

without that happening. In the meantime, what is happening to our political system is not in the best interest of democracy.

If the average person who is not wealthy cannot even consider the possibility of being a candidate for Congress without the backing of huge special interest groups or without their own personal wealth, then we have lost something. A lot of us who got engaged in public life many years ago might never have considered it under today's rules because it is so expensive and overwhelming. Any person who now steps up and says they are ready to run for Congress or the Senate is introduced quickly to what is known as the "Power Hour"—dialing for dollars. We sit them down in a chair and they get on the phone and call this list and beg every person they can reach for at least \$2,300, \$2,500. And they keep calling until the Sun goes down, and they start again the next day.

There was a time when many of these candidates would not be sitting talking to the wealthiest givers in America but would be out in their States and districts talking to the people whose needs they ought to appreciate. That time has changed. We can change it back. We need to have the support of the American public and the political will in both political parties to achieve it.

I yield the floor and suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. ALEXANDER. I ask the President to notify me when I have used 30 minutes.

The ACTING PRESIDENT pro tempore. The Chair will do so.

#### RECESS APPOINTMENTS

Mr. ALEXANDER. Mr. President, last week we Republican Senators had an extraordinary experience that millions of Americans have had and will have in the future: We spent a day at Mount Vernon, George Washington's home, which is not more than about 40 minutes from the Nation's Capital.

Even in the middle of winter, it is a beautiful, historic setting. It is hard to imagine why George Washington and Martha Washington would ever want to leave the place.

Touring the rooms, we could imagine what life must have been like then. There are many things that impress any of us when we visit there.

One thing that especially impressed me was the fact that, despite the beauty of the place and Washington's love for farming, he was gone from Mount Vernon for 8½ years during the Revolu-

tionary War. He never went home; he was always in the war. Even when he was President of the United States for 8 years, he was only at Mount Vernon 10 times during those 8 years; and after the Presidency, of course, he soon died. So he gave up quite a bit to be President of the United States.

There were other things that impressed me about our visit to Mount Vernon. One was the reminder that our Revolution was a revolution against a King. George Washington, as commander in chief of the Continental Army, led a fight for independence from a King whom the signers of the Declaration of Independence stated, had a "History of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States."

Those were our Revolutionary Founders talking. As President of the Philadelphia Convention, George Washington presided over the writing of the U.S. Constitution which emphasizes, if it emphasizes any one word, the idea of "liberty" in creating the system of government we enjoy today.

Then there was another aspect to George Washington of which we were reminded which would be good for us to think about today and that was his modesty and restraint.

George Washington must have had remarkable presence. He never had to say very much, apparently, to command the attention and respect of his countrymen. He likely could have been general of the Army as long as he wished and President of the United States as long as he wished, but he chose not to do that.

It was he who first asked to be called simply Mr. President, rather than some grand title. It was Washington who gave up his commission when the war was over, and it was Washington who stepped down after two terms and went home to Mount Vernon. In fact, that aspect of his character was imprinted upon the American character, that modesty and restraint on the part of the executive branch and a recognition that our system depends absolutely on checks and balances.

I am struck by that attitude and the different attitude I see in the administration of President Obama, which has shown disregard for those checks and balances and the limits on Presidential power that our Founders and George Washington felt were so important.

This administration, over 3 years, has been arrogating more power to the executive branch of government and upsetting the delicate balance, which the Founders created for the purpose of—what? For the purpose of guaranteeing to each of us as individuals the maximum amount of liberty.

I remember Senator Byrd saying time and time again that the purpose of the Senate, more than anything else, was a restraint upon the tyranny of the executive branch of government. That is our purpose as a Senate.

This President's Executive excesses were first illustrated by the creation of more czars than the Romanovs had.

We have always had some so-called czars in the White House—the drug czar, for example. But now we have approximately three dozen of them. These czars duplicate and dilute the responsibilities of Cabinet members; they make it harder for the Congress, us, to have a supervisory role over exactly what they are doing. It is not only antidemocratic, it is a poor way to manage the government.

Equally disturbing to me has been this administration's use of regulation and litigation to bypass the Congress and the will of the people when the Congress has a different point of view.

For example, this was the case with the National Labor Relations Board and their decision in the Boeing case; which has now been apparently resolved but which was an enormous—an enormous abuse of power, in my opinion.

Then the President is taking to blaming almost everyone for the problems we see in our lives today: First, it was President Bush, then it was the banks, then it was business, then it was the insurance companies, then it was Wall Street, then it was 1 percent of us, and now it is the Congress, which of course is in a government that is primarily run by the President's own political party.

The President has taken to saying in his campaign speeches and his State of the Union Address the other day, "If Congress won't act, I will," and he has begun to show that is no idle threat.

Because now, on top of these other abuses, with his recent appointments to the National Labor Relations Board and the Director of the Consumer Financial Protection Bureau to head a new and unaccountable agency, the president has undermined the checks and balances that were placed in our Constitution and that George Washington so respected.

This Senate has always been the place—whether it was a Democratic Senate arguing about the appropriateness of President Bush using war powers, this Senate has always been the place that has insisted upon checks and balances and the liberty of the people as guaranteed by those checks and balances.

The President's recent actions have shown disregard for possibly the best known and possibly most important role of the Senate and that is its power of advice and consent of executive and judicial nominations as outlined in Article II, Section 2 of the Constitution.

These actions, four appointments during a period of time when the Senate, in my opinion, was in session, fly in the face of the principle of separation of powers and the concepts of checks and balances against an imperial President.

Let's look for a moment at the history and precedents of recess appointments. The exact length required for a

recess is not defined in the Constitution, but according to the Congressional Research Service “it appears that no President, at least in the modern era, has made an intra-session recess appointment during a recess of less than 10 days.”

Both parties have relied upon the adjournment clause in Article I of the Constitution to argue that the absolute minimum recess period would conceivably be 3 days.

We can also look at the number of recess appointments made by recent Presidents. As of January 23 of this year, President Obama had made 32 recess appointments, all to full-time positions. At the same point in time in his first term, President Clinton had made nine recess appointments to full-time positions. President Bush, at about the same time, had made 35.

So they all made recess appointments—appointments while the Senate was in recess. That is provided for specifically in the Constitution as something the President could do. But President Clinton never did it when Congress was in session for less than 10 days. President Bush never did it when Congress was in recess for shorter than 11 days. Now, unfortunately, President Obama has broken that precedent and made 4 appointments when we were in a period of less than 3 days.

Why is that important? In 2007, the current majority leader of the Senate, HARRY REID, decided the Senate did not want President Bush making recess appointments; that is, making appointments while the Senate wasn't in session. So the Senate refused at that time to enter into prolonged recesses. They invented the idea of pro forma recesses every 3 days. President Bush strenuously objected to that, but he respected that. He respected the constitutional authority of the Senate under article I, section 5 to determine when the Senate is in session.

On November 16, 2007, Senator REID said: “With the Thanksgiving break looming, the administration has informed me that they would make several recess appointments.”

Senator REID didn't like the idea of recess appointments any more than we do. So he said: “As a result, I am keeping the Senate in pro forma to prevent recess appointments until we get back on track.”

The ACTING PRESIDENT pro tempore. The Senator has consumed 10 minutes.

Mr. ALEXANDER. I thank the Chair and ask to be notified when I have consumed 3 minutes more.

On November 16, 2007, Senator REID said:

As a result, I am keeping the Senate in pro forma to prevent recess appointments until we get this process back on track.”

And on July, 28, 2008 he said: “We don't need a vote to recess. We will just be in pro forma session. We will tell the House to do the same thing.”

The President is restricted, as Senator REID indicated, by article I sec-

tion 5 of the Constitution, which states that “neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.”

Last December when the House and Senate agreed to adjourn, the Speaker—a Republican—and the majority leader here—a Democrat—agreed the two Chambers would hold pro forma sessions for the express purpose of not going into recess. Yet the President went ahead and made his appointments. This is a dangerous trend. It is a dangerous trend.

The major issue before our country is the Obama economy. That is what we will be talking about more than anything else in an election year. But liberty is the defining aspect of our American character. If the President's current actions were to stand as a precedent, the Senate may very well find that when it takes a break for lunch, when it comes back, the country has a new Supreme Court Justice.

Because we believe in the importance of that constitutional system, all of us on the Republican side insist on a full and complete debate on this issue. We intend to take this issue to the American people. We will file amicus curiae briefs in all of the appropriate courts and we will take this issue to the most important court in the land and that is the court of the American people on election day.

I do not suggest that the President will find, or even should find, his relationship with Congress to be easy or simple. George Washington did not. President Washington once came up here to discuss a treaty with Senators and became so angry that he said, and this is Washington's word, he'd be “damned” if he ever went there again.

The separation of powers does not mean an easy distribution of powers but it is essential to the American character. We should remember that. A short trip to Mount Vernon would remind us of that. The President's recess appointments not only show disregard for the Constitution, they show disregard for every individual American who chooses liberty over tyranny, President over King.

I yield the floor.

#### REPEAL THE CLASS ACT

Mr. THUNE. Mr. President, I come to the floor today to laud the actions of the House of Representatives which voted to repeal the CLASS long-term care entitlement program that was created by the health care law. The vote yesterday in the House of Representatives was 267 in favor of repeal. It was a bipartisan vote. It was a clear, I think, message that this is a piece of legislation that needs to be taken off the books.

It was a disaster in the making from the very beginning. Many of us tried to predict that ultimately this program

was destined to fail. The vote in the House of Representatives yesterday to repeal this insolvent program I hope will pave the way for the Senate to follow suit. My fear has been all along that if we do not get this program off the books, at some point there will be an attempt to resurrect it. That would be the absolute worst outcome and worst scenario for the American taxpayer because this is a program that, even before it was voted on and added to the health care bill, was predicted would fail.

The Congressional Budget Office said it would run deficits in the outyears. The Actuary at the Health and Human Services Department predicted that this was a program that actuarially was unsound, could not be viable in the long run. It was here in the last few months that finally the Secretary of Health and Human Services, Kathleen Sebelius, came out and said, “I do not see a viable path forward for CLASS implementation.”

That was a statement she made back in the middle of October. So even the person who was tasked with implementing this program has now said there is no viable path forward for CLASS.

We ought to get this off the books. It was, in fact, a pay-for in the health care bill. It was designed to help understate the cost of the health care bill. It front-end-loaded premiums, got revenue in the door early, knowing full well that when the demands for payments came later on that it was going to be upside down, and it was clearly a program that I think, by any account, all who observed this process closely knew just flat out this would not work. But what was done—it obscured the cost of the health care bill and helped it to sort of balance out because it was front-end loaded, saw revenues come in in the early years before payments would have to go out in the outyears.

I am hopeful the Senate will take the action that was taken by the House of Representatives and end this once and for all. We have people on both sides of the aisle who have come to that conclusion. There was a lot of debate, even in the runup, the lead-up to the health care bill, about how this would not work. I offered an amendment during the health care debate to strip it. We had 10 Democrats at the time who voted with me on that amendment. Many of them made statements regarding this legislation and the implications if it were to pass. In fact, the Senator from North Dakota, the chairman of the Senate Budget Committee, said at the time that this is “a Ponzi scheme of the first order, the kind of thing that Bernie Madoff would have been proud of.”

He vowed to block its inclusion in the Senate bill. It ended up in the Senate bill and ended up in the overall bill, so to this day it is still a part of the health care legislation but a part that needs to be stripped out if we are going to do what is in the best interests of