

have this filibuster that gives the minority, always, a voice in the dealings of the Senate.

I know the Senator from Nevada—and I share his belief—is committed to this constitutional principle that goes back to our Founding Fathers. But I want to ask the Senator from Nevada in closing: Is it not true, as you announced yesterday, that despite this commitment to this core principle that you have reached out to the other side, to the Republican leadership, in an effort to try to find some common ground to work through our difficulties and differences over several different judges; that you have spoken directly to Senator FRIST and many Republican Senators in an effort to try to resolve this, and that, sadly, Senator FRIST came to the floor yesterday and announced he wouldn't be party to any negotiations to try to work this out?

Mr. REID. I say to my friend, first of all, in defense of Senator FRIST, the statement he gave was before we had our meeting. I have confidence Senator FRIST is weighing the offer I gave him.

Let me say this to all my friends, including the distinguished junior Senator from Pennsylvania: I am not going to dwell on what took place during the Clinton administration. Most people would acknowledge it was not right. I am not going to dwell on what took place these last 4 years of the Bush administration because I am sure people can make a case, as advocates can, that maybe we did not do the right thing in those years.

I am asking my Republican friends on the other side of the aisle to give us a chance. Let's work our way through this. We are not out plotting to take the next Supreme Court nominee who comes before the Senate, waiting in the wings to knock him or her out. We are not waiting to knock out circuit judges or district court judges.

Test us. We have proven so far this year that we are willing to work with the majority. We have done some pretty good stuff in spite of a number of things we could have held up for a long time. As I said yesterday, we could have held up class action for a long time. Just to go to conference takes three separate cloture votes. Bankruptcy could have taken a lot of time.

We legislated the way the Senate used to legislate. We had a bill come to the Senate. A person offered an amendment. He spoke in favor of it. People came and joined in that. People spoke against it. And we did things the old-fashioned way—we voted on them and then sent the bill to the House. That is the way we did it.

We have to develop faith in what we are trying to do. I am saying to everyone, trust us. Yes, I have spoken to Republican Senators. I have spoken to every one of the Democrat Senators. I have spoken to quite a few Republican Senators. I hope they give us the benefit of the doubt.

We are not working from a position of weakness. The American people

want us to do this. They want us to join together, to pass legislation. They do not want anyone breaking the rules to change the rules.

This is so important for our country. We need to come together to work out our differences. It is not only important to this institution, it is important to our country.

I thank very much my friend from Illinois for his questions.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I ask unanimous consent I be able to speak for 7 minutes.

Mr. REID. Mr. President, I have no problem with my friend speaking. My friend has to catch a train, and he has had unanimous consent to speak here for a long period of time. I think he should be able to go first. I object. I want my friend from Delaware to go first.

Mr. CARPER. I appreciate that. I will miss my train, but go ahead. I yield to the Senator.

Mr. SANTORUM. If the Senator is going to miss his train because of my 7 minutes, not because of his own speech, I will withhold. But if he is going to miss the train because of his speech—

Mr. REID. Mr. President, I object. The PRESIDING OFFICER. The objection has been heard.

The Senator from Delaware is recognized.

Mr. CARPER. I thank the Senator from Pennsylvania, and I promise to be very brief.

The PRESIDING OFFICER. The Senator is recognized.

NOMINATION OF STEPHEN JOHNSON

Mr. CARPER. Mr. President, I have been here 4 years. I have never placed a hold, as I recall, on any nomination for anyone to serve in this administration.

When Christie Whitman was nominated to head up EPA, I said: Congratulations. What can I do to help get you confirmed and to confirm the members of the team you want to surround yourself with? And I went to work on it.

When Mike Levitt was nominated to succeed her, I called Mike Levitt—both him and Governor Whitman, with whom I served—I called Mike Levitt and I said: Congratulations. What can I do to help get you confirmed and the team you want to surround yourself with? And I went to work on it.

When Tommy Thompson was nominated to be Secretary of Health and Human Services, I called to congratulate him and said: What can I do to help get you confirmed and confirm the team you want to surround you? And I went to work on it.

When Tom Ridge was nominated to be Secretary of Homeland Security, I called him and I said: Congratulations. What can I do to help get you confirmed and to confirm the team you want around you?

For me to stand here today in an effort to stop, at least for a short while, the nomination of Stephen Johnson to be Administrator of EPA is out of character for me. That is not the way I do business. I hope my colleagues realize that after 4 years I am a guy who likes to work across the aisle, and whether the issues are some of the issues Senator REID just mentioned—class action reform, bankruptcy reform legislation, now asbestos, overhauling the postal system, comprehensive energy bill—I am one on the Democrat side who looks forward to working not only with my colleagues but with our colleagues on the other side of the aisle.

We have problems in our country, challenges we face on all fronts. Among those challenges we face is what to do to improve the quality of our air and how we can do that in a way that does not cost consumers an arm and a leg. What can we do to improve the quality of our air that does not encourage the shifting of utility plants from coal, which we have in abundance, to natural gas, which we don't.

We have had sort of a Hobson's choice in the last couple of years—the administration's clear skies proposals, multipollutant bill dealing with reducing sulphur dioxide, nitrogen oxide, mercury from utility plants, compared to the proposal of our colleague from Vermont, Senator JEFFORDS, and others, who would propose to go further, a lot further, a lot faster than the administration on those three pollutants, and add a fourth, carbon dioxide.

The Presiding Officer, as well as my friend from Pennsylvania—we have all served in the House together. I don't know about them, but when I served in the House, I never liked it when I was dealt a Hobson's choice—a position over here and another position over here. I never liked it.

One of the great things about the Senate is we can craft something in the middle. What I sought to do in working with people such as Senator LAMAR ALEXANDER from Tennessee, LINCOLN CHAFEE from Rhode Island, and JUDD GREGG from New Hampshire, was to come up with something in the middle, a centrist approach that we believe reduces the emission of sulphur dioxide, nitrogen oxide, mercury from utility plants, gets a start in slowing down the growth of emissions from CO₂, and does so in a way that does not cost consumers an arm and a leg and, frankly, does not lead to a lot of shifting off of coal and onto natural gas.

We introduced legislation the first time in 2002. That was the year I first asked EPA for comparative analysis, comparing the administration's clear skies proposal with our bipartisan bill with the Jeffords bill. In 2003 we got a lot of raw data and not much analysis from EPA. Along with the raw data and the limited analysis they sent us, they said some of the assumptions on which this analysis was conducted are, frankly, out of date and that the information we have shared with you is maybe not as valid as it otherwise would be.

We renewed the request and asked for the comparative analysis of the President's proposal of the clear skies with the Jeffords proposal and our proposal in the middle. We found out in 2004—we heard the information could not be provided because it looked as if Congress, the Environment and Public Works Committee, was not going to move to cleaner legislation in 2004, so they did not want the EPA to do the analysis.

We renewed our request in 2005 for the comparative analysis, and we were told that no, the EPA does not have time because we are moving so quickly toward enactment of clean air legislation.

We are now in a situation where the President's proposal was not approved by committee, and we are not moving anything. The only thing that is moving right now is lawyers—to file lawsuits on behalf of environmental groups or on behalf of utilities. It is not a good situation.

I came here to legislate. I didn't come here to litigate. I came here to get things done.

We have about 50,000 people in my State who suffer from asthma, and about 20,000 of them are kids. We have too much smog in my State—the ozone problem and too much smog—especially in the summertime, more than we do in other parts of the country. We have in my State too much mercury that has been ingested by fish, and pregnant women in Delaware and other places around the country eat those fish. There are high levels of mercury in those fish. We know what it does to the brains of the unborn those pregnant women carry.

Not everybody believes carbon dioxide leads to global warming and that we are actually seeing a temperature rising on this planet of ours. I will tell you NASA says this year will be the warmest year on record since we have been keeping records, and we have been keeping records for 150 years. We are told that 9 out of the last 10 years have been the warmest years since we have been keeping temperature records in this country.

The glaciers—I have seen some of them, and maybe others here have, too—are disappearing way up North and way down South. The snowcaps on some of the tallest mountains in the world are disappearing, too. We are actually seeing temperatures rise. We are seeing sea levels rise.

I am not going to get into an argument today about whether there is a real problem. I believe there is. I respect the views of others who disagree, but I think the preponderance of scientific evidence says we need to get started on this issue.

How does that lead us to the nomination of Stephen Johnson? I have been asking for 3 years, from the EPA, for scientific analysis that will enable our committee and, frankly, the Senate to decide what kind of clean air legislation, multipollutant legislation, to move out of committee to bring to the

Senate floor. Frankly, we have not gotten an altogether satisfactory response.

The responses are getting a little better, but we are not quite where I think we need to be. Stephen Johnson is a good man. He will be a good administrator if this administration will let him do his job. If we do not have the scientific analysis we need to be able to use good science to decide how far, how fast to go in reducing the emissions of these four pollutants, we are not going to get a clean air bill. It is just that simple.

Someday, we will have a Democratic President. It could be in a couple years. It could be longer than that. Someday, we will have a Democratic majority in the Senate, maybe even in the House. I do not think it should matter who is in the White House or who is in the majority here in the Senate. We need to work across the aisle on issues such as this. If you look at the history of this body: clean air, bipartisan legislation; clean water, bipartisan legislation; brownfields, bipartisan legislation.

If we are going to find agreement, common ground on multipollutant legislation, it is going to be because we work together, not because EPA was compelled to withhold data or information from one side or the other, but because they shared that information, and we used that information and good science to go forward.

Let me close with this. There is going to be a vote on cloture—it could be tomorrow; it could be Friday—on Stephen Johnson. As much as I am convinced he is a good man and would be a good administrator of EPA, I am even more convinced we need not just a good person to head up EPA, but we need strong, balanced multipollutant legislation in this country. The only way I believe that legislation is going to move through our committee and through this Senate is if we have good, comparable analysis, good comprehensive analysis. It is not hard to get.

I spoke with Mr. Johnson twice today. He was good enough to respond to me in writing to my requests. We met and talked a number of times. He has suggested to me what he thinks might be a compromise on the amount of information they would be willing to share. I responded, in turn, with a counterproposal. In my judgment, it is eminently reasonable.

I would hope somebody on the other side—our Republican friends either here or down at 1600 Pennsylvania Avenue—would see that maybe the better part of valor and a way to get to a win-win situation is to simply say: We will provide the information that has been requested. We will stop squabbling about it and just provide it.

If they do that, we can negotiate in earnest this spring on a multipollutant bill; and we can pass, this year, that legislation. I would call that a win-win situation—a win-win because Stephen Johnson would be allowed, literally, to be confirmed this week to head up

EPA; and our country would be on the road to having air that is cleaner to breathe and less polluted with sulfur dioxide, nitrogen oxide, and mercury; and we would have a world where the threat of global warming has been reduced a little bit as well. Those are two good outcomes.

My hope is, before we push this ball any further down the court, we can come to agreement and get those two things done.

Mr. President, I yield back my time and thank the Senator from Pennsylvania for his accommodation.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE TRADITION ON JUDICIAL NOMINATIONS

Mr. SANTORUM. Mr. President, I had the opportunity to listen to the Democratic leader for a few moments talking about the House of Representatives and the compromise the House of Representatives just achieved on their ethics consideration.

Three comments about that compromise: No. 1, it is interesting that "compromise" means the Republicans do what the Democrats insisted upon them doing. That is a compromise, No. 1.

No. 2, that compromise meant the House went back to the way the House has always done things when it came to ethics. The compromise was to go back to the precedent and rules of the House they have always used.

Third, that compromise means—and the Senator from Oklahoma has had experience over in the House, as have I—the rules of the House will continue to be that if a Member has an ethics claim filed against them by someone—and the Ethics Committee is equally divided—particularly, if it is a Member where there happens to be political value in having an ethics claim filed against them, if the other side decides, politically, they are simply not going to hear the case, it stays on the docket forever, for as long as the session lasts, with no need to dispose or rule on that. So the ethics charge hangs out there without a decision. It automatically goes forward, in other words, unless there is a decision on the part of a bipartisan majority to end the discussion.

I think what we have seen in the past—and I know Members of the House are concerned about this—is