# left to the NEWS

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## SUPER MAJORITIES

The recent battle in the U.S. Senate over changing the Senate rules to lower the vote required to break a filibuster from a 2/3 majority to a 3/5 majority has caused some people to question ever requiring a super majority. Why should we ever allocate more legal weight to a "no" vote than to a "yes" vote? Why not always stick by the principle of "one man one vote"?

In the FEDERALIST PAPERS, the Founding Fathers stressed the need to protect ourselves against "the superior force of an interested and overbearing majority," and they enshrined a requirement for a super majority in four different places in our Constitution. Trea ties may be ratified only with the advice and consent of 2/3 of the Senators present and voting.

The Constitution requires a 2/3 majority of both Houses to pro pose amendments, and then a 3/4 majority of state legislatures for ratification. *A* bill may be passed over the President's veto only by a 2/3 majority in both Houses. It takes a 2/3 majority of the Senate to convict for impeachment.

In 1971 the U.So Supreme Court twice upheld the right of various bodies to require a super majority on particular issues. In the case of Gordon v. Lance, the Supreme Court upheld a requirement of the West Virginia Constitution for a 3/5 majority to incur bonded indebt edness. The Court stated, "There is nothing in the language of the Constitution, our history, or our cases that requires that a majority always prevail on every issue."

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In Brenner v. School District of Kansas City, the U.S. Supreme Court affirmed a scholarly three-judge decision holding that the Missouri constitutional requirement of a 2/3 majority for school bond elections was constitutional. The Court then concluded: ''The utilization of a 2/3 majority vote on questions considered to be of particular difficulty and importance, establishes that the Found ers never for a moment considered, as plaintiffs argue, that 'the sense of the majority should prevail' in all cases or that they accepted the notion that rule by a simple majority was an inflexi ble 'fundamental maxim of a republican government."'

In Rimarcik v. Johansen, a Federal Court upheld a Minnesota statute requiring a 55 percent majority to adopt a home rule charter. In Hall v. Thornton, another Federal Court upheld a South Carolina constitutional requirement that a majority of those voting for in corporation is not sufficient; there must be a majority of those eligible to vote.

Just last month, a three-judge Federal District Court in Chicago upheld the right of state legislatures to require a 3/5 or other super majority for ratification of Federal constitutional amendments.

Robert Rules of Order and other similar sets of rules governing parliamentary bodies set forth many different motions that require a super majority.

Time and experience have proved that these constitutional, legislative, and parliamentary requirements for a super majority are good rules designed to empower the majority at the same time that they respect the rights of the minority.

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