

be filled. But I am lifted by the knowledge of his deep and abiding faith and that he is in the hands of the One who inspired these words in "Amazing Grace":

Yea, when this flesh and heart shall fail,
And mortal life shall cease,
I shall possess within the veil,
A life of joy and peace.

I think that gives all of us some comfort. It certainly does me.

So peace and Godspeed, Senator BYRD, and peace to your family, your loyal staff, and to the loving people of West Virginia, who held you high for so long and will continue to do so.

I thank the Chair and yield my time.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Connecticut.

Mr. DODD. Mr. President, I see my friend from Tennessee. I presume we are kind of going back and forth. The Senator is in leadership. I do not want—

Mr. ALEXANDER. Mr. President, I would like to leave by 3, but I will be glad to defer to the Senator from Connecticut if he would like to go ahead.

Mr. DODD. I thank my colleague. I will not be long.

Mr. President, are we in morning business? Is that correct?

The PRESIDING OFFICER. That is correct.

REMEMBERING SENATOR ROBERT C. BYRD

Mr. DODD. Mr. President, let me begin by expressing my deep sorrow and my condolences to ROBERT C. BYRD's family. And that family includes, obviously, not only his direct, immediate family but obviously the literally legions of people who worked for ROBERT C. BYRD—worked with him in both the House of Representatives and this body for the more than five decades he served in the U.S. Congress.

I suspect I am one of a handful of people left who remember the day when I was 7 years old, in the gallery of the House of Representatives, watching my father be sworn in as a new Congressman, watching my father and a young 34-year-old West Virginian named ROBERT C. BYRD to be sworn in as a Member of the House on January 3, 1953. Seven years later, at the age of 14, I was in the gallery of this Chamber when I watched my father and his great friend be sworn in together on January 3, 1959, as Members of the Senate. Two years later, as a 16-year-old

sitting on the very steps where these young pages sit today, in the summer of 1961, I worked with ROBERT C. BYRD. In fact, with his departure and his death, he is now the last remaining Member of the Senate who was there that day when I first arrived as a page in the summer of 1961 when all these chairs were filled by 100 Senators. For the last 25 years, I have sat next to him at this very seat to be the recipient of his good counsel, his advice, his humor, his contributions in so many ways to me, as he was to so many others with whom he served during his tenure in the Congress.

So this is a very poignant day, one that begins, in a sense, a sense of book-marks to me and a sense of public life. It won't be the same for the remaining 6 or 7 months of my tenure here to not have this wonderful human being, ROBERT C. BYRD, as my seatmate in the Senate.

So I rise today to mark the passing and to celebrate the prolific life of ROBERT C. BYRD of West Virginia. As I have said to his family and to his staff, and, of course, to the people of West Virginia, for whom he has been such a champion throughout his public life, ROBERT BYRD loved three things above all else during the 30 years we spent together in this Chamber. He loved his wife Erma, he loved the State of West Virginia, and he loved deeply the Senate. I might say that each in turn loved him back.

Our sadness at his passing is tempered by our joy that he now joins his beloved Erma. What a love story it was. They met in grade school. They married in 1937, well before I was even born. They spent nearly 70 years on an incredible journey together, and even after passing a few years ago, his love for her was apparent in everything he did.

In 1946, when ROBERT BYRD first ran for office, West Virginia ranked at the bottom in nearly every economic indicator you could possibly think of. It was a bleak landscape pockmarked by coal fields and populated by hard-working people from hardscrabble backgrounds and communities struggling to make ends meet.

Then a young grocer from the town of Sophia arrived on the scene, asking his neighbors in those communities around Sophia for their votes in his race for the West Virginia House of Delegates. As the Washington Post noted in its obituary this morning, ROBERT C. BYRD met nearly every person—I would suspect every person—in his district, campaigning alone, with no one else, talking about the issues he cared about and those that would affect and did affect the people he wanted to represent; and when all else failed, wowing potential voters with his fiddle prowess.

He won that election, as he would every single election—every single election for which he ever ran. The people of West Virginia never could say no to ROBERT C. BYRD, and he could never

say no to them. As a State legislator, a Congressman, and as a Senator, ROBERT C. BYRD fought for West Virginians, and our Nation, I might add, at every single turn.

If you travel the State of West Virginia today, you will see his name on schools and bridges and highway signs. You will perceive his influence when you see the government buildings and research laboratories he brought to West Virginia—investments that contributed both to the State and to our national economy and to our Nation. But don't just look for his name on the sides of buildings or overpasses. Listen for it in the appreciative words of his constituents, his extended family, and of a grateful nation for his service.

No State has ever had such a deep appreciation for the Senate Appropriations Committee because no State has ever had such an effective appropriator and fighter. ROBERT C. BYRD came to Congress with my father, as I pointed out, in January of 1953, and they both arrived on the same day as they had in the House, on January 3 of 1959. In the summer of 1961, I mentioned I was a Senate page sitting on the Senate floor. I still remember the eloquent speeches of the freshman Senator from West Virginia.

It is incredible to imagine that he was once a freshman Senator. Even then, he had the same gentlemanly manner; he was kind to pages, as I recall, the same knack for triumphant oratory, and the same respect for the rules and traditions of the Senate. But he soon became a fixture and a mentor to new Senators as well. I expect that over the next few days many Senators will take this floor with a Constitution in their pockets, as I do, that they received from ROBERT C. BYRD. Here is my tattered and rather worn copy signed by ROBERT C. BYRD: "To my friend, Chris Dodd, with great personal esteem. Sincerely, Robert C. Byrd." I have carried this with me every day of my life for the last quarter of a century, given to me by my colleague in this Chamber, along, I might add, with a stern but kind lecture about Senate protocol. I have mine right here, as I said. It is a tattered and withered copy, after this many years.

For the past quarter of a century I have occupied some prime real estate on the floor of the Senate. This desk right next to me today, adorned with these flowers and this black cape, marks the seat ROBERT C. BYRD sat in for many years. As have all of us, I have been awed by his deep knowledge of this institution and his deeper commitment to preserving its place in our legislative system.

So, in many ways, ROBERT BYRD's story is one of constancy, of preservation, and of tradition. You could define his life by longevity, I suppose—his 69 years of marriage, his 52 years of service in the Senate, his 64 years of public service to the people of West Virginia. But he wouldn't have wanted it that way. This country has changed over

the many years in which ROBERT C. BYRD helped to lead it and to shape it, and he grew and changed with it, I might add. His story in so many ways parallels the American story over these many years—the story of a nation on a long and difficult journey, always trying to seek that more perfect union that our Founders described more than two centuries ago.

He wouldn't have wanted us to forget about the positions and affiliations that marked the early part of his life and career, and he did not as well. We should learn from our mistakes, as he did, draw inspiration from his journey, and credit him, I might add, for being willing to admit wrong and embrace right when he had the opportunity to do so, because, like our country, ROBERT C. BYRD grew wiser as he grew older.

So we can remember him not only as a tremendously effective legislator, not only as a powerful speaker, not only as a parliamentary wizard, but also as a human being who fought for equality with the true sense of urgency of a convert. He was a man unafraid of reflection, a man who voted to make Martin Luther King's birthday a Federal holiday because, as he put it—I remember him saying it so well—"I'm the only one who must vote for this bill."

Here was a man unafraid of progress, a man who, in one of his final acts in the Senate, voted to overturn the don't ask, don't tell rule in our military. Here was a man unafraid of conscience, a man who, as the guns of war prepared to fire in 2003, delivered one of history's most courageous and memorable pleas for peace.

So let us not remember ROBERT C. BYRD for how much he stayed the same throughout his life. Let us remember him for how the years changed him, and how he changed America for the better through so many years of his service.

Let us remember him as West Virginia's greatest champion, the Senate's gentlemanly scholar, Erma's husband, and above all, a true friend to each and every one of us who knew and loved him so well.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I see the Senator from Pennsylvania and I would ask through the Chair—I plan to speak for about 5 minutes. Does that leave him time to make remarks?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, in 1981, after a surprising election, the Republican leader, Howard Baker, became the majority leader of the Senate, and the Democratic leader, ROBERT C. BYRD, became the minority leader.

According to Senator Baker, he walked to Senator BYRD's office and said to him: BOB, I will never know the Senate rules as well as you do, so I will make you an offer. I will not surprise you if you will never surprise me.

Senator BYRD looked at Senator Baker and said: Let me think about it.

The next morning, Senator BYRD called Senator Baker and said: It is a deal. And that is the way they operated the Senate in those 4 years when Senator Baker was the majority leader and Senator BYRD was the minority leader. They operated the Senate during that time under an agreement where Senator BYRD was careful to try to give every Senator the right of amendment. He thought that was very important. In return, Senator BYRD was able to get unanimous consent agreements on amendments that many Senators thought were frivolous or unnecessary or not germane, which permitted him and Senator Baker to have a fairly orderly management of the Senate during that time.

Senator MCCONNELL a few minutes ago talked about the time Senator BYRD reexamined the Constitution and changed his mind on the first amendment and flag burning. Senator BYRD and Senator Baker during that time both read David McCullough's book and changed their minds on the Panama Canal Treaty, at great political cost to both of them. I bring this up today because I never saw Senator BYRD, after I was elected to the Senate a few years ago, when he did not ask me about his friend and colleague Howard Baker.

We will miss Senator BYRD's fiddling and his love of mountain music. He campaigned in Tennessee a long time ago for Albert Gore, Sr. who was running for the Senate and who also played the fiddle. Senator BYRD played the fiddle at the Grand Ole Opry in Nashville and came back to Nashville in October of 2008 and sang along with a group of fiddlers who were playing songs at his request. I went over there with him. He knew all the songs and all the fiddlers knew him. A few days later I came to him on the Senate floor and talked to him about an old mountain song called "Wreck on the Highway" that Roy Acuff made famous in the 1930s or 1940s, and Senator BYRD began to sing the song—he knew all the words—so loudly that the staff was afraid the galleries would all notice it.

We will miss his love of United States history, not just any United States history, but in his words "traditional American history." He was the sponsor of the Teaching Traditional American History Program, which is part of the Elementary and Secondary Education Act. He has provided nearly \$600 million to 1,000 local school districts to improve the professional development of American history teachers. He and the late Senator Kennedy and I were working on a piece of legislation which we have introduced to consolidate all the Federal programs that support the teaching of U.S. history, hoping that our children can grow up learning what it means to be an American.

Senator BYRD is also responsible for the celebration of September 17 as Constitution Day and Citizenship Day.

Senator BYRD had no time for revisionists who didn't believe America was exceptional. He believed this is one country, unified by a common language and a few principles. He did not want our country to become a United Nations, but always to be the United States of America. He wanted us to be proud of where we came from, but prouder to be American.

We will especially miss Senator BYRD's love of and understanding of the Senate. One of the most special occasions I ever experienced was the opportunity as a freshman Senator in 2003 to attend an indoctrination, one might say—or orientation would be the proper description—on what it means to be a Senator. Senator BYRD began by saying: "You are presently occupying what I consider to be hallowed ground."

I wish to ask unanimous consent to have printed in the RECORD following my remarks the remarks of Senator BYRD at the orientation of new Senators on December 3, 1996.

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

(See exhibit 1.)

Mr. ALEXANDER. Senator BYRD served long enough to know that, as he put it:

As long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.

He believed that when he was lecturing Republicans in 2005 who were trying to change the rules when there was a controversy about President Bush's appointees to the Federal judiciary, and he said the same thing to young Democrats who grew impatient this year and wanted to change the rules to limit unlimited amendment and unlimited debate.

Perhaps his last Senate appearance was before the Rules Committee on May 19, 2010, where his opening statement on the filibuster and its consequences warned against a rules change.

I ask unanimous consent to have that statement printed in the RECORD following my remarks.

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

(See exhibit 2.)

Mr. ALEXANDER. Mr. President, I was 12 years old when Senator ROBERT BYRD was elected to the House of Representatives. I was a senior in Maryville, TN, when he was elected to the Senate. When I came here as a Senate aide 42 years ago, he had just been elected to his second term and was working his way up the party leadership.

He was an imposing man. He had a wonderful photographic memory. But, after one got to know him especially, he was a kind man.

All of us can be replaced, but it is fair to say the Senate will never be the same place without ROBERT C. BYRD.

I yield the floor.

EXHIBIT 1

REMARKS BY U.S. SENATOR ROBERT C. BYRD
AT THE ORIENTATION OF NEW SENATORS, DE-
CEMBER 3, 1996

Good afternoon and welcome to the United States Senate Chamber. You are presently occupying what I consider to be 'hallowed ground.'

You will shortly join the ranks of a very select group of individuals who have been honored with the title of United States Senator since 1789 when the Senate first convened. The creator willing, you will be here for at least six years.

Make no mistake about it, the office of United States Senator is the highest political calling in the land. The Senate can remove from office Presidents, members of the Federal judiciary, and other Federal officials but only the Senate itself can expel a Senator.

Let us listen for a moment to the words of James Madison on the role of the Senate.

'These [reasons for establishing the Senate] were first to protect the people against their rulers: secondly to protect the people against the transient impression into which they themselves might be led, [through their representatives in the lower house] A people deliberating in a temperate moment, and with the experience of other nations before them, on the plan of government most likely to secure their happiness, would first be aware, that those charged with the public happiness, might betray their trust. An obvious precaution against this danger would be to divide the trust between different bodies of men, who might watch and check each other. . . . It would next occur to such a people, that they themselves were liable to temporary errors, through want of information as to their true interest, and that men chosen for a short term, [House members], . . . might err from the same cause. This reflection would naturally suggest that the Government be so constituted, as that one of its branches might have an opportunity of acquiring a competent knowledge of the public interests. Another reflection equally becoming a people on such an occasion, would be that they themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. *A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils.* [emphasis added]

Ladies and gentlemen, you are shortly to become part of that all important, 'necessary fence,' which is the United States Senate. Let me give you the words of Vice President Aaron Burr upon his departure from the Senate in 1805. 'This house,' said he, 'is a sanctuary; a citadel of law, of order, and of liberty; and it is here—it is here, in this exalted refuge; here, if anywhere, will resistance be made to the storms of political phrensy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hand of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.' Gladstone referred to the Senate as 'that remarkable body—the most remarkable of all the inventions of modern politics.'

This is a very large class of new Senators. There are fifteen of you. It has been sixteen years since the Senate welcomed a larger group of new members. Since 1980, the average size class of new members has been approximately ten. Your backgrounds vary. Some of you may have served in the Executive Branch. Some may have been staffers here on the Hill. Some of you have never held federal office before. Over half of you have had some service in the House of Representatives.

Let us clearly understand one thing. The Constitution's Framers never intended for the Senate to function like the House of Representatives. That fact is immediately apparent when one considers the length of a Senate term and the staggered nature of Senate terms. The Senate was intended to be a continuing body. By subjecting only one-third of the Senate's membership to reelection every two years, the Constitution's framers ensured that two-thirds of the membership would always carry over from one Congress to the next to give the Senate an enduring stability.

The Senate and, therefore, Senators were intended to take the long view and to be able to resist, if need be, the passions of the often intemperate House. Few, if any, upper chambers in the history of the western world have possessed the Senate's absolute right to unlimited debate and to amend or block legislation passed by a lower House.

Looking back over a period of 208 years, it becomes obvious that the Senate was intended to be significantly different from the House in other ways as well. The Constitutional Framers gave the Senate the unique executive powers of providing advice and consent to presidential nominations and to treaties, and the sole power to try and to remove impeached officers of the government. In the case of treaties, the Senate, with its longer terms, and its ability to develop expertise through the device of being a continuing body, has often performed invaluable service.

I have said that as long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.

The Senate was intended to be a forum for open and free debate and for the protection of political minorities. I have led the majority and I have led the minority, and I can tell you that there is nothing that makes one fully appreciate the Senate's special role as the protector of minority interests like being in the minority. Since the Republican Party was created in 1854, the Senate has changed hands 14 times, so each party has had the opportunity to appreciate firsthand the Senate's role as guardian of minority rights. But, almost from its earliest years the Senate has insisted upon its members' right to virtually unlimited debate.

When the Senate reluctantly adopted a cloture rule in 1917, it made the closing of debate very difficult to achieve by requiring a super majority and by permitting extended post-cloture debate. This deference to minority views sharply distinguishes the Senate from the majoritarian House of Representatives. The Framers recognized that a minority can be right and that a majority can be wrong. They recognized that the Senate should be a true deliberative body—a forum in which to slow the passions of the House, hold them up to the light, examine them, and, thru informed debate, educate the public. The Senate is the proverbial saucer intended to cool the cup of coffee from the House. It is the one place in the whole government where the minority is guaranteed a public airing of its views. Woodrow Wilson observed that the Senate's informing function was as important as its legislating function, and now, with televised Senate debate, its informing function plays an even larger and more critical role in the life of our nation.

Many a mind has been changed by an impassioned plea from the minority side. Important flaws in otherwise good legislation have been detected by discerning minority members engaged in thorough debate, and important compromise which has worked to the great benefit of our nation has been forged by an intransigent member deter-

mined to filibuster until his views were accommodated or at least seriously considered.

The Senate is often soundly castigated for its inefficiency, but in fact, it was never intended to be efficient. Its purpose was and is to examine, consider, protect, and to be a totally independent source of wisdom and judgment on the actions of the lower house and on the executive. As such, the Senate is the central pillar of our Constitutional system. I hope that you, as new members will study the Senate in its institutional context because that is the best way to understand your personal role as a United States Senator. Your responsibilities are heavy. Understand them, live up to them, and strive to take the long view as you exercise your duties. This will not always be easy.

The pressures on you will, at times, be enormous. You will have to formulate policies, grapple with issues, serve the constituents in your state, and cope with the media. A Senator's attention today is fractured beyond belief. Committee meetings, breaking news, fundraising, all of these will demand your attention, not to mention personal and family responsibilities. But, somehow, amidst all the noise and confusion, you must find the time to reflect, to study, to read, and, especially, to understand the absolutely critically important institutional role of the Senate.

May I suggest that you start by carefully reading the Constitution and the Federalist papers. In a few weeks, you will stand on the platform behind me and take an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic; to bear true faith and allegiance to the same; and take this obligation freely, without any mental reservation or purpose of evasion; and to well and faithfully discharge the duties of the office on which you are about to enter: So help you God.'

Note especially the first 22 words, 'I do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic . . .'

In order to live up to that solemn oath, one must clearly understand the deliberately established inherent tensions between the 3 branches, commonly called the checks and balances, and separation of powers which the framers so carefully crafted. I carry a copy of the Constitution in my shirt pocket. I have studied it carefully, read and reread its articles, marveled at its genius, its beauty, its symmetry, and its meticulous balance, and learned something new each time that I partook of its timeless wisdom. Nothing will help you to fully grasp the Senate's critical role in the balance of powers like a thorough reading of the Constitution and the Federalist papers.

Now I would like to turn for a moment to the human side of the Senate, the relationship among Senators, and the way that even that faced of service here is, to a degree, governed by the constitution and the Senate's rules.

The requirement for super majority votes in approving treaties, involving cloture, removing impeached federal officers, and overriding vetoes, plus the need for unanimous consent before the Senate can even proceed in many instances, makes bipartisanship and comity necessary if members wish to accomplish much of anything. Realize this. The campaign is over. You are here to be a Senator. Not much happens in this body without cooperation between the two parties.

In this now 208-year-old institution, the positions of majority and minority leaders have existed for less than 80 years. Although the positions have evolved significantly within the past half century, still, the only really substantive prerogative the leaders

possess is the right of first recognition before any other member of their respective parties who might wish to speak on the Senate Floor. Those of you who have served in the House will now have to forget about such things as the Committee of the Whole, closed rules, and germaneness, except when cloture has been invoked, and become well acquainted with the workings of unanimous consent agreements. Those of you who took the trouble to learn Deschler's Procedure will now need to set that aside and turn in earnest to *Riddick's Senate Procedure*.

Senators can lose the Floor for transgressing the rules. Personal attacks on other members or other blatantly injudicious comments are unacceptable in the Senate. Again to encourage a cooling of passions, and to promote a calm examination of substance, Senators address each other through the Presiding Officer and in the third person. Civility is essential here for pragmatic reasons as well as for public consumption. It is difficult to project the image of a statesman-like, intelligent, public servant, attempting to inform the public and examine issues, if one is behaving and speaking in a manner more appropriate to a pool room brawl than to United States Senate debate. You will also find that overly zealous attacks on other members or on their states are always extremely counterproductive, and that you will usually be repaid in kind.

Let us strive for dignity. When you rise to speak on this Senate Floor, you will be following in the tradition of such men as Calhoun, Clay, and Webster. You will be standing in the place of such Senators as Edmund Ross (KS) and Peter Van Winkle (WEST VIRGINIA), 1868, who voted against their party to save the institution of the presidency during the Andrew Johnson impeachment trial.

Debate on the Senate Floor demands thought, careful preparation and some familiarity with Senate Rules if we are to engage in thoughtful and informed debate. Additionally, informed debate helps the American people have a better understanding of the complicated problems which besiege them in their own lives. Simply put, the Senate cannot inform American citizens without extensive debate on those very issues.

We were not elected to raise money for our own reelections. We were not elected to see how many press releases or TV appearances we could stack up. We were not elected to set up staff empires by serving on every committee in sight. We need to concentrate, focus, debate, inform, and, I hope, engage the public, and thereby forge consensus and direction. Once we engage each other and the public intellectually, the tough choices will be easier.

I thank each of you for your time and attention and I congratulate each of you on your selection to fill a seat in this August body. Service in this body is a supreme honor. It is also a burden and a serious responsibility. Members' lives become open for inspection and are used as examples for other citizens to emulate. A Senator must really be much more than hardworking, much more than conscientious, much more than dutiful. A Senator must reach for noble qualities—honor, total dedication, self-discipline, extreme selflessness, exemplary patriotism, sober judgment, and intellectual honesty. The Senate is more important than any one or all of us—more important than I am; more important than the majority and minority leaders; more important than all 100 of us; more important than all of the 1,843 men and women who have served in this body since 1789. Each of us has a solemn responsibility to remember that, and to remember it often.

Let me leave you with the words of the last paragraph of Volume II, of *The Senate*:

1789–1989: 'Originally consisting of only twenty-two members, the Senate had grown to a membership of ninety-eight by the time I was sworn in as a new senator in January 1959. After two hundred years, it is still the anchor of the Republic, the morning and evening star in the American constitutional constellation. It has had its giants and its little men, its Websters and its Bilbos, its Calhouns and its McCarthys. It has been the stage of high drama, of comedy and of tragedy, and its players have been the great and the near-great, those who think they are great, and those who will never be great. It has weathered the storms of adversity withstood the barbs of cynics and the attacks of critics, and provided stability and strength to the nation during periods of civil strife and uncertainty, panics and depressions. In war and in peace, it has been the sure refuge and protector of the rights of the states and of a political minority. And, today, the Senate still stands—the great forum of constitutional American liberty!'

EXHIBIT 2

STATEMENT OF SENATOR ROBERT C. BYRD (D-W.VA.), SENATE RULES AND ADMINISTRATION COMMITTEE, MAY 19, 2010

THE FILIBUSTER AND ITS CONSEQUENCES

On September 30, 1788, Pennsylvania became the first state to elect its United States senators, one of whom was William Maclay. In his 1789 journal Senator Maclay wrote, "I gave my opinion in plain language that the confidence of the people was departing from us, owing to our unreasonable delays. The design of the Virginians and of the South Carolina gentlemen was to talk away the time, so that we could not get the bill passed."

Our Founding Fathers intended the Senate to be a continuing body that allows for open and unlimited debate and the protection of minority rights. Senators have understood this since the Senate first convened.

In his notes of the Constitutional Convention on June 26, 1787, James Madison recorded that the ends to be served by the Senate were "first, to protect the people against their rulers, secondly, to protect the people against the transient impressions into which they themselves might be led . . . They themselves, as well as a numerous body of Representatives, were liable to err also, from fickleness and passion. A necessary fence against this danger would be to select a portion of enlightened citizens, whose limited number, and firmness might seasonably interpose against impetuous councils." That "fence" was the United States Senate.

The right to filibuster anchors this necessary fence. But it is not a right intended to be abused.

During this 111th Congress in particular the minority has threatened to filibuster almost every matter proposed for Senate consideration. I find this tactic contrary to each Senator's duty to act in good faith.

I share the profound frustration of my constituents and colleagues as we confront this situation. The challenges before our nation are far too grave, and too numerous, for the Senate to be rendered impotent to address them, and yet be derided for inaction by those causing the delay.

There are many suggestions as to what we should do. I know what we must not do.

We must never, ever, tear down the only wall—the necessary fence—this nation has against the excesses of the Executive Branch and the resultant haste and tyranny of the majority.

The path to solving our problem lies in our thoroughly understanding it. Does the difficulty reside in the construct of our rules or in the ease of circumventing them?

A true filibuster is a fight, not a threat or a bluff. For most of the Senate's history,

Senators motivated to extend debate had to hold the floor as long as they were physically able. The Senate was either persuaded by the strength of their arguments or unconvinced by either their commitment or their stamina. True filibusters were therefore less frequent, and more commonly discouraged, due to every Senator's understanding that such undertakings required grueling personal sacrifice, exhausting preparation, and a willingness to be criticized for disrupting the nation's business.

Now, unbelievably, just the whisper of opposition brings the "world's greatest deliberative body" to a grinding halt. Why?

Because this once highly respected institution has become overwhelmingly consumed by a fixation with money and media.

Gone are the days when Senators Richard Russell and Lyndon Johnson, and Speaker Sam Rayburn gathered routinely for working weekends and couldn't wait to get back to their chambers on Monday morning.

Now every Senator spends hours every day, throughout the year and every year, raising funds for re-election and appearing before cameras and microphones. Now the Senate often works three-day weeks, with frequent and extended recess periods, so Senators can rush home to fundraisers scheduled months in advance.

Forceful confrontation to a threat to filibuster is undoubtedly the antidote to the malady. Most recently, Senate Majority Leader Reid announced that the Senate would stay in session around-the-clock and take all procedural steps necessary to bring financial reform legislation before the Senate. As preparations were made and cots rolled out, a deal was struck within hours and the threat of filibuster was withdrawn.

I heartily commend the Majority Leader for this progress, and I strongly caution my colleagues as some propose to alter the rules to severely limit the ability of a minority to conduct a filibuster. I know what it is to be Majority Leader, and wake up on a Wednesday morning in November, and find yourself a Minority Leader.

I also know that current Senate Rules provide the means to break a filibuster. I employed them in 1977 to end the post-cloture filibuster of natural gas deregulation legislation. This was the roughest filibuster I have experienced during my fifty-plus years in the Senate, and it produced the most-bitter feelings. Yet some important new precedents were established in dealing with post-cloture obstruction. In 1987, I successfully used Rules 7 and 8 to make a non-debatable motion to proceed during the morning hour. No leader has attempted this technique since, but this procedure could be and should be used.

Over the years, I have proposed a variety of improvements to Senate Rules to achieve a more sensible balance allowing the majority to function while still protecting minority rights. For example, I have supported eliminating debate on the motion to proceed to a matter (except for changes to Senate rules), or limiting debate to a reasonable time on such motions, with Senators retaining the right to unlimited debate on the matter once before the Senate. I have authored several other proposals in the past, and I look forward to our committee work ahead as we carefully examine other suggested changes. The Committee must, however, jealously guard against efforts to change or reinterpret the Senate rules by a simple majority, circumventing Rule XXII where a two-thirds majority is required.

As I have said before, the Senate has been the last fortress of minority rights and freedom of speech in this Republic for more than two centuries. I pray that Senators will pause and reflect before ignoring that history and tradition in favor of the political priority of the moment.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, since hearing this morning about the passing of Senator BYRD—he died shortly after 5 a.m.—I have been reflecting on the man I knew.

Those who have the great privilege to serve in the Senate have occasion to meet and interact with great people. The expression “giant” is used not too frequently about Senators. It certainly would apply to Senator BYRD, but I believe it is insufficient. Searching my own mind for a more apt term, “colossus” might better fit ROBERT BYRD.

His career in the Congress of the United States was extraordinary, really astounding. To think that he was elected in 1952 and was sworn in while Harry Truman was still President of the United States and has served since that time, with many things that happened, during the administrations of President Eisenhower, President Kennedy, President Johnson, President Nixon, President Carter, President George H.W. Bush, President Ronald Reagan before, President George W. Bush, President Clinton, and now President Obama.

One of the distinctions he made early on was the fact that in the Senate, we serve with Presidents; we do not serve under Presidents. I think that was a calling card by Senator BYRD as a constitutionalist on the separation of powers. He was a fierce fighter for that separation of powers.

When the line-item veto was passed, he took up the battle to have it declared unconstitutional as an encroachment on article I powers in the U.S. Congress on appropriations. The bills which we present to the President have a great many provisions, and Senator BYRD was looking upon the factor of the President perhaps taking some provisions he did not like too well in order to take the whole bill. I am sure on Senator BYRD's mind was the largeness which came to the State of West Virginia. That is part of our Federal system, part of our democracy, part of our Constitution of the advantage of seniority, where Senator BYRD had been elected and reelected on so many occasions.

I recall Senator BYRD and his swift action shortly after the 1986 election. I was on the Intelligence Committee at that time. Senator BYRD stepped into the picture to see to it that the witnesses who testified on what was later known as the Iran Contra controversy were placed under oath. He had a sense that there was a problem that had to be investigated by Congress, again, under the doctrine of separation of powers.

I recollect his position on the impeachment proceeding as he stood at this chair and recited the provisions of the Constitution, about the impeachment for high crimes and misdemeanors, and then started to talk about the action of the respondent in the case, President Clinton, and the

charges which were levied. He came to the conclusion that the constitutional standard had been met and then voted not guilty—with a sweep on the conclusion, a judgment of a higher principle involved that President Clinton had not lost the capacity to govern, and he ought to stay in office.

I recall in October of 2002 we debated the resolution authorizing the use of force for President Bush. The resolution did not say force would be used but gave the President the authority to use force as he decided it appropriate.

I was concerned about that. The scholars who had written on the subject for the most part said it would be an inappropriate delegation of constitutional authority for the Congress to say to the President: You may start a war at some future date.

The starting of a war depended on the facts and circumstances at hand when the decision was made. Senator BYRD and I discussed that at some length and finally concluded there ought to be some flexibility. Both of us voted for that resolution on the ground that empowering the President without authority, we might have the realistic chance of avoiding a war.

While serving with Senator BYRD on the Appropriations Committee, I recall 1 year when he chaired the Appropriations Committee—I think in the late 1980s—the allocations made were not in accordance with the budget resolution which had been passed. Some of us on the Appropriations Committee thought we ought to have those allocations in accordance with what Congress had set in the budget resolution. Senator D'Amato, Senator Kasten, and I staged a minor revolution. It did not last too long. The vote was 26 to 3. But we expressed ourselves.

I recall hearing Senator BYRD and participated in a discussion with him on the Senate floor about the right to retain the floor, whether you could yield to someone or whether you had to have an order of consent before you retained your right to the floor. Discussing or debating Senator BYRD on procedural issues was indeed an education. He was always regarded as the foremost expert on Senate procedure and the rules of this body.

His service—most recently in coming in ill, in a wheelchair for a series of cloture votes at 1 a.m.—historians, I think, will write about the passage of the comprehensive health care bill and the cloture votes and passage in the Senate on Christmas Eve early in the morning—finally, we had a concession we would not vote at 11:59 on Christmas but would vote earlier in the day. Even the objectors wanted to leave town. Senator BYRD came here performing his duty, although he certainly was not well and it was a tremendous strain on him. He came and made the 60th vote.

It is a sad occasion to see a black drape on Senator BYRD's desk and flow-ers. I am sure in days to come there will be many comments, many eulogies

about Senator BYRD. He leaves a great void. But reflecting on the experiences I have had with him, there is much to celebrate in his life. He was a great American, a great Senator. We will all miss him very much.

In the absence of any other Senator on the floor seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BURRIS. Mr. President, I ask unanimous consent to speak as in morning business.

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

Mr. BURRIS. Mr. President, early this morning, our country lost an icon and a national treasure. Our friend and colleague, Senator ROBERT C. BYRD, became a legend in his own time. And in many ways, he came to embody the institution of the Senate.

As a leader, and as a guardian of Senate procedure and tradition, Senator BYRD was without equal. For more than half a century, he helped shape federal policy, and guided the course of a nation.

But on the day he was born, in 1917, this unique place in history was far from assured.

Raised in the coal country of West Virginia, few could have predicted that this intelligent but unassuming young man would rise to the very highest levels of our democracy. He was an avid fiddle player, and valedictorian of his high school class. But he could not afford to go to college until many years later. So as a young man, he found work as a meat cutter, a gas station attendant, and a store owner. And the store owner is very dear to me because our family were store owners, and I know how tough that business is. He welded Liberty and Victory ships during the Second World War, and several years later entered politics at the State level.

That is where ROBERT BYRD found his true calling: public service.

He was first elected to the House of Representatives in 1952, and has served the people of West Virginia in this Chamber since 1958. Over the course of his extraordinary career, he worked alongside 11 Presidents. He served in Congress longer than anyone in American history, cast more than 18,000 votes, and was elected to more leadership positions than any other Senator.

Most recently, he assumed the role of President pro tempore of the Senate, ranking him third in the line of Presidential succession. At every turn, he dedicated himself to the sanctity of our Constitution, and fought to uphold its principles and the weight of Senate tradition.

It is difficult to measure the vast impact he has had on the lives of every single American.

No, he was not right on every issue. His past was not without mistakes and errors in judgment. But it is a credit to Senator BYRD that, over the years, he gained the wisdom to recognize the moments when he strayed from the right path. It is the mark of greatness that he worked hard to overcome these errors and set America on course for a more prosperous, more inclusive future.

In recent years, Senator BYRD raised his voice against the unilateral invasion of Iraq.

He fought to preserve the filibuster, ensuring that the voice of the minority will always have a place in this august Chamber. He offered his support to a young Senator from Illinois named Barack Obama, as he fought to become the first African-American President of the United States.

Senator BYRD's historic tenure spanned 11 administrations, thousands of bills, and more than half a century. Thanks to his leadership, and the leadership of others he has inspired and mentored over the years, we live in a very different world today.

The year he launched his first campaign for the House of Representatives, gas cost about 25 cents a gallon, Winston Churchill was Prime Minister of the United Kingdom, and I was only 15 years old.

Senator BYRD has left an indelible mark on this Nation, and for that we will be forever grateful.

But today, as we remember and celebrate the contributions he has made, we also offer our condolences to his friends and loved ones in this time of mourning. We offer our sympathies to the people of West Virginia, who have lost a staunch advocate. We offer our fervent hope that a new generation of Americans, liberal and conservative; Black and White; from all races and religions and backgrounds.

We hope that a new generation will take up the legacy of patriotism and service that was left to us by Senator BYRD; that today's young people will inherit his fierce loyalty to the Constitution, and recognize their responsibility to confront every challenge we face.

So I ask my colleagues to join with me in honoring the life of our dear friend, Senator ROBERT BYRD.

And I call upon every American to learn from the example set by this son of the West Virginia hills who overcame poverty, lack of education, and the prejudice of his times to become one of the greatest public servants in our history.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the cloture vote on the motion to proceed to H.R. 5297 be delayed to occur at 2:15 tomorrow, Tuesday, June 29; further that if cloture is invoked on the motion to proceed, then all postcloture time be considered yielded back, and the Senate then proceed to consideration of H.R. 5297; further, that as if in executive session, I ask unanimous consent the previous order with respect to the vote on confirmation of the nomination occur upon the use of time specified in the order governing consideration of the nomination with any other provision of the previous order remaining in effect, which would mean the vote would be at 5:30 tonight.

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

NOTIFYING THE HOUSE OF REPRESENTATIVES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. REID. Mr. President, I have a resolution at the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 568) notifying the House of Representatives of the election of a President pro tempore.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 568) was agreed to, as follows:

S. RES. 568

Resolved, That the House of Representatives be notified of the election of the Honorable Daniel K. Inouye as President of the Senate pro tempore.

NOTIFYING THE PRESIDENT OF THE UNITED STATES OF THE ELECTION OF A PRESIDENT PRO TEMPORE

Mr. REID. I have a resolution at the desk.

The PRESIDING OFFICER (Mrs. HAGAN). The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 569) notifying the President of the United States of the election of a President pro tempore.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. I ask unanimous consent that the resolution be agreed to and

the motion to reconsider be laid on the table.

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

The resolution (S. Res. 569) was agreed to, as follows:

S. RES. 569

Resolved, That the President of the United States be notified of the election of the Honorable Daniel K. Inouye as President of the Senate pro tempore.

EXTENSION OF MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate continue in morning business until 5 o'clock today.

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

Mr. REID. As I indicated, we will have one vote at 5:30 today.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. I ask unanimous consent that the order for the quorum call be rescinded.

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

NOMINATION OF ELENA KAGAN

Mr. McCONNELL. Madam President, the Judiciary Committee just wrapped up its hearings on the first day of the nomination of Elena Kagan to be an Associate Justice of the Supreme Court. These hearings will provide Senators on both sides of the aisle an opportunity to examine Ms. Kagan's record, legal experience, and background in light of the awesome responsibility that comes with a lifetime appointment on our Nation's highest Court. These hearings also provide an opportunity for the American people to focus their attention on a woman whom President Obama would like to see deciding cases on many of the most important and consequential issues we face as a people, long after the President's time in office is through.

In the near term, she would be ruling on the actions and policies of an administration of which she is now a member. So it is well worth asking why the President chose Ms. Kagan in the first place. We know the President and Ms. Kagan are former colleagues, and we know from the President himself that they are friends. We know he views her as an important member of his team and that he was especially pleased with her handling of the Citizens United case. The President is no doubt confident that Ms. Kagan shares his view that judges should be judged primarily on their ability to empathize with some over others; in other words, that she embraces the empathy standard he has talked about time and time again. But as I have said before, while empathy may be a very good quality in general, in a court of law it is only