

and others have to preserve publicly available resources (such as pastures or fisheries) for future use. The bottom line: fields got chewed up by overgrazing cattle and fisheries were depleted because the most rational course of action is for each individual to take maximum advantage of all available resources, and let others bear the costs. As someone who fishes for a living might say, "If I don't catch those fish and bring them to market, someone else will." If that rationale becomes pervasive, pretty soon the fish are all gone. Nobody benefits from this outcome; therein lies the "tragedy."

The tragedy of the commons concept can be applied to the system by which unanimous consent requests are arrived at and agreed to. Any senator can stop any one of these requests from taking effect ("I object"), so why are these procedural arrangements relied on so heavily? Five key reasons help explain why senators avoid getting trapped in a "tragedy" on the Senate floor.

First, norms of cooperation have arisen as a solution to behavior that is individually rational—such as the exploitation of parliamentary prerogatives for individual gain—but collectively irrational (blocking passage of essential measures through dilatory tactics, for instance). While many of these norms are weak or nonexistent in the present era, senators still understand that an opponent today could be an ally tomorrow. As the saying goes, "politics makes strange bedfellows." Second, senators know that passing legislation of any real consequence, including proposals of their own, requires supermajority support in most instances. The need to build sizable coalitions in support of one's own ideas can constrain senators from deploying their full procedural arsenal against colleagues whose support they will need in the future. Today's 60-vote Senate demands significant consensus for action to occur, so some amount of cooperation is usually required to get legislation across the finish line. Third, cooperation in the Senate is made easier by the fact that not all senators care about particular issues equally. Mass transit systems are unlikely to be of great concern to senators who represent rural areas, much like crop subsidies for farmers are probably of limited interest to most urban-state senators. Fourth, in the face of overwhelming support for a particular course of action, senators who oppose that action may realize that objection will only delay the inevitable. If the outcome is a foregone conclusion, insisting on a cloture process and attempting a filibuster might only accomplish keeping the Senate in late-night session or ruining senators' weekend plans.

Fifth, the "hotline" system (telephone calls to all member offices) used to communicate and clear unanimous consent agreements in the chamber is highly regulated to maximize fairness. Language used in hotline consent requests are clearly spelled out, and Senate leaders attempt to ensure that all senators understand the proposed agreement and have sufficient time to consider it. Fundamentally, for the system of hotlines and unanimous consent to work, parties to the procedural contract must have trust and confidence that all sides will honor the agreement and that its terms were arrived at fairly. In the event that senators lose trust in this process or feel disadvantaged by it, the system of unanimous consent would break down. At that point, events on the Senate floor could become more tragic than one would expect in a public square where ideas compete openly for public acceptance.