

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.

I urge all Members of this wonderful body to read what Senator Byrd said and urged and counseled and advised. I know the new Members have not had this experience.

When you first went in, you thought, my gosh, how long is this going to last? The man wrote a book about the Senate. As it turned out, we hung on every word and took his advice, and it is good advice. It is printed in the RECORD. Read it.

The PRESIDING OFFICER. Without objection, the material will be placed in the RECORD.

Mr. ROBERTS. We might have a heck of a test on it next week.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Madam President, I appreciate the comments of the Senator from Kansas. I am sure he will have to take a call from the Vice President to discuss his remarks on the floor. I appreciate the way in which he talked about all that has been said on the floor in the past by the Vice President, and President Obama, who was then a Senator, and the leaders here in the Senate. We have had lots of statements on the floor and commitments made in the past. The majority leader has committed twice on the Senate floor not to use the nuclear option, with the last time being a few months ago. These were not conditional commitments. They were not commitments with caveats. They were not commitments to not violate the rules of the Senate unless it became convenient for political purposes to violate the rules of the Senate.

As recently as January 27, 2011, the majority leader said, and I quote:

I agree that the proper way to change Senate rules is through the procedures established in those rules, and I will oppose any effort in this Congress or the next to change the Senate's rules other than through the regular order process.

Earlier this year, on January 24, 2013, there was a discussion between the minority leader Senator MCCONNELL and the majority leader Senator REID. Senator MCCONNELL said:

I will confirm to the majority leader that the Senate would not consider other resolutions relating to any standing order or rules of this Congress unless they went through the regular order process?

He was posing a question to the majority leader.

Majority Leader REID said:

That is correct. Any other resolutions related to Senate procedure would be subject to a regular order process, including consideration by the Rules Committee.

That was January 24, 2013.

What has happened since that point that would change the way the majority leader views this issue? Well, let's see. We confirmed the Secretary of Energy by a vote of 97-0. We confirmed the Secretary of Interior with a vote of 87-11. We confirmed the Secretary of the Treasury with a vote of 71-26. We confirmed the Secretary of State 94-3. I might add in that case, that vote happened just 7 days after the Senate got his nomination. We confirmed the Secretary of Commerce 97-1. We confirmed the Secretary of Transportation 100-0. We confirmed the Director of the Office of Management and Budget 96-0. We confirmed the Administrator of the Center for Medicare and Medicaid Services 91-7. We confirmed the Chair of the Security and Exchange Commission by voice vote. In other words, he was confirmed unanimously. Not to mention the fact we have passed major legislation out of the Senate. We just completed a 3-week debate on a major immigration overhaul, and it passed with a bipartisan vote. We had a major debate on a farm bill, which passed with a bipartisan vote. Other legislation has moved through the Senate in the last few months.

So it begs the question: Why are we now having this discussion? The majority leader said back in January he wasn't going to change the rules, and to change the rules, you have to break the rules. Let's make that very clear. It takes 67 votes to change the rules of the Senate. What is being talked about here is basically using a procedural device—a gimmick, if you will—to be able to change the rules to 51 votes. In other words, breaking the rules to change the rules.

There is absolutely no basis and no foundation based on the numbers and the facts I just quoted for the majority to be making the argument that they are here today.

If you go back and look at the statements that have been made by others in the past—and I remember coming here in 2005 as a new Member of the Senate from the House of Representatives. At that point we were debating judicial nominations. The Democrats were holding up several of President Bush's judicial nominations. There was a big debate about whether to exercise the nuclear option; in other words, to confirm some of those with 51 votes.

I remember at the time being sympathetic to that. I came from the House of Representatives. In the House of Representatives we moved things in an orderly fashion. The Rules Committee decided what legislation came to the floor, what amendments were made in order, and how much time was allowed for debate on each amendment. It was a very structured and orderly process. Those of us who got here to the Senate

were frustrated at times with the slow pace in the Senate. On some levels it made sense to think: Gee, wouldn't it be great if we could make the Senate function more like the House.

Fortunately, cooler heads prevailed because the Senate is not designed to function like the House. It was created for a very different purpose and a very different design. What we are talking about here would completely undermine that purpose and that design for this institution. We have observed traditions, rules, in the Senate for decades. What we are talking about, if the majority has its way, is doing something that would break the rules to change the rules and forever change the Senate in a way the majority leader Senator REID mentioned back in 2009; that doing that would "ruin" the country and the Senate would be "destroyed" if we went about a rules change along the lines of what is being talked about today. So I hope cooler heads will prevail again. I certainly understand now, as I look back on what happened in 2005, the wisdom of those who had been here a little bit longer and understood a little bit more about the way this institution operates: the importance of having a Senate where you have open debate, where you have the opportunity for amendments—something that in the House oftentimes you do not have the opportunity to do.

It is important, in my view, that Republicans and Democrats come together and recognize if we go back on the traditions, the rules, the precedents in the Senate, we will be forever changing not just the rules, but we will be changing the Senate, and that is certainly not what our Founders had in mind, nor do I think that is what our colleagues on the other side have in mind. They may be well-intentioned, but what they are talking about doing is going to change forever the Senate in a way that would be very perilous to this institution and, more importantly, jeopardize the rights of the American people to have their voice heard in the Senate.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Madam President, I have the greatest respect for my friend from South Dakota. But, obviously, he missed the speeches this morning. We went through all this. I am not going to repeat what has gone on since the broken promise earlier this year.

#### EXECUTIVE SESSION

NOMINATION OF RICHARD CORDRAY TO BE DIRECTOR, BUREAU OF CONSUMER FINANCIAL PROTECTION

Mr. REID. Madam president, I move to proceed to executive session to consider Calendar No. 51.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection.

#### CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Richard Cordray, of Ohio, to be Director, Bureau of Consumer Financial Protection.

Harry Reid, Tim Johnson, Barbara Boxer, Elizabeth Warren, Debbie Stabenow, Jon Tester, Al Franken, Jack Reed, Tom Harkin, Ron Wyden, Patrick J. Leahy, Amy Klobuchar, Robert P. Casey Jr., Jeff Merkley, John D. Rockefeller IV, Max Baucus, Richard Blumenthal, Carl Levin.

#### LEGISLATIVE SESSION

Mr. REID. Madam President, I now move to proceed to legislative session. The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

#### EXECUTIVE SESSION

#### NOMINATION OF RICHARD F. GRIFFIN, JR., TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

Mr. REID. Madam President, I move to proceed to executive session to consider Calendar No. 100.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Richard F. Griffin, Jr., of the District of Columbia, to be a Member of the National Labor Relations Board.

#### CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Richard F. Griffin, Jr., of the District of Columbia, to be a Member of the National Labor Relations Board.

Harry Reid, Tom Harkin, Jeff Merkley, Benjamin L. Cardin, Richard Blumenthal, Martin Heinrich, Sheldon Whitehouse, Al Franken, Kirsten E. Gillibrand, Brian Schatz, Christopher Murphy, Richard J. Durbin, Maria Cantwell, Bill Nelson, Carl Levin, Dianne Feinstein, Patty Murray.

#### LEGISLATIVE SESSION

Mr. REID. Madam President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

#### EXECUTIVE SESSION

#### NOMINATION OF SHARON BLOCK TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

Mr. REID. Madam President, I move to proceed to executive session to consider Calendar No. 101.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Sharon Block, of the District of Columbia, to be a Member of the National Labor Relations Board.

#### CLOTURE MOTION

Mr. REID. Madam President, I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Sharon Block, of the District of Columbia, to be a Member of the National Labor Relations Board.

Harry Reid, Tom Harkin, Jeff Merkley, Benjamin L. Cardin, Richard Blumenthal, Martin Heinrich, Sheldon Whitehouse, Al Franken, Kirsten E. Gillibrand, Brian Schatz, Christopher Murphy, Richard J. Durbin, Maria Cantwell, Bill Nelson, Carl Levin, Dianne Feinstein, Patty Murray.

#### LEGISLATIVE SESSION

Mr. REID. Madam President, I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

#### EXECUTIVE SESSION

#### NOMINATION OF MARK GASTON PEARCE TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD

Mr. REID. Madam President, I now move to proceed to executive session to consider Calendar No. 104.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Mark Gaston Pearce, of New York, to be a Member of the National Labor Relations Board.

#### CLOTURE MOTION

Mr. REID. Madam President, I have a cloture motion I would ask the clerk to report if the Chair agrees.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Mark Gaston Pearce, of New York, to be a Member of the National Labor Relations Board.

Harry Reid, Tom Harkin, Jeff Merkley, Benjamin L. Cardin, Richard Blumenthal, Martin Heinrich, Sheldon Whitehouse, Al Franken, Kirsten E. Gillibrand, Brian Schatz, Christopher Murphy, Richard J. Durbin, Maria Cantwell, Bill Nelson, Carl Levin, Dianne Feinstein, Patty Murray.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum under rule XXII of the Senate be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### LEGISLATIVE SESSION

Mr. REID. Madam President, I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

#### EXECUTIVE SESSION

#### NOMINATION OF FRED P. HOCHBERG TO BE PRESIDENT OF THE EXPORT-IMPORT BANK OF THE UNITED STATES

Mr. REID. Madam President, I move to proceed to executive session to consider Calendar No. 178.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States.

#### CLOTURE MOTION

Mr. REID. Madam President, there is a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented

under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Fred P. Hochberg, of New York, to be President of the Export-Import Bank of the United States.

Harry Reid, Tim Johnson of South Dakota, Benjamin L. Cardin, Christopher A. Coons, Patrick J. Leahy, Charles E. Schumer, Ron Wyden, Patty Murray, Heidi Heitkamp, Tom Udall of New Mexico, Martin Heinrich, Jack Reed, Sheldon Whitehouse, Elizabeth Warren, Richard J. Durbin, Kirsten E. Gillibrand, Robert Menendez.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### LEGISLATIVE SESSION

Mr. REID. Madam President, I now move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

#### EXECUTIVE SESSION

#### NOMINATION OF THOMAS EDWARD PEREZ TO BE SECRETARY OF LABOR

Mr. REID. Madam President, I move to proceed to executive session to consider Calendar No. 99.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Thomas Edward Perez, of Maryland, to be Secretary of Labor.

#### CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Thomas Edward Perez, of Maryland, to be Secretary of Labor.

Harry Reid, Tom Harkin, Patrick J. Leahy, Bill Nelson, Christopher A. Coons, Amy Klobuchar, Tim Kaine, Jack Reed, Barbara A. Mikulski, Sheldon Whitehouse, Sherrod Brown, Benjamin L. Cardin, Robert P. Casey Jr., Bernard Sanders, Al Franken, Robert Menendez, Barbara Boxer.

Mr. REID. Madam President, I ask unanimous consent that the manda-

tory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### LEGISLATIVE SESSION

Mr. REID. Madam President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

#### EXECUTIVE SESSION

#### NOMINATION OF REGINA MCCARTHY TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

Mr. REID. Madam President, I move to proceed to executive session to consider Calendar No. 98.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Regina McCarthy, of Massachusetts, to be Administrator of the Environmental Protection Agency.

#### CLOTURE MOTION

Mr. REID. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Regina McCarthy, of Massachusetts, to be Administrator of the Environmental Protection Agency.

Harry Reid, Barbara Boxer, Benjamin L. Cardin, Christopher A. Coons, Patrick J. Leahy, Tom Carper, Ron Wyden, Patty Murray, Tom Udall, Martin Heinrich, Bernard Sanders, Sheldon Whitehouse, Max Baucus, Richard J. Durbin, Kirsten E. Gillibrand, Jeff Merkley, Brian Schatz.

Mr. REID. Madam President, I ask unanimous consent that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### LEGISLATIVE SESSION

Mr. REID. Madam President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

The motion was agreed to.

The PRESIDING OFFICER. The Republican leader.

#### UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. McCONNELL. Madam President, I have a consent that I think would set up these votes in a much more expeditious way than the way the majority leader is proceeding. But first let me just say, these are dark days in the history of the Senate. I hate that we have come to this point. We have witnessed the majority leader break his word to the Senate.

Now our request for a joint meeting of all the Senators has been set for Monday night—a time when attendance around here is frequently quite spotty—in an obvious effort to keep as many of his Members from hearing the concerns and arguments of the other side as possible. It remains our view that for this to be the kind of joint session of the Senate that it ought to be, given the tendency of the Senate to have sparse attendance on a Monday night, to have this meeting on Tuesday before it is too late.

Having said that, a more expeditious way to accomplish most of what the majority leader is trying to accomplish would be achieved by the following consent: I ask unanimous consent that on Tuesday at 2:15, the Senate proceed to consecutive votes on the confirmation of the following nominations: No. 104, that is Pearce to be a member of the NLRB; No. 102, Johnson, to be a member of the NLRB, and No. 103, Miscimarra, to be a member of the NLRB.

I might just say, parenthetically, if those nominees were confirmed, coupled with the two nominees illegally appointed, whose illegal appointments' term continue until the end of the year, the NLRB would have a full complement of five members and able to conduct its business.

I further ask consent that following those votes, the Senate proceed to the cloture motion filed on Calendar No. 99; that is, Perez, to be Secretary of Labor; and, further, if cloture is invoked, the Senate immediately proceed to a vote on the confirmation of the nomination—I would add, parenthetically, that would eliminate the post 30 hours, assuming cloture were invoked on the very controversial nominee, Perez, to be Secretary of Labor—further, the Senate then vote on the cloture motion filed on Calendar No. 98, McCarthy, to be EPA Director; and if cloture is invoked, the Senate proceed to a vote on the confirmation of the nomination—also eliminating the 30 hours postcloture if cloture is invoked on McCarthy; and I might add that the ranking member of the environment committee supports cloture on the McCarthy nomination. Thereby, it is reasonable to assume that cloture would be invoked on what is for a lot of our Members, including myself, a very controversial nomination. I further ask consent that the Senate then vote on the cloture motion that was filed on Calendar No. 178—this is someone named Hochberg, to be president of the