and director of OYE, Inc., a nonprofit educational and cultural program for Hispanic youth. Before he founded La Casa, he was the northern regional representative for the Puerto Rican Congress of New Jersey. A graduate of the school of social work at Rutgers University, Ramon Rivera has devoted more than 30 years of his career to helping low-income families help themselves.

Ramon Rivera created an island of hope in a community that lacked access to opportunities and equity. He developed a vibrant social service organization that has served almost two generations of New Jersey residents. While his retirement will be a great loss for those who have worked with him and for those he has served, he has left an exemplary legacy of philanthropic effort and commitment.

CONCLUSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I believe, after consultation with both sides of the aisle, we are prepared now to yield back the remainder of our time of the 1 hour and 20 minutes we had.

The PRESIDING OFFICER. The Senator has that right and morning business is concluded.

AMENDING PARAGRAPH 2 OF RULE XXV

The PRESIDING OFFICER. The clerk will now report the pending business.

The legislative clerk read as follows:

A resolution (S. Res. 14) amending paragraph 2 of Rule XXV.

The Senate continued with the consideration of the resolution.

AMENDMENT NO. 1

(Purpose: To amend the Standing Rules of the Senate to permit cloture to be invoked by a decreasing majority vote of Senators down to a majority of all Senators duly chosen and sworn)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] for himself, Mr. LIEBERMAN, Mr. PELL, and Mr. ROBB, proposes an amendment numbered 1.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. SENATE CLOTURE PROVISION.

Paragraph 2 of rule XXII of the Standing Rules of the Senate is amended to read as follows:

''2. (a) Notwithstanding the provisions of rule II or rule IV or any other rule of the Senate, at any time a motion signed by sixteen Senators, to bring to a close the debate upon any measure, motion, other matter pending before the Senate, or the unfinished business, is presented to the Senate, the Presiding Officer, or clerk at the direction of the Presiding Officer, shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the clerk call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question: ''Is it the sense of the Senate that the debate shall be brought to a close?'' And if that question shall be decided in the affirmative by three-fifths of the Senators duly chosen and sworn—except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting—then said measure, motion, or other matter pending before the Senate, or the unfinished business, shall be the unfinished business to the exclusion of all other business until disposed of.

''Thereafter no Senator shall be entitled to speak in all more than one hour on the measure, motion, or other matter pending before the Senate, or the unfinished business, the amendments thereto, and motions affecting the same, and it shall be the duty of the Presiding Officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be proposed after the vote to bring the debate to a close, unless it had been submitted in writing to the Journal Clerk by 1 o'clock p.m. on the day following the filing of the cloture motion if an amendment in the first degree, and unless it had been so submitted at least one hour prior to the beginning of the cloture vote if an amendment in the second degree. No dilatory motion, or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the Presiding Officer, shall be decided without debate.

''After no more than thirty hours of consideration of the measure, motion, or other matter on which cloture has been invoked, the Senate shall proceed, without any further debate on any question, to vote on the final disposition thereof to the exclusion of all amendments not then actually pending before the Senate at that time and to the exclusion of all motions, except a motion to table, or to reconsider and one quorum call on demand to establish the presence of a quorum (and motions required to establish a quorum) immediately before the final vote begins. The thirty hours may be increased by the adoption of a motion, decided without debate, by a three-fifths affirmative vote of the Senators duly chosen and sworn, and any such time thus agreed upon shall be equally divided between and controlled by the Majority and Minority Leaders or their designees. However, only one motion to extend time, specified above, may be made in any one calendar day.

''If, for any reason, a measure or matter is reprinted after cloture has been invoked, amendments which were in order prior to the reprinting of the measure or matter will continue to be in order and may be conformed and reprinted at the request of the amendment's sponsor. The conforming changes must be limited to lineation and pagination.

''No Senator shall call up more than two amendments until every other Senator shall have had the opportunity to do likewise.

''Notwithstanding other provisions of this rule, a Senator may yield all or part of his one hour to the majority or minority floor managers of the measure, motion, or matter or to the Majority or Minority Leader, but each Senator specified shall not have more than two hours so yielded to him and may in turn yield such time to other Senators.

''Notwithstanding any other provision of this rule, any Senator who has not used or yielded at least ten minutes, is, if he seeks recognition, guaranteed up to ten minutes, inclusive, to speak only.

''After cloture is invoked, the reading of any amendment, including House amendments, shall be dispensed with when the proposed amendment has been identified and has been available in printed form at the desk of the Members for not less than twenty-four hours.

''(b)(1) If, upon a vote taken on a motion presented pursuant to subparagraph (a), the Senate fails to invoke cloture with respect to a measure, motion, or other matter pending before the Senate, or the unfinished business, subsequent motions to bring debate to a close may be made with respect to the same measure, motion, matter, or unfinished business. It shall not be in order to file subsequent cloture motions on any measure, motion, or other matter pending before the Senate, except by unanimous consent, until the previous motion has been disposed of.

''(2) Such subsequent motions shall be made in the manner provided by, and subject to the provisions of, subparagraph (a), except that the affirmative vote required to bring to a close debate upon that measure, motion, or other matter, or unfinished business (other than a measure or motion to amend Senate rules) shall be reduced by three votes on the second such motion, and by three additional votes on each succeeding motion, until the affirmative vote is reduced to a number equal to or less than an affirmative vote of a majority of the Senators duly chosen and sworn. The required vote shall then be an affirmative vote of a majority of the Senators duly chosen and sworn. The requirement of an affirmative vote of a majority of the Senators duly chosen and sworn shall not be further reduced upon any vote taken on any later motion made pursuant to this subparagraph with respect to that measure, motion, matter, or unfinished business.''

Mr. HARKIN. Mr. President, for the benefit of the Senators who are here and watching on the monitors, we now have before us an amendment by myself, Senator LIEBERMAN, Senator PELL, and Senator ROBB that would amend rule XXII, the so-called filibuster rule of the U.S. Senate. This is an amendment that was agreed upon—at least the procedure was agreed upon for this amendment—between Senator DOLE and myself earlier today under a unanimous consent agreement.

This amendment would change the way this Senate operates more fundamentally than anything that has been proposed thus far this year. It would fundamentally change the way we do business by changing the filibuster rule as it currently stands.

Mr. President, the last Congress showed us the destructive impact filibusters can have on the legislative process, provoking gridlock after gridlock, frustration, anger, and despondency among the American people, wondering whether we can get anything done at all here in Washington. The pattern of filibusters and delays that we saw in the last Congress is part of the rising tide of filibusters that have overwhelmed our legislative process.

While some may gloat and glory in the frustration and anger that the American people felt toward our institution which resulted in the tidal wave of dissatisfaction that struck the majority in Congress, I believe in the long run that it will harm the Senate and our Nation for this pattern to continue. As this chart shows, Mr. President, there has indeed been a rising tide in the use of the filibuster. In the last two Congresses, in 1987 to 1990, and 1991 to 1994, there have been twice as many filibusters per year as there were the last time the Republicans controlled the Senate, from 1981 to 1986, and 10 times as many as occurred between 1917 and 1960. Between 1917 and 1960, there were an average of 1.3 per session. However, in the last Congress, there were 10 times that many. This is not healthy for our legislative process and it is not healthy for our country.

The second chart I have here compares filibusters in the entire 19th century and in the last Congress. We had twice as many filibusters in the 103d Congress as we had in the entire 100 years of the 19th century.

Clearly, this is a process that is out of control. We need to change the rules. We need to change the rules, however, without harming the longstanding Senate tradition of extended debate and deliberation, and slowing things down.

The third chart I have here shows the issues that were subject to filibusters in the last Congress. Some of these were merely delayed by filibusters. Others were killed outright, despite having the majority of both bodies and the President in favor of them. That is right. Some of these measures had a majority of support in the Senate and in the House, and by the President. Yet, they never saw the light of day. Others simply were perfunctory housekeeping types of issues.

For example, one might understand why someone would filibuster the Brady Handgun Act. There were people that felt very strongly opposed to that. I can understand that being slowed down, and having extended debate on it. Can you say that about the J. Larry Lawrence nomination? I happen to be a personal friend of Mr. Lawrence. He is now our Ambassador to Switzerland, an important post. He was nominated to be Ambassador there, and he came through the committee fine. Yet, his nomination was the subject of a filibuster. Or there was the Edward P. Berry, Jr., nomination. There was the Claude Bolton nomination. You get my point.

We had nominations that were filibustered. This was almost unheard of in our past. We filibustered the nomination of a person that actually came through the committee process and was approved by the committee, and it was filibustered here on the Senate floor.

Actually, Senators use these nominations as a lever for power. If one Senator has an issue where he or she wants something done, it is very easy. All a Senator needs to do is filibuster a nomination. Then the majority leader or the minority leader has to come to the Senator and say, ''Would you release your hold on that, give up your filibuster on that?''

''OK,'' the Senator will reply. ''What do you want in return?''

Then the deals are struck.

It is used, Mr. President, as blackmail for one Senator to get his or her way on something that they could not rightfully win through the normal processes. I am not accusing any one party of this. It happens on both sides of the aisle.

Mr. President, I believe each Senator needs to give up a little of our pride, a little of our prerogatives, and a little of our power for the good of this Senate and for the good of this country. Let me repeat that: Each Senator, I believe, has to give up a little of our pride, a little of our prerogatives, and a little of our power for the better functioning of this body and for the good of our country.

I think the voters of this country were turned off by the constant bickering, the arguing back and forth that goes on in this Senate Chamber, the gridlock that ensued here, and the pointing of fingers of blame.

Sometimes, in the fog of debate, like the fog of war, it is hard to determine who is responsible for slowing something down. It is like the shifting sand. People hide behind the filibuster. I think it is time to let the voters know that we heard their message in the last election. They did not send us here to bicker and to argue, to point fingers. They want us to get things done to address the concerns facing this country. They want us to reform this place. They want this place to operate a little better, a little more openly, and a little more decisively.

Mr. President, I believe this Senate should embrace the vision of this body that our Founding Fathers had. There is a story—I am not certain whether it is true or not, but it is a nice story—that Thomas Jefferson returned from France, where he had learned that the Constitutional Convention had set up a separate body called the U.S. Senate, with its Members appointed by the legislatures and not subject to a popular vote. Jefferson was quite upset about this. He asked George Washington why this was done. Evidently, they were sitting at a breakfast table. Washington said to him, ''Well, why did you pour your coffee in the saucer?'' And Jefferson replied, ''Why, to cool it, of course.'' Washington replied, ''Just so: We created the Senate to cool down the legislation that may come from the House.''

I think General Washington was very wise. I think our Founding Fathers were very wise to create this body.

They had seen what had happened in Europe—violent changes, rapid changes, mob rule—so they wanted the process to slow things down, to deliberate a little more, and that is why the Senate was set up.

But George Washington did not compare the Senate to throwing the coffee pot out the window. It is just to cool it down, and slow it down.

I think that is what the Founding Fathers envisioned, and I think that is what the American people expect. That is what we ought to and should provide. The Senate should carefully consider legislation, whether it originates here, or whether it streams in like water from a fire hose from the House of Representatives, we must provide ample time for Members to speak on issues. We should not move to the limited debate that characterizes the House of Representatives. I am not suggesting that we do that. But in the end, the people of our country are entitled to know where we stand and how we vote on the merits of a bill or an amendment.

Some argue that any supermajority requirement is unconstitutional, other than those specified in the Constitution itself. I find much in this theory to agree with—and I think we should treat all the rules that would limit the ability of a majority to rule with skepticism. I think that this theory is one that we ought to examine more fully, and that is the idea that the Constitution of the United States sets up certain specified instances in which a supermajority is needed to pass the bill, and in all other cases it is silent. In fact, the Constitution provides that the President of the Senate, the Vice President of the United States, can only vote to break a tie vote—by implication, meaning that the Senate should pass legislation by a majority vote, except in those instances in which the Constitution specifically says that we need a supermajority.

The distinguished constitutional expert, Lloyd Cutler, a distinguished lawyer, has been a leading proponent of this view. I have not made up my mind on this theory, but I do believe it is something we ought to further examine. I find a lot that I agree with in that theory.

But what we are getting at here is a different procedure and process, whereby we can have the Senate as the Founding Fathers envisioned—a place to cool down, slow down, deliberate and discuss, but not as a place where a handful—yes, maybe even one Senator—can totally stop legislation or a nomination.

Over the last couple of years, I have spent a great deal of time reading the history of this cloture process. Two years ago, about this time, I first proposed this to my fellow Democratic colleagues at a retreat we had in Williamsburg, VA. In May of that year, I proposed this to the Joint Committee on Congressional Reform. Some people said to me at that time: Senator HARKIN, of course you are proposing it, you are in the majority, you want to get rid of the filibuster. Well, now I am in the minority and I am still proposing it

because I think it is the right thing to do.

Let me take some time to discuss the history of cloture and the limitations on debate in the Senate. Prior to 1917 there was no mechanism to shut off debate in the Senate. There was an early version in 1789 of what was called the ''previous question.'' It was used more like a tabling motion than as a method to close debate.

In the 19th century, Mr. President, elections were held in November and Congress met in December. This Congress was always a lame duck session, which ended in March of the next year. The newly elected members did not take office until the following December, almost 13 months later. During the entire 19th century, there were filibusters. But most of these were aimed at delaying congressional action at the end of the short session that ended March 4. A filibuster during the 19th century was used at the end of a session when the majority would try to ram something through at the end, over the objections of the minority. Extended debate was used to extend debate to March 4, when under the law at that time, it automatically died.

If the majority tried to ram something through in the closing hours, the minority would discuss it and hold it up until March 4, and that was the end of it. That process was changed. Rather than going into an automatic lame-duck session in December, we now convene a new Congress in January with the new Members. I think this is illustrative that the filibuster used in the 19th century was entirely different in concept and in form than what we now experience here in the U.S. Senate.

So those who argue that the filibuster in the U.S. Senate today is a time-honored tradition of the U.S. Senate going clear back to 1789 are mistaken, because the use of the filibuster in the 19th century was entirely different than what it is being used for today, and it was used in a different set of laws and circumstances under which Congress met.

So that brings us up to the 20th century. In 1917, the first cloture rule was introduced in response to a filibuster, again, at the end of a session that triggered a special session. This cloture rule provided for two-thirds of Members present and voting to cut off debate. It was the first time since the first Congress met that the Senate adopted a cloture rule in 1917. However, this cloture rule was found to be ineffective and was rarely used. Why? Because rulings of the chair said that the cloture rule did not apply to procedural matters. So, if someone wanted to engage in a filibuster, they could simply bring up a procedural matter and filibuster that, and the two-thirds vote did not even apply to that. For a number of years, from 1917 until 1949, we had that situation.

In 1949 an attempt was made to make the cloture motion more effective. The 1949 rule applied the cloture rule to procedural matters. It closed that loophole but did not apply to rules changes. It also raised the needed vote from two-thirds present and voting to two-thirds of the whole Senate, which at that time meant 64 votes. That rule existed for 10 years.

In 1959, Lyndon Johnson pushed through a rules change to change the needed vote back to two-thirds of those present and voting, and which also applied cloture to rules changes.

There were many attempts after that to change the filibuster. In 1975, after several years of debate here in the Senate, the current rule was adopted, as a compromise proposed by Senator BYRD of West Virginia. The present cloture rule allows cloture to be invoked by three-fifths of Senators chosen and sworn, or 60 votes, except in the case of rules changes, which still require two-thirds of those present and voting.

This change in the rule reducing the proportion of votes needed for cloture for the first time since 1917, and was the culmination of many years of efforts by reformers' numerous proposals between 1959 and 1975.

Two of the proposals that were made in those intervening years I found particularly interesting. One was by Senator Hubert Humphrey in 1963, which provided for majority cloture in two stages. The other proposal I found interesting was one by Senator DOLE in 1971 that moved from the then current two-thirds present and voting down to three-fifths present and voting, reducing the number of votes by one with each successive cloture vote.

We drew upon Senator DOLE's proposal in developing our own proposal. Our proposal would reduce the number of votes needed to invoke cloture gradually, allowing time for debate, allowing us to slow things down, but ultimately allowing the Senate to get to the merits of a vote.

Under our proposal, the amendment now before the Senate, Senators still have to get 16 signatures to offer a cloture motion. The motion would still have to lay over 2 days. The first vote to invoke cloture would require 60 votes. If that vote did not succeed, they could file another cloture motion needing 16 signatures. They would have to wait at least 2 further days. On the next vote, they would need 57 votes to invoke cloture. If you did not get that, well, you would have to get 16 signatures, file another cloture motion, wait another couple days, and then you would have to have 54 votes. Finally, the same procedure could be repeated, and move to a cloture vote of 51. Finally, a simple majority vote could close debate, to get to the merits of the issue.

By allowing this slow ratchet down, the minority would have the opportunity to debate, focus public attention on a bill, and communicate their case to the public. In the end, though, the majority could bring the measure to a final vote, as it generally should in a democracy.

Mr. President, in the 19th century, as I mentioned before, filibusters were used to delay action on a measure until the automatic expiration of the session.

Senators would then leave to go back to their States, or Congressmen back to their districts, and tell people about the legislation the majority was trying to ram through. They could get the public aroused about it, to put pressure on Senators not to support that measure or legislation.

Keep in mind that in those days, there was no television, there was no radio, and scant few newspapers. Many people could not read or write and the best means of communication was when a Senator went out and spoke directly with his constituents. So it was necessary to have several months where a Senator could alert the public as to what the majority was trying to do, to protect the rights and interests of the minority.

That is not the case today. Every word we say here is instantaneously beamed out on C–SPAN, watched all over the United States, and picked up on news broadcasts. We have the print media sitting up in the gallery. So the public is well aware and well informed of what is happening here in the Senate on a daily basis. We do have a need to slow the process down, but we do not need the several months that was needed in the 19th century.

So as a Member of the new minority here in the Senate, I come to this issue as a clear matter of good public policy. I am pleased to say that it is a change that enjoys overwhelming support among the American people.

A recent poll conducted by Action Not Gridlock—and I will have more to say about them in a second—found that 80 percent of Independents, 84 percent of Democrats, and 79 percent of Republicans believe that once all Senators have been able to express their views, the Senate should be permitted to vote for or against a bill.

As I mentioned, Mr. President, this poll was commissioned by a group called Action Not Gridlock, a broad array of distinguished Democratic and Republican leaders around the country formed to change the filibuster rule. These leaders include former Republican Senators Mac Mathias, Barry Goldwater, and Bob Stafford, as well as former Iowa Governor Bob Ray and former Secretary of HHS Arthur Flemming, all Republicans, as well as Democrats former Senator Bill Proxmire, former Senator Terry Sanford, and Ray Marshall. Action Not Gridlock has also formed a number of chapters around the country working to end the gridlock in Washington.

In my own State of Iowa, there is a truly impressive bipartisan group working on this issue. It includes Michael Reagan, president of the Des Moines Chamber of Commerce; Republican majority leader of the Iowa House, Brent Siegrest; Abbi Swanson, president of the League of Women Vot-

ers of Iowa; and former Democratic Congressman Berkeley Bedell.

So, again, as you see, Mr. President, Action Not Gridlock has a broad array of Republicans, Democrats, and Independents.

Well, slaying the filibuster dinosaur—and that is what I call it, a dinosaur, a relic of the ancient past—slaying the filibuster dinosaur has also been endorsed by papers around the country, including the New York Times, which just editorialized on this last Sunday; the USA Today; the Washington Post; the Fort Worth Star-Telegram; in my own State, the Des Moines Register, the Cedar Gazette, the Quad-City Times, and the Council Bluffs Non-Pareil.

Mr. President, I ask unanimous consent that those editorials that I just mentioned be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DOWN WITH THE FILIBUSTER

One of the mandates voters gave to Republicans on Nov. 8 was to reform the way Congress operates. There's no better place to begin than with the Senate filibuster.

The filibuster allows a minority to block passage of any bill unless a supermajority of 60 votes in the 100-member Senate can be mustered to overcome it. Republicans used the filibuster liberally in the last few years to tie the majority Democrats in knots.

Next year, with Republicans in the majority, Democrats will be in a position to return the favor. Nevertheless, Iowa Democratic Senator Tom Harkin is right in saying that the Democrats should resist the temptation to ''do unto the Republicans what they did unto us.''

Instead, Harkin is urging that the filibuster be tempered. Reform-minded members of both parties should join Harkin's effort. There may have been some justification for the filibuster in its quaint original form, but the modern version of the filibuster has become nothing more than a cost-free device that lets a willful minority thwart the will of the majority, or hold legislation hostage to extort concessions.

The filibuster evolved from the Senate's tradition of unlimited debate. To carry out a filibuster, opponents of a bill had to try, literally, to talk it to death. Those engaged in a filibuster had to be prepared to keep talking around the clock. It required determination and stamina, and the filibustering senators risked arousing the public's anger at their obstructionism. As a result, filibusters were rare.

In recent years, the Senate adopted rules intended to curb filibusters. They ended up having precisely the opposite effect. Filibusters became an everyday tactic. By one count, there were twice as many filibusters in the last two years of Congress than during the entire 19th century.

The new rules established a ''two-track'' procedure that allows the Senate to continue with other business while a filibuster is under way. All action does not grind to a halt, as it did previously.

The two-track rule made filibusters much easier to use. Stamina is no longer required. Now, all the minority need do is declare its intention to filibuster, and the Senate switches to other businesses. In most cases, the mere threat of a filibuster does the trick. The bill is sidetracked until the majority finds 60 votes.

The modern filibuster gives the minority an absolute veto. It is, quite simply, undemocratic.

Defenders of the filibuster have argued that it is useful in preventing precipitous action. Harkin's proposal addresses that argument by allowing filibusters to delay action, but not stop it completely. Under his plan, the number of votes required to end a filibuster would gradually decline over a period of weeks until, eventually, only 51 votes would be needed.

A truer reform would be to abolish the undemocratic anachronism outright. Harkin's proposal is quite modest. There should be no reasonable objection to it.

[From the Fort Worth Star-Telegram, June 30, 1994]

If you started out to formulate the rules for a legislative body in a new democracy, the last example you would follow would be that of the U.S. Senate.

Things have gotten so bad in the Senate that there is a growing movement to change the rules about unlimited debate—the filibusters that prevent action on legislation.

If extended debate were really used to examine issues and change senators' minds by force of powerful reason, there would be a case for keeping the present rules. But in truth, the Senate's rules are being used to thwart the principle of majority rule and to further individual or partisan political interests to the detriment of the legislative process.

To be sure, changing the cloture rule (which requires 60 votes to end debate and means that a 41-senator minority can effectively shut down the Senate) would not be a cure-all. Republicans this year have perfected the tactic of offering endless amendments to unrelated bills as a means of delaying legislative progress. But tempering the effect of the filibuster would help.

The fate of the western grazing lands fee change was an example of the filibuster at work. In the Congress as a whole, 373 votes out of 535 (70 percent) were in favor, but the majority lost because 44 senators prevented cloture.

This week, a 13-year effort to change product liability laws failed because of a filibuster, just as it had in 1986 and 1992. The 41 senators voting against cloture included archconservatives (Alan Simpson, R-Wyo., Thad Cochran, R-Miss., and Strom Thurmond, R-S.C.) and archliberals (Paul Wellstone, D-Minn., Harris Wofford, D-Pa., and Ben Nighthorse Campbell, D-Colo.) and some in between (such as Bill Bradley, D-N.J., and John Breaux, D-La.). It was a good bill, one that would mean more jobs without sacrificing legitimate consumer interests. Much of the opposition came from trial lawyers. In the end, 57 senators voted for it. Forty-one opponents were enough to kill it. Is that democracy?

The Senate has reached the point where the mere threat of a filibuster can bring the body's work to a screeching halt.

Sen. Tom Harkin, D-Iowa, has suggested a four-vote process that would break this impasses. On the first cloture vote, 60 votes would be needed to end debate, as now. On the next vote, 57 would be required; on the third, 54, and on the fourth, only a 51-vote majority. This would preserve Senate tradition and give the minority plenty of time to plead its case, without allowing a majority to be forever thwarted. Sounds good to us.

Now into the fray comes Action, Not Gridlock!, an anti-filibuster group dedicated to changing the Senate rules. It is led by a bipartisan group of former senators, representatives and other government officials. What they share is believe in majority rule. We wish them godspeed.

[From USA Today, Nov. 25, 1994]

REIN IN THE POWER TO SHUT DOWN THE SENATE

In 1908, Sen. Robert M. La Follette Sr. of Wisconsin was in the middle of a filibuster when he discovered the eggnog he was drinking for energy had been poisoned. La Follette survived. So did the filibuster.

Indeed, the filibuster today is more poisonous than La Follette ever could have imagined. Instead of providing a dramatic final forum for individuals against a stampeding majority, it has become a pedestrian tool of partisans and gridlock-meisters.

Since 1990, the Senate has averaged at least 15 filibusters a year, more than in all the 140 years before. In 1994 alone, filibusters were used to weaken or kill legislation ranging from lobbying and campaign finance reform to clean water.

You need not be a bow-tied parliamentarian to see the problem. The filibuster allows single lawmakers to derail the Senate's majority—easily, arbitrarily. If the Senate is to honor its deliberative tradition, it must restrain the filibuster.

The modern filibuster vexes Congress two ways. First, opponents must find 60 votes to break it. That's called cloture, and it's almost impossible to achieve. In 1987, only one of 15 votes succeeded—on a proposal for a $12,000 congressional pay raise.

Second, the mere threat of a filibuster is enough to sidetrack a bill. Instead of requiring filibusters to take the floor, Senate leaders just move on to the next issue.

The 60-vote requirement means, in effect, that all legislation must have a supermajority to pass. Yet the Constitution requires supermajorities in only five areas: treaty ratification, presidential veto overrides, impeachment votes, constitutional amendments, and to expel a member of Congress. The framers, who never foresaw the filibuster's abuse, considered supermajorities for other matters and rejected them.

They protected against tyrannical majorities in other ways: by dividing government power among three branches, by splitting Congress into two parts, by guaranteeing basic rights in the Constitution.

Those are ample safeguards. The filibuster, on the other hand, lets a lone lawmaker impose his will, not just amplify his voice.

Solutions? Several.

First, make a filibusterer put his body where his mouth is. Sen. Strom Thurmond prepared for his record-setting 24-hour, 18-minute speech against the 1957 Civil Rights Act by visiting a steam room, hoping to diminish the call of nature once on the floor. Sen. Estes Kefauver strapped on a motorman's friend for his 1950 filibuster. The device was misaligned, though, and only a timely quorum call prevented him from making the wrong kind of splash.

The point is that old-time filibusterers had to have the courage of their convictions. The rigors of floor debate were not undertaken lightly.

Such was the case even when filibusterers formed talking tag teams. In 1960, 18 Southern lawmakers formed two-man partnerships to hold the floor against civil rights legislation. After 157 hours—the Senate's longest continuous session—they prevailed. That was not a proud moment in national lawmaking, but at least the racists were accountable, something today's fiddle-footed rules make unnecessary.

More recently, the government this year had to sell billions of dollars' worth of American gold to a Canadian firm for just $10,000 because filibusterers prevented reform of an 1872 mining law.

Sen. Tom Harkin this week has revived another idea: Gradually lower the number of

votes needed for cloture. The first vote would still require 60 ''ayes.'' But subsequent votes would require 57, then 54, then 51. This could preserve both the dramatic effect of a filibuster and majority rule.

The filibuster is a supervirus in the Senate. It causes massive hemorrhaging of majority rule and the orderly process of legislating. If Senate leaders don't cure themselves soon, they might as well ask La Follett's ghost to, please, pass the eggnog.

[From the New York Times, Jan. 1, 1995]

TIME TO RETIRE THE FILIBUSTER

The U.S. Senate likes to call itself the world's greatest deliberative body. The greatest obstructive body is more like it. In the last season of Congress, the Republican minority invoked an endless string of filibusters to frustrate the will of the majority. This relentless abuse of a time-honored Senate tradition so disgusted Senator Tom Harkin, a Democrat from Iowa, that he is now willing to forgo easy retribution and drastically limit the filibuster. Hooray for him.

For years Senate filibusters—when they weren't conjuring up romantic images of Jimmy Stewart as Mr. Smith, passing out from exhaustion on the Senate floor—consisted mainly of negative feats of endurance. Senator Sam Ervin once spoke for 22 hours straight. Outrage over these tactics and their ability to bring Senate business to a halt led to the current so-called two-track system, whereby a senator can hold up one piece of legislation while other business goes on as usual.

The two-track system has been nearly as obstructive as the old rules. Under those rules, if the Senate could not muster the 60 votes necessary to end debate and bring a bill to a vote, someone had to be willing to continue the debate, in person, on the floor. That is no longer required. Even if the 60 votes are not achieved, debate stops and the Senate proceeds with other business. The measure is simply put on hold until the next cloture vote. In this way a bill can be stymied at any number of points along its legislative journey.

One unpleasant and unforeseen consequence has been to make the filibuster easy to invoke and painless to pursue. Once a rarely used tactic reserved for issues on which senators held passionate convictions, the filibuster has become the tool of the sore loser, dooming any measure that cannot command the 60 required votes.

Mr. Harkin, along with Senator Joseph Lieberman, a Connecticut Democrat, now proposes to make such obstruction harder. Mr. Harkin says reasonably that there must come a point in the process where the majority rules. This may not sit well with some of his Democratic colleagues. They are now perfectly positioned to exact revenge by frustrating the Republican agenda as efficiently as Republicans frustrated Democrats in 1994.

Admirably, Mr. Harkin says he does not want to do that. He proposes to change the rules so that if a vote for cloture fails to attract the necessary 60 votes, the number of votes needed to close off debate would be reduced by three in each subsequent vote. By the time the measure came to a fourth vote—with votes occurring no more frequently than every second day—cloture could be invoked with only a simple majority. Under the Harkin plan, minority members who feel passionately about a given measure could still hold it up, but not indefinitely.

Another set of reforms, more incremental but also useful, is proposed by George Mitchell, who is retiring as the Democratic majority leader. He wants to eat away at some of the more annoying kinds of brakes that can be applied to a measure along its legislative journey.

One example is the procedure for sending a measure to a conference committee with the House. Under current rules, unless the Senate consents unanimously to send a measure to conference, three separate motions can be required to move it along. This gives one senator the power to hold up a measure almost indefinitely. Mr. Mitchell would like to reduce the number of motions to one.

He would also like to limit the debate on a motion to two hours and count the time consumed by quorum calls against the debate time of a senator, thus encouraging senators to save their time for debating the substance of a measure rather than in obstruction. All of his suggestions seem reasonable, but his reforms would leave the filibuster essentially intact.

The Harkin plan, along with some of Mr. Mitchell's proposals, would go a long way toward making the Senate a more productive place to conduct the nation's business. Republicans surely dread the kind of obstructionism they themselves practiced during the last Congress. Now is the perfect moment for them to unite with like-minded Democrats to get rid of an archaic rule that frustrates democracy and serves no useful purpose.

[From the Washington Post, Nov. 23, 1994]

THE GORED OXEN

One of the most comical aspects of politics concerns how high principles about procedural fairness can evaporate when circumstances change. There could be much such comedy in the new Congress as Democrats and Republicans change roles.

In the House, Newt Gingrich's Republicans have assembled a series of reform measures that grew from their experience as frustrated members of what seemed a permanent opposition. They rightly criticized Democratic House leaders for closing off Republican amendments to important bills. Now Mr. Gingrich pledges to change that, even though doing so would let the now-minority Democrats challenge the most unpopular of the Republican majority's proposals. Republicans have also long been in favor of the line-item veto, which would let the president excise particular parts of spending bills he found offensive. Republicans liked this when the Democrats in Congress were responsible for writing the spending bills, since they presumed that Republican presidents would cut out what Republicans saw as ''pork.'' Now the line-item veto would empower a Democratic president facing a Republican Congress.

In the Senate, the problem is different. Senate rules permit essentially unlimited debate. It takes 60 votes to shut the talking down. That means 41 senators can block a bill and frustrate the will of even an overwhelming majority. In the last Congress, the Democrats were critical of Republican abuse of the filibuster. But now the procedural shoe is on the other foot. It's the Democratic minority that is likely to want to block many Republican measures. Will Democrats keep saying the filibuster is a bad thing? To his credit, one Democrat, Sen. Tom Harkin of Iowa, has done so. He proposes that the two parties agree to new rules. Mr. Harkin would still let the minority slow down consideration of controversial measures, but he doesn't think the minority should ultimately frustrate the majority's will.

It is not even necessary to get to the question of whether the filibuster rule itself should be eliminated to believe that there has been too much abuse of the filibuster in the Senate. The same can be said of the closed rule in the House. We hope Mr. Gingrich sticks to his promise of opening up the House, even if that might sometimes inconvenience his party. Similarly in the Senate, we hope both parties can find a more reasonable accommodation between minority rights and majority rule. Going to the brink every time, on every issue, is not the way a democracy is supposed to work.

HARKIN EARNS BOUQUET, BRICKBAT

We have a bouquet and a brickbat for Iowa's Democratic Sen. Tom Harkin.

The bouquet is for advocating limits on the filibuster, a technique used by the minority party in the U.S. Senate to thwart the will of the majority.

The brickbat is for his lukewarm support for the General Agreement on Tariffs and Trade.

Harkin is calling for revision of the filibuster rules that would provide a means for the minority to slow down legislation and allow fuller debate, but at the same time it places limits on the delaying tactic.

Under Harkin's plan, 60 votes would be necessary in the first attempt to halt a filibuster debate.

The second attempt would require only 57 votes. The number would continue to drop on each successive vote until only a simple majority was needed.

Currently, a single senator can tie up legislation endlessly, which Harkin says adds to the deadlock.

Harkin's plan would limit the delay to a maximum of about three weeks.

As American politics becomes more contentious, the filibuster is being used increasingly. But Harkin says there is less need for it.

In the last century when communication was slower, senators felt the need to stall for long periods to allow their objections to reach constituents.

In these days of almost instant communication, voters and others can be alerted to problems in a matter of hours.

We believe the senator is on track and should pursue his efforts. Continuing the current processes is simply obstructionism, whether by Republicans or Democrats.

We are less enthusiastic about the senator's doubts concerning GATT.

Unfortunately, these seem to be based on some vague concerns about ill-defined political horse trading that may be under way by supporters to ensure passage of the measure through the Senate.

Passage in the House seems a surer bet with the strong support voiced by Speaker-designate Newt Gingrich. Gingrich seems to understand the obvious advantages for the U.S. economy and the need for a workable free trade mechanism.

We get the feeling that Harkin may not be sure which direction the political winds are blowing in Iowa, and wants more time to determine the level of support for GATT.

He admits that he will likely face stiff competition for his Senate seat in two years. Given the Republican landslide in Iowa, political caution may become increasingly important for Harkin.

However, we do not believe this is a Republican vs. Democrat issue. Passage of GATT is needed to make sure the United States is a major player in the world.

The death of GATT, which a delay very seriously threatens, could throw orderly world trade into chaos and possibly lead to the emergence of regional trading blocks with barriers against U.S. products.

The impact on the future of the U.S. economy could be disastrous and possibly irreversible.

The argument that senators have not had time to study the GATT document is not

compelling. The agreement has been hammered out by representatives of 123 nations over the past eight years.

For a document of such magnitude and importance for open world trade, we wonder why more attention has not been paid by Harkin and others until the last weeks before the vote.

There may be flaws. No document requiring the assent of 123 countries can be perfect. Every nation had to give up some special interest.

But those flaws do not appear sufficient to warrant opposition to congressional passage.

[From Quad-City Times, Nov. 22, 1994]

HARKIN KEEPS HIS PROMISE

Two months ago, Sen. Tom Harkin of Iowa expressed dismay at the way Republicans had repeatedly blocked legislation that was supported by a majority of the Senate.

''I've been in Congress 20 years,'' he said, ''and this has been the worst year I've seen. The constant use of the filibuster, the gridlock . . . And there's a meanness, a mean spiritedness, I have never seen before.'' Harkin said he intended to introduce a bill next year that would greatly curtail the filibustering powers of the minority party.

But in the two months since making those comments, Harkin and other Democrats have become the minority party. With the Republicans now in control of the Senate, Democrats will need every weapon in the arsenal to fight the GOP agenda. So does he still see a need to revise the filibuster rule?

Yes—and his position now carries more weight because of his new status as a member of the Senate's minority party.

Today, Harkin is expected to formally announce his plans to introduce a bill that would allow the filibuster to slow, but not kill, legislation. The bill mirrors legislation once proposed by Bob Dole, and it deserves passage.

And Tom Harkin deserves credit for continuing to advocate this long-overdue change.

HARKIN'S GOOD IDEA: DEFLATING FILIBUSTER

Iowa Sen. Tom Harkin is putting his money where his mouth is.

He is no fan of the filibuster, a device used almost exclusively by minority senators to impede distasteful legislation. So he has offered legislation to create an alternative parliamentary tool.

As it stands, if 41 senators (out of the 100-member chamber) are able to stand firm, they can prevent action on an issue by applying Senate rules allowing them to filibuster. Halting the filibuster requires 60 votes. Tough to get.

Harkin and Sen. Joe Lieberman, a Connecticut Democrat, have co-sponsored a measure that still enables a minority to have its voice, but not in perpetuity.

It is a noteworthy position for minority lawmakers who potentially could lose their only real tool against a dominating majority. (It wouldn't be surprising if both are confident that their upcoming minorityhood is merely an aberration that voters will correct in 1996.) Their plan would give the minority the 60-vote cushion on the first call for cloture, dropping to 57 votes on a second call, 54 on a third and, finally, to a simple majority of 51 on a fourth cloture vote.

Our sense of the filibuster has been that it can be the only way a congressional minority might have a voice in formation of public policy. Majority parties don't have a patent on perfection, but frequently choose to ignore even reasonable suggestions from minority lawmakers. There's often not even a hint of the compromise we should expect in government.

Conceding that the process can be abused, however, perhaps the Harkin-Lieberman approach deserves a thorough hearing. Filibustering is not a constitutional right. It exists only at the pleasure of Congress. Any substitute would have a similarly tenuous existence.

Gridlock has become a buzzword characterizing Congress. Any mechanism to prevent that condition and restore the job description originally given members of Congress would be most welcome.

The anti-gridlock, anti-filibuster concept shouldn't be scrapped without closer scrutiny.

(Mr. FRIST assumed the chair.)

Mr. HARKIN. Let me just quote from a couple of these editorials, because I think it really puts things in the proper perspective.

First, let me quote from the Des Moines Register's sterling editorial of the 23d of November.

The modern filibuster gives the minority an absolute veto. It is, quite simply, undemocratic.

Defenders of the filibuster have argued that it is useful in preventing precipitous action. Harkin's proposal addresses that argument by allowing filibusters to delay action, but not stop it completely. Under his plan, the number of votes required to end a filibuster would gradually decline over a period of weeks until, eventually, only 51 votes would be needed.

A truer reform would be to abolish the undemocratic anachronism outright. Harkin's proposal is quite modest. There should be no reasonable objection to it.

And this from the Fort Worth Star Telegram, Fort Worth, TX.

If you started out to formulate the rules for a legislative body in a new democracy, the last example you would follow would be that of the U.S. Senate.

Things have gotten so bad in the Senate that there is a growing movement to change the rules about unlimited debate—the filibusters that prevent action on legislation.

If extended debate were really used to examine issues and change senators' minds by force of powerful reason, there would be a case for keeping the present rules. But in truth, the Senate's rules are being used to thwart the principle of majority rule and to further individual or partisan political interests to the detriment of the legislative process.

In truth, the Senate rules are being used to thwart the principles of majority rule and to further individual or partisan political interests to the detriment of the legislative process. And this from the USA Today. The 60-vote requirement means, in effect, all legislation must have a supermajority to pass. Yet, the Constitution requires supermajorities in only five areas: treaty ratification, Presidential veto overrides, impeachment votes, constitutional amendments, and expelling a Member of Congress.

The Framers, who never foresaw the filibuster's abuse, considered the supermajority for other matters and rejected it. They protected against tyrannical majorities in other ways by dividing Government power among three branches, by splitting Congress into two parts, and by guaranteeing basic rights in the Constitution.

The USA Today editorial ends by saying, ''The filibuster is a super virus in the Senate. It causes massive hemorrhaging of majority rule and the orderly process of legislation. If Senate leaders do not curb themselves soon, they might as well ask LaFollette's ghost to, please, pass the eggnog.'' I did not read the first part of this editorial which says that ''In 1908, Senator Robert M. LaFollette, Sr., of Wisconsin, was in the middle of a filibuster, when he discovered the eggnog he was drinking for energy had been poisoned. La Follette survived, and so did the filibuster.''

From the New York Times: ''The United States Senate likes to call itself the world's greatest deliberative body. Greatest obstructive body is more like it.''

Later they write: ''The Harkin plan, along with some of Mr. Mitchell's proposals, would go a long way toward making the Senate a more productive place to conduct the Nation's business. Republicans surely dread the kind of obstructionism they themselves practiced during the last Congress. Now is the perfect moment for them to unite with like-minded Democrats to get rid of an archaic rule that frustrates democracy and serves no useful purpose.''

Those are just some of the quotes from some of the editorials that I had asked be inserted in the RECORD. Mr. President, I think you get the idea that changing this filibuster rule has great support around the country, both from what one might call liberal newspapers to those of a more conservative bent.

Mr. President, the Members of the Senate that were sworn in today are sending us a message that we need to change. The present occupant of the chair was one of those just sworn in today. The filibuster rule is one area where change is most desperately needed, a dinosaur that has somehow survived from a previous age.

I would like to read a couple of other quotes. In 1893, then Senator Henry Cabot Lodge, Sr., from Massachusetts, was opposing a filibuster. He made this quote:

To vote without debate is perilous, but to debate and never vote is imbecile.

Here is another quote that I found in the CONGRESSIONAL RECORD of February 10, 1971:

It is one thing to provide protection against majoritarian absolutism; it is another thing again to enable a vexatious or unreasoning minority to paralyze the Senate, and America's legislative process along with it.

Senator BOB DOLE, February 10, 1971.

So I consider myself to be in reasonably good company when I say that it is time to change the filibuster rule so that we can get on with the Nation's business. I know there are those who believe very strongly we must maintain it, but as I said earlier, Mr. President, I think it is time for each of us to give up a little bit of our pride, a little bit of our privilege, a little bit of our prerogative, and a little bit of our

power for the smoother functioning of the U.S. Senate and for the good of this country.

By passing this amendment, we can take a giant step forward toward restoring the faith of the American people in their Government. We can tell the American people that we got their message that they want action and not gridlock. We can say that the time for change is now. And we can greatly improve the workings and productivity of the Senate.

There will be many packages introduced to reform Congress. I think the House is even now debating reforms in their body. There will be reforms suggested here—gift-ban laws, lobbying disclosure laws—making Congress live by the same laws and regulations by which businesses live. These are good laws and good reforms.

But Mr. President, there is no reform more important to this country and to this body than slaying the dinosaur called the filibuster. We need to change it so that we can really get back to what our Founding Fathers envisioned—a process whereby the minority can slow things down, debate them, but not kill things outright. Give the minority that protection.

As the USA Today editorial pointed out, there are other ways the Framers protected against majoritarian absolutism—separate branches and powers, and the basic rights guaranteed by the Constitution.

So, Mr. President, I submit that many of the reforms that will be offered here in the Senate in these opening days are very good. I intend to support many if not all of them. But if we do not change the way the filibuster operates here in the Senate, then I do not think that we heard the message that the American people sent to us.

With that, I see my colleague, Senator LIEBERMAN, a cosponsor of the amendment, on the floor. Mr. President, I yield the floor at this time.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, thank you.

I am very proud to join with my colleague from Iowa in cosponsoring and supporting this amendment. A new day has dawned here on Capitol Hill today. A new majority has come to power; but, hopefully, more than a new majority—a new sense of responsiveness to the public, a new understanding of what it means to do the public's business here in Congress, and a new openness to looking at some parts of the operation in Congress which we have previously either not questioned or felt it was inappropriate to question.

I must say that over the last couple of years, as I watched the filibuster being used and, I think, in my respectful opinion, ultimately misused and overused, it seems to me that what had originally appeared to be a reasonable idea was being put to very unreasonable use.

Therefore, I promised myself that if I was fortunate enough to be reelected by the people of Connecticut to return for the 104th Congress, I would do what I could to try to change this filibuster rule, which I am afraid has come to be a means of frustrating the will of a majority to do the public's business and respond to the public's needs. And so when I heard that Senator HARKIN had put this program and plan together, I called him and I said, ''My distinguished colleague and friend, I admire you for what you are doing.'' There are those who undoubtedly will think this is a quixotic effort, that it is a kind of romantic but unfeasible effort.

It is important now to make this effort to show that we have heard the message and that we are prepared to not only shake up the Federal Government but shake up the Congress. And not just for the sake of shaking it up, but because of a fundamental principle that is basic to our democracy, that is deep into the deliberations of the Framers of our Constitution and appears throughout the Federalist Papers, which is rule of the majority in the legislative body. It is this majority rule has been frustrated by the existing filibuster rule. So I am privileged to join as a cosponsor with my colleague from Iowa in this effort.

Mr. President, whenever I explain to my constituents at home in Connecticut that a minority of Senators can by a mere threat of a filibuster—not even by the continuous debate, but by a mere threat of a filibuster—kill a bill on the Senate floor, they are incredulous. When I tell them that now as a matter of course a Senator needs to obtain 60 votes in order to pass a bill to which there is opposition, frankly, the folks back home are suspicious.

When I explain how often the threat of a filibuster has been used to tie the Senate in knots and kill legislation that is actually favored by a majority of Senators—and the filibuster was used more times last year than in the first 108 years of the Senate combined—well, the folks back home honestly think I am exaggerating. Unfortunately, I am not. Those are the facts.

Mr. President, when I entered the Senate 6 years ago, I asked to be briefed by a staff person at the Congressional Research Service on the Senate rules. I wanted to figure out how the place worked.

I must say, after that briefing, I, like my constituents, was incredulous. I had been the majority leader of the Connecticut State Senate, so I had some familiarity with parliamentary procedures, but I must say I did not understand how the Senate's debate and amendment rules were being used to keep the Senate, presumably the greatest deliberative body in the world, from getting things done.

Like many Americans of my generation, I remembered the dramatic filibuster battles of the 1950's and 1960's and assumed that filibusters were relatively uncommon and were employed only in the great issues of the time which divided a country. I assumed—like most Americans, I would guess, drawing from probably the broadest experience America has had with filibusters, which is mainly ''Mr. Smith Goes to Washington,'' when James Stewart stood in that magnificent portrayal and carried out a principled filibuster—that filibusters were to be reserved for only the most significant of legislative battles.

While I quickly learned that while real filibusters are uncommon, current Senate rules allow the mere threat of a filibuster to rule the way we do or do not do business.

The gentleman from the Congressional Research Service used a powerful analogy here. He said to me, ''Senator, you have to think of the Senate as if it were composed of 100 nations, each Senator representing a nation, and each nation has an atomic bomb and can blow up the place any time it wants. And that bomb is a filibuster.''

That may make us feel good about our power and our authority, but it is not the way to run the greatest deliberative body in the world. In fact, I state this with some humility because I do not remember the exact quote, I asked the gentleman from the Congressional Research Service, ''Is there any precedent for this kind of procedure in the history of legislative bodies?''

He said he thought the closest modern precedent was a Senate that sat in Poland in the 18th century which, because of unique historical circumstances that are not to the point, with approximately 700 members, the rule was that nothing could be done without unanimous consent. That, I hope, is not the model that we aspire to copy here.

What was once an extraordinary remedy, used only in the rarest of instances, has unfortunately become a commonplace tactic to thwart the will of the majority. Just as insidiously, allowing legislation to be killed on procedural votes, as we so often have here in the Senate, protects us from having to confront the hard choices that we were sent here to make and, in that sense, makes us a less accountable body.

Mr. President, this has to end and it will not end unless an effort begins to end it as we are attempting to do here today. As I believe Senator HARKIN has indicated, the Senate filibuster rule has actually been changed five times in this century. In most cases, particularly when the changes were substantial, they did not occur the first time the proponents charged the fortress. Perhaps they will not occur on this occasion. But I know Senator HARKIN and I are prepared to keep fighting until this change occurs because of what is on the line, which is the credibility and the productivity of the U.S. Senate.

The change that we are proposing, as Senator HARKIN has indicated, will

make it more difficult for a minority of Senators to absolutely stop, to block, to kill Senate action on legislation favored by a majority of the Senate, but it will still protect the ability of that minority to be heard before up or down majority votes on legislation are taken. It will give the minority opposed to what the majority wants to do the opportunity to educate and arouse the public as to what may be happening here to give the public the opportunity perhaps to change the inclination of the majority.

The procedure of succeeding votes with 2-day intervals, 60 being required, first 57, 54 and finally a simple majority of Senators being able to work its will—our intent here is to give the minority a chance to make their case and to persuade others but not to continue to grant them an effective veto power which they now enjoy.

We recognize that the opposition to this proposal is bipartisan, just as the use of the filibuster rule has been bipartisan. We also understand that as Members of the new minority, Senator HARKIN and I perhaps are not the likeliest people to be proposing to limit the powers of the new Democratic minority, but we both firmly believe that regardless of how our resolution may limit our personal options as Members of the minority party in the Senate in the short-term, it is essential that this reform be undertaken now when the problem of filibuster-created gridlock is so fresh in all of our minds.

For too long, we have accepted the premise that the filibuster rule is immune. Yet, Mr. President, there is no constitutional basis for it. We impose it on ourselves. And if I may say so respectfully, it is, in its way, inconsistent with the Constitution, one might almost say an amendment of the Constitution by rule of the U.S. Senate.

The Framers of the Constitution, this great fundamental, organic American document considered on which kinds of votes, on which issues the will of the majority would not be enough, that a vote of more than a majority would be required, and the Constitution has spelled those instances out quite clearly. Only five areas: Ratification of a treaty requires more than a majority of the Senate; override by the Senate of a Presidential veto requires more than a majority; a vote of impeachment requires more than a majority; passage of a constitutional amendment requires more than a majority; and the expulsion of a Member of Congress requires more than a majority.

The Framers actually considered the wisdom of requiring supermajorities for other matters and rejected them.

So it seems to me to be inconsistent with the Constitution that this body, by its rules, has essentially amended the Constitution to require 60 votes to pass any issue on which Members choose to filibuster or threaten to filibuster.

The Framers, I think, understood—more than understood—expressed through the Constitution and their deliberations and their writings, that the Congress was to be a body in which the majority would rule.

I know that some of our colleagues will oppose the alteration, the amendment, that Senator HARKIN and I are proposing on the grounds the filibuster is a very special prerogative that is necessary to protect the rights of a minority. But in doing so, and I say this respectfully, I believe they are not being true to the intention of the Framers of the Constitution, which is that the Congress was the institution in which the majority was to rule, not to be effectively tyrannized by a minority. And the Framers, Madison and the others, who thought so deeply and created this extraordinary instrument that has guided our country for more than 200 years now, developed the system in which the rights of the minority were to be protected by the republican form of government, by the checks and balances inherent in our Government and ultimately by the courts applying the great principles of the Constitution, particularly the Bill of Rights, to protect the rights of a minority that might be infringed by a wayward majority.

So this procedure that has grown up over the years has turned the intention of the Framers, in my opinion, on its head, and in doing so has not only created gridlock but has given power to a minority as against the will of the majority. The majority in the Senate, as reflecting the majority of the people of the United States, has allowed that minority to frustrate the will of the majority improperly.

So I think this is at the heart of the change for which the people have cried out. It is right, and it is fair. It is our belief in that most fundamental of democratic principles, majority rule, that motivates our introduction of this amendment. I am confident that if we ever put this issue, or could put this issue, before the American people for a vote, they would direct us to end the current filibuster practice. Majority rule is not and should not be a controversial proposition. Minority rights are protected by the checks and balances in our system.

Mr. President, it is my pleasure as a Senator from Connecticut to welcome the occupant of the chair as a new Member of the Senate. Perhaps you have observed from your viewing of the Senate before you arrived here that our problem seems not to have been that things move through this institution too quickly, that we hastily trample upon the rights of the minority. The problem, if anything—and it is not a bad problem and it does carry out the intention and will of the Framers—is that there are a lot of checks and balances here, and it is often hard to do the people's business and respond to the people's needs, and the filibuster has made it even harder to do so.

So I thank the Chair and the Senate for their indulgence. I congratulate again my colleague from Iowa for initiating this forthright and, in its way, courageous attempt to change the status quo, and I urge my colleagues to support the amendment.

Mr. HARKIN. Before the Senator yields the floor, will the Senator yield?

Mr. LIEBERMAN. I would certainly yield the floor to my friend from Iowa.

Mr. HARKIN. I thank my colleague and good friend from Connecticut for his support, his involvement, and his help in the drafting of this amendment and putting it together. The Senator from Connecticut is one of those who stood in the well today and took his oath of office for the second time. The Senator from Connecticut, I think I can say without any fear of being in error, in his entire first term in the Senate was recognized for his constant effort to provide for reform, for change in the way this place operates to make it more open, to make us more accountable, and to ensure that the people of Connecticut, indeed the people of the United States, have the right to insist that Senators vote on the merits of legislation. So the Senator is not a newcomer to congressional reform and to making this body operate more effectively and efficiently. I congratulate the people of Connecticut for their wisdom in returning him to this body.

I thank the Senator very much for his support of this measure. As the Senator so wisely said, any time that the rules have been changed on the filibuster in the past, it has sometimes taken a great deal of time and effort. We will persevere in this effort because we believe it is the right course for the American people. But I believe by the changes that were made in November, the big changes that were made, the American people were sending us a very powerful message, and I believe, if we do not do something about this dinosaur, we are going to be involved in another couple of years of frustration.

So I just wanted to thank the Senator for his support, for his involvement, for his help in the drafting of this amendment, and I thank him for his 6 years of efforts to make the Senate a more responsive and responsible body.

Mr. LIEBERMAN. Mr. President, I thank my friend and colleague from Iowa for his kind words. I would just say to him that it is really an honor to begin this session by being his partner in this effort that I think is really at the heart of making the Senate a more responsive body.

I thank the Chair, and I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, before the distinguished Senator from Connecticut leaves the floor—and I know he must depart soon; he has someone waiting on him—my concern is that in an effort to kill this so-called dinosaur we are really taking a sledge hammer to kill a beetle, small beetle.

I agree with the Senators that the rule has been abused. Would the Senators agree with me that, in the abuse of this rule, it has been most abused in preventing, or attempting to prevent, the taking up of a measure or matter or nomination? Would the Senators agree with me on that?

The able Senator from Iowa cited the number of times that the ''filibuster'' was resorted to last year, or in the last session of Congress or in the last Congress, the 103d Congress, and I have a feeling that most of those instances to which he alluded were instances in which the effort was being made to proceed to take up a measure or matter or nomination and there was the threat of a filibuster at least which perhaps had some impact on the taking up of the measure.

Would the Senators agree that it is there, in the taking up of a measure, that the real problem lies, or at least that that has been our experience in recent months and years, not so much after the Senate is on a matter or measure or nomination but proceeding to the matter? Would the Senators agree?

Mr. HARKIN. I do not know if the question is directed to both of us, but if I might respond——

Mr. BYRD. I ask unanimous consent that I may ask this question and retain my rights to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I respond to the Senator by saying that that has been a problem. But I would also note that last year there were three or four instances—I am a little unclear—of when the filibuster was used on disagreeing with amendments of the House, appointing conferees, and insisting on Senate amendments. That can also be filibustered.

Mr. BYRD. But wouldn't——

Mr. HARKIN. Even after the whole measure has been passed.

Mr. BYRD. Would not the Senator agree that filibusters used in such instances as he has just related here are not the filibusters which have caused the Senate the problems of abuse which most Senators and I perceive as being problems? Do the Senators not agree if real problems have arisen—if there have been real problems, and assuming that there have been, assuming that what we call filibusters were really filibusters on motions to proceed—would the Senators not agree that on motions to proceed most of these filibusters, so-called filibusters, have occurred?

Mr. LIEBERMAN. Mr. President, if I may respond to the distinguished Senator from West Virginia, it is true—and I do not have the statistics in front of me, but my recollection tells me that a good number of the filibusters that have occurred have occurred on the motion to proceed. But it is my opinion that the fact that many filibusters occurred on the motion to proceed does not encourage or lead to the conclusion that the problem is the motion to proceed. The filibusters have occurred on the motion to proceed because that has generally been the first opportunity that opponents of a measure have had to filibuster. The fact that a measure can be blocked by conducting a filibuster of the motion to proceed, of course, makes it even more frustrating. The very attempt to proceed to a matter of legislation or a nomination can be filibustered before the Senate even gets to the substance of it, but breaking the filibuster of the motion to proceed does not eliminate the threat of a filibuster of the bill itself.

This Senator can remember at least one example which makes the point that I am trying to make. On product liability reform, my recollection is that in the 102d Congress the filibuster occurred on the motion to proceed and cloture could not be obtained. In the 103d Congress, because of changes of attitude, because of changes of the membership of the Senate, because a number of Members of the Chamber had committed to at least let the Chamber get to the substance, it was apparent that the filibuster of the motion to proceed would be broken, that cloture would be granted. But then a filibuster did begin on the bill itself, after the motion to proceed was granted, and that filibuster was again successful in blocking the will of the majority.

So I would most respectfully say to the Senator from West Virginia that it does seem to me that, though the filibuster has been more frequently a problem on the motion to proceed, the problem is the filibuster. And if once the opponents of a measure, a minority, are not successful and let the motion to proceed be agreed to, then this minority has the right to frustrate the will of the majority on the substance of the matter once it comes before the Chamber.

Mr. BYRD. Well, Mr. President, I want to protect the right of the minority on a matter of substance in particular. But do the Senators not agree that most of the cloture motions that have been laid down by the majority leader in the past few years have been laid down on motions to proceed? Would the Senators not agree to that?

Mr. HARKIN. I would agree to that. I would agree, I think—and I have a table here on that—and the Senator is right.

Mr. BYRD. All right.

Mr. HARKIN. Most of them have been on motions to proceed.

Mr. BYRD. I thank the Senator.

Now, before the Senator leaves the floor, why do we want to use this cloture—why do we want to use this sledgehammer to eliminate the potential filibuster on a motion to proceed? That is where the problem has arisen. Our friends—now in the majority, then in the minority—objected to the taking up of measures. Consequently the majority leader put in a cloture motion; 2 days later the vote occurred.

Now if, as the Senator from Iowa has stated, it is true that most of the so-called filibusters, I say so-called because—I will explain that further in a moment—so-called filibusters have occurred on motions to proceed, and the Senator from Iowa says that is the case, if that is true, then we do not need this. We do not need this. We do not need to kill the opportunity for unlimited debate in order to get at that. Have the Senators read rule VIII, paragraph 2, of the Standing Rules of the Senate? Here is what it says. ''All motions made during the first two hours of a new legislative day to proceed to the consideration of any matter''—any matter except a motion to change the rules, any matter—''shall be determined without debate.''

Let me read that again for the edification of all Senators and all who are listening. Here in the Senate rules, paragraph 2, rule VIII.

> All motions made during the first two hours of a new legislative day to proceed to the consideration of any matter shall be determined without debate, except motions to proceed to the consideration of any motion, resolution, or proposal to change any of the Standing Rules of the Senate shall be debatable. Motions made after the first two hours of a new legislative day to proceed to the consideration of bills and resolutions are debatable.

Now here it is in plain, unmistakable language in the Senate rules, rule VIII, that a motion to proceed to take up a matter other than a rules change during the first 2 hours of a new legislative day shall be determined without debate. There you are. Why does not a majority leader use rule VIII? It is here. It has been here all the time.

Mr. President, I was majority leader and I was the Secretary of the Democratic Conference, beginning in 1967, for 4 years. I sat on this floor and did Mr. Mansfield's floor work for him as Secretary of the Democratic Conference. And beginning in 1971 I sat on this floor as Democratic whip and did Mr. Mansfield's floor work for him. He was the majority leader.

And in 1977 I was elected majority leader. I was elected majority leader for 2 years and then reelected in 1979 for 2 years. Then the Republicans took over the control of the Senate after the 1980 election. I was minority leader for 6 years. Then I became majority leader again for 2 years, the 100th Congress. That rule was there all the time that I was leader. I never had any big problems.

I will tell you, rules VII and VIII, I believe, have, if it is researched, if it is researched by the Journal clerk—I have a feeling that rules VII and VIII have not been used since I was majority leader. Rules VII and VIII have not been used since I was majority leader. I think that is correct, unless it happened one day when I was in a committee meeting and was not aware of what was going on on the floor. I will say this as a former majority leader and as a former minority leader. I will say that it is sometimes difficult. But the rule is there which allows for a motion to proceed, a nondebatable motion to

proceed. And I have used it. I have used it. I have used it when our Republican friends did not want to take up something. I used that rule.

Mr. HARKIN. Will the Senator yield?

Mr. BYRD. Let me just complete my thought and then I will be glad to yield.

A majority leader has enormous power when it comes to the schedule of the Senate, the scheduling of bills and resolutions, and the programming of the Senate schedule. The majority leader has first recognition power and that is a big arrow in his arsenal.

He has the power of first recognition. Nobody can get recognition before the majority leader. If he has the power of first recognition, then he can make a motion that is nondebatable. He can sit down if he wants to. If someone wants to put in a quorum call, that is OK. Let the quorums chew up the rest of the 2 hours. That motion is in there. That nondebatable motion is still pending before the Senate after that 2 hours. At least that is the way I recall it. But there is a nondebatable motion. Why has not rule VII or VIII been used?

So we have had all of these motions to proceed. The Republicans objected. Then we slapped in cloture motions. That has been called a filibuster. There is no filibuster. That is a threat to filibuster. But again, the majority leader has the power to go to something else. Once that cloture motion is in, he does not have to waste 2 days. He has the power to go to something else, take up something else. And then 2 days later the cloture motion ripens and you vote on that cloture motion. It does not mean that we have been losing time. We just moved on to another measure in the meantime.

So I say to my friends before we get all steamed up and start referring to something around here as a leviathan, dragon, or a big lizard, whatever, let us read the rules and see what we all have here. And let us use them. I will be glad to yield.

Mr. HARKIN. I thank the Senator for yielding.

I asked my staff. It was either last year or the year before when I first started getting involved in this that I then came to the majority leader, Mr. Mitchell, with that same proposal because I am trying to remember the bill we were trying to get up that was being filibustered. I had checked on this legislative day. The response that I got was what difference does it make? If we are going to filibuster, we might as well do it on a motion to proceed as anything else. It does not make any difference.

In other words, there are six hurdles. There is the motion to proceed. There is the bill, disagreement with the House, insist on amendments, appoint conferees—there are six when we get over there. The Senator from West Virginia says we take down the first rule. It still leaves five rules. Every one of those can be filibustered and we are right back in the same stew again. I believe that is why rule VIII is not used more often because it does not really make much difference.

Mr. BYRD. Mr. President, it makes a lot of difference. We so programmed ourselves around here that we get unanimous consent. And I started a lot of it. So I cannot wash my hands and walk away. I did a lot of this programming myself; program the next day; morning business. I daresay that half of the Senators do not know what morning business is. They do not know the difference between the morning hour and morning business.

I do not mean to cast aspersions on them. But I hear a lot of Senators talking about how we should change the rules. They do not know the rules. They do not know the rules. They think morning business is a period when there is a period for speeches. Morning business is not a period for speeches. Under rules VII and VIII, speeches are not to be made in morning business. Morning business is a period for the offering of petitions and memorials and bills and resolutions and so forth, but no speeches. A lot of Senators think, well, morning business. I would imagine if they went out to a high school or a college and answered some questions on the Senate rules, they would talk about morning business, that is the time you make speeches. Morning business is not a time for speeches.

So we get consent, not that there be a limitation on speeches in morning business because there are not supposed to be any speeches, but that Senators be permitted to speak in morning business for not to exceed.

I say all of that to say this, Mr. President. The rule is here. I daresay that if Mr. DOLE gets a notion to call up a measure he will probably resort to paragraph 2, rule VIII and he may go back to using rules VII and VIII. I hope we will. I do not want to see these rules atrophy from misuse. The Senate is being programmed too much. As I say, I guess I started some of it. But it has gone too far.

Here are the rules. The majority leader has all of his power of first recognition. Any majority leader can find a way to make a motion during the first 2 hours of a new legislative day. A lot of Senators do not know what that means—new legislative day. They probably do not know the difference between a legislative day and a calendar day. I do not want to be unfair to my colleagues. But they have other things to do, things that there are headlines in, votes to be made back home. Who wants to fool with these old Senate rules? It is not interesting reading. It will not compare with Milton, Dante, Roman history or the history of England. This is dry reading. Who wants to fool around and spend their hours reading these old dry rules? No headlines are made.

So I hope that we will start using rules VII and VIII. I think Senators would get over here then and use the 5-minute rule and speak on matters more often.

Mr. LIEBERMAN. Will the Senator yield?

Mr. BYRD. Yes. I ask that I retain my right to the floor, not that I think anyone is going to try to take it away from me.

Mr. LIEBERMAN. I thank the distinguished Senator from West Virginia. There is no better not only student but teacher of the rules who understands the rules better than the Senator from West Virginia. I respect him greatly for that.

I would make this point and I do think the Senator has made an important point in saying that the problem of the filibuster, to use the term we have been using and perhaps in some measure agreeing on it, the misuse of the filibuster has arisen most frequently on the motion to proceed. I must say that if there was a way that the Chamber could limit or eliminate the opportunity to filibuster on the motion to proceed I would certainly consider that to be a step forward—to put it in a more clear way, if I may, a step toward diminishing the misuse of the power of the filibuster. But it does seem to me that the problem here has arisen most frequently on the motion to proceed but the problem remains the filibuster which is the ability in this Senator's opinion of a minority to frustrate the will of 51 Members of this Senate to represent their constituents and get something done. It has arisen most frequently on the motion to proceed because that is the first time it could arise.

My friend and colleague from Iowa has talked about the six occasions in which in the consideration of a typical matter here in the Senate a filibuster could occur. In fact, if one considered amendments and the opportunity to filibuster amendments, there are even more than six. But let us talk about the six. It is as if there were six hurdles or six obstacles on the passage of a measure. And it is true that the first hurdle is the motion to proceed. So the filibuster has arisen most often on that because it is the first hurdle. If we eliminated that hurdle, I would say that would be a step toward eliminating or diminishing the misuse. But the fact other hurdles would remain and would be there is an opportunity to frustrate the will of the majority and to bring gridlock.

I say that with great respect for my distinguished colleague from West Virginia. I thank him for yielding the floor.

Mr. BYRD. Mr. President, I have great respect for both Senators. I have great admiration for them. Mr. HARKIN serves on my Appropriations Committee. He has his heart in this matter. But as one who has been a leader of the majority and the leader of the party when in the minority, I can say to my friends that the majority leader, whose job it is and responsibility it is to bring up matters—that is not the responsibil-

ity of the minority leader—the majority leader, with his power of first recognition, with his majority votes to back him up on most measures, certainly on taking up measures, he can get measures up. There might come an occasion now and then in the effort to proceed to take up something when he would have to use cloture. That is all right. I used it a few times, too. But that has been the problem, as I have observed it here in recent years, the ''filibuster,'' because it really was not a filibuster. It was the failure to give consent to take up a matter. Consent is needed to take up a matter, except on a motion. So if we can ask unanimous consent to take up a matter, to proceed to a matter, any one Senator can object, and that may appear to be a filibuster. That may appear to be a threat of a filibuster.

Well, a majority leader can call that threat. He does not have to roll over and play dead. Time and time again—do not worry about these holds, do not worry about them. I have heard that argument. Senators have holds on things. We ought to stop that. Well, when I was leader, I recognized a hold only for a time, and many Senators have placed a hold on a piece of legislation just so they can be notified when that piece of legislation is about to come up. They want to be notified. They do not want it to be taken up without their being consulted.

I never tolerated a hold; I never allowed any hold to keep me from attempting to take up a measure. If someone had a hold on a nomination, I would go to the Republican leader and I would say: You better tell Senator So and So that I am going to move to take up that nomination. I hope he will give me consent, but if he does not and I see he has had a hold 2 weeks, 3 weeks, or a month, or whatever it is, then I am going to move, and the hold would break. If it did not, we just moved to take it up.

So, Mr. President, to those, especially inside the Senate, who do not understand, I cannot blame the people on the outside for not understanding. I can understand how editors of the newspapers around the country might not understand when Senators themselves do not understand. We have a rule here that allows taking up a measure without debate.

Let me say that I hope the Republican leader will resort to rule VIII once in a while, if for nothing else but to recall to all of us that it is in the rule book.

(Mr. GORTON assumed the chair.)

Mr. HARKIN. Will the Senator yield?

Mr. BYRD. Yes, I will yield for a question.

Mr. HARKIN. This is very instructive to me, also. As the Senator from Connecticut said, there is no one who knows his rules better and more in depth than the Senator from West Virginia. I like this debate because I am learning from him.

I have to have something cleared up for me, if the Senator would be so kind. Let us assume that the majority leader does use rule VIII to bring up a motion to proceed, which then would not be debatable; let us say that I was opposed to the measure, and say I had two or three other people opposed to the measure that indicated we were going to filibuster the motion to proceed. So the majority leader says: We will get around HARKIN; we will bring it up under rule VIII. There is nothing I can do about it. It is nondebatable. But what is to prevent me from saying when the bill comes up we will filibuster it now?

Mr. BYRD. Sure, that is all right. A minority ought to have a right somewhere to debate and to resort to unlimited debate. There are two things that make the Senate, two things in particular, aside from the Senate's judicial powers, its executive powers, and its investigative powers; there are two things that make it the premier upper body in the world. One is the right to amend. The Constitution gives it that right to amend, even on revenue bills which originate in the House. The other factor is the right of unlimited debate.

I sought to get the campaign financing reform measure up in the 100th Congress, in 1987, and our Republican friends would not give me a unanimous consent to take it up. So one day—I am getting to the point the Senator raised—I said to the Republican leader, when I had the floor: I wonder if the leader would give me consent to proceed to the consideration of whatever the bill number was, the campaign financing reform bill. He said: I do not think so; I think we want to talk a while about that. I said: Well, I wish the Senator would let me take this up. He said: Well, Senator MCCONNELL might want to talk about it. I said: Right there he is; ask him. The Republican leader asked Senator MCCONNELL, and he said Senator MCCONNELL wanted to talk.

Well, Mr. President, I was in a position right then to move to take that bill up, and it is a nondebatable motion. You see, it was a new legislative day, and it was during that 2 hours. I am now in a position to move. I said: So, Mr. Leader, if you give me unanimous consent, we will save 15 minutes, or if you will not give me unanimous consent, we will just vote right now, and we will vote up or down. He said: Well, give me a few minutes to talk with my colleagues. I said: Sure, how much time you want? He said: Oh, 20, 30 minutes. I said: Mr. President, I ask unanimous consent that the Senate stand in recess for 30 minutes and that I be recognized at the reconvening of the Senate, and at that point no time be charged against the recess, and that I retain my rights at that point as of the status quo. We recessed for 30 minutes and went out and Mr. DOLE came back and said: OK, we will give you consent. Then they filibustered the measure.

I offered a cloture motion eight times—more than any majority leader has ever offered on any measure. Unlike Robert Bruce, who succeeded on the seventh time after he had seen that spider spin his web, I failed eight times. Do you think I was frustrated? Of course I was. But they had a right. They were exercising their rights. They were in the minority, but a minority can be right. A minority can be right. So I have always defended the rights of the minority, whether I was in the majority or minority, because I also remember that we can be in the minority—and we are now. I remember, too, that this is not a democracy.

With 260 million people, would anybody stand up and claim that this could be a democracy? This is a Republic. It is a representative democracy. The people speak through their elected representatives. So a minority may be over there or may be over here on a given measure, or a minority may be a combined minority. But that minority may represent a majority of the people. That is the purpose. That is why unlimited debate is something we should never, never give away—unlimited debate; right of unlimited debate.

I have been in the House of Representatives. I have been in the House of Representatives before I came here. I do not want to make the Senate a second House of Representatives. There is a place for both in the constitutional scheme. Each has its role to play in its own proper sphere. The Senate ought not change its role.

I may want to filibuster, to use the word. I may want to use it someday to protect poor little West Virginia and her rights. This is the forum of the States. We are here to represent States. And the State of West Virginia, the State of Iowa, the State of Kentucky, the State of Mississippi, each of these States is equal to the great State of California with its 30-odd million—equal. We speak for the States, and it is the only forum in the Government in which the States are equally represented—equally represented.

Now, if we do not have the right for unlimited debate, these poor little old States like West Virginia, they will be trampled underfoot. We have three votes in the House. Now in the House, we had six votes. Now we have half that many in the House, three votes.

Mr. President, we had better stop, look, and listen before we give away this right of unlimited debate. What is wrong with using the rules? My friends did not like it. I did not like it when Mr. DOLE used the rules on me when he was in the majority. I did not like it, but I said he has a right to do it; he is playing by the rules.

Mr. President, I came prepared to speak not long, but let me say a few words in accordance with what I had planned.

The filibuster has become a target for rebuke in this efficiency-obsessed

age in which we live. We have instant coffee, instant potatoes to mix, instant this and instant that. So everything must be done in an instant; must be done in a hurry.

I lived in an earlier age. I remember when Lindbergh flew across the ocean in a plane that carried a 5,500-pound load. He had five sandwiches. He ate one and one-half of them on his way. He flew 3,600 miles in 33½ hours, sometimes 10 feet above water, sometimes 10,000 feet. Crowds gathered to see him off; crowds gathered in Paris to see him land.

He flew over Cape Breton, Nova Scotia, at the great speed of 100 miles an hour. That is what the New York Times said. That is the paper that prints everything there is fit to print. I wish other newspapers would follow that same rule. Great speed. Flew over at great speed, it said—100 miles an hour.

JOHN GLENN went around the Earth, I would assume, at a speed of something like, I would imagine, as I recall he traveled around the Earth in about 80 minutes, something like that. That would be what? Eighteen thousand miles an hour.

Anyhow, everything has to be done in a hurry. We have to bring efficiency to this Senate. That was not what the Framers had in mind.

Recently, much of the talk of abolishing filibusters was coming from the other body, but apparently the criticism has begun to seep in the Senate Chamber, as well.

The filibuster is one of the easier targets in this town. It does not take much imagination to decry long-winded speeches and to deplore delay by a small number of determined zealots as getting in the way of the greater good.

It does, however, take more than a little thought to understand the true purpose of the tactic known as filibustering and to appreciate its historic importance in protecting the viewpoint of the minority.

In many ways, the filibuster is the single most important device ever employed to ensure that the Senate remains truly the unique protector of the rights of the people that it has been throughout our history.

I believe that it is always worthwhile to try to educate the public and hopefully any new Members who have not yet fully grasped the noble purpose fulfilled by this much maligned exercise known as the Senate filibuster.

Mr. President, let it be clearly understood that I favor a change in the filibuster rule. I will eliminate filibusters on the motion to proceed to take up a measure or matter other than a matter affecting a rules change. I would favor changing the rules to provide that there be a motion to proceed limited to 2 hours of debate or 1 hour of debate. I have no problem with that. Because that to me appears to have been, the last few years, where the real abuse has lain, real abuse of the rule. If we eliminate that, Senators should retain full rights to debate at any length the measure or matter, once the Senate has proceeded to take it up.

So let us have that change in the rules. That will get rid of most of the so-called filibusters.

A lot of these are not really filibusters. What is involved is a motion to proceed. Because unanimous consent could not be gotten to take up the matter, one Senator or two Senators were objecting, so the motion to proceed was made and then immediately a cloture motion was laid down.

Now, that cloture rule came as a result of real filibusters, and what was perceived at that time as an abuse of unlimited debate. That is why the cloture rule was created in 1917.

As the Senator has appropriately pointed out—and I have listened to him carefully and he has revealed to me that he has read a great deal of history concerning these rules—may I say to the Senator that I have likewise read a great deal of it. I have likewise written a great deal on it, and I have likewise experienced the use of it and experienced dealing with it as majority leader, as minority leader, as whip, and as secretary of the Democratic conference.

Mr. HARKIN. Senator, much of the history I have read.

Mr. BYRD. I could tell that just by listening. And I compliment the Senator.

By the way, all of this section here, ''The Filibuster 1789–1917,'' I read the old CONGRESSIONAL RECORDS. I went through the old CONGRESSIONAL RECORD. I read those debates by Benjamin Tillman. I read them. I did the footnoting in this book. I did not have a staffer do that footnoting. I did it. I read those CONGRESSIONAL RECORDS.

And so I have read the history. And I have helped to make a lot of the history. And I have helped to write a lot. And I feel very deeply that as long as we have a Senate in which there is unlimited debate, the liberties of the American people will always be protected. I think that we change that rule at our peril, and at the peril of the liberties of the American people.

One of the filibuster, so-called filibuster, is of ancient origin. Cato ordered a filibuster. Cato the Younger. His sister married Brutus. Marcus Junius Brutus. Cato the Younger. He committed suicide in the year 46, 46 B.C., after he had heard that Caesar has won the battle of Thapsus. He committed suicide. Cato. Marcus Porcius Cato Uticensis committed suicide. He admonished all of his men, the officers in his military, to leave Utica because Caesar was approaching. He admonished his son to give himself over to Caesar. Cato himself did none of these things. He elected to read Plato's book on the soul. Phaedo. And after he had read that book, his friends had taken his sword from beneath his pillow, fearful he might use it against himself. And he asked them to send it back. And a little boy came carrying the sword back into the room. Cato felt of its point, felt of its edge, said, ''Now, I am master of myself.'' And a little later he plunged it into his abdomen. Cato. We need more Catos in the Senate.

The Cato in the year 60 B.C. resorted to a filibuster. Caesar wanted to stand as a candidate for counsel. He had to be in the city to do that. He also wanted to be rewarded a triumph for his victories in Spain. For that he had to be on the outside of the city and come in a triumph. He had to give up one or the other, but his friends in the Senate sought to introduce legislation that would allow him to stand as the candidate while on the outside of the city, but Cato, and I say it in here better, ''Cato spun out the hours by speaking until the Sun went down.'' In the Roman Senate, Sun went down, that was the end of the session. So he spun out the day talking until the Senate adjourned. And so we see a successful filibuster occurs in the Roman Senate 2055 years ago. Not bad. 2055 years ago. So, it is a matter of ancient origin.

Did the Senator want me to yield?

Mr. HARKIN. Mr. President, I was just fascinated by listening to the history lesson is all.

Mr. BYRD. I ask unanimous consent that I may yield for a statement, if the Senator wishes to make it, without losing my right to the floor.

The PRESIDING OFFICER. Without objection.

Mr. HARKIN. Mr. President, I thank the Senator. It is always instructive to engage in the debates with the Senator from West Virginia who is a great student of Roman history. I have always enjoyed listening to him tell about the different Roman battles. Always very instructive. I am not a student of Roman history at all and do not pretend to be. I find it fascinating.

I tend to think that we in our great American experiment embarked upon something quite different perhaps than what the Roman Senate was. I think our roots, again, go back to the Magna Carta, the great charter of King John, and to the parliamentary procedures of Great Britain, of England.

In 1604 the Parliament of Great Britain adopted what was then known as a motion for the previous question to bring to finality debate and to move to the merits of the proposition. That was in 1604. When our Constitution, and I pose this in a manner of a question to the Senator from West Virginia because this is another branch of the argument on the filibuster, sort of the branch that I had been arguing on is the basis that a filibuster ought to be used to slow down, temper legislation, alert the public, change minds, but should not be used as a measure whereby a small minority can totally keep the majority from voting on the merits of a bill. That is one branch.

The other branch is the constitutional branch. The Senator from West Virginia said that we, at our peril, I believe, give up this right of unlimited

debate. From whence does this right spring? It is not mentioned in the Constitution. At least I cannot find it in the Constitution.

In fact, the Constitution, article I, section 3, outlines what the Senate shall be. Two Senators from each State chosen by the legislature, which was changed by the 18th amendment and made Senators popularly elected, goes on to tell what Senators do. They each get a vote. The Vice President will be President of the Senate but will have no vote unless they be equally divided. Then it goes on to tell all of the different cases wherein there has to be more than a majority vote. Five cases.

I postulate a question to the Senator from West Virginia. Let us suppose that an election were held and 90 Members of the Senate were elected from one party; let us say that those 90 Members then decided that they were going to change the rules of the Senate. And they did change the rules of the Senate.

And then they put in the Senate a rule that said that no changes in the rules could be done unless 90 percent agreed. Not two-thirds, but 90 would have to agree to change the rules, and that 90 Senators would have to reach that agreement. It probably would never happen again, 90 Members of the same party, but then that rule would go on in perpetuity. So then does that not lead to a possibility of a Senate setting up a supermajority that completely does away with the will of the majority to enact legislation? It sort of is an extension, and it is the extreme of what we have here, I think, with a filibuster.

So I ask the Senator, from whence does this right spring of this unlimited debate? I find it not in the Constitution.

Mr. BYRD. The right of freedom of speech was publicly accorded to both Commons and the House of Lords by Henry V in 1407. He reigned from 1399 to 1413. He publicly declared that the Commons, members of both Houses of Parliament, had the right to speak and speak without any fear of being challenged in any other place. That right was written into the English Bill of Rights, article 9—the English Bill of Rights, which was enacted in December 1689.

William III and Mary were offered the joint sovereignty by Commoners, the House of Commons, when James II, just before he left England and went to the court of France, never to return to England, they offered to William and Mary the joint sovereignty. And in early 1689, William and Mary were crowned joint sovereigns. But first of all they had to agree to a Bill of Rights. And in that Bill of Rights, in the nineth article, there is a provision that members of Parliament should not be questioned in any place but Parliament. And in our own Constitution, article I, section 6, we find virtually the same language, no Member of either House may be questioned in any other place, or anything said in debate, so on and so on.

So there was the right of freedom of speech. Our English forebears recognized that important right, and they wrote it into the Bill of Rights, the English Bill of Rights. And our Constitution forebears, who knew much about the English struggle, who knew much about Roman history, who knew much about Montesquieu and Hobbs and Moore and all of the other great philosophers, they wrote it into our Constitution.

We have freedom of speech. The Roman Senate, under the Republic, which lasted from 509 B.C. up to the Battle of Actium in 31 B.C., the Roman Republic had freedom of speech in the Senate, and there was a check on freedom of speech on the length of speeches first instituted by Augustus—Gaius Julius Caesar Octavianus, given the title of Augustus by an innervated Roman Senate that had lost its nerve, lost its vision and lost its way. Augustus finally put an end to this business of freedom of speech in the Senate. He reigned from 27 B.C. to 14 A.D.

So it has its roots in antiquity. It is a property, yeah; it is far more than a property, it is a right that is cherished by free men: The right of freedom of debate.

Take away that right and you take away my liberties. You take away my right of freedom of debate as an elected representative of the people, and you take away their liberties. It is a right that Englishmen have known for centuries for which they struggled against monarchs.

The Senate, as the Senator pointed out early today, first started out with the previous question in the Senate. That was discarded. Aaron Burr, when he made that great speech after he had murdered Alexander Hamilton in Weehawken, NJ, and had presided over the Senate trial of Samuel Chase, I believe it was, made a speech to the Senate, his last speech before he went out the door for the last time, and he recommended that the Senate do away with the previous question.

So we have had unlimited debate in the Senate now for 200 years, and surely with 200 years of trial and testing, we should know by now it is something to be prized beyond measure.

And so it is not a matter of pride and prerogative and privilege and power with this Senator. It is a matter not only of protecting this institution, it is a matter of protecting the liberties of free men under our Constitution. And as long as I can stand on this floor and speak, I can protect the liberties of my people. If I abuse the power by threatening to filibuster on motions to proceed, take away that power of mine to abuse. Let us change the rule and allow a motion to proceed under a debate limitation of 2 hours, 1 hour, or whatever, except on motions to proceed to a rules change. I am for that.

And so by doing that, the Senator will have performed a great service. He will have eliminated—he will have eliminated—the source of the irritations and aggravations that have permeated through this body over the last few years of most of those so-called filibusters.

They were not filibusters. They were simply motions to take up a matter that were objected to and immediately a cloture motion being thrown down. That cloture motion was created to shut off debates on filibusters. And yet the cloture motion was used to get a vote on a motion to proceed.

So I think it has been blown out of proportion a great deal, but I agree that that rule has been abused to that extent. I have said that continued abuse of that rule will result in taking away the right of Senators to have unlimited debate. I see that danger. And I am trying to protect against that danger. So I would agree that we make that kind of rules change.

As far as I am concerned, we could go back to the two-thirds rule rather than the three-fifths—two-thirds of those present and voting. That would ensure that Senators come to the floor and vote. Where we have 60 votes, 39 or 40 can leave town. The other side has to produce 60 votes.

So if the Senate wanted to change it back to two-thirds of those present and voting, fine. As he pointed out directly, the present rule was reached through compromise, those who thought the two-thirds too difficult and those who thought that a majority was not enough, so we arrived at the present rule. But I am not unalterably against change if it is change for what I see would be for the better. I think that would be for the better. But I am against change, I am against emasculating the filibuster rule.

In the ''Lady of the Lake,'' I guess it was Fitz-James who said;

> Come one, come all. This rock shall fly
> From its firm base as soon as I.

That is the way I feel about the filibuster:

> Come one, come all. This rock shall fly
> From its firm base as soon as I.

So it is not a matter of power and privilege and prerogative, as the Senator has said, and pride. It is a matter of pride in this institution with me. That is where the pride is, pride in this institution and pride in the Constitution.

I wish Senators would develop an institutional memory. Stop coming over here from the House of Representatives and immediately trying to make this a second House of Representatives. The Senate was created for a purpose in the minds of those great framers. And the test of time has proved that they were right and that they were wise.

I had intended to read several chapters from my book, volume two, but I have enjoyed the exchange with my friends to the extent that I feel no need of proceeding as I had earlier intended.

Let me just call attention to my book—and I get no royalties on this

book—''The Senate, 1789–1989, Addresses on the History of the Senate.'' This is volume two. Volume two is the Senator's copy. Volume one was a chronological history of the U.S. Senate. A history of the United States Senate is American history. But volume two I intended for Senators to read.

What is in it? Well, there are chapters on treaties, and on impeachment trials, and on other matters that are fairly unique to the Senate. I hope Senators will read my chapter on impeachment trials. Some Senators who claim to be lawyers cannot, really cannot, get away from the idea that they are still in a courtroom and that an impeachment trial is a trial in the sense of a civil or criminal trial that is being tried in a court of law.

I hope that Senators who listen tonight and those who read will take me up on that and go back and read my chapter on impeachment trials because there will be some more impeachment trials as time comes on. And I have chapters on committees, on the various officers of the Senate.

But in this respect which we are now discussing, I would suggest they begin on page 93, chapter 5, titled ''Extended Debate, Filibusters, 1789 to 1917.'' There they will find written down the instance to which I earlier referred when Plutarch reported that Cato opposed Caesar's request and ''attempted to prevent his success by gaining time; with which views he spun out the debate till it was too late to conclude upon any thing that day.''

So that was that successful filibuster 2,055 years ago.

Then this gives the history of filibusters when filibusters were real filibusters, as Mr. HARKIN stated earlier. Back in the 19th century, they had real filibusters, and in the early part of this century. And there have been some real ones since I have been in the Senate, real in the sense that it took days and days and days to reach a decision. And the debate was germane, at least during the filibusters that I experienced in the Senate.

I mentioned three in particular. The civil rights debate, 1964. I was not a leader at that time, but I participated in that debate. I spoke 14 hours and 13 minutes during that debate. That was a bill that was before the Senate for a total of 77 days including Saturdays, Sundays, and holidays. It was actually debated 57 days, 6 of which were Saturdays. We have had some real filibusters. Still the bill was not passed until 9 days after cloture was voted. Hence, 103 days had passed between March 9 when the motion was made to take up the bill and final passage on June 19.

Now, this was the civil rights filibuster. Then there was a filibuster on the natural gas bill, in 1977 I believe it was. And then I speak of the filibuster that occurred on the campaign financing reform bill, 1987 and 1988. That spread across a period of 2 years.

So I have seen filibusters. I have helped to break them. There are few Senators in this body who were here when I broke the filibuster on the natural gas bill. Two Senators, Senator Metzenbaum and former Senator Abourezk, tied up the Senate for 13 days and 1 night—I believe it was 13 days and 1 night—and in that time we had disposed of a half-dozen amendments. So I asked Mr. Mondale, the Vice President, to go please sit in the chair; I wanted to make some points of order and create some new precedents that would break these filibusters.

So he got in the chair, and Howard Baker and I, working together, propounded some points of order, and we broke that filibuster. And I disposed of more than 30 amendments within the course of a few minutes. And the filibuster was broken—back, neck, legs, arms. It went away in 12 hours.

So I know something about filibusters. I helped to set a great many of the precedents that are in the books here. Dizzy Dean said you can say these things, you can brag, if you have done it. So I do not know whether one wants to call that bragging or not, but that is fact—I think it is facts I am stating. And I am simply stating them to let other Senators know that I understand what frustrations are. I have been over this road, up and down the hill. And I think we give away something, something we can never retrieve, if we give away the right of unlimited debate. We ought to forget about streamlining, streamlining—the Senate was not meant to be streamlined. The process here was not meant to be streamlined.

And again I say I understand that the rule has been abused. I understand that Senators do not really very often stand up and debate anymore. But let us not try to blame it on the rules. Blame it on Senators. Rules should not be blamed for it. The rule is there. I have already read that rule whereby a motion can be made, that is nondebatable, to proceed. Let us not throw out the baby with the bath water. The minority can be right and the minority has been right and I will always take my stand in support of this institution, the Constitution, and the rights of the minority.

And I close by reading merely 2 pages, whereas I had intended to read 70 pages when I began. Page 162:

> Arguments against filibusters have largely centered around the principle that the majority should rule in a democratic society. The very existence of the Senate, however, embodies an equally valid tenet in American democracy: the principle that minorities have rights.

Of course, a minority abuses the rights, but the majority abuses the rights also—there are times.

> Furthermore, a majority of Senators, at a given time and on a particular issue, may not truly represent majority sentiment in the country. Senators from a few of the more populous States may, in fact, represent a majority in the Nation while numbering a minority of votes in the Senate, where all the States are equal.

Take California, Texas, Florida, Michigan, Ohio, Illinois, New York—there is a minority of States. I have not counted the votes recently, but I would daresay there is about—almost a majority of the population, if not a majority. There is a minority of States. They can be right. We ought to think long and long and long and long and hard before we tinker with something that has been tried and tested for 200 years because there is a problem with it. Let us see if we cannot heal that problem in other ways. Let us have resort to Rule VIII. Of course, we are not the majority again. Right now we cannot resort to it. But the majority can resort to it.

Well, back on my reading. Let me repeat:

> Senators from a few of the more populous States may, in fact, represent a majority in the nation while numbering a minority of votes in the Senate, where all the States are equal. Additionally, a minority opinion in the country may become the majority view, once the people are more fully informed about an issue through lengthy debate and scrutiny. A minority today may become the majority tomorrow.

Why should not a majority have a right to stop a piece of legislation? My friend says, well, let us retain the right to slow down, the right to slow down, but let us take away this power to stop something.

I understand how Napoleon felt when he was banished to Elba. I have a room down here in the corner. Here I was majority leader and had this six vast rooms, and along came the election and I was banished to almost Outer Mongolia. I know how Napoleon felt because I have seen him in his picture with his hands folded behind him, looking out upon the sad and solemn sea. But that is the way it is in politics. You are up one day, you are down the next. So I am in the minority right now.

> Moreover, the framers of the Constitution thought of the Senate as the safeguard against hasty and unwise action by the House in response to temporary whims and storms of passion that may sweep over the land. Delay, deliberation, and debate—though time consuming—may avoid mistakes that would be regretted in the long run. The Senate is the only forum in the government where the perfection of laws may be unhurried and where controversial decisions may be hammered out on the anvil of lengthy debate. The liberties of a free people will always be safe where a forum exists in which open and unlimited debate is allowed.
>
> The most important argument supporting extended debate in the Senate, and even the right to filibuster, is the system of checks and balances. The Senate operates as the balance wheel in that system, because it provides the greatest check against an all-powerful executive through the privilege that Senators have to discuss without hindrance what they please for as long as they please. A minority can often use publicity to focus popular opinion upon matters that can embarrass the majority and the executive. Without the potential for filibusters, that power to check a Senate majority or an imperial presidency * * *

We are not talking about pride and prerogative and privilege and power here. Here is what is involved. ''Without the potential for filibusters, that power to check a Senate majority or an

imperial presidency''—and we have seen an imperial presidency in this land—would be destroyed.''

It is a power too sacred to be trifled with. As Lyndon Baines Johnson said on March 9, 1949:

* * * if I should have the opportunity to send into the countries behind the iron curtain one freedom and only one, I know what my choice would be. * * * I would send to those nations the right of unlimited debate in their legislative chambers.

Peter the Great did not have a Senate with unlimited debate, with power over the purse, when he enslaved hundreds of thousands of men in the building of Saint Petersburg.

* * * If we now, in the haste and irritation, shut off this freedom, we shall be cutting off the most vital safeguard which minorities possess against the tyranny of momentary majorities.

As one who has served both as majority leader and as minority leader, as a senator who has engaged both in filibustering and in breaking filibusters during my thirty-one years in this body, I believe that Rule XXII today strikes a fair and proper balance between the need to protect the minority against hasty and arbitrary action by a majority and the need for the Senate to be able to act on matters vital to the public interest. More drastic cloture than the rules now provide is neither necessary nor desirable.

We must not forget that the right of extended, and even unlimited, debate is the main cornerstone of the Senate's uniqueness. It is also a primary reason that the United States Senate is the most powerful upper chamber in the world today. The occasional abuse of this right has been, at times, a painful side effect, but it never has been and never will be fatal to the overall public good in the long run. Without the right of unlimited debate, of course, there would be no filibusters, but there would also be no Senate, as we know it. The good outweighs the bad, even though they may have been exasperating, contentious, and perceived as iniquitous. Filibusters are necessary evil, which must be tolerated lest the Senate lose its special strength and become a mare appendage of the House of Representatives. If this should happen, which God avert, the American Senate would cease to be ''that remarkable body'' about which William Ewart Gladstone spoke—''the most remarkable of all the inventions of modern politics.''

Mr. President, I yield the floor.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSOR TO S. 2

Mr. LOTT. Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 2

Mr. LOTT. Mr. President, I ask unanimous consent that S. 2, the congressional coverage bill introduced earlier today, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS OF PROCEDURE

Mr. LOTT. Mr. President, I ask unanimous consent that at 10:15 on Thursday, January 5, 1995, the Senate resume consideration of Senate Resolution 14, and at that time the debate on the Harkin amendment prior to a motion to table be divided in the following manner: 30 minutes under the control of Senator BYRD and 45 minutes under the control of Senator HARKIN. I further ask unanimous consent that at 11:30 a.m., the majority leader or his designee be recognized to make the motion to table amendment No. 1. I ask unanimous consent further that, if the amendment is not tabled, it be subject to further debate and amendment. I further ask unanimous consent that if the amendment is tabled, the Senate proceed immediately to adoption of the resolution without any intervening action or debate. Finally, I ask unanimous consent that immediately following the adoption of the resolution the Senate proceed to S. 2, the congressional coverage bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

''DISPLACED STAFF MEMBER''

Mr. LOTT. Mr. President, I send an enclosed resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

S. RES. 25

Resolved, That, for the purpose of section 6 of Senate Resolution 458 of the 98th Congress (agreed to October 4, 1984), the term ''displaced staff member'' includes an employee in the office of the Minority Whip who was an employee in that office on January 1, 1995, and whose service is terminated on or after January 1, 1995, solely and directly as a result of the change of the individual occupying the position of Minority Whip and who is so certified by the individual who was the Minority Whip on January 1, 1995.

The PRESIDING OFFICER. If there is no debate on the resolution, the question is on agreeing to the resolution.

The resolution (S. Res. 25) was agreed to.

Mr. LOTT. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The resolution is as follows:

Resolved, That, for the purpose of section 6 of Senate Resolution 458 of the 98th Congress (agreed to October 4, 1984), the term ''displaced staff member'' includes an employee in the office of the Minority Whip who was an employee in that office on January 1, 1995, and whose service is terminated on or after January 1, 1995, solely and directed as a result of the change of the individual occupying the position of Minority Whip and who is so certified by the individual who was the Minority Whip on January 1, 1995.

AWARDS FOR ATTORNEY'S FEES

Mr. LOTT. Mr. President, I send a bill to the desk and ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill to amend section 526 of Title 28, United States Code, to authorize awards for attorneys' fees.

Mr. LOTT. Mr. President, I ask for a second reading.

Mr. FORD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

MODIFICATION OF SENATE RESOLUTION 16

Mr. FORD. Mr. President, I ask unanimous consent to modify S. Res. 16 adopted earlier today with language which I now send to the desk. This modification has been cleared by the majority leader and it does not change the ratio agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION OF SENATE RESOLUTION 17

Mr. FORD. Mr. President, I ask unanimous consent that S. Res. 17 adopted earlier today be modified by the following language, which I send to the desk. This request has been cleared by the majority leader and does not alter our agreements with the committee ratios.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SENATE GIFT RULE

Mr. FORD. Mr. President, I understand that S. 71 regarding the Senate gift rule introduced earlier today by Senators WELLSTONE and FEINGOLD is at the desk.

The PRESIDING OFFICER. That is correct.

Mr. FORD. Mr. President, I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 71) regarding the Senate gift rule.

Mr. FORD. Mr. President, I ask for its second reading.

Mr. LOTT. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.