

The conference report was agreed to. The concurrent resolution (H. Con. Res. 483) was agreed to.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 5:15 p.m.

Thereupon, the Senate, at 4:17 p.m., recessed until 5:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. REID).

#### HOMELAND SECURITY ACT OF 2002—Continued

AMENDMENT NO. 4738

The PRESIDING OFFICER. Under the order previously entered, there are 15 minutes equally divided between the two managers of the bill.

Who yields time?

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I yield myself up to 3½ minutes.

One of my favorite expressions is: Only in America, this great country of ours. I was thinking, as we approach this debate on the motion to invoke cloture, that only in the Senate, the great deliberative body we are, would we find Members about to do what I fear they are going to do, which is to vote against a proposal that they themselves have made because they want to vote on it without anyone else having a right to amend it. That is where we are.

We have had a good debate. We have the Gramm-Miller substitute amendment to the underlying Senate Governmental Affairs Committee proposal that created the Homeland Security Department. Senator GRAMM and Senator MILLER said their proposal and ours are 95 percent the same. We have a disagreement about how to protect homeland security workers in the new Department and still retain the authority of the President over national security.

Senator BEN NELSON of Nebraska and Senator JOHN BREAUX of Louisiana, working together with Senator LINCOLN CHAFEE of Rhode Island, have found common ground. They presented and crafted an amendment that gives a little bit of reassurance against arbitrary action to the Federal workers before they have their union rights, collective bargaining rights, taken away because the President determines those rights are in conflict with national security. It gives the President some new authority to reform the civil service system but encourages him to try to negotiate those changes with the unions. If that does not work out, then it is decided by a board, where the President appoints all the members. This achieves some due process and fairness for homeland security workers but does not diminish the final word of the President of the United States at all.

In short, with all respect, I say to my colleagues who support Gramm-Miller but who are going to oppose the end of a filibuster of Gramm-Miller, they do not know how to accept a yes to the question they have asked. The Nelson-Chafee-Breaux amendment says yes to the question they have asked: How can we create a Department of Homeland Security, retain the authority of the President, and still protect some fairness and due process for homeland security workers?

What they are asking for is an up-or-down vote on the Gramm-Miller proposal, the President's proposal, denying us, apparently—the majority of us, now 51—the right to vote on an amendment which, incidentally, is pretty much the exact same amendment Congresswoman CONNIE MORELLA, a Republican of the House, was allowed by the Republican leadership of the House to put on the President's proposal. We can at least offer the same courtesy and rights to three bipartisan Members of the Senate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LIEBERMAN. Mr. President, I yield such time as the Senator from Nebraska requires.

The PRESIDING OFFICER. The Senator from Nebraska has up to 4 minutes.

Mr. NELSON of Nebraska. Mr. President, I thank my colleague from Connecticut for this opportunity to speak on this amendment.

Quite frankly, I think my colleague from Connecticut is absolutely right, and I ask my friends on both sides to take yes for an answer because I truly think this amendment will be the kind of yes that has been sought in the past.

I am puzzled, as I think perhaps anybody watching and many of us here today are puzzled, by the characterization of this amendment as being in opposition to the President. Anytime you are trying to close the gap, anytime you are trying to bring about a resolution of compromise, it is hardly an exercise in opposition. I think, if anything, we should be looked at as friends of the process in trying to bring this together.

To also suggest cloture would be inappropriate now is also very startling because I always thought cloture was how we finally brought the end of debate to get a vote for or against legislation to move it forward. Right now it seems the vote against cloture is to stall and have more opportunity for debate.

So if people are a bit puzzled, I can only appreciate that fact because I am puzzled, too.

In this exercise, I have learned a lot about the spin as opposed to the appropriate characterization of letters or of comments on the floor. I thought we were giving Governor Ridge and Senator GRAMM exactly what they were asking for because that is the way I read Senator GRAMM's comments. I

presided the day he was presenting them, and I thought I understood him. I am surprised to find out I did not understand what he was saying. I am surprised I cannot read a letter from Governor Ridge in which he says the same management authority that is now provided in the IRS model is what we are after. We provide that in this amendment. Now we find that is not the case, either.

This is a puzzling day for me. It is perhaps puzzling others who are watching it, because when it appears yes cannot be taken for an answer, I do not know what kind of an answer will be appropriate. If there is other language, I have said I will take a look at it, but I do not think the answer is no language. In fact, what we have is an opportunity to present something that ought to close the gap, fill in the last 5 percent, so we have 100 percent legislation that does what the President needs to be able to do and also protects national security.

National security is lost in this debate over nits and little differences of opinion about this piece of the amendment or that piece of the amendment. We can close them, but we have to be able to be in a position to know when they are closed and when enough will be enough.

Right now I would not know even how to begin to try to close this if it remains open, but it seems to me we can vote for cloture and then let's have the opportunity to finish this bill, get an up-or-down vote, as has been requested, move on and make national security the important point it is and have a Homeland Defense Department.

I yield the floor.

The PRESIDING OFFICER. Senator BURNS is under the time controlled by Senator THOMPSON. The Senator from Montana.

Mr. BURNS. I congratulate my friends from Nebraska and Connecticut who were just talking. It seems like yesterday we came to this body. You didn't get my goat, either.

We have all been involved in conferences. Anytime we pass legislation in this body and then it is passed in the House, we go to conference. In conference is where we settle our differences. It usually comes down to one or two items where there starts to be an impasse.

Basically, those one or two items were not dealt with in the amendment of my friend from Nebraska. It is still there and even adds another layer or hurdle for the President to jump in the management of this Department before a final decision can be made on the movement of money or personnel and their responsibilities in this particular national security Department.

We have not dealt with the two very important ones, and nobody puts it better than the ranking member of the committee of jurisdiction. So I caution Senators this is a bold attempt to find a compromise, but even though you pass their amendment, it does not deal with the heart of this debate.