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House of Representatives

The House was not in session today. Its next meeting will be held on Wednesday, April 23, 1997, at 2 p.m.

Senate

TUESDAY, APRIL 22, 1997

The Senate met at 10 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God of Truth, who calls us to absolute honesty in everything we say, we renew our commitment to truth. In a time in which people no longer expect to hear the truth, or what's worse, see the need consistently to speak it, make us straight arrows who hit the target of absolute honesty. Help us to be people on whom others always can depend for unswerving integrity. Thank You for keeping us from those little white lies that later on need big black ones to cover them up. May the reliability of our words earn us the right to give righteous leadership. Thank you for the wonderful freedom that comes from a consistency between what we promise and what we do. You are present where truth is spoken. Thank You for reigning supreme in this Senate Chamber today. Now, dear Lord, we intercede for the distressed people of Grand Forks, ND, as they battle the rising waters of the Red River. Give them strength, but, dear Lord, please bring to an end the devastation of this flood. In the name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT, is recognized.

Mr. LOTT. Thank you very much, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, today the Senate will be in a period of morning business to accommodate a number of Senators who wish to speak on a variety of subjects. There will be no roll-call votes, however, during today's session due to the observance of Passover. I remind my colleagues that the weekly party luncheons normally held today will be held tomorrow, Wednesday.

By the unanimous consent agreed to on Thursday of last week, the Senate will begin consideration of the Chemical Weapons Convention Treaty tomorrow with, I believe, 10 hours of debate allowed. Then on Thursday there will be five motions to strike with 1 hour of debate on each of those and, presumably, votes on each one of the five, with the expectation of a final vote around 6 o'clock on Thursday.

Under the previously agreed time agreement, Senators can anticipate votes on the treaty as early as Wednesday afternoon—I want to emphasize that—as well as a variety of votes on Thursday morning and throughout Thursday. As always, we will notify Senators of any scheduled votes or changes as soon as possible, or actions we wish to take on the Executive Calendar.

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

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

Mr. LEAHY. Mr. President, noting that nobody has been seeking to be recognized for about a half-hour, I ask unanimous consent that I may proceed for not to exceed 15 minutes as in morning business.

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

THE CRISIS IN OUR FEDERAL JUDICIARY

Mr. LEAHY. Mr. President, I have noted on the floor of the Senate a number of times, the crisis in our Federal judiciary that Chief Justice Rehnquist has spoken of. The Chief Justice and others have spoken about the nearly 100 vacancies in our Federal judiciary at the district court level, at the court of appeals level, and at the Federal court of appeals level. So far in this Congress—we have been in session now for 4 months—we have confirmed only two Federal judges. It is a form of zero population growth, as far as the Federal judiciary is concerned. We seem to have this idea that if we do not get Federal judges we can, somehow—I am not sure what we think we are going to do.

I will tell you one of the things we have not done. In a number of jurisdictions we are reaching a crisis situation where, instead of being able to have criminal cases tried, instead of prosecutors being able to seek tough penalties, they have to plea bargain because they know they must keep up with speedy trial mandates, yet there

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



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are not enough judges to have a speedy trial, so they end up having to plea bargain. We do know that in many, many jurisdictions it is clearly impossible to have a civil case heard. If you are a business person with a just claim against somebody and you want to bring a suit, bring the suit, but they can just wait you out. If you are a litigant who has been damaged by somebody, you want to bring a suit, they can just wait you out because the judges are not there to try the cases.

I think it is irresponsible for the leadership in this body to continue to block Federal judges. This is something that I have never seen in 22 years here. During times when the Democrats were in control of the Senate when there was a Republican President, we have never done it to them. During times when Republicans have been in control of the Senate, they have not done this. But this time it is being done. It shows a lack of responsibility on the part of the Senate. It shows a lack of responsibility on the part of individual Senators that they allow this to continue. It also shows a demeaning of the Senate. It violates the traditions of the Senate.

There are some who do not care for traditions in this body. Sometimes it is in things that the public does not see, like confining the reporters of debates to something that looks like a subterranean, medieval torture chamber because we want to expand the perks and privileges of some of the officers of the Senate.

I would hate to think that the Senate is willing to toss aside decades, generations of tradition for momentary perks and privileges. I hope Senators will start thinking that none of us owns the seat in the U.S. Senate. None of us owns a piece of the U.S. Senate. We are merely 1 of 100 who serve here and we serve here for all Americans, not just for our partisan interests, not just for our political party's interests, not just for our own personal aggrandizement. We serve here for the whole country. We are not serving the country well on the question of judges.

This is something where judges, both Republican and Democrat appointed, are united in saying it is not responsible the way we have maintained this. Mr. President, I will continue to speak out on this, but I hope we will wake up to the fact that the country needs to have these Federal judges. We should be ready to move forward. We have about 25 in the pipeline. Let us start having hearings and start going forward on them. Let us stop playing political games. We have a woman, one of the most qualified members of the California bar, who has found her appointment blocked. Contrary to the normal tradition of hearing nominees for the circuit court first, she was made to wait behind everybody else here recently. As did not escape notice, she was also the only woman nominee and was treated like a second-class citizen on the hearing schedule. She has

now been asked by a Member of the Senate, basically, to tell how she voted on over 100 items in California.

Are we stooping so low as a body that we are asking people how they voted? If they are up for confirmation, how they cast a secret ballot? Would you, Mr. President, want to have somebody go back for the last 20 years and ask how you voted every time you went to the voting booth in Kansas? I certainly would not want anybody to be able to ask that. I am very proud of all the votes I cast, but it is my business. It is not anybody else's business. One of the great hallmarks of this democracy is the secret ballot, and we should not start asking people that, when actually it appears the real reason is just to keep the stall in.

We have followed, in the past, the so-called Thurmond rule of stalling a President's appointments to the judiciary in about the last few months of their term in office. I have never seen the stall start in the first few hours of a President's 4-year term.

EARTH DAY 1997: THERE IS NO STATUS QUO IN PROTECTING THE ENVIRONMENT

Mr. LEAHY. On another issue, Mr. President, since the first Earth Day in 1970, Americans have gathered to celebrate the steps we have taken to clean up our environment and to call attention to what still needs to be done. The early Earth Day events helped create the modern environmental movement. They led directly to enactment of the first major environmental legislation, the Clean Air Act. I remember with pride serving here with Senator Gaylord Nelson of Wisconsin, knowing what he had done to help spark that movement.

But I ask Senators and the administration to look back at the debate that took place when we drafted this remarkable piece of legislation. At the time of that first Earth Day, the laws to limit air pollution were disjointed, they were limited in scope. But since passage of the Clean Air Act, we have made considerable strides in reducing some pollutants. The level of lead pollution we and our children breathe today is one-tenth what it was a decade ago—one-tenth. We have healthier children as a result. In fact, just using that figure itself is a tribute to the success of the original Clean Air Act.

One thing we do know is Americans do not want to stop the progress we made and say, look what we did back then, 10 years ago; it is what we do today to keep moving forward in cleaning up our environment. I have heard some of the debate here in the Congress now, on the Clean Air Act, that it is not to strengthen it, not to make it better based on what we learned, but rather to weaken it. It is almost like saying we took care of those children, but tomorrow's children we are unwilling to help.

We also learned the ecosystem is not static and that environmental progress

should not be either. There is no status quo and never should be a status quo when it comes to a healthy environment. New pollution sources appear, and none of us can predict today what the new pollution sources might be a decade from now. We know populations grow and they shift and pollutants accumulate. So, if you are not always moving toward a safer and cleaner environment, then you are slipping backwards.

The EPA conducted a 5-year review of existing standards and compared these with new scientific research about the tiny particulates and ozone that we breathe. When EPA issued new goals to lower the level of these particulates coming into our lungs and the ozone levels, the backlash was remarkable. Opponents instantly attacked the goals rather than sitting down to work with the Congress and administration to achieve these goals in a reasonable and cost-effective timeframe. Instead of saying, "What do we do to make air and water safer for our children?" it was, rather, "We cannot possibly do this." These are the same people who would do anything to save a child, but not to save the Nation's children.

We ought to listen to the voices of more than 130 million Americans in 170 major cities who continue to breathe unhealthy air, including the city we are in today. When the Clean Air Act was drafted, we were unwilling to accept the argument that the present cost of environment regulation should define the future of our environment. Our late colleague, Senator Edmund Muskie of Maine said, "The first responsibility of Congress is not the making of technological or economic judgments. Our responsibility is to establish what the public interest requires to protect the health of persons."

So, on this Earth Day I ask Senators to go back to the original premise of the Clean Air Act and ask ourselves what do we do to carry forward the torch of environmental progress, not only for ourselves but for the next generations of Americans? I hope we might look at the biggest loophole in the Clean Air Act, allowing the dirtiest powerplants to continue to operate with vastly inadequate pollution controls. We ought to go back and close this loophole now, in this session of Congress.

One of the reasons it is so urgent is because of the deregulation of the electric utility industry. We have the benefits of competition in the utility industry. Some say it is going to be as much as \$50 billion. Surely, with this we ought to be able to offset the environmental costs of utility deregulation and have some ability to have cleaner air.

We ought to look at some of the coal-fired production plants that were grandfathered under the Clean Air Act. One study says an annual increase of emissions of 349,000 tons of nitrogen oxide, a component of ozone pollution, comes from them.