

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. MARKEY) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ), the Senator from Texas (Mr. CORNYN), and the Senator from Nevada (Mr. HELLER).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted "nay."

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

The yeas and nays resulted—yeas 51, nays 44, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—51

Baldwin	Gillibrand	Mikulski
Baucus	Hagan	Murphy
Begich	Harkin	Murray
Bennet	Heinrich	Nelson
Blumenthal	Heitkamp	Pryor
Booker	Hirono	Reed
Boxer	Johnson (SD)	Rockefeller
Brown	Kaine	Sanders
Cantwell	King	Schatz
Cardin	Klobuchar	Schumer
Carper	Landrieu	Shaheen
Casey	Leahy	Stabenow
Coons	Levin	Tester
Donnelly	Manchin	Udall (CO)
Durbin	McCaskill	Udall (NM)
Feinstein	Menendez	Warren
Franken	Merkley	Whitehouse

NAYS—44

Alexander	Flake	Paul
Ayotte	Graham	Portman
Barrasso	Grassley	Reid
Blunt	Hatch	Risch
Boozman	Hoeven	Roberts
Burr	Inhofe	Rubio
Chambliss	Isakson	Scott
Coats	Johanns	Sessions
Coburn	Johnson (WI)	Shelby
Cochran	Kirk	Thune
Collins	Lee	Toomey
Corker	McCain	Vitter
Crapo	McConnell	Wicker
Enzi	Moran	Wyden
Fischer	Murkowski	

NOT VOTING—5

Cornyn	Heller	Warner
Cruz	Markley	

The PRESIDING OFFICER. On this vote, the yeas are 51, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The majority leader.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on S. 1197.

The PRESIDING OFFICER. The motion is entered.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND AN ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES

Mr. REID. I move to proceed to the consideration of S. Con. Res. 28 as provided for under the previous order.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 28) providing for a conditional adjournment or recess of the Senate and an adjournment of the House of Representatives.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the concurrent resolution.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second. There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Montana (Mr. TESTER) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from New Hampshire (Ms. AYOTTE), the Senator from Texas (Mr. CORNYN), the Senator from Texas (Mr. CRUZ), the Senator from Arizona (Mr. FLAKE), and the Senator from Nevada (Mr. HELLER). Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted "nay."

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

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—51

Baldwin	Hagan	Mikulski
Baucus	Harkin	Murphy
Begich	Heinrich	Murray
Bennet	Heitkamp	Nelson
Blumenthal	Hirono	Pryor
Booker	Johnson (SD)	Reed
Boxer	Kaine	Reid
Brown	King	Rockefeller
Cantwell	Klobuchar	Sanders
Cardin	Landrieu	Schatz
Carper	Leahy	Schumer
Casey	Levin	Shaheen
Coons	Manchin	Stabenow
Durbin	Markley	Udall (NM)
Feinstein	McCaskill	Warren
Franken	Menendez	Whitehouse
Gillibrand	Merkley	Wyden

NAYS—42

Alexander	Fischer	Murkowski
Barrasso	Graham	Paul
Blunt	Grassley	Portman
Boozman	Hatch	Risch
Burr	Hoeven	Roberts
Chambliss	Inhofe	Rubio
Coats	Isakson	Scott
Coburn	Johanns	Sessions
Cochran	Johnson (WI)	Shelby
Collins	Kirk	Thune
Corker	Lee	Toomey
Crapo	McCain	Udall (CO)
Donnelly	McConnell	Vitter
Enzi	Moran	Wicker

NOT VOTING—7

Ayotte	Flake	Warner
Cornyn	Heller	
Cruz	Tester	

The concurrent resolution (S. Con. Res. 28) was agreed to, as follows:

S. CON RES. 28

Resolved by the Senate (the House of Representatives concurring), That when the Senate recesses or adjourns on any day from Thursday, November 21, 2013, through Friday, December 6, 2013, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand re-

cessed or adjourned until 12:00 noon on Monday, December 9, 2013, or such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 or section 3 of this concurrent resolution, whichever occurs first; and that when the House adjourns on any legislative day from Thursday, November 21, 2013, through Tuesday, November 26, 2013, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2:00 p.m. on Monday, December 2, 2013, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

SEC. 3. After the House reassembles pursuant to the first section of this concurrent resolution, the Majority Leader of the Senate after consultation with the Minority Leader of the Senate, shall notify the Members of the Senate to reassemble whenever, in his opinion, the public interest shall warrant it.

The PRESIDING OFFICER. The majority leader.

EXECUTIVE SESSION

NOMINATION OF PATRICIA ANN MILLETT TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT—Continued

Mr. REID. Mr. President, I ask for regular order regarding the Millett nomination.

The PRESIDING OFFICER. Regular order is requested.

The Senate resumes executive session to consider the Millett nomination, postcloture.

The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

CHANGING SENATE RULES

Mr. MCCAIN. Mr. President, the events and votes that took place today are probably as historic as any votes that I have seen taken in the years I have been here in the Senate.

The majority, with only majority votes—the same as ObamaCare passed with only Democratic votes—changed the rules of the Senate in a way that is detrimental, in my view, not only to the Senate, not only to those of us in the minority party, but great damage to the institution itself.

One of the men who served in this Senate for a long, long time, whom we respected as much or more than any other leader—he certainly knew the Senate rules more than any of the rest of us combined—was one Robert Byrd. Three months before his death, Robert