



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, SECOND SESSION

Vol. 150

WASHINGTON, SATURDAY, NOVEMBER 20, 2004

No. 135

Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord our God, You are the fountain of all wisdom. We will praise Your mighty deeds and Your power to save. Teach us how to trust You completely, for You are our mighty protector. Help us to see that You know our hearts and plan to prosper us and to give us abundant life. Guide us along right paths, so that we depend upon Your providence and follow Your precepts. Make us a nation that acknowledges Your sovereignty and seeks You in all of life's seasons.

Today, strengthen the Members of this body. May people be attracted by the strength and beauty of their lives. Let those who watch their deliberations be impressed by their impartiality and by their desire to always do right. Empower them to administer the affairs of this Nation faithfully and wisely. We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we are convening for this unusual Saturday session with the hope of finishing

our work and adjourning the 108th Congress. We anticipate the omnibus conference report will arrive from the House of Representatives today. In all likelihood that would be early to mid-afternoon. I hope we will be able to have a short period of debate and then proceed to a vote on adoption of that conference report.

Once the report arrives officially from the House of Representatives—again, I think it is going to be early to mid-afternoon, possibly around 2 o'clock—we would like to go to that bill at that point in time. As you can see before me, we have the copies, both here and each of the cloakrooms have several copies at this point in time. I know people have been interested and have been looking through the copies of that report. But we will be prepared to go to it this afternoon.

One of the issues we will be checking with also, over the course of the rest of the morning and early afternoon, is to ask Members how much time they do want to spend on debate and how much debate time will be necessary in order that we can advise our colleagues with regard to their schedules.

In addition, over the night—which was a long night for many people, both staff as well as Members, in bringing to a close the 108th Congress—there was a lot of work on the intelligence reform bill, the 9/11 intelligence reform bill. Huge progress has been made over the last 24 hours under the leadership, from the Senate side, of Senator COLLINS, joined by Senator LIEBERMAN and, indeed, they have done yeoman's work in bringing us to this point. So if that conference report becomes available, we may also be considering intelligence reform over the course of the day.

A third issue that we have spent a lot of time with yesterday and through last night and over the course of the morning is the nominations. People do not realize that in our calendar right now there are over 200 nominations

pending that we either need to wrap up today or it will be in the next Congress. It is not 10 or 20 or 50 or 100; it is almost 200 nominations that have been held up for various reasons. But they made it to the calendar and I am very hopeful that over the course of the next several hours we can reach an agreement to address all 200 or so of those pending nominations. Many people are working on that. I just encourage our Members to continue to work on that.

These individuals have accepted the call to public service in many different capacities. Yet because of inactivity on the floor of the Senate, they are going to be just a name in that book where if we can act on that, they will be allowed to proceed. They have gone through the entire process. I know it is incumbent upon us to act. We just have to find a way to confirm these non-controversial executive nominations before we finish our work.

MIDDLE EAST PEACE

I want to comment on two things. First is a resolution we passed yesterday, last night, in support of democracy in the Middle East. On November 12, the President of the United States and the Prime Minister of England articulated their joint resolve to press for a peaceful resolution to the Palestinian-Israeli conflict. Specifically, they support the creation of a Palestinian State that is peaceful, that is democratic, that is free, and that is based and grounded on the rule of law, that will include free press and free speech and an open political process and religious tolerance.

Last night, here in the Senate, we voted unanimously to ratify this vision. It is our hope that both parties to the roadmap will follow it to a peaceful resolution. With courage and determination on both sides, we believe, in fact we know, that peace can be achieved.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S11665

POLITICS OF DECENCY

One final issue I want to spend a few minutes talking about is the people's expectation of how this body should function as we come together after what we know have been tough, competitive elections. Two days ago I had the opportunity to travel with Senator DASCHLE and a number of Senators and House Members to the opening of the Clinton Library, and it was remarkable, while I was there, the number of people from other countries—there was a huge delegation from other countries—who came forward and spoke about the remarkable flexibility, pliability, resilience of America in coming together after tough elections, aggressive elections. Within a week or 2 weeks, we come together. That is what the American people expect and that is characteristic of America.

To accomplish the people's work, the Senate and Senators, the Members of this body, must work together and do work together. They must work toward consensus. They must conduct their affairs with respect for each other and with civility. They must practice those politics of decency.

In my office, just down the hall, one of my predecessor Republican leaders, Everett Dirksen, has a portrait on the wall there. It reminds me that he was often an ardent antagonist of Democratic administrations. He broke with some in his party to lead the Nation's Republicans in support of the laws that ended legal racial discrimination in this country. He acted because he knew he was doing the right thing and the reasonable thing and the moral thing. He acted because the Nation needed, the Nation deserved, racial equality, and in acting he had to work with members of the other party. Indeed, he did, and he could. He had strong personal relationships with President Lyndon Johnson and the Democratic leader, Mike Mansfield. He worked alongside them to pass the historic 1964 Civil Rights Act and the groundbreaking 1965 Voting Rights Act. But without his will to cooperate, in all likelihood, neither would have become law.

And Dirksen cared about keeping a civil atmosphere in Washington, DC. In 1969, he even rode in that Presidential inauguration with President-elect Nixon and President Johnson in an effort to smooth the troubled relationship between those two statesmen.

In the last 4 years, with civility and the will to work together, we set tough new standards in fields such as education, with No Child Left Behind. We created the Department of Homeland Security, again coming together and working on the issue with great civility. I have been proud to work with numerous colleagues on issues important to me—with Senator KERRY aggressively, over a period of about a year, on issues surrounding AIDS and malaria and tuberculosis. I was deeply proud to work with my distinguished colleague from Louisiana, JOHN BREAUX, as we

fashioned over the last several years, culminating last year, a Medicare modernization package that extended, for the first time in the history of Medicare, prescription drug coverage to seniors; and with Senator RON WYDEN on flexibility and accountability in education, and Senator KENNEDY on issues surrounding public health and bioterrorism.

Throughout our history, indeed, America has been governed best when the women and men of the Senate—and I should also add the House of Representatives—and the Executive have treated each other with respect and with civility and with decency. A lot of it comes down to personal relationships, which a lot of people don't see but really is the heart of this body. Rule XIX says—I don't need to remind my colleagues of the clear message of rule XIX of this body:

No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to Senators any conduct or motive unworthy or unbecoming a Senator.

The American people have sent us a clear message as well. They want to move America forward, but they want to make sure we do it in a way that shows respect for one another. They re-elected a Republican President, chose significant Republican majorities in both the House of Representatives and the Senate, but regardless of whether we are Republicans or whether we are Democrats, we all take the same pledge, which our new Senators will be doing in early January, to defend the same Constitution. It is our duty to represent all Americans. The American people expect us to work together, the American people want us to work together, and they deserve to have us work together.

I know that all of my colleagues on both sides of the aisle share the same ultimate goal of a safer America, a more prosperous America, and a healthier America, and that none of us want to be thought of as blanket obstructionists to accomplishing this goal. We want to move with civility, with cooperation, working toward consensus. But all too often, as we all know—we have seen it in this body and outside the body and in committees—people tend to lean to partisan bickering. We need to move away from that because we have all seen that it does get in the way of our genuine, our shared desire to move America forward.

Many believe things have worsened over time here in comparison to the way it may have been 15 years ago or 30 years ago. It is true that Senators of different parties rarely get together, or clearly don't get together as much as they did in more distant times. We come together for floor votes and we come together for occasional Senate dinners and we come together for weekly prayer breakfasts, many of us, but clearly we haven't generated those opportunities nearly as much as they were in the past.

Every year, more and more people are commenting on the partisan divide and the bickering and the sniping back and forth. As my distinguished colleague, Senator DASCHLE, has said, it is not enough to say that society has become divided and throw up your hands. We have a higher responsibility, he says, and I quote his words, "to try to bridge the divide, not simply mirror or exploit it." I simply could not agree with that more.

At the Clinton Library opening 2 days ago we had the opportunity to spend a couple of hours together. It was a tremendous ceremony, the opening of that library. But as we sat there, we very specifically talked about how best this institution can be served by moving toward greater civility, more opportunities for us to come together. Civility in this body has eroded over time, and it will take time and a renewed commitment, maybe a new commitment for many, but a renewed commitment to regain it. But we have got to begin.

I think we have a great opportunity to begin in the coming weeks. We have had other Members of this Chamber who have already begun much of this task. I want to highlight the recent bipartisan orientation sessions that the Senator from Delaware, Mr. CARPER, along with my colleague from Tennessee, Senator ALEXANDER, along with Senator MARK PRYOR and Senator GEORGE VOINOVICH, put together. When they first brought this idea to us, both Senator DASCHLE and I said: Yes, absolutely, let's do it. Indeed, over 4 days this past week, starting Sunday, Monday, Tuesday, Wednesday, the nine newly elected Senators from both parties were together for the better part of each and every one of those days addressing how they can best serve their constituents and, indeed, the American people. They were joined by their spouses. They had lively discussions. They had meals together. They had dinner and conversation well into the night each of these evenings. I think it is a tremendous foundation for what we all need to make a renewed commitment to do in the coming weeks and months in this body.

Tip O'Neill, who would sit and swap stories with President Reagan after hard days fighting on everything from appropriations to welfare reform, liked saying, in a quotation we all hear again and again, "We should all be friends after 6 p.m."

At the same time, we all know that in this body, we have two parties and we have two very different views of how to get to that common goal. So we don't expect Senators to compromise their principles in any way. We don't expect Republicans to stop being Republicans or Democrats to stop being Democrats, and it takes effective spokesmen on both sides of the aisle to articulate those principles. The principles we stand for both as parties and as caucuses do reflect some very different visions. In some cases, they can

be serious and in some ways quite fundamental, but when it comes to the details of policy, we can and should move together and have discussions with civility to move toward consensus.

We face an imperative to reduce the deficit by keeping spending in check, but without raising taxes and stifling job growth.

We must transform our health care system into one that puts people and their doctors first and puts the doctor-patient relationship in charge.

We do need to confirm judges who justly and independently interpret the law.

We can't move America forward unless we do these things, and we can't do these things unless we do work together. Doing this and improving the environment and the tenor of this body is going to require a lot of hard work. We will need more good ideas devised by Senators ALEXANDER, CARPER, PRYOR, and VOINOVICH.

We should give strong consideration to the proposals my colleague Senator DASCHLE made several months ago such as all-Senate policy forums to discuss the issues of the day, and bipartisan leadership meetings which bring leadership together. These are all great suggestions, fruitful suggestions, and great starting points and productive ideas.

Senator REID and I have already begun to discuss ideas on how to achieve this, again working together to make my ideas and his ideas a reality.

Sensors on both sides of the aisle should know that as we approach these issues, accomplish this, and their ideas we ask them to bring forward.

In closing, the traditions, rules, and customs of the Senate rest on a foundation of civility. That is why we have rules that are in print, a body of rules. Then we have this whole element of tradition and precedent which is so important to this body.

We have essential work ahead of us as we all begin to plan and look at the next Congress. We are stewards of rich Senate traditions and stewards of constitutional principles that simply must not be undone. We are leaders elected by the American people for one simple purpose; that is, to move America forward. Doing it is going to require a lot of work. It will require a lot of consensus building, and above all it will require civility.

I look forward to working with our leadership and working jointly with the Democratic leadership to make that our goal and to implement and incorporate whatever we need to do in this body so we indeed can achieve that goal.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Ms. MURKOWSKI). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will be a period of morning business with Senators permitted to speak for up to 10 minutes each.

ORDER OF PROCEDURE

Mrs. HUTCHISON. Madam President, I wanted to ask if we could put an order in place, that Senator ALLARD speak first, then myself, and Senator ALLEN. I would like to protect our places, if that would be possible. I ask unanimous consent that Senator ALLARD be recognized, after which I would be recognized, after which Senator BOND would be recognized, then Senator ALLEN and Senator STEVENS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Colorado.

COMMENDING THE MAJORITY LEADER

Mr. ALLARD. Madam President, first of all I would like to recognize the strong leadership that we receive from the majority leader. I think he needs to be complimented for his inclusive leadership. We have accomplished a lot this session because of his efforts.

TRIBUTES TO RETIRING SENATORS

BEN NIGHTHORSE CAMPBELL

Mr. ALLARD. Madam President, I take a moment to talk about 4 colleagues whom I have had an opportunity to serve with in the Senate.

First of all, I want to talk about my colleague from the State of Colorado, who is not going to be with us as we go into the waning days of the 108th Congress.

I had an opportunity to get to know BEN CAMPBELL in the Colorado General Assembly. In 1982, he was elected to the State house and I was elected to the State senate. It was not long before the buzz in the Capitol was all about this great Native American whom we had serving in the State house who brought to the Capitol some common sense from western Colorado, an individual who in his own right had already gained some national notoriety.

Senator CAMPBELL came from a family that was somewhat dysfunctional. It was a poor family. He joined the Air Force. While he was serving in the Air Force, he had an opportunity to get his GED. He served in Korea. While serving in the Air Force, he also spent some time in Japan where he received some judo training. He became a member of the first Olympic judo team representing the United States. He had the distinction of carrying the flag representing the whole United States entourage that was there participating in the Olympics.

This individual brought a considerable amount of national notoriety to

the Colorado General Assembly. But he became even more respected because of his firm conviction, his hard work, and his commitment to small business, and to water issues of the western slope in the State house district he represented. In fact, having finished his first term, he was recognized as one of the 10 best legislators in the Colorado General Assembly. He had an opportunity to serve for about three terms and took on an incumbent congressman. He won that particular race and ended up in the U.S. House of Representatives in 1986; then got elected to the U.S. Senate in 1992, and reelected in 1998.

During this period of time, I had an opportunity to be able to establish a personal relationship with Senator CAMPBELL in the State legislature. I respect a lot of the values he brought to the legislature. I had an opportunity to work with him for a short period of time in the U.S. House of Representatives. He certainly was a team player and somebody whom I felt I could work with. I looked forward to the opportunity when I could serve with him in the Senate. While serving here in the Senate, we became known as a team representing the interests of Colorado, which has been pretty effective. A lot of the issues that are important to the State of Colorado we were able to accomplish. A lot of it was because he was willing to take on the responsibilities of the Appropriations Committee. Representatives from Colorado ordinarily didn't seek out these committees, but he made a big difference.

I consider it a great pleasure to be able to serve with him. I consider him family. Not only are we close friends, but my niece married his son. I have the greatest respect for the Campbell family. They are great Americans and I am pleased to be considered part of his family.

DON NICKLES

Mr. ALLARD. Madam President, I also want to take a moment to talk about another colleague, DON NICKLES, who has had a long and distinguished career as we move into the waning days of the 108th Congress.

He brought to this Congress a perspective from the private sector. I am a small businessman. I grew up in the private sector. In my view, too few of us have had to meet the challenges and meet a payroll. I think it affects how you view rules and regulations and taxes.

Senator NICKLES from Oklahoma became a strong advocate of small business issues and worked hard to hold down the tax burden and regulatory burden.

I had an opportunity to serve with him when he was chairman of the Budget Committee, and I very much appreciated his leadership on that committee.

I also appreciated the opportunity to be able to work with him in holding down and actually eliminating the death tax which has such devastating effects on small business.