

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. MARKEY) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ), the Senator from Texas (Mr. CORNYN), and the Senator from Nevada (Mr. HELLER).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted "nay."

The PRESIDING OFFICER (Mr. COONS). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 51, nays 44, as follows:

[Rollcall Vote No. 245 Leg.]

#### YEAS—51

Baldwin	Gillibrand	Mikulski
Baucus	Hagan	Murphy
Begich	Harkin	Murray
Bennet	Heinrich	Nelson
Blumenthal	Heitkamp	Pryor
Booker	Hirono	Reed
Boxer	Johnson (SD)	Rockefeller
Brown	Kaine	Sanders
Cantwell	King	Schatz
Cardin	Klobuchar	Schumer
Carper	Landrieu	Shaheen
Casey	Leahy	Stabenow
Coons	Levin	Tester
Donnelly	Manchin	Udall (CO)
Durbin	McCaskill	Udall (NM)
Feinstein	Menendez	Warren
Franken	Merkley	Whitehouse

#### NAYS—44

Alexander	Flake	Paul
Ayotte	Graham	Portman
Barrasso	Grassley	Reid
Blunt	Hatch	Risch
Boozman	Hoeven	Roberts
Burr	Inhofe	Rubio
Chambliss	Isakson	Scott
Coats	Johanns	Sessions
Coburn	Johnson (WI)	Shelby
Cochran	Kirk	Thune
Collins	Lee	Toomey
Corker	McCain	Vitter
Crapo	McConnell	Wicker
Enzi	Moran	Wyden
Fischer	Murkowski	

#### NOT VOTING—5

Cornyn	Heller	Warner
Cruz	Markley	

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The majority leader.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on S. 1197.

The PRESIDING OFFICER. The motion is entered.

### PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. REID. I move to proceed to the consideration of S. Con. Res. 28 as provided for under the previous order.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 28) providing for a conditional adjournment or recess of the Senate and an adjournment of the House of Representatives.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the concurrent resolution.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. TESTER) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Texas (Mr. CORNYN), the Senator from Texas (Mr. CRUZ), the Senator from Arizona (Mr. FLAKE), and the Senator from Nevada (Mr. HELLER). Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 246 Leg.]

#### YEAS—51

Baldwin	Hagan	Mikulski
Baucus	Harkin	Murphy
Begich	Heinrich	Murray
Bennet	Heitkamp	Nelson
Blumenthal	Hirono	Pryor
Booker	Johnson (SD)	Reed
Boxer	Kaine	Reid
Brown	King	Rockefeller
Cantwell	Klobuchar	Sanders
Cardin	Landrieu	Schatz
Carper	Leahy	Schumer
Casey	Levin	Shaheen
Coons	Manchin	Stabenow
Durbin	Markey	Udall (NM)
Feinstein	McCaskill	Warren
Franken	Menendez	Whitehouse
Gillibrand	Merkley	Wyden

#### NAYS—42

Alexander	Fischer	Murkowski
Barrasso	Graham	Paul
Blunt	Grassley	Portman
Boozman	Hatch	Risch
Burr	Hoeven	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Scott
Coburn	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Collins	Kirk	Thune
Corker	Lee	Toomey
Crapo	McCain	Udall (CO)
Donnelly	McConnell	Vitter
Enzi	Moran	Wicker

#### NOT VOTING—7

Ayotte	Flake	Warner
Cornyn	Heller	
Cruz	Tester	

The concurrent resolution (S. Con. Res. 28) was agreed to, as follows:

S. CON. RES. 28

*Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Thursday, November 21, 2013, through Friday, December 6, 2013, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand re-*

cessed or adjourned until 12:00 noon on Monday, December 9, 2013, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 or section 3 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any legislative day from Thursday, November 21, 2013, through Tuesday, November 26, 2013, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, December 2, 2013, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

SEC. 3. After the House reassembles pursuant to the first section of this concurrent resolution, the Majority Leader of the Senate after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The majority leader.

### EXECUTIVE SESSION

#### NOMINATION OF PATRICIA ANN MILLETT TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT—Continued

Mr. REID. Mr. President, I ask for regular order regarding the Millett nomination.

The PRESIDING OFFICER. Regular order is requested.

The Senate resumes executive session to consider the Millett nomination, postcloture.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

#### CHANGING SENATE RULES

Mr. MCCAIN. Mr. President, the events and votes that took place today are probably as historic as any votes that I have seen taken in the years I have been here in the Senate.

The majority, with only majority votes—the same as ObamaCare passed with only Democratic votes—changed the rules of the Senate in a way that is detrimental, in my view, not only to the Senate, not only to those of us in the minority party, but great damage to the institution itself.

One of the men who served in this Senate for a long, long time, whom we respected as much or more than any other leader—he certainly knew the Senate rules more than any of the rest of us combined—was one Robert Byrd. Three months before his death, Robert

Byrd wrote this letter. Three months before his death, he said:

During my half-century of service in various leadership posts in the U.S. Senate—including Minority Leader, Majority Leader, Majority Whip and now President Pro Tempore—I have carefully studied this body's history, rules, and precedents. Studying those things leads one to an understanding of the Constitutional Framers' vision for the Senate as an institution, and the subsequent development of the Senate rules and precedents to protect that institutional role.

This is important, I say to my colleagues.

He said:

I am sympathetic to frustrations about the Senate's rules, but those frustrations are nothing new. I recognize the need for the Senate to be responsive to changing times, and have worked continually for necessary reforms aimed at modernizing this institution, using the prescribed Senate procedure for amending the rules.

However, I believe that efforts to change or reinterpret the rules in order to facilitate expeditious action by a simple majority, while popular, are grossly misguided. While I welcome needed reform, we must always be mindful of our first responsibility to preserve the institution's special purpose.

Finally, at the end, he said:

Extended deliberation and debate—when employed judiciously—protect every Senator, and the interests of their constituency, and are essential to the protection of the liberties of a free people.

Mr. President, I ask unanimous consent that this letter by Robert Byrd be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,  
COMMITTEE ON APPROPRIATIONS,  
Washington, DC, February 23, 2010.

DEAR COLLEAGUE: During my half-century of service in various leadership posts in the U.S. Senate—including Minority Leader, Majority Leader, Majority Whip and now President Pro Tempore—I have carefully studied this body's history, rules and precedents. Studying those things leads one to an understanding of the Constitutional Framers' vision for the Senate as an institution, and the subsequent development of the Senate rules and precedents to protect that institutional role.

I am sympathetic to frustrations about the Senate's rules, but those frustrations are nothing new. I recognize the need for the Senate to be responsive to changing times, and have worked continually for necessary reforms aimed at modernizing this institution, using the prescribed Senate procedure for amending the rules.

However, I believe that efforts to change or reinterpret the rules in order to facilitate expeditious action by a simple majority, while popular, are grossly misguided. While I welcome needed reform, we must always be mindful of our first responsibility to preserve the institution's special purpose. The occasional abuse of the rules has been, at times, a painful side effect of what is otherwise the Senate's greatest purpose—the right to extended, or even unlimited, debate.

If the Senate rules are being abused, it does not necessarily follow that the solution is to change the rules. Senators are obliged to exercise their best judgment when invoking their right to extended debate. They also should be obliged to actually filibuster, that is go to the Floor and talk, instead of finding

less strenuous ways to accomplish the same end. If the rules are abused, and Senators exhaust the patience of their colleagues, such actions can invite draconian measures. But those measures themselves can, in the long run, be as detrimental to the role of the institution and to the rights of the American people as the abuse of the rules.

I hope Senators will take a moment to recall why the devices of extended debate and amendments are so important to our freedoms. The Senate is the only place in government where the rights of a numerical minority are so protected. Majorities change with elections. A minority can be right, and minority views can certainly improve legislation. As U.S. Senator George Hoar explained in his 1897 article, "Has the Senate Degenerated?", the Constitution's Framers intentionally designed the Senate to be a deliberative forum in which "the sober second thought of the people might find expression."

Extended deliberation and debate—when employed judiciously—protect every Senator, and the interests of their constituency, and are essential to the protection of the liberties of a free people.

With kind regards, I am

Sincerely yours,

ROBERT C. BYRD.

Mr. MCCAIN. Mr. President, I wish Robert Byrd had been here on the floor today. I wish Robert Byrd had seen the travesty that just took place on a party-line vote. And when I use the word "hypocrisy," I use it guardedly. I do not use that word with abandon. But this is another broken promise—another broken promise.

I read from an article entitled "FLASHBACK: Reid in 2008: 'As Long As I Am The Leader' We Will Not Have a Nuclear Option."

Sen. Harry Reid said in a 2008 interview that as long as he was the Senate Majority Leader, the nuclear option would never happen under his watch.

"As long as I am the Leader, the answer's no," he said. "I think we should just forget that. That is a black chapter in the history of the Senate. I hope we never, ever get to that again because I really do believe it will ruin our country."

He was talking about 2005 when this side of the aisle was in the majority and there was an effort—which we were able to diffuse—in order to do exactly what we did today. In 2008:

Reid railed against Republicans who fought for the measure, saying it would lead to a unicameral legislature and that the U.S. Senate was purposefully set up by the Founding Fathers to have different rules than the House of Representatives. Such a measure like the nuclear option, he said, would "change our country forever."

I am sorry to say, I agree with him. I agree with what he said in 2008. Yet, on Thursday, on a nearly party-line vote of 52-48, the Democrats abruptly changed the Senate's balance of power. Here is the full exchange I will read from.

Tom Daschle: What was the nuclear option, and what likelihood is there that we're going to have to face nuclear option-like questions again?

This is an interview that the majority leader had with the former majority leader Tom Daschle.

What the Republicans came up with was a way to change our country forever. They

made a decision if they didn't get every judge they wanted, every judge they wanted, then they were going to make the Senate just like the House of Representatives. We would in fact have a unicameral legislature where a simple majority would determine whatever happens. In the House of Representatives today, Pelosi's the leader. Prior to that, it was Hastert. Whatever they wanted, Hastert or Pelosi, they get done. The rules over there allow that. The Senate was set up to be different.

That was the genius, the vision of our Founding Fathers, that this bicameral legislature which was unique, had two different duties. One was as Franklin said, to pour the coffee into the saucer and let it cool off. That's why you have the ability to filibuster and to terminate filibuster. They wanted to get rid of all of that, and that's what the nuclear option was all about.

Daschle: And is there any likelihood that we're going to face circumstances like that again?

Reid: As long as I am the Leader, the answer's no.

I repeat. He said, "As long as I'm the Leader, the answer's no."

I think we should just forget that. That is a black chapter in the history of the Senate. I hope we never, ever get to that again because I really do believe it will ruin our country. I said during that debate that in all my years in government, that was the most important thing I ever worked on.

This gives new meaning as to where you stand on an issue as opposed to where you sit. This hypocrisy is not confined to Members of the Senate. Senator Barack Obama, former Member of this body, on April 1, 2005, for the benefit especially of our newer Members on the Democratic side who were not here at the time and do not know what we went through to try to stop it when it was being proposed by this side of the aisle, then-Senator Barack Obama said—who congratulated the Senate today on our action. He said:

The American people sent us here to be their voice. They understand that those voices can at times become loud and argumentative, but they also hope we can disagree without being disagreeable.

Then-Senator Barack Obama went on to say:

What they don't expect is for one party, be it Republican or Democrat, to change the rules in the middle of the game so that they can make all of the decisions while the other party is told to sit down and keep quiet.

I ask my colleagues, what were we just told to do today?

He went on to say that the American people want less partisanship in this town. But everyone in this Chamber knows that if the majority chooses to end the filibuster:

If they choose to change the rules and put an end to the Democratic debate, then the fighting and the bitterness and the gridlock will only get worse.

He went on to say:

Now, I understand the Republicans are getting a lot of pressure to do this from factions outside the Chamber. But we need to rise above the ends-justifies-the-means mentality, because we're here to answer to the people, all of the people, not just the ones that are wearing our particular party label.

He went on to say:

If the right of open and free debate is taken away from the minority party and the

millions of Americans who ask us to be their voice, I fear that already partisan atmosphere in Washington will be poisoned to the point where no one will be able to agree on anything.

That does not serve anyone's best interests. It certainly is not what the patriots who founded this democracy had in mind.

We owe the people who sent us here more than that. We owe them much more. There are several other—in May 2005, Senator REID also said:

If there was ever an example of an abuse of power, this is it. The filibuster is the last check we have against the abuse of power in Washington.

We just eliminated the filibuster, my dear friends, on nominees.

Then he went on to say in April of 2005:

The threat to change Senate rules is a raw abuse of power and will destroy the very checks and balances our Founding Fathers put in place to prevent absolute power by any one branch of government.

So, yes, I am upset. Yes, on several occasions we have gotten together on a bipartisan basis and prevented what exactly happened today. What exactly happened today is not just a shift in power to appoint judges. That, in itself, is something that is very important. But what we really did today and what is so damning and what will last for a long time, unless we change it, that could permanently change the unique aspects of this institution, the Senate, is if only a majority can change the rules, then there are no rules. That is the only conclusion anyone can draw from what we did today.

Suppose that in a few weeks the majority does not like it that we object to the motion to proceed: 51 votes. Suppose on cloture, they do not like having those votes for cloture: 51 votes. My friends, we are approaching a slippery slope that will destroy the very unique aspects of this institution called the Senate.

I believe the facts will show, as the Republican leader pointed out today, that this was a bit of a strawman. Yes, there have been a handful, a small number, of nominees who were rejected by this side of the aisle. But there have been literally hundreds and hundreds of nominees who have not even been in debate on the floor of the Senate.

All I can say is, when people make a commitment such as I just read from the President of the United States when he was in the Senate, from our majority leader, we should not be surprised when there is a great deal of cynicism about when we give our word and our commitment. I go back to the man I probably respected more than anyone in the years I have been in the Senate, one Robert Byrd. One thing I can promise you, if Robert Byrd had been sitting over in the majority leader's chair today, we would not have seen the events that transpired. This is a sad day.

I am angry, yes. We will get over the anger. But the sorrow at what has been

done to this institution will be with us for a long time.

I yield the floor.  
The PRESIDING OFFICER (Mr. MARKEY.) The Senator from Alabama.

Mr. SESSIONS. Mr. President, I want to thank Senator MCCAIN, because I remember very vividly Senator MCCAIN was part of a group of 14 Senators who avoided this kind of occurrence.

In 2005, I guess it was, right after President Bush took office, a group of Senators, really the entire Democratic Conference, went into a retreat, as reported by the New York Times. I think Senator SCHUMER was the organizer of it, but the whole conference attended. Cass Sunstein, Laurence Tribe, Marcia Greenberger were their experts. They discussed what to do about President Bush's new election and his ability to appoint judges. They announced they were changing the ground rules of confirmation, and for the first time immediately thereafter the Bush nominees were filibustered systematically. He nominated a Mr. Gregory who had been nominated by President Clinton and not confirmed. President Bush renominated him in a bipartisan act. He was promptly confirmed.

But I believe the very next 10 nominees were all filibustered, every one of them. We had never seen a real filibuster of any judges at that time. But they were changing the ground rules to commit systematic filibusters. They filibustered virtually the first 10 judges President Bush nominated. It went on for weeks and months.

We brought up nominees every way we could. These were some fabulous nominees, Supreme Court Justices, people with high academic records. But they were all blocked. It was something we had never seen before in the Senate. There was great intensity of focus on it. It went on for quite a long time.

Finally there was a feeling on this side that this systematic filibuster was so significant that it undermined and neutered the ability of the President of the United States to appoint judges. There was a discussion about changing the rules. As time went by, that became more and more of a possibility. I think the American people turned against my colleagues who were blocking these judges, because they did not appreciate it.

But finally a compromise was reached. This was what it amounted to: We will not filibuster a judge unless there are substantial reasons to do so. That was sort of the agreement. At that moment, five judges were confirmed—and a lot of people remember that. But what is forgotten is five went down. Five highly qualified judges were defeated on a partisan, ideological basis right out of the chute. They were some of the first judges President Bush ever nominated.

I would just say that what has happened so far is that we have confirmed over 200 of President Obama's judges. Only two have been blocked. They have

brought forth at this time three judges for the DC Circuit, the District of Columbia Circuit, the Federal Circuit. They are not needed. This country is financially broke. Even with the vacancies on the court today, with the 8 judges they have, their average caseload per active judge is 149. The average caseload for all the judges in all of the circuits around the country is 383, almost 3 times, more than twice. My circuit, the Eleventh Circuit, the average caseload per judge is 778. They say they are not asking for more judges; they have been able to maintain that caseload.

They say: Well, this is such a horrible, complex circuit. It is not a horrible, complex circuit. That is not so. The judges take the whole summer off because they do not have sufficient caseloads to remain busy. Judges on that circuit say they do not need any more judges. They do not need any more judges.

I have been the ranking Republican on the courts subcommittee of the Judiciary Committee and chairman of it at times. The entire time I have been in the Senate I have been on that subcommittee one way or the other. I know how the caseloads are calculated, weighted caseloads and actual caseloads.

That is why these judges were not confirmed, because we do not need them. Not for some ideological purpose. But the reason the President has insisted that they be appointed is an ideological purpose, because he wants to pack that court because he thinks he can impact regulatory matters for years to come. But I would just say, President Bush tried to do the same thing. Senator GRASSLEY and I, who had been opposing to expanding the circuit, resisted President Bush's importunings to approve one of his judges.

We eventually were able to fully transfer and close out one of those slots and move it to the Ninth Circuit where the judge was needed. Still, the caseloads have dropped. The caseloads in the DC Circuit have continued to drop year after year after year.

We are going broke. This country doesn't have enough money to do its business. We are borrowing and placing our children at great risk. It is obvious we ought not to fill a judgeship we don't need. It is about \$1 million a year, virtually \$1 million a year to fund one of these judgeships. For the judges, the clerks, the supporting secretaries, the computer systems, and courtrooms we have to supply is \$1 million. It is similar to burning \$1 million a year on The Mall. We don't have \$1 million a year to throw away.

We have other places in America that need judgeships. Senator GRASSLEY has asked—and I have supported—and our bill would call for hearings and then we would transfer these judges to places that have greater need. That is why the judges were not moved forward.

The caseloads continue to decline. The need is less than ever, and we don't

have the money to fill a slot we don't need.

It is heartbreaking to see that we have crossed this rubicon and changed these rules when the President—as a matter of actual ability to perform the job—has only had 2 judges fail to be confirmed out of over 200.

This is breathtaking to me. There is a growing concern on our side of the aisle that Senator REID, the majority leader, is very unwilling to accept the process. He is unwilling to accept the fact that he can't win every battle, and he changed the rules so he could win.

I feel this is a dark day for the Senate. I don't know how we can get out of it. It is the biggest rules change—certainly since I have been in the Senate, maybe my lifetime, and maybe in the history of the Senate—where it has changed by a simple majority by overruling the Chair.

The Parliamentarian advises the Presiding Officer of the Senate, when Senator REID asked that these judges be confirmed by a majority vote, the Parliamentarian advises the Chair and the Chair ruled we can't confirm them on a majority vote. We can't shut off debate without a supermajority vote. The Chair ruled.

Senator REID says: I appeal the ruling of the Chair. I ask my colleagues in the Senate to overrule the rules of the Senate, by a simple majority vote, to overrule the Parliamentarian and the Presiding Officer of the Senate.

This is what happened. When our rules say to change the rules of the Senate, it takes a two-thirds vote.

This is a dangerous path which I hope my colleagues understand. Many things that are bad have been happening in the Senate. I will speak more about things that should not have happened and are eroding the ability of this Senate and the way it should function, that are eroding the ability of individual Senators from either party to have their voices heard.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. MORAN. I am a new Member of the Senate, serving in my first term. I was a Member of the House of Representatives before coming to the Senate, and I had great anticipation and expectation of the opportunity that service in this body presented to me.

The Presiding Officer of the Senate today has had similar experiences. We served in the House of Representatives together. The ability for an individual Senator, particularly a new Senator, and perhaps even more so, someone from a smaller, rural State, our ability to influence the outcome to receive attention and to have the administration's nominees come to pay a call on us to become acquainted is diminished.

In my view, today is the day that reduces the ability for all Senators to have influence in the outcome of the decisions of this body and therefore the outcome of the future of our country.

I don't understand why this happened today. The empirical evidence doesn't

suggest that Republicans have been abusive, that the minority party has failed in its obligation to be responsible.

We heard the words the Senator from Arizona Mr. MCCAIN spoke about others—President Obama, the majority leader of the Senate, the former Senator from West Virginia Mr. Byrd—about their views on this issue. Yet the outcome today was something different, different from what they said only a short time ago.

It is hard to know why we did what we did today, but I know our ability as Senators of the United States to represent the people who hired us to represent them has been diminished.

I am reluctant to attribute motives as to why this occurred. In the absence of evidence that would suggest there is a justifiable reason, a justified reason for doing so, I am fearful that what is reported in the press and elsewhere is the reason the rules were changed, which makes today even more sad to me because the explanation for why the rules were changed was a political effort to change the topic of conversation in Washington, DC, and across the country.

The story is that the White House pressured the Senate to change its rules, not because the rules needed to be changed, there was abuse or because people actually believed this was a good rules change for the benefit of the Senate and the country but because the Affordable Care Act, ObamaCare, is front and center in the national media and on the minds of the American people. As ObamaCare is being implemented, people are discovering the serious problems it presents them and their families. Therefore, politically, we need to change the dialog, change the topic. For us to use a political reason to do so much damage to the institution of the United States is such a travesty.

#### HEALTH CARE

I wish to mention the Affordable Care Act and talk for a moment about that.

I am headed home and on Monday I will conduct my 1,000th townhall meeting. From the time I was in the House of Representatives, I held a townhall meeting in every county. In the Senate, I have conducted a townhall meeting in all 105 counties since my election to the Senate. I am beginning again and it happens that Monday will be my 1,000th.

I have no doubt the serious conversations we have will not be about the rules or the institution of the Senate or what happened with something called cloture filibuster, the real problem people face is what ObamaCare is doing to them and their families. I have this sense there is an effort or perhaps belief—at least an effort—to convince people this is only a problem with a Web site. The Web site has certainly received a lot of attention over the past few weeks. Perhaps, unfortunately, the Web site is not the real problem.

The real problems we have with the Affordable Care Act passed by a Congress on a straight party-line vote in the Senate, similar to what we saw today, and the consequences of ObamaCare are real and cannot be fixed by fixing the Web site. I wish those problems were only a simple matter of a technician adjusting the program that has been created for enrollment, but it is not the case.

The mess of ObamaCare runs so much deeper. One of the consequences I know I will hear about on Monday and hitting individuals and families across the country right now is their cancelled insurance companies.

President Obama spoke about this in the description of what the Affordable Care Act would mean to Americans: If you like your policy, you can keep it. If you like your physician, you can retain him or her.

The fact that millions of Americans are now losing their health care coverage is not an unintended consequence. I doubt if it is anything that can be fixed with anything that President Obama said in his press conference a few days ago. The reality is this cannot be described as something we didn't know about.

In fact, on the Senate floor in 2010, again, a straight party-line vote occurred, as we saw today, in which the opportunity to do away with the provisions of the grandfather clause—again, Republicans unanimously supporting an Enzi amendment to change it so this wouldn't occur and a straight party-line vote, with Democrats voting the other way. It wasn't as if this was something that wasn't considered or thought about. It wasn't as if we only woke up 2 weeks ago and we saw policies were being canceled and thought: Oh, my gosh. That is not what the Affordable Care Act is about.

The reality is it was expected, it was built in, and it is a consequence of the Affordable Care Act.

In order for ObamaCare to work and the exchanges to function, the Federal Government has to have the power to describe what policies will be available to the American people. ObamaCare takes the freedom to make health care decisions for an individual and their families and rests that authority with the Federal Government.

Despite the headaches, frustrations, and anger Americans and Kansans are experiencing now, I don't see there is a real opportunity for us to solve that problem, because undoing what is transpiring with the policies would undermine the foundation of ObamaCare. I consider my task as a Senator from Kansas, in part, is to help people. People tell me in person, email, and by phone call about the consequences.

The stories are a wide range of challenges. I talked about this on the Senate floor last week. An example is one conversation with a constituent who said: My wife has breast cancer. Our policy has been canceled. We have nothing to replace it with. Help me.