

this moment by our inability to organize, the inability of the chairman of the Appropriations Committee—now presiding—to move forward. Yes, we have been working.

Right now, we should not be debating an organizational resolution on the floor or hoping we can debate it; we ought to have the omnibus appropriations bill on the floor with those 11 bills in it. That is what the debate of the day and the work of this week ought to be.

I hope the minority leader and the Democrats who serve in the Senate recognize that the game they play may be inside politics, but more and more of us are going to be talking outside the inside trying to reflect to the American people that, as the Wall Street Journal said, the shenanigans being played are to man the barricades and use obstructionist tactics to stop the Senate from moving and—I think the Senator from New Hampshire said it so clearly—in essence deny us the democratic process.

Mr. GREGG. If the Senator will yield further.

Mr. CRAIG. Yes.

Mr. GREGG. This is a significant point. We have had a number of extraordinarily enlightening discussions on this floor involving the history of the Senate and the history of the Senate in the context, for example, of the Roman Senate. If you look at the history of this Senate and at the history of legislative bodies similar to the Senate, when there has been a sliding away from the traditional transfer of power as a result of an election; when there has been a sliding away from that, that is when crisis has occurred. I know the Senator who was often giving us extraordinary statements and information on the issue of the Roman Senate, and he would probably have to concede that the Roman Senate—if I may refer to that body as the precursor of ours—really fell into disrepair and became a nonfunctional body when Caesar refused to abide by the Roman Senate and stepped on the authority of the Roman Senate and took away its authority and didn't acknowledge its elective role.

The only time in our history when we have not had a transfer of power that has occurred as a result of an election, when the right of an election has been superseded, was in the Civil War, and there were extenuating circumstances for why that occurred. It occurred in the Maryland Legislature, to be specific. So this decision by the other side of the body to retain their chairmanships in the face of an election which has removed them from them, because the majority has shifted, sets a precedent which has immense impact, potentially, on the way this body functions as a reflection of a democratic government.

So before the Democratic side of the aisle continues down this course, I think they need to think about what they are doing. Are they damaging the

integrity of our process, of the elective process, by continuing to insist that they remain in power when they have lost power through the election? That is what this is about. They want to retain power even though they lost power through the elective process. I think the Senator has touched the issue rather effectively. I suppose it can be understated, but I don't think it is.

Mr. CRAIG. Let me conclude because I see another colleague on the floor who wishes to speak. I am going to serve on the Judiciary Committee this year, along with several colleagues, for a lot of reasons, but primarily to move judges into our Federal court system that now lacks 150 seats. That third branch of Government isn't functioning largely because of the denial to move the President's nominees through in this past 18 to 20 months. We have seen that going on. Yet we are now being told that 41 Senators will filibuster, and that that simply won't happen if they don't get what they want.

The role of the Senate and the Judiciary Committee in this instance fits well into that advise and consent role that we play with the executive. My colleague from New Hampshire was talking about constitutional authority and constitutional responsibility and the transition, if you will, in a democratic process. Our job is to advise and consent. Our job is to review the President's nominees, and I hope we can bring every one of them to the floor for an open-ended debate—not to filibuster; that would be precedent-setting, but to have a debate and have an up-or-down vote. That is what the American people expect of us and they should demand it, and I hope the hue and cry from the hinterland becomes very loud in the next few months if the processes are denied simply by an obstructionist tactic of refusing to give up power when the electorate has spoken.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Alabama is recognized.

WHAT THE AMERICAN PEOPLE WANT

Mr. SESSIONS. Mr. President, I had the great honor of being elected by the people of Alabama to a second term this year. I traveled hard all over the State. I travel to every county every year in my State. I was out this past year talking with the American people and listening to what they had to say. I have a sense of what they are concerned about, what they want to see done, what they thought their vote meant.

They were, I believe, tired of politics as usual, political logjams, obstructionism. They wanted us to move forward, work together, and put the interest of the United States and the people first. They think we focus too much on parties and political interests. Certainly, sometimes what may appear to

individuals as a petty political party dispute really has significant policy impact for the country and the world, but the truth is that many times that is not so. Many times, the American people are correct that politics interferes and overcomes our responsibility to serve the people of the United States. Sometimes the debates we have here are indeed "insider baseball," as some would say. It reveals personal pique, pride, and sometimes plain obstructionism.

After the election, when the majority changed in the Senate, just ordinary people would grab my arm as I went about and they would say to me—and I have told others this, and they have said it in almost these same words—JEFF, maybe you can get something done now.

I think the message of this election was the American people wanted us to get the work done. I believe that strongly.

I was a Federal prosecutor for a number of years. I know the Presiding Officer has been a lawyer for a number of years. I remember the story—it has different versions—about a jury that had been out a couple of days. The judge was getting a little worried about them. He asked them how they were doing, and they reported: Fine, Your Honor, we just elected a foreman.

How much time do we have to piddle around with organizing resolutions? The situation with which we are struggling today is critical. We must pass an organizing resolution for this Senate. It is important because nothing much is going to happen in this body until we do. New Senators cannot even be assigned to committees until this organizing resolution is adopted. We can do better.

The Senate has been in session over a week. We still have not adopted the organizing resolution. The new majority leader, Senator BILL FRIST from Tennessee, has a reputation of working across the aisle, of being able to bring together people with different views, and he is a good and nice person. He desires a bipartisan resolution that is fair to everyone, but I think it would be a mistake for Members of this body to believe that because he desires to be fair and he desires to reach across the aisle, he is just vulnerable to being pushed around; that they can insist no changes occur in their vision of how this body ought to be organized, and they will just sit back and refuse to let the business of the Senate go forward until that happens. I believe that is wrong.

The majority leader is going to be open, but he will not capitulate and change the historic procedures that have guided the Senate over the years. Frankly, there is a reason on the financial end of this organizing resolution for the majority party to have additional resources. That reason is the majority has to chair the committees, and the chairman has to move the agenda of the committee. Not only

does the chairman have to chair the committee, but each committee has subcommittees. Armed Services, of which I am a member, and Judiciary, of which I am a member, have four, five, six subcommittees, and each one of those subcommittees the last 2 years has been chaired by Democratic chairmen, as well as the chairman of the committee being Democratic. Now those subcommittees will be chaired by Republicans who have the burden of moving the legislation forward and moving an agenda forward.

It is historic that the chairmen and the majority on the committees have had a higher degree of financial support than the minority.

There is a lot of work for us to do. This last Congress, which I suggest raised obstructionism to a high art form, was a failure by any objective analysis. It is little wonder its failure led to a change in the majority in this body.

For example, for the first time in nearly 30 years, we did not pass a budget. This was a signal failure that symbolized the "my way or no way" attitude of the past Congress leadership.

We failed to pass a prescription drug plan. Why? Because the Democratic leadership insisted on a bill that would spend twice what we had budgeted the year before. We had budgeted \$300 billion for a prescription drug plan. But, oh, no, it had to be twice that. Some suggested that had to do with politics. Some suggested there was a concern on behalf of the leadership—and I hope this is not true—that if a bill passed, the President would get credit and the Republicans would get credit, and they did not want them to get credit. I hope that is not true.

I do know I was prepared to vote for a bill that even exceeded that \$300 billion which would have created a prescription drug plan that had tripartisan support, but it never went forward to be passed.

Then there was the homeland security issue, really an amazing issue. The President of the United States, in response to an attack on the homeland of the United States and after careful evaluation, concluded we needed to reorganize our Government to get those departments and agencies that function to protect our homeland security together in one agency so they could work together in an effective way to be more efficient and more productive in protecting our homeland.

It was a big deal. He proposed that resolution, and what happened? Some of our Government union friends—and I used to be a Government employee; I know and respect many of those members—wanted to use the homeland security bill as leverage to maneuver into the law provisions providing benefits to their workers that were not even in current law. When, in fact, we were trying to create an agency that was more like a military agency—with a higher degree of responsiveness required than the normal agencies—no,

they wanted to make sure there were even greater protections than existed at the time for workers.

The President said: What I need is flexibility, please, Senate. His bill passed the House. He said to the Senate: Please give me some flexibility; I have to move people; I have to be able to protect and defend the homeland of America. Don't tie this up by politics of special interest. He urged us not to do so. We debated and debated, and it was obstructed week after week, and then we took his case to the American people on election day, and the American people spoke. They said: We are tired of obstructionism. We want a bill. We want homeland security, and we want it now. A few weeks ago in December when we were in a lame-duck session, the homeland security bill passed quickly, and the leadership on the other side of the aisle capitulated to the changes the President wanted. It was a complete victory for the President because the American people spoke on that issue.

Another one of the more amazing failures of this past Congress was our utter inability to pass the appropriations bills. This Government cannot function; no Government agency can spend a dime that has not been appropriated by the Congress. So each year we have a burden to do our jobs before the beginning of the fiscal year in October and pass appropriations bills. We work on that every year. Sometimes we do pass them on time, and sometimes we are a few weeks late and have to do a continuing resolution, but we normally get the appropriations bills done. Not this year. By October 1, we had not done our job. By the time we recessed and by the time the Senate reconvened in a lame-duck session in December, we still had not passed 11 of the 13 appropriations bills necessary to organize this Government. And they still have not been passed.

We need to be moving on those bills now. In fact, what we really need to be doing right now is preparing for the 2004 fiscal year that will begin in October. That is what we should be doing. But what are we doing? We are still working on those appropriations bills that did not pass last year. It is a historic failure because of the obstructive tactics that occurred in this Chamber. We should have done better. There is no excuse for that failure. But I really overstate the matter. We are not formally working on that now in any significant way because we do not even have committees. We do not have committees because the other side thinks just like they did with homeland security; that going forward and moving the agenda is so important they can demand and extract from Senator FRIST concessions they would not otherwise get under these circumstances. I do not believe that is healthy.

I hope Senator FRIST will reach across the aisle and do what he can to accommodate legitimate concerns, but I do not think he should be pushed be-

yond what he thinks is right. I do not think he should be shoved around where he concedes things that are not part of the historic traditions of this Senate.

The PRESIDING OFFICER. The Senator has used 10 minutes.

Mr. SESSIONS. I ask unanimous consent for an additional 2 minutes.

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

Mr. SESSIONS. Mr. President, I do not know if they have mules in South Carolina. I suspect they still do. I conclude by these remarks: It is said that one way to get the attention of a mule is a 2 by 4 across the head.

We had an election this past year, and I believe a critical part of that election dealt with the question of obstructionism in the Senate. The 2 by 4 has been delivered. I was proud to be sworn in, as I know the present occupant of the Chair was proud to be sworn in as the successor to Senator Strom Thurmond from South Carolina. There were 35 Senators sworn in. Twenty-two of them were Republicans. That is a pretty good 2 by 4 against those who believe obstructionism is the proper tactic.

Some on the other side think their lack of success in this election was not due to obstructionism. They think their lack of success was they were too cooperative, and they are being encouraged to fight even harder this time. If that is so, we are in for a long, difficult year, and that is why I am troubled by this extraordinary delay. It has gone on day after day, everybody thinking day after day it will be settled. It has not been settled yet.

So are we going to now start a year of partisanship and obstructionism on every issue? I hope not. I believe we need to settle this matter now, and I want to be clear and say I think Senator FRIST is doing everything possible to be fair and to work out this difficulty, and that once that is done we will move forward and we will have a successful Senate term.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

DO UNTO OTHERS

Mr. DURBIN. Mr. President, I have listened to the remarks of my colleague from the State of Alabama very closely and carefully, and I have a very simple suggestion of three words for the organizing resolution, and the three words are: Do unto others.

What the Democrats are proposing as an organizing resolution, in a 51-49 Senate, is exactly what the Democrats proposed to the Republicans when we had 51 votes and the Republicans had 49. We said, this is such a close division of control in the Senate we are going to offer resources which historically had never been offered to a minority but we felt that it was only fair, and here is what we said: We will give 55 percent of the resources to run the