Judicial nominations are potential life appointments to the third, co-equal and independent, branch of government. The judiciary plays an essential role in protecting the rights of minorities under the Constitution, and an essential role in protecting the U.S. government's system of checks and balances. The Senate must retain every tool it has to protect its moderating role, ensuring the judiciary's independence to make determinations about these bedrock principles of U.S. government.

The filibuster is a valuable tool for ensuring respect for minority opinion. Respect for the minority is an essential element in the checks and balances of U.S. democratic government. The Senate's filibuster must be preserved.

General Assembly Guidance- 1988

God Alone Is Lord of the Conscience, Section G. Religious Participation in Public Life, affirmation #4 makes a point on the moral and ethical implications of public policies and practices (Minutes, 1988, Part I, p. 572). Below is the full text of the affirmations.

In view of the foregoing considerations, the 200th General Assembly (1988) adopts the following affirmations:

1. The corporate entities and individuals members of the Presbyterian Church (U.S.A.) are obliged by the religious faith and order they profess to participate in public life and become involved in the realm of politics.
2. Pastors and officials of the church, as well as lay members, have the right and responsibility to stand for and hold public office when they feel called to do so.
3. The "free exercise of religion" must be understood to include and protect the right to practice faith in public and private as well as the right to believe; and thus to include participation in the public affairs by the individuals and church bodies for which such participation is an element of faith.
4. As part of the church's participation in public life, governing bodies of the Presbyterian Church (U.S.A.) at every level should speak out on public and political issues, taking care to articulate the moral and ethical implications of public policies and practices.
5. We recognize that speaking out on issues will sometimes constitute implicit support or opposition to particular candidates or parties, where policy and platform differences are clearly drawn. Since such differences are the vital core of the political process, church participation should not be curtailed on that account; but we believe that it is generally unwise and impudent for the church explicitly to support or oppose specific

candidates except in unusual circumstances.

6. We reject and oppose any attempts on the part of the church to exercise political authority or to use the political process to achieve governmental sponsorship of worship or religious practice.

7. We oppose attempts by government to limit or deny religious participation in public life by statute or regulation, including Internal Revenue Service regulations on the amount or percentage of money used to influence legislation, and prohibition of church intervention in political campaigns. We will join with others, as occasion permits, to seek repeal of such regulations and statutes, or a definitive ruling by the Supreme Court on their constitutionality.

-Rev. Elenora Giddings Ivory

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