

world's attention focused on the terrible repression of democracy and abuse of ethnic minorities going on there. I hope our message of concern, backed by the invaluable reporting done by Amnesty International, will get through somehow to the Burmese people and to their courageous leader, Nobel laureate Aung San Suu Kyi.

ASEAN member countries are gathering in Singapore currently for a series of meetings. We need to encourage them to develop a new strategy for dealing with the SPDC's intransigence regarding human rights. Now that criticism of fellow ASEAN members is no longer completely taboo, I hope some of the ASEAN countries that have improved their own human rights records will take the initiative to prod the Burmese to move in the right direction. The ASEAN regional forum (ARF), which deals with Asian security issues, will meet at the same time and should address this as a security problem. Western nations, including the U.S., who will also be present at the ARF should work closely with all concerned countries to encourage the SPDC to improve its human rights record.

Even if we don't see quick improvement, those of us who care deeply about human rights have a duty to keep the plight of the Burmese people before the world community. I am committed to doing that, and I hope my colleagues will join me in pressing the Burmese regime for real, measurable improvements in these areas.

RESTORATION OF THE ENFORCEMENT OF RULE XVI—Continued

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I express my appreciation for the statement of the Senator from Minnesota regarding the rule change in his usual deliberate style.

I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I rise to speak to the resolution that will be before us for a vote at the end of the afternoon, S. Res. 160, to restore enforcement of rule XVI.

Mr. President, I believe in the Senate as an institution. I think it is an important part of the workings of our democracy that the Senate carry out its duties and responsibilities in a way that it has done throughout the more than 200-year history of our Republic.

In a sense, this is a difficult issue for me because I voted not to waive rule XVI, or, in effect, not to overrule the ruling of the Chair, at the time the ruling was made. That, of course, was a motion offered by my colleagues on the other side of the aisle. I thought, well, we really should not change the way we do business. But what has happened since that time is, increasingly, that

the minority has been really frustrated by the lack of opportunity to come to the floor of the Senate to offer its positions, to have them considered and voted upon. Therefore, I am going to vote against this resolution when it comes to a vote this afternoon simply, among other things, to make a very strong statement of protest against the procedures that are now being followed in the Senate, which are effectively preventing us from considering important issues.

Now, repeatedly, we have had a situation in which the majority leader, once a measure is offered, fills up the amendment tree by gaining first recognition, which is the majority leader's entitlement under our process, and then the minority has no opportunity to offer its proposals. I ask the minority whip and the assistant minority leader, isn't it the case that time and time again we have simply been blocked out from even putting an issue before the Senate? I am not complaining about being blocked out if we then go to a vote on it—well, I would complain, but you decide these things by majority vote. We are even being precluded from offering amendments in order to have positions considered; is that not correct?

Mr. REID. That is absolutely true. For example, on the issue of the lockbox, cloture has been filed three to five times. We have never uttered a single word in a debate about that issue. We have never had the opportunity to offer a single amendment. We agree with the lockbox concept, but does it have to be theirs? Can't we try to change it a little bit?

Mr. SARBANES. As I understand it, the way that has been structured now, the minority is totally precluded from offering any alternative proposal or any different proposal because they have completely blocked us out from offering any amendments; isn't that correct?

Mr. REID. That is absolutely true. I ask my friends, are they so afraid of discussing an issue, and are they so afraid they will lose a couple of Members and we will be right? Is that the problem? I don't know. Why won't they let us at least offer an amendment?

Mr. SARBANES. It raises this question in a democracy: What happens when you can't pose issues and have them debated and voted upon?

It seems to me an elementary way of proceeding. Traditionally, the Senate has always offered that opportunity, as a matter of fact. I have been in this body a long time and I can recall when, not too long ago, we were in the majority, and even earlier when that was the case, when the Senate was essentially run in a way that enabled Members to bring up proposals and have them considered and voted upon. It by no means guaranteed that your proposal was going to prevail; You might lose, and that was obvious. But that is part and parcel of the democratic process. But not to even be able to offer your

amendments—and, of course, this resolution would, in effect, limit down the opportunities as well.

Essentially, if you had a Senate that was operating in the traditional way, you could offer your proposals. That sort of limitation is one that we traditionally lived with. But this was lifted by the majority, and at the same time they did this, subsequently, they have increasingly developed other ways of blocking the minority out from simply laying their positions before the Senate for consideration. Is that not the case?

Mr. REID. It is absolutely the case. The fact is that all we want is to be treated like the Senate. My friend from Maryland served in the House of Representatives, as I did. That is a huge body, 435 Members. They need specific rules—and they have always had them—to move legislation along. You can't have unlimited debate in that body. But the Senate was set up differently. We do not need, or should we have, a rule on every piece of legislation that comes through, as does the House of Representatives. Does the Senator agree?

Mr. SARBANES. I agree completely with that. In fact, even in the House the procedure has gotten so rigid that there is significant complaint that they do not have an opportunity when important measures are before—

The PRESIDING OFFICER. All time of the minority has expired, with the exception of 15 minutes that was reserved.

Mr. REID. Mr. President, since nobody is on the floor, I ask unanimous consent that we be allowed to continue for 10 minutes.

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

Mr. REID. Mr. President, I say to my friend, in responding to the question asked, with his experience in the House and in the Senate, can he tell us how he believes the Senate should be treated differently than the House of Representatives.

Mr. SARBANES. Well, the thing that struck me when I came to the Senate from the House was, in a sense, how much more wide open the Senate was in terms of considering proposals of the Members of the Senate. In the House, of course, you have title rules. You adopt a rule, and that limits the amendments that can be offered. We even had the so-called closed rule in which no amendment could be offered. You either had to vote up or down on the measure that was reported by the committee to the floor of the House. But usually you would get a rule that would perhaps give the minority an opportunity to offer a couple of amendments. One came to the Senate and discovered that both the majority and minority Members had much more of an opportunity to have amendments offered by the body and considered and voted upon.

Of course, in order to control that procedure, we had a rule that you could

not legislate on an appropriations bill, which seemed to make good sense. Now, that was overturned a few years back when the majority wanted to have a certain measure considered and the Chair ruled that it constituted legislation on an appropriations bill; therefore, it was not in order. The majority—the other side of the aisle—then went forward and appealed the ruling of the Chair and they overruled the Chair. That established the precedent that you could offer legislation on an appropriations bill.

Mr. REID. I ask permission to ask the Senator a question.

Mr. SARBANES. I yield for a question.

Mr. REID. I remember that very clearly because I was the Senator who raised the point of order. It was on an appropriations bill, a supplemental appropriations bill. The junior Senator from Texas offered an amendment on the Endangered Species Act that would do great harm to that act. I raised a point of order it was legislating on an appropriations bill. The Chair, without question, upheld my point of order. There was an appealing of the rule, as the Senator said, and a longstanding rule, with all the precedence, was turned on its head.

Now it has been 4 years, and we have been working under this situation that was created by the majority. The minority didn't do that. But I say to my friend, the reason we in the minority are so concerned is because it is not only that rule they are going to overturn, the fact of the matter is that we don't have any opportunities to offer amendments, to debate substantive issues in this country, based upon the gag rule placed on all legislation brought here; isn't that true?

Mr. SARBANES. The Senator is absolutely correct. What has happened is longstanding precedent was overturned. Therefore, you could legislate on an appropriations bill. That is the precedent we have been working under for the last 3 or 4 years. On occasion, the minority—our side—has offered legislation on an appropriations bill. Now the majority wants to go back to the old ruling. Having overturned the old ruling themselves, they now want to return to it.

Well, as an institutionalist, you know the old rule made some sense. But what has happened to the Senate in the interim, in the meantime, since the overturning of this old rule, is that other techniques have also been developed to block the minority from offering amendments on the various matters that come before the Senate. So, in effect, they are closing out the minority from having any voice, any opportunity to present our positions, any opportunity to have a judgment made on our positions.

I am very frank to tell you that is not the way the Senate ought to work.

Previously, even when we had the old rule, we didn't have a couple with these other techniques that are now being

used in order to keep the minority from bringing their position before this body. Until we can remedy that situation and get some assurance that we are going to have an opportunity to really present our amendments in an orderly and reasonable fashion, I am not going to support any measure that could have the possibility of closing out some opportunity that we now have in order to present our positions.

Mr. REID. May I ask my friend another question?

Mr. SARBANES. Certainly.

Mr. REID. Is the Senator aware that the minority leader is going to offer an amendment to S. Res. 160 which will reinstate the scope of the conference report rule? That is when you go to conference and the conference committee must stay within the scope of the two bills on which they are working. It will be interesting to me to see if the majority will vote to support the overturning of rule XVI, which we know they will do, to see if they are logically consistent by going ahead and voting to also reinstate rule XXVIII. Also, this precedent was overturned in 1996 on the reauthorization bill.

Does the Senator think it would be consistent for them to vote to make rule XVI the way it used to be and rule XXVIII the way it used to be? How can you vote for one and not the other?

Mr. SARBANES. Absolutely. In fact, the rule XXVIII issue is also very important. That was also overturned by the majority to permit matters to be included in a conference report that were not within either of the two bills that the House and the Senate sent to the conference. Of course, what that means is that a conference can come back with something that is outside of the scope of the conference and present it to these bodies—a matter that neither the House nor the Senate considered in the course of sending that legislation to conference.

Talk about potential mischief. You could bring back in here, contained in a conference report with all of the sort of protections that a conference report has in terms of its consideration, and so forth, matters that were outside of what was sent to conference. The minority leader is trying to remedy that matter.

I can't for the life of me see why someone who supports S. Res. 160 would oppose the proposal of the minority leader. But I guess we will discover that when we come to a vote on the matter later this afternoon.

It eventually comes back to the very basic question. That is, What are to be the rights of the minority in this body? One of the great strengths of the Senate traditionally has been that it has accorded to the minority a real opportunity to participate in the consideration of matters on the floor of the Senate. The minority has not traditionally been closed out of participating. In fact, some have argued that minorities traditionally have been given too much of an opportunity to participate. They argue that.

But what has been happening in recent years is, the majority has been using its majority to overrule these precedents of the Senate, which effectively then allows the majority to do what it wants to do and completely leaves the minority outside of the process.

That is, in a sense, the issue that is at stake. That is why there has been such a strong reaction to this proposal, because S. Res. 160 comes in the context of these other matters that have been happening, all of which have moved in the same direction; namely, to preclude the minority from having a fair opportunity to present its positions to the Senate, to have them considered, and to have judgment rendered upon them. It is fundamentally changing the nature of the Senate.

One of the great things about American democracy that any political commentator always points to is that, unlike many systems, it isn't run in such a tight, rigid, disciplined fashion that the minority can be excluded from any opportunity to be heard and to have its positions considered. Particularly the Senate has been the great bulwark of strength in that regard.

Now we have a proposal to overturn the very precedent which the majority themselves established only a few years ago, and to do so at the very time that increasingly the majority is using other techniques to block the minority from presenting its position, including, of course, this technique of filling up the amendment tree so that no amendments can be offered.

We really are moving very much in the direction of saying to the minority, in effect, well, you can come here and sit at your desks, but that is about all you can do around here; there is not much else you can do in terms of trying to constructively affect the legislative process.

I am very frank to say that I think we must resist that development. I think it is significantly undercutting the nature of the Senate as an institution and the role it has played in the country's history. I think this is a very important debate. I think the matter that is coming before us has a great deal to do with saying how the institution ought to run.

I must say that if the procedures were all fair and if we were given a fair opportunity to present our positions, there might be something that could be said for going back and treating what was done as a mistake, as some of us assert it was at the time. But in light of these subsequent developments, it seems to me that the minority has to really insist that no opportunity to offer its position should be denied to them. Therefore, that is the position I intend to take when this matter comes to a vote at the end of the day.

Mr. President, I yield the floor.

Mr. REID. 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. REID. 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. REID. Mr. President, I ask unanimous consent that the time be charged to the majority.

The reason I say that is so the Presiding Officer, either in his capacity as Presiding Officer or as a Senator from Arkansas—we have been very diligent in the minority in using up all of our time. Both leaders have sought to have a time in the evening to complete our vote. If the time doesn't run off, the time is charged to the majority now. This could go on forever and we wouldn't vote until sometime late at night.

I ask unanimous consent that be the case.

If there is some objection from the majority leader, he can come right back and change that.

That is my unanimous consent request.

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

Mr. REID. 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 (Mr. ALLARD). Without objection, it is so ordered.

Mr. LOTT. I inquire how the time has been divided and what time is remaining on each side.

The PRESIDING OFFICER. The majority has remaining 54½ minutes; the minority has used all of their allocated time. Fifteen minutes at the end has been allocated to Senator DASCHLE and there is an allotment of 15 minutes remaining for the majority leader.

Mr. LOTT. Mr. President, one further parliamentary inquiry. That means, then, during the quorum call all time is coming out of the majority side?

The PRESIDING OFFICER. That is correct.

Mr. LOTT. Mr. President, then I yield myself time out of this 54 minutes, realizing I also would have an opportunity to use my 15 minutes in closing. But there has been so much revisionist history espoused on the floor of the Senate today, I just did not want to let 1 hour 15 minutes go by without maybe correcting some of the record or putting an accurate history back into the CONGRESSIONAL RECORD.

A famous quote comes to my mind, from what I have heard here today. I fear “[thou] doth protest too much.” In other words, there is an awful lot of protesting by the Democrats that has been going on that makes anybody who is a dispassionate, disinterested watcher just looking in, inquire why are they protesting so much?

I have to note the inconsistency that is involved, too. Basically what the minority is saying, the Democrats are saying: As a protest statement, we are going to vote against reinstating rule XVI but we want to turn right around and reinstate rule XXVIII.

This is Senate gibberish, I know, but it is inconsistent because they are saying we want to continue to offer legislation on appropriations bills but we do not want anything coming back out of conference between the House and Senate that exceeds the scope of what was in the bill. I think there is an inconsistency there. I think we ought to take a close look at the scope of the conferences question. We have time to do that. We have committees, a Rules Committee, and we have a Governmental Affairs Committee that have been considering rules changes. I think there are a number of rules in the Senate that should be reviewed.

I think budget rules should be reviewed. For instance, this very week on the reconciliation bill which would provide some tax relief, at the end of the 20 hours, if amendments are still pending, we still have this very poor procedure where we might have to have what is called a “vote-arama,” of one vote after the other, one right behind the other every 2 minutes; I guess it would be 12 minutes between the votes—a very poor way to do legislative business. I think we ought to take a look at that and see if we cannot find a way to improve it. So there are a number of things we can do that I think will help the way the Senate does business.

I would like to go back and remind Senators how this rule was changed, this rule XVI. Rule XVI was overturned by the Senate on March 16, 1995, on the Department of Defense supplemental appropriations bill. Senator HUTCHISON of Texas appealed the ruling of the Chair, in that the Chair ruled her amendment regarding a restriction on appropriations funds to make a final determination with respect to the endangered species list was legislation on an appropriations bill. In other words, this involved the Endangered Species Act. The Chair ruled this was legislating on an appropriations bill and therefore was out of order.

That ruling was appealed. Many Members on the Republican side of the aisle supported her appeal. As a result, the Parliamentarian can no longer entertain a point of order that extraneous language is legislation on an appropriations bill. Again, keep in mind that up until that point that point of order would have been upheld by the Chair. That ruling was overturned and therefore a new precedent was set.

Interestingly, in that vote, No. 107, on March 16, 1995, 54 Republicans voted to overturn the Chair, 44 Democrats voted to sustain the Chair's ruling.

I am sure for the most part on both sides what was really being voted on was the substance of this endangered species list amendment. For instance,

one interesting quote on that occasion came from our colleague, Senator REID, who has been on the floor a good deal today. I think he summed up what was going on with regard to this particular amendment because I think probably, without putting words in his mouth, he was at least sympathetic to what Senator HUTCHISON was trying to do. But this is what Senator REID said:

But this is not the way to treat a very important matter. I am very upset. I am going to do everything that I can to make sure the President, if in fact this bill passes, will veto it if we start conducting business in this way.

Basically he had indicated, I believe, that while he had some understanding and sympathy on the issue, he thought this was no way to be doing business.

As a result of the overturning of the Chair, the appropriations process has certainly lost some of its legitimacy and has been complicated by the number of amendments, and their variety—and I am going to cite some amendments that were offered. The appropriations process is a very important part of our constitutional duty to the Federal Government. Yet with each passing year since this vote in 1995, it gets more difficult to get our appropriations bills through because of all the legislating that occurs on the appropriations bills.

Let me emphasize, while I thought that most of the comments from the Democratic side today were very partisan, I don't view this as partisan. It should not be. The discussions we have had across the aisle over the past 4 years have been that this was a mistake; we ought to work together to change it. But let me give a recent example. This past week on the State-Justice-Commerce appropriations bill, I do not know how many amendments showed up on that bill, probably a hundred or so. I know of at least one specific example. I will not cite the specific bill because that Senator would know what I was talking about and would not feel that it would be appropriate that I cite his particular bill, but it was a whole bill that had not been introduced, had not been referred to committee, had not been reviewed by the committee, and would significantly change the way a process works in the Federal Government. That was going to be offered to the appropriations bill. That Senator was on my side of the aisle.

So I really question that that is the way Senators would want this body to work, where whole bills will be cut out of whole cloth and brought to the floor of the Senate in a Senator's hand and he or she will say: I want this bill added to the appropriations bill.

That is no way to legislate. We should not be doing that. But that is the kind of thing that has been happening since we had this ruling and then the appeal of the ruling of the Chair in 1995 that set this new precedent.

The Senator from California was here earlier today commenting on this. Yet when this vote took place, she said:

I think to come to this floor of the U.S. Senate and to add an amendment to the Defense emergency supplemental bill that deals with a very important and sensitive environmental issue is simply not the right way to legislate.

Holy smoke, she is absolutely right. She said that on March 16, 1995. That was not what I thought I heard her saying today. Maybe I misinterpreted what was being said today. But that is the point. Senators will have an opportunity to offer amendments on other bills. The point is made quite often in this body, unlike the House—and nobody wants to make the Senate the House—any Senator can come to the floor on a bill involving, let's just say bankruptcy, and he or she can offer an amendment to deal with health care or can offer something to do with the Forest Service. We do not have these strict germaneness rules. We do take up legislative issues.

But one of the reasons why the majority leader cannot bring more legislative bills to the floor is because, in many instances, it has taken so long to get through other issues such as juvenile justice or the Patients' Bill of Rights or other appropriations bills; therefore, making it very difficult to bring up other important legislative issues such as the Federal aviation re-authorization bill, the bankruptcy bill that I referred to, or the nuclear waste bill that has been reported out of the Energy and Natural Resources Committee. It makes it more and more difficult for anything to be done other than appropriations and reconciliation. And the reconciliation process is very important because it is the only way you can get a bill dealing with taxes, for instance, to the floor without it being threatened by a filibuster or all kinds of other Senate legislative maneuvers.

This is one where you bring it up, you have a specified period of time, you have an amendment process, you go through those amendments, and then you have a vote. That process moves quite easily through here. Right now we are in a period where appropriations bills and reconciliation are about all we can get done.

There are complaints about filling up the tree. I have not gone back and done the research, but this process of so-called "filling up the tree" again is Senate language that is used to describe that all the different opportunities to amend are filled with amendments. I didn't invent that procedure. Other Senators who have been majority leader certainly have used that. Senator MITCHELL used it. Senator BYRD used it. That is a very legitimate tactic or process which can be used, one that should not be used all the time, and one that has been used relatively rarely, but it certainly is a legitimate thing the majority leader can do to focus debate and to get debate concluded in a reasonable period of time.

Let me give some examples of the kinds of things that have been tying up

the Senate since we have been without the ability to strike them down by using rule XVI. First of all, it seems to me if you look at history, probably there has been an increasing number of amendments which have been offered on these appropriations bills. It seems now it is quite often within the range of 80 to 100 or 120 amendments on just about anything that comes along. Every Senator dumps his out basket on the floor of the Senate with every amendment he or she has ever dreamed of and some of the things with which we have to deal on appropriations bills, where it clearly would have been legislating on an appropriations bill, dealing with grasshopper research, lettuce genetic breeding, peach tree short life, tomato wilting, the feasibility of using poultry litter as possible fuel. Other examples are: removing of computer games from Government computers, repainting of water towers, swimming pool construction, the study of green tree snakes. These may be legitimate agriculture issues, but with others, they certainly would be considered to be frivolous in nature in terms of being offered as amendments on appropriations bills.

While we have those examples, the ones that are the most startling and striking to me are the ones where whole bills or major amendments are offered on the floor of the Senate to appropriations bills that clearly is legislating on an appropriations bill, that do not apply in any way in terms of substance, where the committees have not been allowed to act, where the committee chairman has not had any input. It is time we bring this process under control. On more than one occasion, the exchanges between the Democratic leader and the majority leader have indicated that there has been a willingness or a desire on both sides to begin bringing this under control.

I urge my colleagues to look at how this happened. A lot of people on both sides of the aisle at the time it happened did not realize the significance of it and, secondly, said at the time: Yes, this is probably a mistake.

It has been a tool the Democrats have used over the past 4 years, and that is the way it works in the Senate. When you have a precedent, then Senators have a right to take advantage of it until a new one is set or until the Senate decides it is going in some other direction. There is nothing unusual about that at all.

We should reinstate this rule XVI. We should look at a number of rules and budget procedures we have. We have appropriators who have come to me and expressed concern about this. People with a long history of paying attention to the rules of the Senate and the budget procedures and the appropriations bills, such as Senator DOMENICI and Senator STEVENS and others, have said we need to get this back on track, we need to change the way we are doing business.

I hope we can get through the appropriations process this year as soon as

possible, so we can do some of these other bills that are very important to our country, so Senators will have an opportunity to fully debate and discuss these issues and offer amendments to issues that are outside the appropriations process.

I hope we will have time to work with serious leaders in the Senate who are worried about the budget process, who are worried about the rules, and have some debate on the floor and make some changes. There is no desire at all to set up a Rules Committee in the House of Representatives sense, but there is a desire by this majority leader, as by every majority leader, to find a way to move the process and the legislation through the Senate.

We did a marvelous job last week, if you look at it. It did not look pretty at various times, but last week we did pass reorganization of the Department of Energy. After probably a month of resisting doing the fundamental reorganization we need at the Department of Energy to stop the leaks of our very important nuclear secrets to China or anybody else, we finally got it to a vote last Tuesday, and the vote was, I think, 96-1—overwhelmingly bipartisan.

One might ask: Why did it take you so long? That is the way the Senate works sometimes. We have to think about it; we have to have debate; we work out some amendments. Also, it might be that nobody wanted to be on record as being against reorganization of the Department of Energy. Again, it was dragged out, and we had problems getting to the intelligence authorization bill. We even had to have a cloture vote to get to the intelligence authorization bill, the bill that provides for the intelligence information for our Federal Government, for the CIA.

I did not want to have to file a cloture motion on that, but I was told, in effect, that the Democrats were going to filibuster the motion to proceed. That meant the Democrats were going to filibuster even taking up the bill because they were not ready to debate the reorganization of the Department of Energy, I guess. I did not quite understand it. In order to get to a very important, very sensitive issue such as the intelligence authorization, the intelligence community of our Federal Government, which is such an important part of the defense of this country, the majority leader of the Senate had to file a cloture motion to even take up the bill for its consideration. If a change of heart had not happened, I would have had to file a second cloture motion to get to the substance of the bill.

The pontificating we do sometimes around here, the posturing about, oh, we are cut off—what is a leader supposed to do when told the motion to proceed to a bill is going to be filibustered? At that point, I have to take action to move a bill, such as the intelligence authorization, forward. When the smoke cleared, it passed. We got that bill done.

We got to the State-Justice-Commerce appropriations bill, a bill that quite often takes days, sometimes weeks, sometimes longer than weeks, with lots of amendments offered. As a matter of fact, with the cooperation of both sides of the aisle, on Thursday night at approximately 9:45 that legislation was passed.

Today I went over and shook the hand of Senator REID of Nevada and said: It would not have happened without your aggressive work in clearing amendments that could be accepted, in getting amendments withdrawn that really did not need to be offered.

We did it on both sides of the aisle. I went to Republicans and said: You do not want to do this here. And Senator DASCHLE did the same thing on the Democratic side of the aisle. That is how one works through the appropriations bills because many of these amendments had no business being offered at that hour on that bill and on those subjects with no consideration being given by the committees or by the chairmen.

If we can reinstate rule XVI today, we will see our appropriations bills able to go through without as much dilatory action or without as many amendments that really are strictly legislation on appropriations bills. I do believe that on both sides of the aisle Members know this precedent needs to be put back in place.

Will it cure all the problems? No. As a matter of fact, Senators may just use other dilatory tactics, and if they can find a way to do that or if they can appeal the ruling of the Chair, maybe the precedent will be reversed again. That will be the will of the body. I will have no great concern about that. Then we can move on from this to the next step.

Senator STEVENS and Senator BYRD have proposed amendments that will go beyond what reinstating this particular rule XVI will do. I hope we would take a look at that before this year is out.

So I may have to come back later on to respond in wrapup on some of these issues. But I do, again, refer you to the Shakespeare quote from Hamlet: I do think you "protest too much" as we work to reinstate a precedent that we all know will serve the institution quite well.

Mr. REID. Will the majority leader yield?

Mr. LOTT. I am glad to yield. You have no time; you have used it all today. We understand you had a lot of speakers. I would like to reserve as much of our time as possible for other Senators who wish to come to the floor to speak on this subject on our side.

Having said that, I will be glad to yield.

Mr. REID. Thank you.

I say to my friend, for whom I have the utmost respect, I know how hard you work trying to move things along. I have tried to be as much help as I can be. But from the most junior Member of the Senate, Senator BAYH, to the

most senior Member on this side, Senator BYRD, there has been a general belief today that we need to do more legislating, with fewer quorum calls; some more debate needs to take place. So I hope my friend understands the belief of the membership of the minority that we need to do more legislating.

I also say to my friend that I have asked—in colloquies here with Members from the majority who came to speak today—how is it logically consistent that you can vote to change rule XVI and not vote to change rule XXVIII? And they all three said—I only asked three the question—it is not logical to do that.

I hope that the majority would take a very close look at rule XXVIII to see to it that we do not wind up with a situation like we wound up in last fall, with a 1,500-page bill that just a few people developed.

So I hope, I repeat, that the Senator will listen to the spirit of the debate today. It was not acrimonious. I think it was constructive criticism. We all love the Senate. You are the leader. We recognize that. But we need to move along and do more legislating as the Senate, we think, should be legislating.

I thank you very much for yielding.

Mr. BYRD. Will the distinguished Senator yield?

Mr. LOTT. I yield to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, having been majority leader in the 95th and the 96th and again in the 100th Congress, I want to assure the distinguished majority leader that I have experienced all of his troubles, all of his problems. And this business of having to deal with a filibuster on a motion to proceed is nothing new around here. That has been the case for decades. So the distinguished majority leader is not experiencing something that I did not experience or that other leaders did not experience.

The motion to proceed to the civil rights bill of 1964 was debated 2 weeks. That was just the motion to proceed. And the bill itself was before the Senate 77 days. It was actually debated 57 days, including 6 Saturdays. All in all, including the time that it took to get up the motion to proceed, and the time to deal with the bill itself, and then including, I believe it was, 9 days following cloture before the vote on passage occurred on the bill, it took 103 days—103 calendar days—to deal with the Civil Rights Act of 1964.

I was the only non-Southern Democrat—the only non-Southern Democrat—to vote against that bill. And I was against cloture on it. Other than Senator Hayden and Senator Bible, I was the only non-Southern Democrat to vote against cloture. So I have been through all these travails and trials that the majority leader has experienced. And I empathize with him and sympathize with him, because I have been there, too. But it is nothing new

to be confronted with a possible filibuster on a motion to proceed. I had to deal with that many times.

Mr. LOTT. Would the Senator yield?

Mr. BYRD. Yes. The distinguished Senator has the floor.

Mr. LOTT. Didn't the Senator occasionally file a cloture motion on a filibuster of a motion to proceed?

Mr. BYRD. I did.

Mr. LOTT. That is what I have had to do on occasion, too. And sometimes the majority leader might decide not to do that, to go ahead.

Mr. BYRD. This leader did so on occasion. But this leader did not do it all the time, nor did this leader fill the tree all the time. I filled the tree a few times, very few times, but not all the time.

I do not call up many amendments here. I am not one of those whom the distinguished majority leader has in mind when he talks about Senators calling up many amendments.

Mr. LOTT. That is right.

Mr. BYRD. I do not do that often. But Senators do have the right to offer amendments. The distinguished majority leader has his problems. I know them. I know them well. I sympathize with him and want to work with him and want to help him.

I call attention to the fact that there are 63 Senators in this body who never served in this body when I was majority leader—63. I said this morning that more than a third, but it was actually almost two-thirds of the Members of this body were not here when I was majority leader.

I was glad to hear the Senator quote Shakespeare. Let me quote from Shakespeare also:

'Tis in my memory lock'd
And you yourself shall keep the key of it.

So, Mr. President, I certainly will always want to cooperate with the distinguished leader when I can. I have to say I think there is too much partisanship in this Senate, on both sides, far more partisanship in the Senate than there was when I came here. I would urge again that the distinguished Majority Leader let Democrats call up amendments and that he call up legislative bills, and thereby give Senators a chance to call up their amendments so that they will not have to resort to offering them on appropriations bills.

Mr. LOTT. Mr. President, could I respond to some of the comments Senator BYRD has made?

Mr. BYRD. Absolutely.

Mr. LOTT. Because there are several points you have made to which I would like to respond.

Mr. BYRD. Absolutely.

Mr. LOTT. We have other Senators who may want to speak, but I did not want to interrupt if you were about to make a point. But I do want to comment on some of those issues that you mentioned.

Mr. BYRD. Mr. President, I hope the Senator will proceed.

Mr. LOTT. First of all, with regard to the partisanship, as a matter of fact, I

think I would have to disagree with the Senator from West Virginia. I have not been in the Senate nearly as long as he has, but I have been working with Congress for 30 years—30 years. I am 57. I came here when I was 26. I was a staff member for 4 years; 16 years in the House. I saw partisanship at its worst in the House when I was a Member and part of an oppressed minority in the House.

I have been in the Senate for going on 11 years. I really do not feel that much partisanship. I feel a real warmth toward a number of Democrats. And I thought it was just this year, just a short time ago, that we came through a historic impeachment trial in which we stood in these aisles—this center aisle here—together and said, this was a tough task; it was a constitutional requirement we had a duty to do. We performed our duty, and whether you agreed with the end result or not, most folks felt it was done fairly and not with shrill partisanship.

Even when we disagree on substantive issues, I think the Senate is almost the only place in this city where it does not get to be shrill partisanship. I see the distinguished ranking member from New York of the Finance Committee. The Finance Committee is probably the most bipartisan, nonpartisan committee in the entire Congress. We do not always come out with a bipartisan bill, but usually we report a bill that has votes from both sides of the aisle. That was the case just last week on the tax bill; a couple Democrats voted with the Republicans.

I don't believe that is partisanship, No. 1. The reason I think it doesn't get that shrill is because we are sensitive to each other's needs to be heard, to our individual needs. We have tried to be a Senate that understands that Senators have families, and I think just that relationship helps because Members are not exhausted and mad at each other. I want to continue to further that.

In terms of giving the Democrats a chance, while there has been a lot of hollering about it, the fact is, you have been getting a pretty good chance. As a matter of fact, on the juvenile justice bill, I could have gone through all kinds of contortions and gyrations to try to block that, but I thought it was a bill that came out of the Judiciary Committee on a bipartisan basis after 3 years of work, and we ought to take it up.

Did I like the way it went on a week more than I had been told it would take to get it done? No. As the Senator from West Virginia said, the Senate had to work its will, and there were more amendments cooking out there. I didn't run around out here trying to block them. Some of my colleagues said I should have done that. We worked our will.

We wrangled around on the Patients' Bill of Rights for almost a year. We could have done that bill last fall, but we couldn't come to agreement. We

came to agreement. We took the bill up. We got it done.

Now, there were some speeches made the day before we completed that bill about how terrible the process was, but the night we got it done, Senators on both sides stood up and said: Well, I don't like all this and it wasn't perfect, but basically we got our fair shot, and we got our work done.

As far as giving people the chance, I have a list, two pages of bills that have been done this year that are not appropriations bills. We did the first concurrent budget resolution on time, only the second time in 25 years. We provided small business loan guarantees to small businesses that have year 2000 problems. We passed a national missile defense bill, which the President signed just the other day. And by the way, in his statement with his signing it, he misstated what the bill did. We passed a soldiers' and sailors' pay raise bill. We passed education flexibility. We had some Democrats who worked on that all the way. The President was saying all the way: I will veto it; I will veto it. Finally we got it done and he signed it. We passed the water resources bill. This is an area where we haven't passed an authorization bill, I think, in 5 years. We have passed it. The House has passed it, and after a lot of work, we actually got it into conference. Juvenile justice, we passed that through. The majority leader is trying to get to conference on that. We are going to have to have a bipartisan effort to get to conference.

Defense authorization; energy bill package; financial modernization, a bill that has been coming for 10 years—people didn't think the Senate would have any chance to pass a financial modernization bill. We got it through the Senate. Hopefully, we will get it through. The list goes on in terms of Senators being able to have amendments on authorizations bills and getting important authorization bills through.

While the majority leader has to sometimes say we ought to be doing more, the fact of the matter is, we have been doing pretty good this year. I invite my colleagues and the public to take a look at this two-page list of bills. As a matter of fact, we have already passed eight appropriations bills. We are probably a week or maybe a bill or two behind where we ought to be on appropriations, but in recent history, that is pretty good progress. I would like to keep that going.

In terms of filling up the tree, again, I didn't invent this idea. In fact, I think I first saw it when Senator Mitchell used it. But Senator Dole used it on the 1985 budget resolution. Senator BYRD used it in 1977 on the energy deregulation bill. In fact, to study the brilliant use of the rules of the Senate, I have gone back and read and reread that particular bill and how Senator BYRD handled it. Of course, as I recall, I think Senator Baker was probably working with you on that issue, but I

know it was tough. You had to have vote after vote after vote after vote to break basically an amendment filibuster.

Mr. BYRD. Which bill was that?

Mr. LOTT. The energy deregulation bill, of 1977, during the Carter years. As I recall Senator Metzenbaum and others were resisting in every way possible. Senator BYRD filled up the tree on the Grove City bill in 1984, and the campaign finance bill in 1988, Senator BYRD filled up the tree there—there were eight cloture votes on that particular bill—and then on the emergency supplemental appropriations bill in 1993.

Sometimes I thought it was a brilliant move. Sometimes I thought it was the right thing; sometimes I didn't.

But the Senator is right, the majority leader has a job to do. Sometimes it is not easy. Sometimes it is quite difficult. But I think it is important that he continues to try to encourage the Senate forward and do it in such a way that when he leaves at the close of business on Monday, the 26th, he will be able to come back the 27th and work with every Senator the next day.

I wanted to respond on some of those comments.

Mr. BYRD. Will the majority leader yield?

Mr. LOTT. Surely.

Mr. BYRD. The majority leader was not on the floor earlier when I said that as the majority leader, I resorted to filling the tree a few times. So what the distinguished majority leader said doesn't reveal anything that is new and doesn't really reveal anything that I haven't myself already said today. I did that. I may have been the first one to fill up the tree in my service in the Senate—I am not sure—but I did do that on a few occasions, but only on a very few occasions. I didn't make it a practice.

I also compliment the majority leader, and have done so on several occasions, for his judicious and very fair handling of the impeachment trial. I think the Senate did itself honor and did well by virtue of the fact that both leaders put the welfare of the Senate and the welfare of the country ahead of political party. I complimented the majority leader at that time, and I do again. He demonstrated real statesmanship on that occasion.

Let me just say, again, what I said earlier this morning about political party. It is important to me, but I have never felt that political party is the most important thing. The Senate is more important than any political party. Many things are more important than political party. I have said that. But during my tenure as the majority leader, I always tried to protect the rights of the minority. Many times I made a point of it. I tried to protect the rights of the minority because that is a great part of what this forum is all about, protection of minority rights.

I can also say that Senator STEVENS and I did work together to come up

with some proposals that would have improved our situation, I think. We came up with a resolution containing several rules changes, with the understanding of the distinguished majority leader and with his full knowledge. I wanted it to be called up and debated and acted upon, but it is still in the Rules Committee. Nothing has ever been done about it.

Our concern, going back to rule XVI, is this: Under the earlier operation of Rule XVI, a point of order could be made against legislation on an appropriations bill. If the question of germaneness was raised, the matter was submitted to the Senate for an immediate vote. The Senate voted on it. If the Senate decided on that vote that the House had already opened the door to legislation on an appropriations bill, the Senate certainly had a right to respond by further amendment.

The problem now is, we are calling up appropriations bills that come out of the Senate Appropriations Committee. They are Senate appropriations bills. No point of order can be made that they constitute legislation on appropriations bills. There is no question of germaneness. If we go back to rule XVI, unless we take up the House appropriations bills, we cannot make the point of germaneness against a Senate appropriations bill. That is our problem.

Senators right now, myself included, who voted to uphold the Chair on that occasion and stay with rule XVI, are concerned about going back to it now because we are normally acting on Senate appropriations bills, not House Appropriations bills. I have to applaud Senator STEVENS. He is one of the best Appropriations Committee chairmen I have served with, and he seeks to take advantage of the time and get something done. We have Senate hearings and we mark up regular appropriations bills and then we act on them on the floor. When the House bill comes over to the Senate we substitute the text of the Senate bill in lieu of the House bill. That is all well and good. It saves time. But it does away with the opportunity to raise the question of germaneness. The question of germaneness cannot be raised unless we bring the House Appropriations bill up and the House has previously opened the door to legislation. I hate to vote against going back to rule XVI; I would like to go back to it.

Mr. LOTT. If the Senator will yield, I had the impression earlier that Senator STEVENS wanted to reinstate rule XVI, and I actually had the impression that the Senator from West Virginia also wanted to.

Mr. BYRD. I did. But as I explained this morning, it is the only way Senators, in many instances—the majority leader has mentioned the juvenile justice bill and he has mentioned—

Mr. LOTT. The Patients' Bill of Rights.

Mr. BYRD. Yes, the Patients' Bill of Rights. Those are bills that he allowed

the Senate to work its will on. The product that came out at the end was a product of the will of the Senate.

Mr. LOTT. Mr. President, if I could, if the Senator will allow—

Mr. BYRD. If I might finish my sentence, the majority leader has the floor, but I hope he lets me respond to the point he is making. We majority leaders like to finish our points, you know.

Mr. LOTT. I get awfully excited when a point is made that I feel like I need to respond to. I will withhold until the Senator finishes his statement.

Mr. BYRD. I have always been a majority leader willing to hear the other man respond. He mentioned two or three bills, and those are good examples of the work the Senate can do when it is given the opportunity to offer amendments and take time on the bill. I hope that we do more of that.

My reason for voting, as I will later today, against going back to that rule is two or threefold. One is, the majority who had the votes then overturned the rule. The majority, which has the votes now, will reinstitute it. In the future, I am wondering if the situation will arise when it will be to the majority's benefit again and it will use its vote to overturn the rule again. But the reason I will vote against it today is because Senators on this side, according to my observations—and I don't make much of a big to-do often here—but Senators on this side of the aisle are simply not given the right to act on legislative bills much of the time, so they have no other resort but the appropriations bills. Therefore, I think I have to vote against reinstating the rule.

Mr. LOTT. Mr. President, if I might respond to that, I think what is involved here is Democrats want to dictate the schedule around here. The Democrats want to dictate what the schedule is. When you say yes, juvenile justice and the Patients' Bill of Rights are examples of the way it can be done around here, it is because those were bills on which there was pressure to bring them up, not in the order that had been planned. But is the Senator saying, for instance, that the Democrats didn't also support or were not involved in these other bills that actually had bipartisan support, such as the national missile defense, which Senator INOUYE was a cosponsor of; the soldiers and sailors pay raise bill, which had bipartisan support; education flexibility, which had bipartisan support; water resources, which passed unanimously, and defense authorization? These are not bills that I bring up because they are bills Republicans want; these are bills that are in the interest of the country.

Mr. BYRD. The majority leader is preeminently correct. He is talking about bills that can be brought up in which both sides have had an opportunity to give and take and offer amendments, so the country benefits.

Mr. LOTT. The list is very long here. I don't quite understand what the complaint is.

Mr. BYRD. If I wanted to point to a list, I could point to a list of bills on this calendar that is very long that haven't been taken up.

Mr. LOTT. That is partially because of the amount of time that has been taken up with other bills that were not scheduled. Bankruptcy, for instance, has been bumped several times because it took longer. The will of the Senate was to take longer in the debate of other bills. There is the case of the nuclear waste legislation, which the Senate passed a couple years ago. Now the Energy and Natural Resources Committee has come up with a bill that is very different. I think maybe it could have even broader support than the previous bill, which I think got about 63, 64, or 65 votes, or was going to have that many.

So the point is, the majority has to try to bring up bills in which there is broad interest and that have support—things such as the State Department and Defense Department authorizations. My goodness, if we don't authorize the legislation for the Department of Defense, we can't get the appropriations bill, or it causes all kinds of problems. A lot of what I bring up is dictated by, frankly, what the Constitution requires, or what has to be done to keep the Government operating in an appropriate way.

Here is a bill, the Workforce Incentives Improvement Act, which had problems when it came out of committee. They were worked on and this bill passed, I think, probably overwhelmingly, if not unanimously. It is one that was a high Democratic priority, but also had the support of the chairman of the Finance Committee and the ranking member. The Y2K bill was a bill that had bipartisan support out of Judiciary and also out of a second committee, where you had Democrats involved in both instances. Yet it took us weeks to get that bill done. I think we had to go through three cloture votes to get that bill done, which the President signed into law.

Mr. BYRD. But if it is an important bill, what is wrong with taking 3 weeks?

Mr. LOTT. Because if you take 3 weeks on a bill like Y2K liability limits, which should have gone through here relatively quickly, that makes it more difficult to call up other bills that Senators would also like to consider.

I think maybe the Senator and I are involved in a discussion of scheduled events and rules which is important to us and important to the way the body works. I think the main thing we need to be saying to the American people is that we are going to work together to try to get our business done. By the way, the length of speech doesn't necessarily mean that the merit is all that great.

In terms of bipartisanship, I think I have proven several times, including

working with the administration in 1996 and 1997 to get Medicare reform, tax cuts for working Americans, budget restraint, welfare reform, illegal immigration reform, health care portability—we have worked in a lot of areas in a bipartisan way across the aisle and across the Capitol and with the administration. I would like for us to continue doing that. I am one of the few Members—to show just how non-partisan or bipartisan I am, I came to the city thinking I was a Democrat, but I was elected as a Republican. So I served on both sides of the aisle.

Mr. BYRD. Will the Senator yield?

Mr. LOTT. I yield to the Senator.

Mr. BYRD. I certainly don't want to appear to be trying to take anything away from the distinguished majority leader, who has accomplished many things. I compliment him, and I have done so many times. I have spoken behind his back as well as to his face that he has many attributes that I admire. But surely the distinguished majority leader didn't mean what he said when he said the Democrats were trying to dictate the scheduling. This Democrat doesn't do that, and the majority leader knows that. This Democrat has no such intention, and I don't think the Democrats here, who are in the minority, would attempt to try to dictate the schedule.

The Democrats, as I observe them, are trying to stand up for their rights, and they certainly have the right to debate and the right to offer amendments. I have no interest in taking over the schedule here. But I do have an interest in the Senate. I think the Senate has gone downhill. I think it is too partisan, and I don't think the minority has been given the right to call up amendments. I have seen the distinguished majority leader call up a bill and immediately put a cloture motion on it. I have done that a few times, too, my friend, but I never made it a practice to do it day after day and time after time. You can search my record if you want to, but I also have a memory. I was majority leader here, as I say, before 63 of the current Senators, including the majority leader, got here. I am pretty well informed about what has gone on before.

I am not here to attack the majority leader today. I admire him. I count him as my friend. As far as I am concerned, he will remain that way. But I think the Senate is being hurt. I don't want the Senate to be hurt. I think the American people want their work done.

I had the same problem that the Senator is talking about. I called our Democratic Senators one day into my office, and I said: Now, I'll tell you what I am going to do. We are going to have a week's or ten-day break every 4 weeks here. We are going to go home and talk to our people.

I got a big hand of applause.

Then I said: Now, the other side of that coin is, we are going to be here 5 days a week, and we are going to work 5 days a week. And we are going to

have votes 5 days a week, on Mondays as well as on Fridays.

I first offered the carrot, and then I offered the stick, and it worked.

I am the one—I am the culprit—who started this business of having breaks every 4 or 5 weeks. But I also kept the Senate here. Not everybody on this side of the aisle liked me for it. As I said, it is not the quality of life around here that counts to me; as long as I am the majority leader, it is the quality of work that counts.

I have been through all of that. We got the work done. Senators were able to call up their amendments. They were able to get votes on them. Look at the Record of the 100th Congress. You will see a good record.

Mr. LOTT. Mr. President, when the Senator was talking about the rights of the minority, I thought it was I speaking. I remembered my saying the same thing. In fact, I was sitting right over there. I think there were only three desks there. I remember pleading with Senator Mitchell, who was standing right there, the majority leader. I believed I was being oppressed and that the minority rights were not being honored.

I remember also sitting right over there pleading with the Senator from Texas, who was chairman of the Finance Committee, Senator Bentsen, to offer an amendment. As I recall, it had something to do with university loans or scholarships. I remember being prohibited from offering that amendment.

I know when you are in the minority you are not always happy with the way you are treated. But I think we need to work together to try to not have that be the all-consuming viewpoint around here, and I don't think it has.

I remember how rough it was being in the minority. I was there for 21 years. I didn't like it at all. I like the majority much better. But I think you have to try to be reasonable on both sides of the aisle. That is why I have been a little bit shocked today by the tone of the debate which I was watching. Although I was not participating in it, I thought I had to come out here and, in effect, explain what happened—explain what this really means, and a little bit to defend my honor.

But I appreciate what the Senator has said. I know he has been helpful since I have been the majority leader. I am sure he will help us try to get our work done in the future as he has done in the past.

If I could, let me ask unanimous consent.

Mr. BYRD. Will the Senator allow me once more?

Mr. LOTT. I would, but I would point out that we only have a few minutes left. I need to hold a few minutes. I see Senator CHAFEE may want to speak.

I will yield one more time.

Mr. BYRD. The Senator cannot quote one time today, or before today, in which I said anything that would or could be properly interpreted as impugning his honor. I would not do that.

If he can cite one time, I will apologize for it right now.

Mr. LOTT. I wouldn't, couldn't, and would never expect to even try.

Mr. BYRD. Mr. President, I thank the leader.

Mr. LOTT. Mr. President, I thank Senator BYRD.

I ask unanimous consent that the votes in regard to the scope amendment and the vote on adoption of S. Res. 160 occur at 5:30 p.m. in stacked sequence with 2 minutes of debate between each vote and the final vote in the sequence being the cloture vote.

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

Mr. LOTT. I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President. I strongly support S. Res. 160, and urge my colleagues to vote for this important measure.

If this resolution is approved, it will restore Rule XVI of the Standing Rules of the Senate—a rule which, in one form or another, has served the Senate well since 1850. By restoring Rule XVI, Senators will again have at their disposal a procedural tool—a point of order—which can be raised against legislative amendments to appropriations measures. Though this point of order can be waived by a simple majority, it nonetheless reinstates an important procedural safeguard to discourage this harmful practice of legislating on appropriations bills.

Since 1995, when the Senate voted in effect to overturn Rule XVI, we have witnessed a proliferation of so-called “legislative riders” on appropriations bills. Regrettably, much of this activity has been aimed at undermining our environmental laws. However, no authorizing committee's turf is safe without firm dividing lines clearly to differentiate the functions performed by these two types of committees.

Authorizing committees are responsible for developing and overseeing the laws and programs which fall within their respective jurisdictions. The Appropriations Committee is then tasked with establishing appropriate funding levels on an annual basis for each of these programs, based upon the availability of discretionary resources.

Shortly, the Senate is scheduled to consider the Fiscal 2000 Interior and Related Agencies Appropriation Bill. Unfortunately, this measure is laden with legislative riders. By singling these provisions out, I do not mean to suggest that they are not deserving of our consideration. To the contrary, these provisions should be thoroughly examined—but not in the context of the appropriations process.

The authorizing committees, which have the substantive expertise, are the proper fora within which to consider and evaluate these provisions. However, as most of us know, by attaching a rider to an appropriations bill, one

avoids having to defend it from the public scrutiny that comes with the authorizing committee process. Moreover, as part of must-pass annual funding bills, these often objectionable provisions are virtually assured of being signed into law, despite any misgivings a President might have.

In addition to miring the appropriations process in controversy, the ability to attach legislative riders to annual spending bills also undermines the power of the authorizing committees to advance authorizing legislation. In fact, appropriations riders have, in some cases, made it difficult to reauthorize some government programs.

Thus, Mr. President, the public interest is not well-served by the practice of including legislative provisions in appropriations bills. Unfortunately, reinstatement of Rule XVI will not fully address this problem because the point of order—this is important to note—only applies to legislative amendments which are offered on the floor, and not to legislative provisions added during committee action.

In the days when the Senate Appropriations Committee took up and amended House-passed appropriations measures, all of the Committee's changes were considered amendments. Today, as a general matter, the Senate Appropriations Committee develops its own original bills. Thus, the Rule XVI point of order does not apply to legislation added during the committee process—rather only to legislative amendments that are offered on the floor.

In other words, in a bill coming from the Appropriations Committee you can have, in effect, a legislative rider. That is there. As we are proposing it, as I understand it, the reinvigoration of rule XVI only applies to those legislative measures that are added on the floor.

Thus, while S. Res. 160 is an important first step, it does not go far enough. In order to fully protect the interests of the authorizing committees, the Rule XVI point of order should be made applicable to legislative provisions which have been added to appropriations bills during committee action.

For this reason, we should not only restore Rule XVI, but also strengthen it, as Senators STEVENS and BYRD have proposed in S. Res. 8, which they introduced earlier this year. As the Chairman and Ranking Member of the Senate Appropriations Committee, these Senators know better than most of us that legislative riders have hindered their ability to secure timely passage of the 13 annual spending bills. Their proposal would subject all legislation contained in appropriations measures—regardless of whether added on the floor or in committee—to the Rule XVI point of order.

Thus, while I will vote for S. Res. 160, I will continue to press my colleagues to further strengthen Rule XVI by adopting S. Res. 8.

I thank the Chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1343

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will report.

The legislative assistant read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 1343.

Mr. DASCHLE. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place add the following: The presiding officer of the Senate shall apply all precedents of the Senate under Rule XXVIII in effect at the conclusion of the 103rd Congress.

Mr. DASCHLE. Mr. President, this amendment addresses what we consider to be one of the major procedural problems facing Senators today. It has to do with what is referred to here as the scope of conference.

For those who may be watching this debate and are not totally familiar with parliamentary procedure, after a bill is passed in the House and passed in the Senate, the bill goes to conference. Here the House- and Senate-passed bills, two separate pieces of legislation, are melded into one in a way that hopefully will be acceptable to members from both Chambers of Congress. Only one bill can become law. The conference report represents an agreement between the House and the Senate as to what specific proposals ought to be included in a single piece of legislation.

It has always been the case that when a bill comes to conference, if there is something in the House bill that is not in the Senate bill, or something in the Senate bill that is not in the House bill, a vote is taken and a decision made about the propriety of including that provision for the final version in the conference agreement.

At no time, up until recent years, was there ever consideration given to a situation where if a provision did not appear in either the House or Senate versions, could it even be considered in the conference.

However, a decision was made by the majority to allow original legislative provisions to be taken up in the conference, that is language that may not have even been debated in either body let alone received a recorded vote.

As a result of this decision made by the majority, we can go into this conference—whose purpose it is to work

out the differences between the House and the Senate—and completely bypass the relevant authorizing and appropriations committees. In a sense, this decision set up a “super” legislative committee that makes up its mind oftentimes without the benefit of House or Senate hearings, without the benefit of action in any House or Senate committee, and without a vote on either the House or Senate floor. It is an amazing set of circumstances.

We have seen that happen over and over again. The most consequential incident occurred at the end of the last session when the White House and a relatively small group of Senate and House conferees made decisions that were not based on any actions taken in either body of Congress.

The distinguished Presiding Officer, after it happened on October 20, addressed this issue as eloquently and as succinctly as any Member I have heard. If my colleagues haven't had the opportunity to hear what he said, I think this excerpt states it so well:

I don't believe the Founding Fathers of this country ever intended for a few Members and staff to make more than one half of a trillion dollars worth of arbitrary, closed-door decisions for the rest of us, for America—almost one-third of the Federal budget—and then present them to all other Senators and Representatives, men and women, elected by the people of this country, by the taxpayers, and then say take it or leave it, an up-or-down vote.

So said the Senator from Nebraska.

The Senator from Utah said something similar and equally on point. Senator HATCH, on the same day on the Senate floor, said:

We should all be concerned about the perception this backward procedure—one in which we are considering conference reports on bills that have not even passed the Senate yet—will set a precedent for the future. Mr. President, I hope my colleagues on both sides of the aisle will join me in a sweeping denunciation of this as anything other than a one-time event.

I wish this had been a one-time event. Unfortunately, it happens over and over and over. It is a complete emasculation of the process our Founding Fathers had set up. It has nothing to do with the legislative process.

If you were going to write a book on how a bill becomes a law, you would need several volumes. In fact, if the consequences were not so profound, some could say you would need a comic book because it is almost hilarious to look at the lengths we have gone to thwart and undermine and, in an extraordinary way, destroy a process that has worked so well for 220 years.

This amendment simply says let's get real. If we mean what we say, and if we truly want to end this amazing process, now is our chance. This is the opportunity. I am very hopeful our colleagues will support our effort to put democracy back into the legislative process, to ensure the committees, authorizing and appropriating, have an opportunity to express themselves and to ensure every single Senator on the

Senate floor has an opportunity to express himself or herself.

As I noted earlier, the dictatorial, take-it-or-leave-it approach referred to by the two Republican Senators is, unfortunately, not a one-time event. It has happened over and over. If we are serious about making changes, I cannot think of anything that ought to change more quickly and with broader bipartisanship than this. We will have an opportunity.

I appreciate very much the eloquence, leadership, and interest in making changes expressed by our colleagues over the course of many different occasions, occasions just as egregious as the one last October. On each of these occasions, Senators have been denied their basic rights as elected Representatives of the people of their State, and a mockery has been made of our legal and legislative process.

This is a very critical amendment. We will have an opportunity to vote on it in 15 minutes. I hope we make the right decision. I hope it is a bipartisan decision. I hope we can do it in a way that will allow us the opportunity, once and for all, to put common sense and some semblance of order into our conference process and the conference reports that we are called to vote on after the process has been completed.

Mr. President, I will speak just briefly about the underlying matter; that is rule XVI. I appreciate very much the effort made by the assistant Democratic leader. He has managed our time so exceptionally well. I am grateful to him once more for the extraordinary effort he has made in making sure colleagues have the opportunity to express themselves and to orchestrate our response to arguments made by our colleagues on the other side. I think the record clearly shows what the Democratic position was several years ago when our colleagues overturned the ruling of the Chair. We had said at the time that rule XVI was there for a reason. We believe rule XVI existed because there is an authorizing and an appropriating process. What has happened since that vote is interesting. What has happened is the Senate has become more like the House of Representatives than I believe it has, probably, ever been in our Nation's history.

The House of Representatives has a very tight process by which amendments are considered. There has to be a Rules Committee. The Rules Committee decides, on each and every piece of legislation, how many amendments are offered. The majority dominates the Rules Committee, as we know, by a two-thirds to one-third ratio. When Democrats were in the majority, when I was in the House, I thought what an incredible power that is. For the Rules Committee, with its membership ratio tilted so heavily in favor of the majority, to decide means the majority gets its way virtually every single time. Only on rare occasions do a combination of minority and majority Members

of the House join forces to thwart the will of the majority. That does not happen very often.

The Founding Fathers, in their wisdom, saw fit not to have a Rules Committee in the Senate in that same sense of the word. We do have a Rules Committee. It is very important and carries out some functions that are in large measure directly related to how this Senate operates. However the committee does not dictate how the Senate floor operates. There is no gatekeeper when it comes to legislation. The gatekeeper is all of us, 60 votes.

Yet, what do we see now all too frequently? On virtually every single piece of legislation that comes to the Senate floor, the bill is filed, the so-called parliamentary tree is filled, and cloture votes are scheduled. Why would we be opposed to that? We are opposed to that because once there is no opportunity for us to offer amendments—whether they are directly germane to the bill or not—we are precluded from being full partners as legislators. We are precluded from the opportunity to express ourselves, to make alterations, to offer suggestions, to have the kind of debate on public policy that I think our Founding Fathers understood.

As a result of all of this, we have become increasingly concerned about what is happening to the Senate as an institution, as well as what it is doing to the Democratic Members who want very much to be a part of the legislative process as full-fledged Senators. So our vote is in large measure a protest of the extraordinary ways the legislative process has been altered now for the last several years; a process I do not believe our Founding Fathers ever anticipated; a process that is very much in keeping with the attitude and the mentality created by the Rules Committee in the House of Representatives. That is not what we were supposed to be.

People who want those kinds of rules ought to run and get elected to the House of Representatives. They ought not want to serve in the Senate. The Senate is a different body. Who was it who said the Senate is a saucer within which emotions and the rage of the day cool. Legislation oftentimes can be passed directly through the House of Representatives. It is only after they have been deliberative and thoughtful and considerate of a lot of different issues, and a supermajority, sometimes on controversial issues, having been supported, do we ultimately allow a bill to be passed in the Senate.

So this vote is about the institution. It is about protecting Senators' rights to be full-fledged Members of this body. It is about whether we, as Senators, want to be more like the House or more like what the Founding Fathers envisioned in the first place—full-fledged U.S. Senators with every expectation we can represent our people, we can represent our ideas and our agenda in whatever opportunity presents itself legislatively. Our Democratic and Re-

publican colleagues certainly should support that notion.

Our Republican colleagues used it many times to their advantage when they were in the minority. We simply want the same opportunity to do it now.

My colleagues will be voting against this overturning of the ruling of the Chair in large measure because we still are not confident the majority is prepared to open up the legislative process as it was designed to be open up the process to allow amendments, open up and give us the opportunity to work with them to fashion legislation that will create a true consensus on whatever bill may be presented.

We will have two votes at 5:30 p.m. The first will be the vote on whether or not legislation that has never been considered in the House or the Senate ought to be included in a conference report. Democrats say no; no, we should not allow that.

The second vote will be about whether we permit Members of the Senate to offer legislation, whether it is on appropriations or authorization bills, without the encumbrance of a Rules Committee, a right that, by all description, was anticipated by the Founding Fathers.

I hope we can adopt the amendment I have offered. I hope we will reject the overturning of the Chair on rule XVI. I hope we can work together to accomplish more in a bipartisan fashion in a way that will allow all Senators to be heard and to contribute.

I yield the floor.

Mr. HATCH. Mr. President, I noted that Senator DASCHLE used a quotation from a statement I made last fall concerning the Omnibus Appropriations bill for fiscal year 1990 in his arguments for his amendment to S. Res. 160.

I am flattered that he felt my words were of such import that he had them blown up to poster size and displayed them for all to see. I wish he would do that with all of my speeches.

In this case, however, I just wish he had quoted the entire statement. Although I, like many of our colleagues, expressed genuine frustration with the unusual process that resulted in the Omnibus Appropriations bill, my statement also defends it as necessary to prevent a devastating government shutdown. I regret that Senator DASCHLE took this excerpt out of context. Those who read my entire statement will see that it provides a much different position than what the Minority Leader suggests by excerpting this small section.

Mr. DOMENICI. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1343. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

The PRESIDING OFFICER (Mr. FITZGERALD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 51, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—47

Akaka	Feingold	Lieberman
Baucus	Feinstein	Lincoln
Bayh	Graham	Mikulski
Biden	Hagel	Moynihan
Bingaman	Harkin	Murray
Boxer	Hollings	Reed
Breaux	Inouye	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Cleland	Kerrey	Roth
Conrad	Kerry	Sarbanes
Daschle	Kohl	Schumer
Dodd	Landrieu	Torricelli
Dorgan	Lautenberg	Wellstone
Durbin	Leahy	Wyden
Edwards	Levin	

NAYS—51

Abraham	Enzi	Mack
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Roberts
Brownback	Grams	Santorum
Bunning	Grassley	Sessions
Burns	Gregg	Shelby
Campbell	Hatch	Smith (NH)
Chafee	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner

NOT VOTING—2

McCain Voinovich

The amendment (No. 1343) was rejected.

Mr. LOTT. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

There are two minutes equally divided.

Who yields time?

Mr. COVERDELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, we yield our time.

The PRESIDING OFFICER. If all time is yielded, the question is on agreeing to the resolution. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Ohio (Mr. VOINOVICH) and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

The result was announced—yeas 53, nays 45, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—53

Abraham	Enzi	McConnell
Allard	Fitzgerald	Moynihan
Ashcroft	Frist	Murkowski
Baucus	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Chafee	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Inhofe	Stevens
Coverdell	Jeffords	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Warner

NAYS—45

Akaka	Feingold	Levin
Bayh	Feinstein	Lieberman
Biden	Biden	Lincoln
Bingaman	Bingaman	Mikulski
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Byrd	Johnson	Robb
Cleland	Kennedy	Rockefeller
Conrad	Kerry	Roth
Daschle	Kohl	Sarbanes
Dodd	Landrieu	Schumer
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Edwards	Levin	Wyden

NOT VOTING—2

McCain Voinovich

The resolution (S. Res. 160) was agreed to, as follows:

S. RES. 160

Resolved, That the presiding officer of the Senate should apply all precedents of the Senate under rule 16, in effect at the conclusion of the 103d Congress.

Mr. LOTT. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

JUVENILE JUSTICE REFORM ACT OF 1999

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote scheduled for this evening be vitiated and that the Senate now turn to H.R. 1501.

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

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1501) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants to ensure increased accountability for juvenile offenders; to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide quality prevention programs and accountability programs relating to juvenile delinquency; and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1344

(Purpose: In the nature of a substitute)

Mr. LOTT. Mr. President, I send an amendment to the desk to the pending juvenile justice bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1344.

(The text of the amendment is located in today's RECORD under "Amendments Submitted.")

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk to the pending amendment.

The PRESIDING OFFICER. The closure motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute to Calendar No. 165, H.R. 1501, the juvenile justice bill:

Trent Lott, Frank Murkowski, Chuck Hagel, Bill Frist, Jeff Sessions, Rick Santorum, Ben Nighthorse Campbell, Christopher Bond, Orrin G. Hatch, John Ashcroft, Robert F. Bennett, Pat Roberts, Jim Jeffords, Arlen Specter, Judd Gregg, and Connie Mack.

CLOTURE MOTION

Mr. LOTT. Mr. President, I now send another cloture motion to the desk to the pending bill.

The PRESIDING OFFICER. The closure motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 165, H.R. 1501, the juvenile justice bill:

Trent Lott, Frank Murkowski, Chuck Hagel, Bill Frist, Jeff Sessions, Rick Santorum, Ben Nighthorse Campbell, Christopher Bond, Orrin G. Hatch, John Ashcroft, Robert F. Bennett, Pat Roberts, Jim Jeffords, Arlen Specter, Judd Gregg, and Connie Mack.

AMENDMENT NO. 1345 TO AMENDMENT NO. 1344

Mr. LOTT. Mr. President, I send an amendment to the desk to the pending substitute.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1345 to amendment No. 1344.

Mr. LOTT. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

In the substitute add the following:

This bill will become effective 1 day after enactment.

Mr. LOTT. I now ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1346 TO AMENDMENT NO. 1345

Mr. LOTT. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows: