

balance by asking the most fortunate among us to pay a little extra to reduce the debt.

It is also the only bill with a chance of being signed into law by President Obama. I was dismayed to hear Speaker BOEHNER once again urge the Senate to take up the House-passed bill extending more tax breaks for millionaires and billionaires. The Senate has already considered that bill. We rejected it on a bipartisan basis.

So for the Speaker to say, bring it up, we already have. It was voted down in this Congress. The Senate has spoken. President Obama has spoken. He has promised he will not sign any bill that mortgages our future to pay for handouts for the wealthiest 2 percent of Americans.

I only hope the House Republicans have been listening. I also hope my colleagues, Republican and Democratic Members of the House and the Senate, used the Thanksgiving break not only to give thanks but also to reflect on the monumental tasks ahead. I hope they took time to reflect, too, on the effort it will take to complete these tasks.

As President Eisenhower said, there will have to be compromises, and seeking the middle of the road is not just acceptable, it is the only way forward.

ORDER OF BUSINESS

Mr. President, let me say a few words about the schedule. Discussions continue on the Defense authorization bill. I just finished a conversation with the chairman of the committee, Senator LEVIN. Republican Senators have been having disagreements among themselves on what they want to do on the Defense bill. Thus, while these discussions are going on, I intend to move to proceed to the Carcieri decision affecting Native Americans. I will file cloture on the motion to proceed on the motion to invoke cloture on Wednesday.

Tomorrow, I intend to move to proceed to executive session to consider the disability treaty. We will seek a reasonable agreement on amendments to this matter. If on Wednesday cloture is not invoked on the Carcieri matter, I would intend to figure out some way, with the help of Senator MCCAIN and others on the other side, to return to the Defense bill under the tentative agreements we have had on that before. It is up to Senator LEVIN and Senator MCCAIN to figure out a way forward on that. I am willing to work with them as to what is reasonable this late in the game.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

REAL AND LASTING REFORMS

Mr. McCONNELL. Mr. President, as most Americans know by now, the next

few weeks are critically important in the life of our Nation. Unless the President leads and Congress acts, the combination of automatic tax hikes and spending cuts will go into effect that could have a devastating effect on our national defense and on an already painfully slow economy.

What is more, the Nation's finances are teetering on the edge, threatening even greater hardship for literally millions unless we bring Federal spending into balance. The question is, What are we going to do about all of this? How do we face up to the fiscal irresponsibility and can kicking that got us here and finally do what is right for the country?

I do not think it is a secret that for our part the Republicans have shown a clear willingness to make tough choices in order to find a solution to the trillion-dollar deficits of the last 4 years. We have been open to revenue by closing loopholes, as long as it is tied to spending cuts and progrowth tax reform that broadens the base and lowers rates.

This is the model laid out by the Bowles-Simpson Commission, and it is a model both parties should step forward and embrace. Without compromising our principles, we have put skin in the game and recognition of that while Democrats do not run this town, neither do we. We have been responsible even as we have remained firm on this point: No tax increases now for promised spending cuts that will not materialize later. The American people have seen that game before and they will not be fooled again.

The only balanced approach is one that includes real and lasting reforms. So Republicans have stepped out of our comfort zone. We have been clear about what we will do and what we will not. Yet we remain at an impasse, leading us to ask why. Because a vocal minority on the hard left continues to argue to leaders of their party, from the President on down, that Democrats in Washington should do absolutely nothing about short-term or long-term spending problems.

This is the "Thelma and Louise" crowd, the ones who dream about higher taxes and the bigger government it will pay for, regardless of the impact on jobs or the economy or America's standing in the world. These are the ones who recklessly ignore the fact that we cannot continue running trillion-dollar deficits every year and throw a tantrum if somebody suggests that maybe the taxpayers should not keep subsidizing every last program Washington ever dreamed up.

Their reckless and ideological approach threatens our very future. Anyone who is serious about solving the problems we face should ignore all that, starting with the President. The election is over, but the economy and fiscal problems of the past several years have only gotten worse. It is time for the President to present a plan that rises above these reckless

and radical voices on the hard left, that goes beyond the talking points of the campaign trail, and that has a realistic chance of passing the Congress. The time, in other words, for campaigning is over. It is time for the President to lead.

A little over 1 week ago, I attended a meeting with the President down at the White House. It was positive and productive and afterward I was confident that all sides were eager to figure out a solution to the present challenges that respects our respective principles. But as I have said repeatedly, the only person in America who can make or break it is the President himself.

He is the only one who can lead his party to do something they would not ordinarily do, to do what is actually needed now. That is why he is the one who has to present a plan for success. So we will continue to wait on the President and hope he has what it takes to bring people together and forge a compromise. If he does, we will get there. If he does not, we will not. It is that simple.

CHANGING SENATE RULES

Mr. McCONNELL. Mr. President, I would like to turn to another issue that does not grab as many headlines as these others we have been focused on these last few days but which is critically important since it relates to the mortal threat that has been quietly gathering against one of the most cherished safeguards of our government.

I am referring to the latest effort by some on the other side, most of whom have never served a day in the minority, to force a change in Senate rules at the beginning of the new year that would fundamentally change the character of the Senate. This is no exaggeration.

What these Democrats have in mind is a fundamental change to the way the Senate operates for the purpose of consolidating their own power and further marginalizing the minority voice the Senate was built to protect.

In the name of efficiency, their plan is to use a heavy-handed tactic that would poison party relations even more. In the name of efficiency, they would prevent the very possibility of compromise and threaten to make the disputes of the past few years mere pillow fights. To understand why, let me explain in a little more detail what is being proposed.

What this small group of primarily Senate sophomores is now proposing is that when the Senate gavels in at the beginning of the new Congress, a bare majority of Senators can disregard the rule that says changes to the Senate rules can only be approved on the same broad bipartisan basis we reserve for approving treaties and overriding Presidential vetoes, a supermajority plus.

Lyndon Johnson once said of the 67-vote threshold for changes to the rules that it "preserves indisputably the

character of the Senate as the one continuing body in our policy making process.”

Senator REID himself once described changing the Senate procedure by majority fiat as “breaking the rules to change the rules.”

What is being proposed now would undermine the very purpose of the Senate as the one place in our system where minority views and opinions have been respected and heard and, in most cases, incorporated into law.

Until now, you could say that protecting the rights of a political minority has always been the defining characteristic of the Senate. That is why Members of both parties have always defended it whether they were in the majority or minority, because they knew the Senate was the last legislative check against the kind of raw exercise of power majority parties have always been tempted to wield.

The CONGRESSIONAL RECORD contains literally mountains of reverential statements by Republicans and Democrats extolling the near-sacred character of the Senate as the one legislative body on Earth that protects minority views from majority rule, and it requires supermajorities for anything significant to become law.

Why is that? So that majorities can't simply roll over those who disagree with them, and, just as important, so majority parties are forced to resolve the great issues of the moment in the middle, ensuring their stability and their permanence. It is this mechanism that has so frustrated majority parties over the years but which has ensured, at least most of the time, that our laws are stable and not subject to change every time the parties change power. This is what makes the Senate different. This is what makes this body great.

Up until recently many of those who now want to change these rules agreed with what I just said. Just a few years ago, as I have already indicated, the majority leader was one of the staunchest defenders of the Senate's protection of minority rights for all of the reasons I have mentioned. Yet now he finds himself frustrated with those rules he once championed. He is prepared to recklessly throw those rules away and his own solemn pledges to defend them.

On December 8, 2006, the majority leader made a public pledge to fight all efforts to change all rules protecting the minority once he became the majority leader. It is a pledge he repeated during another proposed rules change 2 years ago. I wish to quote in full what the majority leader said that day because in light of his words, it is hard to believe what he is proposing to do now. Here is what he said:

As Majority Leader, I intend to run the Senate with respect for the rules and for the minority rights the rules protect. The Senate was not established to be efficient. Sometimes the rules get in the way of efficiency. The Senate was established to make

sure that minorities are protected. Majorities can always protect themselves, but minorities cannot. That is what the Senate is all about. For more than 200 years the rules of the Senate have protected the American people, and rightfully so. The need to muster 60 votes in order to terminate Senate debate naturally frustrates the majority and oftentimes the minority. I am sure it will frustrate me when I assume the office of majority leader in a few weeks, but I recognize this requirement is a tool that serves the long-term interest of the Senate and the American people and our country. It is often said that the laws are “the system of wise restraints that set men free.” The same might be said of the Senate rules. I will do my part as majority leader to foster respect for the rules and traditions of our great institution. I say on this floor that I love so much that I believe in the Golden Rule. I am going to treat my Republican colleagues the way that I expect to be treated. There is no “I've got you,” no get even. I am going to do everything I can to preserve the traditions and rules of this institution that I love.

That is the end of the quote from my friend, the majority leader, just a few years ago. He acknowledged that “the Senate was not established to be efficient,” but rather “to make sure that minorities are protected.” With this fundamental purpose of the Senate in mind, he pledged he would do everything he could to preserve the traditions and rules of this institution that he loves.

It is hard to imagine a clearer pledge than that, and I am afraid that going back on it now would have such a corrosive effect on comity that it would threaten our ability to get anything accomplished around here.

Let's be clear: The rules change that is being proposed is not an affront to me or to the Republican Party. It is an affront to the American people. It is an affront to the people who sent me and the other 46 Republicans here to represent them in the Senate, but these voices would be shut out if the majority leader and this cohort of short-sighted Senate sophomores have their way and permanently change this body.

At the moment Republicans represent the voters of 31 States, representing a total population of more than 180 million Americans. Shutting off our right to express the views of our constituents, as is being proposed, would effectively shut these people out of the process. What the majority leader and his cohort of Senators, who don't seem to understand what the Senate was intended for, are proposing would guarantee that the one sure means our constituents now have of being heard in Washington would be gone.

If a bare majority can proceed to any bill it chooses, and once on that bill the majority leader, all by himself, can shut out all amendments that aren't to his liking, then those who elected us to advocate for their views will have lost their voice in this legislative process. This is something the majority leader used to understand. He used to understand that protecting the rights of the minority party meant protecting the

rights of the people who sent us here to be heard in Washington. He understood the importance of defending the minority view when he was in the minority. Now that he has been in the majority he seems to have conveniently forgotten all of that.

The people of Kentucky elected two Republican leaders to the Senate. Does the majority leader think the views of the people of Kentucky shouldn't be heard? Does he think Nevadans who sent Senator HELLER to the Senate shouldn't be heard? Does he believe that on the day he finds himself in the minority once again that he should no longer be heard? Or does he think that Democrats will remain in the majority from now until the end of time?

For the past several years many of us on the Republican side have raised loud objection to the diminished rights of the minority to participate in the legislative process around here. Democratic leaders have tried in more ways than one to silence those with whom they disagree. They have blocked Members, including their own committee chairmen, from expressing themselves in committee through unprecedented use of Senate rule XIV, which allows them to bypass committees altogether.

They have blocked Members from expressing themselves through an unprecedented use of filling the amendment tree, which prevents the Senate from considering amendments the majority leader doesn't like. No amendments in committee, no amendments on the floor.

The majority leader made this clear to Senator MCCAIN in a remarkable moment of candor when he bragged that the “amendment days are over.” He has preferred to write legislation in the confines of his conference room rather than in the public eye, as he did most famously with the drafting of ObamaCare.

I say to everyone: If you want more legislation around here the way that bill was crafted, then you ought to be pretty enthusiastic about what the majority leader is proposing because that is where this is headed, more authoritarianism, more secrecy, and even less input from rank-and-file Members on both sides of the aisle.

As I said, we have protested all of this and have spoken out loudly against the abuses of the Senate. But now the majority leader wants to go even further. He doesn't propose to simply abuse the rules, he wants to break the rules and his own very public pledge to defend those rules at all costs. Make no mistake, what the majority leader is proposing is a Senate where the only rule is his whim; where the rest of us are bystanders, including the Members of his own party.

Do the Democrats really want to go down this road? Do they really think they are going to be in the majority forever? We have Members from both parties who used to serve in the House of Representatives, Democrats and Republicans, who said to me they thought the Senate was different.

I don't care whether you are a Republican or whether you are a Democrat, you came to the Senate because you knew that here you could make a difference for your constituents; here you would be heard; here you could offer amendments; here the minority was protected; here the majority leader had to work with the other side.

What even Senate Democrats have discovered over the past few years is a very different place—a place where committees no longer matter, where Members of both parties are shut out of the debate and where bills are drafted behind closed doors, where politicians trade favors in secret instead of exchanging ideas in public just to get legislation across the finish line.

When I come to the Senate every day I know I work in a body of people who have different views than I do about the role of government and the best solutions to the problems we face. But I know the price of belonging to this place is having to hear them out and to vote on their ideas, and the price of belonging here is that they have to do the same.

The American people need to know what is going on here, and that is why I hope Republicans and many Democrats who care about this institution, rather than some temporary exercise of raw partisan political power, will come forward over the next few weeks and speak out against this naked power grab. When they do, I hope they will be guided by the words of another former Democratic Senator who said the following about the Senate and its uniqueness. This is what this former Democratic Senator said:

The American people sent us here to be their voice. They understand that those voices can at times become loud and argumentative, but they also hope we can disagree without being disagreeable. At the end of the day, they expect both parties to work together to get the people's business done. What they do not expect is for one party, be it Republican or Democrat, to change the rules in the middle of the game so they can make all the decisions while the other party is told to sit down and keep quiet. The American people want less partnership in this town, but everyone in this chamber knows that if the majority chooses to end the filibuster, if they choose to change the rules and put an end to democratic debate, then the fighting, the bitterness, and the gridlock will only get worse.

That Senate Democrat was President Obama. I don't often agree with President Obama on matters of policy, and the issue he was referring to here was different than this one. But the principle he expressed in defending his position then is one that I believe in wholeheartedly.

Let me sum it this way: For the sake of this institution and the future of the country, I implore Members on both sides to oppose this naked power grab strenuously and loudly. It may be the most important thing they ever do because the debates of the moment are passing, but the Senate must endure and nothing less is at stake.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

Mr. REID. The one thing the Republican leader said that is absolutely true is I follow the Golden Rule, and it is very clear what has happened during this Congress. We can go over all the numbers—and I think they project what has happened—about the hundreds and hundreds of times that we have been forced to file cloture on relatively meaningless things.

My friend the Republican leader claims changing the rule to make the Senate more efficient is an assault on minority rights. In fact, it is a response to the abuse of the filibuster by Senate Republicans. He keeps talking about getting rid of the filibuster. I and no one on the Democratic side have proposed getting rid of the filibuster, but we have proposed making this place more efficient.

We had a run at this 2 years ago. We had a so-called gentleman's agreement that the motion to proceed would be filibustered rarely. We filibustered almost every time a bill came up, so that simply didn't work. I am not proposing that we get rid of the filibuster, just that we do away with filibusters on the motion to proceed, period.

To the average American, reforms are just common sense, Mr. President. Americans believe Congress is broken. Once again, the only ones who disagree are MITCH MCCONNELL and Republicans in Congress. The American people know, Democrats and Republicans, that this place isn't working and there needs to be some changes so we can proceed to get some legislation passed. We know that during the same time frame as Lyndon Johnson's 6 years—and I will have 6 years in the same position at the end of this year—I have faced 386 filibusters. It keeps going up because we had a couple more very recently. Lyndon Johnson had one. Today it takes more than a week—in fact, it takes about 10 days—to even begin considering a bill, before we are even on the bill, let alone trying to pass that legislation.

So it is time to get the Senate working again, not for the good of the current Democratic majority or some future Republican majority but for the good of the country. And as for these plaintive cries that we are getting rid of the filibuster, it simply isn't true. I believe in the filibuster. I believe in it. I believe in minority rights. The filibuster is not part of the Constitution. It is something we developed here to help get legislation passed, but now it is being used to stop legislation from passing.

So we are going to continue moving forward to make the Senate more efficient. Does that mean it will be really efficient? No, because we are changing one aspect of the filibuster rule. And what is that? We are going to change it so that it doesn't take us 10 days to simply get on a bill before we can start legislating. The American people know

this is the right way to go. The only people who would think the Senate is working now with its obstruction at every step of the way are the Republicans.

Mr. President, I have said this before: Any change that has been suggested in these rules that we believe need to be changed wouldn't affect me if I were in the minority. I would have many opportunities to take care of the sparsely populated State of Nevada and take care of the other issues I want to defend. But we believe there should be one aspect of the Senate to change, and that is that the motion to proceed should be a nondebatable motion to proceed. It is as simple as that.

The American people agree. I repeat: The only ones who disagree, who think this Senate is working well, are the Republican leader and those Republicans in Congress.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. MCCONNELL. I hope the majority leader will stay on the floor here.

I gather the way the majority leader proposes to effectuate this rules change is to violate the current rule of the Senate; in other words, to do it with a simple majority. You didn't address that issue.

Mr. REID. Of course his statement is untrue and I don't accept that.

Mr. MCCONNELL. Mr. President, I believe I have the floor.

That is the point. What the majority leader is saying is he will break the rules of the Senate in order to change the rules of the Senate. It has been the case in the past that it took a supermajority of 67, which of course meant most rules changes occurred because the two leaders agreed to them and were proposing them jointly. Instead, what the majority leader is saying is he will propose to change the rules with 51 votes, meaning his side gets to decide what the rules are. The danger of that, of course, is let us assume—I know the majority leader thinks he is going to be the majority leader forever; he isn't. What if it is 2 years from now and what if my Members say, well, if 51 Democrats can change the rules of the Senate, why can't the Republicans? Why should we have to fiddle with these people in the minority?

What is the point? Why not just change the rules of the Senate and turn the Senate into the House?

That is why Lyndon Johnson felt so strongly that a rules change should require a supermajority of 67, not 60, thereby virtually guaranteeing that any significant changes in the way the body operates are done on a bipartisan basis.

Further, the majority leader calls anything a filibuster when he decides to file a cloture motion, which he routinely does on virtually every bill, and then complains because we are reluctant to go to the bill without some assurances we are going to be able to offer amendments.

So here is the way it works: The majority leader calls up a bill, he files cloture on the motion to proceed, we

enter into a discussion in order to get some understanding that we are going to have a chance to offer any amendments. And the reason we engage in that discussion is because throughout the last Congress getting to offer an amendment was kind of an unusual thing, because as soon as you get on the bill, the majority leader fills up the amendment tree, which means he alone gets to decide, he alone, out of 100 of us, gets to decide who gets to offer an amendment. In other words, he gets to pick our amendments for us.

Look, the motion to proceed has been an irritant to the majority leader. Had I been in his job, what I would have done is put somebody in the Chair, keep the person objecting here up all night and wear them down. We are almost never in at night. I can't remember the last time we had a vote on a Friday. It is pretty easy working in the Senate because we never use the fatigue factor to accomplish things.

We have actually had some examples, by the way, of doing things the right way. We had three bills earlier this year that, believe it or not, actually came out of committee, were actually supported by Democrats and Republicans in committee, who worked on the bill in committee, and they came out on the floor and were open for amendments and they actually passed: postal reform, the transportation bill, and the farm bill. All were handled in the normal way we used to do virtually every bill in the Senate. None of them were written in the majority leader's office, as far as I could tell. And the thing they all three had in common is they actually passed the Senate and Members felt as though they were invested in the process.

So, look, we don't have a rules problem, we have a behavioral problem. When the majority leader believes he gets to decide what happens on every bill, that is beyond the purview of the job he holds. What we need to do is start operating in a normal fashion which respects the views and involvement of all Members of the Senate in both parties. Is it a little bit harder to engage in these discussions? Yes, it is. It is harder. But to go out and decide to break the rules to change the rules because you might have to work a little bit harder to get where you are headed strikes me as a disservice to the institution and a disservice to the Senate.

Nobody is going to buy this notion about all these filibusters. He is filing cloture on the motion to proceed on day one. And the reason he has had to file cloture on the motion to proceed so frequently is because we can't get any assurance from the majority leader that we were going to be able to offer any amendments. That is the problem. We need to behave differently. That is the way to get this place functioning again.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I had the pleasure of serving with one of the

greatest Senators in the history of this country, Daniel Patrick Moynihan of New York. He said people are entitled to their own opinions but not their own facts. And that is what my friend the Republican leader now has, his own set of facts which belies the record before the American people.

It is ironic the Republican leader complains about those who want to change the Senate rules. It is ironic because he has been at the forefront of abusing these rules for the past 6 years. It is ironic because when he was in the majority 7 years ago, he sought to change the rules to streamline votes on judicial nominations. He was part of that program. And it is ironic because he is one of a very small group of people who think the Senate is working just fine.

Rules change around here. They change. You know, it used to be to cut off a filibuster it took 67 votes. The Senate changed that because it became too burdensome.

I have said on many occasions, and I will say again here—and I have said this in public gatherings and private gatherings—these minor changes I am suggesting wouldn't affect anyone who had the thought of making America better, even if I were in the minority. To stop a filibuster on a motion to proceed to a bill—to take 10 days to just get on a bill—I don't think is good and we need to change that. So—

Mr. McCONNELL. Will the majority yield on that point for a question?

Mr. REID. I will be happy to in one second.

The Republican leader keeps talking about not following the rules. We are following the Constitution of the United States to make these changes, and that is certainly appropriate.

Your question?

Mr. McCONNELL. If this is such a reasonable rule change, why not work to try to propose it on a joint basis, subject it to the 61-vote threshold? That would honor the tradition that the Senate is a continuous body whose rules go from Congress to Congress. I mean, that is what has been unique about the way rules changes have been done around here.

Mr. REID. Mr. President—

Mr. McCONNELL. And one further question, in addition.

Mr. REID. Sorry.

Mr. McCONNELL. How would you feel if 2 years from now I have your job and my Members say, why don't we get rid of the filibuster with just 51 votes?

Mr. REID. I think that would be wrong, but we are not trying to get rid of the filibuster. We are changing a tiny aspect of what goes on around here so that people would have to do a couple of things: One is to not filibuster simply getting on a bill. And also, if they want to filibuster, they would have to stand and talk about it and not be in their office someplace.

Senator DURBIN just reminded me of one Republican Senator who forced us to be here over the weekend and he

then left and went back to a wedding in his State.

I repeat for the third time, the only people who think the Senate is working really well right now are the Republican leader and Republican Senators because it is not working well. They have abused the process. They have abused something that was set up to help legislation get passed—the filibuster. They have abused it and now they filibuster on everything.

They can talk all they want about filling the amendment tree and all that, but that has no bearing on what is going on around here. We have tried to get things done. The Defense bill is a good example. I said, let's move to the Defense bill and they objected to it. They have been talking about it for months. I agreed to move to it, with no preconditions at all.

We have to do other things. We have a very short period of time here now, and everything around here is the bill stall. He talks about getting bills done. In this Congress we have gotten almost nothing done. We struggled through a highway bill that took 6 weeks. We spent months of our time on that dealing with contraception. We were able to work through that. We had a postal bill we spent a lot of time on here, and the House has put that in their garbage pile so that nothing has happened with that; the farm bill, the same thing.

We have gotten almost nothing done. Why? Because we have spent weeks—weeks—simply getting on a bill so we can start legislating. So if the Republican leader thinks things are going well here, he is in a distinct minority because things aren't going well around here. And I think an example, I repeat, is Lyndon Johnson's 1 cloture and HARRY REID's 386. That says it all.

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. McCONNELL. Mr. President, when I quote the Democratic leader, I use his exact words—his exact words—which I did throughout my comments. Yet he makes up words for me. I have never said the Senate is working fine. I think the Senate has been disastrously run for the last 2 years—disastrously run not because of the rules but because of the operation. And it is certainly not the fault of the Republicans.

Take the budget, for example, which can be done with a simple majority. We haven't had a budget in 3 years. The law says we are supposed to pass a budget. It doesn't say don't pass a budget if we don't want to; don't pass the budget if we might have to offer amendments. It doesn't say don't pass a budget if we might have to negotiate with the Republican House. It says, pass a budget. We also haven't called up a single appropriations bill.

Look, if one Senator has a problem going to a bill, file cloture on the motion to proceed. Had the majority leader done that on the Defense bill, it would have been approved overwhelmingly. He could have done that on a

Friday and it would have been approved on a Monday. The obstructionism he complains about is pretty easily overcome if we are willing to make the place work a little bit. Most people work Monday to Friday. Not us. The Senate used to be a nocturnal place because majority leaders of both parties would use the fatigue factor to grind down opposition coming from a few people. We almost never do that.

So don't get me wrong, I say to my friend the majority leader. I am not defending the way this place has been run the last 2 years. I think it is embarrassing. I have to apologize to my constituents for the way the place is run. But we had the same rules in earlier Congresses and didn't have the same problem.

We have always had a few Members on each side who wanted to exercise every one of their rights. When I first got here, Senator Metzenbaum from Ohio would stay out here on the floor and read every bill. He was a big problem. Nobody tried to change the rules. We worked this place.

What the majority leader conveniently continues to leave out is that it is not only the rule he wants to change but the way he wants to change it. He wants to establish the precedent that 51 Senators can change the rules, anytime they want to, to take away the rights of everybody else, which will fundamentally change this institution.

So no Senator should buy the argument that this is just a little bitty change about the motion to proceed. This is about the way rules will be changed in the Senate. No longer would a 67-vote threshold obviously bring the two leaders and their Members together to agree to rules changes, but anytime, on any whim, any majority leader wants to change the rules, 51 votes. This is no small matter. This is a big issue about the future of this country and how this institution ought to be operated.

Being majority leader is a tough job. You have cantankerous Members on both sides who want to exercise their rights. It has always been that way. But the way you get past it is you work the place, you make it function, you talk to people, you treat them with respect. The collegiality we used to have in this body has faded—faded because of the arrogance of power exercised by some. All of this is correctable because we in here are all human beings trying to do our best, trying to leverage the place in one way or another to seek some advantage. But that is the way the Senate has always been.

What I think we need is an attitude change. The election is behind us. Whatever short-term advantage the majority may have felt it had by protecting its Members from voting on almost everything is over. We don't need to have a perpetual election in the country. We have huge issues before us here at the end of the year, many of which will probably carry over into next year. It is a time that we ought to

be building collegiality and relationships and not making incendiary moves that are damaging to the institution and could have serious ramifications on our ability to work together here at the end of the year.

So I would encourage my friend the majority leader to think thoroughly through whether this is the direction he wants to take this body. I believe it is a huge mistake. The American people sent us here to solve big problems, and we ought to be concentrating on trying to bring everybody together behind an agreement that hopefully could be reached before the end of the year to do really important work for the American people.

The ACTING PRESIDENT pro tempore. The majority leader.

MR. REID. Mr. President, the election is over, and the American people listened to what we had to say, and they acknowledged without any question that the message we delivered is valid: The Senate is a dysfunctional body, caused by the Republicans. Democrats picked up seats in this Senate. The President was reelected by 2.5 million votes. We have an obligation to the American people to proceed and to get some things done.

My friend the Republican leader talks about the Golden Rule. I do believe in that. And I believe 2 years ago there were efforts made to change this body so we could get some things done. We were given the assurance that the motion to proceed would not be used in the way it has been used this time.

Any suggestion of changing the rules is within the framework of what we do here in the Senate and our Constitution. We have an obligation to continually update this body so that it becomes more efficient. That is the history of this country. And I think my friend the Republican leader has to acknowledge that things haven't been going very well. He just did that. The election is over. We need to proceed to get things done.

Incendiary moves? I have been facing incendiary moves for 2 years. We can't get anything done around here because of the Republican obstructionism. The American people recognize that. As I have traveled this country, people have said: Do something to change the Senate so we can get things done. And we are making a minor change to stop the motion to proceed that we were told 2 years ago they wouldn't use anymore. So we are going to change this rule so the Senate can become an effective body.

We have a bicameral legislature, and no one should suggest I don't understand that, and no one should suggest I don't understand the filibuster rule. I think I understand as well as anybody who serves in this body and perhaps, with the exception of Senator Byrd, anybody who has served in this body. If Senator Byrd were here, I would suggest to everybody here that Senator Byrd wouldn't like what is going on here, and he would work with us to get

these rules changed, and that is why they need to be changed.

We can't continue like this. We took people's word that they would help us get things done here, and they rejected that. It was simply untrue. It was a falsehood. I know what I have said in the past, and I know what I have done in the past, and I think what we are doing is a positive step forward to do away with the motion to proceed so that they can't filibuster a simple motion to proceed, stopping us from getting on a bill, taking us 10 days to do that. That is wrong.

The ACTING PRESIDENT pro tempore. The Republican leader.

MR. MCCONNELL. Mr. President, it doesn't take 10 days to get on a bill. And what the majority leader has repeated now is that he is going to break the rules to change the rules, which is a wonderful way to start off the new Congress.

At a time when the American people would like for us to work together and to solve the huge issues that lie before us, the majority leader has chosen instead to break the rules to change the rules because he has had difficulty getting on bills. It is a sad commentary about where the Senate stands these days. I had hoped that going into the lameduck session, we would have an entirely different view of how to bring this place together and begin to solve the problems. So it is a sad day for the Senate. We will go forward as best we can under this extraordinary set of circumstances.

The ACTING PRESIDENT pro tempore. The majority leader.

MR. REID. Mr. President, no matter how many times my friend the Republican leader says "break the rules to change the rules," it doesn't make it true because it is not true. We are going to follow the rules.

I would also say this: I was stunned by reading in a couple of the newspapers that a couple of Republican Senators said, paraphrasing: We are going to make things really tough around here. We are going to make things so bad if they take away our motion, causing me to file cloture on a motion to proceed. We are going to make things really difficult.

Really difficult, when the Republican leader said his No. 1 goal in this Congress was to defeat President Obama? And that is how they have legislated. Everything was to the effort of making sure Barack Obama did not serve again. There are a myriad of examples. Take this one. This is great to show how hard they worked to put the country on the right track. With about 1 million firefighters, police officers, and schoolteachers being laid off, we thought: We have had some decent—not wonderful—growth in the private sector and have gotten back millions of jobs. We decided, let's do something in the public sector that would really help stimulate the economy. So we decided to move to a bill that said that what we want to do is rehire those firefighters, police officers, and teachers,

and we are going to pay for it—no more deficit spending—we will pay for it by having a surtax on people who make more than \$1 million a year, and that surtax is three-tenths of 1 percent. They stopped it. They stopped it dead in its tracks. Every Republican voted against it. That is the way they have legislated this entire year. And by our getting rid of the motion to proceed, that we are turning the country upside down is ridiculous. It is not true.

They have legislated with the effort to defeat Obama. He won by 2.5 million votes, 327 electoral votes—overwhelmingly—even though they did everything they could to stop him from being reelected. Everyone knows what a failure this Congress has been because of what the Senate has done, and that is nothing. Nothing. No job creation—they didn't want that. If we had had the ability to create jobs, it would have helped Obama and it would have helped the country, but, no, that wasn't what they wanted to do. And a terrible day for them several months ago—can you believe the Supreme Court declared ObamaCare constitutional? I mean, talk about a disappointment. This whole year was a disappointment for them because they weren't able to stop Obama from being reelected even though they did everything they could to prevent him from being reelected, and then ObamaCare was declared constitutional.

No, we are not going to break the rules to change the rules. We are going to follow the rules to make a couple of minor changes to make this place more efficient. That is what the Senate has always been about, is revising itself to become more efficient. And the threats that come from the other side: We are going to make you Democrats suffer more; if you do this, it is going to be terrible—What more could they do to us?

It is pretty simple. The math isn't that difficult. Get the bill on the calendar, file cloture on a Tuesday, have a cloture vote on Thursday. We are finally on the bill. They get 30 hours for that. I maybe exaggerated a day or two, but it puts us way into next week before we even get on the bill.

So we are doing what is right for the country because the American people want us to do what is right for the country. And to do what is right for the country is to change the rules of the Senate a little bit so that we can do something meaningful for the country.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I have listened closely in this debate because it literally affects my career, my life, and the lives of all the Members of the Senate. It is worth a minute or two to understand what we are talking about in the context of history.

It was President Woodrow Wilson who said to the Congress: We want to arm the Merchant Marine of the United States, to put guns on Merchant Ma-

rine ships, before we were engaged in World War I, to protect those ships from being destroyed or sunk by the warring parties in World War I. He sent that request to Congress, and it was stopped by one Senator. One Senator in those days could stand up and say: I object. End of story. But President Wilson said: That is an outrage, that one Senator can say that and stop even the consideration of a measure to protect American lives and our Merchant Marines. And he created this firestorm of public opinion. So they created a Senate rule called the cloture rule, and the cloture rule said that if two-thirds of the Senators voted in disagreement with that objector, then the Senate would go to the measure. So what was originally an objection by one Senator, characterized as a filibuster, could be cut off and the Senate could resume its activity and its business by a two-thirds vote.

That was passed by the Senate in 1917, almost 100 years ago. Over the span of time since, there have been some changes in that. In the 1960s, during the civil rights debate, it was decided to reduce that number from two-thirds of the Senate—67 in those days—to 60. So 60 votes were needed in order to successfully file a cloture motion to end the filibuster. It was an interesting exercise but one that happened very rarely. I asked the staff to send me a list of all the cloture motions that were filed to stop filibusters since 1917. In the first 50 years after 1917, there were about 50 cloture motions—50 years, 50 motions, averaged about one a year. What has happened in the most recent years? In the 2007–2008 Congress, there were 139 cloture motions in that 2-year period; the next 2-year period, 2009–2010, 137 cloture motions; and in this current session, 2011–2012, 110. So what used to happen once a year is now happening over 120 times a year on average. What used to be a rare occurrence has become commonplace, and it is destroying this institution.

I am told people across America who have cable television and who have C-SPAN of the Senate are calling the cable operators asking for a refund because nothing is happening on the Senate channel. They are hearing the melodious, mellifluous voice of the great clerk of the Senate reading Senator AKAKA's name every once in a while in a quorum call, and they are wondering: Why am I paying a cable TV carrier for this? Why isn't the Senate working? Why aren't they doing something?

It is because we are stuck in a filibuster—time after time after time.

I go home, and I bet the Senator does, too, when he goes home to Delaware, and they say: What about that Jimmy Stewart movie, "Mr. Smith Goes To Washington"? I saw that movie. Didn't that poor man have to stand at his desk and hold the Senate floor until he crumpled in exhaustion? Why don't we see that anymore?

The honest answer is there was some artistic license in that movie. The

more honest answer is we have reached the point now with the filibuster where one Senator can stand and object to what is about to occur in the Senate and stop the Senate from what it is doing for at least 30 hours until there is a vote to resume business.

Let me give two examples in my recent memory of how this played out. It was only a couple of years ago when we were closing a weekly session and a last-minute request was made to extend unemployment benefits to millions of Americans. We thought we had an agreement, Democrats and Republicans. We were ready to leave town.

The junior Senator from Kentucky—not the majority leader, Senator Bunning—stood when this measure came up to extend unemployment benefits and said "I object." By saying "I object" he stopped the payment of unemployment benefits to millions of Americans.

At that point I came to the floor and said: Explain it.

He said: I just don't think we should do it.

I said: Shouldn't we just go to a roll-call and you can vote no?

No, I object to it.

And they were about to expire over the weekend.

So I said to the Senator from Kentucky: I am staying on the floor, and I am going to keep renewing the request, and you better stay, too, because when nobody is here to object we are going to extend those unemployment benefits.

Members came to the floor to support me. At one point, late in the evening, the Senator said: It is 10 o'clock. I want to get home and see the University of Kentucky Wildcats basketball game. Why do you keep me here?

It is true. Check the RECORD.

Another time, a Republican from South Carolina, a Republican Senator, said: I object going to a vote on the Senate floor—forcing us to stay in session through Friday and vote on Saturday morning. This was Thursday night.

I don't disagree with the Senator from Kentucky. There is nothing wrong with our working 6 days a week and working nights too. So we did. We stuck around.

Then came the Saturday vote, and we looked for the objector, and the Senator who objected did not return for the vote. He said he had to stay home, that there was a wedding he had to attend. So the rest of us had to stay and show 60 votes.

One of the rules changes that Senator REID is proposing would basically eliminate that. Here is what it boils down to: If you think it is important enough to stop the business of the Senate, if you think your objection is sufficiently serious to stop the business of the Senate, park your fanny on the floor of the Senate and object and don't get up and go out to dinner, don't get up and go to a basketball game, and don't go home for a wedding. Stick around and show us how serious you

are about this. If it is not worth your time, then it is not worth it for the Senate to stop its action and its business.

The talking filibuster rule says if the majority of the Senators vote to go forward with the debate, but it does not hit the 60-vote level, then if you are the objector, stay on the floor. If it is important enough for you to stop the Senate, stay here or get an ally, a colleague, to stay with you to cover the floor because when you leave we are going to renew the request to go back to that measure. If it is not worth staying on the floor to object, then it is not worth stopping the business of the Senate.

I think that is pretty reasonable. Yes, I would say to the Senator from Kentucky, I would live by that rule in the minority, which would mean I would not object unless it really meant something, unless it were worth my time and the time of the Senate to stop that action.

That is what this is about. How mindless it has been to watch this Senate lurch from one cloture vote to another, from one filibuster to another, 386 times in the last 6 years. What a colossal waste of time and energy and talent.

I am one of those Senators who believes that I came here to debate and vote, even to vote on tough amendments. I think that is part of the job. I often quote a former Congressman and great friend of mine, Mike Synar from Oklahoma, who used to say: If you don't want to fight fires, don't be a firefighter; and if you don't want to vote on controversial issues, don't run for the Senate.

That is what this is about. I agree with him. But for goodness' sake, lurching from one tedious, mind-numbing filibuster to the next is no demonstration of the strength of this Constitution and the value of the Senate.

Yes, we need to change the rules. We need to change the rules so there is more accountability, so that those who would stop the Senate and force a filibuster would at least have the decency and courtesy to stay on the floor and state their case and not believe they can do this in absentia. That is what this is about. I think it is important.

I have a bill called the DREAM Act. Some people have heard of it. I introduced it 11 years ago, I say to the Presiding Officer. I think it is one of the most important things I have ever tried to do. But I have never passed it. I called it two or three times on the floor of the Senate. Every time I got a majority, every time I got a majority, always a bipartisan majority, but it never passed. Why? It was being filibustered. A Republican filibuster required 60 votes. So for 11 years literally millions of young people across the country have had their fate unresolved because of this Senate procedure.

I think at some point a majority of the Senate should speak on this issue and that should decide the law of the

land. The House passed it 3 years ago. We should pass it here too. The filibuster has stopped it over and over.

Let me make one more point. I see two of my colleagues on the Senate floor. The Senator from Kentucky came to the floor and talked about the deficit that we face and the issues that challenge us with the fiscal cliff. I see the Senator from Virginia. Senator WARNER and I have spent more time together in his office sitting around a bowl of popcorn with some Diet Cokes talking about this deficit and what we can do about it than I can even total. I have no idea of how many hundreds of hours we spent together in a bipartisan meeting, four Democratic Senators, four Republican Senators. We have tried to take the Simpson-Bowles Commission, on which I served, and their basic idea and turn it into an agreement that we can enact into a law to avoid the fiscal cliff.

We have come close. We have not closed the deal, I am sorry to say. We have come close. There is a feeling on both sides, as the Simpson-Bowles Commission said:

Everything should be on the table, revenue, taxes—I can say taxes; they can't say that on the other side of the aisle—revenue, taxes. That accounted for 40 percent of deficit reduction in Simpson-Bowles—40 percent. What we are talking about is making sure any deficit reduction package going forward has a substantial portion of revenue and taxes in it. But we cannot tax the wealthiest people in America and balance the budget. I know that is true. There have to be spending cuts. There also have to be changes in entitlement programs.

I happen to agree with the majority leader. Social Security does not add a penny to the deficit—not one penny. It is a separate trust fund. But it only has about 22 years of life left in it. That is pretty good by Washington standards, but we can do better.

I think many of us agree on a bipartisan basis we should make some small changes in Social Security today to guarantee it will be here for 50 years or 75 years. We can do that, but that is a separate debate. The debate on the fiscal cliff is about entitlement programs.

I watched some of my friends on the left, on the Democratic side, say: Don't touch the entitlement programs. They are ignoring the obvious. Medicare untouched, unchanged, unamended, runs out of money in 12 years. I plan on being around for 12 years. A lot of folks who are seniors do too, and a lot of folks who anticipate retirement expect it to be there beyond 12 years. We have to do something. To say we are not going to touch Medicare is to ignore the obvious.

I don't want to go the Paul Ryan voucher route, voucherizing it, making it so expensive seniors cannot pay for it. But if we do not put our best talents together and make Medicare a program that lasts more than 12 years, we are not meeting our obligation to the offices for which we ran.

The last point: Medicaid. What is Medicaid? Insurance, health insurance

for the poor. One out of three children in the State of Illinois, their only health insurance is Medicaid. For more than half of the births in Illinois the prenatal care and well-baby care is all paid for by Medicaid. But that is not the majority of what Medicaid is spent on in my State. Sixty percent is spent on the frail elderly and those with mental and physical disabilities who are in institutional settings and they are broke. They have Social Security, Medicare, and Medicaid to keep them alive.

When the Paul Ryan budget suggested cutting 37 percent out of Medicaid, my question to him is, Which group are you going to cut, Paul? The children, the mothers having babies, or the frail elderly?

Yes, we have to look at this program and find ways to save money so it is there when we need it—and we do need it. That needs to be part of this discussion.

I was heartened over the weekend—I will close with this—on a television show with Senator LINDSEY GRAHAM of South Carolina who said publicly: Regardless of this Grover Norquist pledge, my pledge is to the people—I am paraphrasing—my pledge is to the people of America. We are going to solve this problem. We need more on both sides of the aisle to step up in that spirit to avoid this fiscal cliff. We can. With the President's leadership and the cooperation of the Speaker, we can get it done.

For 10 days not much has happened. There has been a big Thanksgiving break, a lot of turkey and stuffing, but now let's get back to business. We are back in session, House and Senate. Let's roll up our sleeves. Let's get it done. We can address this fiscal cliff and set up a plan with the President that is reasonable. We need to do that on a bipartisan basis.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. COONS). Under the previous order, leadership time is reserved.

ORDER OF PROCEDURE

The PRESIDING OFFICER. Under the previous order, Senators are permitted to speak for up to 10 minutes each.

THE SPORTSMEN'S ACT

The PRESIDING OFFICER. For the information of the Senate, the pending business is S. 3525, which the Senate is considering postcloture. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I will take a couple of brief moments. First, let me thank my friend, the Senator from Illinois. No one has spent more time and also, candidly, taken a more courageous position in these discussions around avoiding this fiscal cliff.