

them. There are 47 of these guys over here who are not toothless when it comes to district judges.

So this is not a bad day for the Senate; this is a day we end this completely outrageous level of interference and obstruction with this administration. I don't think anybody ought to be seized with guilt over any institutional damage being done to the Senate.

## POINT OF ORDER

Mr. President, I raise a point of order that postcloture time under rule XXII for all executive branch nominations other than a position at level 1 of the Executive Schedule under section 5312 of title 5 of the United States Code is 2 hours.

The PRESIDING OFFICER (Mr. COTTON). Under rule XXII of the Standing Rules of the Senate, the point of order is not sustained.

## APPEAL RULING OF THE CHAIR

Mr. McCONNELL. Mr. President, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Shall the decision of the Chair stand as the judgment of the Senate?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) is necessarily absent.

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

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 59 Ex.]

## YEAS—48

Baldwin	Hassan	Reed
Bennet	Heinrich	Rosen
Blumenthal	Hirono	Sanders
Booker	Jones	Schatz
Brown	Kaine	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Sinema
Carper	Leahy	Smith
Casey	Lee	Stabenow
Collins	Manchin	Tester
Coons	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Whitehouse
Gillibrand	Peters	Wyden

## NAYS—51

Alexander	Fischer	Perdue
Barrasso	Gardner	Portman
Blackburn	Graham	Risch
Blunt	Grassley	Roberts
Boozman	Hawley	Romney
Braun	Hoehn	Rounds
Burr	Hyde-Smith	Rubio
Capito	Inhofe	Sasse
Cassidy	Isakson	Scott (FL)
Cornyn	Johnson	Scott (SC)
Cotton	Kennedy	Shelby
Cramer	Lankford	Sullivan
Crapo	McConnell	Thune
Cruz	McSally	Tillis
Daines	Moran	Toomey
Enzi	Murkowski	Wicker
Ernst	Paul	Young

## NOT VOTING—1

Harris

The PRESIDING OFFICER. The Senate overrules the decision of the Chair.

The Senator from Missouri.

Mr. BLUNT. Mr. President, in the last vote today we established a new precedent. The rules of the Senate are a combination of the rules of the Senate, the standing orders of the Senate, and the precedents of the Senate. Senator LANKFORD and I had hoped to do this with a permanent standing order that basically would have put the Senate exactly where the bipartisan vote was in 2013, which included my vote, to have the same kind of rules that we are encouraging now. This process is designed to speed up not only nominees for Republican Presidents but also nominees for Presidents who are Democrats.

In the last 2 years, we have seen an extraordinary use of every tool available to the minority. The Senate is designed to be a place where the minority is heard. In fact, at one time, any Senator could stop everything forever, and when Senators started doing that to excess, that rule was changed. The protections of the minority often have to be looked at again when the minority abuses those protections. That is what has happened in this case.

Now we have 2 hours of debate on the nominee we are debating right now. If we hadn't just taken the vote we took that overruled the Chair, we would have 30 hours of debate. I guarantee that there will not be 2 hours of debate about this nominee. There may not be 2 minutes of debate about this nominee if we see what we have seen happened in the last 2 years.

The rules of the Senate currently say that if any Senator wants to hold up consideration of a nominee, then, the Senator can insist that we go through the process of invoking cloture. In the first 2 years of the Obama administration, that process was used 12 times, and that was more than had been the case in the past. In fact, the previous 3 Presidents had cloture invoked on their nominees a total of 12 times. That is 24 times in 4 Presidencies. In the first 2 years of President Trump's time in office, the majority leader had to come to the floor 128 times and say we are going to have to invoke cloture to have a chance to vote on this nominee.

It is the first week of April. Eleven times this year already the Senate has had to invoke cloture on a nominee for a government job—for a judgeship or some other government job. While that debate time was seldom used, occasionally, at the end of the week, we would say: Well, OK, we will just go ahead and do the last one. Each time, we had to assume that 30 hours would be used up for those people to be processed and to have a chance to do the jobs that they were going to do.

The history of the Senate is exactly as the majority leader described here earlier. In the first 200-plus years of the Senate, while the Senate often used a delaying tactic to delay legislation and require the Senate to think about it more, the Senate virtually never used

the rules of the Senate to slow down the process of putting people in the Cabinet.

In fact, several Presidents—and Presidents in this century—had their full Cabinet put in place within the first day or two of their administration. That didn't happen with this President, and it is obviously what brought us to where we are today.

Usually, in the first couple of years of a new administration, the President not only gets his Cabinet approved right away, but the President is also able to put people around those Cabinet officers who want to move the government in the same direction that the voters just said they wanted the country to go.

The term of an administration is only 4 years. At the end of 2 years, if you are sending back 124 nominees who just simply didn't get voted on—they got investigated, they got the background checks done, they went through the committee, and the committee voted to send them to the floor—that was always supposed to be part of the work of the committee, and that happened for 124 people who never had a chance to get voted on in the first 2 years of this administration, many of whom had been waiting in line for a year.

Now, if you are appointed and have a short-term job in the Federal Government and are willing to serve, the one thing that does for sure is to put your life in some chaos—coming up with the material that the Congress insists on, going through the background check, and getting your financial records out. For most people, it also means putting the way they make a living on hold.

I had somebody whom I nominated as one of three people for the President to choose from to be the district judge in the Eastern District of Missouri. I made that nomination roughly 24 months ago. Twenty-two months ago, the President told the person he chose that he was going to nominate that person. Last November, after a year and a half of that person telling all his law clients, "You know, I am about to become a Federal judge; you may need to find another lawyer," and after he closed his legal process, he hasn't been voted on yet. That man was one of the people sent back from the White House. He had to be sent back up this year and had to go through the Judiciary Committee again. He had to get back in a line, where every single person took 30 hours of debate, after the 1 day that had to be debatable between the time the leader brings you up and you come to the floor.

This sounds pretty complicated. That is because it is, and it is made more complicated by the fact that people have used it as a delaying tactic.

Now, as for the 128 people whom I mentioned—the 128 people whom the majority leader had to file cloture on—compared to 12, let's be sure we are comparing this the way this used to be,