

This, of course, occurs in a context, right? It occurs in the context of this argument we have been having about whether Republicans have been obstructing nominees, and I think, frankly, it infects the judgment about how Senators might consider voting on something such as a cloture measure. I would just remind everybody that going into this discussion earlier this week, the Senate had confirmed 1,560 of the President's nominees and was blocking 4—1,560 to 4. Some are suggesting that is an outrageous activity on our part because it denies the President the opportunity to assemble his team. Really? He has 1,560 confirmed, and there are 4 we are holding. That works out to 99.7 percent of the President's nominees confirmed, and we are portrayed as preventing the President from assembling his team. I completely reject that characterization. I think the President has enjoyed a tremendous opportunity and reality of getting his team in place, getting them confirmed.

We ought not relinquish the power the Constitution gives to the Senate to advise and consent. Remember, the Constitution doesn't just say that the Senate shall advise, it says advise and consent. "Consent" has a very specific meaning. If we do this automatically and routinely and we think that—I guess those who object to our approving 1,560 and objecting to 4—it seems to me the implication is that we are supposed to simply routinely rubberstamp everyone, there can't be any objections ever, whatsoever. That is not what the Constitution calls for. As a matter of constitutional principle, that is a very flawed analysis.

I wanted to speak this morning because this is a very real, specific case of where, had we exercised more fully, in my judgment, our opportunity to deny cloture, we would have made a little bit of progress in better observation of existing law, further reducing risk the taxpayers take, and getting the Ex-Im Bank to comply with some of the recommendations in the inspector general's report. I wanted to share that.

I know how this vote is going to go. I know Mr. Hochberg is going to be confirmed. I hope we will be able to make progress anyway, but I am sure we would have had a better chance of making meaningful progress if we had used this moment.

As we consider future nominees, I hope we will remember that this is a fundamental and important role for the Senate to play—to use confirmation as a moment to focus the attention of the administration on what is important to our constituents, to our taxpayers, and I hope we won't relinquish that opportunity.

I yield the floor.

OBAMACARE

Mr. LEE. Madam President, 2 weeks ago, while most Americans were busy getting ready for the Fourth of July holiday, the Obama administration

made a stunning announcement about the President's signature legislative accomplishment, the Patient Protection and Affordable Care Act.

The President admitted to the American people that because ObamaCare was so poorly crafted, he was delaying the enforcement of the employer mandate and would not assess fines and penalties to big companies that refused to provide insurance to their employees. The President explained that businesses could not handle "the complexity of the requirements," and government bureaucrats would spend the next year simplifying the reporting rules so companies could comply.

I expected that in the next paragraph he would acknowledge that American families also deserve relief because, as polls consistently reflect, they have very big problems with the requirements as well. They have concerns about the government-run health care scheme known as the exchanges.

Henry Chao, the chief technical officer in charge of implementing the ObamaCare exchanges, has said:

I'm pretty nervous. . . . Let's just make sure it's not a third-world experience.

American families also have very grave concerns about how much ObamaCare is going to add to our national debt. The Congressional Budget Office now estimates that the cost to taxpayers over the next 10 years will be \$1.8 trillion. Young Americans are particularly concerned about ObamaCare because it is becoming clear that they will see the highest increases in health care premiums.

One study published in the magazine of the American Academy of Actuaries shows that middle- and low-income single adults between 21 and 29 years of age will see their premiums rise by 46 percent even after they take the ObamaCare subsidy.

A joint report by Republicans on the House Energy and Commerce, Senate Finance, and Senate HELP Committees that looked at over 30 different studies concluded that:

Recent college graduates with entry-level jobs who are struggling to pay off student loan debt could see their premiums increase on average between 145 and 189 percent. Some studies estimate young adults could experience premium increases as high as 203 percent.

In my State, the State of Utah, premiums for young people will jump anywhere from 56 to 90 percent. As I read this statement from the Treasury Department, I was shocked to find no mention of these people. Parents, families, students, employees, taxpayers, hard-working Americans in general were totally left out, along with their concerns about the complexity of the requirements imposed by ObamaCare.

A senior adviser to the President took to the White House blog to spin the administration's announcement before long. She said:

In our ongoing discussions with businesses, we have heard that you need time to get this right.

But why aren't American families part of these same ongoing discussions? Isn't the White House obligated to get this right for them too, before assessing fines and penalties and forcing them into a government-run third-world experience?

We knew ObamaCare would be unaffordable, but now we know it is also going to be unfair. It is fundamentally unfair for the President to exempt businesses from the onerous burdens of his law while forcing American families and individuals into ObamaCare's unsound and unstable system. It is unfair to protect the bottom lines of big business while making hard-working Americans pay the price through higher premiums, stiff penalties, cutbacks in worker hours, and job losses.

It is unfair to give businesses more time to figure out complex regulations but force everyone else to figure out equally complex mandates and requirements applicable to individuals. This administration has chosen to put its own political preferences and the interests of various government cronies ahead of those of the American people.

Republicans in Congress must now stand up for the individuals and families who do not have the money, who do not have the lobbyists, who do not have the connections to get this administration's attention on this important issue. We should do so using one of the few constitutional powers that Congress still carefully guards: its power of the purse.

As long as President Obama selectively enforces ObamaCare, no annual appropriations bill and no continuing resolution should fund further implementation of this law. In other words, if the President will not follow it, the American people should not fund it.

Last week's admission by the administration means that after more than 3 years of preparation and trial and error, the best case scenario for ObamaCare will be rampant dysfunction, waste, and injustice to taxpayers and working families. Even the President himself is now admitting that ObamaCare will not work. It is unaffordable and unfair.

If he will not follow it, we should not fund it. The only reasonable choice now is to protect the country from ObamaCare's looming disaster, start over, and finally begin work on real health care reform that works for everyone.

I would like to shift topics and speak briefly in opposition to the confirmation of Fred Hochberg to continue as Chairman and President of the Export-Import Bank. By confirming Mr. Hochberg, we would perpetuate the existence of an organization whose sole purpose is to dispense corporate welfare and political privileges to well-connected special interests.

The Export-Import Bank, or Ex-Im as it is commonly known, is an example of everything that is wrong with Washington today. It is big government

serving the interests of big corporations at the expense of individuals, families, and small businesses throughout America.

I am, of course, not alone in this view. I have good company. In 2008, while campaigning for the office of President of the United States, then-Senator Barack Obama referred to Ex-Im as “little more than a fund for corporate welfare.” So it is. After all, in fiscal year 2012, \$12.2 billion of Ex-Im’s \$14.7 billion in loan guarantees went to a single company—one company. Our free enterprise system may not be perfect, but it is fair. Crony capitalism which is promoted by the Export-Import Bank is neither.

Abraham Lincoln once said that the leading object of government was to “lift artificial weights from all shoulders, to clear the paths of laudable pursuit for all, to afford all an unfettered start and a fair chance in the race of life.”

Crony capitalism is the opposite of this noble vision. It lays on artificial waste, obstructs paths of laudable pursuit, and makes the race of life fettered and unfair. We may have honest disagreements about when and whether and to what extent and under what circumstances it is a good idea for the government to redistribute wealth from the rich and give it to the poor, but can’t we all agree it is always a bad idea to redistribute wealth from the poor and the middle class and give it to large corporations?

The saddest part is it is not even clear the bank actually helps U.S. firms to outperform their foreign competitors. Ex-Im’s convoluted financing has been accused of pricing at least one U.S. airline out of being able to compete with foreign firms, and at least one court has agreed.

Cronyism is a cancer. It undermines public trust in our economy and in our political system. Ordinary Americans who have the gnawing sense that the game seems rigged against them unfortunately have good reason to feel that way. It is not the free market that serves the middle men at the expense of the middle class. It is the crony cartels of big government, big business, and big special interests conspiring against the American dream, helping each other to American taxpayers’ money. The Ex-Im Bank is part of this graft.

I urge all of my colleagues to join me in opposing this nominee and the crony capitalist organization that he leads.

The PRESIDING OFFICER. The Senator from Washington.

Ms. CANTWELL. Madam President, I rise to speak in support of Fred Hochberg and his nomination to the second term as Chairman of the Export-Import Bank. I have heard now two speeches on the other side of the aisle from my colleagues who not only seem to take exception with Mr. Hochberg’s nomination but the Export-Import Bank in and of itself.

I think they are wrong. I think they are wrong because they do not under-

stand Washington’s need to focus on the fact that we have an export economy. We want U.S. products to be bought and sold in countries and markets all over the world. We are here today to talk about a critical vote to support 225,000 jobs that are part of our export economy. If we fail to confirm Fred Hochberg for a second term as Chairman of the Export-Import Bank, businesses across the United States will lose a key tool in job creation.

This is because his term expires, runs out, on July 20.

What would that mean? It would mean the Export-Import Bank, which needs at least three of its five board members to have a quorum, would not have a quorum and would not be able to issue any new loans. This means the transactions that U.S. companies depend on, the guarantees and the transactions to finance the sale of U.S. products and services overseas, would not be able to move forward.

If we don’t confirm Mr. Hochberg this week, the bank cannot approve loans and it would take away a job-creating tool that American innovators and businesses count on. This is why I am calling on my colleagues, in a bipartisan fashion, to confirm Mr. Hochberg as the Export-Import Bank Chairman for a second term.

His nomination is supported by the Chamber of Commerce and by the National Association of Manufacturers. He has proven to be a solid leader in his organization by listening, implementing, innovating, and administering a very critical job-creation tool.

When I visited businesses across my State in 2012 to talk about the Export-Import Bank, I heard the American people wanted us to focus on job creation and supporting business. The Export-Import Bank helps American-made products to be shipped all around the world.

I saw a company in my State, Yakima, WA, the Manhasset music stand company, use the Export-Import Bank to make sure sales go all around the globe, including China.

I saw a grain silo manufacturer called SCAFCO in Spokane, which also would testify to the fact that they have been able to sell their grain to many countries around the globe because of the financing the Export-Import Bank guarantees.

Airline cockpit hardware made by the Esterline Corporation factory in Everett, WA, also testified to the same effect; that when you are looking around the globe to secure financing of U.S. products into more developing countries, it is hard to get the financing to work.

The United States can be left at the starting line or the United States can use this vital tool that I call a tactic for small business to get access to make sure their products get a final sale.

The Export-Import Bank supports 83,000 jobs in my State alone, which

benefits from the finance mechanism. Over the last 5 years, it has supported many jobs throughout the United States. Overall, it supported, as I said, 225,000 jobs and more than 3,000 businesses in 2012.

In the small business area, 2,500 of those are small businesses. The notion that this is somehow crony capitalism—and maybe he is talking about the shenanigans that happened on Wall Street, but he is certainly not talking about the Export-Import Bank.

I am advocating that we keep the very positive results of this bank, keep Mr. Hochberg, and make sure we continue to sell our products from Everett, WA, or Auburn, KY, all over the globe.

Ninety-five percent of the world’s consumers live outside our borders. The question is: are we going to make sure that U.S. products get into the hands of the growing middle class around the globe? In 2030, China’s middle class will be 1 billion people, 1 billion middle-class people in China, up from 150 million today. India’s middle class will grow 80 percent, from 50 million to 475 million.

We need our businesses, large and small, to have the tools to reach this new, growing tool of consumers. Not only does this help businesses, the Ex-Im Bank also helps taxpayers.

I don’t know where the idea that this is crony capitalism comes from, but this program is a very good deal for the U.S. Department of the Treasury. In fact, it returned nearly \$1.6 billion to the U.S. Treasury since 2005. It actually is helping us return money to the Treasury and it helps our businesses continue to grow in export markets.

As we speak, there are almost \$4 billion in transactions awaiting approval for the bank; that is, if we don’t approve the chairman, these deals might not go through. There are many American businesses counting on their transaction so they can compete in an international market.

The international competitor is not going to wait until we approve Mr. Hochberg if we delay this. They are going to go ahead, cash in on the business deals, and our competitors will win.

I think the U.S. Chamber of Commerce said it best in a 2011 letter to congressional leaders: The Export-Import Bank enables U.S. companies, large and small, to turn export opportunities into real sales that help create real jobs in the United States of America.

I was proud that Mr. Hochberg came to Seattle last year for the opening of a regional Ex-Im office, focusing on small businesses to make sure they can get the financing for end products to get to these markets. We should be moving more toward policies to help businesses, the small businesses, grow with confidence into these international markets.

I ask my colleagues to do the right thing, follow through, and confirm this chairman.

Since its creation in 1934, the Export-Import Bank was approved by unanimous consent or voice vote 24 times. For 24 times no one called this crony capitalism. No, they were supporting it. The last time we authorized it, it had 78 votes. It ended up in the House of Representatives with 330 votes.

I am pointing this out because all of the delay in Mr. Hochberg's confirmation hurts business in the end, when the majority of my colleagues do agree this is a vital tool to help boost products made in America.

In the last reauthorization we did make improvements to strengthen the Ex-Im Bank. Quarterly reports are delivered on the default rates, which now can't go above 2 percent.

The Government Accountability Office also is required to work with risk management structures to make sure loans and businesses are not too risky. Transactions above a certain dollar amount receive public comment, and they deliver a yearly report on those transactions.

I know my colleagues have mentioned this issue about aviation, and I can guarantee, as the chair of the Aviation Subcommittee, I want U.S. airline industries to be competitive in international markets. Certainly, the world community on financing of airplane sales is working together to make sure those are closer to market-based rates and working on the same page so these financing schemes work together.

The 2011 Aircraft Sector Understanding sets out the terms and conditions on how airlines can finance aircraft purchases using Government-backed financing. The Understanding requires a closer alignment with commercial market borrowing rates. This agreement covers all major trading partners except China.

All of these improvements we continue to make in the Ex-Im Bank are important. As I said, Mr. Hochberg has been open to many discussions as to how we move ahead. Let us not deny the fact that in developing markets, a financial tool such as the Export-Import Bank, that actually delivers on helping job creation in the United States by getting the sales of many different products into these developing countries and growing middle class, is very good for the United States. The fact that it returns to the taxpayer is very positive.

Let's not let this slip another moment. Let's get Mr. Hochberg back to the task at hand, which is approving these transactions so U.S. companies can continue to grow jobs here by accessing new markets overseas.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CORNYN. Madam President, this last Monday night we had a remarkable occurrence in the Senate. Democrats and Republicans actually met together, as the Presiding Officer knows, in the Old Senate Chamber, a historic location where the Senate used to meet before we became so large and expanded to 100 Members. What was so good about that, from my perspective, was that we actually had some communication going on and we learned there were a lot of Senators who were actually frustrated by the way the Senate has been operating. It gave us all an opportunity, there in a confidential setting, to speak our mind and to share our frustrations.

But I think one of the things we have forgotten—maybe not forgotten, but need to be reminded of from time to time—is what makes the Senate unique, not just here in America and our form of government but throughout the world. Sometimes the Senate is referred to as the world's greatest deliberative body. As we all know, it has become less so in recent years. But we all remember the story of the constitutional convention in Philadelphia when they were at loggerheads in trying to figure out how to create the legislative branch. There were some who wanted a single unicameral legislative body, and there were discussions then about whether there actually needed to be a Senate in addition to the House of Representatives, which, of course, would literally be representative of the people based on their numbers as opposed to representing the respective States, which is the function of the Senate.

Late in the convention there was a compromise proposed by the Senator from Connecticut, Roger Sherman, on behalf of the small States. Of course, the small States were worried the big States would gang up on them. Ironically, under this compromise, it is now the small States that gang up on the big States, but that is another story for another day.

Under this Connecticut Compromise, the Senate came to be comprised of two Senators representing each State, no matter how big or how small the State. My State of 26 million people only gets two Senators. The Presiding Officer's State, a smaller State, also gets two Senators. That was part of the Connecticut Compromise back when the country was founded.

The Constitution could not have been ratified without this compromise. It initially failed, but Benjamin Franklin later found a better time to reintroduce it and it passed. But here is the real function of the Senate, and it comes from a story told of a conversation between Thomas Jefferson and George Washington. Of course, Washington had presided over the constitutional convention. Jefferson was in Paris. When he returned, he asked Washington why he allowed the Senate to be formed, because Jefferson had considered it unnecessary. One body based on proportional representation,

Jefferson thought, should be enough. Washington then asked Jefferson if he cooled his tea by first pouring it in the saucer, which was the custom of the day. Sure, responded Jefferson. And Washington said: So it is that the Senate must cool tempers and prevent hasty legislation by making sure it is well thought out and fully debated.

I mention that story and recite a little bit of history to remind us the Senate was created not just to be another House of Representatives but for another purpose altogether. That is the other reason why Senators are elected for 6-year terms from a whole State as opposed to just a congressional district where our colleagues across the Capitol run every 2 years from smaller areas. Of course, they are supposed to be much more closely tied to their constituents. We are supposedly given a little more flexibility to take the long view and not the short-term view in how we decide matters.

That is the reason why so many of us were concerned at the threat of the majority leader to invoke the so-called nuclear option. I know for most Americans this is not something that is at the top of their list to be concerned with, but from an institutional and constitutional perspective it is absolutely critical the Senate remain true to the design of the Founders of our country as framed in our Constitution.

As a rationale to invoking the so-called nuclear option and turning the Senate into a purely majority-vote institution, there were claims this side of the aisle had been obstructing too many of President Obama's nominations. But the facts tell a far different story. Thus far, the President has nominated more than 1,560 people for various positions, and only 4—only 4—of them have been rejected by the Senate.

Since 2009, this Chamber has confirmed 199 of President Obama's article III judicial nominees and rejected 2 of them, and 80 of those nominees were confirmed by voice vote, which is essentially a unanimous vote. Another 64 were confirmed by unanimous rollcall votes. Does that sound like a crisis? Does that sound like obstructionism? I think not.

I would like to suggest it is another problem that has caused the Senate to become, in a way, a nondeliberative body and quite dysfunctional. For example, during Senator REID's tenure as majority leader, an unprecedented number of bills have come to the floor directly from the majority leader's office. Any of us who remember our high school civics lessons know that, ordinarily, committees of the Congress are supposed to write legislation. Then once the committees vote that legislation out, it comes to the Senate floor. Obviously, the purpose for that is to give everyone in the committees an opportunity to vent their concerns, to offer amendments, to debate them, and then to mark up a bill before it comes to the Senate floor so we do a better job and deal with all of the unintended

consequences and the like. But during the tenure of the current majority leader an unprecedented number of bills have simply sprung to life out of the majority leader's office.

Many of my colleagues, including Members of Senator REID's own party, have been left wondering why it is the committees actually even exist in a world where bills simply come to the Senate floor under rule XIV without the sort of deliberation and consideration they should get in committees before arriving here. When legislation arrives on the floor, Senators are routinely denied an opportunity to offer the amendments they see fit and to have debate and votes on those amendments.

To give some perspective—and I know some people will say the American people are not interested in the process, they are interested more in the policy, but this demonstrates why the process is so important to getting the right policies embraced—during the 109th Congress, when this side of the aisle, Republicans, controlled this Chamber, Senate Democrats offered more than 1,000 separate amendments—1,043 separate amendments—to legislation. During the 112th Congress, when our Democratic colleagues were in charge, Republicans were only allowed to offer 400 amendments—1,043 to 400, a big difference.

During the 109th Congress, when Republicans controlled this Chamber, there were 428 recorded votes on Senate amendments—428. In the 112th Congress, there were 224—a little more than half of the number.

Since becoming majority leader, Senator REID has blocked amendments on bills on the floor no fewer than 70 times. In the language of Senate procedure, we call that filling the amendment tree, but what it means is the minority is effectively shut out of the ability to shape legislation by offering amendments on the Senate floor. And that is no small thing. Again, I represent 26 million people in the State of Texas. Being a Member of the minority, when Senator REID blocks any amendment I wish to offer to a bill, he has effectively shut out of the process 26 million Texans. And it is not just my State, it is every State represented by the minority.

As a comparison, the previous Senate majority leader, Senator Bill Frist of Tennessee, a Republican, filled the amendment tree only 12 times in 4 years. So 70 times under Senator REID, 12 times for Senator Frist. And before him, Majority Leader Tom Daschle, a Democrat, filled the tree only once in 1½ years—once in 1½ years. When Trent Lott was the majority leader, a Republican, he did it 10 times in 5 years. George Mitchell, a Democratic majority leader, did it three times in 6 years. Majority Leader Robert C. Byrd, who was an institution unto himself here in the Senate, did it three times in 2 years. And finally, Senator Bob Dole of Kansas, the majority leader, a

Republican, did it seven times in 3½ years.

My point is not to bore people with statistics but to point out the Senate has changed dramatically under the tenure of the current majority leader in a way where Members of the Senate are blocked from offering amendments to legislation in the interest of their constituents. As majority leader, Senator REID has denied those rights to the minority and the rights of the people we represent. When he refuses to let us offer amendments and debate those amendments, he refuses to let us have real debate and he is effectively gagging millions of our constituents.

One more time I would like to remind Senator REID of what he promised 6 years ago. He said: As majority leader, I intend to run the Senate with respect for the rules and for the minority the rules protect. 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.

I would also like to remind our colleagues what President Obama said in April of 2005, when he was in the Senate. He said: 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.

My point is to say the Senate has been transformed in recent years into an image of an institution the Founders of our country would hardly recognize, nor would previously serving Senators who operated in an environment where every Senator had an opportunity to offer amendments to legislation and to get a vote on those amendments; where the minority's rights were protected by denying the majority the right to simply shut out the minority, denying them an opportunity to offer or debate important pieces of legislation.

That is what has happened under the current majority leader, and that is why I believe those meetings, such as the one we had in the Old Senate Chamber this past Monday night, are so important. But we do have to rely on the facts. Facts can be stubborn, but I think our debate ought to be based on the facts and on a rational discussion of what the Framers intended when they created the Senate and its unique role—unique not just here in America but to all legislative bodies in the world.

#### HEALTH CARE

Madam President, I would like to turn to another topic. Now that we have gotten past the nuclear option, at least for a time, I think it is important we return to important issues that actually affect the lives of the American people in very direct ways, and health care is one of them.

During the Fourth of July recess, the administration unilaterally delayed several provisions of the so-called Affordable Care Act, otherwise some-

times known as ObamaCare. What they did specifically is they delayed enactment of the employer mandate.

It was an implicit acknowledgment by the administration that ObamaCare is actually stifling job creation and prompting many businesses to turn from full-time employment to part time. In fact, there are now 8.2 million Americans working part-time jobs for economic reasons when they would like to work full time. That number is up from 7.6 to 8.2 million since March. And a new survey has found that 74 percent of small businesses are going to reduce hiring, reduce worker hours, or replace full-time employees with part-time employees in part in response to ObamaCare.

The House of Representatives has drafted a bill that would codify the employer mandate delay that the administration announced earlier this month. In other words, they want to uphold the rule of law. Yet the President is now threatening to veto the very legislation that enacts the policy that he himself announced, which is truly surreal. The House bill on the employer mandate would do exactly what the President has already announced he would do unilaterally. There is no conceivable reason that I can think of for the administration to oppose this legislation—unless, of course, President Obama thinks he can pick and choose which laws to enforce for the sake of his own convenience. I am afraid he does believe that, and the evidence goes well beyond ObamaCare.

Yesterday afternoon I listed several examples of the administration's persistent contempt for the rule of law.

I mentioned the government-run Chrysler bankruptcy process in which the company-secured bondholders received far less for their loans than the United Auto Workers pension funds.

I mentioned the subsequent Solyndra bankruptcy in which the administration violated the law by making taxpayers subordinate to private lenders.

I mentioned the President's unconstitutional appointments to the National Labor Relations Board and the Consumer Financial Protection Bureau. You don't have to take my word for it; that is the decision of the court of appeals. The case has now been taken up by the U.S. Supreme Court to define what the President's powers are to make so-called recess appointments. But one thing that is absolutely clear is that the President—the executive branch—can't dictate to the Senate when we are in recess, thus empowering the President to make those appointments without the advice and consent function contained in the Constitution; otherwise, the executive branch will have no checks and no balances on its power, and there will be no power on the part of the Senate to do the appropriate oversight and to confirm the President's nominees.

In addition to his recess appointments, I mentioned yesterday his decision to unilaterally waive key requirements in both the 1996 welfare reform