

Again, I will skip over some examples, but let me read a few of these provisions that amend the Senate rules which are contained in section 3403 of the Reid substitute.

Section D titled "Referral:"

The legislation introduced under this paragraph shall be referred by the Presiding Officers of the respective Houses to the Committee on Finance in the Senate and to the Committee on Energy and Commerce and the Committee on Ways and Means in the House of Representatives.

The bill creates out of whole cloth a new rule that this specific bill must be referred to the Senate Finance Committee.

Another example under section C, titled "Committee Jurisdiction:"

Notwithstanding rule 15 of the Standing Rules of the Senate, a committee amendment described in subparagraph (A) may include matter not within the jurisdiction of the Committee on Finance if that matter is relevant to a proposal contained in the bill submitted under subsection (c)(3).

Clearly a rule change.

So there is no pretense that this bill is being referred under the rules to the committee of jurisdiction. Now it is allowing the Finance Committee to add whatever matter it wants to the bill regardless of any rules regarding committee jurisdiction. And for a good measure, the bill even specifically states that it is amending rule XV.

Let me just skip over a number of other examples referring to rules just to try to get to the point here because it goes on and on, and I have pages here.

There is one provision that I found particularly troubling, and it is under a section C titled "Limitation on Changes to This Subsection:"

It shall not be in order in the Senate or in the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change this subsection.

This is not legislation. This is not law. This is a rule change. It is a pretty big deal. We will be passing a new law and at the same time creating a Senate rule that makes it out of order to amend or even repeal the law. I am not even sure it is constitutional, but if it is, it most certainly is a Senate rule. I don't see why the majority party wouldn't put this in every bill. If you like your law, you most certainly would want it to have force for future Senates. I mean, we want to bind future Congresses.

This goes to the fundamental purpose of Senate rules, to prevent a tyrannical majority from trampling on the rights of the minority or of future Congresses.

Therefore, I would like to propound a parliamentary inquiry to the Chair. Does section 3403 of this bill propose amendments to the Standing Rules of the Senate? Further parliamentary inquiry: Does the inclusion of these proposed amendments to the Senate rules mean that the bill requires two-thirds present and voting to invoke cloture?

The PRESIDING OFFICER. The section of the proposed legislation ad-

ressed by the Senator does not amend the Standing Rules of the Senate, and therefore its inclusion does not affect the number of votes required to invoke cloture.

Mr. DEMINT. Is the Chair aware of any precedent where the Senate created a law and in doing so created a new rule that—and I am quoting from our bill:

It shall not be in order in the Senate or in the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise change—

Such law?

Is the Chair aware that we have ever put this type of binding legislation on future Congresses in a bill?

The PRESIDING OFFICER. It is quite common to do that.

Mr. DEMINT. I would ask the Chair to get those references, if the Parliamentarian would, to us.

Mr. President, another parliamentary inquiry: If this new law will operate as a Senate rule, making it out of order for Senators to propose amendments to repeal or amend it—I have been in Congress 11 years. I have never heard of an amendment being called out of order because it changes something that was done before. How is that different than the types of Senate rule-making for which our predecessors in their wisdom provided a two-thirds cloture vote? This seems to be a redefinition of words, in my mind.

Mr. President, it is clear that the Parliamentarian is going to redefine words, as I am afraid he has done as part of this process before. But this is truly historic that we have included rules changes in legislation, and yet we are ignoring a rule that requires a two-thirds cloture vote to pass it. I believe it is unconstitutional. I believe it subverts the principle we have operated under, and it is very obvious to anyone that it does change a rule. It is clear that our rules mean nothing if we can redefine the words we use in them.

I yield the floor.

The PRESIDING OFFICER. The Chair will note that it is quite common to include provisions affecting Senate procedure in legislation.

Mr. DEMINT. Is there a difference between Senate procedures and rules?

The PRESIDING OFFICER. Yes.

Mr. DEMINT. So the language you see in this bill that specifically refers to a change in a rule is not a rule change, it is a procedure change?

The PRESIDING OFFICER. That is correct.

Mr. DEMINT. Then I guess our rules mean nothing, do they, if we can redefine them.

I thank the Chair. I yield the floor.

ADJOURNMENT UNTIL 7 A.M.  
TOMORROW

The PRESIDING OFFICER. The Senate stands adjourned until 7 a.m. tomorrow.

Thereupon, the Senate, at 7:41 p.m., adjourned until Tuesday, December 22, 2009, at 7 a.m.

## NOMINATIONS

Executive nominations received by the Senate:

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

THEODORE W. TOZER, OF OHIO, TO BE PRESIDENT, GOVERNMENT NATIONAL MORTGAGE ASSOCIATION, VICE JOSEPH J. MURIN, RESIGNED.

### DEPARTMENT OF COMMERCE

KEVIN WOLF, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE CHRISTOPHER R. WALL, RESIGNED.

TIMOTHY MCGEE, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE PHILLIP A. SINGERMAN.

### LEGAL SERVICES CORPORATION

SHARON L. BROWNE, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2010, VICE MICHAEL MCKAY, TERM EXPIRED.

CHARLES NORMAN WILTSE KECKLER, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2010, VICE FRANK B. STRICKLAND, TERM EXPIRED.

VICTOR B. MADDOX, OF KENTUCKY, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2010, VICE LILLIAN R. BEVIER, TERM EXPIRED.

### IN THE AIR FORCE

THE FOLLOWING NAMED AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12212:

#### To be colonel

FRANK R. AFLAGUE  
CHRISTOPHER F. ALDERDICE  
BORIS R. ARMSTRONG  
CLARENCE MATTERBURY III  
RICHARD T. BENNETT  
JOHN E. BLICKENSDERFER  
GARY D. BREWER, JR.  
WILLIAM D. BUNCH  
JEFFREY W. BURKETT  
WADE K. CAUSEY  
JOSEPH S. CHISOLM  
JOHN L. CHURCH, JR.  
GREGORY S. CLAPPER  
SHAWN A. CLOUTIER  
FRANK J. COPRIVNICAR, JR.  
MICHAEL G. GRANSTON  
MARK A. CROSBY  
THOMAS T. CURRY  
KEVIN S. DAILEY  
JOSEPH C. DARROW, JR.  
ELBURN H. DAUGHTRY III  
CHARLES D. DAVIS III  
THOMAS C. ECHOLS  
REM B. EDWARDS III  
DAVID L. EVANS  
BILLIE J. FAUST  
GREGORY P. FERNANDEZ  
DAWN M. FERRELL  
JAMES C. FOGLE  
TROY A. FROST  
WALTER E. GARTNER  
MICHELE M. GAVIN  
PETER T. GELESKIE  
JASON W. GLASS  
PETER T. GREEN III  
THOMAS E. HANS  
DOUGLAS D. HAYWORTH  
PAUL F. HEYE, JR.  
MICHAEL C. HIRST  
GEORGE W. HOLT, JR.  
CASSANDRA D. HOWARD  
JEFFREY W. JACOBSON  
WENDY K. JOHNSON  
MARGUITA P. JOHNSONBAILEY  
JEFFREY J. JORDAN  
RICHARD J. KEASEY  
JOHN R. KIRK  
THADDEUS J. KOLWICZ  
MEAGHAN Q. LECLERC  
SUZANNE B. LIPCAMAN  
SANDRA D. LONG  
RONALD D. LOWERY  
MARK S. LYON  
MARK J. MACLEAN  
CRAIG A. MANIFOLD  
MICHAEL E. MANNING  
ROBERT S. MARTIN  
JOE A. MARTINEZ II  
JAMES P. MURPHY  
MARK D. MURPHY  
STEVEN S. NORDHAUS  
TIMOTHY P. O'BRIEN  
LOUISE M. PARADIS  
LOUIS J. PERINO  
WILLIAM R. POST  
JOSEPH S. ROBINSON  
WILLIAM D. ROGERS, JR.  
JON L. SCOTT  
EDWIN B. SELF, JR.  
RAY M. SHEPARD  
RICHARD I. SIMMONS  
JOHN D. SLOCUM  
TIMOTHY G. SMITH