

SENATE RESOLUTION 66—EXPRESSING SUPPORT FOR THE DESIGNATION OF FEBRUARY 12, 2015, AS “DARWIN DAY” AND RECOGNIZING THE IMPORTANCE OF SCIENCE IN THE BETTERMENT OF HUMANITY

Mr. BLUMENTHAL submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 66

Whereas Charles Darwin developed the theory of evolution by the mechanism of natural selection, which, together with the monumental amount of scientific evidence Charles Darwin compiled to support the theory, provides humanity with a logical and intellectually compelling explanation for the diversity of life on Earth;

Whereas the validity of the theory of evolution by natural selection developed by Charles Darwin is further strongly supported by the modern understanding of the science of genetics;

Whereas it has been the human curiosity and ingenuity exemplified by Charles Darwin that has promoted new scientific discoveries that have helped humanity solve many problems and improve living conditions;

Whereas the advancement of science must be protected from those unconcerned with the adverse impacts of global warming and climate change;

Whereas the teaching of creationism in some public schools compromises the scientific and academic integrity of the education systems of the United States;

Whereas Charles Darwin is a worthy symbol of scientific advancement on which to focus and around which to build a global celebration of science and humanity intended to promote a common bond among all the people of the Earth; and

Whereas February 12, 2015, is the anniversary of the birth of Charles Darwin in 1809 and would be an appropriate date to designate as “Darwin Day”: Now, therefore, be it

Resolved, That the Senate—

(1) supports the designation of “Darwin Day”; and

(2) recognizes Charles Darwin as a worthy symbol on which to celebrate the achievements of reason, science, and the advancement of human knowledge.

SENATE RESOLUTION 67—AMENDING RULE XXII OF THE STANDING RULES OF THE SENATE TO REVISE THE NUMBER OF AFFIRMATIVE VOTES REQUIRED TO END DEBATE ON NOMINATIONS

Mr. ALEXANDER (for himself and Mr. LEE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 67

Resolved,

SECTION 1. CLOTURE RULE.

The second undesignated subparagraph of paragraph 2 of rule XXII of the Standing Rules of the Senate is amended by striking “And if that question” and all that follows through “disposed of.” and inserting the following: “If the question is decided in the affirmative in the case of a nomination on the Executive Calendar by a majority of the Senators duly chosen and sworn; in the case of a measure or motion to amend the Senate rules by two-thirds of the Senators present and voting; and in the case of any other

measure, motion, or matter, by three-fifths of the Senators duly chosen and sworn, then the foregoing measure, motion or matter pending before the Senate, or the unfinished business, upon which the question was decided in the affirmative shall be the unfinished business to the exclusion of all other business until disposed of.”.

Mr. ALEXANDER. Mr. President, I am especially pleased to see that the Senator from Utah is presiding this afternoon because I come to the floor today to offer a resolution which is his inspiration, really, and on which I am pleased to be working with him.

Simply put, this is a resolution to establish a majority vote on Presidential nominations. This would establish by rule the Senate tradition of approving Presidential nominations by a simple majority vote. The rules change we propose would establish by rule this tradition of approving Presidential nominations of Cabinet Members and judges by a simple majority vote, which existed from the time Thomas Jefferson wrote the rules in 1789 until 2003, when Democrats began filibustering Federal Circuit Court of Appeals nominees.

Most importantly, it would change the rules in the right way, through a two-thirds vote, which is what the existing rules of the Senate provide. Unfortunately, on November 21, 2013, Democrats broke the Senate rules without even attempting to get the 67 votes required to change the rules, which caused former Senator Carl Levin, a Democrat from Michigan, to say at the time, quoting former Senator Arthur Vandenberg of Michigan, that “if a majority of the Senate can change its rules at any time, there are no rules.” We are the Nation’s rule-making body. If we cannot follow our own rules, how can we expect the American people to show respect for and follow the rules we help to create?

The proposal Senator LEE and I have made will be considered by the Senate Committee on Rules and Administration, according to the Senator from Missouri, Senator BLUNT, the chairman of the Rules Committee. It would ultimately require a two-thirds vote of the Senate to change the Senate rules. This all has to do with the so-called nuclear option.

If I might say an additional word about the so-called nuclear option, I came to the Senate in 2003, which was when our Democratic friends decided they would use cloture, which requires 60 votes to cut off debate, as a way of denying a Presidential nomination on a Federal circuit judge. It had never in the history of the Senate been used before in that way. Cloture had been used twice, I believe, based on my research, to deny a sub-Cabinet member a position in the 1990s, but that was the first time it had ever been used on any such position with the exception of Abe Fortas.

It is important, given all the misinformation that has been spread about the nuclear option, to know what the facts are. The tradition has always

been in the Senate that Presidential nominations deserved an up-or-down, 51-majority vote. That has basically been the tradition. Even with the most controversial nominations, such as that of Clarence Thomas, the Supreme Court Justice—I believe the vote was 52 to 48—there never was a suggestion that someone might use cloture to require it to be 60 votes. Cloture didn’t apply to nominations until 1949, so it was never used between the time Jefferson wrote the rules at the beginning of the Senate and 1949.

It was first used in 1968, but not really. President Johnson was trying to save face for Abe Fortas, his friend who was a Supreme Court Justice. He had nominated him for Chief Justice. A problem came out, and President Johnson engineered a 45-to-43 cloture vote, which Fortas “won.”

That is really the only exception in the whole history of the Senate until 2003, when the Senate said it is going to take 60 votes to confirm a Presidential nomination for a judge rather than the traditional 51.

I have talked to several of my colleagues on the other side about this issue. They are fairly straightforward about why they did it. They thought President George W. Bush’s nominees were “too conservative.”

I knew some of those judges—Judge Pickering of Mississippi, for example. He put his children into a public school in Mississippi in the 1960s, and he was being accused of being a segregationist when he was actually leading the charge in his State of Mississippi to desegregate the public schools.

William Pryor of Alabama was a law clerk for Judge John Minor Wisdom. I know the distinguished Senator from Utah, who was a Supreme Court law clerk, knows of Judge Wisdom. He was regarded by everyone as one of the finest Federal circuit judges in the country. He had the greatest respect for William Pryor. He would have been shocked to hear what was said about him at the time.

It was a shocking thing to me to arrive in the Senate in 2003 and find my friends on the other side of the aisle for the first time in Senate history saying it would take 60 votes to confirm President Bush’s judges. I strongly objected to that. I even suggested that if a few Senators on this side and a few Senators on that side would work together, we could break the stalemate. A Gang of 14 was created. It did break the stalemate, but as a result, five judges nominated by George W. Bush were not confirmed because the other side decided they didn’t like their philosophical views. So instead of a 51-vote margin, they required 60, and so they weren’t confirmed.

This is the tally in the history of the Senate. The number of Supreme Court nominees in the history of our country who have ever had their nomination denied by filibuster, by a cloture vote, is zero, with the exception of the Fortas nomination, if you want to