

are getting richer and the poor are getting poorer and the middle class is being squeezed, we are very fortunate to have this good man in the Senate. I am confident he will treasure his memories in this historic legislative body and serve his Nation and State with distinction.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

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 I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. REID. Before we have this ceremony, I wish to say one thing about CORY BOOKER. I have talked about his great academic record. But for me, a frustrated wannabe athlete, his most impressive qualification, as far as I am concerned, is that he was a tight end for one of the great Stanford football teams.

CERTIFICATE OF ELECTION

The VICE PRESIDENT. The Chair lays before the Senate a Certificate of Election to fill the vacancy created by the death of Senator Frank Lautenberg of New Jersey. The certificate, the Chair is advised, is in the form suggested by the Senate. If there is no objection, the reading of the certificate will be waived and it will be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF NEW JERSEY
CERTIFICATE OF ELECTION

To the President of the Senate of the United States:

This is to certify that on the sixteenth day of October, 2013, Cory Booker, was duly chosen by the qualified electors of the State of New Jersey, a Senator for the unexpired term ending at noon on the 3rd day of January, 2015, to fill the vacancy in the representation from said State in the Senate of the United States caused by the death of Frank Lautenberg.

Given, under my hand and the Great Seal of the State of New Jersey, this twenty-eighth day of October two thousand and thirteen.

By the Governor:

CHRIS CHRISTIE,
Governor.

[State Seal Affixed]

ADMINISTRATION OF OATH OF OFFICE

The VICE PRESIDENT. If the Senator-elect will now present himself at the desk, the Chair will administer the oath of office.

The Senator-designee, escorted by Mr. MENENDEZ, advanced to the desk of the Vice President, the oath prescribed by law was administered to him by the Vice President, and he subscribed to the oath in the Official Oath Book.

The VICE PRESIDENT. Congratulations, Senator. Welcome. (Applause, Senators rising.)

The VICE PRESIDENT. The majority leader.

EXECUTIVE SESSION

NOMINATION OF MELVIN L. WATT TO BE DIRECTOR OF THE FEDERAL HOUSING FINANCE AGENCY—Continued

Mr. REID. Mr. President, it is my understanding we are going to move now to the nomination of Mr. WATT. I yield back the time for the majority and the Republicans.

The VICE PRESIDENT. Without objection, it is so ordered. The time is yielded back.

CLOTURE MOTION

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 MELVIN L. WATT, of North Carolina, to be Director of the Federal Housing Finance Agency.

Harry Reid, Tim Johnson, Mark Begich, Patrick J. Leahy, Christopher A. Coons, Martin Heinrich, Patty Murray, Bernard Sanders, Jeanne Shaheen, Benjamin L. Cardin, Al Franken, Sherrod Brown, Tom Harkin, Jack Reed, Thomas R. Carper, Sheldon Whitehouse, Bill Nelson, Charles E. Schumer.

The VICE PRESIDENT. 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 MELVIN L. WATT, of North Carolina, to be Director of the Federal Housing Finance Agency for a term of 5 years, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE) and the Senator from Texas (Mr. CRUZ).

The VICE PRESIDENT. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 56, nays 42, as follows:

[Rollcall Vote No. 226 Ex.]
YEAS—56

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

NAYS—42

Alexander	Blunt	Coats
Ayotte	Boozman	Coburn
Barrasso	Chambliss	Cochran

Collins	Hoeven	Reid
Corker	Isakson	Risch
Cornyn	Johanns	Roberts
Crapo	Johnson (WI)	Rubio
Enzi	Kirk	Scott
Fischer	Lee	Sessions
Flake	McCain	Shelby
Graham	McConnell	Thune
Grassley	Moran	Toomey
Hatch	Murkowski	Vitter
Heller	Paul	Wicker

NOT VOTING—2

Cruz	Inhofe
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The VICE PRESIDENT. On this vote the yeas are 56, the nays are 42. Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is rejected.

The majority leader.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the Watt nomination.

The VICE PRESIDENT. The motion is entered.

NOMINATION OF PATRICIA ANN MILLETT TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA

CLOTURE MOTION

The PRESIDING OFFICER (Ms. BALDWIN). Under the previous order, the clerk will report the motion to invoke cloture.

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 Patricia Ann Millett, of Virginia, to be United States Circuit Judge for the District of Columbia.

Harry Reid, Patrick J. Leahy, Richard J. Durbin, John D. Rockefeller IV, Benjamin L. Cardin, Jon Tester, Sheldon Whitehouse, Mark R. Warner, Patty Murray, Mazie Hirono, Angus S. King, Jr. Barbara Boxer, Jeanne Shaheen, Robert Menendez, Bill Nelson, Debbie Stabenow, Richard Blumenthal

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I ask unanimous consent that there be 2 minutes of debate equally divided in the usual format.

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

Mr. LEAHY. Patricia Millett is unquestionably qualified to be the next judge on the DC Circuit. The Senate will soon vote to end debate on her nomination and I hope that the rank partisanship that shut down our Government earlier this month will not be on display again with this upcoming vote. I hope the moderates who prided themselves in finding a solution to the shutdown will agree that Ms. Millett is an extraordinary nominee who should not be filibustered.

Over the last few weeks, I have heard those who want to filibuster Ms. Millett make some unfounded claims to justify their partisan agenda. First they asserted that the President is

somehow packing the court by nominating judges to vacant seats. No student of history can honestly say that nominating candidates to existing vacancies is court-packing.

Next, they claimed that because the last of President Bush's nominees to this court was not confirmed, Ms. Millett should be filibustered as payback. These partisans fail to note that by the time Peter Keisler was nominated, four of President Bush's nominees to the DC Circuit had been confirmed. Only one of President Obama's nominees to this court has been confirmed and another has been filibustered.

Mr. Keisler was nominated to the 11th seat on the DC Circuit—and would have marked the fifth time a President Bush nominee was confirmed the court and the second time a Bush nominee was confirmed to be the 11th judge on the court. At that time, Democrats noted the hypocrisy of Republicans pushing to confirm a second judge to the 11th seat on the DC Circuit after they had blocked Merrick Garland's nomination in 1996 to be the 11th judge. Judge Garland's nomination was held up until another judge retired and he was confirmed to be the 10th judge on the court. Patricia Millett, however, is nominated to be the 9th judge. Those who are determined to filibuster this highly qualified nominee should at least get their facts straight.

For all the discussion about the DC Circuit's caseload, you would think that it had the lowest caseload of any circuit court in the country. But you would be wrong. The circuit court with the lowest caseload is actually the Tenth Circuit Court of Appeals, which as of June 30, 2013, has 1,341 total pending appeals and 134 pending appeals per active judge. In contrast, the DC Circuit has 1,479 total pending appeals and 185 pending appeals per active judge.

Despite the lower caseload on the Tenth Circuit, the Senate has continued to confirm nominees to that court without any complaints from Republicans about the workload. Just this past year, we confirmed Robert Bacharach of Oklahoma to be the ninth judge on the Tenth Circuit and Gregory Phillips of Wyoming to be the tenth judge on the Tenth Circuit. We also recently held a hearing for Carolyn McHugh of Utah to be the eleventh judge on the Circuit. And in the next few weeks, we will hold a hearing for Nancy Moritz of Kansas to be the twelfth judge on the Tenth Circuit. If Ms. McHugh and Ms. Moritz are both confirmed, the Tenth Circuit will be at full strength with 12 active judges. Again, in all the hearings and votes we have had for these Tenth Circuit nominees, I cannot recall a single instance where Republican senators questioned the need for judges on that court.

Some have also cited the DC Circuit's six senior judges as a reason to filibuster Patricia Millett's nomination. Of course, the Tenth Circuit has 10 senior judges, and yet, we never hear this

cited as a reason for not confirming nominees to existing vacancies in the Tenth Circuit. I hope the Senators from Oklahoma, Wyoming, Utah, and Kansas will hold Patricia Millett to the same standard that the circuit nominees from their home state were held to or which they expect to be held to.

Today's Washington Post editorial calls for Patricia Millett to be confirmed and concludes that Republicans "shouldn't insist on altering the size of a court only when it's a Democratic president's turn to pick judges or filibuster highly qualified nominees on that pretext." I ask unanimous consent that the editorial be printed in the RECORD.

Patricia Millett is an outstanding nominee who deserves to be treated on her merits. No argument has been lodged against her that would rise to the level of an extraordinary circumstance. If the Republican caucus finds that despite her stellar legal reputation and commitment to her country that somehow a filibuster is warranted, I believe this body will need to consider anew whether a rules change should be in order. That is not a change that I want to see happen but if Republican Senators are going to hold nominations hostage without consideration of their individual merit, drastic measures may be warranted. I hope it does not come to that. I hope that the same Senators who stepped forward to broker compromise when Republicans shut down the Government, will decide here to put politics aside and vote on the merits of this exceptional nominee. I also hope the same Senators who have said judicial nominees should not be filibustered barring extraordinary circumstances will stay true to their word.

Ten years ago John Roberts, President Bush's nominee received a voice vote by the Senate. Today President Obama's nominee to that same seat, Patricia Millett, is being filibustered. What has changed in 10 years? The caseload of that court under any measure has remained constant or gone up slightly in the past 10 years so that is just a partisan pretext.

Let us treat this extraordinary nominee based on her qualifications. Patricia Millett has honorably served this Nation for so many years and we are better off for it. I urge my fellow Senators to vote for cloture. Do not filibuster this brilliant lawyer, this military spouse, this exceptional nominee.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Oct. 30, 2013]

STRIPPING A COURT AS A POLITICAL PLOY

It would have been hard for President Obama to nominate a less controversial person to join the U. S. Court of Appeals for the District of Columbia Circuit, the second-most-important court in the land. So why are a lot of Republicans probably going to vote against moving forward with Patricia Millett's nomination on Thursday?

Ms. Millett is one of three people the president picked to fill three open slots on the

court, a high-profile perch in the judiciary that reviews weighty matters such as regulation of Wall Street and the environment. A lawyer who has extensive experience arguing cases before the Supreme Court, she has gold-plated bipartisan credentials, having served in the Justice Department under the presidencies of Bill Clinton and George W. Bush. A raft of legal luminaries has endorsed her, including conservative former solicitors general Ted Olson, Paul Clement and Kenneth Starr. Even conservative GOP senators admit she is well-qualified.

But instead of being judged on her merits, Ms. Millett may well end up a victim of a GOP campaign against allowing any more of Mr. Obama's nominees onto the D.C. Circuit. Though Republicans pushed to fill its 11 seats when George W. Bush was president, they now argue that it doesn't need more than its current eight judges, and that Mr. Obama is trying to "pack" the court. Some have backed a bill from Sen. Charles E. Grassley (R-Iowa) that would strip the court of its vacancies rather than consider the president's duly appointed picks to fill them. A war of dueling numbers on the D.C. Circuit's workload has ensued. Republicans insist that it doesn't take as many cases as other appeals courts do. Democrats respond that the D.C. Circuit must consider more complex cases than others.

But the answer doesn't matter. Even if Republicans are right, they shouldn't insist on altering the size of a court only when it's a Democratic president's turn to pick judges or filibuster highly qualified nominees on that pretext. These moves are transparently self-serving, and would encourage similar behavior by Democrats against Republican presidents.

The recent history of the confirmation process is a steady descent into unreasonable partisanship; if acted upon, the Republicans' position would be another step down. It might also provoke another unnecessary battle over Senate rules, which could reshape the chamber in ways both parties would regret.

If Republicans are genuinely concerned that the D.C. Circuit has too many slots allotted to it, the fair way to trim it down would be to limit future presidents from filling seats that come open in the next presidential term and thereafter. In the meantime, President Obama's picks deserve the same fair treatment and respect as any others. Under that standard, Ms. Millett should fly through confirmation on Thursday.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I want to illustrate why this seat doesn't need to be filled. These are the other circuits. The average of those other circuits is 383 caseloads. The DC Circuit has 149, so workload doesn't demand it.

Secondly, we are in a situation where this administration has said: "If Congress won't, I will." He is going to do it by executive order. This is a court that can rule for or against the executive orders of this administration. We need to maintain checks and balances of the government.

Also, each one of these seats costs \$1 million, and not just for 1 year, but every year for the rest of the life of those judges who are serving full time. I ask that my colleagues vote against this cloture motion.

Mr. LEAHY. Madam President, I ask unanimous consent that there be 2 more minutes equally divided.

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

Mr. LEAHY. Madam President, I am sure the Senator is concerned about costs. Yet, the same Senators blocking Patricia Millett's confirmation were not concerned when an unnecessary shutdown of the government cost the taxpayers billions of dollars.

I also note that under President Bush, there were 11 judges on the DC Circuit Court of Appeals with a lower caseload. Now there are 8 judges with a higher caseload. The numbers are the numbers.

President Obama is being treated differently than President Bush was. Patricia Millett is being treated differently than John Roberts was. It is not fair, it is not an extraordinary circumstance, and there is no justification for it.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. What that doesn't take into consideration is that there are six senior status judges on this court. Chief Judge Garland told us that their workload is the equivalent of 3¼ judges. So presently there are enough judges to go around and that would equal 11¼ judges. There are 8 judges there now plus the 3¼ that have senior status. There are plenty of reasons not to fill any more seats on this court.

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 Patricia Ann Millett, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CHAMBLISS (when his name was called). "Present."

Mr. HATCH (when his name was called). "Present."

Mr. ISAKSON (when his name was called). "Present."

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) is necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. INHOFE), the Senator from Texas (Mr. CRUZ), and the Senator from Wyoming (Mr. ENZI).

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

The result was announced—yeas 55, nays 38, as follows:

[Rollcall Vote No. 227 Ex.]

YEAS—55

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

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

NAYS—38

Alexander	Flake	Portman
Ayotte	Graham	Reid
Barrasso	Grassley	Risch
Blunt	Heller	Roberts
Boozman	Hoeben	Rubio
Burr	Johanns	Scott
Coats	Johnson (WI)	Sessions
Coburn	Kirk	Shelby
Cochran	Lee	Thune
Corker	McCain	Toomey
Cornyn	McConnell	Vitter
Crapo	Moran	Wicker
Fischer	Paul	

ANSWERED "PRESENT"—3

Chambliss	Hatch	Isakson
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NOT VOTING—4

Boxer	Enzi
Cruz	Inhofe

The PRESIDING OFFICER. On this vote, the yeas are 55, the nays are 38, and three Senators responded "Present." Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The majority leader.

Mr. REID. Madam President, I enter a motion to reconsider the vote by which cloture was not invoked on the nomination of Ms. Millett.

The PRESIDING OFFICER. The motion is entered.

VOTE EXPLANATION

• Mrs. BOXER. Madam President, I was unable to attend the rollcall vote on the motion to invoke cloture on the nomination of Patricia Ann Millett, of Virginia, to be U.S. Circuit Judge for the District of Columbia Circuit. Had I been present, I would have voted "yea."•

Mr. REID. Madam President, I ask unanimous consent that the Senate recess until 2 p.m., and that at 2 p.m. the Senate proceed to a period of morning business for debate only until 6 p.m. with Senators permitted to speak for up to 10 minutes each.

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

RECESS

The PRESIDING OFFICER. The Senate stands in recess until 2 p.m.

Thereupon, the Senate, at 12:59 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Ms. HEITKAMP).

MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Massachusetts.

CONGRATULATING THE BOSTON RED SOX

Mr. MARKEY. Madam President, I come to the floor to discuss the first

policy-focused legislation I am introducing as a Senator. I believe it will be a win for Massachusetts and a win for the Nation. But before I do so, I would like to comment briefly about another win last night for Massachusetts and for Red Sox Nation everywhere.

Behind the mighty bat of Big Papi, the tireless and tough arms of Jon Lester, John Lackey, and Koji Uehara, and the incredible power of the beard, this unlikely Red Sox team took us from last in the division to first in the world.

For many of us in Massachusetts, this was not just about baseball. Because on Patriots' Day, when the Sox play in the morning and New England comes together for a celebration, evil visited our city at the Boston Marathon this year.

While this team cannot bring back the lives we lost or heal the wounds inflicted, it did what no other team besides the Red Sox can do: It reaffirmed our common bond in Massachusetts, in New England, and with Red Sox Nation fans everywhere.

It is often said that baseball is a game of inches. But it is also a game that can span miles, bringing people together across entire communities and cultures, bridging differences and building friendships. That is what Red Sox baseball did for Boston, for Massachusetts, and for New England this year, when we needed it the most. The Red Sox gave us the chance to all raise our hands in triumph once again together as one.

The Red Sox came back to win in dozens of games. They never gave up. They fought to the last pitch in every game, showing the resilience that reflected the response of an entire city and region after the marathon tragedy, and in doing so they gave us so much more than entertainment. They gave us hope, something to cheer for, and something else to talk about at a time of deep sadness in our region.

As the song says: "Don't worry about a thing, 'cause every little thing gonna be all right." Watching the celebrations last night in and around Fenway and especially on Boylston Street, just a brief distance from the marathon finish, reminds me of how proud I am to represent this great city and the Commonwealth of Massachusetts in the Senate.

The Sox team that won the World Series in 2004 allowed us to release 86 years of disappointment. This year's team allowed us to cheer again after months of mourning. For that, we congratulate and thank the 2013 World Series champions, the Boston Red Sox.

(The remarks of Mr. MARKEY pertaining to the introduction of S. 1627 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MARKEY. I yield back the remainder of my time.

The PRESIDING OFFICER. The Republican whip.

Mr. CORNYN. Madam President, I offer my congratulations to the Senator from Massachusetts for the World