

the 92 million Americans who are not working right now and to all the working men and women struggling to just put food on the table to feed their kids. This Executive amnesty is profoundly unfair, especially to the African-American community, which is facing historic unemployment.

If Congress acquiesces and does not stand up and assert the prerogative of this institution to legislate, to pass laws, and prevent the President from ignoring the laws on the books, then we will have ceded our authority not just on immigration but across the field.

It is incumbent on all of us to defend the Constitution, and it is my hope that the Senators who take an oath to uphold the Constitution will honor that oath more than party allegiances.

I will note that in recent weeks no fewer than a dozen Democratic Senators have publicly criticized President Obama's illegal Executive amnesty. I welcome that criticism. It is nice to see that sort of candor coming from Democratic Senators, but, as my wife is fond of telling me, talk is cheap. If those dozen Democratic Senators who criticized President Obama's Executive amnesty as illegal and unconstitutional mean what they say, then the only responsible action is to use our legislative authority to stop it.

I hope my Democratic colleagues will put partisan politics aside—even those who may agree with President Obama's amnesty—and say that the way to change the immigration laws is to work with Congress and compromise. You may not get everything you want, but we have a system of checks and balances.

It is striking—in many ways the simplest and best explanation of what the President has done came from "Saturday Night Live." The week after the President's illegal amnesty, "Saturday Night Live" reprised the classic "Schoolhouse Rock—How a Bill Becomes a Law." They had a giant dancing, singing bill come out and say: "First I go to the House, then I go to the Senate, and if I'm lucky, the President will sign me and I become a law." Then on "Saturday Night Live," President Obama walked out onto the steps of the Capitol and pushed the bill down the steps of the Capitol. He pushed the bill down the steps of the Capitol four separate times, and then out walked an Executive order smoking a cigarette, as it so happens, and it simply said: "I'm an Executive order. I pretty much just happen."

Do you know what? "Saturday Night Live" is exactly right. The President is ignoring the basic checks and balances of our Constitution and trying instead to decree the law. That is unconstitutional, and a portion of this bill that has been sent over from the House of Representatives funds the Department of Homeland Security to carry out that unconstitutional action.

Therefore, Madam President, I am now offering and raising a constitu-

tional point of order against division L of this bill on the grounds that it violates the following provisions of the Constitution: the separation of powers embodied in the vesting clauses of Article I, Section 1 and Article II, Section 1; the enumerated powers of Congress stated in Article I, Section 8; and the requirement that the President take care that the laws be faithfully executed, as stated in Article II, Section 3.

It is incumbent on this body to resolve those constitutional questions and to honor and protect the constitutional authority of the United States Congress.

The PRESIDING OFFICER (Ms. WARREN). Is the Senator raising the point of order at this time?

Mr. CRUZ. I am.

The PRESIDING OFFICER. At this time, a motion to refer is pending barring other actions on the measure.

Mr. CRUZ. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. REID. I appreciate everyone's patience. You have all been waiting.

I ask unanimous consent that at 5 p.m., Monday, December 15, the Senate proceed to vote on the motion to invoke cloture on the motion to concur in the House amendment to the Senate amendment to H.R. 83; that if cloture is invoked, there be 30 minutes postcloture debate time remaining on the motion to concur.

The PRESIDING OFFICER. Is there objection?

Mr. LEE. Madam President, reserving the right to object. The American people have grave concerns with the President's decision to take action unilaterally with regard to Executive amnesty. This is an action that is rather unprecedented and rather unsupported by law, notwithstanding the President's insistence to the contrary. It is an issue that is of concern to a great many people.

Right now we are being asked to punt all of our activity until Monday at 5 p.m. I don't see any reason to do this. I don't see any reason why the Senate should suspend its operations while the American people are waiting for us to act. I don't see any reason why we should wait until Monday at 5 p.m. I certainly don't see any reason why we should agree to move forward then and not have any assurance that we would at least have an opportunity to vote on an amendment that would impose a spending limitation on the President's ability to implement his Executive amnesty action.

I would respectfully request that the majority leader modify his request and that he modify his request to assure us that we would receive a vote on a

spending limitation amendment that we could have in connection with the CR/omnibus when we reconvene.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I am unable to do that.

Mr. LEE. In that case, I object.

The PRESIDING OFFICER. Objection is heard.

MORNING BUSINESS

FOIA IMPROVEMENT ACT

Mr. LEAHY. Madam President, I am deeply disappointed that last night the House failed to pass the FOIA Improvement Act. This bipartisan bill was reported unanimously by the Senate Judiciary Committee last month, and it was the product of months of hard work by Senator CORNYN and me. Our bill is supported by more than 70 public interest groups that advocate for government transparency, and it passed out of the Senate unanimously. I would think that Members of the House Republican leadership, who have spent so much time on oversight of the Obama administration, would support the goal of making government more accountable and transparent, but instead of supporting this bill, they have chosen secrecy over sunlight.

The FOIA Improvement Act would codify what the President laid out in his historic Executive order in 2009 by requiring Federal agencies to adopt a "presumption of openness" when considering the release of government information under FOIA. This bill would require agencies to find a foreseeable harm if they want to withhold information from the public. Prioritizing the people's interest in what their government is doing, our bill will reduce the overuse of exemptions to withhold information. Federal agencies have been required to apply this standard since 2009. They also used this same standard during President Clinton's terms in office. It was only during President George W. Bush's term of secrecy that this standard was rolled back. It appears the House leadership wants to return to that era. It should not matter who is in the White House, information about what their government is doing belongs to the people.

In a political climate as divided as this, I had hoped that we could come together in favor of something as fundamental to our democracy as the public's right to know, that government transparency and openness would not just be the standard applied to the Obama administration but what is applied to every future administration. The FOIA Improvement Act would have done just that.

SUCCESSFUL EFFORTS TO ADDRESS CYBER BULLYING

Mr. LEAHY. Madam President, I want to take a moment to share with the Senate one successful story coming out of Vermont.