

his designee; 11:30 to 12:30 under the control of Senator FRIST. I further ask consent that at the hour of 12:30 p.m., the Senate stand in recess until the hour of 2:15 p.m. in order for the weekly party caucuses to meet.

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

Mr. JEFFORDS. Mr. President, I further ask unanimous consent that when the Senate reconvenes at 2:15 p.m., the Senate resume consideration of S. 280 for debate only, to be equally divided between the chairman and ranking minority member, or his designee, until the hour of 4 p.m. I further ask that the cloture vote occur at 4 p.m. without the mandatory quorum under Rule XXII having been waived.

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

PROGRAM

Mr. JEFFORDS. For the information of all Senators, at 2:15 p.m. on Tuesday, the Senate will resume consideration of the Ed-Flex legislation. Under the order, a cloture vote will occur at 4 p.m. on Tuesday, with second-degree amendments needed to be filed by 3 p.m. in order to qualify for post-cloture.

ORDER FOR ADJOURNMENT

Mr. JEFFORDS. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following my remarks and the remarks of Senators FEINGOLD, MURRAY and KENNEDY.

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

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

MEASURE READ THE FIRST TIME—S. 564

Mr. FEINGOLD. Mr. President, I understand that Senate bill 564, introduced earlier today by Senators MURRAY, KENNEDY and DASCHLE is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The bill clerk read as follows:

A bill (S. 564) to reduce class size, and for other purposes.

Mr. FEINGOLD. I ask for its second reading.

Mr. JEFFORDS. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. JEFFORDS. If the Senator from Wisconsin will yield, I have a couple of comments that I would like to make.

Mr. FEINGOLD. That's fine.

PROGRESS ON THE ED-FLEX BILL

Mr. JEFFORDS. Mr. President, I want to follow up by saying I think it's

important that all of my colleagues understand that, hopefully, what will happen tomorrow is we will be able to make some progress. I hope that my colleagues will read the amendment that we have offered and that we will hopefully have action tomorrow, which will give an opportunity for the schools themselves to make the choice as to whether or not they desire to either spend the money on new teachers or to spend it on special education.

It is a simple amendment, and I hope that the members will give it some consideration. We desire to move the process along. It is hard for me to understand how anyone could disagree with giving the local schools that option. The President had this bill put in and it had no hearings. It was put in in the final moments of the last session. I am sure that if we had an opportunity, we might have been able to get this amendment on. This will move the process along.

I point again to the chart behind me, which indicates that what we are trying to do is to relieve the incredible pressure that is placed on our local governments by having to fund special education themselves in the States—primarily all of it. We promised to fund 40 percent of it back in 1975 and 1976. We are now at around 11 percent. If we were to fully fund it, it would do more to allow the local communities and the States to be able to meet the educational needs of their people than any other act of this Congress. That is what we are pushing for. I think it is a reasonable thing to do. It would have no impact, of course, on the Elementary and Secondary Education reauthorization, except to give a tremendous opportunity for local governments to be freed up to work, and we could design programs to go along with those options.

With that, I hope tomorrow we will be able to move matters along with this amendment, which I think everybody ought to find desirable.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business for up to 20 minutes.

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

NIGERIAN ELECTIONS

Mr. FEINGOLD. Mr. President, just over a week ago we witnessed a seminal event in Nigeria, the West African country that could hold the key to stability and prosperity in the region. Millions of Nigerians participated in an election to select the first civilian president in almost two decades. Since gaining its independence in 1960, Nigeria has survived a number of military coups and has been under the military rule of one regime or another for most of that time. Last weekend's election was only the second democratic presi-

dential election in Nigeria the last 39 years. According to the official results, former Gen. Olusegun Obasanjo won a majority of votes throughout the country, and will be inaugurated as a civilian president on May 29.

Yet, Mr. President, what could have, and should have, been a proud moment in Nigeria's history was marred by significant irregularities, fraud and low voter turnout.

Coincidentally, election weekend was also marked by two important announcements by President Clinton: his determinations pursuant to the drug certification law and the publication of the annual State Department Human Rights Report. Under the drug law, Nigeria was identified among those countries that failed to meet the test for cooperation on anti-narcotics efforts but were granted waivers exempting them from the economic penalties imposed by the law. The administration explained this decision with respect to Nigeria by expressing hope that it would be able to work more effectively after the "nation's transition to democracy." At the same time, the human rights report noted significant progress in Nigeria's human rights record, although it still acknowledged that significant problems remain.

Now, as Nigeria plots its course through the next stage of its multi-phase transition to civilian rule, Nigerians, and we in the international community, must figure out how to react to these concurrent, though sometimes contradictory, developments.

Let me elaborate. The February 27 presidential elections marked the last of a series of four types of elections—local council, gubernatorial, legislative and presidential, respectively—that have taken place over the past three months according to the transition program established by General Abdusalam Abubakar. Despite some disturbing irregularities, these elections, and the campaign period preceding them, were conducted in a calm and orderly fashion, and—with the exception of a few localized incidents—without violence or physical intimidation. This process has been marked throughout by a clear demonstration of Gen. Abubakar's commitment to the transition program, including the handover of power to elected civilian authorities on May 29, and the genuine efforts of the Independent National Electoral Commission charged with the responsibility for conducting the elections themselves.

Although the turnout was much lower than expected, particularly for the presidential election, millions of Nigerians opted to participate in the process, either through voting or civic work. According to reports from domestic and international observers, the conduct of the presidential election in many places was smooth, orderly and implemented according to the established procedures. Particularly noteworthy was that the head-of-state himself, General Abubakar, was denied the

opportunity to vote because he arrived at his polling site too late to follow the required accreditation process. This adherence to proper procedures is indeed encouraging.

Doubly encouraging is the clear and strong wish of the overwhelming majority of Nigerians for a swift and orderly transition to democratic civilian rule.

Mr. President, I commend and congratulate the Nigerian people who contributed to these positive developments in the electoral process.

But Mr. President, these commendations and congratulations are dampened by reports of massive irregularities in this election, which can be more properly called deliberate fraud. I find these reports deeply discouraging.

At polling stations in several areas, particularly in what is known as the South-South zone, the turnout observed by domestic and international monitors was significantly lower than the vote totals reported at a statewide level. This suggests that there were a considerable number of ballots included in the final count that were not submitted by legitimate registered voters. Domestic and international monitors also noted that the reported collated results from a particular local government area exceeded the combined total votes from the polling stations in that area. Additionally, at some locations, voters were denied the opportunity to vote because ballots were delivered suspiciously late or in insufficient numbers. Finally, certain procedures established by the electoral commission were not consistently applied. According to the report issued by the Carter Center/National Democratic Institute Observer Delegation, these included the failure to use indelible ink at many polling stations, the failure to ensure ballot secrecy, late poll openings, and a failure to adhere to an accreditation process that was distinct from the actual voting process.

Reports of these malpractices are indeed disturbing. Although it remains unclear whether the fraudulent activities had an impact on the ultimate outcome of this election, such irregularities risk bringing the legitimacy of the process into question and must be condemned.

Indeed, former President Jimmy Carter, who led a 66-person observation delegation and spent considerable time in the country, was so disturbed by these irregularities that he sent a terse, two-sentence letter to the chairman of the electoral commission. The letter said—quote—“There was a wide disparity between the number of voters observed at the polling stations and the final results that have been reported from several states. Regrettably, therefore, it is not possible for us to make an accurate judgment about the outcome of the presidential election.” Since 1989, President Carter has led delegations to observe electoral processes in 15 countries and has rarely had such harsh words to say regarding

the outcome. This assessment truly gives me pause.

Mr. President, in addition to the views expressed by international observers, I would also like to emphasize the importance of the views of the main domestic observer group, The Transition Monitoring Group, or TMG. The TMG is an umbrella organization formed of more than 60 human rights and civil society groups from throughout Nigeria. Together, these organizations fielded some 10,700 monitors to observe voting and counting at a large number of the country's 115,000 polling stations in all of the country's 36 states. In its interim report, the TMG noted that the kinds of malpractices observed in the elections “have the potential to erode the confidence of the electorate in the whole transition.” Therefore, the report recommends, and I quote:

It is important for the incoming civilian government to appreciate and understand that the emphasis in the current process has been on transition to civilian rule, rather than the establishment of full-blown democracy to Nigeria. Any triumphalist insistence on a “winner-take-all” stance on the basis of a supposed democratic mandate must be avoided. The incoming civilian government must therefore begin to make determined and sustained efforts to cultivate democratic norms and values amongst its members, as well as in the society at large.

Mr. President, this is a key observation. The large number of reports of deliberate fraud, combined with the low voter turnout, appear to weaken the mandate for Gen. Obasanjo. His strong mandate, however, is for the development of civilian democratic rule. The General certainly has the capacity to embrace that mandate and implement true civilian rule according to the wishes of his people. Whether he chooses to go this route or not remains to be seen. I strongly urge him to take the needed steps to allow real democracy to take root in Nigeria. He should act decisively to develop effective democratic institutions, establish appropriate decentralization of decision-making throughout the three levels of government, integrate the military into democratic society, and create the mechanisms of transparency and accountability that will allow the people to gain confidence that they are truly governing themselves.

Key to these measures, of course, will be the adoption of a broadly accepted constitution. Amazingly, the ongoing transition process has been conducted without the benefit of a constitutional framework. The current military government has said it will introduce a constitution in the near future. I hope it will be promulgated as an interim framework, and not imposed as a final document. Then I hope the president-elect will institute a democratic procedure to debate and develop a new constitution that can have popular support.

Mr. President, as I said at the beginning, Nigerians and we in the international community, must decide how

to react to these developments. My own assessment is mixed. Therefore, I have a few words to say about the two executive branch announcements that were issued just prior to the election, the drug certification decision and the human rights report.

Although there was little concrete progress on important anti-narcotics efforts between the United States and Nigeria, the President decided to grant Nigeria a vital national interests certification in order to support the transition underway in Nigeria. That decision paves the way for the administration to provide needed economic and security assistance to the new civilian government in Nigeria once it is inaugurated. In this particular case, I wish the decision to waive the sanctions under this law could have waited until inauguration day actually arrives. The United States has until now had a strong sanctions regime against Nigeria, which has provided significant leverage for us in that country. Slowly, we were beginning to open up that relationship, with the loosening of visa restrictions last fall. Now, however, by appearing to bless the efforts of the current Nigerian regime on narcotics enforcement, we have removed an important source of leverage. Despite good communication between Nigeria's National Drug Law Enforcement Agency and our own Drug Enforcement Agency, the fact is little progress has been made in key areas. Nigerian efforts have been unsatisfactory on extradition of offenders wanted in the United States, implementation of Nigeria's own national drug strategy and related laws, stemming corruption among law enforcement personnel, and targeting Nigeria-based worldwide narcotics and money laundering organizations.

Mr. President, the loss of our leverage on these important issues makes me nervous. Yet I am inclined to be “cautiously supportive” or at least “cautiously open-minded” about this decision as long as the administration's plans for working with the government are moderated and deliberately paced. A cautious approach is essential so that in the event of a severe downspiral, the United States will not be overly exposed. I look forward to extensive consultation with the executive branch on such plans.

Mr. President, I must also note some of the observations in this year's State Department report on human rights in Nigeria. I am pleased that the report indicates substantial improvement in Nigeria's human rights record in the latter part of 1998 as compared to its previously extremely poor record. Nonetheless, despite progress in the reduction of government use of lethal force and torture, the ending of harsh suppression of a free press, and the restoration of citizens' rights to choose their government, the report acknowledges that serious human rights problems persist.

In particular, Nigerian security forces continue to commit

extrajudicial killings, although generally not of a political character. During frequent fuel shortages, the police and military deployed to maintain order at filling stations repeatedly killed customers and operators, according to press reports. During the month of November alone, members of the combined police and military anticrime task force known as "Operation Sweep" reportedly committed at least 16 extrajudicial killings. Although some improvements were made, harsh prison conditions and denial of proper medical treatment contributed to the death of inmates. While Gen. Abubakar apparently began a serious effort to release political detainees, the lack of authoritative information regarding the exact number of remaining detainees served to confirm the fact that Abacha-era security forces were able to put persons in detention with very little concern about due process or accountability.

In addition, several of the important military decrees, which grant the security forces sweeping powers of arrest and detention, remain on the books.

Given the longstanding pattern of human rights abuses and some uncertainty about how widely accepted the new civilian president will be, the report acknowledges that there is significant potential for a continued unacceptable human rights environment in Nigeria.

Mr. President, I have long been concerned about the human rights situation in Nigeria. I have introduced several pieces of legislation designed to encourage democratization and respect for the rule of law in that country. I desperately want to support an active and proactive U.S. policy toward the country. For now, most signals seem to indicate that the transition will continue to be smooth and peaceful. However, I am concerned that in truly wishing the best for the Nigerian people and in looking for ways to support the transition, the United States will in effect hold Nigeria's rulers to a lower standard of good governance than it traditionally has demanded. I know that the administration is anxious to work with the new government, and if all goes well, I would encourage that.

The conduct of the elections last weekend did not inspire much confidence in the process, and this is a great disappointment. However, it does not mean we should throw in the towel in the fight to foster a democratic Nigeria. No. In fact the opposite is true. We must continue to be vigilant and encourage Nigeria and its new leadership to follow the right path. This means the United States should continue to help Nigeria develop democratic institutions and to strengthen political and civic organizations at all levels of government. We should help the military remove itself from political life and become integrated into democratic society. But we should do this carefully and thoughtfully. And

that is the best way we can help Nigeria help itself.

Mr. President, I ask unanimous consent that the text of a March 1 New York Times editorial on this subject be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 1, 1999]

NIGERIA'S PRESIDENTIAL ELECTION

Olusegun Obasanjo, a former general, will be the next president of Nigeria, according to preliminary election results. His selection reflects the complexities of power in Nigeria today. When the country's current leader, Gen. Abdulsalami Abubakar, took over last June, he promised a transition to civilian rule after 15 years of disaster under general after general. Mr. Abubakar has kept his promise. But the transition is incomplete. Military officers, who largely bankrolled Mr. Obasanjo's candidacy, will continue to loom over his government. Mr. Obasanjo will have to break with them to have any success in improving life in Africa's most populous nation.

General Abubakar took power after the death of Gen. Sani Abacha, one of the most corrupt and certainly the most despotic of Nigeria's recent military rulers. Their thievery and mismanagement turned Nigeria, one of the world's richest nations during the oil boom of the 1970's, into one of the world's poorest. General Abacha snuffed out political life in this once-vibrant country, jailing many of his rivals, including General Obasanjo.

In his nine months in power, General Abubakar reversed much of the political crackdown. Most political prisoners are now free. Newspapers publish openly. This election was the first in many years in which the Government did not dictate the number of parties, although General Obasanjo's opponent has complained about fraud in Saturday's voting.

But General Abubakar's early promises to bring corrupt or brutal officers to justice have melted away. Some political opponents arrested on trumped up charges are still in jail. General Abacha's decrees muzzling the press are still on the books, and lately some journalists who write sensitive stories have been harassed and their publications confiscated. Police have killed protesters, with the worst repression in the Delta, Nigeria's poorest region despite being the source of its oil wealth.

Many Nigerians hope that Mr. Obasanjo's government will end the military's political role, but this is unlikely. Mr. Obasanjo, who was president from 1976 to 1979, is the only military ruler to leave office voluntarily. Yet he is still close to the armed forces. Military men finance his party, and one of its biggest supporters is Ibrahim Babangida, among Nigeria's less savory former military rulers. That money allowed Mr. Obasanjo to build a political machine that won a majority in both houses of parliament in elections earlier in February.

Desperately needed economic reforms and anti-corruption measures will anger officers, the main beneficiaries of the present morass. Reversing the poverty and environmental destruction of the Delta is another urgent task that may be hindered by Mr. Obasanjo's links to the armed forces, which are hated there. Those ties may also prevent him from calming ethnic tensions. He is a Yoruba from Nigeria's southwest, but many Yoruba distrust him, viewing him as closer to the northern army officials who have traditionally run Nigeria. To have any success in tackling these daunting problems, Mr.

Obasanjo must make his government not the last stage in a military transition, but the first stage of full civilian rule.

Mr. FEINGOLD. I thank the Chair. I yield the floor.

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10:30 tomorrow morning.

Thereupon, the Senate, at 6:59 p.m., adjourned until Tuesday, March 9, 1999, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 8, 1999:

DEPARTMENT OF JUSTICE

JULIO M. FUENTES, OF NEW JERSEY, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE ROBERT E. COWEN, RETIRED.

ROBERT A. KATZMANN, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE JON O. NEWMAN, RETIRED.

M. JAMES LORENZ, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF CALIFORNIA VICE RUDI M. BREWSTER, RETIRED.

W. ALLEN PEPPER, JR., OF MISSISSIPPI, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF MISSISSIPPI VICE L. T. SENTER, JR., RETIRED.

KAREN E. SCHREIER, OF SOUTH DAKOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH DAKOTA VICE RICHARD H. BATTEY, RETIRED.

IN THE COAST GUARD

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT AS A PERMANENT REGULAR OFFICER IN THE UNITED STATES COAST GUARD IN THE GRADE INDICATED UNDER TITLE 14, U.S. CODE, SECTION 211:

To be lieutenant

JAMES W. BARTLETT, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS A PERMANENT PROFESSOR IN THE UNITED STATES MILITARY ACADEMY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 4333 (B):

To be colonel

PATRICK FINNEGAN, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

CHRISTOPHER D. LATCHFORD, 0000

JAMES E. BRAMAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

LEE G. KENNARD, 0000

JAMES A. MATZ, 0000

THADDEUS A. PODBIELSKI, 0000

FORTUNATO I. STANZIALE, JR., 0000

MICHAEL E. THOMPSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

WESLEY D. COLLIER, 0000

RUDOLPH DANIELS, SR., 0000

JACOB Z. GOLDSTEIN, 0000

LARRY E. HARRELSON, 0000

HARLAND C. MERRIAM, JR., 0000

GARY L. MOORE, 0000

THOMAS L. MUSSELMAN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*) UNDER TITLE 10, U.S.C., SECTIONS 624, 628, AND 3064:

To be colonel

DAVID E. BELL, 0000

To be lieutenant colonel

KATHLEEN DAVID-BAJAR, 0000

*RICHARD W. THOMAS, 0000

To be major

*WILLIAM J. KEELEY, 0000