

vilifying any who raise these national concerns. Instead, the President should stand up and honor his commitment to the American people, defend this decision in terms of the national security interests of the United States—what should be the highest priority for the Commander in Chief.

Instead, we have recently learned from news reports that there are at least four other Gitmo detainees who are being considered for release. So not only has there not been accountability as to why this happened, but it appears the administration wants to go down the same road and I can only assume is willing again to violate the law and not notify Congress the next time, just the way it violated the law by not notifying Congress this time.

Before any further such action is considered, we need to take a pause and assess what happened with the Taliban five. We need to answer:

Who did the vetting that resulted in the assessment that the Taliban five no longer posed a high level of threat to the United States?

Who participated in the decision to release them?

Was this the same deal the administration says they offered to brief Congress on previously or is it something different?

Was the President fully briefed on the background of the Taliban Five and the likelihood of recidivism?

How did the administration reach its apparently high level of confidence that the Taliban five will be secure in Qatar?

How did they arrive upon the notion that that security should last only 1 year, after which the American people will be safe if these terrorists are released altogether? On what basis did the administration judge that only 1 year was sufficient?

How was the decision made to ignore the law and bypass Congress, including bypassing the chairs of the Senate and House Intelligence Committees, Foreign Relations Committees, and Armed Services Committees?

In what circumstances does the administration intend once again to openly defy the law and refuse to provide notification to Congress?

These are questions, I might note, that should be bipartisan concerns. This should not be a partisan affair—asking questions that affect the national security of every single American citizen and every single man and woman serving in the military.

In order to give the Obama administration the opportunity to satisfy the many outstanding questions the American people have about their safety—and I would note, having just returned from Texas, I found over and over again Texans, men and women, asking these very questions—I will propose this week that before we consider any additional releases from Guantanamo, we answer these questions first.

The legislation I will be filing, No. 1, will immediately call for a 6-month

freeze on any Federal Government funding to transfer detainees from Guantanamo. No. 2, to enforce this requirement, the legislation will provide that, should the President choose to disregard this law—as, sadly, has been his pattern so many other times—all funds expended in the transfer would be deducted directly from the budget of the Executive Office of the President. No. 3, because we understand that conditions might possibly arise that would necessitate the release of an individual prisoner and out of respect for the President's special role in international matters, this legislation explicitly provides a means for the President to ask Congress for a waiver of the 6-month bar in an individual case. But, finally, because we believe the release of detainees from Guantanamo—which holds some of the most dangerous people on the planet—is a matter of the gravest import, this legislation would require that for every order for release of a Guantanamo detainee, it must be personally approved by the President. This would ensure that the fullest consideration and deliberation goes into the process.

This latest deal—which was announced to the American people as a *fait accompli*, with no opportunity for Congress to scrutinize it, no opportunity for the American people to assess it—this latest deal constituted negotiating with terrorists to release five senior terrorist leaders, and it raises obvious questions.

First of all, how many Americans did these five terrorist leaders directly or indirectly murder? How many lives—American lives—are they responsible for taking?

Second, how many American soldiers gave their lives to capture these five senior terrorist leaders? How many graves do we have of sons and daughters of Americans because they were sent in to capture these five who have just been released?

Third, given their release—and the President's admission that there is “absolutely” a chance that they will return to actively waging war against the United States—how many Americans are at risk of being killed directly or indirectly by these terrorist leaders we have just let go?

Finally, if the Taliban five do return to actively trying to kill Americans, how many American soldiers will once again have to risk their lives or, indeed, will give their lives trying to kill or capture these terrorists once again?

These are questions of the utmost seriousness, and to date the administration has not even attempted to answer them. Instead, it has suggested that anyone raising these questions is simply failing to stand by the men and women of our military. I can tell you, the men and women of our military understand the value of protecting the national security of the United States of America, and the men and women of our military are not comforted by negotiations with terrorists to release

senior terrorist leaders who can once again begin actively waging war on the United States.

Every American is naturally eager to end the long war in Afghanistan, but that does not mean we disregard the threat that violent terrorist groups such as the Taliban pose to our Nation. We know from the hard experience of the last decade that at least one in three Guantanamo detainees has returned to the battlefield. That has been what history has taught us.

Until we have full confidence that this threat to American lives is being fully and properly assessed, that we are taking steps to protect the lives of American civilians and American soldiers and sailors and airmen and marines, it is only prudent to take the steps in the legislation I am introducing this week, and I hope the Senate will do so.

With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

#### BANK ON STUDENTS EMERGENCY LOAN REFINANCING ACT—MOTION TO PROCEED—Continued

##### CLOTURE MOTION

Mr. REID. Mr. President, I have a cloture motion that is at the desk. I ask that it be reported.

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

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 motion to proceed to calendar No. 409, S. 2432, a bill to amend the Higher Education Act of 1965 to provide for the refinancing of certain Federal student loans.

Harry Reid, Ron Wyden, Elizabeth Warren, Richard Blumenthal, Benjamin L. Cardin, Jack Reed, Tom Harkin, Barbara Boxer, Jeanne Shaheen, Patty Murray, Richard J. Durbin, Tom Udall, Sheldon Whitehouse, Christopher Murphy, Bill Nelson, Robert Menendez, Tammy Baldwin.

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

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

Mr. REID. Mr. President, we have filed, I am sorry to say, another cloture motion to get on a bill. We have more student loan debt in America today than we have credit card debt. I just had a conference call with some students from the State of Nevada.

What is going on is really very unfortunate. Some of these students lamented the fact: You know, I am not sure I should be in school. I am borrowing money. Maybe I should do something else.

I do not know how many times we have had to file cloture for the opportunity to get on a bill, but that is where we are. So we will have a cloture vote to see if they will let us on the bill on Wednesday.

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

Mr. REID. Yes.

Mr. DURBIN. I would like to ask the Senator, through the Chair, it is my understanding that he just filed a procedural motion which will allow us to take up a bill and debate a bill which would give an opportunity to some of the 44 million Americans currently paying college student loans. This bill, authored by Senator ELIZABETH WARREN of Massachusetts, would allow students to refinance their college debt down to today's interest levels—3.8 percent, if I am not mistaken, for undergraduate loans—which would make paying back their loans easier and sooner, and we have to go through a procedure of waiting 2 days in the Senate to even start talking and debating on the bill. Is that what the Senator is telling us?

Mr. REID. Through the Chair to my dear friend, that is what I am saying.

What has happened around the country is not only in Nevada, it is all across the country, with rare exception. State legislatures don't support higher education.

If you take an organization such as the Board of Regents of the State of Nevada, and they have a lump sum of money the legislature gives them, they have to figure out a way to keep kids in school. So in Nevada last Thursday they raised the tuition of our universities by 17 percent. What will happen? They will borrow more money.

I told those young people when I started the conversation today, I worked hard but with a little scholarship here or there, I could work hard and put myself through school. I put myself through college and law school, and they can't do it now. There aren't enough hours in the day to pay for this tuition.

Mr. DURBIN. Will the Senator yield for another question through the Chair?

Mr. REID. I yield.

Mr. DURBIN. Procedurally, what the Senator had to do was file a motion so the Senate could actually start debate on this issue. There was a time in the Senate when you didn't have to have 60 votes to even start debating an issue. But is it my understanding, now that we are building up to a vote on Wednesday to see if five Republicans will cross the aisle and join us so we can have a debate the floor of the Senate on whether we can refinance college student loans, we have to wait 2 days?

Mr. REID. We, the Senate, and the American people have waited for

months, because we have done this time and time again. We have had to file cloture on just getting on a bill.

The sad part about it, on many occasions on nominations—they also do the same on nominations; we have approximately 140 nominations held up—they vote for them. Bills they have supported, nominations they have supported, they still make us file cloture and waste the time of the American people. And I say months.

Mr. DURBIN. If I could ask one last question through the Chair.

So we need five Republican Senators to join Democratic Senators if we are even going to debate the bill about refinancing college student loans; is that my understanding?

Mr. REID. The Senator is right.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### LAUCK NOMINATION

Mr. KAINE. I rise in support of one of the judicial nominees whom we will consider first by cloture vote in a few minutes and then a vote scheduled on confirmation tomorrow. It is the nomination of U.S. Magistrate Judge M. Hannah Lauck to the Federal bench in the Eastern District of Virginia. Judge Lauck is somebody whom I know quite well, because she serves as a magistrate in the Richmond division of the Eastern District where I live, and that is a court where I spent probably the majority of my 17-year legal practice.

She has come full circle. She is a native Virginian, went to college outside of Virginia but came back to the Commonwealth after graduating from Yale Law School. She began her legal career as a law clerk for Judge James Spencer, whose retirement has opened this position on the Federal bench. It is fitting as she was one of his first law clerks, and now she has the opportunity with this nomination to fill his shoes on the court.

Judge Lauck is very well prepared. She began, as I explained, as a judicial law clerk, which is a prestigious position, for a wonderful Federal judge, Judge James Spencer. She has included in her public career over the past 20-plus years both public service and private practice.

Before she joined the bench as a magistrate, Judge Lauck served as a corporate counsel for Genworth Financial, a Fortune 500 company, in Richmond. For 10 years before that she was assistant U.S. attorney in the Eastern District of Virginia, where she started in civil litigation, handling the entire spectrum of civil cases involving the United States as a party, and finished as a criminal prosecutor. Coupled with her service as a magistrate, this extensive experience in both private practice

and work in the U.S. Attorney's Office makes her very familiar with the docket of this court.

She became a U.S. magistrate judge in 2005. I know the Presiding Officer practiced law and understands the important work Federal magistrates do. Her work has involved all Federal misdemeanors.

Magistrates in the Richmond division try Federal misdemeanors, and they also try complex civil matters fully with the consent of the parties. It is the practice in eastern Virginia for parties to often consent to magistrate judges trying their cases. She has since 2005, 9 years, acted as a judge in virtually the entire range of matters that this court handles, this Federal court.

Along the way, Hannah has distinguished herself as an excellent attorney and earned awards for her work, including various commendations from the U.S. Attorney's Office, U.S. Marshals Service, the Virginia State Police, the Drug Enforcement Agency, and Genworth, her previous private sector employer. She was also named as a Virginia Leader in the Law for her work and service to the bench.

I am excited to be here on behalf of Judge Lauck. This is a vacancy on which both Senator WARNER and I have worked very hard. We first asked our local bar association, especially the Virginia State Bar, to conduct interviews and then make recommendations to us. We did that first, and then all the candidates were interviewed by us. We are proud to recommend her to the President and thankful that the President nominated her for the position.

In closing, I will say this is a court that I am very close to. My wife clerked for a Federal judge on this court when she started her legal career, just as Judge Lauck started her legal career in the same way. I served as a civil litigator for 17 years with a Richmond firm directly across the street from the courthouse and spent a lot of time there.

I know—the Presiding Officer reminded me; thank you for doing it—that the Presiding Officer's father was the first Federal magistrate in Virginia in this same court, the Eastern District of Virginia, Alexandria division.

So the Presiding Officer knows well the work magistrates do. I have stayed very close to this court since I tried my last case in 2001. I know the judges, I know the court personnel, I know the lawyers, and I know many of the parties, and they speak with uniform plaudits in regard to the work Judge Lauck has done as a magistrate.

There is no better person for this seat being vacated than Judge Lauck to have the full article III power that will come if she is confirmed. I am very happy to recommend her to all my colleagues. She will be an excellent judge to serve on that court.

CONCLUSION OF MORNING  
BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## EXECUTIVE SESSION

NOMINATION OF M. HANNAH LAUCK TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA

NOMINATION OF LEO T. SOROKIN TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS

NOMINATION OF RICHARD FRANKLIN BOULWARE II TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEVADA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations, which the clerk will report.

The bill clerk read the nominations of M. Hannah Lauck, of Virginia, to be United States District Judge for the Eastern District of Virginia, Leo T. Sorokin, of Massachusetts, to be United States District Judge for the District of Massachusetts, and Richard Franklin Boulware II, of Nevada, to be United States District Judge for the District of Nevada.

## CLOTURE MOTION

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

## 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 M. Hannah Lauck, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Harry Reid, Patrick J. Leahy, Christopher A. Coons, Sheldon Whitehouse, Christopher Murphy, Al Franken, Jon Tester, Richard Blumenthal, Jeff Merkley, Richard J. Durbin, Kirsten E. Gillibrand, Benjamin L. Cardin, Bill Nelson, Dianne Feinstein, Elizabeth Warren, Tom Harkin, Mazie K. Hirono.

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

The question is, Is it the sense of the Senate that debate on the nomination of M. Hannah Lauck, of Virginia, to be United States District Court Judge for the Eastern District of Virginia, 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 Alaska (Mr. BEGICH), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Missouri

(Mrs. McCASKILL), the Senator from Connecticut (Mr. MURPHY), and the Senator from Hawaii (Mr. SCHATZ) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Wisconsin (Mr. JOHNSON), the Senator from Illinois (Mr. KIRK), the Senator from Arizona (Mr. MCCAIN), the Senator from Kansas (Mr. MORAN), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Idaho (Mr. RISCH), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

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

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

The yeas and nays resulted—yeas 52, nays 32, as follows:

(Rollcall Vote No. 176 Ex.)

## YEAS—52

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

## NAYS—32

Alexander	Cruz	McConnell
Ayotte	Enzi	Paul
Barrasso	Fischer	Portman
Blunt	Flake	Rubio
Boozman	Grassley	Scott
Burr	Hatch	Sessions
Coats	Heller	Shelby
Coburn	Hoeven	Thune
Corker	Inhofe	Toomey
Cornyn	Johanns	Wicker
Crapo	Lee	

## NOT VOTING—16

Begich	Landrieu	Risch
Cochran	McCain	Roberts
Graham	McCaskill	Schatz
Isakson	Moran	Vitter
Johnson (WI)	Murkowski	
Kirk	Murphy	

The PRESIDING OFFICER. On this vote the yeas are 52, the nays are 32. The motion is agreed to.

The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the next two votes be 10 minutes in duration.

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

## CLOTURE MOTION

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 Leo T. Sorokin, of Massachusetts, to be United States District Judge for the District of Massachusetts.

Harry Reid, Patrick J. Leahy, Christopher A. Coons, Sheldon Whitehouse, Christopher Murphy, Al Franken, Jon Tester, Richard Blumenthal, Jeff Merkley, Richard J. Durbin, Kirsten E. Gillibrand, Benjamin L. Cardin, Bill Nelson, Dianne Feinstein, Elizabeth Warren, Tom Harkin, Mazie K. Hirono.

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

The question is, Is it the sense of the Senate that debate on the nomination of Leo T. Sorokin, of Massachusetts, to be United States District Judge for the District of Massachusetts shall be brought to a close?

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 Alaska (Mr. BEGICH), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Missouri (Mrs. McCASKILL), the Senator from Connecticut (Mr. MURPHY), and the Senator from Hawaii (Mr. SCHATZ) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Wisconsin (Mr. JOHNSON), the Senator from Illinois (Mr. KIRK), the Senator from Kansas (Mr. MORAN), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Idaho (Mr. RISCH), the Senator from Kansas (Mr. ROBERTS), and the Senator from Louisiana (Mr. VITTER).

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

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

The yeas and nays resulted—yeas 52, nays 33, as follows:

(Rollcall Vote No. 177 Ex.)

## YEAS—52

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

## NAYS—33

Alexander	Chambliss	Crapo
Barrasso	Coats	Cruz
Blunt	Coburn	Enzi
Boozman	Corker	Fischer
Burr	Cornyn	Flake