

of the House-passed stimulus package. The other side has made it clear they will have some package of changes. Those changes were discussed last week and, evidently, there was a decision to put a different package together. As I mentioned earlier this morning, we got that package last night. It was, apparently, a work in progress.

What I am going to do is ask the leader to modify his request. I know the senior Senator from Illinois said earlier today—or suggested that maybe people on this side don't support seniors or disabled veterans. So I will offer a request of the majority leader to modify his request so we do not have further delay.

Therefore, I ask unanimous consent that the majority leader's unanimous consent request be modified so that we proceed to the bill today—not tomorrow or Thursday but today—and that we have a cloture vote today on the amendment we received last night—the one to which the leader's request refers; further, if cloture is not invoked, that we proceed immediately to a vote on the Republican amendment that we will file at the desk; finally, that the Senate then proceed to a vote on passage of the House bill, as amended, if amended.

Mr. REID. Mr. President, reserving the right to object. I hope everyone within the sound of my voice understands how unfair and senseless the request is by my friend. We had discussions on the floor yesterday. The minority whip recognized that Senator MCCAIN, Senator OBAMA, and Senator CLINTON are not going to be here today. It has been very clear that I told them I needed an evening to get them here. If I tell them they have to be here tomorrow, they will be here tomorrow. Everybody knows this request by my friend is without foundation.

The Republicans—all 49 of them—are going to have to vote on the Senate stimulus package. They have to vote on that. Therefore, I object.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names.

[Quorum No. 1 Leg.]

Carper	Isakson	Reid, Nevada
Casey	Kyl	Tester
Durbin	McConnell	

The PRESIDING OFFICER. A quorum is not present.

Mr. REID. Mr. President, I move that the Sergeant-at-Arms be instructed to request the attendance of absent Senators, and 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.

The PRESIDING OFFICER. The question is on agreeing to the motion

of the majority leader. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Hawaii (Mr. INOUE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Illinois (Mr. OBAMA), and the Senator from New York (Mr. SCHUMER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK), the Senator from North Carolina (Mr. BURR), the Senator from New Mexico (Mr. DOMENICI), the Senator from South Carolina (Mr. GRAHAM), the Senator from Arizona (Mr. MCCAIN), and the Senator from Mississippi (Mr. WICKER).

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

The result was announced—yeas 73, nays 12, as follows:

[Rollcall Vote No. 6 Leg.]

YEAS—73

Akaka	Feingold	Nelson (NE)
Barrasso	Feinstein	Pryor
Baucus	Gregg	Reed
Bingaman	Hagel	Reid
Boxer	Harkin	Roberts
Brown	Hatch	Rockefeller
Bunning	Hutchison	Salazar
Byrd	Isakson	Sanders
Cantwell	Johnson	Sessions
Cardin	Klobuchar	Shelby
Carper	Kohl	Smith
Casey	Landrieu	Snowe
Chambliss	Lautenberg	Stabenow
Cochran	Leahy	Stevens
Coleman	Levin	Sununu
Collins	Lincoln	Tester
Conrad	Lugar	Thune
Corker	Martinez	Vitter
Crapo	McCaskill	Voinovich
DeMint	McConnell	Warner
Dodd	Menendez	Webb
Dole	Mikulski	Whitehouse
Dorgan	Murkowski	Wyden
Durbin	Murray	
Enzi	Nelson (FL)	

NAYS—12

Alexander	Coburn	Grassley
Allard	Cornyn	Inhofe
Bennett	Craig	Kyl
Bond	Ensign	Specter

NOT VOTING—15

Bayh	Domenici	Lieberman
Biden	Graham	McCain
Brownback	Inouye	Obama
Burr	Kennedy	Schumer
Clinton	Kerry	Wicker

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader is recognized.

UNANIMOUS-CONSENT REQUEST— S. 2248

Mr. REID. Mr. President, one of the things I have the ability to do is to try to move the process forward, and that is what this vote was all about. Members came, we have had some conversations, and hopefully it will help move the process forward.

We are going to file cloture sometime today on the Senate stimulus package. That is the one reported out of the committee, as we have talked about the last 24 hours. So we will have a vote on that. Unless there is an agreement reached beforehand, we will have a vote on that an hour after we come to work on Thursday. That will be on the Senate stimulus package as we have brought it here to the floor. Of course, with consent, we could have it tomorrow. I would rather do it tomorrow so we can do some other things on Thursday, but it is up to the minority as to what we do.

I hope we all understand that the vote we just had was, as I have said before, an effort to try to move the process forward, a wake-up call, especially for my Republican colleagues, that we need to now start legislating. There is no reason in the world we should not finish FISA soon—work today on FISA.

We have other amendments Senators want to offer. We have 6 hours dealing with title II alone—one by Senators DODD and FEINSTEIN on immunity; we have the Whitehouse-Specter dealing with substitution; and we have one with FEINSTEIN dealing with exclusivity. Two hours on each one of those, the time equally divided, is 6 hours. There is no reason we shouldn't do that debate today. I want to vote on the four amendments already pending on FISA. We have those three I talked about and then, after that, there are four more with very limited time.

I think it is a little unusual here that we have an insistence we move forward and work on the stimulus package, yet we have had trouble doing that; and then we have been told, the latest on last Saturday, the President is talking about how important it is to do the stimulus package, and also he has talked incessantly about the need to complete FISA, but the Republicans have blocked our efforts to do that.

I don't want to always have to stand here and talk about unpleasant things, such as obstructionism and filibusters, but sometimes that is all there is to talk about. It is clear to me that once again the Republican minority seems to be more committed to obstruction than what it takes to make America stronger. We remain committed to giving our intelligence professionals the tools they need to make America more secure. With Republican cooperation, we can start doing that today. Today.

Mr. President, I ask unanimous consent that the Senate now resume the FISA legislation and debate all remaining amendments in order; that any votes in relation to these amendments occur at a time to be determined by me, after consulting with the Republican leader; that all time consumed during this debate count postcloture to this matter we are on now dealing with the House stimulus package.

The PRESIDING OFFICER. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, I think it is

perfectly apparent to everyone who is observing this process that these two issues are interconnected in terms of how we fairly go forward, and I think the point has been well made by the 49 Republican Senators over the last year or so that our rights are going to be respected; that we are going to move forward on bipartisan bills, such as both of these, in a way that is respectful to both sides, and as soon as we have an understanding about how we are going to go forward on the stimulus package, then we will be able to make progress on this bill. I am optimistic we are going to be able to do both.

Ironically, I share the goal of the majority leader, which is to finish both these issues this week. You would think that was not the case for all the sparring and finger-pointing that has gone on the past few days, but I have the same goal he does, to finish FISA and the stimulus package. Both of them, at the end of the day, are going to pass on a strong bipartisan basis. But the process for dealing with them is not irrelevant, and that is what we have been discussing off and on for the past couple days. Hopefully, we will make some progress and be able to get going on FISA later today.

For the moment, I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. REID. Mr. President, "1984" was a book written by George Orwell. He wrote the book many years before 1984, but he was trying to look into the future and talk about what he thought America would be like in 1984. It was a very interesting, compelling book, a best seller, and it made George Orwell a famous man for all generations of time. But the one thing you got out of reading that book is that there would come a time when people said one thing, and while they were saying it, they meant something else. That is what we had here just now with my friend, the Republican leader. We are going to move forward, get things done, there is no reason we can't finish things this week. Why in the world can't we do the FISA legislation today? I will tell you the reason. It is Orwellian talk from the other side. They want to stall the FISA legislation as long as they can—and they have done a pretty good job—because they want this legislation to be completed at the last minute to give the House and Senate conferees little time to work.

The RECORD should reflect how hard we have tried to pass the FISA legislation law, and the RECORD should reflect there is going to come a time when the FISA legislation will run out and the President will be saying things, as he has for 7 years, to scare the American people—the Democrats don't care; they do not care. Well, Mr. President, we care every bit as much as any Republican about protecting the American people. We believe there is a need in this modern world for eavesdropping on certain conversations, but we have the

old-fashioned idea that it should be done in keeping with our Constitution. That is what this debate is all about.

I repeat for the third time here in the last few minutes that the RECORD should reflect we have been willing to legislate on FISA for some time now and we have been stymied every time. We need to go back no further than yesterday. Yesterday we wanted to have amendments offered. And I appreciated very much Senator WHITEHOUSE, Senator FEINGOLD, and Senator CARDIN coming and offering amendments. We should have voted on those last night. But, no, the Republicans wouldn't let us. Can we vote on them this morning? No.

Well, if they are not going to let us vote on the amendments, can we at least use up some of the time for debate on amendments that are going to be offered by other Democratic Senators, and we have one bipartisan amendment that will be offered by Senators WHITEHOUSE and SPECTER? Nope, can't do that. We can do two things at one time, we can do one thing at one time, is all I am asking we do.

It is very clear that the stall we had all last year is now in place again and we are going to be prevented from doing the work today. We are not going to be able to vote or offer amendments. We are going to stand here and look at each other until shortly before midnight tonight when I will offer to file the cloture motion. I can file it at any time. I don't have to wait until just before midnight. But that is when the time runs out. And we will have the vote Thursday, unless we work something out. But it is a shame, a shame for the Senate and for the American people, to waste all this time. It is time wasted.

Last year, as I indicated—and other Senators have talked about this—we had 64 filibusters where cloture had to be filed. For my friend to say all he wants, that all the Republicans want is to be treated fairly, we only have to take the block of time in the last 2 days. How much more fairly can they be treated? We say: OK, you are not going to let us vote; let us at least offer amendments and use up some of that time. Nope, we can't do that. Can we set a time to vote on the stimulus package? No. Are we going to have to use all that time postcloture? Yes, because we have to read the amendment.

The package from the Senate Finance Committee passed out of that committee a long time ago. We did add something to that. It is a page and a half long. Certainly 24 hours should be enough to read that one page or that page and a half. But I understand, we all understand, and the American people understand that we are living in the Senate in the realm of "1984." When my friend from Kentucky comes here and says we want to move forward, all we want to do is be treated fairly, remember what George Orwell said. It is the direct opposite of what he said. What he is saying, in "1984"

language, is we are stalling this as long as we can. And as long as we can is probably going to run out sometime tomorrow or Thursday.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Mr. President, it is a little like *deja vu* all over again, which I suppose was said by Yogi Berra. This is the same discussion we have had for the last couple of days.

Setting aside all of the finger pointing and the parliamentary nuances, what we know for sure is that we have a Foreign Intelligence Surveillance Act measure that came out of the Intelligence Committee with a vote of 13 to 2—the Rockefeller-Bond bill—which the President will sign. Certainly it is not within the realm of possibility that Members of my party don't want to finish this bill soon. It is supported by a Republican President, Republican Senators, and we tried to get votes on it Tuesday, Wednesday, and Thursday of last week, to no avail. In fact, the last vote we had last week was on Monday afternoon, and then for 3 days it was sparring over that. I don't think anybody seriously believes the Republican minority does not want the FISA bill to pass.

With regard to the stimulus package, we have not been given procedural assurances. The majority leader is in a position to deny the minority the opportunity to offer anything, to fill up the tree and file cloture, and we have been given no assurances that we will be able to offer an alternative. It strikes me that the majority is in the absurd position of having argued the House bill is inferior. If the Finance Committee bill, plus additions, was not successful, why would it not be appropriate to give the minority assurances that an amendment to adjust the House bill, which the majority has been insisting for a week is not adequate, would not be appropriate?

These are the discussions we have been having off the floor. It is probably difficult to follow, for those who are watching it on television, because there are a whole lot of parliamentary nuances involved. But stepping back from the parliamentary part of it, we know for a fact the following: There is overwhelming bipartisan support for the FISA legislation, and the President will sign it. It was the President and the Democratic Speaker of the House and the Republican leader of the House who came together on a bipartisan stimulus package. We know there was overwhelming bipartisan support for doing a stimulus package.

I think we are going to get all this resolved and approve both these measures this week, but we are going to insist on doing it in a way that is fair to the minority.

That basically sums up my views on where we are at the moment, and we will keep talking about it off the floor and, hopefully, be able to have some meaningful votes here later.

Mr. DURBIN. Will the Senator from Kentucky yield for a question?

Mr. McCONNELL. No.

The PRESIDING OFFICER. The assistant majority leader.

Mr. DURBIN. Mr. President, the Senate Intelligence Committee is a great committee. I served on that committee. I wanted to have a chance to have a dialog here with the Senator from Kentucky, the leader on the Republican side. He continues to overlook the obvious. The Foreign Intelligence Surveillance Act bill is the product of two committees—not one but two.

He says, well, he likes the Intelligence Committee version, and certainly it was a version that passed with an overwhelming bipartisan vote. But the fact is that the Senate Judiciary Committee also passed their version of the bill relating to specific elements that are equally important to the Intelligence Committee work, and what Senator REID, on the Democratic side, has tried to do is to give us a chance on the floor to vote on some of the key issues raised by the Senate Judiciary Committee.

In fact, we reached an agreement on how we were going to do it. It took us a week or more to craft a unanimous consent request to lay out the specific amendments we were going to, with understandings about how much time would be devoted to each and what the vote would be. I can tell you, I was involved in some preliminary parts of it, Senator REID stuck with it to the bitter end, and we did reach an agreement.

So what is stopping us? What is stopping us, for reasons I can't explain, is that the Republican side, which refused to yield for a question, wants to blame us for slowing down a bill which they are stopping us from calling.

That is what it boils down to, in the simplest terms. They want to blame the Democratic majority for not passing FISA. Yet they refuse to allow us to bring it to the floor and consider the amendment so that we can have a vote and bring it to final passage, take it to conference, and send it to the President. They cannot have it both ways. They cannot blame us for holding up a bill that they are holding up.

Secondly, let me say a word about the stimulus package. I would like the Republican leader, who tantalizes us with bits of information when he comes to the floor, to really spell it out. What is it in the Senate Finance Committee bill, this bipartisan bill, this Baucus-Grassley bill, what is it they object to? The so-called Christmas tree argument, the goodies, the pet projects? Let's be very specific about it.

Do the Republicans, the Senator from Kentucky and others, object to providing an additional few weeks of unemployment insurance for those who are out of work? If that is the case, say it. Do the Republicans object to the idea that we are going to try to deal with the housing crisis in America and put some provisions in to deal with that in an honest way? If so, say it. Do they object to Senator CANTWELL of

Washington who is pushing for energy tax credits—an innovative, constructive part of our economy—that will help businesses get started creating jobs and keep America in the forefront of this research? If the Republicans object, say it. They are walking and dancing around, and they just will not come forward and say it.

We think the Baucus-Grassley bill, a bipartisan bill, is a good bill. We want to vote on that bill. We want the Republicans to go on record.

If they believe the homebuilders across America do not deserve some sort of tax benefits in one of the roughest times they have had to face in modern memory, then, for goodness' sake, be on the record and say it. But they come to the floor and tell us: Maybe we do not need a stimulus package. They argue that unemployment benefits aggravate unemployment. They do all of those backward arguments. It is no wonder that Senator REID continues to reference George Orwell; it really is impossible to follow their logic on the floor. But I think the American people know the outcome. The outcome is that we will do little or nothing today because the Republicans insist that little or nothing be done today, and then tomorrow they will come to the floor, and they will complain that nothing was done today.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, before my friend leaves the floor, I would like to direct a question through you to him. I have not had a chance to speak to the distinguished Democratic assistant leader, the whip, about this.

Are you aware that this perfect package the President has been talking about keeping together, the great bipartisan effort with the House and his people, are you aware that this package which we have been pushed and pushed to "take it just as it is," are you aware that the Secretary of the Treasury today testified and made a statement that he thinks it is a pretty good idea to have seniors and disabled veterans included? Are you aware of that? So this perfect package may not be as perfect as they thought it was.

Mr. DURBIN. I would respond to the majority leader by saying that obviously the notion of a bicameral Congress has been tested and proven. I am glad Senator ROBERT C. BYRD is on the floor here to witness that statement, with which I am sure he will agree.

The fact is, as good as the House package might have been, we are doing our best to improve it. And now, as I understand it, two so-called pet projects—helping 20 million seniors and a quarter of a million disabled veterans—are now becoming pet projects of the administration. It would be great, and I hope the Republican side will join us in the rest of our bipartisan package.

Mr. REID. Mr. President, if I could direct another question to my friend. You are aware that the 49 Repub-

licans—I should say 46 because 3 already voted courageously in the Finance Committee, so 46 Republicans are going to have to make a decision. They are not going to be able to pick and choose whether seniors are more important than people with no heat in their homes, more important than people with no jobs, more important than people who are having their homes foreclosed upon. The distinguished Democratic whip understands that they are going to have to vote for the stimulus package out of the Senate Finance Committee, not pick and choose which is more important, whether senior Americans are more important than the unemployed or the people with no heat in their homes or the people losing their homes? Does the distinguished Senator from Illinois understand that?

Mr. DURBIN. I would respond to the Senator from Nevada, our majority leader, that I hope the Republicans understand that the package we bring to the floor is the result of Finance Committee deliberation and votes and a bipartisan rollcall in support. It is not as if we were imposing our will here. We are bringing to the floor the measure that passed the Senate Finance Committee. And when was the last time a bill came to the floor which you agreed with in all of its different sections? There are usually one or two things in there I wish were written differently.

I would say to my friends on the Republican side that if they believe we should say no to families in Kentucky, to families in States around the Nation who are struggling with heating bills, then they have to understand that has been part of the bipartisanship package brought to the floor, and they will be voting against those people and voting against the unemployed, and that will be the record they can carry home from this debate.

RECOVERY REBATES AND ECONOMIC STIMULUS FOR THE AMERICAN PEOPLE ACT OF 2008—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 5140, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the bill (H.R. 5140) to provide economic stimulus through recovery rebates to individuals, incentives for business investment, and an increase in conforming and FHA loan limits.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Let Senators be aware that we Senators must and should address one another in the third person. There is a reason for this: It minimizes the chances of us having on display bad tempers. Are Senators aware that Senators should address one another—how? Not in the second person but, rather, in the third person? Is the Senator from Timbuktu aware of that