



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

Vol. 149

WASHINGTON, MONDAY, APRIL 28, 2003

No. 61

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, April 29, 2003, at 2 p.m.

Senate

MONDAY, APRIL 28, 2003

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. STEVENS].

The PRESIDENT pro tempore. Today's prayer will be offered by Rabbi Arnold E. Resnicoff, retired U.S. Navy chaplain.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Oh God, who made the world and said it was good, we pray our faith—and faiths—can help us see that good, despite the bad that sometimes blocks our way. Oh God, who said, "Let there be light," we pray our faiths—in different ways, with different prayers and customs, but with shared hopes and dreams of better times—can help us see that light, despite the darkness that sometimes obscures our view.

Almighty God, I remember twenty years ago, in a foxhole in Beirut: I looked around at the others in the bunker, and had a simple thought. "We Americans," I said, "must have the only 'interfaith foxholes' in the whole Mid-East." And then I thought, that if more foxholes had room for those of different faiths, perhaps we would need less room for foxholes—and have more room for faith.

And so, we pray that we be touched and inspired by the dreams of faiths that make our Nation rich; and that we work with all who share the dream of freedom—and freedom's holy light. Let us see the danger is not that sometimes faiths see God—see You—in different ways, but that there are those in every faith who see themselves as gods.

Let us keep faith, but let faith keep us humble, so that we know our limits, even as we learn our strength. Then the time will come when even interfaith foxholes will no longer be required and we learn war no more.

And may we say, Amen.

The PRESIDENT pro tempore. Senator REID, will you lead us in the Pledge of Allegiance.

PLEDGE OF ALLEGIANCE

The Honorable HARRY REID 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.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Ohio is recognized.

SCHEDULE

Mr. DEWINE. Mr. President, on behalf of the majority leader, following the morning business period, the Senate will resume consideration of the nomination of Jeffrey S. Sutton to be a circuit judge for the Sixth Circuit. Under the previous consent agreement reached, a vote will occur on the confirmation of that nomination on Tuesday at approximately 12 noon. There will be no rollcall votes during today's session.

The majority leader has also stated that this week the Senate will also re-

sume consideration of the nomination of Priscilla Owen to be a circuit judge for the Fifth Circuit.

In addition, there are a number of other legislative items that may be scheduled for action, including the bio-shield bill, the digital and wireless technology legislation, the FISA bill, and any other legislative or executive items that can be cleared.

Again, as a reminder, the first rollcall vote will occur at approximately 12 noon tomorrow.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 1 p.m., with the time equally divided between the two leaders or their designees.

The Senator from Ohio.

HONORING OUR ARMED FORCES

Mr. DEWINE. Mr. President, shortly before Congress adjourned for the Easter recess, I came here to the Senate floor and had a chance to speak briefly about the magnificent service that our Armed Forces are performing in Iraq. The hard-working men and

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



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women in all branches of our military—those who are serving in Iraq and those who are helping to support them—they are all doing an absolutely tremendous job. We are so proud of our service men and women and so grateful for their service and dedication to our country.

Since Operation Iraqi Freedom began, we have watched on television and read in the newspapers about our troops' countless acts of bravery, strength, and leadership. We have seen our service men and women take control of Baghdad, driving out Saddam Hussein and freeing the Iraqi people from his oppressive regime. And, Mr. President, we have rejoiced at the many statues of Saddam—and all that they represent—have toppled. But, at the same time, Mr. President, while there certainly are many reasons to rejoice and there is clearly much to be thankful for, I also am reminded of something Dwight D. Eisenhower said nearly 60 years ago in a speech following the defeat of Nazi Germany in June 1945. General Eisenhower said that there are certain things that military honors and battlefield victories cannot hide. As he so eloquently said, Mr. President—and I quote:

[Military] honors cannot hide . . . the crosses marking the resting places of the dead. They cannot soothe the anguish of the widow, or the orphan, whose husband or father will not return.

Sadly, Mr. President, there are sons, husbands, and fathers who will not be returning home from Iraq. Our hearts go out to the families of those who have lost their lives. We pray for them. We pray for those who have been injured. We pray for those who are recovering. And, we think about them—we think about them every day.

President John F. Kennedy once said that “a nation reveals itself not only by the men it produces, but also by the men it honors [and] remembers.” And so today, Mr. President, I would like to honor and remember three valiant men from my home State of Ohio—three brave men who gave the ultimate sacrifice to protect us and to protect our children and our grandchildren and the Iraqi people—three brave men who serve as true examples of what defines patriotism and love of country.

Today, Mr. President, I would like to honor and remember the lives and sacrifices of Army Private Brandon Sloan, Army First Sergeant Robert Dowdy, and Marine Private First Class Christian Gurtner—all of whom upheld with strength and conviction what General Douglas MacArthur called the soldier's code, a code of “Duty, Honor, Country.”

I did not have the privilege of knowing these men. I did, however, have the honor of attending their funerals and meeting their families and friends and hearing from them about the lives of these men and about their dreams and their hopes and their aspirations. I am grateful. I am grateful to have had that opportunity, and I thank their families

for allowing me to attend those services. I learned a great deal about these three Ohioans.

And though I am here on the Senate floor today to pay tribute to these men, I know that my words will fall short. My words will fall short because really, it is their families and friends and the men and women with whom they served—many still in Iraq right now—who knew them best. They are the people who could give the most adequate tribute.

But, at the same time, I do feel it is very important for my colleagues here in the United States Senate and for the American people to know what I have learned about these three fine men, because each one of them, in his own way, has revealed the strength and the greatness of our Nation.

PVT Brandon Sloan was born in Cleveland, OH, on October 7, 1983, to the Rev. Tandy Sloan and Kimberly Sloan. Brandon was special. Rev. Walter Thornhill, the pastor at Brandon's church in Cleveland, remembered him as “a gentle person with a goodness of spirit.”

Brandon was a loving and caring person, with a strong faith in God. He radiated joy because of that faith, and his joy spread to everyone around him, especially to his younger sister Brittney, and to his friends and to his community.

His friends described Brandon as “a big guy—happy-go-lucky and loyal to a fault.” His friend Tony Tucker said Brandon was a “kind, sweet person . . . a cool person to be around.” That was his faith shining through.

It was not surprising that Brandon was a popular and friendly student at Bedford High School in Bedford Heights, OH. He was a gifted athlete, who proved to be a talented football player, working hard on the field to earn a position as defensive lineman for the Bedford High Bearcats.

Store owners recalled how pleasant and personable Brandon was when he would stop by their stores after high school football practice. He was a nice young man who was respectful and considerate of others, they recalled. Again, that was Brandon's faith shining through.

Brandon's faith in God, and the warmth that radiated from him because of it, extended to his love of his country. When he turned 18 years old, he enlisted in the U.S. Army. His service in the Army began with great promise. He became a logistics specialist and was assigned to Fort Bliss, TX.

In January 2003, he was sent to Kuwait with the 507th Maintenance Company. But, after just 1 year of service, at the age of 19, Brandon was killed in action when the 507th was ambushed by Iraqi troops near Al Nasiriyah. He was killed while defending the Nation he was so proud to serve and protect.

Brandon Sloan wanted to be a soldier. He was proud to be a soldier. His father, Rev. Sloan, recalled how Bran-

don just exuded pride at his boot camp graduation. He wanted to protect his country. He wanted to protect us and our children and our grandchildren. His faith in God and his commitment to serving America is what made Brandon Sloan a very special person. He is a role model for all of us.

I know he will be greatly missed by his friends and by his family. He leaves behind to cherish his memory his father, his mother, his sister, and his grandmothers Dr. Rementa Pippen and Luberta Sloan. My prayers are with all of them.

1SG Robert Dowdy was also from Cleveland and also served and died with the 507th Maintenance Company where he was the highest ranking enlisted soldier.

Robert was born on August 21, 1964, and attended Cleveland South High School, and before graduating in 1982, he lettered in five sports. After high school, Robert followed his older brother Jack, a former marine, into the military, and his service carried him to bases in South Korea and across the United States.

Even when far away from home, however, he always kept close to Cleveland and followed his beloved Cleveland Indians whenever and wherever he could—and, I might add, when they were having good seasons or bad seasons.

One of Robert's other passions was distance running. He was an avid runner with a level of perseverance and commitment that permeated everything else that he did in life. His friends said in a race he always would cross the finish line in high spirits.

Robert also liked to take time to enjoy all things in life, including the little things. He was a devoted son, devoted husband, devoted father. And, he loved doing small things for his family, things such as teaching his mother how to drive. His family was everything to him. His family was his life, his passion, his whole world.

Robert married his high school sweetheart, Kathy, and they were blessed by the birth of their daughter Kristy. Their marriage was one of balance. Robert never made a decision without consulting Kathy. They were equals. They were partners. They were best friends. Robert had great respect for his wife and loved her and loved Kristy with all of his heart.

Robert's bravery as a soldier was something he passed on to his daughter Kristy. At the age of 14, she had the courage and the strength to design the program cover for her dad's funeral.

Kristy created an enduring and heartfelt tribute not only for her father, but also for other Americans who have dedicated their lives to protecting us. For the program cover, she took a picture of her father and placed in the background additional pictures of policemen and firefighters saving lives on September 11, 2001. I think we can be sure that Robert would have been so proud of his daughter Kristy, as we know he always was.

Mr. President, 1SG Robert Dowdy was an inspiration, not only to his family, but also to his fellow troops. He led by example. He led by his actions, not just by his words. As a first sergeant, he was a leader. He was strong, yet compassionate. He truly loved those under his command, and they knew it. He touched their hearts. He loved them, and they loved him back.

MSG John Hite, who eulogized Robert at his funeral, relayed a story of a young soldier who was clearly touched by Robert's life and leadership. Master Sergeant Hite spoke of a big, strapping 6-foot-4-inch, 250-pound soldier who came up to him the day before First Sergeant Dowdy's burial and told him about the love and admiration he had for Robert. As they talked, they were standing by a bouquet of flowers adorned with a tiny replica of Robert's machine gun, his helmet, and his combat boots. Before long, as this big, strong, tough Army soldier spoke of First Sergeant Dowdy, his eyes swelled with tears. He looked at those combat boots and simply said: "No one will ever fill them. . . ."

Robert Dowdy loyally served his country for 18 years. He was only 18 months from retirement when he deployed for Iraq—a deployment he volunteered for so that another soldier could stay home with his family.

This act defines who Robert Dowdy was, and no one who knew him was surprised that he would offer to help a fellow soldier in this selfless way.

As his brother, Jack, said: "[Robert] was a very patriotic and very loyal man who loved his country. . . . He just wanted to serve his country to the best of his ability before he retired." First Sergeant Robert Dowdy did serve his country and he served it loyally, heroically, and honorably.

In the end, Robert Dowdy ran a good race. And as St. Paul wrote in his second Epistle to Timothy: He finished the course; he kept the faith.

Robert Dowdy is survived by his wife Kathy, his daughter Kristy, his brothers Jack Jr. and Jim, his sisters Roxanne and Anita, and his parents Jack and Irene Dowdy. My heart goes out to them all.

PFC Christian Daniel Gurtner was born on June 23, 1983. He grew up in Ohio City, OH, and graduated from Van Wert High School in Van Wert, OH. He joined the Marines last year after graduating from high school and was assigned to the 3rd Light Armored Reconnaissance Battalion, based out of Twentynine Palms, California. He was deployed to Kuwait in February 2003.

Christian's friends described him as respectful, motivated, and hard-charging. He was proud of what he was doing and was committed to the Marines. As his friends described, he was so excited about being in the Marines and was so honored to serve.

He frequently signed letters back home with the Marine Corps motto "Semper Fidelis." In February, one of the last times Christian spoke to his

family, he told his mother that he was ready to do whatever was needed to protect our Nation. He told her that he was "good to go."

And, in a letter he wrote home—a letter that his mother received just days ago and portions of which were printed in yesterday's Washington Post—Christian wrote of how he missed and loved his family, but that he was fighting so we all "can sleep better at night because there is less terrorism in the world." In typical fashion, he closed this letter with "Semper Fi."

Christian was a faithful, hard-working, and well-loved member of the Ohio City community. He loved to laugh, and, as his friend Alicia Sterling said, "He had this smile, and you knew when you saw that smile [that] you were going to get into trouble!"

Christian loved to have fun, and he loved to watch sports. He followed both the Atlanta Braves and the Ohio State University football team. He also enjoyed bowling and spent many evenings at the bowling alley with friends.

To celebrate this, his friends brought to his funeral a bowling pin signed by his teammates. It was a touching gesture—one of love and admiration for their friend and fellow teammate.

When he joined the Marines, Christian found a cause in which he believed deeply and a vehicle through which he could pursue his beliefs. He served our country well and fought valiantly to preserve the security of this Nation and fight for the freedom of the Iraqi people. Christian Gurtner passed away on April 2, 2003. As Chief Warrant Officer Suzanne Handshoe so fittingly said upon his death, "We lost a brother. As Marines, we honor our own."

Christian Gurtner was good-natured. He was loyal. He was true to his family and friends. And, he was just a decent, loving, kind-hearted young man who died fighting for a cause he strongly believed in.

At his funeral, Christian's mother picked a very special song to be played in her much-loved son's honor, a song called "Forever Young." When I heard that song, I was reminded of a poem that was sent to me shortly after my wife and I lost our daughter 10 years ago. Our daughter was about Christian's age. It was sent to me by a dear friend of mine, Jack McKernan, who had lost his own son—a young man who was also about Christian's age. It was a poem that was written during World War I, by a man named Laurence Binyon. Here is a stanza from that poem:

They shall not grow old, as we that are left grow old; Age shall not worry them, nor the years condemn. At the going down of the sun and in the morning, we will remember them.

And we, too, will remember you, Christian.

PFC Christian Gurtner is survived by an infant daughter, his mother Eldonna, and his stepfather Gary Wagonrod, and his grandmothers Sally Mae Gurtner and Dorothy Wagonrod. They have been and will remain in my thoughts and prayers.

Brandon Sloan, Robert Dowdy, and Christian Gurtner demonstrated great nobility both in their lives and in their deaths. They revealed all that is good and strong about our Nation—a Nation they gave their lives for to defend and protect. Each of these men was an amazing individual, whose families and friends loved them dearly. My heart aches at their loss, but after learning more about these three remarkable men, I am even more proud to say that I am an American, and that I come from a country and a state that could produce such admirable individuals—men who, indeed, upheld the code of Duty, Honor, Country.

Though, they were but three of the several hundred thousand women and men who serve this country in the military, they represented the courage and the selflessness of them all.

My wife, Fran, and I extend our most heartfelt sympathy and prayers to the families of Brandon Sloan, Robert Dowdy, and Christian Gurtner. To their parents, I must say that you raised incredible sons. We will never forget them. As President Ronald Reagan said of the troops who perished at Normandy in World War II: We will always remember. We will always be proud.

I thank the Chair and yield the floor.

Mr. President, 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. DOMENICI. Mr. President, I rise to pay tribute to Army PFC Lori Piestewa from Tuba City, AZ. Private Piestewa was killed in action during Operation Iraqi Freedom on March 23. As the first Native American female member of the U.S. Armed Forces to lose her life in combat, Lori's sacrifice is historic. It is also a source of tremendous inspiration for our country's Native American population, many of whom reside in New Mexico.

I think most are now familiar with the story of the 507th Maintenance Company that was ambushed near An Nasiriyah. It was during this attack that Private Piestewa lost her life in defense of our country. The daughter of a Vietnam veteran, and the granddaughter of a World War II veteran, it is no wonder that she would volunteer to confront the threats facing our country. Obviously, patriotism runs deep in the Piestewa family, and it was surely this proud family history that inspired Lori to heed the call of duty.

As I read some of the reports about Lori Piestewa's life, I noticed that as a youngster, she participated in a program called Futures for Children. This program, which I have been privileged to support over the years, is focused on empowering Native American high school students to be leaders and role models in their community. Clearly, Private Piestewa was the embodiment of what this program stands for—both as a leader and as someone young people can pattern their lives after. I

would encourage students in places like Tuba City, AZ, or Shiprock, NM, who want to make important contributions to their community, to look at the example set by this courageous young woman and consider participating in Futures for Children.

Mr. President, the fact is that at 22, Private Lori Piestewa was, herself, still a young person. But her belief in service and her sense of duty went well beyond her years. Hers is a life of which her family and, indeed, all Native Americans can be extremely proud. The prayers of a grateful nation go out to her family and friends at this very difficult time.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF JEFFREY S. SUTTON, OF OHIO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go to executive session to resume consideration of Executive Calendar No. 32, which the clerk will report.

The legislative clerk read the nomination of Jeffrey S. Sutton, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I am pleased that today we are considering the nomination of Jeffrey Sutton to serve on the Sixth Circuit Court of Appeals. The Judiciary Committee had an opportunity to listen to Mr. Sutton answer questions a few months ago in what turned out to be a very lengthy hearing. Probably 60 to 70 percent of the questions asked during the 9½-hour hearing were directed at Mr. Sutton. Those of you who heard this testimony, my colleagues who had the opportunity to hear it or who maybe had the opportunity to review the transcript of that hearing, will no doubt attest to Mr. Sutton's keen intellect, his even temperament, and the depth of his legal knowledge. These attributes demonstrate why Jeffrey Sutton is one of the finest appellate lawyers in the United States today, and why he will be an excellent Federal judge.

Mr. Sutton's legal and life experiences have been extensive. He spent the first part of his life living abroad. The Sutton family remained abroad until a couple of years before Mr. Sutton started high school. They returned to

the States because his father took over a boarding school for children with severe cerebral palsy. For over 6 years, Jeff spent much of his time around the school doing odd jobs for his dad. He was deeply affected by this experience and by the interactions he had with these students. It reinforced what he had been taught by his parents, that serving others is an important calling and virtue.

Mr. Sutton attended Williams College where he was a Lehman Scholar and varsity soccer player. He graduated with honors in history. After college, from 1985 to 1987, Mr. Sutton taught 7th grade geography and 10th grade history while also serving as the coach of a high school varsity soccer team and a middle school baseball team.

From there, he went on to law school and graduated first in his class from The Ohio State University College of Law, where he served as an editor of the Law Review. Mr. Sutton then clerked for Judge Thomas Meskill on the U.S. Court of Appeals for the Second Circuit. From this position, he went on to clerk for two U.S. Supreme Court justices—retired Justice Lewis Powell and Justice Antonin Scalia.

From 1995 to 1998, Mr. Sutton was the State Solicitor of Ohio, which is the State's top appellate lawyer.

During his service, the National Association of Attorneys General presented him with the Best Brief Award for practicing in the U.S. Supreme Court—a recognition he received an unprecedented four years in a row.

Jeff Sutton is currently a partner in the Columbus law firm of Jones, Day, Reavis & Pogue. He is a member of the Columbus Bar Association, the Ohio Bar Association, and the American Bar Association. He also has been an adjunct professor of law at The Ohio State University College of Law since 1994, where he teaches seminars on Federal and State constitutional law.

Every lawyer who knows Jeff Sutton already knows he is one of the best lawyers in the country. Recently, The American Lawyer confirmed this by rating him one of its "45 under 45"—that is, they named him as one of the top 45 lawyers in the country under the age of 45.

He has appeared frequently in court, having argued 12 cases before the U.S. Supreme Court, where he has a 9 and 3 record. In the Supreme Court's 2000–2001 term, Mr. Sutton argued four cases—that's more cases than any other private practitioner in the country. Can you imagine preparing to argue one case before the Supreme Court, much less four? Mr. Sutton, by the way, won all four cases.

Mr. Sutton also has argued twelve cases before the Ohio Supreme Court, six cases before various U.S. Courts of Appeals, and numerous cases before the State and Federal trial courts. And, over the years, Mr. Sutton has been the lawyer for a range of clients on a wide range of issues.

Some of these cases were quite well known and at least one of them has already been raised in debate here on the Floor. For example, he represented the State of Ohio in *City of Boerne v. Flores*, the State of Florida in *Kimel v. Florida Board of Regents*, and the State of Alabama in *University of Alabama v. Garrett*.

While many of the cases that he has argued are well known, I would like to take this opportunity to tell my colleagues about some of his lesser-known cases. Jeff Sutton represented Cheryl Fischer, a blind woman who was denied admission to a State-run medical school in Ohio because of her disability.

He also represented the National Coalition of Students with Disabilities in a lawsuit alleging that Ohio universities were violating the Federal "motor voter" law by failing to provide their disabled students with voter-registration materials.

Jeff Sutton also defended Ohio's minority set-aside statute against constitutional attack, and in another case he filed an amicus brief in the Ohio Supreme Court defending Ohio's hate-crimes statute on behalf of the NAACP, the Anti-Defamation League, and an assortment of other civil-rights groups. As this sampling of cases makes evident, Mr. Sutton has represented a variety of clients in the course of his career as an appellate lawyer. I think it is important for Senators to remember this fact as we consider Mr. Sutton's nomination.

In addition to his professional work as a lawyer, Jeff Sutton has found an extraordinary amount of time to give back to his community. Between a demanding law practice and spending time with his wife Peggy and their three young children—Margaret, John, and Nathaniel—Mr. Sutton serves on the Board of Trustees of the Equal Justice Foundation, a non-profit provider of legal services to disadvantaged individuals and groups, including the disabled. He has spent considerable time doing free legal work, averaging between 100 and 200 hours per year. He is an elder and deacon in the Presbyterian Church, as well as a Sunday school teacher.

He participates in numerous other community activities, including "I Know I Can," which provides college scholarships to inner-city children, and ProMusica, a chamber music organization. He also coaches youth soccer and basketball teams.

In conclusion, when considering Jeff Sutton's nomination, I encourage the Senate to consider his broad range of life experiences, as well as his stellar legal background. I also urge my colleagues to take into account his testimony and the very straightforward way that he answered the many questions posed to him during his confirmation hearing. He has been straightforward, and he has been frank with our committee. Finally, I encourage the Senate to consider Mr. Sutton's astute characterization of the role of a