**Civics 101**

**Episode 13: THE FILIBUSTER**

**Virginia Prescott:** [00:00:19] This is Civics 101. I'm Virginia Prescott and the past few weeks we've received several questions about an iconic procedure in the Senate, the filibuster.

[00:00:29] Hey this is Jennifer from Huntsville Alabama. My name is Lucas Adams son from Louisville Kentucky.

[00:00:35] Hi this is Jennifer from New York California.

[00:00:38] My name is Eena and I'm calling from Brooklyn New York. My question is what is a filibuster and what purpose does it serve in the government who can participate in filibusters.

[00:00:48] When are they used. And why are they used. Thanks so much.

[00:00:51] I look forward to learning about this interesting subject.

**Virginia Prescott:** [00:00:54] From Jimmy Stewart's unyielding speech in Mr. Smith Goes to Washington to today's threats of using the nuclear option for approving Supreme Court nominees. The filibuster gets thrown around a lot. But what is it. And what are the rules for this sanctioned form of unruliness. Today's guide is Betty Coed, historian at the Senate Historical Office where she's worked since 1998. And Betty welcome to Civics 101.

**Betty Coed:** [00:01:21] Thank you. Glad to be here.

[00:01:22] So start right at the beginning. How would you define filibuster.

**Betty Coed:** [00:01:27] Well that's the toughest question of all. There is no accepted definition of a filibuster. It can be something as simple as objecting to something or placing a hold on a bill or just announcing that I'm going to oppose a piece of legislation or a nomination or it could be something as organized and complicated as a large group of senators that joined together and take turns holding the floor. Hour after hour after hour in the Senate chamber to keep any action from happening the most basic definition is it's anything that might block action. It's an allowable obstruction because it's part of the Senate's tradition of unlimited debate.

**Virginia Prescott:** [00:02:10] Only inthe Senate?

**Betty Coed:** [00:02:11] Only in the Senate. The House of Representatives put rules in place early in the 19th century that would curtail debate in the house. But the Senate chose not to do that and from day one on until today.

**Betty Coed:** [00:02:24] The Senate cherishes a tradition of unlimited debate. Now through the years that has been tweaked a bit and so it's not quite as unlimited as it used to be. But the filibuster is still an important expression of minority privileges in the Senate.

**Virginia Prescott:** [00:02:40] Has it always been a part of the legislative procedure?

**Betty Coed:** [00:02:44] Yes it's always been a part of the Senate. Filibusters are as old as the Senate itself. And in fact in 1789 the very first year that the Senate met We have details of one member complaining about another member the opposition member who is talking away the time. And that's essentially what the filibuster became known as, talking away the time. That's the Mr. Smith Goes to Washington type of filibuster. Through the years it's changed and it's adapted it got the name filibuster in the 1850s which is taken from the language of the day that was used to refer to pirates in the Caribbean.

**Virginia Prescott:** [00:03:23] Filibusteros, Right?

**Betty Coed:** [00:03:24] Exactly right. And it was used on the floor Wednesday when someone said I see my colleagues filibustering over there and he got picked up and it became part of the political lexicon and it got added to the process of a cloture motion requirement in 1917 but the process of using various delaying tactics to block legislation to block nominations is as old as the Senate itself.

**Virginia Prescott:** [00:03:50] Can you just define cloture for us. CLOTURE?

**Betty Coed:** [00:03:55] That's right. Cloture was established in 1917 after long debate and it is a way that the Senate can end debate on a bill or a nomination and require a vote. So if the purpose of the filibuster is to keep the bill from coming to a vote cloture is a mechanism that the Senate can invoke with with enough senators cooperating to say at such a such a time the debate will end on this bill and it will come to a vote. And that was the only effective way to really stop a filibuster in the older version of filibusters.

**Virginia Prescott:** [00:04:36] OK so a filibuster can be used to delay a vote but presumably that vote is still going to happen. So what other purpose can a filibuster serve or does a filibuster serve.

**Betty Coed:** [00:04:47] Yeah that's a very good question. The first thing to keep in mind is that the Senate was designed by the framers of the Constitution in part to be the voice of the minority to be the protector of minority rights and by that I don't mean the way we look at minorities today it's not African-Americans or women or whatever the case may be but rather this small group versus the large group or the one person versus the mob. And so in the Senate the minority might be the minority party, the opposition party, or it might be a minority group within the majority party, or it might be the minority of a single senator but each of those minorities however defined are an important part of the debate process in the Senate. The main purpose of a filibuster is usually to stall action in some way to slow down the process. Now for some members of the Senate slowing down the process has been for them an educational tool. We had a senator from Oregon back in the 1950s and 60s named Wayne Morse who called the filibuster the greatest educational tool because he could go to the floor. He could hold the floor for hours and hours. That would guarantee him media attention and he could then explain to the American public through his filibuster how he felt about that bill and why he felt that way and why he thought it should not be passed. Filibusters can also be used as a way to actually block a vote and keep a bill from becoming law. Now that as you suggest is tricky because sooner or later the people are going to tire out and have to give up the floor.

**Betty Coed:** [00:06:27] But in the early 20th century it became quite effective for senators to gain the floor at the end of a Congress at the end of the session and they would start to filibuster and they would literally talk out the time till the end of the session. If they could do that the bill would die at the end of the Congress in the new bill would have to be introduced in the following Congress. Most of the time when the filibuster is used it's used to delay action in some way. It used to either slow down the process so that there's time for debate and deliberation or if you're really opposed to something it gives you time to build public opinion in your favor so that you can gain the support you need to hopefully defeat the bill in the end. If you can sway enough votes you can defeat the bill.

**Virginia Prescott:** [00:07:13] Got that down. But how about some of these long historic filibusters. What are the most significant filibusters on record.

**Betty Coed:** [00:07:20] Well the classic filibusters the sort of Mr. Smith Goes to Washington type filibusters really came into play in the latter part of the 19th century when we got what I sometimes called the Grand Masters of the filibusters and the filibuster by the 1890s became sort of an endurance test. It was sort of something like a Guinness Book of World Records thing who could hold the floor the longest. And the competition went on for years and so people like Robert La Follette from Wisconsin and then Huey Long in the 1930s were great masters of these very long speeches that would go on for 10 12 14 16 hours.

**Betty Coed:** [00:07:56] The record is still held by Strom Thurmond who spoke for 24 hours and 18 minutes against the Civil Rights Act of 1957. I think the next closest one to that is about 22 hours that was Wayne Morse if I remember correctly. And the human endurance comes into play there.

**Virginia Prescott:** [00:08:14] Human endurance and you know this was before the age of NASA diapers right.

**Betty Coed:** [00:08:19] Yes.

**Virginia Prescott:** [00:08:20] Things have changed.

**Betty Coed:** [00:08:20] Members have gone to great lengths to try to figure out how to stay on the floor, Strom Thurmond for instance went on a very strict diet and completely limited his fluid intake product for 24 hours prior to his filibuster in 1957. There have been some very strange episodes on the Senate floor where people wanted to bring in port-a--potties and things like that so that they could keep them on the floor. But the Senate parliamentarian ruled against those. So there have been many attempts through the years but really in the end it comes down to how long can you stand there. Can you stand and not have to go to the restroom.

**Virginia Prescott:** [00:08:58] So you're basically holding the rest of the Senate hostage can they be prevented any way to prevent or stop a filibuster.

**Betty Coed:** [00:09:08] Yes the cloture motion comes in here that if you get 16 senators that agree to invoke cloture or agree to introduce a cloture motion then the leadership of the Senate can come forth and introduce a cloture motion and that puts a schedule or a calendar into place that says once that cloture motion is introduced there are only so many hours left to debate on that particular bill or nomination or whatever the case may be and at the end of that time period it will be voted upon but now it can take 16 votes to introduce a cloture motion. But it takes in the modern Senate 60 votes to invoke cloture. So it used to be 67 and today it's 60 votes.

**Virginia Prescott:** [00:09:52] And it's no longer 67 because.

**Betty Coed:** [00:09:56] That was the end result of a long reform movement that went through the 1940s 50s and 60s particularly because there were so many filibusters staged against civil rights bills in the 1950s and 60s. And the senators got frustrated by their inability to get that 67 vote requirement in place so that they could end a debate and bring about a civil rights bill. They finally managed to do that in 1964 of course with the Civil Rights Act.

**Virginia Prescott:** [00:10:23] All right let's skip ahead to today. There have been several attempts to gut the filibuster in recent years. Conservatives have called on Senate Majority Leader Mitch McConnell quite recently to get rid of it. Now who could change the rules on the filibuster.

**Betty Coed:** [00:10:36] The efforts to change the filibuster also go back more than 100 years. That's not a new process. And of course the 1917 cloture rule was the major change that came with that. In recent years there have been a number of reform proposals that looked at ways that they could deal with the modern filibuster which often is not a single person holding the floor. More often it's something that's going on behind the scenes that you don't really see it's someone objecting to something behind the scenes. And because the leadership knows that they need to get that 60 vote margin to invoke cloture and bring about a vote any sort of opposition to keep them from getting to the 60 can be termed as a filibuster. So it's a very loose and vague term these days. But in recent years they've done a number of things that have curtailed the limits of filibusters. Most obviously the nuclear option of 2013 which allowed to invoke cloture by a simple majority vote on any nomination other than a Supreme Court nomination that has not yet been applied to legislation and that's what some people are saying now is that that nuclear option should be expanded to include everything not just non-Supreme Court nominations.

**Virginia Prescott:** [00:11:48] So it was when the Democrats were in control of the Senate in 2013 that the nuclear option was used correct.

**Betty Coed:** [00:11:56] That is correct.

**Virginia Prescott:** [00:11:57] So now there is maybe some regret on the part of the Democrats. I mean does it does the use of filibuster and the rules surrounding it kind of depend on who is in power at the time.

**Betty Coed:** [00:12:08] Completely. The filibuster argument is not a Democratic or Republican argument. It is a majority minority argument. Whoever is in the majority whichever party is in the majority hates the filibuster and whichever party is in the minority loves a filibuster. And it's always been that way. So if you go back over time you will find arguments for and against switching back and forth between the two parties all the time. It's something that empowers the minority. So if you're in the minority you're going to like that.

**Virginia Prescott:** [00:12:38] Betty Coed. Thank you so much for speaking with us.

**Betty Coed:** [00:12:42] You're welcome.

**Virginia Prescott:** [00:12:43] Betty Coed she's an historian at the Senate Historical Office and a great guide for us today on Filibustering for Civics 101.

[00:12:56] That does it for today's lesson. But before class is dismissed we have a pop quiz from our executive producer Maureen McMurry. All right. Virginia which president was described as quote our only epicurean president by culinary historian Karen Hess.

[00:13:12] I have no idea. I'm trying to think of who is the really overweight one Taft. Good guess but it was actually Thomas Jefferson. He was a total foodie also an avid gardener. And you can channel Jefferson's love of food courtesy of blue apron a nice tie their more rain for less than ten dollars per person per meal.

[00:13:31] Blue Apron delivers seasonal recipes along with proportioned ingredients to make delicious home cooked meals said. We dare say would make Thomas Jefferson proud. I think so you can check out this week's menu and get your first three meals free with free shipping by going to Blue Apron dot com slash Civic's. Well in addition to learning about how your country works you will love how good it feels and tastes to create incredible home cooked meals with blue apron that feel way beyond my capacity. I must say it really gives me a lot of confidence about cooking so don't wait. That's Blue Apron dot com slash Civic's blue apron a better way to cook. All right. Back to business. This week's episode of civics when Awana was produced by Molly Donahue with help from Maureen McMurry Logan Shannon is our digital producer and I am Virginia Prescott if you like the show please cast your ballot and leave us a review on iTunes that helps other people find us and ultimately we hope lead to a more informed citizenry.

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