

full with their past remarks, fervent in their support for changing the rules with a simple majority vote.

This reminds me of a story my Uncle Mo used to tell. A former Senator once said of himself that “never has the clammy hand of consistency rested upon my shoulder.” He meant it too. On one occasion, he introduced a bill, and he pushed very hard for it. Then, seeing the tide was turning, he led the fight against his own bill. A constituent sent him a telegram that read “I thank God for your courageous stand.” And he replied, “Which one?”

And so the question: how to change the rules? The Constitution is clear on this point. The Senate rules reforms can be accomplished by a simple majority at the start of the new Congress in January. This is the “constitutional option,” not a “nuclear option.” That is something else, and I will speak to it in a moment.

This has been a heated topic of debate this week on the Senate floor, particularly between the majority and minority leaders. I have followed the debate carefully, and I would like to address some of the distinguished minority leader’s concerns.

Earlier this week, Leader MCCONNELL said the following:

This small group of primarily senate sophomores is now proposing that when the Senate gavels in at the beginning of the new Congress, a bare majority of senators can disregard the rule that says changes to the Senate’s rules can only be approved on the same broad bipartisan basis we reserve for approving treaties and overriding presidential vetoes, a supermajority-plus.

I am glad he framed our argument in this way. Why do treaties and veto overrides require a supermajority vote? Because those requirements are enshrined in our Constitution. The Constitution is very specific about when a supermajority is needed and, just as clearly, when it isn’t.

Article I, section 5 of the U.S. Constitution states:

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behavior, and, with the Concurrence of two thirds, expel a Member.

When the Framers required a supermajority in the proceedings of Congress, they explicitly stated so in the Constitution, as they did for expelling a Member. On all other matters, such as determining the Chamber’s rules, a majority requirement is clearly implied.

The constitutional option has been used numerous times since the cloture provision was adopted in 1917, the last being in 1975 when it was the catalyst for amending the filibuster rule to its current form.

In 1957, then-Vice President Richard Nixon noted while presiding in the Senate, “[W]hile the rules of the Senate have been continued from one Congress to another, the right of a current majority of the Senate at the beginning of a new Congress to adopt its own rules, stemming as it does from the Constitution itself, cannot be restricted or lim-

ited by rules adopted by a majority of a previous Congress.”

Current Republican Senators agree. Senator JOHN CORNYN said in 2003:

Just as one Congress cannot enact a law that a subsequent Congress could not amend by majority vote, one Senate cannot enact a rule that a subsequent Senate could not amend by majority vote.”

And Senator Orrin Hatch noted in 2005 that a

simple majority can invoke cloture and adopt a rules change it is clear that the Senate, at the beginning of a new Congress, can invoke cloture and amend its rules by simple majority.

As I said earlier, some on the other side of the aisle have drawn a false equivalency between the constitutional option and the Republicans’ threatened nuclear option of 2005. Yet this misses a crucial distinction. The nuclear option sought to change Senate rules in midsession. The constitutional option follows Senate precedent and would change the rules only at the start of the new Congress.

We don’t have to reform the rules with only a majority vote in January. That is up to my colleagues on the other side of the aisle. Each time the filibuster rule has been amended in the past, a bipartisan group of Senators was prepared to use the constitutional option. But they didn’t have to. With the inevitability of a majority vote on the reforms looming, enough Members agreed on a compromise and passed the changes with two-thirds in favor.

We could do that again in January. I know many of my Republican colleagues agree with me. The Senate is not working. I said 2 years ago that I would push for the same reforms at the beginning of the next Congress—regardless of which party was in the majority. If Leader MCCONNELL was going to be the majority leader in January, I would ask him to work with me on implementing these reforms.

I will say again that the proposed changes will reform the abuse of the filibuster, not trample the legitimate rights of the minority party. I am willing to live with all of the changes we are proposing, whether I am in the majority or minority.

The other side has suggested that a change in the rules is an affront to the American public but the real affront would be to allow the abuse of the filibuster to continue.

It has also been suggested that “the campaign is over.” Well, this effort to change the rules has something to do with the results of the campaign. The American people sent us a message. We have to change the way we do business. We have to govern and pay attention to jobs and the economy and the things that matter to American families. That was their message, and we would do well to listen to it.

As to the comment that some of the reformers are “sophomores,” true enough. Senator MERKLEY and I are relatively new to this Chamber, but I don’t think the American people think

that is a bad thing because we came here to find solutions, to actually get things done for the American people. But what we found was a graveyard of good ideas. No real debate. No real consideration.

Under the abuse of the current rules, all it takes to filibuster is one Senator picking up the phone, period. Doesn’t have to even go on the floor and defend it. Just a phone call by one Senator. No muss. No fuss. No inconvenience. Except for the American public. Except for a nation that expects and needs a government that works, a government that actually works together and finds common ground.

Maybe some of my colleagues believe that the Senate is working as it should that everything is fine. Well, Mr. President, we sophomores do not take that view. It isn’t working. It needs to change, and I know plenty of experienced Senators agree.

The American people, of all political persuasions, are clamoring for a government that actually gets something done. The challenges are too great, the stakes are too high, for a government of gridlock to continue.

#### VOTE EXPLANATION

Mr. BLUMENTHAL. Mr. President, I was unable to cast a vote yesterday on the motion to proceed to executive session for the consideration of treaty 112-7, the Convention on the Rights of Persons with Disabilities. I spent most of the day in Connecticut, touring the State with FEMA’s Acting Administrator to assess damage from Hurricane Sandy and Federal aid for the State. I also joined Attorney General Holder, Governor Malloy, and others in New Haven to roll out a new statewide initiative to combat violence in our urban communities. Had I been present, I would have voted for the motion to proceed.

#### TRIBUTE TO RAYMOND J. AHEARN

Mr. BAUCUS. Mr. President, on behalf of Senator HATCH and myself, we wish to recognize the outstanding career of Mr. Raymond J. Ahearn, Specialist in International Trade and Finance with the Foreign Affairs, Defense and Trade Division of the Congressional Research Service (CRS). Ray will retire on December 28, after more than 37 years of distinguished government service.

Mr. Ahearn began working as a trade and finance analyst at CRS in April 1975, soon after receiving his MA in international affairs from the Johns Hopkins School of Advanced International Studies, SAIS. He later received his MA in economics from the George Washington University and also represented CRS at the National War College in Washington, DC, graduating in 1991.