

Kennedy	Mikulski	Shelby
Kerrey	Moseley-Braun	Simon
Kerry	Moynihan	Simpson
Kohl	Murkowski	Smith
Kyl	Nickles	Snowe
Lautenberg	Nunn	Specter
Leahy	Pell	Stevens
Levin	Pressler	Thomas
Lieberman	Reid	Thompson
Lott	Robb	Thurmond
Lugar	Rockefeller	Warner
Mack	Roth	Wellstone
McCain	Santorum	Wyden
McConnell	Sarbanes	

NOT VOTING—2

Murray Pryor

The conference report was agreed to. Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. KEMPTHORNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. 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. LOTT. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. LOTT. Mr. President, I believe Members will be very interested in this unanimous consent request. This will give them the idea of what will be happening over the next hour and a half, and some feel, maybe, of what might be in store for the balance of the night. We still have some things we are trying to work through. But this is a very important agreement. I am pleased we have it worked out. I think it is fair to all concerned.

UNANIMOUS-CONSENT AGREEMENTS

Mr. LOTT. Mr. President, I ask unanimous consent that immediately following the disposition of the safe drinking water conference report—which we have just done—the Chair lay before the Senate the health insurance reform conference report, and it be considered as having been read, and it be in order for Senator WELLSTONE to make a point of order that the conference exceeded the scope with respect to section 281 of title II, subtitle H, and following the ruling of the Chair, Senator WELLSTONE be recognized to appeal the ruling of the Chair, and that appeal be limited to 10 minutes to be equally divided in the usual form, and following the vote on the appeal, if overturned, the point of order be null and void, and the Senate immediately deem agreed to a Senate Concurrent Resolution now at the desk correcting the enrollment of the conference report.

To put that in everyday language, there will be a point of order made, and the Chair will rule after 10 minutes of debate equally divided. Then action would be taken, and then that would go

as a Senate Concurrent Resolution over to the House for disposition. We believe we have everything agreed to, both here and over there. And this is the way to deal with this issue as it now stands.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LOTT. Mr. President, I further ask unanimous consent that following the adoption of the correcting resolution, there be 85 minutes—85 minutes—for debate under the control of Senator KENNEDY, 70 minutes under the control of Senator KASSEBAUM, with 30 minutes of the Kassebaum time under the control of Senator DOMENICI, and following the conclusion or yielding back of time, the conference report be laid aside to be made the pending business at the direction of the majority leader, after notification of the Democratic leader.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, and I shall not. Fellow Senators, I have been heard to say I would do anything I could to kill this bill because of what happened with reference to the mentally ill. But I have conferred with our distinguished leader. And, frankly, I am very proud of what he is doing around here. He is making the Senate work, and we are getting some things done. And to be honest, the only thing I could do is make you all stay around here tonight and tomorrow, if a couple of us could stand on our feet all night. And I do not choose to do that because I think, in the end, this bill is so good for the American people, and that will be expressed by the votes of this body.

But I would like those who have resisted a very modest amendment which we agreed to, which was a compromise, to know—and I told our leader this—that this issue is not going away. In fact, I will introduce a freestanding bill today with many cosponsors. And it will just be on the very simple proposition that we attempted to resolve this on, not the full amendment that came about here on the floor.

I would like everyone to know, including our distinguished leader, during the month of September there will be opportunities to vote again. And I do not intend to let this issue go by. So all of you can be looking at it because you are going to be voting again, except the next vote is a very simple one, just so, so small in dimension that hardly anybody can really object on the grounds of costs. So everybody should know that. And with that, I agree to the unanimous consent request.

I understand, I say to Senator KASSEBAUM, of your 70 minutes, in the event you have a few of them left over, you would yield those to me, also in the event those on my side need more than the 30 minutes. Is that correct?

Mrs. KASSEBAUM. Yes.

Mr. DOMENICI. Thank you for what you are doing.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. LOTT. Mr. President, I want to thank the distinguished Senator from New Mexico, the chairman of the Budget Committee, for his comments. And Senator DASCHLE, both he and Senator WELLSTONE, I thank for their cooperation. We know how strongly you feel about it. The Senator has been very fair. We appreciate it very much.

I further ask unanimous consent that the time on the conference report to accompany the small business tax relief bill, H.R. 3448, be limited to 60 minutes under the control of Senator MOYNIHAN, 30 minutes under the control of Senator KENNEDY, and 60 minutes under the control of Senator ROTH, and the conference report be considered as having been read, and following the conclusion or yielding back of the time, the Senate proceed to vote on adoption of the conference report without further action or debate.

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

Mr. LOTT. I further ask unanimous consent that at 6 o'clock this evening, if the House has adopted the correcting resolution with respect to the House insurance reform conference report, and consent can be granted to postpone the above-listed debate time, then the Senate proceed to two back-to-back votes, the first on the adoption of the health care conference report, to be followed by a vote on adoption of the small business tax relief conference report, and any remaining debate time not previously consumed be in order following the vote with respect to the small business tax conference report.

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

Mr. LOTT. I further ask if the Senate receives an identical concurrent resolution correcting the enrollment, it be deemed agreed to and the motion to reconsider be laid upon the table, all without further action or debate.

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

Mr. LOTT. Would the distinguished Democratic leader have any comment at this time?

Mr. DASCHLE. I thank the distinguished majority leader. This unanimous consent agreement is designed to try to accommodate all Senators. There are a number of Senators, as the distinguished Senator from New Mexico has indicated, who wish to be heard on both of these conference reports, but there are a lot of other Senators who would like to be able to plan their travel for early this evening.

What this could do is provide us the opportunity, if we can do it, to have two stacked votes at 6 o'clock, one on the conference report on the minimum wage-small business package, the other on the health bill.

I hope we can get cooperation on both sides to accommodate those two votes no later than 6 o'clock. I believe we can, and I applaud the majority

leader for his effort in getting us to this point.

Mr. LOTT. I thank Senator DASCHLE for his comments and his frankly suggesting we could do the two votes at 6 o'clock, as well as his cooperation.

I know a lot of Senators have a lot of other issues they are interested in. We are still working some other issues and some, I believe, for instance, the Emerson food donation bill, a food bank bill, which I think we can get that cleared. We will be talking about other issues, so I hope rather than ask about all these bills, maybe we can go ahead and get started on the debate. I see Senator NUNN, and I know he is very much interested in some nominations.

Mr. NUNN. If I could just take 2 seconds here, I am glad progress is being made.

I join the chairman of the committee, Senator THURMOND, in his plea that we pass the defense authorization bill. It will take a total of about 20 minutes, based on what I know now.

Even more urgently, I urge that we clear the nominations, the military nominations. We have posts all over the world that depend on these nominations. It is extremely important that we do the nominations this evening. Whatever else is still in dispute when we go home tonight, I hope the nominations on the military side are cleared.

I can assure my colleagues that if Senator THURMOND and I are given 20 minutes, equally divided—we will probably cut that down, if necessary—we can finish debate on the defense authorization bill and conference report, which passed the House last night, have the stacked votes at 6 o'clock, and have that vote right after that.

I hope we would be able to get agreement on both sides.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

Mr. LEVIN. Reserving the right to object, would the majority leader yield for a question?

Mr. LOTT. Mr. President, I thought all the unanimous-consents had been agreed to.

The PRESIDING OFFICER. The last consent was not agreed to. The Senator from Michigan has reserved the right to object.

Mr. LOTT. I am happy to yield.

Mr. LEVIN. Earlier in the week, the majority leader indicated there would be an effort made to offer up the nominations of the circuit judges as well as the district court judges. Is that effort going to continue?

Mr. LOTT. I will continue to work on those nominations. We have shown an abundance of good faith. We have confirmed 17 judges. We are not going to be able to get more of them cleared tonight, but we will continue to work on these as we go on into the fall.

Mr. LEVIN. As the majority leader knows, one of the judges I am familiar with, Eric Clay, has the support of both

the Republican and the Democratic Senators from Michigan, and he is from Michigan. Is there any possibility now that would be offered this evening?

Mr. LOTT. We will continue to work with the Senator on that. Senator ABRAHAM has talked to me about that. We will continue to work on that.

I yield the floor.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

Mr. WARNER. Mr. President, I join the distinguished chairman of the committee, Mr. THURMOND, and Mr. NUNN in their petition to the leadership of the Senate that we do address the authorization bill. I spoke earlier on that, and that particular military measure, coupled with the nominations pending before the Senate, are absolutely essential pieces that have to be passed before we depart.

I yield the floor.

Mr. THURMOND. Mr. President, I wish to thank the able Senator from Georgia, Senator NUNN, for his remarks on these defense matters, and also Senator WARNER of Virginia.

Defense, I say again, is nonpartisan; military matters and nominations are nonpartisan. Why there is an objection here to the taking up of nominations of the President of the United States for military nominations is beyond me. Why there is objection here to the taking up a defense bill agreed to on both sides, that we can finish in 20 minutes, an objection to taking it up is beyond me. After all, defense is for the whole country. These military nominations are for the whole country.

I hope that the leadership on the Democratic side that is objecting to taking up these matters would relent and let us go ahead and pass these matters. The House yesterday passed this defense conference report in 1 hour. I think we can pass it in 20 minutes.

Again, I ask the leadership on the Democratic side to reconsider this matter and take up these defense matters which are for the benefit of the whole country.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996—CONFERENCE REPORT

Mr. WELLSTONE. Mr. President, what is the regular order?

The PRESIDING OFFICER. The clerk will report the conference report. The bill clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3103) to amend the Internal Revenue Code of 1986 to improve portability and continuity of health insurance coverage in the group and individual markets, to combat waste, fraud, and abuse in health insurance and health care delivery, to promote the use of medical savings accounts, to improve access to long-term care services and coverage, to simplify the administration of health insurance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses

this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 31, 1991.)

POINT OF ORDER

Mr. WELLSTONE. Mr. President, I raise a point of order against the conference report under rule XXVIII, paragraph 2, because provisions contained in section 281 of the report were inserted by the conferees, and such provisions constitute "matter not committed to them by either House."

They have, therefore, exceeded their authority, in violation of rule XXVIII, paragraph 2.

The PRESIDING OFFICER. The Chair will examine the language of the conference report and needs to do that before it can issue a ruling. The Chair will withhold so that examination can be made.

The Chair announces that the point of order is not sustained.

Mr. WELLSTONE. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. Under the previous order, 10 minutes are to be equally divided.

The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, let me explain my challenge. I have to thank Senator PRYOR from Arkansas, who has been so diligent on these issues, and also Senator KENNEDY from Massachusetts.

Mr. President, in the dark of night, in this conference committee for this bill, the insurance reform bill, there was a provision that was put in, which was a 2-year patent extension for a prescription drug called Lodine. I think the effect of this would be that for 5 years it would be impossible for consumers to purchase a generic drug. My understanding is that the manufacturer is paying the Federal Government \$10 million each year, or \$20 million, because this would be additional costs, since the Medicaid assistance would go up more than it would if in fact consumers had access to the generic drug. In addition, the company will be providing reimbursements to some of the States because of the additional Medicaid costs.

The problem, Mr. President, is that this is a gigantic ripoff for the rest of the consumers because the generic drug would give consumers access to affordable treatment, those who are suffering from arthritis. So that, I think, is egregious. Clearly, I think it is the wrong thing for us to do.

The point of this challenge, however, has to do with the process. There was an attempt to stick this provision into the Senate Appropriations Subcommittee, and there was a very strong letter from Senator PRYOR and Senator CHAFEE saying, don't do that. But this was stuck into the committee late at night, not known to very many Members. It had never really passed out of