

proud of what his presence in this Capitol Building represents about our Nation's vital role in NATO and NATO's vital role in the world.

NOMINATIONS

Mr. McCONNELL. Mr. President, now on an entirely different matter, the comprehensive campaign by Senate Democrats to delay Senate consideration of Presidential nominations is now more than 2 years old. As I have explained in recent days, it is time for this sorry chapter to end. It is time to return this body to a more normal and reasonable process for fulfilling its constitutional responsibilities, no matter which party controls the White House.

The Senate had to hold 128 cloture votes on nominations during President Trump's first 2 years. That is 128, more than 5 times as many as the equivalent period for the previous 6 Presidents combined.

Now, 42 of those 128 were for positions that had never, in the past, required cloture votes, like the Assistant Secretary of Health and Human Services, the General Counsel at the Department of Agriculture, or the Ambassador to Luxembourg. It is not a thoughtful investigation of a few highly controversial nominees and not a principled opposition in some rare circumstances. These are part and parcel of Senate tradition.

But grinding, across-the-board systematic obstruction, under threat of filibuster, sparing not even individuals whom literally zero Senators opposed in the end—this is new. This is new, and it needs to stop.

Well-qualified civil servants, academic and business experts, and exemplary jurists with broad bipartisan support are all subjected to weeks, if not months and months, of pointless delays, and then pointless cloture votes tying up floor time, not because a real debate was happening, not because there is real due diligence requiring months of delay but just because our colleagues across the aisle have chosen to endlessly relitigate the 2016 election rather than actually participate in governing, just because they wish our President were not our President.

The Department of the Interior has waited 631 days since President Trump first nominated an Assistant Secretary for Policy, Management and Budget. That is 631 days. Her nomination was voice-voted out of committee. After months of inaction, it had to be sent back at the end of Congress last year.

The Millennium Challenge Corporation has waited 450 days since its CEO was nominated, and it has been more than a year since the President nominated a chair for the Advisory Council on Historic Preservation. None of these are front-page news, just normal positions the President has been trying to fill. In each case and in hundreds of others, Democrats have made sure those chairs stayed emptied for far too long.

This systematic obstruction is unfair to our duly elected President, and, more importantly, it is disrespectful—disrespectful to the American people who deserve the government they elected. The American people deserve the government they elected.

This problem goes deeper than today. We are talking about the future of this very institution and the future functioning of our constitutional government. This practice is laying the foundation for a dangerous new norm. We cannot set this new precedent that the Senate minorities will systematically keep an administration understaffed, down to the least controversial nominees, anytime they wish somebody else had won the election.

We need to act. We need to act. We need to act so that in its third year, the current administration can finally get more of its team in place. We need to act to repair the institutional legacy we are leaving and restore a functional nominations process for future administrations of both parties.

For most of the storied history of this institution, the traditions that govern the Senate have combined two distinct things—on legislation, an iron-clad commitment to robust minority rights, including extensive debate and the filibuster, and on nominations, a reasonable process for considering the individuals the President sends us.

So let me be absolutely clear. The legislative filibuster is central to the nature of the Senate. It always has been and must always be the distinctive quality of this institution. In the U.S. Senate, dissenting voices retain considerable power to shape the debate on legislation. Pivotal moments have hinged on the strong convictions of a minority that has urged caution or insisted on an amendment.

I know many of our colleagues on both sides share my view that this part of the Senate's DNA must never be put in jeopardy or sacrificed to serve either side's momentary partisan whims. In fact, during the last Congress, 61 of our colleagues from both sides of the aisle signed an open letter making their commitment to the legislative filibuster abundantly clear.

I know many of us were disturbed to read this week in the Washington Post that far-left activists are pushing “an abolish-the-filibuster litmus test on the presidential campaign trail, and quite a few of the 2020 aspirants have at least signaled a willingness to consider it.” I am glad that many of my Democratic colleagues are on the record opposing such a shortsighted disaster championed by the far left. The commitment of both sides to preserving the legislative filibuster is not just a historical matter. It is also very practical. Neither party is particularly keen to see the other side enact its entire, full-bore legislative wish list the next time they obtain 51 votes.

Republicans don't want Democrats to enact an entire leftwing agenda with 51 votes, and Democrats certainly don't

want Republicans to enact every last part of our conservative agenda with a mere 51 votes. What they are not thinking about is when the shoe is on the other foot. When the shoe is on the other foot, and Republicans have a simple majority of 51, and there is no legislative filibuster, what would happen? They are only thinking about how it might enable them, but not thinking ahead to the next time the shoe is on the other foot. In fact, I remember that in 2013 I said, when our colleagues on the other side insisted on going to a simple 51 votes on the executive calendar: You might not like what happens when the shoe is on the other fellow's foot.

I would keep in mind—I would say to my friends on the far left: Think about what might happen the next time the people who are not for it have 51 votes. We all know that both parties will possess future 51-vote majorities somewhere down the line. It will happen.

The Senate's long traditions on legislation therefore need to remain in place. But what we are discussing this week is restoring the different traditions concerning nominations. The tradition here is entirely different. There is no long tradition—none—of what amount to mass filibusters of personnel for administrations. There is no tradition of systematic, grinding delays under threats of filibuster that extend even to nominees whom nobody opposes. All of this is new. Until my Democratic colleagues started us down this road in 2003—this began in the first administration of George W. Bush—routine systematic filibusters of nominations were a foreign thing. It just wasn't done.

So we need to recover Senate tradition. The effort we will make later today is about getting us back to what the tradition in the Senate was for a couple of hundred years, down to the Bush 43 first term.

Yesterday, we had a chance to do just that, working across the aisle and through the same process that we overwhelmingly agreed to with President Obama. But—stop me if you have heard this one before—Senate Democrats chose obstruction instead.

Never mind that in 2013, a bipartisan majority, including many Republicans, passed a similar measure that immediately benefited the Obama administration. In other words, to help President Obama, a significant number of Republicans joined with all of the Democrats in 2013 to do something almost exactly like what we will be proposing later today. He had just gotten reelected. Do you think we were happy about that? We weren't. But we thought the Executive Calendar should be expedited for these kinds of nominations that we are discussing today.

Never mind that the same Democrats who opposed this measure yesterday have whispered in the ear to many of us, including the occupant of the Chair, that they would be more than happy to support this, provided it didn't take effect until 2021. They are more than

happy to support it, provided it doesn't take effect until 2021. Well, that certainly concedes the reasonableness of what we are going to achieve later today.

Because bringing the Senate nomination process permanently back to Earth right now would help the Republican administration, they weren't interested in doing the right thing—what they did in 2013, what they are whispering in our ears now: Oh, no, we cannot do it now because we don't like who is in the White House.

Republicans remain committed to reform. Look at the nomination currently before us—a textbook case study on the shameful state of the current process. Jeffrey Kessler of Virginia was first nominated as Assistant Secretary of Commerce in November of 2017. It took 7 months before Democrats on the Finance Committee allowed his nomination to be considered. When it was, he was reported out on a unanimous vote. Nobody opposed him in the Finance Committee.

The familiar story continues—another 6 months of inaction. The nomination was sent back to the White House at the end of the last Congress. So the process started all over again. This time he got a voice vote out of the Finance Committee. Everybody just said aye. Yet here on the floor, inexplicably, it still required a cloture motion to break through the obstruction and give this nominee, whom no one voted against, a vote.

Later today, it appears that at long last we will be able to take action to finally advance Mr. Kessler's nomination, to do the responsible thing, to begin to unwind this partisan paralysis for the good of the Senate and for the future of the constitutional order each of us has pledged to protect.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Jeffrey Kessler, of Virginia, to be an Assistant Secretary of Commerce.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the time until 2

p.m. will be equally divided between the two leaders or their designees.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

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

S. RES. 50

Mr. THUNE. Yesterday afternoon, Senate Democrats voted against a rules change that would have reduced needless delay in the Senate and ensure that future Presidents of both parties could staff their administrations in a timely fashion.

Democrats chose partisanship over principle and political advantage over the well-being of the Senate. How do I know that this was a partisan decision on Democrats' part and not a principled one? Because 34 currently serving Members of the Democratic caucus supported a very similar rules change measure when President Obama was in office. Yet not one Member—not one Member of the Democratic caucus—voted in favor of the rules change yesterday.

Worse, privately, many Democrats had indicated a willingness to support the rules change but only if the effective date were pushed to 2021, when Democrats hope they will have a Democrat in the White House. Apparently, it is reasonable for Democratic administrations to be staffed up in a timely fashion, but Republican administrations should have to suffer endless partisan delays. That is a pretty offensive position.

It is disrespectful to the American people, who deserve a fully staffed administration, even when their choice of President isn't the Democrats' choice. It is disrespectful of our system of government.

Democrats apparently think the system should be rigged in favor of their party, no matter what election results say. Don't like the fact that a Republican President got to choose Supreme Court Justices? Pack the courts. Don't like the fact that your candidate didn't win the election? Change our electoral system.

In a democracy, you win some elections and you lose some elections. Sometimes you like the individual in the White House, and sometimes you don't. Sometimes you succeed in passing your legislation, and sometimes you just don't have the votes. That is the nature of life in a democracy.

No one likes being in the minority. It is not fun to lose votes or elections, but that is the price of freedom. That is the price of democracy.

The other option is for one party to try to rig the system in its favor so that everything goes its way no matter what election results say. There is a name for that. It is called tyranny.

Back in 2013, a majority of Republicans, including the Republican leader and me, supported a rules change to streamline the process of approving lower level administration nominees, such as district court judges and assistant secretaries. We voted for this rules change even though we knew it would benefit only President Obama since it would expire at the end of the 113th Congress, but we signed on because we supported the principle behind the change. We believed that Presidents should be able to staff their administrations in a timely fashion, yes, even if they weren't Presidents from our party. We believed that whether the President was a Republican or Democrat, the American people deserved a fully functioning executive branch. So we worked with Democrats to streamline consideration of lower level administration nominees.

I am deeply disappointed that Democrats chose to betray their principles yesterday for short-term partisan gain, and I hope the Democrats here in the Senate will think better of their vote and work with Republicans to speed up consideration of lower level nominees before Democrats' historic level of obstruction becomes a permanent standard here in the U.S. Senate.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ROMNEY). Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I am going to use my time on the Senate floor to address two related subjects.

The Republican leader is reportedly on the verge of going nuclear to speed through the confirmation of more far-right nominees. He says Democrats are guilty of extreme, unprecedented obstruction, and he claims that his hand has been forced and that is why he is required to change the Senate rules. In the real world, I want to make clear that I believe the facts tell a different story, and I am going to lay out briefly why I think this is the wrong way to go.

When you look at the numbers, you see that the Republican leader's argument is a fantasy. Let's look at judges, and let's compare the Trump administration to the Obama administration. The Obama administration started with 53 judicial vacancies; the Trump administration started with 112. That increase didn't occur because a whole lot of judges somehow magically qualified for Social Security and quit sometime in 2016; it was because Republicans blocked nominees for years at a time, and they kept those seats open. Senate Republicans even blocked their own judicial selections during the previous administration. Put your arms