



Constitutional Defects

November 18, 2025

“It is now time for the Republicans to play their ‘TRUMP CARD,’ and go for what is called the Nuclear Option—Get rid of the Filibuster, and get rid of it, NOW!”

That’s what President Trump [posted](#) on Truth Social back during the shutdown, adding, “WE are in power, and if we did what we should be doing, it would IMMEDIATELY end this ridiculous, Country destroying ‘SHUT DOWN.’”

This was prior to Democrats, off-year election over, suddenly [deciding](#) to agree to the same deal to reopen the government that Republicans had been offering for weeks.

The 60-vote supermajority the United States Senate needs to end debate and vote on legislation is a small-r republican measure, not a small-d democratic one. Reasonable people can disagree over its merits, certainly, but I like the greater consensus it requires.

What I don’t like is that the party in control of the Senate can at any time change the filibuster rule in any way it wishes, including ending it altogether.

Rules shouldn’t be this easy to junk.

Make the Senate filibuster not just a rule, but constitutional law.

Another major matter of constitutional change is sorely needed. The stability and independence of one of the three branches of the federal government, the U.S. Supreme Court, hangs by a thread.

The number of justices, now nine, is nowhere set in the Constitution.

Congress and the White House, when held by the same political party—even short of 60 votes in the Senate, because they could simply end the filibuster—could immediately add ten new justices.

Or 20.

And then confirm all the president’s picks.

All something Democrats mused about doing years ago: packing the High Court with many new justices to magically engineer a new Democratic Party majority on the SCOTUS.

The number of justices, like the Senate’s super-majoritarian filibuster, aren’t written in stone.

But should be.

This is Common Sense. I’m Paul Jacob.