

We get silly, shameful attacks on private citizens. So in one sense it is fitting that the majority leader announced today he wants to rewrite the Constitution. I mean, at least you have to give them marks for consistency.

They are already muzzling our constituents by blocking amendments, and now they want to muzzle them even more by changing the Bill of Rights. This is completely out of control.

Even if the Democratic majority doesn't like our ideas or those of our constituents, the answer isn't to take away their constitutionally guaranteed right to speak their minds. The answer isn't to shut down their representatives' ability to influence legislation through amendments. The answer, my friends, is to come up with better arguments. The answer is to actually convince people in a free and open marketplace of ideas that you are right.

Why are Washington Democrats so afraid of a free and open exchange of ideas? What are they afraid of? Do they have that little faith in the judgment of the people we represent? Over the past few weeks we have seen just how scared our friends on the other side are of a free and open debate.

A big majority wants to repeal President Obama's medical device tax; 79 people in this body voted for it. They won't allow a vote on it.

The American people want to see a vote on the Keystone Pipeline. Most Senators say they want to vote on it too, but we are not allowed to vote on it.

We have a tax bill that Members on both sides want to improve and Members on both sides want to support. Yet we don't get a chance to amend it.

We should have certainty in our Tax Code instead of these endless expirations that only make it harder for people to prepare and for businesses to plan and to compete. They don't want to do that either. They are completely allergic—completely and totally allergic—to anything that is constructive.

What they are doing is muzzling the people of this country, a gag order on the people we were sent to the Senate to represent—all presumably to protect their power. This is really quite scandalous. The American people need to know what is happening in their Senate because this is bigger than any one bill. It is about protecting the right of the American people to have a say in what goes on in Washington.

We represent millions of people on this side of the aisle. They represent many of the people on their side of the aisle. I think there are something like 40 or so Democratic amendments pending to this bill—Democratic Senators who offered amendments to this bill who will not be heard.

This is all about protecting the one opportunity they have to shut us out. It is about a party that has become so afraid of losing its hold on power that they are willing to do just about anything to hold onto it—even if it means, as I said earlier, to try to amend the Bill of Rights.

We have a lot of smart people on the Democratic side, but I expect none of them are smarter than James Madison. Yet apparently they decided—after a couple of hundred years—Madison's work is not sufficient. They want to recommend we amend the Bill of Rights. What is before us today is not that; it is a tax extender bill.

Therefore, I ask unanimous consent that if cloture is invoked on Senate amendment No. 3060, the Wyden substitute, the amendment be considered original text for the purpose of amendment; and notwithstanding the provisions of rule XXII, it be in order for the Republican leader or his designee to offer the Toomey amendment related to the medical device tax, and that amendments then be offered in alternating fashion between the majority and the minority, with all amendments being related to tax policy.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Everyone listen. The selfpronounced guardian of gridlock just gave us his presentation. That is what the Republican leader calls himself, and that is a good name that he got for himself—the guardian of gridlock. That is what we have in the Senate. That is what we have had here for 5½ years. We have struggled through parts of it, but it has been difficult.

It is no surprise to me or to us that, of course, when something is said about the Koch brothers, there are people who run down to the floor to defend them. This time we have the Republican leader defending the Koch brothers.

What I talked about today is something so radical—listen to what it is—that we should have restrictions on how much money people can spend in political campaigns and not have the government purchased by the two richest people in America—the Koch brothers. So it is no surprise we have someone running to their rescue.

I would also suggest this. My friend, the Republican leader, wants a vote on Keystone. They had a vote. They wouldn't take it. As one of my Democratic Senators said, my friend the Republican leader is more interested in an issue than getting the pipeline done.

So here is where we are. The Republican leader has asked for alternating amendments. That is a buzzword for “we are going to continue our filibusters.”

The chairman of the Finance Committee, RON WYDEN, as the new chair—and we all have great expectations from RON WYDEN. He is an experienced legislator. He spent many years in the House, and now he is a veteran here in the Senate. He made a reasonable proposal—it was done before the world—saying: OK, you want amendments, let's do them in relation to this bill; that is, the tax extenders bill.

But I will go even a step further than that. First of all, everyone should understand that this is a bill which was done by the Finance Committee on a bipartisan basis. But if they are interested in more amendments, why don't we have Senator WYDEN and Senator HATCH see what they can come up with? And if that is good enough for me, it is good enough for my caucus.

I object.

The PRESIDING OFFICER. Objection is heard.

#### NOMINATION OF GREGG JEFFREY COSTA TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant bill clerk read the nomination of Gregg Jeffrey Costa, of Texas, to be United States Circuit Judge for the Fifth Circuit.

The PRESIDING OFFICER. Under the previous order, the motions to reconsider are considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

#### LEGISLATIVE SESSION

##### CLOTURE MOTION

The PRESIDING OFFICER. The Senate will resume legislative session.

There is now 2 minutes of debate.

The Senator from Oregon.

Mr. WYDEN. Madam President, I said before that I am willing to debate and have votes on amendments related to tax extenders, and we heard Senator REID essentially extend the olive branch once more. That is exactly what Senator HATCH and I did on a bipartisan basis in the Finance Committee, and I am ready and willing to do that again in the full Senate. But the Senate can't do that if action on the tax extenders bill is blocked today.

So now the Senate has the opportunity to vote against a big tax increase—actually, a bunch of big tax increases—that would slam our fragile economy hard and would punish innovators, punish our small businesses, punish homeowners who are underwater on their mortgages, punish returning veterans looking for jobs, and punish students and classroom teachers.

Colleagues, who here thinks it makes sense to tax innovation? That is what is going to happen if the tax extenders bill fails to pass today. Who here thinks it makes sense—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. WYDEN. Madam President, I urge that we not let students, veterans, homeowners, and innovators be hurt today. Let's vote for cloture this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I compliment the distinguished Senator from Oregon for the work, the wide-open work he did for the committee because we did have an open process, but we only comprise a little less than 25 percent of the Senate. To have a bill this important and be foreclosed from amendments I think makes the case for the minority leader and for this side.

I know there are many people on the other side who would like to have an open process, who would like to see amendments, who would like to have this be a real debating society from time to time rather than just have a slam-dunk type of approach to everything. I have to say I think there are a lot of people who aren't on the Finance Committee who had no say at all on this bill and who might possibly want to participate in the process.

We have just had, time after time—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HATCH. I ask unanimous consent for an additional 30 seconds.

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

Mr. HATCH. Time after time we have been foreclosed. It is time to end that and start acting as the U.S. Senate should act and allow both sides at least an opportunity to express their views and allow every Senator that opportunity, not just the ones on the Finance Committee.

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

The assistant bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the substitute amendment No. 3060 to H.R. 3474, an act to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act.

Harry Reid, Ron Wyden, Angus S. King, Jr., Richard J. Durbin, Robert Menendez, Mark R. Warner, Benjamin L. Cardin, Robert P. Casey, Jr., Christopher A. Coons, Bill Nelson, Michael F. Bennet, Heidi Heitkamp, Barbara Boxer, Debbie Stabenow, Maria Cantwell, Charles E. Schumer, Thomas R. Carper.

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 amendment No. 3060 to H.R. 3474, an act to amend the Internal Revenue Code of 1986 to allow employers to exempt employees with health coverage under TRICARE or the Veterans Administration from being taken into account for purposes of the employer mandate under the Patient Protection and Affordable Care Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Arkansas (Mr. BOOZMAN), the Senator from Georgia (Mr. ISAKSON), the Senator from Kansas (Mr. MORAN), and the Senator from Louisiana (Mr. VITTER).

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

The yeas and nays resulted—yeas 53, nays 40, as follows:

[Rollcall Vote No. 157 Leg.]

#### YEAS—53

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

#### NAYS—40

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

#### NOT VOTING—7

Ayotte	Manchin	Vitter
Boozman	Moran	
Isakson	Rockefeller	

The PRESIDING OFFICER. On this vote the yeas are 53, the nays are 40.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. I enter a motion to reconsider the vote by which cloture was not invoked on the substitute amendment.

The PRESIDING OFFICER. The motion is entered.

The majority leader.

Mr. REID. Madam President, would you repeat the vote?

Ms. WARREN. The vote was 53 in favor and 40 opposed.

Mr. REID. Madam President, once again the Republicans cannot take yes for an answer. They just voted against the second bipartisan bill in less than a week. It is hard to comprehend, but that is true.

But we have learned on the energy efficiency—with all the different agreements that were violated by the Republicans—we learned in the last 24 hours

the reason for this. Scott Brown, who is running for the Senate—he is from Massachusetts but running for the Senate in New Hampshire—he asked the Republican caucus: Make sure you don't give SHAHEEN a victory on this.

So that is what it is all about on that bipartisan bill. That was a bill to conserve energy; 200,000 jobs—something really important for the country. They worked on it since last September.

Stunningly, my friend the Republican leader today is lamenting how things are going around here: Why won't they give us a vote on Keystone?

All he has to do is think back a couple days. They were offered an up-or-down vote on Keystone. They refused to take it. Talk about double-talk—triple-talk. And, of course—of course—whom do they come running to for help? The Koch brothers.

I was criticized for thinking that we should do something about this obscene campaign spending that is going on. And what, lo and behold, is the first suggestion they have that they want to do on tax extenders? They want to do something about ObamaCare. That is the only mention that is listed there—ObamaCare. Even though it has fallen significantly as an issue they are going to win anything on, that is part of their mindset.

Today the Republicans' excuse is they need to vote once again to roll back part of ObamaCare, just as I said. And I already went over the Scott Brown episode. So I wonder who called them today to tell them to kill this bill? Maybe Scott Brown has something to do with this also or maybe it is one of the other Republican candidates who are desiring to be in the Senate. No matter the excuse, Republicans continue to wage war against common sense.

This tax extenders bill was a bill that was hashed out in the Finance Committee. In the Finance Committee, they didn't allow anything except germane amendments—in the Finance Committee—because the plan was to bring that bill here and get it passed. It is a bill that is needed at this time. The business community needs it. Tax reports have to be filed, and until this bill passes, they are not going to be very good if you are a big business. If you take a bus or a subway—there is a subsidy in this bill for people who take buses and subways, public transportation—that is not going to pass. And sales tax deductions—lots of things that are just common sense. But my friend the Republican leader calls himself the guardian of gridlock—the guardian of gridlock—and I am not going to do a thing to take away that name he loves so much because it is true.

Now we will have the weekend to think about this, I guess. I think it is irrational to block these tax cuts—tax cuts. That is what just happened. The Republicans voted against tax cuts. So maybe the Republicans will hear from their friends down on K Street and

around the country, and maybe they will learn that this is pretty important to everybody—not Democrats, not Republicans; it is important for our country.

My door is always open. I indicated that in my statement following the consent request of the Republican leader, but we have heard nothing.

I don't know how anyone could be more reasonable than Chairman WYDEN. They wanted amendments. He offered them amendments.

In the meantime, it should not be lost that Republican Senators are continuing their agenda by just saying no whether it is something as logical and as important as pay equity, so a woman doing the same job as a man gets the same amount of money; that was blocked. And this is an issue that is more than just something that takes place away from the maddening crowds. Look what happened, it appears, at the New York Times. The woman who ran that newspaper was fired yesterday. Why? It is now in the press. Because she complained she was doing the same work as men in two different jobs and made a lot less money than they did. That is why we need that legislation. My daughter should make as much money as a man who does the same work. What kind of example are we setting here when a woman who does the same work as a man doesn't get paid the same amount of money? The Republicans blocked that.

They even blocked raising the minimum wage. We have had Rick Santorum come out in favor of doing that, Mitt Romney, Jeb Bush, and they keep coming on every day, new people coming on to say the minimum wage should be increased—Republicans. But it doesn't matter. They are functioning here under the tutelage of the master of gridlock, the guardian of gridlock.

So as we go back to a few days after President Obama was elected, all the big shot Republicans came here and they came to two conclusions:

No. 1. We are going to do everything we can to make sure Obama is not reelected.

And to the credit of my Republican friend, the Republican leader, he stated that on the Senate floor. He said: My No. 1 goal is to make sure Obama is not reelected.

That was a failure.

But what else did they say at that meeting? The way we are going to make sure that Obama is not reelected and to make sure the Democrats do not do that well—we are going to block everything.

That is what they have done, and here is an example of that right here again today.

No to energy conservation, no to pay equity, no to minimum wage, and now today a new one: no to tax cuts.

So I would hope that come November the American people would just say no to this gridlock we have here in Washington in the Senate.

The PRESIDING OFFICER. The Senator from Kansas.

#### VETERANS' HEALTH CARE

Mr. CORNYN. Madam President, the front page of yesterday's San Antonio Express News featured the heart-breaking story of a former Army combat medic by the name of Anson Dale Richardson, a man from East Texas who did multiple tours in Vietnam and went on to work as a heavy equipment operator.

Last September Dale was diagnosed with a very serious form of throat cancer. His doctor says he told medical officials at the Department of Veterans Affairs to put Mr. Richardson on an immediate course of chemotherapy. What happened next is the sort of tragedy that is becoming all too familiar, with revelations from Veterans' Affairs clinics and hospitals around the country.

According to the Express News, after being told to start chemotherapy right away, Mr. Richardson waited to hear from the VA about his appointment. He waited and waited, but he never heard back. On November 4, Dale Richardson died.

We will never know whether he would have or could have survived cancer because he wasn't given that chance because he wasn't able to start the chemo treatments when his doctor first diagnosed him. But we do know that the Veterans' Administration's reported failure to give him any chemo treatments took away his one last hope of beating this terrible disease.

When he died, Dale left behind a wife named Carolyn. In an interview with the Express News, Carolyn Richardson said of her late husband, "I just wish he'd had a chance."

Dale Richardson's Austin-area doctor—the doctor who says he told VA officials that Mr. Richardson needed immediate chemotherapy—got in contact with my office to express his outrage and his tremendous sadness and anger and frustration at Mr. Richardson's death. In fact, the doctor said this episode was so disturbing that he is no longer accepting contract work from the Veterans' Administration. He also said that a VA physician personally told him: "The system is broken, and I'm glad I'm retiring."

Given all of the stories that have accumulated and those that seem to appear with every new edition of the daily newspapers—all the reports of veterans dying or suffering because of the long wait times, all the reports of appointment data being falsified, all the reports of VA employees participating in coverups—given all that, it seems painfully clear to me that the system is indeed broken and that the current VA leadership is unable or unwilling to do what is necessary to fix it.

With that in mind, I know that the Secretary of Veterans Affairs, Secretary Shinseki, testified today before the Veterans' Affairs Committee. I haven't yet had a chance to read the

transcript of his testimony, but I am hoping he will have answered or will at some point answer these questions:

No. 1. Can you confirm, Secretary Shinseki, that supervisors of VA facilities have been ordering employees to conceal wait times?

I would like for him to answer this question: Secretary Shinseki, can you confirm whether VA cancer patients needing chemotherapy are being provided with treatment in a timely manner?

No. 3. Secretary Shinseki, can you confirm whether the VA is withholding all bonuses and pay raises from those employees who have been accused of falsifying appointment data?

No. 4. Secretary Shinseki, can you confirm whether VA facilities are preserving all appointment-related documents? In other words, can you assure the Congress and the American people that evidence is not being destroyed?

Finally, Secretary Shinseki, can you confirm whether all VA staffers at the facilities under investigation will not be assigned to investigate other VA facilities—a case of the fox perhaps watching the henhouse.

These questions go to the very heart of the VA's credibility or to the lack thereof. We have millions of veterans in this country and tens of millions more people who either know a veteran or are related to one, and I would like to think that all Americans, whether they know a veteran, whether they have a veteran as a family member, all Americans are united in our concerns with the way our veterans are being treated and join with us in our commitment to get to the bottom of this mess and figure out what went wrong and fix it. We all deserve answers, and we deserve them now.

If Secretary Shinseki cannot provide the necessary assurances, then it will become obvious that the VA is suffering from not only a systemic crisis of competence and accountability but from a systemic crisis of leadership as well.

I know everybody claims to be outraged by these news reports, by the steady stream of allegations, and yet I fear the Obama administration is not treating this with the kind of urgency it demands.

Remember, the administration has now spent more than \$4½ billion setting up the ObamaCare exchanges, and we remember what happened with the Web site that was the portal where people would sign up for these exchanges failed. It was all hands on deck. I commend the administration for its timely response to that problem, but by comparison, with the tragedies we are reading about in the newspapers about the 40 veterans who died in Phoenix while reportedly waiting for treatment at a VA clinic or hospital when put on a secret waiting list, I don't see that sense of urgency coming from the administration or from this Congress, for that matter.

I do commend Senator SANDERS and Senator BURR, the chair and ranking

member of the Veterans' Affairs Committee of the Senate, for having Secretary Shinseki and others here today so we can begin the process of peeling the layers of the onion so we can get to the truth.

I realize the administration has to balance competing priorities, but in my view there are few priorities more important than honoring our sacred promise to America's military heroes. I would hope we can all agree that even one story like Dale Richardson's is one too many. The time for happy talk and empty promises is long past. What our veterans deserve and need now is real accountability and reform and not this sort of "kick the can down the road" attitude that seems to pervade Washington but, rather, a real sense of urgency to get to the bottom of the problem and to fix it without any delay; otherwise, there will be more veterans who will be forced to suffer and possibly lose their life as Dale did because of the incompetence of the administration at the VA and the lack of leadership necessary to get to the bottom of this and get it on the right course.

I yield the floor.

The PRESIDING OFFICER (Mr. MARKEY). The Senator from New York.

Mr. SCHUMER. Mr. President, after I speak, I ask unanimous consent my friend and colleague from Utah be given the floor.

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

Mr. SCHUMER. I thank him for letting me say a few words.

#### TAX EXTENDERS

I was listening to the debate between the majority leader and the minority leader, and I just wanted to be clear. The tax extender bill was negotiated very well by Senators WYDEN and HATCH, with many of us in the committee participating, and it was truly a bipartisan product. The ideas in there, I would probably say, were half Republican and half Democratic.

Senator HATCH made a very good point. He said that is only about 25 percent of the Senate. What about everybody else? If we have no amendments, no one else can legislate.

I want to clarify our offer. Senator MCCONNELL said amendments on the whole Tax Code should be allowed. That is no way to legislate. That goes the opposite way. The Finance Committee knows the Tax Code, and as a result they should get first crack at it; otherwise, we may as well not have a committee system. But we should allow amendments that are relevant or germane to the extenders. There were many extenders. Many Members who are not on the committee probably have many ideas about how to change those amendments—make them longer, make them shorter.

The House actually took three of our extenders and made them permanent. Maybe that is a debate our colleagues on the other side of the aisle want to have, which would be a very legitimate debate, even though some people might

say that costs too much or it leaves out some extenders, et cetera. Maybe some of them don't want to have certain extenders in the legislation. Knock them out or enrich them. All of these things are possible.

Instead of Senator MCCONNELL's offer—any amendment on the whole Tax Code—Senator WYDEN offered to Senator HATCH that the Republicans give us a list of amendments they propose, and then the two of them would sit down and negotiate that list. There will be Democratic amendments—I think there are 30 or 40 on Senator WYDEN's list—and Republican amendments on Senator HATCH's list. The two of them are outstanding legislators. They get along well, and we could come up with a list and actually move this bill with amendments. That is what I hope will happen over the weekend and on Tuesday we can move forward.

To me, the offer of Leader REID and Senator WYDEN makes eminent sense. It is how we used to legislate. We didn't lay it open for every amendment. When the committee chair and ranking member agreed on a bill—LAMAR ALEXANDER, my good friend from Tennessee, has reiterated this to me over and over—we would then go to the floor and the two of them would work it out, providing fairness to both sides of the aisle since each of them has the respect of their leadership.

Again, our offer is plain and simple: Show us your amendments, and we will show you our amendments. Let them be relevant and germane to the bill before us, which is tax extenders, and we will be very reasonable and accommodating so we can move the bill forward, pass it, and have a debate on improving it with amendments that come up on both sides.

With that, I thank my good friend from Utah for yielding the floor and letting me speak ahead of him.

I yield the floor to the Presiding Officer.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I thank my dear friend from New York. I consider him one of the better Senators in the Senate and a dear friend and a person I have always been able to work with. He is tough—there is no question about that—but so am I, although nobody knows that.

I just want to speak for a few minutes on this extender package. It is a bipartisan bill. It took a lot of work to put it together. We had to bring everybody on the Finance Committee together, and that is about 25 percent of the Senate. We all had a chance to bring up amendments whether they were germane or not, which is the right of Senators. Sometimes we get some embarrassing amendments, but that is part of the charm of this body.

The fact is, if you just want to have germane amendments, that is not what the U.S. Senate stands for and that is not what the rules say. I don't blame anybody who wants to do that who is

trying to push their bill, but let's not take away the rights of Members of the Senate. Let's not take away the right of debate we have always had on this floor that gives the Senate such charm and also allows everybody to participate and bring up whatever they feel is right.

Sometimes we have to call a halt to it. After days or weeks of debate on major bills, such as this one, the majority leader may want to end the debate because he feels as though it is enough. At that point—but not before—you can fill the parliamentary tree in order to get the agreement between the two sides to where there are just a few amendments left, but you don't do it by calling up a bill, filing cloture, accusing the other side of filibustering when there is no intention to filibuster, and then fill the parliamentary tree so you, as the majority leader, can determine the type of amendment and who does and who doesn't get an amendment. That is not the way this great Senate is supposed to operate. It is offensive, and it is starting to get to our side.

If we were in the majority and we did that to the Democrats, you folks would be so upset it wouldn't even be funny. I think it is time for us to start letting the Senate operate as it always has. We will get more done, and it will probably be better legislation than not, and frankly, every one of us will feel better about being Members of the Senate.

Let's be honest. The Republicans have been given nine amendments voted upon since last July in the greatest deliberative body in the world. That is just plain ridiculous and it is not right.

Let's take the House. The House is supposed to be more partisan. In the House you have a rules committee that is nine to four. Republicans have nine members and the Democrats have four members. They double the number in the majority party, plus one. They could stop anything from happening. In the House they have had well over 130 Democratic amendments since last July—if my recollection is correct on that, and I think it is—compared to nine in the greatest deliberative body in the world. Give me a break.

The fact is that is less than one amendment a month. You can imagine why our side is so upset about it, and then we get a bill as important as the extenders package. It is not \$100 billion, but it is about \$88 billion, as I recall. There are very important provisions in this bill. There are some I love and some I don't love too much, but we worked it out between the two parties and we each had our own ideas of what was right and what was wrong and we worked it out in a bipartisan way.

I want to personally pay tribute to the distinguished chairman of the committee, Senator WYDEN of Oregon. His leadership was very much acceptable, and it was easier to work out in the end because he was so open and realized we had some ideas too.

Our constituents put faith in us to make these decisions and the tough choices around here, and that means making them. A democracy functions because the rules allow it to function. The rules, in my opinion, have been bogged down with partisanship and protection effort rather than allowing the Senate to work its will. This is not how a real representative Republic functions.

I think we have to find a reasonable way forward. I intend to work hard to find that reasonable way. I think we have to find a way that both Democrats and Republicans can have their voices heard.

When we marked up this bill, it was a fair and open process. Both sides had their opportunity to bring up the amendments they wanted, and that is why we came up with a bill that is as acceptable as this one is. We had an open amendment process in committee, and it should be that way here too. This bill passed on a voice vote out of the committee. It took a lot of effort on the part of Senator WYDEN, the chairman, myself, and everybody else on the committee, but we were able to do that.

It is important that the American people know why this disagreement occurred today. The only procedural possibility that the Republicans had was to vote against cloture and to make it very clear that we don't like the way the Senate is being run today. We don't think it is fair, and we don't think it is right. It has nothing to do with policy. It has to do with how we proceed, and frankly I think a message was sent today.

It is unconscionable to me that Members on both sides, Republicans and Democrats, do not have an opportunity to offer their amendments. I might add, it is nice for the majority to say, well, we only want the germane amendments, but I never heard that when they were in the minority. They wanted every nongermane amendment they could get that might embarrass Republicans. I personally don't like to see that very much, but it is a right that has always existed in the Senate, and it should not be taken away and it should not be dismissed by rote.

I am going to do my very best, in a bipartisan way with Senator WYDEN, to work out this impasse, but it is going to have to be fair and Republicans are going to have to have a fair shot at having some amendments.

I hope we get rid of this process of calling up a bill and immediately filing cloture because they think Republicans are going to filibuster when there was no intention to filibuster and then filling the parliamentary tree to foreclose any amendments unless the majority leader approves. Come on. That is not the way the Senate should run.

Frankly, yes, it is a little unwieldy sometimes. Sometimes it doesn't run smoothly, but that is one of the charming things about the Senate, and it is one of the things that will bring us to-

gether if we can occasionally recognize that we have different points of view. The Republicans are more conservative, there is no question about that, and the Democrats are more liberal, there is no question about that. Actually, I find that to be probably a good thing in many ways because both sides have to try to work it out. But we can't work it out if we can't call up amendments and if it is a stilted process that is determined only by the majority leader.

I am going to do everything in my power to get this resolved. I have already chatted with Senator WYDEN, the chairman of the committee. He says he is going to do the same, and I know that is true. He is an honorable man. We are going to see if we can come up with a way to bring both sides together so we can pass this bill, and hopefully it will be an example of what we can do if we are willing to work together.

We have to get rid of these procedural approaches on every bill. Sometimes it is appropriate to use any procedure we want to on some bills that should not see the light of day. This is not one of those. This is a bill that has to see the light of day. This is a bill that will make a difference in this country. This is a bill that virtually everybody in this body wants, to a more or less degree, and some want it very much. This is a bill that really needs to pass. This is a bill that, hopefully, when the House passes their bill, we can get together in a conference and work it out, as big boys and girls should.

What we have been going through here now for 4 years, really, has been a disgrace. I think it is time to end the disgrace and get all of us working together, not necessarily in agreement—sometimes we have to fight things out—but working together in a way that is fair to both sides.

So far, our side feels it hasn't been fair to the Republican side. There has been too much assertion of power in the wrong way, in derivation of the rules. It started long ago, but it really came to a full culmination when the majority broke the rules to change the rules. One reason they were able to do that is because many on the other side have never been in the minority in the Senate. I will do my part to see that my friends on the other side have that wonderful experience because then they will understand why these rules are made to begin with.

The filibuster rule in particular was formulated because they couldn't get anything done in the Senate, and it was a way of invoking cloture and ending debate so they could get the matter over with. It has worked amazingly well in spite of the fact that from time to time we couldn't get bills through that we wanted to get through. There was a reason for that rule, and to break the rules to change the rules was the wrong thing to do to begin with. It has caused a lot of bitterness on the floor.

I have heard some Republicans saying: Let's stick it to them. I am not

going to allow that to happen. I hope the same is true on the other side because I have heard some of the Democrats are saying: Let's stick it to them with some special amendments.

Let's try to get this done in a way that is meaningful. Let's try to get it done in the best interests of the American people. Let's try to get it done so that all of us can hold our heads high and say we did our best. If we do that, I think we will have a new day in the Senate that literally will work in the best interests of everyone. I don't want my side treating the Democrats the way we have been treated. I just don't think it is right. I don't think it is fair. I think it is a big mistake.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### NATIONAL POLICE WEEK

Ms. HEITKAMP. Mr. President, today I wish to honor and pay tribute to our men and women who serve this country every day as America's peace officers. This week is National Police Week. Back in 1962, President Kennedy designated May 15 as Peace Officers Memorial Day.

This is the day we take pause and thank those peace officers who help us every day to keep our families safe, and keep our streets safe, and keep law and order so that we can live the lives we live in the United States of America.

Our law officers wake up every morning and put on a uniform to show us they are with us. It is a symbol they wear proudly and we look up to. They are here to protect our communities, our families, and, in fact, every one of us. That is a tall order. They frequently place themselves in dangerous situations.

Every day perhaps a wife, perhaps a child, perhaps a mother or whoever is in their family watches them walk out the door and wonders: Will they return safely?

Few among us know what that is—what it is to make a life-and-death decision, to put your life on the line every day as you are working on behalf of the people of your community and the people of your country.

Today is also a day where we pay tribute to those officers who have made the ultimate sacrifice in the line of duty, those men and women who swore an oath to serve and protect their communities and, in the course of doing so, lost their lives.

This afternoon I attended the National Peace Officers' Memorial Service on the lawn outside the Capitol. Just as we paid tribute to our fallen officers there, I wish to do the same on the Senate floor.

These men and women take their duties to serve and protect very seriously, and they make this Nation, as a result, a better place for all of us.

When I served as North Dakota's attorney general in the 1980s I had the privilege and, in fact, the honor to work side-by-side with the men and women of our State's law enforcement community. They were highway patrolmen, State and local officers, various Federal officers, and tribal police. It was a job that I truly began to appreciate—the job of law enforcement—that hard work they engage in to serve our State. I can say without a doubt they were the finest public servants I have ever had the honor to stand side by side with.

During that time I also experienced the absolute heartbreak of losing officers in the line of duty. Today I want to recognize two of those officers.

They are Deputy Sheriff Valence LeeWayne Pascal from the Benson County Sheriff's Office: On August 26, 1993, Deputy Pascal executed a warrant for an arrest in Leeds, ND. He took the individual into custody for failure to appear in court on a DUI charge, a fairly routine practice for a deputy sheriff. While the deputy was sitting in the front seat of his patrol car, the individual in the back seat leaned forward and shot him. He died the next day, August 27, 1993.

And I also want to recognize Senior Patrol Officer Keith Allen Braddock of the Watford City Police Department. Responding to a call over an enraged patron at a local bar in Watford City, Officer Braddock arrived on the scene when the man returned with two rifles and opened fire on Officer Braddock. Despite being wounded, Officer Braddock returned fire, hitting the man in a leg and preventing any further casualties. He succumbed to his wounds at the scene and died early that morning on March 20, 1996.

When I became attorney general, I formed a lasting bond with those officers, remembering never to forget. As I stood in that leadership role at funerals and at services, watching the parade of police officers, sheriffs' departments, and deputies pay their respect, I told myself: Remember, never forget. Never forget that they had families, that these two officers had someone in their lives who mattered to them. The children's parents will never see them walk the aisle. Those children will never see their parents be grandparents. Yet this in the line of duty.

Today is a special day in this Capital City. It is a special day across America when literally hundreds of law enforcement officers gather at memorial walls with names on them, similar to the one that is on the capitol grounds in North Dakota, and where people gather to remember how truly grateful we should all be for the people who stand on the line. They protect our freedom, they protect our safety, and some of them don't make it home as a result.

I believe that we owe all of the men and women who have sacrificed a great

debt of gratitude, and today I bring my voice to express my appreciation for and remembrance of the wonderful people of America's law enforcement community.

I yield the floor, and 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. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. HEITKAMP). Without objection, it is so ordered.

CLOTURE MOTION WITHDRAWN—H.R. 3474

Mr. REID. I ask unanimous consent that the cloture motion with respect to H.R. 3474 be withdrawn.

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

### EXECUTIVE SESSION

#### NOMINATION OF DAVID JEREMIAH BARRON TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIRST CIRCUIT

Mr. REID. Madam President, I move to proceed to executive session to consider Calendar No. 576.

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

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of David Jeremiah Barron, of Massachusetts, to be United States Circuit Judge for the First Circuit.

CLOTURE MOTION

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

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

The 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 David Jeremiah Barron, of Massachusetts, to be United States Circuit Judge for the First Circuit.

Harry Reid, Patrick J. Leahy, Mazie Hirono, Dianne Feinstein, Al Franken, Amy Klobuchar, Sheldon Whitehouse, Tom Harkin, Barbara Boxer, Richard Blumenthal, Elizabeth Warren, Debbie Stabenow, Edward J. Markey, Richard J. Durbin, Carl Levin, Charles E. Schumer, Patty Murray.

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

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

### LEGISLATIVE SESSION

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

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

### MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators allowed to speak for up to 10 minutes each.

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

### TRIBUTE TO TERRANCE W. GAINER

Mr. REID. Madam President, I rise today to recognize the extraordinary work of the Senate Sergeant at Arms Terrance W. Gainer, who is retiring after a distinguished 47-year career in public service.

Mr. Gainer, whom many of us still call "Chief," was sworn in as the 38th U.S. Senate Sergeant at Arms in January 2007, continuing a distinguished career in law enforcement.

As the chief law enforcement and executive officer of the Senate, Mr. Gainer, successfully and—always with great respect for our institution—enforced the rules of the Senate, maintained security in the Capitol and Senate office buildings, and provided important services to Senators in our Washington, DC and State offices.

Mr. Gainer led a force of approximately 850 personnel, many of whom he knew personally, as he often visited their offices. Mr. Gainer always took the time to write personal notes to his employees during important milestones or events in their lives. He always was quick to pick up the phone to provide words of encouragement to employees who were in the hospital or condolences to those who lost a family member. His compassion is unwavering.

Mr. Gainer met challenges head-on during his leadership. Faced with government cutbacks and sequestration, Mr. Gainer guided the first major right-sizing of the Sergeant at Arms organization in many years. Through a combination of operational efficiency and reorganization, Mr. Gainer reduced the SAA's total budget by more than 11 percent over 4 years and reduced the number of employees by 100. At the same time, service outputs increased, and customer and employee satisfaction remained extremely high.

Mr. Gainer could be seen each year, donning a green necktie as he escorted the Prime Minister of Ireland around the Capitol on St. Patrick's Day, before celebrating his wife Irene's birthday that night—a fitting tribute to his Irish Catholic roots. He also considered his time spent with the Dalai Lama in the course of his job as very special.

Mr. Gainer greeted many visitors from around the world in his office