

executive nominations on this Executive Calendar have been approved with the slightest blip by this Senate, Republicans and Democrats. Only four nominees were felt to involve such extraordinary circumstances that we were determined to prevent those individuals from taking office for very good reasons, we thought, by the use of the 60-vote rule—only four out of hundreds this year. Yet that was given as an excuse to the American people to break the rules to change the rules.

It was a sad day. It is the kind of overreach we are seeing this week, which gets us back to the matter at hand and is the kind of very unfortunate overreach that has visited so much pain and hardship on the American people in regard to their health care and their health insurance coverage.

Mr. CHAMBLISS. I will close my comments with two additional anecdotes that really strike at what Middle America is all about and what suffering and economic pain Middle America is going through right now as a result of ObamaCare.

Michael from Dunwoody, GA, wrote in and said:

I had a really great policy for \$277 a month. The premiums were paid by my Flexplan from my employer and the excess my employer paid to my flex each month kept my balance increasing. I now have about \$35,000 accrued.

My provider cancelled that plan and my Flex now offers a lesser plan. The premiums went to \$550 a month. I actually joined AMAC and used their service to find a plan from a different provider. I must now pay the premiums out of my own pocket as President Obama won't allow me to use my own money from my flex plan to pay these premiums.

#### HOW IS THIS LEGAL?

I thought it was my money; apparently it's only my money if I buy what Obamacare says I can buy. I had to choose a plan with a \$5,000 deductible to make my premiums affordable.

Lastly, Mary from Powder Springs writes:

I am an educator with the Cobb County School System. As a reactionary measure to Obamacare, the State Board of Community Health gave state employees only one company option for our health insurance this year.

My premiums were going to be \$1,800 per year higher, my deductible was going to be \$2,000 higher, and the percentage of what was covered went down. We decided to go with my husband's company plan, but wonder what will happen to that coverage next year when the employer mandate goes into effect.

Michael and Mary are two average, ordinary Americans we ought to care about in this body. Yet we are throwing them under the bus with ObamaCare.

So as we move forward over the next year, I am in hopes we can continue to engage on this because these problems are going to get more frequent and they are going to get more disastrous from a financial and a lack of coverage standpoint. There is going to be an opportunity for this body to come together to look at really changing the ObamaCare plan that passed in 2009.

Let's come together on a plan that is meaningful, that truly does provide affordable and meaningful health care coverage for all Americans.

The PRESIDING OFFICER (Mr. KING). All time has expired.

The question is, Will the Senate advise and consent to the nomination of Susan P. Watters, of Montana, to be United States District Judge for the District of Montana?

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

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. MENENDEZ) is necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 77, nays 19, as follows:

#### [Rollcall Vote No. 268 Ex.]

##### YEAS—77

|            |              |             |
|------------|--------------|-------------|
| Ayotte     | Franken      | Murkowski   |
| Baldwin    | Gillibrand   | Murphy      |
| Baucus     | Grassley     | Murray      |
| Begich     | Hagan        | Nelson      |
| Bennet     | Harkin       | Portman     |
| Blumenthal | Hatch        | Pryor       |
| Booker     | Heinrich     | Reed        |
| Boxer      | Heitkamp     | Reid        |
| Brown      | Heller       | Rockefeller |
| Burr       | Hirono       | Rubio       |
| Cantwell   | Isakson      | Sanders     |
| Cardin     | Johnson (SD) | Schatz      |
| Carper     | Johnson (WI) | Schumer     |
| Casey      | Kaine        | Shaheen     |
| Chambliss  | King         | Stabenow    |
| Coats      | Klobuchar    | Tester      |
| Coburn     | Landrieu     | Thune       |
| Cochran    | Leahy        | Toomey      |
| Collins    | Lee          | Udall (CO)  |
| Coons      | Levin        | Udall (NM)  |
| Corker     | Manchin      | Warner      |
| Cruz       | Markey       | Warren      |
| Donnelly   | McCaskill    | Whitehouse  |
| Durbin     | Merkley      | Wicker      |
| Feinstein  | Mikulski     | Wyden       |
| Flake      | Moran        |             |

##### NAYS—19

|           |           |          |
|-----------|-----------|----------|
| Alexander | Fischer   | Roberts  |
| Barrasso  | Hoeven    | Scott    |
| Blunt     | Johanns   | Sessions |
| Boozman   | McCain    | Shelby   |
| Cornyn    | McConnell | Vitter   |
| Crapo     | Paul      |          |
| Enzi      | Risch     |          |

##### NOT VOTING—4

|        |          |
|--------|----------|
| Graham | Kirk     |
| Inhofe | Menendez |

The nomination was confirmed.

#### CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant 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 Deborah Lee James, of Virginia, to be Secretary of the Air Force.

Harry Reid, Sherrod Brown, Richard J. Durbin, Christopher Murphy, Robert Menendez, Christopher A. Coons, Angus S. King, Jr., Martin Heinrich, Amy Klobuchar, Dianne Feinstein, Tom Udall, Kirsten E. Gillibrand, Bernard Sanders, Barbara Boxer, Brian Schatz, Robert P. Casey, Jr., Thomas R. Carper, Benjamin L. Cardin, Michael F. Bennet.

#### QUORUM CALL

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll and the following Senators entered the Chamber and answered to their names:

#### [Quorum No. 11]

|           |              |             |
|-----------|--------------|-------------|
| Alexander | Feinstein    | Murkowski   |
| Ayotte    | Fischer      | Murray      |
| Baldwin   | Flake        | Nelson      |
| Barrasso  | Gillibrand   | Paul        |
| Baucus    | Hagan        | Portman     |
| Begich    | Harkin       | Pryor       |
| Blunt     | Hatch        | Reid        |
| Booker    | Heinrich     | Risch       |
| Boxer     | Heitkamp     | Roberts     |
| Brown     | Heller       | Rockefeller |
| Burr      | Hirono       | Rubio       |
| Cantwell  | Hoeven       | Sanders     |
| Cardin    | Isakson      | Schatz      |
| Carper    | Johnson (SD) | Schumer     |
| Casey     | Johnson (WI) | Scott       |
| Coats     | King         | Shaheen     |
| Coburn    | Klobuchar    | Shelby      |
| Cochran   | Landrieu     | Stabenow    |
| Collins   | Leahy        | Tester      |
| Coons     | Lee          | Thune       |
| Corker    | Levin        | Toomey      |
| Cornyn    | Manchin      | Udall (CO)  |
| Crapo     | Markey       | Warner      |
| Cruz      | McCain       | Warren      |
| Donnelly  | McCaskill    | Whitehouse  |
| Durbin    | McConnell    | Wicker      |
| Enzi      | Merkley      | Wyden       |

The PRESIDING OFFICER. A quorum is present.

The question is, Is it the sense of the Senate that debate on the nomination of Deborah Lee James, of Virginia, to be Secretary of the Air Force, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from South Carolina (Mr. GRAHAM), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Illinois (Mr. KIRK).

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

The yeas and nays resulted—yeas 58, nays 39, as follows:

#### [Rollcall Vote No. 269 Ex.]

##### YEAS—58

|            |            |              |
|------------|------------|--------------|
| Baldwin    | Casey      | Heinrich     |
| Baucus     | Collins    | Heitkamp     |
| Begich     | Coons      | Hirono       |
| Bennet     | Donnelly   | Johnson (SD) |
| Blumenthal | Durbin     | Kaine        |
| Booker     | Feinstein  | King         |
| Boxer      | Franken    | Klobuchar    |
| Brown      | Gillibrand | Landrieu     |
| Cantwell   | Hagan      | Leahy        |
| Cardin     | Harkin     | Levin        |
| Carper     | Hatch      | Manchin      |

|           |             |            |
|-----------|-------------|------------|
| Markey    | Pryor       | Tester     |
| McCaskill | Reed        | Udall (CO) |
| Menendez  | Reid        | Udall (NM) |
| Merkley   | Rockefeller | Warner     |
| Mikulski  | Sanders     | Warren     |
| Murkowski | Schatz      | Whitehouse |
| Murphy    | Schumer     | Wyden      |
| Murray    | Shaheen     |            |
| Nelson    | Stabenow    |            |

## NAYS—39

|           |              |          |
|-----------|--------------|----------|
| Alexander | Cruz         | Moran    |
| Ayotte    | Enzi         | Paul     |
| Barrasso  | Fischer      | Portman  |
| Blunt     | Flake        | Risch    |
| Boozman   | Grassley     | Roberts  |
| Burr      | Heller       | Rubio    |
| Chambliss | Hoeven       | Scott    |
| Coats     | Isakson      | Sessions |
| Coburn    | Johanns      | Shelby   |
| Cochran   | Johnson (WI) | Thune    |
| Corker    | Lee          | Toomey   |
| Cornyn    | McCain       | Vitter   |
| Crapo     | McConnell    | Wicker   |

## NOT VOTING—3

|        |        |      |
|--------|--------|------|
| Graham | Inhofe | Kirk |
|--------|--------|------|

The PRESIDING OFFICER. On this vote the yeas are 58, the nays are 39. The motion is agreed to.

#### NOMINATION OF DEBORAH LEE JAMES TO BE SECRETARY OF THE AIR FORCE

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Deborah Lee James, of Virginia, to be Secretary of the Air Force.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination equally divided in the usual form.

If no one yields time, time will be equally charged.

The Senator from Alabama is recognized.

#### RULES OF THE SENATE

Mr. SESSIONS. Mr. President, we are definitely proceeding in an unusual manner at this point in time in the history of the U.S. Senate. We are moving under regular order. Nominations are being processed in regular order. Votes are being held. Debate is being shut off by the appropriate procedures. But it is unusual from what we have been doing all year and what we have been doing historically. So I guess the question is, how did we get to this point? What has happened in the Senate that has caused the difficulties we now have?

I believe it is becoming clear to our colleagues that actions that have been taking place in recent days have altered the very nature of the Senate, have eroded the collegiality that makes this body work on a daily basis, the kind of actions in which people unanimously agreed to allow things to happen different from the regular order, that allowed things to be proceeded up and go faster and move forward. It has been done on a regular basis.

But we have had a conflict, an alteration in the rules of the Senate that is so serious that it impacts the very nature of this institution and causing

great concern. We have a lot of new Members in the Senate, and they have not seen how the Senate operated just in the—what?—16, 17 years I have been here. I have seen the great change, and it is a concern to me, and it is even different from that more classical operation before I came here.

It is not healthy, it is not good, and it cannot be allowed to just happen without any discussion, without any full understanding of how the majority leader of the Senate has accrued to himself powers never before allowed to be held by the majority leader of the Senate. It has altered the very nature of the debate here and the processes that involve our constitutional responsibility.

So I believe we need to talk about it. I believe we need to understand it, and somehow we need to alter what has happened.

I remember when I came to the Senate. Senator Robert Byrd loved the Senate. Senator Robert Byrd said there are two great Senates: the Roman Senate and the U.S. Senate. He gave all of us new Members a lecture about the great heritage of which we are a part. He wrote a book on the rules of the Senate.

We have had rules for quite a number of years. The standing rule of the Senate is rule XXII. It is a clear, simple directive passed by two-thirds of the Members of the Senate duly chosen and sworn.

This is what rule XXII says. It is not confusing. It is very clear. It was adopted by two-thirds of the Senate.

It says: A motion signed by 16 Senators—that is, to negotiate something, to shut off debate, you have to have 16 Senators to file a motion—a motion signed by 16 Senators to bring to a close the debate upon any measure, motion, or other matter pending before the Senate—any measure, motion, or other matter pending before the Senate, which includes nominations—shall be decided by three-fifths of the Senators duly chosen and sworn, except on a measure or motion to amend the Senate rules, in which case the necessary affirmative vote shall be two-thirds of the Senators present and voting.

Crystal clear. The rules of the Senate are to be decided by two-thirds. To bring to a close debate upon any measure, motion or matter pending before the Senate requires three-fifths, 60 votes out of our 100. That is the rule of the Senate. That has guided us for generations. It has worked well. I am going to talk a little bit about this, and I could go into even greater detail and say that the process has been working very well.

Senators on the Republican side have treated the nominees of President Obama very well, far better than were the nominations of President Bush when he came here in 2000. When I was here in 2000, his nominees were hammered, filibustered for the first time in history, held by some of the same people who now with great outrage attack

those who have blocked and filibustered a few of the Obama nominees—just a few.

So it is really almost unbelievable to me that we are at this point of the rules process of the Senate. So how did it happen? Precisely what happened? I think the American people need to know.

Senator REID, apparently irritated that he was not able to have three judges confirmed to the District of Columbia Circuit bench, decided that he was going to change the rules. Senator SCHUMER said he was going to get those nominees confirmed one way or the other.

I am the ranking Republican on the budget committee. This country is spending money it does not have on things it does not need on an absolutely regular basis. We are wasting taxpayers' money. So the actions of the President and the Senate majority that filled three seats on the District of Columbia Court of Appeals were scrutinized.

In my opinion, I believe it is uncontestable that these positions did not need to be filled. They just didn't. They do not have enough work on that court to need these judges. The average caseload per judge on the DC Circuit was 149 per judge—149. Well, what does that mean? Is that a lot or not a lot? It is not a lot. It is the lowest number by far of any circuit in America. The caseload has been steadily declining.

I have been chairman in the Judiciary Committee of the court subcommittee that deals with these issues. Senator GRASSLEY was there before I came. I have been ranking member and am now ranking member on that subcommittee. We have been watching the DC Circuit. The cases continue to decline. So with 8 judges now active on that court, they are down to 149 cases per judge. Well, is that a lot? How about my circuit, the Eleventh Circuit Court of Appeals in Atlanta, GA, covering Florida, Alabama, and Georgia? How many cases do they have per judge? Hold your hat: 740. That is how many my court handles per judge.

They say they do not need more judges. In fact, they prefer not to have the court get so large that there will not be a coherent court and be able to have consistency in the law. That has been their tradition for many years, more than 20 years. They do not want more judges. Actually, we know that the judges on the DC Circuit have said they do not need more judges. We know they took off last summer. They take off long summers, unlike any other court of appeals, from May 16 to September 16. They did not hold court from May 16 to September 16.

The next lowest circuit in America has almost twice as many cases per judge as the DC Circuit. I know that our frugal Presiding Officer, as Governor of Maine, as part of that Yankee frugality for which they are famous, he knew how to manage his money when he was Governor. It costs \$1 million a