

without using one of two things: raising tax rates on the top 2 percent or raising taxes on the middle class.

As my friend, the senior Senator from Missouri, said on the Sunday talk shows, the Speaker has to make a decision whether it is more important to keep his job or to do something about the economy that is in such difficult shape in America. He has to make a choice.

The nonpartisan Tax Policy Center called it mathematically impossible to reduce the deficit and give more tax cuts to the rich without harming the middle class. This is the same thing President Clinton talked about so often during the campaign, saying to everyone it is arithmetic.

As usual, given the choice between millionaires and billionaires and the middle class, Republicans again sided with the wealthy of this country. In fact, their plan doesn't just keep rates low for the richest 2 percent, it actually lowers them further. The Democrats' plan would protect 98 percent of families and 97 percent of small businesses from painful tax increases by asking the top 2 percent to pay a little bit more to reduce the deficit.

The Republicans' plan, on the other hand, is more of the same. Not only does it balance the budget on the backs of the middle class, it voids our promise to seniors with steep cuts to Social Security and Medicare, all to pay for even more handouts to the rich.

At least we now know where they stand. Republicans have sought cover by invoking Erskine Bowles' name, but he has disavowed their plan in no uncertain terms. We are glad to finally see Republicans joining in the negotiating process instead of watching from the sidelines.

While their proposal may be serious, it is also a nonstarter. They know any agreement that raises taxes on the middle class in order to protect more unnecessary giveaways to the top 2 percent is doomed from the start. It will not pass.

Democrats would not agree to it. President Obama wouldn't sign such a bill, and the American people would not support it. That is in all the polls that are in at press this morning.

The American people are tired of budget-busting giveaways to the wealthiest few people who have enjoyed growing paychecks and shrinking tax bills for more than a decade. The American people want a balanced deal. Simple math dictates that a balanced deal must include higher taxes on the richest of the rich. Republicans would be wise to keep that in mind as negotiations move forward.

We are willing to compromise, but we also will not consign the middle class to higher tax bills while millionaires and billionaires avoid all the pain.

I have been told the leader of the Democrats in the House will file today a discharge petition asking the Speaker to bring the bill to the floor. All Democratic House Members, as far as I

know, every one of them will sign this discharge petition.

We have heard Republicans in the House who are willing to move forward. If every Democrat signs this, we will only need about 25 Republicans to join. The American people should see that picture. With 25 Republican votes—25 Republican votes—middle-class America would be able to rest assured that they will not have a tax increase at the first of the year. Twenty-five Republicans is all it would take.

#### RECOGNITION OF THE MINORITY LEADER

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

#### LIMITING THE RIGHT TO DEBATE

Mr. MCCONNELL. Mr. President, during the past couple days, we have discussed the plans of the Democratic majority to make the Senate more "efficient" and to do it by breaking the rules of the Senate. It is what my Senate colleagues roundly criticized during the Bush administration as "breaking the rules to change the rules." It is something Senate Republicans thought about but wisely chose not to do.

The Senate has two great traditions, two great rights of Members and, by extension, the citizens they represent; the right to amend and the right to debate.

Yesterday and last week I talked about the first of these great Senate rights and how the Democratic majority has sought systematically to marginalize the minority in its exercise of this right.

I noted how the Democratic majority has bypassed committees to an unprecedented extent, how it has blocked members of the minority and members of the majority, too, from offering amendments on the Senate floor before cloture is invoked and how, when that didn't shut out the minority, the majority used a bare majoritarian means to change Senate procedure to bar the minority from offering motions to suspend the rules after cloture was invoked.

This systemic effort to marginalize the minority stands in stark contrast to the trend in the House under the Republican majority. It has allowed the minority in the House more chances to amend legislation on the House floor than existed under previous majorities.

In fact, according to the Wall Street Journal, last year, the House held more votes on amendments on the floor than it did during the 2 previous years combined, when congressional Democrats were in the majority.

When one compares the amendments and the motions voted on in the House this year with those voted on in the Senate, as the nonpartisan Congressional Research Service has done, the difference is truly startling. The House minority has been able to offer 214 such

motions and amendments, compared to only 67 for the Senate minority, which is more than three times as many motions and amendments, but the minority in the House has had three times as many votes as the minority in the Senate. In terms of protecting the right of the minority to represent their constituents through amendments on the floor, the House is becoming more like the Senate used to be, and the Senate is becoming more like the House used to be.

But what about the second great right in the Senate, the right to debate? How has the exercise of this right fared under the Democratic majority? The short answer is not so great. The filing of cloture under the Senate rules is the beginning of the process to end debate, and the wielding of this powerful tool is in the hands of the majority leader. If one wants to simply equate the filing of cloture, if one wants to equate the filing of cloture with a filibuster, there is the potential for the majority to generate a lot of filibusters with a quick trigger on the cloture motion.

My friends on the other side of the aisle have painted a picture where cloture filings are needed to overcome an obstinate minority. Cloture is needed, so we are told, because of Members of the minority who refuse to stop delaying.

But does filing cloture on a matter, be it on a bill, an amendment or a conference report, on the very same day the Senate is considering that matter, indicate a minority that is prolonging debate or does it indicate a majority that is eager not to have a debate at all? To me, a habitual effort to file cloture on a matter as soon as the Senate begins to consider the matter indicates the latter.

What do the numbers show about the use of cloture by this Democratic majority? According to CRS, the current Senate majority has filed cloture on a matter—exclusive of motions to proceed to a matter—on the very same day it considered the matter three and a half times more often than the Senate Republicans did when they were in the majority.

According to CRS, Senate Republicans filed same-day cloture on a matter just 30 times in 4 years. The current Democratic majority has done so well over 100 times. Put another way, Senate Democrats are much more apt to try to shut off debate on a matter as soon as the Senate begins considering the matter than were prior majorities including, most recently, Senate Republicans.

The desire of my Democratic colleagues to shut down debate before it begins in these instances has nothing to do with overcoming resistance to the Senate taking up a bill because, as I have just noted, this analysis specifically excludes—excludes—same-day cloture filings on a motion to proceed.

It is not just the right to amend that has taken a hit under the Democratic

majority but the right to debate as well. All Senators and all Americans are disserved when these rights are systematically marginalized.

This is not the “golden rule” we were promised when the Senate Democrats assumed the majority in 2007—far from it.

Rather than continuing to diminish the great tradition to the Senate, rather than breaking the rules to change the rules, we need to strengthen those rights and traditions. As Senator Byrd noted, majorities are fleeting. One can wake after the first Tuesday in November and find oneself in the minority.

I say with respect, I hope our Democratic colleagues are mindful of that as we continue this discussion and are prepared not only to live under the rules they would change but to live with a precedent they would establish by making those changes.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, it would be hard to travel to a university campus or to a chamber of commerce meeting or anyplace in the country, travel just to a supermarket and talk to people where they wouldn't all agree that the Senate is dysfunctional, has not worked well. To show how right they are is a statement made yesterday by JOHN MCCAIN.

Now, Mr. President, JOHN MCCAIN and I have had our political differences, but no one—no one—can quibble with the fact that JOHN MCCAIN is an American patriot. He was a Navy aviator shot down in Vietnam, spent years—I think it was 6½ or 7 years—as a prisoner of war, 4½ of those in solitary confinement.

He and I came to the House of Representatives together. I know how the House works. I served there. While I appreciate my friend the Republican leader giving me a minilecture on the House, I don't need one. I served in the House, and I know how the House works. And I know what JOHN MCCAIN said yesterday because I am reading a verbatim transcript from those proceedings, and here is what he said:

... I apologize for what seems to have happened. Much to my dismay, it lends credence to the argument that maybe we ought not to do business the way we are doing here in the Senate.

That is a direct quote from JOHN MCCAIN.

As I said in my opening statement, I served in the House, and the reason I mentioned today in my opening statement about the discharge petition is that when I served there, under the leadership of Speaker O'Neill, Majority Leader Michel, and then Jim Wright and Michel, a Republican, there was no way they would ever consider doing a vote with the majority of the majority. They wanted to get 218 votes. That is what they did on reforming Social Security; that is what they did on virtually everything—get Democrats and Republicans together and get 218 votes.

And that is the challenge I gave to the Speaker today, Speaker BOEHNER. Let the House vote. One Republican House Member suggested that more than half of the Republicans in the House would vote for giving tax security to people making less than \$250,000 a year. So I say, let's have Speaker BOEHNER call upon the Republicans in the House to add 25 or so votes to what the Democrats would do, and they would have 218 votes and we could go on to taking care of the fiscal cliff.

Mr. President, my friend protesteth too much. The Senate is broken, it needs to be fixed, and we need to change the rules. We change them all the time. Last year we changed the rules. Why? Because of what they were doing—the Republicans—just to stop and slow down everything. After two cloture votes—and remember that takes a long time, to file two cloture motions, a couple of days and then 30 hours. So after 60 hours, you would think the debate would be all over. Oh no. What they decided to do was to suspend the rules and have more votes. We put up with it for a while—a couple here, a couple there. I think the last time they had 15 or 16 motions to suspend the rules. That was enough. They overruled the Chair. They can't do that anymore.

What the Republicans have done is they have brought the Senate to its knees, and that is unfortunate. We need to be able to have the Senate operate the way it should operate, and we need to make sure people understand how dysfunctional we are and how we need to move forward.

They can say all they want about “we need more amendments.” Nobody criticizes having more amendments, but when we spend 9 or 10 days getting on a bill, we have wasted all that time. Nothing happens during that time. We do nothing here in the Senate. Everything comes to a standstill. Yet they complain because they do not have time to offer amendments.

#### RESERVATION OF LEADER TIME

Mr. REID. Would the Chair announce the business for the day.

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

#### EXECUTIVE SESSION

#### CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

The ACTING PRESIDENT pro tempore. The Senate will proceed to executive session to consider the following treaty, which the clerk will now report.

The legislative clerk read as follows:

Treaty Document No. 112-7, Convention on the Rights of Persons with Disabilities.

The ACTING PRESIDENT pro tempore. Under the previous order, the

time until 12 noon will be equally divided.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, we are now, as everybody knows, on the Convention on the Rights of Persons with Disabilities. It is my understanding that we have about 48 minutes for each side. I would ask the opponents of the treaty to do what we normally do, which is go back and forth from one side to the other. I notice there is no one here for the other side, so what we will do is use up a component of our time, and then, because they are not here, I think it would be fair not to chew up the time in a quorum call.

So I ask unanimous consent that if the opponents on the other side are not ready to speak or to use their time, that the quorum call be charged against them because I don't think we should give up our time as a result of their simply not being here. So I ask unanimous consent that if there is a quorum and we are not speaking, the time be charged to their side.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LUGAR. Reserving the right to object, Mr. President, I believe the chairman has stated a fair position. On the other hand, in terms of our side, the Republican side, I wish to preserve at least the rights of our Members to have the maximum amount of time as possible. So I am inclined to believe the time should be charged equally against both sides.

Mr. KERRY. Mr. President, that is fine. I accept that. What I am trying to do is to use this debate period, important as it is, as effectively as possible on both sides.

I see there is a Member from the other side who is in opposition, so I withdraw my request, and I yield 10 minutes to the Senator from Indiana.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, may I ask what we just decided in terms of time?

Mr. KERRY. Mr. President, I would inform the Senator from Oklahoma that we have agreed to simply proceed, hopefully alternating from side to side. We have about 48 minutes on each side, and I have yielded 10 minutes to the Senator from Indiana.

Mr. INHOFE. I thank the Chair.

The ACTING PRESIDENT pro tempore. Without objection, the quorum calls will be equally divided between the sides.

The Senator from Indiana.

Mr. LUGAR. Mr. President, as we all now know, the Senate will vote today on the Convention on the Rights of Persons with Disabilities. The United States has long been a leader in its treatment of those with disabilities. Becoming a party to the convention would provide an important platform and forum for the United States to continue this leadership.

We received strong expressions of support for the convention from a wide