

and treating this President differently from past Presidents.

If the Republican caucus continues to abuse the filibuster rules and obstruct these fine nominees without justification, then I believe this body must consider anew whether a rules change should be in order. As I stated above, 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.

Earlier this year, nearly every single Senate Democrat pushed the Majority Leader for a rules change in the face of Republican obstruction. I was one of the few members of the majority who voiced concern about changing the Senate rules. I believe that if Republicans filibuster yet another well-qualified nominee to this court tonight, it will be a tipping point. Senate Republicans have blocked three well-qualified women in a row from receiving a confirmation vote and now they are on the brink of filibustering the next nominee, Judge Robert Wilkins. I fear that after tonight the talk about changing the cloture rules for judicial nominations will no longer be just talk. There will be action. We cannot allow this unprecedented, wholesale obstruction to continue without undermining the Senate's role provided in the Constitution and without harming our independent Federal judiciary.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired.

Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

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 Robert Leon Wilkins, of the District of Columbia, to be United States Circuit Judge for the District of Columbia Circuit.

Harry Reid, Patrick J. Leahy, Tom Udall, Mark Begich, Brian Schatz, Al Franken, Barbara Boxer, Richard J. Durbin, Christopher A. Coons, Tammy Baldwin, Debbie Stabenow, Benjamin L. Cardin, Sheldon Whitehouse, Patty Murray, Barbara A. Mikulski, Kirsten E. Gillibrand, Tom Harkin.

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 Robert Leon Wilkins, of the District of Columbia, 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. HATCH (when his name was called). "Present."

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Virginia (Mr. WARNER), are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Florida (Mr. RUBIO), and the Senator from Louisiana (Mr. VITTER).

The yeas and nays resulted—yeas 53, nays 38, as follows:

[Rollcall Vote No. 235 Ex.]

YEAS—53

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

NAYS—38

Alexander	Enzi	Moran
Ayotte	Fischer	Paul
Barrasso	Flake	Portman
Boozman	Grassley	Reid
Burr	Heller	Risch
Chambliss	Hoeven	Roberts
Coats	Inhofe	Scott
Coburn	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Corker	Kirk	Thune
Cornyn	Lee	Toomey
Crapo	McCain	Wicker
Cruz	McConnell	

ANSWERED "PRESENT"—1

Hatch

NOT VOTING—8

Begich	Isakson	Vitter
Blunt	Landrieu	Warner
Graham	Rubio	

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 38. One Senator responded "Present." Three-fifths of the Senators duly chosen and sworn not having 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 Wilkins nomination.

The PRESIDING OFFICER. The motion is entered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014—MOTION TO PROCEED—Continued

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the

Senate the pending cloture motion, which the clerk will report.

The 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. 91, S. 1197, a bill to authorize appropriations for fiscal year 2014 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Harry Reid, Carl Levin, Jack Reed, Angus S. King, Jr., Mark Begich, Richard Blumenthal, Benjamin L. Cardin, Tim Kaine, Christopher A. Coons, Tom Udall, Sheldon Whitehouse, Bill Nelson, Joe Manchin III, Mark R. Warner, Debbie Stabenow, Amy Klobuchar, Richard J. Durbin.

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 motion to proceed to S. 1197, a bill to authorize appropriations for fiscal year 2014 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, 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), and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from Georgia (Mr. CHAMBLISS), the Senator from South Carolina (Mr. GRAHAM), the Senator from Georgia (Mr. ISAKSON), the Senator from Florida (Mr. RUBIO), and the Senator from Louisiana (Mr. VITTER).

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

The yeas and nays resulted—yeas 91, nays 0, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—91

Alexander	Coons	Hirono
Ayotte	Corker	Hoeven
Baldwin	Cornyn	Inhofe
Barrasso	Crapo	Johanns
Baucus	Cruz	Johnson (SD)
Bennet	Donnelly	Johnson (WI)
Blumenthal	Durbin	Kaine
Booker	Enzi	King
Boozman	Feinstein	Kirk
Boxer	Fischer	Klobuchar
Brown	Flake	Leahy
Burr	Franken	Lee
Cantwell	Gillibrand	Levin
Cardin	Grassley	Manchin
Carper	Hagan	Markey
Casey	Harkin	McCain
Coats	Hatch	McCaskill
Coburn	Heinrich	McConnell
Cochran	Heitkamp	Menendez
Collins	Heller	Merkley

Mikulski	Risch	Tester
Moran	Roberts	Thune
Murkowski	Rockefeller	Toomey
Murphy	Sanders	Udall (CO)
Murray	Schatz	Udall (NM)
Nelson	Schumer	Warren
Paul	Scott	Whitehouse
Portman	Sessions	Wicker
Pryor	Shaheen	Wyden
Reed	Shelby	
Reid	Stabenow	

NOT VOTING—9

Begich	Graham	Rubio
Blunt	Isakson	Vitter
Chambliss	Landrieu	Warner

The PRESIDING OFFICER. On this vote, the yeas are 91 and the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the first amendments in order to S. 1197, the Defense authorization bill, be the following two amendments. First, an editorial comment. These are two very important amendments that I think we should resolve. The Guantanamo amendment—I think most all Democrats accept what is in the bill. The White House accepts what is in the bill. The Republicans and a few others want to change what is in the bill. We should have debate and a vote on that. I think that is appropriate. Gillibrand—that is an amendment that has received a lot of attention, and we should have that debate now. It has received nationwide attention.

So let's start over. The reason I mentioned these two, and these two only, tonight—I ask unanimous consent that the first amendments in order to S. 1197 be the following: the Republican leader or designee relative to Guantanamo and Gillibrand or designee relative to sexual assault; that each amendment be subject to one side-by-side amendment relevant to the amendment it is paired with; that a McCaskill-Ayotte amendment be considered the side-by-side to the Gillibrand amendment and the majority leader or designee have the side-by-side to the Republican Guantanamo amendment; that no second-degree amendments be in order to any of these amendments; that each of these amendments and any side-by-side be subject to a 60-affirmative vote threshold; that each side-by-side amendment be voted on prior to the amendment to which they were offered; further, that no motions to recommit be in order during the consideration of the bill; finally, that upon disposition of these amendments, I be recognized.

The PRESIDING OFFICER. Is there objection?

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, reserving the right to object, let me first say to my good friend the leader that I wholeheartedly agree that arguably the two most significant amendments and most controversial amendments that have to be addressed would be on Guantanamo and then, of course, the Gillibrand amendment on sexual as-

sault. I think we probably have different views and positions, but I think we agree that these need to be addressed immediately.

My wish has been that we could do that and line up some of the other amendments but at the same time put ourselves in a position where we could have open amendments on our side. There is a great demand in our conference to have open amendments. I would like to get to the point where we could do that and have them somehow regulated so that they be relative to the subject matter of the bill, S. 1197.

So that would be my concern, and for that reason I would object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. REID. Mr. President, I hope we can work on additional amendments beyond these two after they are disposed of. It is an important bill. We need to finish it before we leave here this week, and it is a big task to do that. It is my understanding that Senator LEVIN, working with the ranking member, has already had some serious conversations about how to move forward, conferencing, pre-conferencing, and even though the ranking member has been indisposed because of a medical condition that lasted just a short period of time, he has been in touch with his staff and Senator LEVIN on almost a daily basis. So I hope we can move beyond these two amendments. I would sure like to get these two amendments out of the way as soon as possible.

As far as an open amendment process, I think that was then and we are here now. I am not sure that is going to happen on this bill. If we could work something out for a finite list of amendments or something that could help us get this done, I would be happy to be as reasonable as I can.

Mr. LEVIN. Mr. President, would the majority leader yield?

Mr. REID. Of course.

Mr. LEVIN. The majority leader has said we have to finish this bill this week. If we can't make progress on amendments that we agree should be called up and are important amendments—one coming basically from each side, even though there will probably be votes from each side for and against these amendments—if we can't make progress on these amendments where everyone seems to agree we ought to start moving, I am worried about the prospects of finishing this week. Frankly, I am worried anyway. I am very much worried. It has to happen. We have to finish this week or else we can't get to conference. We have to get to conference and then come back. So I hope that in the morning perhaps the majority leader might renew that unanimous consent request because the objection to it is going to make it less likely we can get our bill passed.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, to the senior Senator from Michigan, the chair-

man of this most prestigious and important committee, what I think would be a real shame is if we wind up having to file cloture on the bill as it is written. I know the committee did great work. They worked very hard, and the vast majority of the time they did it on a bipartisan basis to get the bill to where it is now. It would be a shame to have to file cloture on the bill itself. I would hope that if we have to do that, we can get cloture on it and get on with the conference. But I am very troubled. Today is Monday, and I would be happy to renew my request as soon as I get here in the morning, but I would hope that the people who are working on these two important pieces of legislation at the very least would come and start talking about them. Everyone knows what the amendments are. They may not be able to pass a test on every word in the amendments, but we know the concept of the amendments. Let them come and start talking about these amendments. To this stage, they have been negotiated and debated in the press. Let's debate them here on the Senate floor.

Mr. INHOFE. Would the leader yield?

Mr. REID. I would be happy to yield for a question.

Mr. INHOFE. I hope the leader is aware that I have just as strong feelings about these amendments. It is a starting place. And the leader said we need to be talking about it. I came down today and talked about both of these amendments at some length.

While I say we may not be in agreement with the amendments, they need to be debated. Historically, every year since I have been here, I say through the Chair, we have had a lot of amendments. We have always been able to get it through—50, 51 years—Mr. REID. It was 52, I think.

Mr. INHOFE. Fifty-two, and we are going to do it this time and I hope satisfy some of the concerns in our caucus at the same time.

I thank the leader for his comments, and I want him to know we are in agreement on getting to these amendments.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, before I yield to my friend from Michigan, there are things in this bill that are not resolved in the Defense appropriations bill that authorize things to be done in the military that can only be done by authorizing them. So I myself am very concerned about being able to move forward on this bill. We do not live in a vacuum. We have to work something out with the appropriate committees in the House of Representatives and then have both the House and the Senate vote. That is what conferences are all about. Time is of the essence.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senator from Oklahoma, my ranking member, the ranking member on

Armed Services, because I know how much he wants to get to this bill. I do not understand the objection that I know is not his personally but comes from his side. I do not understand how we are advancing this bill and advancing the cause of reaching debate on amendments on this bill by objecting to move to the amendments that I think everybody wants to debate. I do not understand how that advances any cause. I know this is not the approach of the Senator from Oklahoma. We have a very bipartisan committee.

Anyway, I will leave it at that. I hope in the morning we can find a way to do what I think everybody says they want to do, which is to begin an amendment process on this bill.

I want to end by again thanking him. He has not only had his personal health issue, but, as the majority leader and all of us know in this body, he has had a very tragic loss, and he is working very hard through that. We doubly and triply appreciate his service to this body and his bipartisan work on the Armed Services Committee. It is invaluable. I don't want anything that I say tonight about being frustrated that we cannot start debate on two amendments that everybody wants to debate in any way to imply anything other than a very positive relationship that we have.

Mr. REID. Reclaiming my time, I ask unanimous consent to yield back all postcloture time.

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

The question is on the motion to proceed.

The motion was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2014

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1197) to authorize appropriations for fiscal year 2014 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

AMENDMENT NO. 2123

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. On behalf of Senator LEVIN, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for Mr. LEVIN, for himself and Mr. INHOFE, proposes an amendment numbered 2123.

The amendment is as follows:

(Purpose: To increase to \$5,000,000,000 the ceiling on the general transfer authority of the Department of Defense)

On page 310, line 14, strike "\$4,000,000,000" and insert "\$5,000,000,000".

Mr. REID. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2124 TO AMENDMENT NO. 2123

Mr. REID. Mr. President, on behalf of Senator LEVIN, I have an amendment at the desk. I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. LEVIN, for himself and Mr. INHOFE, proposes an amendment numbered 2124 to amendment No. 2123.

The amendment is as follows:

(Purpose: To improve the amendment)

On page 1, line 2, strike "\$5,000,000,000" and insert "\$5,000,000,001".

Mr. REID. I have a motion to recommit S. 1197 with instructions.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] moves to recommit the bill to the Committee on Armed Services with instructions to report back forthwith with the following amendment, No. 2125.

The amendment is as follows:

At the end, add the following:

This Act shall become effective 3 days after enactment.

Mr. REID. On that motion, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2126

Mr. REID. I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], proposes an amendment numbered 2126 to the instructions of the motion to recommit.

The amendment is as follows:

In the amendment, strike "3 days" and insert "2 days".

Mr. REID. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2127 TO AMENDMENT NO. 2126

Mr. REID. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], proposes an amendment numbered 2127 to amendment No. 2126.

The amendment is as follows:

In the amendment, strike "2 days" and insert "1 day".

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we proceed to a period of morning business, with Senators permitted to speak for 10 minutes each until 8 o'clock this evening, and

as I thought I said, Mr. President, this will be for debate only.

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

The Senator from California.

Mrs. BOXER. Mr. President, what we have just seen on this floor tonight is just more and more of the same obstruction. This is now the fourth DC Circuit judge the Republicans have filibustered. That means they have not allowed us to have an up-or-down vote.

I am not going to go into the qualifications of these people; they are stellar. We will have more time to debate that. But it is extraordinary. We never heard that the DC court should become a smaller court when George Bush was President, or any other President. Now, all of a sudden they want to shrink the court when, in fact, this is probably—I would say it is the most important circuit in the country, and it has a very important caseload.

First we see that obstructionism, the filibuster of the court nominees, and then we see my dear friend the ranking member of the Armed Services Committee I think reluctantly object to moving forward with two amendments that are essential to the bill. There are two amendments; one has to do with Guantanamo, one has to do with sexual assault in the military.

My friend from Oklahoma, representing the Republicans, said: We want an open amendment process. Just so people know what that means, when someone says: We want an open amendment process, it means they want to offer amendments that have nothing to do with the Defense bill, to this particular bill. Again, we are stymied.

I was just home. People are saying: Why don't you guys get along? Why don't you get things done?

We are trying. We did not have one Democrat filibuster the judges. We didn't have one Democrat oppose moving forward with two critical amendments.

Mr. President, we see obstructionism here from my Republican friends. They are my friends. They are my friends, but I do not get this. This is a military bill. This is a dangerous world. We are bringing our troops back from hot spots around the world. They are still in great danger. We have sexual assault in the military that I am going to talk about that is rampant. We have so many issues we want to address. Yet we hear objection.

We can only hope that in the light of day tomorrow, cooler heads will prevail and we can begin debating and voting on these critical amendments. It is puzzling. It took us days and days to do the compounding bill, which is a bill necessary to make sure the pharmaceutical outlets that compound drugs are safe. It passed the House. It is uncontroversial—days and days because a Senator wants to talk about the health care of Members of Congress.

We better start doing the work of the people because that is why we are here.