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Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana.

PRAYER

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

Almighty God, Sovereign of history and personal Lord of our lives, today we join with Jews throughout the world in the joyous celebration of Purim. We thank You for the inspiring memory of Queen Esther who, in the fifth century B.C., threw caution to the wind and interceded with her husband, the King of Persia, to save the exiled Jewish people from persecution. The words of Mordecai to her, sound in our souls: '' . . . You have come to the kingdom for such a time as this.''—Esther 4:14.

Lord of circumstances, we are moved profoundly by the way You use individuals to accomplish Your plans and arrange what seems to be a coincidence to bring about Your will for Your people. You have brought each of us to Your kingdom for such a time as this. You whisper in our souls, ''I have plans for you, plans for good and not for evil, to give you a future and a hope.''—Jeremiah 29:11.

Grant the Senators a heightened sense of the special role You have for each of them to play in Your unfolding drama of American history. Give them a sense of destiny and a deep dependence upon Your guidance and grace.

Today, during Purim, we renew our commitment to fight against sectarian intolerance in our own hearts and religious persecution in so many places in our world. This is Your world; let us not forget that ''though the wrong seems oft so strong, You are the Ruler yet.'' Amen.

PLEDGE OF ALLEGIANCE

The Honorable MARY L. LANDRIEU led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 26, 2002.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARY L. LANDRIEU, a Senator from the State of Louisiana, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Ms. LANDRIEU thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. REID. Madam President, the time between now and 10 o'clock will be for the nomination of Robert Blackburn. The Senator from Colorado is here to speak on this issue. There may be others.

Following this rollcall vote at 10 o'clock, we expect to confirm by voice vote the nomination of Cindy Jorgenson to be a United States district judge. Then Senators DODD and MCCONNELL, as managers of the election reform bill, will begin managing that matter. We hope to complete it today.

The Senate will recess from 12:30 to 2:15 for weekly party conferences, and at 2:15 today there will be 1 hour of morning business under the control of Senator KERRY for statements regarding Senator KENNEDY's service to his country and his 70th birthday.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF ROBERT E. BLACKBURN TO BE UNITED STATES DISTRICT JUDGE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will go into executive session and proceed to the consideration of Calendar No. 673, which the clerk will now report.

The legislative clerk read the nomination of Robert E. Blackburn, of Colorado, to be United States District Judge for the District of Colorado.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 10 a.m. will be equally divided.

The Senator from Colorado.

Mr. ALLARD. Madam President, I stand before the Senate today to urge my fellow Members to confirm the nomination of the Honorable Robert E. Blackburn to the United States District Court for the District of Colorado. My colleague from the State of Colorado, Senator BEN NIGHTHORSE CAMPBELL, also strongly supports Judge Blackburn's nomination to the United States District Court for the District of Colorado.

The nomination of Judge Blackburn is of particular importance to the State of Colorado because of a 50-percent vacancy rate on the district bench. In the Colorado District today, four judges struggle to do the work of

nine judges, nine judges being the demonstrated need for the Federal district court. I believe the Senate is going ahead and confirming Marcia Krieger who will be sworn in in March, which is a good step forward. With the confirmation and support of the nomination of Judge Blackburn, that begins to take care of some of the problems we are having in the court.

I hope my colleagues will take this opportunity to continue moving forward with judicial nominations in a timely manner—we must work to fill judicial vacancies so that the promised justice of our great constitution is not hampered by bureaucracy and politics.

Judge Blackburn knows the law, and he knows Colorado. He graduated from the University of Colorado School of Law, and received his undergraduate degree from Western State College—both excellent schools in my home state.

He was raised on a farm in the proud community of Las Animas, Colorado—a rural upbringing that helps the Judge keep one foot in the real world while serving on the bench. This strong connection to Colorado compliments his deep understanding of the law.

He has dutifully practiced law as an attorney and judge for over two decades, and comes before the Senate today from state district court, a post he has held since 1988. Previously, Mr. Blackburn served as deputy district attorney, Bent County attorney, municipal judge and City Attorney.

In addition to that, he has extensive experience as a business owner—an important experience that will serve him well while handling the multiple demands of the federal bench. As an attorney, Mr. Blackburn practiced law in his own firm. And, together with his father, he continues to raise registered Black Angus cattle.

Judge Blackburn was nominated to the bench with the help of a nominations committee. The committee is composed of well qualified, and highly respected attorneys in Colorado. His nomination has gained the respect of many people across the state and country. This nomination committee was set up by Senator CAMPBELL and myself.

An editorial in the Denver Post, upon hearing of Judge Blackburn's nomination, proclaimed, ''We are delighted by the White House decision.'' The column went on to praise the extensive experience of the Judge, as well as his solid knowledge of the law and his reputation for fairness.

The Denver Post also noted in their editorial that he is widely respected by other judges and by the many lawyers who have appeared before him. The Post urged the Senate to exercise all reasonable speed with the Blackburn nomination, saying, ''The long overworked federal court of Colorado needs qualified new judges, and it needs them now.''

Lewis T. Babcock, Chief Judge of the U.S. District Court, District of Colorado, believes Judge Blackburn is well qualified, and urges his appointment to help fill the district's half-vacant bench.

Judge Blackburn is imminently qualified for the U.S. District Court. Throughout his great service, Judge Blackburn has cultivated and kindled a great passion for our legal system and its constitution. He has represented schools, banks, and departments of social services, among a myriad of other cases, both civil and criminal.

Madam President, I thank you for allowing me the time to discuss this important matter, and the nomination of an excellent judge. I urge the Senate's favorable consideration.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(The remarks of Mr. THOMAS are printed in today's RECORD under ''Morning Business.'')

Mr. LEAHY. Madam President, today, the Senate is voting on two more judicial nominees. This morning Judge Robert Blackburn was confirmed to fill a judicial emergency in Colorado that has been vacant since April 1998. Cindy Jorgenson will be filling a judicial emergency in Arizona that has been vacant since 1999.

Colorado and Arizona are two of the many States with judicial emergencies that the Senate has been able to help so far this year. With the confirmation of these two nominees, the Senate will have resolved five judicial emergencies since we returned to session just a few short weeks ago and at least 10 since I became chairman this past summer. Since the beginning of 2002 alone, we have filled judicial emergency vacancies in Texas, Alabama, and Nevada.

Today, we add Colorado and Arizona to that list. Unfortunately, the President has yet to work with home state Senators to send the Senate nominees to 14 other judicial emergency vacancies around the country.

With the completion of today's votes, the Senate will have confirmed 11 judges since beginning this second session of this Congress toward the end of January and 39 judges since the change in majority last summer.

The number of judicial confirmations over these past 7 months—39—now equals the number of judicial nominees confirmed during all 12 months of 2000 and exceeds the number of judges confirmed in all of 1999, 1997 and 1996. In 7 months we have exceeded the 1-year totals for 4 of the 6 years in which a Republican majority last controlled the pace of confirmations.

There have been a number of statements from the administration critical of the pace of confirmation during the past 8 months that I have chaired the Senate Judiciary Committee. We have been working hard to consider this President's nominees during the past 8 months as compared to the pace set by the committee during its first 8 months of Republican leadership in 1995.

Under Democratic leadership, during the past 8 months we have had more hearings, for more nominees, and had more confirmations for both the circuit and the district courts than the Republican leadership did for President Clinton's nominees in 1995. In each area—hearings, number of nominees given hearings, and number of nominees confirmed—this committee has exceeded the comparable period when Republicans were in power.

Republicans continue to perpetuate the myth that we are not acting on judicial nominations when in fact we are. I would submit that we have been moving at a strong pace to consider the nominees to the district and circuit courts. In fact, in the past 2 months, more judges have been confirmed than in January and February since 1995.

With the confirmation of Judge Blackburn this morning and the expected confirmation of Judge Jorgenson today, 11 judges will have been confirmed since the beginning of this session of Congress. That number exceeds the total number of judges confirmed for the past 7 years in January and February. No judges were confirmed in the first 2 months of the year in 1995, 1996, 1997, 1999, and last year, when Republicans were in the majority.

Only five judges were confirmed in January and February in 1998 and only four were confirmed in 2000.

So I would say to my colleagues to please take a look at the record. I think the record shows that we are working hard to consider and vote on this President's nominees, and we are making more progress on confirmations than the Republicans did by this point in the year for the past 7 years.

I offer my gratitude to the many Senators who have worked hard to help us confirm these qualified men and women to the Federal bench.

Not only have we been able to confirm as many or more judges in a shorter timeframe than were confirmed in four of the past 5 years, but we have also done so at a faster pace than in any of the recent 6½ years in which Republicans were most recently in the majority.

In fact, from the time the Senate received each nominee's ABA peer review rating, we have been able to confirm judicial nominees in an average of 71 days. We have also been making a great deal of progress in terms of the average number of days between nomination and confirmation.

Some have asserted that we have been moving too slowly in considering nominees, but simply examining the dates of nomination and confirmation

shows that under Democratic leadership the Senate has substantially reduced the amount of time between nomination and confirmation as compared to the previous five years, even though the ABA evaluation is now being completed after nomination, unlike in previous years. I would add that these dates cannot be manipulated by statisticians.

This President's nominees are being confirmed months earlier, on average, than Democratic nominees under Republican leadership. And, the average number of days between nomination and confirmation for judicial nominees in the Democratic-controlled Senate has been fewer than 75 days after the receipt of ABA peer review results.

This average time is nearly one-third the time the Republicans took between the nomination and confirmation of President Clinton's nominees in his second term, for those nominees who actually received hearings on their nominations.

The 32 judges confirmed to the District Courts have averaged less than 65 days.

The seven circuit court judges confirmed so far have been confirmed more than two-thirds faster than the time it took under the previous Republican majority. These figures include recesses, time between sessions and the difficult days after September 11.

Today, the Senate took final action to fill a longstanding vacancy on the District Court in Colorado.

I recall that President Clinton's nominee for this vacancy, Patricia Coan, languished for almost 19 months. She was never accorded a hearing or a vote by the Judiciary Committee. Had she and more than 50 other nominees been acted upon promptly in years past, the emergency status of vacancies in Colorado and in other Federal courts around the country would be different today.

Unlike Patricia Coan, this President's nominee, Judge Robert Blackburn, has been considered promptly and courteously by the Senate. He was nominated in September, received his ABA peer review in November, participated in the first January judicial confirmation hearing in 7 years, was reported favorably by the committee on February 7, and today he was confirmed by the Senate.

When the Senate recently confirmed Judge Marcia Krieger to the other Colorado vacancy earlier this year, Senator ALLARD noted that Colorado had not had a Federal judge confirmed since 1984 and that four active judges were struggling to do the work of nine. The vacancy that Judge Robert Blackburn will fill has been held vacant since 1998. Despite the treatment of qualified nominees in the recent past, the Senate has now confirmed two new judges for Colorado in 2 months.

With the confirmation of Judge Blackburn there are no more vacancies in the district courts in Colorado.

Arizona Superior Court Judge Cindy Jorgenson is the second nominee to fill a district court in Arizona to be considered by the Senate since the change in majority last summer. The first was confirmed back in December.

Judge Jorgenson was nominated in September, received an ABA peer review in late November, was included in the initial hearing this year on January 24, was reported favorably by the Judiciary Committee at our February business meeting, and is being considered by the Senate today. The judicial emergency vacancy that she will fill has been vacant for over 800 days, which is long before the change in majority last summer.

A third nominee to a district court vacancy in Arizona participated in a confirmation hearing today before the Judiciary Committee. Those other two Arizona nominees are among a number of nominees who received mixed peer review ratings from the ABA. Members of the committee and the Senate are examining these nominations and have so far determined to vote in favor of confirmation.

Over the last few years we have created four additional judgeships for Arizona. Judge Jorgenson will fill the third of those new judgeships and Mr. Bury may soon fill the last. I have been happy to work with the Senators from Arizona and all Senators in helping fill these new judgeships. It is a shame that the Senate has not seen fit to create the judgeships needed so desperately in the Southern District of California, however.

Of the 39 judicial nominees who will be confirmed since the change in majority, 17, almost 44 percent, come from States with two Republican Senators. Twelve of the confirmed judges come from States with one Democratic and one Republican senator. Only 6 of the 39 nominees confirmed by the Senate come from States with 2 Democratic Senators.

These figures emphasize the Democratic majority's commitment to bipartisanship and to dealing fairly with conservative, Republican judicial nominees. It may also indicate that the White House has yet to begin working with Democratic home state Senators to identify and nominate consensus candidates.

The Judiciary Committee has continued to hold regular judicial nominations hearings throughout this session, as we have since the shift in majority last summer. We held the first January confirmation hearing in 7 years on the second day of this session. Today the Judiciary Committee holds its second judicial confirmation hearing in February. In 1997, 1999 and 2001, the Republican majority held no confirmation hearings in either January or February.

Today's hearing is the 14th hearing involving judicial nominations since the change in majority last summer. That is more hearings within the last 7 months than the Republican majority ever held in any year in which it was recently in the majority.

Today's hearing follows the pattern of including a Court of Appeals nominee as well as a number of District Court nominees.

Unfortunately, because the White House has been slow to send nominations to the many vacancies in the Federal District Courts, the Federal trial courts across the country, today's hearing includes a fewer number of District Court nominees than the committee was willing to consider. Indeed, the committee is virtually out of District Court nominees to include at such confirmation hearings.

After today, 35 of the 36 District Court nominees with ABA peer reviews will have participated in hearings and the most controversial nominee is being scheduled.

Of course, more than two-thirds of the Federal court vacancies continue to be on the District Courts and 36 are still without a nominee. The administration has been slow to make nominations to the vacancies on the Federal trial courts.

In the last 5 months of last year, the Senate confirmed a higher percentage of the President's trial court nominees, 22 out of 36, than a Republican majority had allowed the Senate to confirm in the first session of either of the last two Congresses with a Democratic President.

Last year the President did not make nominations to almost 80 percent of the trial court vacancies with which we started this year.

As we began this session, 55 out of 69 District Court vacancies were without a nominee. Finally, in late January the White House sent up names for some of those trial court vacancies. Unfortunately, none has completed the paperwork needed to be included in hearings and none has yet received an ABA peer review.

Because the White House last year unilaterally changed the practice of nine Republican and Democratic Presidents and will no longer allow the ABA to begin its peer reviews during the selection process, ABA peer reviews on these new nominations are not likely to become available for some time to come.

In the interim, we have already reached the point where the lack of available nominations for District Court vacancies is holding back the number of judicial nominees the Judiciary Committee and the Senate could be considering. We experienced the same problem when the majority shifted last summer and there were not enough District Court nominations ready for hearings in July through September last year.

After the committee receives the indication that a judicial nominee has the support of his or her home State Senators and after the committee has received ABA peer reviews, the nomination will then be eligible to be considered for inclusion in committee

hearings. Because the White House shifted the time at which the ABA does its evaluation of nominees to the post-nomination period, this year's nominees are unlikely to have completed files ready for evaluation until after the Easter recess.

Of course, even then, over 2½ dozen of the current Federal trial court vacancies, 36, may still be without nominees.

To make real progress will take the cooperation of the White House. That is what I have been urging since the shift in majority. That is what I, again, called for when I spoke to the Senate on January 25. That cooperation is still not forthcoming.

We will make the most progress, most quickly if the White House would begin working with home State Senators to identify fair-minded, nonideological, consensus nominees to fill these court vacancies. One of the reasons that the committee was able to work as quickly as it did and the Senate was able to confirm 39 judges, as it has in the last 7 months, was because those nominations were strongly supported as consensus nominees by people from across the political and legal spectrums.

I have heard of too many situations in too many States involving too many reasonable and moderate home State Senators in which the White House has demonstrated no willingness to work with home State Senators to fill judicial vacancies cooperatively. As we move forward, I have urged the White House to show greater inclusiveness and flexibility and to help make this a truly bipartisan enterprise. Logjams exist in a number of settings.

To make real progress, repair the damage that has been done over previous years, and build bridges toward a more cooperative process, there is much that the White House could do to work more cooperatively with all home State Senators, including Democratic Senators.

In addition, as I have noted, the White House could help speed the committee process if it would restore the ABA peer review participation to an earlier stage in the process. For more than 50 years the ABA was able to conduct its peer reviews simultaneously with the FBI background check procedures. This meant that when nominations were sent to the Senate, the FBI report and ABA peer review followed very quickly. Together with the endorsement of the nominee's home State Senators, the basic requirements of the nominations file were available to be reviewed by the committee much more quickly than they are now.

This process allowed hearings to be scheduled soon after nominations were received in many instances. One of the consequences of the White House's unilateral decision last year to discontinue this longstanding bipartisan practice is that nominations are now not available to be considered or scheduled for hearings until many weeks have passed and these basic background materials can be assembled and submitted to the committee. That is unfortunate and unnecessary.

There were occasions last year when we proceeded with hearings including fewer District Court nominees than I would have liked because recent nominees' files were not yet complete. I noted in my statement to begin this year that I feared that same circumstance being repeated this year. It already is. That is regrettable.

I have urged the White House to rethink its recent changes in traditional practices that were initially instituted by President Eisenhower and worked well for Presidents Kennedy, Johnson, Nixon, Ford, Carter, Reagan, Bush, and Clinton.

I suggest that the White House reconsider the delays caused by the abandonment of the traditional practice and that this administration consider returning to the tried and true practice of sharing information with the ABA earlier in the process so that it can begin and complete its peer reviews by the time the nomination is made to the Senate.

Just as no Senator is bound by the recommendations of the ABA, so, too, the White House can make clear that it is reinstituting the traditional practice not because it intends to be bound by the results of that peer review or even take it into account, but solely to remove an element of delay that it had inadvertently introduced into the confirmation process.

The White House can expressly ask the ABA not even to send the results of its peer review to the Executive Office, but only transmit them to the committee, if it chooses. Whether or not the White House considers the ABA peer reviews, they are considered by many Senators. For example, a number of Republican Senators cited favorable peer reviews for judicial nominations as an indication that they merit the Senate's support.

On the other hand, the fact that they are not binding on Senators is seen from the recent action confirming a nominee who received a ''not qualified'' rating from the ABA and the many nominees who have been confirmed with mixed ratings.

I appreciate the majority leader and the assistant majority leader moving to consider these additional judicial nominations today.

They have worked hard to return the Senate's consideration of judicial nominations to a more orderly and open process. Along with our Senate leaders, many of us have been working to help move away from the anonymous holds and inaction on judicial nominations that characterized so much of the period from 1995 through 2000. Since the change in majority last summer we have made a difference, in terms of the process and its results.

Despite the 31 additional vacancies that have arisen since the shift in majority, the Senate has not only kept up with that high rate of attrition, but has been reducing the overall number of judicial vacancies.

Mr. HATCH. Madam President, I rise to express my enthusiastic support for Robert Blackburn, who has been nominated to be a U.S. District Judge for the District of Colorado, and for Cindy Jorgenson, who has been nominated to be a U.S. District Judge for the District of Arizona. Both are extremely well-qualified nominees—who are already serving on the bench—and who have distinguished themselves with hard work and great intellect. They will both do great service for the citizens of our country.

Judge Blackburn has practiced law for 13 years in private practice and has worked as a Deputy District Attorney for 6 years, as a County Attorney for 8 years, as a Municipal Judge for 3 years, and as a State court judge since 1988. With all that experience in the law, there is no doubt that he will make a smooth transition onto the Federal bench.

Judge Jorgenson's legal experience includes serving as a deputy county attorney, an Assistant U.S. Attorney, and as a Superior Court Judge—all in the State of Arizona. She supervised the felony sex crimes and child abuse prosecution unit in Pima County for several years. Then, as an Assistant U.S. Attorney, she handled both criminal and civil cases. Since 1996, Judge Jorgenson has served with great distinction on the State trial court bench in Tucson, AZ.

I congratulate both nominees on their impressive careers and on the honor of being confirmed to the federal district court.

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 10 a.m. having arrived, the question is, Will the Senate advise and consent to the nomination of Robert E. Blackburn of Colorado to be United States District Judge for the District of Colorado? 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 Nevada (Mr. ENSIGN) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

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

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 35 Ex.]

YEAS—98

Akaka	Byrd	Daschle
Allard	Campbell	Dayton
Allen	Cantwell	DeWine
Baucus	Carnahan	Dodd
Bayh	Carper	Domenici
Bennett	Chafee	Dorgan
Biden	Cleland	Durbin
Bingaman	Clinton	Edwards
Bond	Cochran	Enzi
Boxer	Collins	Feingold
Breaux	Conrad	Feinstein
Brownback	Corzine	Fitzgerald
Bunning	Craig	Frist
Burns	Crapo	Graham

Gramm	Levin	Sarbanes
Grassley	Lieberman	Schumer
Gregg	Lincoln	Sessions
Hagel	Lott	Shelby
Harkin	Lugar	Smith (NH)
Hatch	McCain	Smith (OR)
Helms	McConnell	Snowe
Hollings	Mikulski	Specter
Hutchinson	Miller	Stabenow
Hutchison	Murkowski	Stevens
Inouye	Murray	Thomas
Jeffords	Nelson (FL)	Thompson
Johnson	Nelson (NE)	Thurmond
Kennedy	Nickles	Torricelli
Kerry	Reed	Voinovich
Kohl	Reid	Warner
Kyl	Roberts	Wellstone
Landrieu	Rockefeller	Wyden
Leahy	Santorum	

NOT VOTING—2

Ensign	Inhofe

The nomination was confirmed.

The PRESIDING OFFICER (Mr. BAUCUS). Without objection, the President will be notified of the Senate's action.

ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, I ask unanimous consent that the previous order with respect to the Jorgenson nomination be vitiated; that immediately following the first vote today with respect to the amendment to S. 565, the Senate proceed to executive session to consider the nomination of Cindy Jorgenson; that once the nomination is reported, the Senate, without further intervening action, proceed to a vote on confirmation; that upon confirmation the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate return to legislative session.

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

Mr. DASCHLE. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on the nomination.

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

Mr. DASCHLE. 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.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

CAMPAIGN FINANCE REFORM

Mr. DASCHLE. Mr. President, we have just received the Shays-Meehan campaign finance reform bill from the House. As I have said before, this bill gives us the first real chance in a generation to limit the access of special interests to the political process.

I had intended to ask consent to take up and pass this bill immediately. However, the Republican leader has indicated to me that he was making progress on reaching an agreement on how to proceed with campaign finance reform. Therefore, I am willing to withhold my unanimous consent request at this time, pending an update from the Republican leader on how discussions on this issue in his caucus are proceeding.

As my colleagues will recall, we tried to reach an agreement to take up the House-passed bill before the President's day recess. Opponents of reform objected, saying that they wanted time to look over the bill.

They have now had more than a week. What they have found, I am sure, is a bill that is very similar to the McCain-Feingold bill that the Senate passed last spring.

At the time, we spent 2 weeks on McCain-Feingold. We had a full, fair, and open debate, and we passed that bill with a strong bipartisan majority. I see no reason why we can't take this bill up and pass it quickly.

In fact, the only reason I can think that anyone would oppose consent would be to take one more shot at keeping this bill from becoming law—either by filibustering or by trying to send this bill to a conference.

And so I say to them: Look what happened in the House. Opponents of reform used every conceivable argument and excuse—every imaginable ploy to stop this. They failed.

This is going to be the year that we pass strong campaign finance reform, and put the reins of government back into the hands of all of the people. The sooner we pass this bill, the sooner we can get it to the President for his signature. I look forward to revisiting this issue in the near future.

I will not, as I say, ask consent at this time, and I appreciate very much the consultation I have had with the Republican leader in this regard.

I yield the floor.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, I thank Senator DASCHLE for his comments. While there are some similarities between the two bills—McCain-Feingold, which passed the Senate, and Shays-Meehan, which has passed the House—there are some fundamental differences between the two bills. Normally, what you do under the circumstances is go to conference. But this week we have had to review what was actually in the bill that passed the House. We have now received the conference report. The Senators did just return yesterday—or even this morning. There are discussions among those who are interested in getting a result, not trying to create a problem. If we went right to it at this point, I am sure there would be Senators on both sides who would feel inclined to offer amendments, and it could take considerable time.

We had indicated we would try to wrap up election reform as soon as possible—hopefully today—and that we would get on energy and stay on energy as long as it took to get that completed. I think giving us a little time for discussions to take place between the interested Senators would be constructive and would allow us to go forward with election reform and even get started on the energy bill, recognizing that the majority leader could interject this at any point along the way. There is no need and no desire to delay this indefinitely. I think a little time—a couple days—would be constructive. Maybe we can find a way to do it in an acceptable way and quicker by doing that.

I appreciate the patience of the majority leader. I have found from past experience that sometimes patience gives great rewards; other times, it does no good at all. I hope this time it will be positive in its result.

The PRESIDING OFFICER (Mr. LEVIN). The majority leader.

Mr. DASCHLE. Mr. President, if I can respond to the Republican leader, I appreciate his report and agree there are times when patience has shown its reward. I am hopeful this is one of those times. I will work with him.

Obviously, patience at some point runs out. That will necessitate taking action as we had originally contemplated, but we certainly want to work with the Republican leader and his colleagues in an effort to see whether patience can be a productive experience in this case.

I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I certainly thank the majority leader for his comments, and I thank the Republican leader for his comments. It sounds as if we may be moving toward a resolution of the campaign finance issue without a filibuster in the Senate. I am actually confident we will prevail if such a tactic is actually employed against us, but I do not think the American people will be well served if we have to take a significant amount of time to further debate an issue that we dealt with and essentially resolved last year during a very good 2-week debate process.

We passed the McCain-Feingold bill by a vote of 59 to 41. The House passed the Shays-Meehan bill by a vote of 240 to 189. These are wide bipartisan margins in both Houses.

Actually, I disagree with the minority leader. The differences between the bills are actually very slight. It is not enough to justify a conference committee which very well may never report a final bill. So Senator MCCAIN and I have endorsed the House-passed bill and will ask our colleagues to vote for it, rejecting all attempts to amend it, however meritorious, so we can send this bill to the President. Should there be technical amendments necessary on which we could agree, we will be glad to consider supporting a technical corrections bill after the bill is enacted.

I hope the leader's discussion bears fruit and we can come to agreement on terms of final debate and a vote on this legislation very soon. We have waited many years for this moment, as you know well because you have been one of the key leaders on this. The time to

act is now upon us. The days of soft money are truly numbered. The American people want us to finish this job, and we are going to do it.

I again thank the majority leader for his consistent and excellent efforts to bring this bill quickly to a conclusion.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I again thank the Senator from Wisconsin and the Senator from Arizona for their determination and their resolute demonstration again today that we will see a successful conclusion of this legislation.

I do not want anybody to be mistaken; this will happen either through procedural motions available to us or with a unanimous consent agreement. We will certainly try to take the path of least resistance, and if there is a way to reach unanimous consent, I would like to do that. But we must do that this week, within the next day or so, or we will be forced to take the alternative approach. This will happen.

I appreciate the patience on the part of my two colleagues in particular who have been very supportive of our efforts to date, and hopefully we can see to it that patience is rewarded.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I say to the majority leader, Senator MCCAIN, and Senator FEINGOLD, who have labored so long on behalf of this legislation, if there were an effort to unduly delay the bill, it would probably be led by myself. I do, however, want an opportunity to talk with some of my colleagues who have returned today.

We did have an opportunity to take a look at the House-passed bill over the past week and discover what is in it; it was a mystery to many of us. Once those discussions are complete, I believe we ought to be able to come to an agreement on how to complete the bill in an orderly fashion.

EQUAL PROTECTION OF VOTING RIGHTS ACT OF 2001—Resumed

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 565) to establish the Commission on voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

Pending:

Clinton amendment No. 2906, to establish a residual ballot performance benchmark.

Dayton amendment No. 2898, to establish a pilot program for free postage for absentee ballots cast in elections for Federal office.

Dodd (for Harkin) amendment No. 2912, to provide funds for protection and advocacy systems of each State to ensure full participation in the electoral process for individuals with disabilities.

Dodd (for Schumer) modified amendment No. 2914, to permit the use of a signature or personal mark for the purpose of verifying the identify of voters who register by mail.

Dodd (for Kennedy) amendment No. 2916, to clarify the application of the safe harbor provisions.

(The text of amendment 2894, as modified and agreed to on February 25, is as follows:)

At the appropriate place, insert the following:

SEC. . ELECTION DAY HOLIDAY STUDY.

(a) IN GENERAL.—In carrying out its duty under section 303(a)(1)(G), the Commission, within 6 months after its establishment, shall provide a detailed report to the Congress on the advisability of establishing an election day holiday, including options for holding elections for Federal offices on an existing legal public holiday such as Veterans Day, as proclaimed by the President, or of establishing uniform weekend voting hours.

(b) FACTORS CONSIDERED.—In conducting that study, the Commission shall take into consideration the following factors:

(1) Only 51 percent of registered voters in the United States turned out to vote during the November 2000 Presidential election—well-below the worldwide turnout average of 72.9 percent for Presidential elections between 1999 and 2000. After the 2000 election, the Census Bureau asked thousands of nonvoters why they did not vote. The top reason for not voting, given by 22.6 percent of the respondents, was that they were too busy or had a conflicting work or school schedule.

(2) One of the recommendations of the National Commission on Election Reform led by former Presidents Carter and Ford is ''Congress should enact legislation to hold presidential and congressional elections on a national holiday''. Holding elections on the legal public holiday of Veterans Day, as proclaimed by the President and observed by the Federal government, or on the weekends, may allow election day to be a national holiday without adding the cost and administrative burden of an additional holiday.

(3) Holding elections on a holiday or weekend could allow more working people to vote more easily, potentially increasing voter turnout. It could increase the pool of available poll workers and make public buildings more available for use as polling places. Holding elections over a weekend could provide flexibility needed for uniform polling hours.

(4) Several proposals to make election day a holiday or to shift election day to a weekend have been offered in the 107th Congress. Any new voting day options should be sensitive to the religious observances of voters of all faiths and to our Nation's veterans.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I will take 2 minutes to review the bidding and give our colleagues a status report on the election reform bill—where we are, what we have accomplished, and what we can look forward to during the remainder of the day.

This could be a very historic day if we can finish work on this bill today. My hope is we can. We still have a little less than two dozen amendments that I know of. A couple of them will require some debate. There are many I think can be resolved without much debate, and many of them could actually be accepted if we can work out some language.

After three full days of debate on the bill, over a week ago on Thursday and Friday and then yesterday, we have disposed of 22 amendments. To give my colleagues an idea of the bipartisan nature of this measure, we have adopted a total of 16 amendments by voice vote—8 by the majority, 8 by the minority—to indicate the balance we have been able to achieve so far.

We will be working through the remainder of these amendments today, and my hope is we can finish this bill this evening or by tomorrow—hopefully this evening. We still have a couple of very important amendments that will have to be debated and will probably require roll call votes.

It would be my expectation that most of the amendments that are either pending or filed can be agreed to perhaps with some minor modifications.

I again thank my colleague from Kentucky for his assistance and that of his staff in helping us move this product along. I know there are a number of other measures awaiting Senate action. I encourage my colleagues to complete debate on this bipartisan election reform compromise today so we can get to those other issues, including campaign finance reform and the energy bill.

In that spirit, let me, if I may, tell my colleagues what I think we will do. Senator GRAMM of Texas has an amendment to which we are going to agree. In fact, he has asked me to offer it on his behalf, and I will be happy to do that. Then Senator DAYTON has an amendment which he is modifying which will be a study amendment, for the information of my colleagues on the other side. He will be coming over with that amendment. We can adopt the Dayton amendment because I believe by making this a study, it becomes acceptable to the minority.

Senator HARKIN has an amendment—I am not sure which one of his he is bringing over. It is the pending amendment which may require very limited debate.

I know Senator CLINTON is presently meeting with the First Lady. She will be back as soon as possible. We then can debate her amendment.

My goal is to dispose of as many amendments as we can over the next hour and a half, and then if a couple of amendments require debate and votes, we will stack those votes just prior to the respective conferences for the traditional Tuesday luncheons. So we may have some votes just prior to lunch, but we will not ask people to break up the hearings they are engaged in this morning. We will not interrupt the hearing flow that is going on in a number of committees. That is the goal.