

That pace must continue this week with the confirmation of the Secretaries of Homeland Security and Transportation. After that, we need a Health and Human Services Secretary installed to oversee the public health response to COVID; an Education Secretary to facilitate the safe reopening of the schools, guided by the science; and a Secretary of HUD to help America's struggling families stay in their homes during this horrible economic crisis. The Senate is working at an encouraging pace, and we will not let up.

#### ORGANIZING RESOLUTION

Mr. SCHUMER. Mr. President, now on the organizing resolution, well, since the last time I addressed this Chamber, there has been notable progress in my discussions with the Republican leader about organizing the Senate. Last night, the Republican leader dropped his demand for additional provisions on the organizing resolution and will agree to the 2001 rules that last governed the 50-50 Senate—exactly what Democrats proposed from the start.

I am glad the Republican leader finally relented, and we can move forward now to organize the Senate, Senate committees, chairs, and ranking members, and the process for moving bills and nominees to the floor from committees with an evenly divided number of Members. I am glad we are finally able to get the Senate up and running. My only regret is that it took so long because we have a great deal we need to accomplish over the next several weeks and months.

#### CORONAVIRUS

Mr. SCHUMER. Mr. President, now on COVID, in addition to the confirmation of critical Cabinet nominees, the Senate will soon move forward with legislation to address the twin crises facing our country: the public health crisis and the economic crisis.

In December, Congress took the important step of passing interim emergency relief to the country, but we left the job unfinished. I understand that recent opposition from the political right for more spending has increased in volume now that there is a Democrat in the White House, but the pandemic doesn't particularly care that there has been a change in the administration. The needs of our country are still great, and the urgency to act is clearer than ever.

The Congressional Budget Office told us last fall that the COVID-19 pandemic has taken more than \$17 trillion out of our economy—\$17 trillion. No doubt, Congress has passed substantial relief, but looking at the data, we are nowhere close to filling the COVID-sized hole in our economy. Expanded unemployment insurance will once again expire in March. State and local governments, which have already cut over a million jobs, are still reeling

from budget deficits and have not received direct assistance. The amount of direct payments to the American people in the previous bill was regrettably much lower than many of us, including myself, wanted. We must continue supporting the rapid and massive distribution of the vaccine to finally crush this virus once and for all.

So the Senate is going to press forward on another COVID-relief bill. We want to work with our Republican colleagues to advance this legislation in a bipartisan way, and the work must move forward—preferably, with our Republican colleagues, but without them if we must.

We are still in the midst of a once-in-a-century crisis that has reshaped our economy and altered nearly every aspect of American life. Americans are still getting sick. Americans are still dying. Americans are still losing their jobs. We must not suffer timidity or delay. There is great urgency to continue the work of COVID relief, and that is exactly what the Senate will do. I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### FILIBUSTER

Mr. MCCONNELL. Mr. President, yesterday, two Democratic Senators confirmed they will not provide the votes to eliminate the legislative filibuster. The senior Senator from West Virginia issued a public "guarantee": "I do not support doing away with the filibuster under any condition."

Any chance of changing his mind? "None whatsoever."

The senior Senator from Arizona made the same commitment. She opposes ending the legislative filibuster and "is not open"—not open—"to changing her mind." Our colleague informed me directly last night that under no circumstances would she reverse course.

Now, it should not be news that a few Members of the majority pledge they won't tear up a central rule, but the Democratic leader was reluctant to repeat the step I took as majority leader in unified government when I ruled out that step on principle.

Rather than relying on the Democratic leader, I took the discussion directly to his Members. Basic arithmetic now ensures that there are not enough votes to break the rule. This victory will let us move forward with the 50-50 power-sharing agreement containing all the elements of the 2001 model because it will sit on the very same foundation.

I want to discuss the precipice from which the Senate has stepped back. In 2013, Senator Harry Reid began the "nuclear" exchange over nominations. I said Democrats would regret it. A few

years later, we have many Federal judges, including three Supreme Court Justices, who were confirmed with fewer than 60 votes.

The back-and-forth exchange over nominations had one institutional silver lining, because, routinely, filibustering nominations was itself a modern invention pioneered by Senate Democrats in the 2000s. So, on nominations, for all the fighting, the Senate just simply circled back to the simple majority threshold that had been our longstanding norm on nominations; that is, on the Executive Calendar.

Legislation is very different. When it comes to lawmaking, the Framers' vision and our history are abundantly clear. The Senate exists to require deliberation and cooperation. James Madison said the Senate's job was to provide a "complicated check"—a "complicated check," he said—against "improper acts of legislation." We ensure that laws earn enough buy-in to receive the lasting consent of the governed. We stop bad ideas, improve good ideas, and keep laws from swinging wildly with every election.

Our friend, Lamar Alexander, put it this way in his farewell speech. He said: "The Senate exists to produce broad agreements on controversial issues that become laws most of us have voted for and that a diverse country will accept."

More than any other feature, it is the Senate's 60-vote threshold to end debate on legislation that achieves this. It ensures narrow interests cannot ignore the rest of the country. It embodies Jefferson's maxim that "great innovations should not be forced on slender majorities."

The bar for lawmaking is high. It should be high, even if both bodies take turns at being slightly frustrated by it. If your legislation can't pass the Senate, you don't scrap the rules or lower the standards. You improve your idea, take your case to the people, or both.

Four years ago, Republicans had just won unified control. President Trump and others pressured us heavily—me, in particular—to scrap this rule when it was protecting the Democratic minority. But we stood firm. I stood firm and endured many tweets on the subject. I said we would not do that to our colleagues in the minority.

No short-term policy win justifies destroying the Senate as we know it, especially since laws would become so brittle and reversible. So Democratic Senators used the 60-vote threshold to shape and block legislation. They stalled COVID relief, they blocked police reform, and they stopped even modest measures to protect innocent life because I chose not to destroy the tool that allowed them to do that.

That same tool that some Democrats now want to destroy, they used freely and liberally throughout their years in the minority, and I protected their ability to do that. Republicans understand you don't destroy the Senate for a fleeting advantage. Our friends across the aisle must see the same.

I have talked a lot about principle. We should also make this a little more tangible. So let's take a look at what would happen if in fact the legislative filibuster were gone. If the Democratic majority were to attack the filibuster, they would guarantee themselves immediate chaos, especially in this 50-50 Senate. This body operates every day and every hour by consent, and destroying the filibuster would drain comity and consent from this body to a degree that would be unparalleled in living memory.

So let's look at some examples.

The Constitution requires the Senate to have a quorum to do any business. Right now, a quorum is 51, and the Vice President does not count to establish a quorum. The majority cannot even produce a quorum on their own, and one could be demanded by any Senator at almost any time.

Our committees need quorums to function as well. They will also be evenly split. If this majority went scorched-earth, this body would grind to a halt like we have never seen. Technically, it takes collegiality and consent for the majority to keep acting as the majority at any time they do not physically—physically—have the majority.

In a scorched-earth, post-nuclear Senate that is 50-50 like we have today, every Senate Democrat and the Vice President could essentially just block out the next 2 years on their calendar. They would have to be here all the time.

It takes unanimous consent to schedule most votes, to schedule speeches, to convene before noon, to schedule many hearings and markups. As Democrats just spent 4 years reminding us, it takes consent to confirm even the lowest level nominees at anything beyond a snail's pace.

None of us has ever seen a Senate where every single thing either happens in the hardest possible way or not at all. Heck, once or twice every day the majority leader reads through an entire paragraph of routine requests. Objections could turn each one into multiple, lengthy rollcall votes.

None of us on either side wants to live in a scorched-earth Senate. The institution and the American people deserve a lot better. But there is no doubt—none—that is what we would see if Democrats tear up this pivotal rule. It would become immediately and painfully clear to the Democratic majority that they had indeed just broken the Senate.

This gambit would not speed the Democrats' ambitions. It would delay them terribly, and it would hamstring the Biden Presidency over a power grab which the President has spent decades warning against and still opposes.

Finally, at some point, the shoe would find its way to the other foot. When Republicans next control the government, we would be able to repeal every bill that had just been rammed through, and we would set about de-

fending the unborn, exploring domestic energy, unleashing free enterprise, defunding sanctuary cities, securing the border, protecting workers' paychecks from union bosses—you get the picture.

But a few years later, the Democrats would try to flip it all back. So instead of building stable consensus, we would be chaotically swapping party platforms, swinging wildly between opposite visions that would guarantee half the country is miserable and resentful at any given time. We would have inherited resilient institutions but left behind a chaotic mess.

We are in a politically charged period, but when factional fever runs hot, when slender majorities are most tempted to ram through radicalism, these are the times for which the guardrails exist in the first place.

Republicans said no—emphatically no—to pushing the Senate over this precipice. When I could have tried to grab the power, I turned it down. I said: "President Trump, no," repeatedly, because the Nation needs us to respect the Framers' design and the Senate's structure, and because, as I said in a different context on January 6, we have a higher calling than endless partisan escalation.

We have placed our trust in the institution itself, in a common desire to do the right thing. I am grateful that has been reciprocated by at least a pair of our colleagues across the aisle. I am glad that we have stepped back from this cliff. Taking that plunge would not be some progressive dream; it would be a nightmare. I guarantee it.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

#### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

#### EXECUTIVE SESSION

##### EXECUTIVE CALENDAR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Antony John Blinken, of New York, to be Secretary of State.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12 noon will be equally divided between the two leaders or their designees.

The ACTING PRESIDENT pro tempore. Senator from Illinois.

##### FILIBUSTER

Mr. DURBIN. Mr. President, it has been my good fortune to serve in the

Senate for 24 years. I have great respect for this institution and continue to believe that the men and women who serve here are extraordinary examples, by and large, of public service and that we have done great things of a historic nature.

I think of the days of the Obama Presidency, when we had to rescue our economy, make reforms on Wall Street that made a difference, and build a public health system that we have aspired to for decades. We achieved those goals—not easily—with hard work and determination. I am glad to have been a part of it.

When I hear the Republican leader come to the floor and talk about his memory of the Senate, I hasten to add: There is another side to the story. I will come to the floor in a few days to outline the history of the filibuster, but I am sure the Senator from Kentucky, who has been in the Senate—and his staff—in elected capacity for decades, would concede this point: Up until the 1960s, the filibuster was rarely used in this U.S. Senate. The demand for, once, 67 votes, then 60 votes was rare.

Oh, it was remembered that, in the 1960s, civil rights legislation foundered on the floor of this U.S. Senate because of the filibuster, but it was rarely applied. That changed. It changed under the Senator from Kentucky's leadership. It became so commonplace—the filibuster was being used so frequently—that it led to Senator Reid, then the Democratic leader, making some fundamental changes in the Senate rules.

I remember that day very well, and I remember the anguish that Senator Reid felt at the time. But he felt he had no recourse because the filibuster had become commonplace, the 60-vote requirement commonplace.

I don't know exactly what the argument is from the other side at the moment, but I think any fairminded Senator would concede the Senate is capable of doing great things; it is capable of being deliberative; yet it still can be decisive.

There comes a time when we should act. And to merely let every issue get mired down into a 60-vote requirement and filibuster and nothing come out of this Chamber as a result cannot be what our Founding Fathers envisioned for the world of the U.S. Senate.

I want to address that issue at another time in more detail, with facts and figures on the use and misuse of filibuster, but at this moment I would like to raise another question, which is related.

##### NOMINATION OF ALEJANDRO NICHOLAS MAYORKAS

Mr. President, we are in the midst of a global pandemic. More than 420,000 American lives have been lost. Just 3 short weeks ago, 20 days ago, this Capitol, this age-old symbol of America, was attacked by homegrown domestic terrorists. It was overrun for the first time since the British invasion in the War of 1812.