SENATE—*Thursday, November 21, 2013*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. LEAHY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, the giver of every good and perfect gift, during this Thanksgiving season, we lift grateful hearts to You in prayer. Thank You for the splash of raindrops, for the warmth of sunshine, for the melody of the moonlight, and for the stars that hang like scintillating lanterns in the night.

Lord, we are grateful for strength to meet life's challenges, for the fulfillment of honorable labor, for friendships that dispel loneliness, for the laughter of children, and for the joy of the harvest. We praise You for the privilege to receive Your forgiveness and to make operative Your redeeming grace in our thoughts, desires, and hopes.

We also express gratitude for our Senators, who have an opportunity to participate in history's great events and to serve Your purposes for their lives in this generation.

Lord of all, to You we raise this, our prayer, of grateful praise. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

WORKFORCE INVESTMENT ACT OF 2013—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 243, S. 1356, the Workforce Investment Act of 2013.

The PRESIDENT pro tempore. The clerk will report the motion.

The assistant legislative clerk read as follows:

Motion to proceed to Calendar No. 243, S. 1356, a bill to amend the Workforce Investment Act of 1998 to strengthen the United States workforce development system through innovation in, and alignment and improvement of, employment, training, and education programs in the United States, and to promote individual and national economic growth, and for other purposes.

SCHEDULE

Mr. REID. Mr. President, following my remarks and those of the Republican leader, the Senate will resume consideration of the National Defense Authorization Act. I filed cloture on that bill last night. As a result, the filing deadline for first-degree amendments to the bill is 1 p.m. today.

MEASURE PLACED ON THE CALENDAR—S. 1752

Mr. REID. Mr. President, I am told S. 1752 is due for a second reading.

The PRESIDENT pro tempore. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

A bill (S. 1752) to perform procedures for determinations to proceed to trial by court-martial for certain offenses under the Uniform Code of Military Justice, and for other purposes.

Mr. REID. I object to any further proceedings on this bill at this time.

The PRESIDENT pro tempore. Without objection, the bill will be placed on the calendar.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

IRAN SANCTIONS

Mr. REID. Mr. President, I am a strong supporter of our Iran sanction regime and believe that the current sanctions have brought Iran to the negotiating table.

I believe we must do everything possible to stop Iran from getting nuclear weapons capability, which would threaten Israel and the national security of our great country.

The Obama administration is in the midst of negotiations with the Iranians that are designed to end their nuclear weapons program. We all strongly support those negotiations and hope they will succeed, and we want them to produce the strongest possible agreement.

However, we are also aware of the possibility that the Iranians could keep the negotiations from succeeding. I hope that won't happen, but the Senate must be prepared to move forward with a new bipartisan Iran sanctions bill when the Senate returns after the Thanksgiving recess. I am committed to do just that.

A number of Senators, Democrats and Republicans, have offered their own amendments on Iran, and they have offered a couple of the amendments in the Defense authorization bill. I know other Senators also have their own sanctions bills they would like to move forward on.

I will support a bill that would broaden the scope of our current petroleum sanctions, place limitations on trade with strategic sectors of the Iranian economy that support its nuclear ambitions, as well as pursue those that divert goods to Iran.

While I support the administration's diplomatic efforts, I believe we need to leave our legislative options open to act on a new bipartisan sanctions bill in December, shortly after we return.

Mr. President, I note the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RULES REFORM

Mr. REID. Mr. President, the American people believe Congress is broken. The American people believe the Senate is broken, and I believe the American people are right.

During this Congress—the 113th Congress—the United States has wasted an unprecedented amount of time on procedural hurdles and partisan obstruction. As a result the work of this country goes undone.

Congress should be passing legislation that strengthens our economy and protects American families. Instead, we are burning wasted hours and wasted days between filibusters. I could say, instead, we are burning wasted days and wasted weeks between filibusters.

Even one of the Senate's most basic duties—confirmation of presidential nominees—has become completely unworkable. There has been unbelievable, unprecedented obstruction. For the first time in the history of our Republic, Republicans have routinely used the filibuster to prevent President Obama from appointing his executive team or confirming judges. It is truly a troubling trend that Republicans are willing to block executive branch nominees, even when they have no objection to the qualifications of the nominee. Instead, they block qualified executive branch nominees to circumvent the legislative process. They block qualified executive branch nominations to force wholesale changes to laws. They block qualified executive branch nominees to restructure entire executive branch departments, and they block qualified judicial nominees because they don't want President Obama to appoint any judges to certain courts.

The need for change is so very obvious. It is clearly visible. It is manifest

we have to do something to change things.

In the history of our country—some 230-plus years—there have been 168 filibusters of executive and judicial nominations. Half of them have occurred during the Obama administration—so 230-plus years, 50 percent; 4½ years, 50 percent. Is there anything fair about that?

These nominees deserve at least an up-or-down vote—yes or no—but Republican filibusters deny them a fair vote—any vote—and deny the President his team.

Gridlock has consequences, and they are terrible. It is not only bad for President Obama and bad for this body, the Senate, it is bad for our country, it is bad for our national security, and it is bad for our economic security.

That is why it is time to get the Senate working again—not for the good of the current Democratic majority or some future Republican majority, but for the good of the United States of America. It is time to change. It is time to change the Senate before this institution becomes obsolete.

At the beginning of this Congress, the Republican leader pledged that, ''This Congress should be more bipartisan than the last Congress.''

We are told in the Scriptures—let's take, for example, the Old Testament, the Book of Numbers, that promises, pledges, a vow—one must not break his word.

In January, Republicans promised to work with the majority to process nominations in a timely manner by unanimous consent, except in extraordinary circumstances. Exactly three weeks later, Republicans mounted a first-in-history filibuster of a highly qualified nominee for Secretary of Defense.

Despite being a former Republican Senator and a decorated war hero, having saved his brother's life in Vietnam, Defense Secretary Chuck Hagel's nomination was pending in the Senate for a record 34 days—more than three times the previous average for a Secretary of Defense. Remember, our country was at war.

Republicans have blocked executive nominees such as Secretary Hagel not because they object to the qualifications of the nominee but simply because they seek to undermine the very government in which they were elected to serve.

Take the nomination of Richard Cordray to lead the Consumer Financial Protection Bureau. There was no doubt about his ability to do the job. But the Consumer Financial Protection Bureau, the brainchild of ELIZABETH WARREN, went for more than 2 years without a leader because Republicans refused to accept the law of the land, because they wanted to roll back the law that protects consumers from the greed of Wall Street.

I say to my Republican colleagues: You don't have to like the laws of the land, but you do have to respect those laws and acknowledge them and abide by them.

Similar obstruction continued unabated for 7 more months, until Democrats threatened to change Senate rules to allow up-or-down votes on executive nominations. In July, after obstructing dozens of executive nominees for months—and some for years—Republicans once again promised they would end the unprecedented obstruction.

One look at the Senate's Executive Calendar shows that nothing has changed since July. Republicans have continued their record obstruction as if no agreement had ever been reached. Again, Republicans have continued their record of obstruction as if no agreement had been reached.

There are currently 75 executive branch nominations ready to be confirmed by the Senate. They have been waiting an average of 140 days for confirmation.

One executive nominee to the agency that safeguards the water my children and my grandchildren drink and the air they breathe has waited almost 900 days for confirmation.

We agreed in July that the Senate should be confirming nominees to ensure the proper functioning of government.

Consistent and unprecedented obstruction by the Republican Caucus has turned ''advise and consent'' into ''deny and obstruct.''

In addition to filibustering a nominee for Secretary of Defense for the first time in history, Senate Republicans also blocked a sitting Member of Congress from an administration position for the first time since 1843.

As a senior Member of the House Financial Services Committee, Congressman MEL WATT's understanding of the mistakes that led to the housing crisis made him uniquely qualified to serve as Administrator of the Federal Housing Finance Agency.

Senate Republicans simply do not like the consumer protections Congressman WATT was nominated to develop and implement, so they denied a fellow Member of Congress and a graduate of the Yale School of Law even the courtesy of an up-or-down vote.

In the last 3 weeks alone, Republicans have blocked up-or-down votes on three highly qualified nominees to the D.C. Circuit Court of Appeals. This does not take into consideration they twice turned down one of the most qualified people in my 30 years in the Senate who I have ever seen come before this body: Caitlin Halligan. So we have three more to add to that list.

The D.C. Circuit is considered by many to be the second highest court in the land, and some think maybe the most important. It deals with these complex cases that come from Federal agencies and other things within their jurisdiction.

Republicans have blocked four of President Obama's five nominees to the D.C. Circuit, whereas the Democrats approved four of President Bush's six nominations to this important court.

Today the D.C. Circuit Court—at least the second most important court in the land—has more than 25 percent in vacancies. There is not a single legitimate objection to the qualifications of any of these nominees to the D.C. Circuit that President Obama has put forward. Republicans have refused to give them an up-or-down vote—a simple ''yes'' or ''no'' vote. Republicans simply do not want President Obama to make any appointments at all to this vital court—none, zero.

Further, only 23 district court nominations have been filibustered in the entire history of our country—23. And you know what. Twenty of them have been in the last 4½ years. Two hundred thirty-plus years: 3; the last 4½ years: 20. That is not fair. With one out of every 10 Federal judgeships vacant, millions of Americans who rely on courts that are overworked and understaffed are being denied the justice they rightly deserve.

More than half of the Nation's population lives in parts of the country that have been declared a ''judicial emergency.'' No one has worked harder than the President pro tempore to move judges. The President pro tempore is the chairman also of the Judiciary Committee. No one knows the problem more than the President pro tempore.

The American people are fed up with this kind of obstruction and gridlock. The American people—Democrats, Republicans, Independents—are fed up with this gridlock, this obstruction. The American people want Washington to work for American families once again.

I am on their side, which is why I propose an important change to the rules of the U.S. Senate. The present Republican leader himself said—and this is a direct quote—''The Senate has repeatedly changed its rules as circumstances dictate.''

He is right. In fact, the Senate has changed its rules 18 times, by sustaining or overturning the ruling of the Presiding Officer, in the last 36 years—during the tenures of both Republican and Democratic majorities.

The change we propose today would ensure executive and judicial nominations an up-or-down vote on confirmation—yes, no. The rule change will make cloture for all nominations other than for the Supreme Court a majority threshold vote—yes or no.

The Senate is a living thing, and to survive it must change, as it has over the history of this great country. To the average American, adapting the rules to make the Senate work again is just common sense.

This is not about Democrats versus Republicans. This is about making Washington work—regardless of who is in the White House or who controls the Senate.

To remain relevant and effective as an institution, the Senate must evolve to meet the challenges of this modern era.

I have no doubt my Republican colleagues will argue the fault is ours, it is the Democrats' fault. I can say from experience that no one's hands are entirely clean on this issue. But today the important distinction is not between Democrats and Republicans. It is between those who are willing to help break the gridlock in Washington and those who defend the status quo.

Is the Senate working now? Can anyone say the Senate is working now? I do not think so.

Today Democrats and Independents are saying enough is enough. This change to the rules regarding Presidential nominees will apply equally to both parties. When Republicans are in power, these changes will apply to them as well. That is simple fairness, and it is something that both sides should be willing to live with to make Washington work again. That is simple fairness.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The Republican leader is recognized.

HEALTH CARE

Mr. MCCONNELL. Mr. President, over the past several weeks, the American people have been witness to one of the most breathtaking—breathtaking—indictments of big-government liberalism in memory. And I am not just talking about a Web site. I am talking about the way in which ObamaCare was forced on the public by an administration and a Democratic-led Congress that we now know was willing to do and say anything—anything—to pass the law.

The President and his Democratic allies were so determined to force their vision of health care on the public that they assured them up and down that they would not lose the plans they had, that they would save money instead of losing it, and that they would be able to use the doctors and hospitals they were already using.

But, of course, we know that that rhetoric does not match reality. The stories we are hearing on a nearly daily basis now range from heartbreaking to comical. Just yesterday I saw a story about a guy getting a letter in the mail saying his dog—his dog—had qualified for insurance under ObamaCare. So, yeah, I would probably be running for the exits too if I had supported this law. I would be looking to change the subject—change the subject—just as Senate Democrats have been doing with their threats of going nuclear and changing the Senate rules on nominations. If I were a Senator from Oregon, for example, which has not enrolled a single person—a single person—for the ObamaCare exchange, I would probably want to talk about something else too.

But here is the problem with this latest distraction: It does not distract people from ObamaCare. It reminds them of ObamaCare. It reminds them of all the broken promises. It reminds them of the power grab. It reminds them of the way Democrats set up one set of rules for themselves and another for everybody else—one set of rules for them and another for everybody else.

Actually, this is all basically the same debate, and rather than distract people from ObamaCare, it only reinforces the narrative of a party that is willing to do and say just about anything to get its way—willing to do or say just about anything to get its way. Because that is just what they are doing all over again.

Once again, Senate Democrats are threatening to break the rules of the Senate—break the rules of the Senate—in order to change the rules of the Senate. And over what? Over what? Over a court that does not even have enough work to do?

Millions of Americans are hurting because of a law Washington Democrats forced upon them, and what do they do about it? They cook up some fake fight over judges—a fake fight over judges—who are not even needed.

Look, I get it. As I indicated, I would want to be talking about something else too if I had to defend dogs getting insurance while millions of Americans lost theirs. But it will not work. The parallels between this latest skirmish and the original ObamaCare push are just too obvious to ignore.

Think about it. Just think about it. The majority leader promised—he promised—over and over that he would not break the rules of the Senate in order to change them. This was not an ancient promise. On July 14 on ''Meet the Press'' he said: ''We're not touching judges.'' This year, on July 14, on ''Meet the Press'': ''We're not touching judges.''

Then there are the double standards.

When Democrats were in the minority, they argued strenuously for the very thing they now say we will have to do without; namely, the right to extended debate on lifetime appointments. In other words, they believe that one set of rules should apply to them—to them—and another set to everybody else. He may just as well have said: ''If you like the rules of the Senate, you can keep them.'' ''If you like the rules of the Senate, you can keep them''—just the way so many Democrats in the administration and Congress now believe that ObamaCare is good enough for their constituents, but that when it comes to them, their political allies, their staffs, well, of course, that is different.

Let's not forget about the raw power—the raw power—at play here. On this point, the similarities between the ObamaCare debate and the Democratic threat to go nuclear on nominations are inescapable—inescapable. They muscled through ObamaCare on a party-line vote and did not care about the views of the minority—did not care one whit about the views of the minority. And that is just about what they are going to do here.

The American people decided not to give the Democrats the House or to restore the filibuster-proof majority they had in the Senate back in 2009, and our Democratic colleagues do not like that one bit. They just do not like it. The American people are getting in the way of what they would like to do. So they are trying to change the rules of the game to get their way anyway. They said so themselves. Earlier this year, the senior Senator from New York said they want to ''fill up the D.C. Circuit one way or another''—''fill up the D.C. Circuit one way or another.''

The reason is clear. As one liberal activist put it earlier this year, President Obama's agenda ''runs through the D.C. Circuit.'' You cannot get what you want through the Congress because the American people, in November 2010, said they had had enough—they issued a national restraining order, after watching 2 years of this administration unrestrained—so now their agenda runs through the bureaucracy and through the D.C. Circuit.

As I said, in short, unlike the first 2 years of the Obama administration, there is now a legislative check on the President. The administration does not much like checks and balances, so it wants to circumvent the people's representatives with an aggressive regulatory agenda, and our Democratic colleagues want to facilitate that by filling up a court that will rule on his agenda—a court that does not even have enough work to do, especially if it means changing the subject from ObamaCare for a few days.

And get this: They think they can change the rules of the Senate in a way that benefits only them. They want to do it in such a way that President Obama's agenda gets enacted but that a future Republican President could not get his or her picks for the Supreme Court confirmed by a Republican Senate using the same precedent our Democratic friends want to set. They want to have it both ways.

But this sort of gerrymandered vision of the nuclear option is wishful thinking. As the ranking member of the Judiciary Committee Senator GRASSLEY

pointed out yesterday: If the majority leader changes the rules for some judicial nominees, he is effectively changing them for all judicial nominees, including the Supreme Court, as Senator GRASSLEY pointed out yesterday.

Look, I realize this sort of wishful thinking might appeal to the uninitiated newcomers in the Democratic Conference who have served exactly zero days in the minority. But the rest of you guys in the conference should know better. Those of you who have been in the minority before should know better.

Let's remember how we got here. Let's remember that it was Senate Democrats who pioneered, who literally pioneered the practice of filibustering circuit court nominees, and who have been its biggest proponents in the very recent past. After President Bush was elected, they even held a retreat in which they discussed the need to change the ground rules by which lifetime appointments are considered. The senior Senator from New York put on a seminar, invited Laurence Tribe, Cass Sunstein. In the past the practice had been neither side had filibustered circuit court nominees. In fact, I can remember at Senator Lott's gagging several times and voting for cloture on circuit judges for the Ninth Circuit, knowing full well that once cloture was invoked, they would be confirmed.

So this business of filibustering circuit court judges was entirely an invention of the guys over here on the other side, the ones you are looking at right over here. They made it up. They started it. This is where we ended up.

After President Bush was elected, they held this retreat that I was just talking about and made a big deal about it. It was all a prelude to what followed, the serial filibustering of several of President Bush's circuit court nominees, including Miguel Estrada, whose nomination to the D.C. Circuit was filibustered by Senate Democrats a record seven times—seven times. Now they want to blow up the rules because Republicans are following a precedent they themselves set.

I might add, we are following that precedent in a much more modest way than Democrats did.

So how about this for a suggestion? How about instead of picking a fight with Senate Republicans by jamming through nominees to a court that does not even have enough work to do, how about taking yes for an answer and working with us on filling judicial emergencies that actually exist?

Yet rather than learn from past precedent on judicial nominations that they themselves set, Democrats now want to set another one. I have no doubt if they do, they will come to regret that one as well. Our colleagues evidently would rather live for the moment, satisfy the moment, live for the moment, and try to establish a story line that Republicans are intent on obstructing President Obama's judicial nominees. That story line is patently ridiculous in light of the facts. That is an utterly absurd suggestion in light of the facts.

Before this current Democratic gambit to fill up the D.C. Circuit one way or the other, the Senate had confirmed 215—215—of the President's judicial nominees and rejected 2. That is a 99-percent confirmation rate. There were 215 confirmed and 2 rejected—99 percent.

Look, if advice and consent is to mean anything at all, occasionally consent is not given. But by any objective standards, Senate Republicans have been very fair to this President. We have been willing to confirm his nominees. In fact, speaking of the D.C. Circuit, we just confirmed one a few months ago 97 to 0 to the D.C. Circuit.

So I suggest our colleagues take a timeout, stop trying to jam us, work with us instead to confirm vacancies that actually need to be filled, which we have been doing. This rules change charade has gone from being a biannual threat, to an annual threat, now to a quarterly threat. How many times have we been threatened, my colleagues? Do what I say or we will break the rules to change the rules. Confirm everybody, 100 percent. Anything less than that is obstructionism. That is what they are saying to us.

Let me say we are not interested in having a gun put to our head any longer. If you think this is in the best interests of the Senate and the American people to make advice and consent, in effect, mean nothing—obviously you can break the rules to change the rules to achieve that. But some of us have been around here long enough to know that the shoe is sometimes on the other foot.

This strategy of distract, distract, distract is getting old. I do not think the American people are fooled about this. If our colleagues want to work with us to fill judicial vacancies, as we have been doing all year—99 percent of judges confirmed—obviously we are willing to do that. If you want to play games, set yet another precedent that you will no doubt come to regret—I say to my friends on the other side of the aisle, you will regret this, and you may regret it a lot sooner than you think.

Let me be clear. The Democratic playbook of broken promises, double standards, and raw power, the same playbook that got us ObamaCare, has to end. It may take the American people to end it, but it has to end. That is why Republicans are going to keep their focus where it belongs, on the concerns of the American people. It means we are going to keep pushing to get back to the drawing board on health care, to replace ObamaCare with real reforms, to not punish the middle class, and we will leave the political games to our friends on the other side of the aisle.

The PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, what is the business before the Senate right now?

The PRESIDENT pro tempore. The business before the Senate is the motion to proceed to S. 1356.

MOTION TO PROCEED TO RECONSIDERATION

Mr. REID. Mr. President, I now move to proceed to the motion to reconsider the vote by which cloture was not invoked on the Millett nomination.

The PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. MCCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CHAMBLISS (when his name was called). ''Present.''

Mr. HATCH (when his name was called). ''Present.''

Mr. ISAKSON (when his name was called). ''Present.''

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—57

Baldwin	Hagan	Murphy
Baucus	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Rockefeller
Brown	King	Sanders
Cantwell	Klobuchar	Schatz
Cardin	Landrieu	Schumer
Carper	Leahy	Shaheen
Casey	Levin	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

NAYS—40

Alexander	Fischer	Paul
Ayotte	Flake	Portman
Barrasso	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Heller	Rubio
Burr	Hoeven	Scott
Coats	Inhofe	Sessions
Coburn	Johanns	Shelby
Cochran	Johnson (WI)	Thune
Corker	Kirk	Toomey
Cornyn	Lee	Vitter
Crapo	McCain	Wicker
Cruz	McConnell	
Enzi	Moran	

ANSWERED ''PRESENT''—3

Chambliss	Hatch	Isakson

The motion was agreed to.

MOTION TO RECONSIDER—MILLETT NOMINATION

The PRESIDENT pro tempore. The majority leader.

Mr. REID. I move to reconsider the vote by which cloture was not invoked on the Millett nomination.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Parliamentary inquiry.

The PRESIDENT pro tempore. The Republican leader will state the parliamentary inquiry.

Mr. MCCONNELL. Is it correct that more than 200 judicial nominations have been confirmed by the Senate since 2009?

The PRESIDENT pro tempore. The Chair is informed the Secretary of the Senate confirmed that more than 200 judicial nominations have been confirmed since 2009.

Mr. MCCONNELL. Mr. President, a further parliamentary inquiry.

The PRESIDENT pro tempore. The Republican leader will state the parliamentary inquiry.

Mr. MCCONNELL. Is it correct that under the bipartisan streamlining provisions of S. Res. 116 and S. 679 in the 112th Congress, the Senate removed 169 nominations from Senate consideration completely, moved 272 nominations to the Senate's expedited calendar, and removed from Senate consideration approximately 3,000 nominations for the NOAA officer corps and the Public Health Service?

The PRESIDENT pro tempore. It is the understanding of the Chair that pursuant to S. Res. 116 and S. 679 of the 112th Congress, a large number of nominations were moved to a newly created expedited consideration process or removed from the advice-and-consent process of the Senate altogether. The Chair cannot confirm the exact number.

MOTION TO ADJOURN

Mr. MCCONNELL. I move to adjourn the Senate until 5 p.m. and ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 46, nays 54, as follows:

[Rollcall Vote No. 240 Ex.]

YEAS—46

Alexander	Fischer	Moran
Ayotte	Flake	Murkowski
Barrasso	Graham	Paul
Blunt	Grassley	Portman
Boozman	Hatch	Risch
Burr	Heller	Roberts
Chambliss	Hoeven	Rubio
Coats	Inhofe	Scott
Coburn	Isakson	Sessions
Cochran	Johanns	Shelby
Collins	Johnson (WI)	Thune
Corker	Kirk	Toomey
Cornyn	Lee	Vitter
Crapo	Manchin	Wicker
Cruz	McCain	
Enzi	McConnell	

NAYS—54

Baldwin	Brown	Durbin
Baucus	Cantwell	Feinstein
Begich	Cardin	Franken
Bennet	Carper	Gillibrand
Blumenthal	Casey	Hagan
Booker	Coons	Harkin
Boxer	Donnelly	Heinrich
Heitkamp	Menendez	Schatz
Hirono	Merkley	Schumer
Johnson (SD)	Mikulski	Shaheen
Kaine	Murphy	Stabenow
King	Murray	Tester
Klobuchar	Nelson	Udall (CO)
Landrieu	Pryor	Udall (NM)
Leahy	Reed	Warner
Levin	Reid	Warren
Markey	Rockefeller	Whitehouse
McCaskill	Sanders	Wyden

The motion was rejected.

MOTION TO RECONSIDER—MILLETT NOMINATION

The PRESIDENT pro tempore. The majority leader.

Mr. REID. Are we now on the motion to reconsider the Millett nomination?

The PRESIDENT pro tempore. We are.

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 241 Ex.]

YEAS—57

Baldwin	Hagan	Murphy
Baucus	Harkin	Murray
Begich	Heinrich	Nelson
Bennet	Heitkamp	Pryor
Blumenthal	Hirono	Reed
Booker	Johnson (SD)	Reid
Boxer	Kaine	Rockefeller
Brown	King	Sanders
Cantwell	Klobuchar	Schatz
Cardin	Landrieu	Schumer
Carper	Leahy	Shaheen
Casey	Levin	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall (CO)
Donnelly	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Warren
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

NAYS—43

Alexander	Fischer	Moran
Ayotte	Flake	Paul
Barrasso	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hatch	Roberts
Burr	Heller	Rubio
Chambliss	Hoeven	Scott
Coats	Inhofe	Sessions
Coburn	Isakson	Shelby
Cochran	Johanns	Thune
Corker	Johnson (WI)	Toomey
Cornyn	Kirk	Vitter
Crapo	Lee	Wicker
Cruz	McCain	
Enzi	McConnell	

The motion was agreed to.

The PRESIDENT pro tempore. The majority leader is recognized.

APPEALING RULING OF THE CHAIR

Mr. REID. I raise a point of order that the vote on cloture under rule XXII for all nominations other than for the Supreme Court of the United States is by majority vote.

The PRESIDENT pro tempore. Under the rules, the point of order is not sustained.

Mr. REID. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second?

Mr. MCCONNELL. Mr. President, parliamentary inquiry.

The PRESIDENT pro tempore. The Republican leader will state the parliamentary inquiry.

Mr. MCCONNELL. Is it correct that under the bipartisan provisions of S. Res. 15, adopted earlier this year, postcloture debate time on a district court nomination is limited to 2 hours before an up-or-down vote is required under the rules?

The PRESIDENT pro tempore. Pursuant to S. Res. 15 of the 113th Congress, postcloture debate on district court nominees is limited to 2 hours.

Mr. MCCONNELL. Further parliamentary inquiry, Mr. President.

The PRESIDENT pro tempore. The Senator will state it.

Mr. MCCONNELL. Is it correct under the provisions of S. Res. 15, adopted earlier this very year, that postcloture debate time on any executive branch nomination other than those at the Cabinet level is already limited to 8 hours before an up-or-down vote is required under Senate rules?

The PRESIDENT pro tempore. Pursuant to S. Res. 15 of the 113th Congress, postcloture debate on any nomination to the executive branch, which is not a level 1 position as set forth in title 5 of the U.S. Code, section 5312, is limited to 8 hours.

Mr. REID. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The Republican leader.

Mr. MCCONNELL. Mr. President, one other parliamentary inquiry. When the Senate's rules were amended and a new standing order on consideration of nominations was established earlier this year, the majority leader and I engaged in a colloquy to announce that no further rules changes would be considered unless under the regular order and through the action of the Senate Rules Committee.

Would the Chair confirm that currently the rules of the Senate provide that a proposal to change the Senate rules would be fully debatable unless two-thirds of the Senators present and voting voted to invoke cloture, which would mean 67 Senators voting in the affirmative if all 100 voted?

The PRESIDENT pro tempore. The Republican leader is correct.

Mr. MCCONNELL. Further inquiry: It is my understanding that prevailing on appeal of the ruling of the Chair would change Senate precedent on how nominations are considered in the Senate and effectively change the procedures or application of the Senate's rules.

How many votes are required to appeal the ruling of the Chair in this instance?

The PRESIDENT pro tempore. A majority of those Senators voting, a quorum being present, is required.

Mr. MCCONNELL. So I am correct that overturning the ruling of the Chair requires a simple majority vote?

The PRESIDENT pro tempore. The Senator from Kentucky is correct.

The majority leader has appealed the decision of the Chair.

The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. REID. I ask for the yeas and nays.

The PRESIDENT pro tempore. The yeas and nays are requested.

Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 242 Ex.]

YEAS—48

Alexander	Fischer	McConnell
Ayotte	Flake	Moran
Barrasso	Graham	Murkowski
Blunt	Grassley	Paul
Boozman	Hatch	Portman
Burr	Heller	Pryor
Chambliss	Hoeven	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Rubio
Cochran	Johanns	Scott
Collins	Johnson (WI)	Sessions
Corker	Kirk	Shelby
Cornyn	Lee	Thune
Crapo	Levin	Toomey
Cruz	Manchin	Vitter
Enzi	McCain	Wicker

NAYS—52

Baldwin	Hagan	Nelson
Baucus	Harkin	Reed
Begich	Heinrich	Reid
Bennet	Heitkamp	Rockefeller
Blumenthal	Hirono	Sanders
Booker	Johnson (SD)	Schatz
Boxer	Kaine	Schumer
Brown	King	Shaheen
Cantwell	Klobuchar	Stabenow
Cardin	Landrieu	Tester
Carper	Leahy	Udall (CO)
Casey	Markey	Udall (NM)
Coons	McCaskill	Warner
Donnelly	Menendez	Warren
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murphy	
Gillibrand	Murray	

The PRESIDENT pro tempore. The decision of the Chair is not sustained.

The Republican leader.

APPEALING RULING OF THE CHAIR

Mr. MCCONNELL. Mr. President, I make a point of order that nominations are fully debatable under the rules of the Senate unless three-fifths of the Senators chosen and sworn have voted to bring debate to a close. Under the precedent just set by the Senate, cloture is invoked at a majority. Therefore, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDENT pro tempore. The Chair has not yet ruled.

Under the precedent set by the Senate today, November 21, 2013, the threshold for cloture on nominations, not including those to the Supreme Court of the United States, is now a majority. That is the ruling of the Chair.

Mr. MCCONNELL. I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDENT pro tempore. The Republican leader appeals the decision of the Chair.

The question is, Shall the decision of the Chair stand as the judgment of the Senate?

The yeas and nays have been requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 243 Ex.]

YEAS—52

Baldwin	Hagan	Nelson
Baucus	Harkin	Reed
Begich	Heinrich	Reid
Bennet	Heitkamp	Rockefeller
Blumenthal	Hirono	Sanders
Booker	Johnson (SD)	Schatz
Boxer	Kaine	Schumer
Brown	King	Shaheen
Cantwell	Klobuchar	Stabenow
Cardin	Landrieu	Tester
Carper	Leahy	Udall (CO)
Casey	Markey	Udall (NM)
Coons	McCaskill	Warner
Donnelly	Menendez	Warren
Durbin	Merkley	Whitehouse
Feinstein	Mikulski	Wyden
Franken	Murphy	
Gillibrand	Murray	

NAYS—48

Alexander	Fischer	McConnell
Ayotte	Flake	Moran
Barrasso	Graham	Murkowski
Blunt	Grassley	Paul
Boozman	Hatch	Portman
Burr	Heller	Pryor
Chambliss	Hoeven	Risch
Coats	Inhofe	Roberts
Coburn	Isakson	Rubio
Cochran	Johanns	Scott
Collins	Johnson (WI)	Sessions
Corker	Kirk	Shelby
Cornyn	Lee	Thune
Crapo	Levin	Toomey
Cruz	Manchin	Vitter
Enzi	McCain	Wicker

The PRESIDENT pro tempore. The Senate sustains the decision of the Chair.

The majority leader.

Mr. REID. Mr. President, what is the pending question before the Senate?

CLOTURE MOTION

The PRESIDENT pro tempore. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Patricia Ann Millett, of Virginia, to be United States Circuit Judge for the District of Columbia.

Harry Reid, Patrick J. Leahy, Richard J. Durbin, John D. Rockefeller IV, Benjamin L. Cardin, Jon Tester, Sheldon Whitehouse, Mark R. Warner, Patty Murray, Mazie K. Hirono, Angus S. King, Jr., Barbara Boxer, Jeanne Shaheen, Robert Menendez, Bill Nelson, Debbie Stabenow, Richard Blumenthal.

The PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Patricia Ann Millett, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit, shall be brought to a close, upon reconsideration?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CHAMBLISS (when his name was called). Present.

Mr. HATCH (when his name was called). Present.

The yeas and nays resulted—yeas 55, nays 43, as follows:

[Rollcall Vote No. 244 Ex.]

YEAS—55

Baldwin	Harkin	Nelson
Baucus	Heinrich	Pryor
Begich	Heitkamp	Reed
Bennet	Hirono	Reid
Blumenthal	Johnson (SD)	Rockefeller
Booker	Kaine	Sanders
Boxer	King	Schatz
Brown	Klobuchar	Schumer
Cantwell	Landrieu	Shaheen
Cardin	Leahy	Stabenow
Carper	Levin	Tester
Casey	Manchin	Udall (CO)
Coons	Markey	Udall (NM)
Donnelly	McCaskill	Warner
Durbin	Menendez	Warren
Feinstein	Merkley	Whitehouse
Franken	Mikulski	Wyden
Gillibrand	Murphy	
Hagan	Murray	

NAYS—43

Alexander	Fischer	Murkowski
Ayotte	Flake	Paul
Barrasso	Graham	Portman
Blunt	Grassley	Risch
Boozman	Heller	Roberts
Burr	Hoeven	Rubio
Coats	Inhofe	Scott
Coburn	Isakson	Sessions
Cochran	Johanns	Shelby
Collins	Johnson (WI)	Thune
Corker	Kirk	Toomey
Cornyn	Lee	Vitter
Crapo	McCain	Wicker
Cruz	McConnell	
Enzi	Moran	

ANSWERED ''PRESENT''—2

Chambliss	Hatch

The PRESIDENT pro tempore. Upon reconsideration, the motion is agreed to.

EXECUTIVE SESSION

NOMINATION OF PATRICIA ANN MILLETT TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT—Resumed

The PRESIDENT pro tempore. The Senator from Iowa.