

Statement of U.S. Senator Robert C. Byrd
Senate Committee on Rules and Administration

“Examining the Filibuster: Silent Filibusters, Holds and
the Senate Confirmation Process”

June 23, 2010

Mr. Chairman,

I commend the Committee for this third hearing on the filibuster and cloture rule, with today's focus on secret holds and nominations.

When a small minority – often a minority of one – abuses Senatorial courtesy, and indefinitely delays action on a matter, then I am as adamant as any of my colleagues insisting that Senators should come to the Senate floor and make their objections public.

When such abuses have occurred, I have supported efforts by others, (and proposed some ideas of my own), to ignore requests for holds after a designated period of time. As Majority Whip, I supported the Democratic Caucus policy not to honor holds after three days. As Majority Leader, I cautioned Senators that I would not delay action on a bill indefinitely because of a hold. In the 108th Congress, I cosponsored, with Senators Wyden and Grassley, Senate Resolution 216, which would have required holds to be disclosed in the Congressional Record after three days. I supported the Honest Leadership and Open Government Act of 2007, which requires Senators to publicly disclose their intent to object to proceeding to a matter after six days. I am ready to support any reasonable proposal that will do away with indefinite holds.

However, there are situations when it is appropriate and even important for Senators to raise a private objection to the immediate consideration of a matter with the Leadership, and to request a reasonable amount of time to try to have concerns addressed. I declined to sign the pledge that has been circulated by Senator McCaskill, because it does not differentiate between temporary and permanent holds. There are times when Senators put holds on nominations or bills, not to delay action, but to be notified before a matter is coming to the floor so that they can prepare amendments or more easily plan schedules. Certainly, Senators should not have to forswear requesting private consultation and advanced notification on a matter coming to the floor.

If the Committee pursues changes to the Senate rules, we must avoid impinging on common sense Senatorial courtesy. We must also realize that if Senators persist in abusing Senatorial courtesies like holds, and taxing the patience of their colleagues by objecting to noncontroversial matters, then Senators are flirting with the loss of those privileges.

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