

# Filibuster: It's time for majority rule in the Senate

**By Frank Askin/ Star-Ledger Guest Columnist**

How do 41 Republican senators who represent less than 37 percent of the nation's population claim some kind of God-given right to block any legislation of which they disapprove? Yet every time Democrats even consider some kind of tactic to implement majority rule in Congress, the GOP screams "foul." That is what I call chutzpah.

The filibuster is not enshrined in the Constitution, although an undemocratic two votes per state is. That was the price the Founders paid for adoption of the Constitution — that Rhode Island would get as many votes as New York. But the filibuster takes that to absurd lengths.

The Constitution does have several provisions for super-majorities. It takes a two-thirds vote of the senators to approve treaties or impeach a public officer or propose amendments to the Constitution itself. But aside from those special situations, the unstated assumption is that majority rules. Yet as one newspaper headline recently put it, the Republicans now think they have a 41-59 majority in the upper house. There is something wrong with that picture.

While it is true that the filibuster has been used in the past to block controversial legislative proposals, the Republicans have now transformed the exception into the rule itself. That transformation was fostered with new procedures introduced in the 1970s that allowed the former practice of unlimited debate (remember "Mr. Smith Goes to Washington"?) into a parliamentary ploy. The minority no longer has to have its members actually stand and talk their lungs out; they need merely announce "filibuster!" The Senate then moves on to other business until the majority can gather 60 votes for cloture to permit the disputed measure to come up for a vote.

Enough is enough. It is time for the Democrats to meet obfuscation with resolution. One way would be to change the filibuster rule by majority vote — although that would have to wait at least until the next session of Congress. Even then, there are those who argue that it would actually take a two-thirds vote to change a Standing Rule of the Senate. But many experts believe that objection could be overruled by the presiding officer, Vice-President Joe Biden. And if he so ruled, there is no other body to which objectors could appeal. After all, Article I, Section 5 of the Constitution says that "Each House may determine the rules of its proceedings."

Another route of escape is the "reconciliation" process, which allows the adoption of legislation by majority vote without threat of a filibuster — but that can only be used to pass budgetary items, not substantive legislation.

But the other thing the majority can do is require a filibuster to be a real filibuster — that is, really make the minority stand up, hold the floor and make fools of themselves while all the other business of the Senate comes to a halt.

Don't move on to other bills. Bring the cots into the Senate cloakroom. Make the Republicans talk 24/7 on cable TV until the nation gets disgusted and demands an end to political posturing. And that wouldn't require the entire nation to speak up. All it might take would be for the level-headed voters of Maine to tell Sens. Olympia Snowe and Susan Collins to stop the shenanigans.