

EXECUTIVE SESSION

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

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to executive session to resume consideration of Calendar No. 51.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nomination.

The legislative clerk read as follows:

Nomination, Bureau of Consumer Financial Protection, Richard Cordray of Ohio to be Director.

Mr. REID. Mr. President, I ask unanimous consent that the time until 11 a.m. be equally divided and controlled.

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

Mr. REID. At 11 there will be a cloture vote on the nomination of Richard Cordray to be Director of the Consumer Financial Protection Bureau. If cloture is invoked, there will be up to 8 hours of debate on the nomination.

The PRESIDING OFFICER. Who yields time?

Mr. REID. I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Would the Senator withhold that request?

Mr. REID. Absolutely.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, we are going to move forward to the Cordray nomination, which has been held up for some period of time. I would like to thank everybody on both sides of the aisle who was engaged in this debate and discussion. I would particularly like to thank all of my colleagues who engaged in a long but productive discussion last night—which is our custom—of the many issues that separate us, particularly some pending, what many of us believe to be a crisis in the history of the Senate.

I wish to thank both our leaders, Senator MCCONNELL and Senator REID, and so many others who have been actively engaged in conversations that have been going on. I look forward to a vote as soon as possible on Mr. Cordray.

I thank all of my colleagues for believing what I thought was very important in our relations with the Senate.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, we may have a way forward on this. I feel very confident, as you know. That is why we need the time. So what we are going to do is go into a quorum. I think everyone would be well advised, if they wish, to talk about substantive matters, if you wish to speak to Senator Markey. But we have a few i's to dot and t's to cross, I have to speak to the Vice President, and we are going to have a phone call to make with Senators

SCHUMER and MURRAY. So everything is going well.

I will say I hope everyone learned a lesson last night, that it sure helps to sit down, stand, whatever it is, and talk to each other. It was a very good meeting that lasted 4 hours. People were still as highly engaged at the end of that 4 hours as they were in the beginning.

I think we see a way forward that will be good for everybody. There are a lot of accolades to go around to a lot of people. I certainly appreciate my wonderful caucus.

One of my Senators, who has a lot of humility, told me this morning: It doesn't matter what you ask me to do, I will do it.

I would hope this is not a time to flex muscles, but it is a time I am going to tell one person and no one else how much I appreciate their advocacy, their persuasiveness, persistence, and—a word that truly describes this man is hard to find.

I was told by another Senator: You know what this man did? I said: You know who he reminds me of? Bob Kerrey. I hope that doesn't disparage JOHN MCCAIN. But JOHN MCCAIN is the reason we are at the point we are. A lot of people have been extremely helpful. This is all directed toward JOHN MCCAIN from me. No one was able to break through but for him. He does it at his own peril.

Everyone, we are going to have a caucus today. We will explain in more detail the direction we are headed. I think everyone will be happy. Everyone will not think we got everything we wanted, but I think it is going to be something that is good for the Senate. It is a compromise. I think we get what we want; they get what they want—not a bad deal.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ENZI. Mr. President, I wish to speak today on the nomination of Richard Cordray to be the Director of the Consumer Financial Protection Bureau. I want to speak against this confirmation.

Why is this nomination important? Once the Director is approved by Congress, by the Senate—not all the Congress, just by the Senate—we will no longer have any control over a bureau that collects everyone's financial records in detail and can cancel a loan up to 180 days even if both parties to the loan are happy.

Mr. Cordray was recess-appointed. I think it was because the President thought he would not be approved by Congress.

What I am about to tell you already is under the direction of this nominee.

That recess appointment put him in charge of the Consumer Financial Protection Bureau. It sounds like a good title, but the reason this is of utmost concern to me and has been for the past 3 years is the lack of congressional oversight and blatant privacy intrusions of the Consumer Financial Protection Bureau, the CFPB.

The Dodd-Frank Act, which created the CFPB, has been a hot topic of conversation since its passage in 2010. There are a lot of important discussions about different parts of the bill and some of the consequences we are seeing now, 3 years down the road. These are all important conversations to have, but today I am focusing on the Consumer Financial Protection Bureau.

The Bureau, as allowed by the Dodd-Frank Act, could direct up to \$600 million every year, but it is not subject to the congressional appropriations process—the same congressional appropriations process that approves the budgets of the other agencies, such as the Securities and Exchange Commission and the Federal Trade Commission. Instead, the agency is funded from revenues from the Federal Reserve—the Federal Reserve—before the revenues come to the Treasury, funds that are supposed to be remitted to the Treasury for deficit reduction.

Some might ask: Isn't there a cap to the funding available to the CFPB? Yes, there is, but here is what it looks like. The cap was 10 percent of the Federal revenues for fiscal year 2010, 11 percent for fiscal year 2012, and it will be 12 percent for fiscal year 2013, with an inflation factor each and every year after that. This means 12 percent of the combined earnings of the Federal Reserve System, which was \$4.98 billion in 2009. At that time, 10 percent would have been \$500 million. These numbers are astonishing, and anyone saying that the Bureau is not funded by taxpayers is trying to pull a sleight-of-hand. The funds may not come directly from the Treasury, but taxpayers are going to have to take up the slack for funds they are no longer receiving from the Federal Reserve. I am not sure how we do that constitutionally, to move somebody outside and still take Federal money.

In addition, the Director of the Bureau has unlimited discretion over how the agency's money—these hundreds of millions of dollars I just talked about—is spent. Let me repeat that. The Director of the Bureau has unlimited discretion over how the agency's money is spent. He doesn't submit a budget. Nothing is approved.

Not only that, the Director is allowed to put fines and penalties collected by the Bureau into a slush fund that it does not have to return to the Treasury the way other agencies have to do. Do you think that might encourage a lot of fines and penalties by this Bureau? I think it would. I don't think it ought to be done that way.

The same Director who has so much unchecked authority doesn't even answer to the Office of Management and Budget and only has to submit routine financial information to the Office.

There is also no inspector general for this Bureau. Here is one example of why that is a problem. The Dodd-Frank Act expressly exempted auto dealers from the oversight purview of the Bureau. They listened to me when this bill was passing and found out that loans could be canceled within 180 days by the Bureau without the approval of the automobile dealer or the person who bought the automobile.

However, the Bureau doesn't think auto dealers should be exempt from oversight, so it found ways to exert itself through the banks. Banks are now looking at auto loans made, and the Bureau has issued its first significant penalty in connection with the vehicle financing.

The Bureau has also issued what it calls a fair lending guidance bulletin directed at institutions that make indirect automobile loans. In it the Bureau says indirect lenders will be viewed as participants in any discriminatory pricing by dealers due to their role in the auto loan credit decision process and suggests lenders impose controls on dealer markup and compensation policies. Is this revenge for them getting an exemption in the bill?

The Bureau's interpretation of Dodd-Frank and this guidance will have wide ramifications for indirect lenders and ultimately auto dealers. Because the bulletin issued is considered guidance and not a rule, there has been no opportunity for the public—including consumers, lenders, and dealers—to comment on this policy interpretation that will affect an industry that was exempted from the Bureau oversight.

The lack of accountability and congressional oversight over the Bureau's budget and Director are troubling, to say the least, but the picture becomes even more concerning when the lens is shifted to what kinds of oversight power are afforded to and being practiced by this Bureau—this Consumer Financial Protection Bureau. It sounds like it is for everybody.

Here is what I said when expressing my concern about this Bureau and the Dodd-Frank Act on May 20, 2010:

This bill was supposed to be about regulating Wall Street; instead it's creating a Google Earth on every financial transaction. That's right—the government will be able to see every detail of your finances.

Your permission is not needed.

They can look at your transactions from the 50,000 foot perspective or they can look right down to the tiny details of the time and place where you pulled cash out of an ATM or charged to your credit card.

Unfortunately, we are now finding this fear has become a reality. A recent Bloomberg article states that the Bureau is demanding records from banks and buying information from companies on at least 10 million American consumers for “use in a wide range of

policy research projects.” This information gathering from banks includes credit card and checking account overdraft information as well as requirements to provide records on credit cards and on products such as credit monitoring.

In addition to the bank records it is collecting, the Bureau is collecting data on payday loans from debt collection agencies and building a mortgage database of loan and property records with information from agencies and other financial and property information holders.

The CFPD also says they are not including any personally identifiable information such as names and Social Security numbers while compiling all of this information. I made that statement at one of our listening sessions in Wyoming, and somebody from the audience yelled: No, they just check with the NSA.

What they are doing is taking all of that consumer data and layering it into consumer profiles to show a complete snapshot of each consumer's finances. For example, they can say: There is a consumer at a specified zip code who has \$1,500 in the bank, \$6,000 in credit card debt, \$10,000 in student loan debt, and a \$200,000 mortgage.

To the American people who are listening to me speak right now, what happens if you are one of the 10 million customers whose data is being collected? Does this make you angry and uncomfortable? What happens if you don't want all of your financial information compiled and used by the Bureau for policy research projects?

I am sure you would like to hear me tell you that you can call or write the Bureau and say you don't want the Bureau collecting your financial records from your bank, your student loan from a third party provider, your mortgage data, or your ATM data. I am sorry. You can't. You can't tell them to stay out of your records. It is not possible. If your data is being collected, you do not have the option to opt out nor does the CFPB need any kind of permission from you to gather your personal financial information.

This is another issue I tried to work on when the Dodd-Frank Act passed. I had an amendment that would simply require a privacy release, a signature from the consumer before the Bureau could collect the consumer's financial data. Unfortunately, my amendment was not accepted and we find ourselves in the situation we are in today: Americans cannot tell the government they don't want their personal financial information collected and stored.

What I would like to know is how this information is reining in Wall Street. The Dodd-Frank Act was sold to the public as a way to rein in Wall Street. As far as I can tell, it has turned out to be the perfect excuse for Big Brother to worm his way even further into our lives and our privacy.

Actually, Big Brother doesn't have to worm his way in. Dodd-Frank opened

the door and invited him in, and that is what this lack of oversight is signaling. Go ahead and collect millions of consumers' information. Don't tell us what you are using it for, and don't feel the need to tell us much of anything else because this Director and this Bureau will not be accountable to Congress.

Meanwhile, the message we are getting from the Bureau, and some of my colleagues, is that Congress needs to sit back and butt out of the Bureau's business. We are hearing the message that asking for congressional oversight is akin to wanting consumers to be deceived and discriminated against.

Let's get one thing straight. None of my colleagues disagree that protecting consumers is important. We all want consumers to get a fair shake and be able to make informed financial decisions. I never envisioned the Federal Government making your financial decisions. I have championed financial literacy for much of my time in Washington and believe strongly in the value of individuals having the tools they need to make sound financial decisions for themselves and their families. I repeat: I never envisioned the Federal Government making your financial decisions, but that is not the issue. The issue is the need for checks and balances and for consumers to be able to make a choice as to whether their financial information is collected and used.

I cannot in good conscience, with these concerns weighing so heavily on my mind, support moving forward with the confirmation of a Director to the Consumer Financial Protection Bureau—the one already in charge of collecting your financial records—while doing a daily speech about his good work.

Wait until his confirmation. We will see more intrusion into our personal lives. Until it has changed so this man does not have this much power—power beyond anybody else in the Federal Government—there needs to be some changes that will balance consumers' protections with privacy protections and allow for a healthy and appropriate level of congressional oversight over an agency that wields this tremendous power and has its own source of revenue and no oversight. Not even an inspector general has this kind of power. Until that happens, I have to oppose this nomination. I hope my colleagues will join me.

I yield the floor.

THE PRESIDING OFFICER (Mr. SCHATZ). The Senator from New Mexico Mr. UDALL of New Mexico. Mr. President, I ask unanimous consent to speak for 5 minutes.

THE PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. UDALL of New Mexico. Mr. President, this is a historic day in the Senate. These are qualified nominees. They have been delayed long enough. But we are also considering a larger

question; What kind of Senate do we want? What kind of Senate best serves the American people?

This is not about breaking agreements. This is about a Senate that is already broken. We once were called the world's greatest deliberative body, and we have become a graveyard for good ideas. The traditions of the Senate have been buried—buried under the weight of filibusters, of chronic obstruction, and by a tyranny of the minority. The Senate has been driven by unprecedented partisanship.

The agreement of this past January was modest. Some of us felt it was too much so. The leaders agreed to schedule the President's nominees in a timely manner, but that did not happen. That is not what we have seen. Nominees have been continually blocked—one after another, month after month. That failure doesn't just violate an agreement, it violates the trust of the American people.

People in New Mexico—people in the rest of the country—want to know: Who is minding the store? The answer, too often, is no one. As a result, important work is left undone. That is not by accident. It is by design, which is why we are here now. Because the months go by, and we don't have a Secretary of Labor. We don't have a National Labor Relations Board. We don't have an administrator of the Environmental Protection Agency. These, and other, vital agencies are adrift.

Their work matters for the people in my State, for all Americans who care about the rights of workers, the environment, health care, consumer protection, and the integrity of our elections.

The American people spoke in November. They re-elected the President. They expect a government to do its job, and gave the President the right to select his team to do that job. The people give the President that right, but a minority in the Senate does not. Find 60 votes or find someone else or leave the position empty. That is not the tradition of the Senate.

That is not advise and consent, it is obstruct and delay. In the end, it is the people of this country who are kept waiting.

These are qualified nominees. They should not be blocked yet again simply because you don't like their policy or their program, or the law they are commanded to uphold.

We have a chance here today—a historic chance—to restore the confirmation process. We have a chance to restore the Senate to how it has worked for over 200 years. I hope we will take this opportunity.

New Mexicans want a government that works, the American people want a government that works, and today they will be watching to see if, finally, it actually does.

In conclusion, I want to talk about the rules and what we engaged in yesterday, which I thought was a very productive endeavor. We had 3 hours with most Senators in the room in the Old

Senate Chamber. We were able to exchange our thoughts outside of the limelight. I believe it was very productive.

We had a lot of ideas come forward. Some of those ideas to resolve this situation may end up being adopted in a little bit. It looks as though Richard Cordray, the attorney general from Ohio, will get cloture at this point—at least that is the way it is looking—and then we will have some debate on that nomination.

I have a couple of other points. First of all, Leader REID has incredible patience when it comes to this whole issue of executive nominations. I have seen him over and over go beyond the pale when it comes to patience. At this point he realized we were getting things clogged up, there was too much obstruction, so he needed to force the issue.

I am very proud he has done this because I think it has pushed us in the right direction. As a result, we are going to get executive nominees in place on a timely basis, and we are going to get rid of all the delay we have had.

I looked back in history at executive nominees. I remember my father when he became Secretary of the Interior in 1961. When I was first sworn into the Senate and came home, I told him we were having a hard time getting executive nominees in place. He said: Tom, the amazing thing, if you highlight the 50 years ago and 50 years later, is I had my whole team in place within 2 weeks. My entire team was in place in 2 weeks.

This is President Obama's fifth year as President, and he doesn't have his team in place. That is the issue. I know we are focusing on trying to do everything we can to find a solution as to how we allow a President who has been reelected—and by a pretty good margin—to have his team in place.

I am very confident that Senator JOHN MCCAIN is working on a compromise. He is a good friend to the family and somebody who cares about moving forward with the issues rather than obstructing the issues.

As everybody knows, he was part of the Gang of 14. Senator MCCAIN with 13 other Senators came up with that compromise to move us forward in terms of the gridlock that we were facing with judicial nominations. So I hope the discussions that are taking place are going to produce something.

I think it is a big breakthrough to see we are at the point where Richard Cordray, who has been waiting for 2 years—he is a very competent individual. He has served as the attorney general of Ohio, one of our biggest States. He is a great consumer protection person—is going to get cloture, we will have debate, and my sense is we are going to get him into that consumer agency, and it will make a big difference.

I see my good friend Senator CORKER, so I want to make sure he gets to speak before we have this 11 a.m. vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. Mr. President, I thought last night's meeting was a healthy meeting. I am glad we did what we did. I appreciate the two leaders sponsoring that meeting, and I appreciate the time in which everyone spoke.

I think with a lot of phone calls having been made this morning we can and will move past the cloture vote for Mr. Cordray. I have had several conversations with him and others, this morning, but I do want to say this is a gesture of good faith. We will see what happens in a moment when the vote takes place and, obviously, in this body, nothing happens until it happens.

I hope Members on the other side will note this good-faith effort that is taking place in a few moments. I hope it is going to happen. I think it may.

I hope that over the course of the next 24 to 48 hours we can work in a little more comprehensive manner. I think this would be something to get behind us during this next year and a half so we can move on to solving our Nation's problems. I don't think it is healthy for this body to constantly have potential rules changes hanging over the issues of our Nation, and we do have big issues.

We have an opportunity, potentially, to get the immigration issue behind us. I know there are other pieces of legislation we could well deal with. In the event we do move into this postcloture period, I hope Members on the other side of the aisle will take note of that and will work with us constructively toward a solution that brings this place together instead of pulling it apart.

I thank the Senator for his efforts. Again, I empathize and sympathize with his family over the personal loss that just occurred. I look forward to working with the Senator from New Mexico as we move ahead.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative 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.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination

of Richard Cordray, of Ohio, to be Director of the Bureau of Consumer Financial Protection, for a term of 5 years, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The yeas and nays resulted—yeas 71, nays 29, as follows:

[Rollcall Vote No. 173 Ex.]

YEAS—71

Ayotte	Graham	Mikulski
Baldwin	Hagan	Murkowski
Baucus	Harkin	Murphy
Begich	Hatch	Murray
Bennet	Heinrich	Nelson
Blumenthal	Heitkamp	Portman
Blunt	Hirono	Pryor
Boxer	Hoeven	Reed
Brown	Isakson	Reid
Cantwell	Johanns	Rockefeller
Cardin	Johnson (SD)	Sanders
Carper	Kaine	Schatz
Casey	King	Schumer
Chambliss	Kirk	Shaheen
Coats	Klobuchar	Stabenow
Collins	Landrieu	Tester
Coons	Leahy	Udall (CO)
Corker	Levin	Udall (NM)
Donnelly	Manchin	Warner
Durbin	Markey	Warren
Feinstein	McCain	Whitehouse
Flake	McCaskill	Wicker
Franken	Menendez	Wyden
Gillibrand	Merkley	

NAYS—29

Alexander	Enzi	Risch
Barrasso	Fischer	Roberts
Boozman	Grassley	Rubio
Burr	Heller	Scott
Chiesa	Inhofe	Sessions
Coburn	Johnson (WI)	Shelby
Cochran	Lee	Thune
Cornyn	McConnell	Toomey
Crapo	Moran	Vitter
Cruz	Paul	

The PRESIDING OFFICER. On this vote the yeas are 71 and the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Pursuant to S. Res. 15 of the 113th Congress, there is now 8 hours of postcloture debate on this nomination, equally divided in the usual form.

The majority leader.

Mr. REID. I hope we don't have to use all of the 8 hours, but we will see.

Mr. REID. I ask unanimous consent the Senate recess from 12:30 p.m. to 2:15 p.m. to allow for the weekly caucus meetings and that the time during the recess count postcloture on the Cordray nomination.

I express my appreciation for the strong vote this good man received.

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

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. What I should have done and will do now is ask unanimous consent that the time during this quorum call be divided equally on both sides.

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

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MERKLEY. Mr. President, I thought I would make a couple of comments regarding the activities of this Chamber a few minutes ago. We had 71 votes in favor of closing debate on the nomination of Richard Cordray to be Director of the Consumer Financial Protection Bureau, the CFPB. The CFPB is vested with the responsibility of protecting consumers from predatory financial practices.

We all discovered in the runup to the great recession just how important this protection is. We had many crazy predatory practices.

On credit cards we had fees that came out of nowhere and shifting time periods from month to month in terms of when the payments were due, even shifting destinations of where the credit card payments got mailed to, and also fees that could be wracked up on unsuspecting consumers.

We certainly found out on mortgages how important financial protection is because we had, starting from 2003 forward, a booming industry in predatory teaser rate mortgages, where the mortgages might be 4 percent for 2 years but then were changed after 2 years to 9 percent. One would think most would-be homeowners would look at that deal and say: That is not a good deal. But here is what happened. They went to a mortgage broker, and the mortgage broker said: I am your financial adviser. Mortgages have gotten very complex, they are very thick, and there is a lot of fine print, so you are paying me to sort through and find the best deal for you.

So first-time home buyers trusted their mortgage brokers. Unbeknownst to the new homeowners, those brokers were being paid kickbacks called steering payments. They were being paid special bonuses outside the framework of the deal in order to steer the unsuspecting first-time home buyer—the customer—into a predatory loan when the first-time customer actually qualified for a prime fixed-rate mortgage. Well, those predatory mortgages proceeded to be put into securities, and those securities were bought up by financial institutions across America and beyond because the folks who were buying the securities understood that in a couple of years the interest rate would go way up and they would make a lot of money off those securities.

So this was a system rigged against the first-time home buyer, against the home buyer who wanted to start their journey to owning their piece of the American dream.

Those predatory practices should never have been allowed. Some here

will remember the responsibility for consumer protection was vested in the Federal Reserve. But what happened in the Federal Reserve? The Federal Reserve carried on with its responsibility on monetary policy, but it put its responsibility for consumer protection down in the basement of its building. They locked the doors, they threw away the key, and they said let the market be the market. They abandoned our consumers across this country.

That is why we need a Consumer Financial Protection Bureau. It doesn't have a conflict in its mission. It is not obsessed with a different mission such as monetary policy. We need a bureau that says: New predatory techniques will crop up and we will try to end them, try to end practices in predatory payday loans that can charge 350 to 550-percent interest on unsuspecting citizens. We need a bureau that will look out and say we need to stop the practice on which online payday lenders get your bank account number and, without your permission, do a remotely generated check and reach in and grab the funds out of your account. The list of predatory practices is endless because the human mind is endlessly inventive. So we have an important bureau—but an important bureau that cannot do its job unless there is a director to run it.

Two years ago Richard Cordray was nominated to head the Bureau. He has been waiting to get cloture on his nomination and a subsequent vote for 2 years. He has been an interim appointee during that period of time and, by all accounts, from everything I have heard from folks in this Chamber, doing a very good job, working very hard with the great technical details of the financial world to find a fair and solid way forward.

The fact is his nomination, so long delayed, is not a reflection on him personally. In fact, many Senators who have opposed allowing the vote to take place have come forward and said it is not about him personally; it is about the Consumer Financial Protection Bureau. Forty-three Senators in this Chamber wrote a letter to say they would oppose any nominee for the Consumer Financial Protection Bureau. It was a bold attempt to change back to a situation where there was no one to fight for consumer protection for our citizens in this Nation.

Today we end that drama in favor of fairness for American citizens, in favor of taking strong action against predatory mortgages and the predatory practices of the future. In 8 hours we will be voting up or down on his nomination, as we should have long ago.

But let me shift gears here and say the vote we took today is symbolic of much more than the important function of establishing an effective Consumer Financial Protection Bureau. The vote we took a short while ago is central to ending the paralysis that has generally haunted this Chamber. That paralysis is something new. In

the time from Eisenhower's Presidency through Ford's Presidency, there was not one filibuster of an executive nominee. In President Obama's 4½ years, there have been 16 such filibusters. So if we talk about the norm and tradition of the Senate, the norm and tradition of the Senate is a reasonable and timely up-or-down vote. That is the tradition, and it is a tradition that fits with the Constitution. The Constitution calls for a supermajority for treaties to be confirmed, but it only embeds a simple majority requirement for nominations. There is reasoning behind that: because our Founders envisioned three coequal branches of government. They could never have envisioned it would be OK for the minority of one branch to be able to deeply disable another branch, be it the executive branch or be it the judiciary.

So the vote we took today is part of a larger conversation about ending the paralysis and focusing on the challenge of executive nominations getting timely up-or-down votes.

Mr. DURBIN. Would the Senator yield for a question?

Mr. MERKLEY. Absolutely.

The PRESIDING OFFICER (Ms. HEITKAMP). The Senator from Illinois.

Mr. DURBIN. Madam President, I first thank the Senator for his leadership. He has been the singular force in the Senate to have us reassess the rules of the Senate to make certain they are serving the needs of our Nation. I thank Senator MERKLEY for his leadership, and I know he felt a great sense of satisfaction with the vote that was just cast on the floor—a vote in which 71 Senators voted to invoke cloture and end the filibuster on the nominee to head the Consumer Financial Protection Bureau.

As the Senator from Oregon knows, this Bureau has been controversial since its inception when we passed the Dodd-Frank finance reform bill after the tragedies and scandals of Wall Street. There were many who did not want to see us create a consumer protection agency. Yet we did. It was the brainchild of one of our current colleagues, Senator ELIZABETH WARREN of Massachusetts, who, before she was elected, thought this was an important agency—literally the only consumer protection agency in the Federal Government. But it wasn't welcomed by some corners, particularly some financial institutions and others.

I think it is noteworthy at two levels, and I would like to ask the Senator from Oregon to respond. First, it is noteworthy that although it took 2 years, in that 2-year period of time this Consumer Financial Protection Bureau has proven its worth.

I am working now on the exploitation of our military by for-profit schools. Holly Petraeus, the wife of General Petraeus, works for this agency, and she has focused her efforts on military families and the exploitation of the GI bill by these schools.

I think every American would agree that those who are guilty of it should

be held accountable, and this investigation is under way by this agency. Now Richard Cordray is there to head it. I think that is important, and that is why this vote which will be in a few hours on Richard Cordray's nomination is important.

But the second point is a larger global point about the Senate and perhaps Congress. We have in a very brief period of time—1 month—seen two very significant votes, in my estimation. The first was on the immigration bill, where 68 Senators voted for the immigration reform bill, 14 Republicans joining all the Democrats. It was a breakthrough, and most of us feel it was the first time in a long time that we have seen Senators of both political parties sit down and hammer out an agreement that was reflected in the vote on the floor: 14 Republicans, 54 Democrats.

Now we have the second evidence of bipartisanship with the vote that was just cast, 71 who came forward—some 17 Republicans and 54 Democrats, if I am not mistaken—voting in favor of ending cloture.

The point I would like to get to in this long question—and I would ask the Senator from Oregon for his reflection on this—it seems to me the key to getting things done on Capitol Hill these days, in a fractured political Nation, is bipartisanship—not just in the Senate Chamber but in the House as well, that they have to reach beyond the majority party—in our case Democrats and in their case Republicans—and start thinking about how we put things together on a bipartisan basis that have a chance of passing and ultimately becoming law and solving the problems facing our Nation.

When it comes to consumer protection, with a bipartisan vote, we move forward. A few weeks ago when it came to immigration reform, we had a bipartisan vote that moved forward. So I would ask the Senator to not only reflect on this institution and the earlier vote but on the current challenges we face politically and how these votes reflect on those.

Mr. MERKLEY. I would say to my colleague from Illinois that, indeed, these are key milestones where the journey is to restore the functionality of this Senate so it can take on the significant issues Americans expect us to take on.

The path forward is not yet one without obstruction. We have these two important milestones—one of going forward on immigration, a second of going forward in terms of putting a functioning Consumer Financial Protection Bureau fully together. We have had some other recent moments that fit this pattern, including passing the farm bill out of this Chamber for the second time, passing a Water Resources Development Act that would fund enormous amounts of infrastructure across this country to help provide both water supply infrastructure and wastewater treatment infrastructure. These are

good moments. But we also are reminded that the path is not completely clear.

For example, at this moment we should be in the middle of a conference committee on the budget. The Senate passed a budget and the House has passed a budget, but the conference committee is being filibustered by this Chamber. That is evidence of the model we are trying to break that is unexplainable to the American people. Folks back home want to know why we can't get a bill on the floor of the Senate to address the sequester. Because fewer kids are getting into Head Start, fewer kids are getting their inoculations, title I schools are not getting their funding. And, of course, there is a lot of concern within the military world about our national security where programs are being compromised. But we couldn't get the bill to the floor of the Senate because it was filibustered.

So we have important milestones to grab hold of that are presenting a vision of the restoration of this Senate as a deliberative body, but we are going to have to work together in this bipartisan fashion we speak of to continue on this road.

Mr. DURBIN. I thank the Senator.

Mr. MERKLEY. Madam President, I appreciate my colleague from Illinois emphasizing the important role of bipartisanship in making this Chamber work. His question gave me an opportunity to talk about what has just transpired as an important victory—an important victory for this Chamber and its deliberation, an important victory for people across America, families working to have their financial foundation solid rather than torn asunder by predatory practices.

In this journey, this effort to achieve a Senate that can again function as a deliberative body, I want to take this moment to thank my colleague TOM UDALL. TOM UDALL and I came into the Senate together. TOM UDALL immediately recognized that the Senate needed to address its internal functioning because we were becoming more and more paralyzed. He proposed before this body that we have a conscious debate every 2 years about how to adjust the rules and to make this Senate Chamber work much better, because we are not only being paralyzed on executive nominations but we have this terrible paralysis on legislation, with a few important exceptions that my colleague from Illinois and I spoke about.

I want to thank Tom for his work to help motivate this body to take on these issues and to restore the functionality. I have been pleased to be a partner with him on this journey. I know it is a journey that is not yet done, but I do thank my colleagues—across the aisle and on this side of the aisle—for the very frank discussions last night in which for 3 hours we bared our hearts, if you will, about what is working and not working in this Chamber. That too is an important moment

in this journey to make the Senate work. So I applaud the spirit that came into the Chamber today that resolved the 2-year standoff in regard to having a functioning chair of the Consumer Financial Protection Bureau, and to set the tone, hopefully, for changing dramatically the partnership to restore the functioning of the Senate going forward.

I yield the floor.

Mr. SANDERS. Madam President, I am glad an agreement has been reached in which President Obama will finally get Senate confirmation votes on his appointees to the Consumer Financial Protection Bureau, the Department of Labor, and the head of the Environmental Protection Agency. This agreement, as I understand it, will also provide that the President's new nominees for the National Labor Relations Board will be rapidly confirmed. That is a step forward.

While this agreement addresses the immediate need for the President of the United States to have his Cabinet and his senior staff confirmed, this agreement today only addresses one symptom of a seriously dysfunctional Senate. The issue that must now be addressed is how we create a process and a set of rules in the Senate that allows us to respond to the needs of the American people in a timely and effective way—something virtually everyone agrees is not happening now. The Senate cannot function with any degree of effectiveness if a supermajority of 60 votes is needed to pass virtually any piece of legislation and if we waste huge amounts of time not debating the real issues facing working people but waiting for motions to proceed hour after hour where nobody is even on the floor of the Senate.

The good news is that I think the Nation is now focused on the dysfunctionality of the Senate and the need for us to have rules or a process that allows us to address the enormous problems facing our country. When people ask why is it that Congress now has a favorability rating of less than 10 percent, the answer is fairly obvious: The middle class of this country is disappearing. Real unemployment is somewhere around 14 percent. The minimum wage has not kept up with inflation. Millions of people are working in jobs that pay them poverty wages. Tens of millions of people today lack health care, while we have the most expensive and wasteful health care system in the world. The greatest planetary crisis facing our Nation and the entire world is global warming, and we are not even debating that issue.

The Senate is a very peculiar institution. It is peculiar in the sense that any one Member—one of 100—can come down here on the floor and utter two magical words that bring the Senate to a complete halt; that is, "I object." I will not allow the Senate to go forward, which means the whole government shuts down. I object. I object.

What we have seen in recent years—especially since Barack Obama was

elected—is an unprecedented level of "I object," of holds, of a variety of mechanisms that bring the functioning of the Senate to a halt. All of this takes place at a time when millions of people cannot find jobs and at a time when kids are graduating college deeply in debt and millions of others are now choosing not to go to college because we are not addressing the issue of higher education. It takes place at a time when our infrastructure—our roads and bridges and airports and rail systems—is crumbling, when our educational system is in need of major reform, and the gap between the people on top and everybody else is growing wider.

The American people perceive this country has major problems that must be addressed. What does the Senate do? We are sitting here waiting 30 hours for a motion to proceed, to see if, in fact, we can vote on a piece of legislation that requires 60 votes. Time and time again we do not get those votes.

When votes come up, I would like to win, to be on the winning side. That is natural. Everybody would. But what happens here—and the American people by and large do not fully understand it—we do not vote on issues. What happens is the debate ceases because we do not get motions to proceed. So we do not vote on a jobs program, we vote on whether we can proceed to a jobs program to create millions of jobs. We do not vote on whether we can keep interest rates low for college students who are borrowing money, we vote on whether we can proceed to have the vote.

What we have seen in the last several years is an unprecedented level of obstructionism and filibustering. Between 1917 and 1967 there was more or less an agreement in the Senate that a filibuster would only be used under exceptional circumstances. There were only some 40 or 45 filibusters in a 50-year period. When Lyndon Johnson was majority leader in the late 1950s, in his 6-year tenure as majority leader he had to overcome a filibuster on one occasion. Since HARRY REID has been majority leader in the last 6½ years, he has had to overcome 400 filibusters or at least requirements for 60 votes. The amount of time we are wasting is unconscionable.

Furthermore, what the American people do not know is that time after time we are winning. We have the votes to win and have shown that on very important issues. In terms of one major issue, just as an example, right now, rather tragically, we have a situation as a result of the disastrous Citizens United Supreme Court decision that corporations and billionaires can spend hundreds of millions of dollars on elections.

As bad as that is, what is even worse, they can hide their contributions—not make them public. Guess what. The Senate by a majority vote said: That is wrong. If you are going to contribute huge amounts of money into the political process, the people have a right to know who you are.

We have a majority vote on this issue. We could not get it passed because we needed 60 votes.

The American people know our tax system is enormously flawed. We have major corporations—General Electric and other corporations—that in a given year, after making billions of dollars in profits, pay zero in Federal taxes. Legislation was passed on the floor of the Senate by a majority—legislation that begins to address that issue—but we did not have 60 votes.

We provided emergency relief to senior citizens who several years ago were getting no COLAs for Social Security. We had a majority vote but could not get 60 votes.

We had a majority vote to say that women should be paid equal pay for equal work. A majority of Senators said that. We couldn't get it passed.

What we have seen in recent years is reasonably good legislation getting a majority vote, but we cannot get it passed because time after time we need 60 votes. What we are operating under now is a tyranny of the minority.

The American people go to vote. They elect Obama President, and they elect a Democratic Senate. People who campaigned on certain issues—as people go forward trying to implement their campaign promises, they cannot do it because we cannot get 60 votes.

Once again, at one point in Senate history, from 1917 to 1967, the filibuster was used very sparingly—only in exceptional circumstances. Since that point, have Democrats—and I speak as an Independent—have Democrats abused the system? Have they been obstructionist? There are times when they have been. But since 2008 what has happened is the Republicans have taken obstructionism to an entirely new level. Virtually every piece of legislation now requires 60 votes, and virtually every piece of legislation requires an enormous amount of time.

What do we do? My colleagues on both sides of the aisle have made the point that the Senate is not the House. And they are right. In the House there are 435 Members and majority rules. The majority has a whole lot of power. The minority doesn't have that much power. People have said: We do not want the Senate to be like the House, and I agree with that. The Senate should not be the House.

Senate Members should be guaranteed the right to offer amendments, not be shut out of the process. Whether you are the minority or the majority, you should have the right to offer amendments. There should be thorough and lengthy debate. If a Member of the Senate wants to stand here on the floor and speak hour after hour to call attention to some issue he or she believes is important, that Senator has the right, in my view, to do that. If that debate goes on for a week, it goes on for a week. Senators, whether in the minority or the majority, have the right to call attention and to debate and focus on issues they consider to be

important. But at the end of that debate there must be finality. There must be a majority vote—51 votes should win. The concept I support is what is called the talking filibuster. Minority rights must be protected. They must have all the time they need to make their point. But majority rights must also be protected. If democracy means anything, what I learned in the third grade was that the majority rules, not the minority.

What is happening in our country is not only enormous frustration about the very serious economic and environmental problems we face, there is huge outrage at the inability of Congress to even debate those issues.

For example, I am a very strong believer that the minimum wage in this country must be significantly raised. It is now about \$7.25. I would like it to go up to \$10 an hour, and even at \$10 an hour people working 40 hours a week will still be living in poverty, but we have to raise the minimum wage. My strong guess is that if we do not change the rules, despite overwhelming support in this country for raising the minimum wage, we will never get an up-or-down vote here on that issue because Republicans will obstruct, demand 60 votes, and filibuster the issue.

If my Republican friends are so confident in the points of view they are advocating, bring them to the floor and let's have an up-or-down vote. Let the American people know how I feel on the issue, how you feel on the issue, but let's not have issues decided because we could not get 60 votes for a motion to proceed. Nobody in America understands what that is about. Do you want to vote against the minimum wage? Have the guts to come and vote against the minimum wage. Do you want to vote against women's rights? Come on up, have your say, and vote against women's rights. Do you want to vote against global warming? Vote against global warming. At least let us have the debate the American people are demanding.

I will conclude by saying I am glad the President will finally be able to get some key appointees seated. I was a mayor so I know how terribly important it is for a chief executive to have their team around them. I am glad he will get some key appointees.

Everyone should understand that what we are doing today is dealing with one very small part of an overall problem, which is the dysfunctionality of the Senate. I hope—having addressed the immediate crisis—we can now go on and address the broader issue, which is making the Senate responsive to the needs of the American people. Let's have serious debates on serious issues and let's see where the chips fall.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

EXECUTIVE SESSION

NOMINATION OF RICHARD CORDRAY TO BE DIRECTOR OF THE BUREAU OF CONSUMER FINANCIAL PROTECTION—Continued

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New York.

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

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

ORDER OF PROCEDURE

Mr. SCHUMER. I ask unanimous consent that all future time in quorum calls be divided equally between the two sides.

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

Mr. SCHUMER. Madam President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Madam President, during the debate over the budget, Dr. COBURN and I offered an amendment to create a separate and independent inspector general within the Consumer Financial Protection Bureau.

We introduced this amendment because, thanks to a quirk in Dodd-Frank, the Consumer Financial Protection Bureau is the only major Federal agency without its own inspector general. I think people know I tend to rely a great deal on inspectors general within the bureaucracy to be an independent check to make sure the laws are followed and that money is spent according to the law.

Dodd-Frank created the Consumer Financial Protection Bureau, but it did not create a protection bureau-specific inspector general. Instead, because Dodd-Frank funded the Consumer Financial Protection Bureau through the Federal Reserve, this Consumer Financial Protection Bureau ended up sharing an inspector general with the Federal Reserve.

This has created a problem. Right now, the Consumer Financial Protection Bureau's inspector general has a split role. He serves as both inspector general for the Federal Reserve and for

the Consumer Financial Protection Bureau. I believe this creates a great deal of confusion and, obviously, a bureaucratic battle for resources. In fact, the inspector general has already had to create two separate audit plans. He also has had to hire employees who can oversee both the Federal Reserve and the Consumer Financial Protection Bureau.

The end result is an office split by two very important but very different priorities. Dodd-Frank created the Consumer Financial Protection Bureau within the Federal Reserve in order to fund the Bureau without having to come to us on Capitol Hill to get congressional appropriations. This is a problem but not a problem I am going to deal with right now. We had a marriage of convenience, the Consumer Financial Protection Bureau within the Federal Reserve.

The Bureau's function is very different from the Federal Reserve. Despite this, years after Dodd-Frank was passed, this unique situation remains. My concern is if you have one inspector general trying to cover two different entities, the end result is neither gets fully overseen. In other words, we don't have adequate checks within the bureaucracy to make sure that laws are abided by and that money is spent according to law.

Since the passage of the Inspector General Act of 1978, Congress has believed that each Department and each agency needs its own independent inspector general. This has been a long-standing bipartisan position.

Currently, there are 73 inspectors general, in every single Cabinet-level Department and almost all independent agencies. Even small independent agencies such as the Federal Maritime Commission and the National Science Foundation have their own inspector general.

In each of these agencies, if each of these agencies has their own independent inspector general, shouldn't the Consumer Financial Protection Bureau—particularly since this Bureau doesn't have to come to Congress for appropriations. We don't get appropriations oversight since some of their decisions can't even be challenged in the courts.

Now we are in this situation. The majority has opposed commonsense changes such as this to the Consumer Financial Protection Bureau.

During the budget debate when Dr. COBURN and I introduced the amendment to create a Consumer Financial Protection Bureau-specific inspector general, the majority would not allow it to be brought up for a vote. The position I heard over and over was the majority did not wish to relitigate Dodd-Frank in any way. I did not hear any concerns related to the merits of this proposal. Our amendment wasn't about relitigating anything, it was about creating accountability and oversight at the Consumer Financial Protection Bureau and doing that through an independent inspector general, such as 73