

law. Based on that change, the regulators reneged, declared Winstar “inadequately capitalized,” and seized its assets.

In that case, the Supreme Court held that even though Congress had the right to change the law in general, the Federal Government could still be liable for breach of contract it had entered into with Winstar, and for damages.

I am concerned that if the Postal Service reopens and renegotiates its collective bargaining agreements to comply with the McCain amendment, courts could find the Postal Service in breach of those agreements, and force it to pay damages.

At a minimum, it strikes me that Senator MCCAIN’S language could tie up the Postal Service in litigation for years, which would defeat our efforts to reduce the workforce costs faced by the Postal Service.

Bottom line: I am very concerned that if the Postal Service is forced by the McCain substitute to reopen and renegotiate current collective bargaining agreements, the courts would find the Postal Service in breach of those agreements and force it to pay damages and also that it would be found to be unconstitutional. The approach we have taken does not raise those constitutional concerns. It does not have Congress stepping in to abrogate contracts, which is a very serious and potentially unconstitutional step for us to take.

Finally, I would say I agree with everything my chairman has said. Senator MCCAIN’S amendment does not address the true problems of the Postal Service. Instead, it assumes that the Postal Service is obsolete, that they cannot be saved, and that we should just preside over its demise. I reject that approach.

Thank you, Mr. President.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:01 p.m., recessed until 2:15 p.m., and reassembled when called to order by the Presiding Officer (Mr. WEBB).

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF THE RULE SUBMITTED BY THE NLRB RELATING TO REPRESENTATION ELECTION PROCEDURES—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S.J. Res. 36.

The question is on agreeing to the motion.

The majority leader.

Mr. REID. Mr. President, we are going to have a bunch of votes today, and we are going to have to do them quickly. I say this to Democrats; I say

it to Republicans: We are going to have—after this first vote, I ask unanimous consent that we have 10-minute votes.

The PRESIDING OFFICER. That is the order.

Mr. REID. And we are going to enforce that. So if people are not here, they are going to miss a vote. Unless there is a situation where we have a close vote, then we will extend it a little bit because that is what the tradition has been. So I repeat, everybody be here or you are going to miss a vote if you are not here at the end of the time.

Mr. President, I ask for the yeas and nays on this matter.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senator is necessarily absent: the Senator from Illinois (Mr. KIRK).

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

The result was announced—yeas 45, nays 54, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—45

Alexander	DeMint	McCain
Ayotte	Enzi	McConnell
Barrasso	Graham	Moran
Blunt	Grassley	Paul
Boozman	Hatch	Portman
Brown (MA)	Heller	Risch
Burr	Hoeven	Roberts
Chambliss	Hutchison	Rubio
Coats	Inhofe	Sessions
Coburn	Isakson	Shelby
Cochran	Johanns	Snowe
Collins	Johnson (WI)	Thune
Corker	Kyl	Toomey
Cornyn	Lee	Vitter
Crapo	Lugar	Wicker

NAYS—54

Akaka	Hagan	Murray
Baucus	Harkin	Nelson (NE)
Begich	Inouye	Nelson (FL)
Bennet	Johnson (SD)	Pryor
Bingaman	Kerry	Reed
Blumenthal	Klobuchar	Reid
Boxer	Kohl	Rockefeller
Brown (OH)	Landrieu	Sanders
Cantwell	Lautenberg	Schumer
Cardin	Leahy	Shaheen
Carper	Levin	Stabenow
Casey	Lieberman	Tester
Conrad	Manchin	Udall (CO)
Coons	McCaskill	Udall (NM)
Durbin	Menendez	Warner
Feinstein	Merkley	Webb
Franken	Mikulski	Whitehouse
Gillibrand	Murkowski	Wyden

NOT VOTING—1

Kirk

The motion was rejected.

21ST CENTURY POSTAL SERVICE ACT

The PRESIDING OFFICER. Under the previous order, the clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 1789) to improve, sustain, and transform the United States Postal Service.

Pending:

Reid (for Lieberman) modified amendment No. 2000, in the nature of a substitute.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I appreciate the good work of our colleagues on this legislation. Unfortunately, the legislation spends \$34 billion, all of which would be borrowed, all of which adds to the debt of the United States and is contrary to the Budget Control Act limitations that were passed just last August. It is really a grievous problem, not one that can be avoided lightly.

Just last August we agreed to certain debt limits—the amount of debt we would incur and add to the U.S. Treasury. It was a fought-over agreement, but we reached it and we stood by it. I believe we have a moral obligation to not mislead the people who elected us when we said we intend to stand by the limits on increasing debt. This bill increases debt above that limit. The Congressional Budget Office scores it as adding \$34 billion in debt to the United States.

Chairman CONRAD has certified that a budget point of order is legitimately placed against it. I would expect we would have a motion to waive the budget point of order. I would expect there might be a motion to say, well, we do not agree with CBO or that somehow this is so important we need to add to the debt anyway. But, colleagues, if we mean what we say, if at this time in history we begin to at least stay within the limits we agreed and we don’t do that, then I think we will lose further credibility with the American people.

I respect the work of my colleagues on the bill, but I think we are setting a great precedent. It is a matter of importance for our own integrity and the fiscal stability of America. I believe it is important that we adhere to that limit.

The spending measure, amendment No. 2000 to S. 1789, the 21st Century Postal Service Act, would violate Senate pay-go rules and increase the deficit; therefore, I raise a point of order against this measure pursuant to section 201(a) of S. Con. Res. 21, the concurrent resolution on the budget for fiscal year 2008.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974 and the waiver provisions of applicable budget resolutions, I move to waive all applicable sections of the act and budget resolutions for purposes of the pending amendment for reasons that we described in the debate we had here on the floor yesterday. The U.S. Postal Service says this bill will, in fact, save \$19 billion a year.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. LIEBERMAN. I ask unanimous consent that the vote on this motion to