

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

The clerk will report.

Mr. STEVENS. I ask unanimous consent we proceed to the resolution, it be read three times and pass, and the motion to reconsider be laid upon the table.

Mr. BYRD. I did not hear the request.

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

Mr. BYRD. I did not hear the request.

The PRESIDING OFFICER. The request is that the resolution be considered read three times, passed, and the motion to reconsider be laid upon the table.

The Chair asked twice if there was objection, and hearing none, the resolution has been considered passed, and the motion to reconsider is laid upon the table.

The joint resolution (S.J. Res. 42) was read the third time and passed, as follows:

S.J. RES. 42

In the conference to accompany H.R. 4818, House report 108-792, Section 222 of Title II of Division H, Departments of Transportation and Treasury, Independent Agencies, and General Government Appropriations Act, 2005, shall have no force and effect.

Mr. MCCAIN. Parliamentary inquiry: What is the effect of what was just agreed to?

Mr. STEVENS. May I answer that?

Mr. MCCAIN. I withdraw my parliamentary inquiry. I have an understanding from our capable staff.

MORNING BUSINESS

The PRESIDING OFFICER (Mr. THOMAS). The Senate is in a period of morning business, with Senators allowed to speak for up to 10 minutes. Who seeks time?

The Senator from West Virginia.

THE APPROPRIATIONS PROCESS

Mr. BYRD. Mr. President, the Senator from Alaska and I have, for months, been importuning the Senate, the leadership, and anyone else who will listen, not to end this session with the passage of an Omnibus appropriations bill. I have, for years, opposed passage of Omnibus appropriations bills.

We have seen within these last few years, especially, this excrescence on the skin of the body politic grow until now it has become malignant.

I warned and warned and warned against Omnibus appropriations bills. I have complained that the leadership of the body has not worked diligently to prevent our being caught with our backs against the wall at the end of the session and with the absolute necessity at that point to act in haste and to act upon many appropriations bills at once, with all that portends. That makes it difficult, if not impossible, for Members to examine what is in the bill.

So much of this is done at the hour of midnight and beyond. Staffs have to

read through these bills and work on them, and Senators who cannot do that have to depend upon the work of those staffs. They are literally dead, as it were, with fatigue when they do this job this way.

I have, time and time again, said to Senator STEVENS: I hope we will avoid Omnibus appropriations bills. There is no good served with Omnibus appropriations bills. When that happens, we invite the executive branch into the exercise. It seems my colleagues, so many of them on both sides of the aisle, do not view that as a danger to the Senate, a danger to the constitutional system, and really a danger to the liberties of the people.

We should pass 13 appropriations bills every year. I said that time and time and time again. The distinguished chairman of the Appropriations Committee at this moment, Senator STEVENS, has done his level best to get 13 appropriations bills passed and brought to the floor.

But I tell you, my friends, we have lost too much time with other things that could have waited, and now we find ourselves in the bind, when we do not have enough time to do the proper work on these appropriations bills. I am sick of this process. I am ashamed of it. I do not know if there will ever be a better example of what can happen, what can go wrong with this nefarious process of putting off legislation.

Appropriations bills are the only bills we actually have to pass. They are bills to keep the Government running. This has to do with the oversight process, the examination of witnesses through the appropriations hearings. This is the absolute best form of oversight, when we can say to a witness from the administration, whatever administration it is: How have you done under this qualification here, that you would be limited to such and such, a number of dollars? What have you done? What has been the result? We are strangulating this oversight tool. We are wiping it out when we do not bring to the floor these bills on time.

We get to the pass here. This is the pass. And we are cut off at the pass. Oh, we have to do this. We have to do this. We need to cut the time on the bill. We need to limit ourselves. Here in this case, only two of these appropriations bills have ever passed the Senate. Only two this year, right?

Mr. STEVENS. Four, Senator.

Mr. BYRD. Four passed the Senate. In any event, only two of the nine bills that are in the omnibus have passed the Senate.

Mr. STEVENS. That is correct.

Mr. BYRD. Now, that is a shame. That is a disgrace upon the escutcheon of the Senate. I am greatly concerned about that process. I have been, and I have many times expressed it to my dear friend, TED STEVENS, who has worked his tail off in trying to get these bills through the committee and through the Senate.

Now, we cannot go on like this. We just cannot go on like this. I hope

other Senators and I hope the leadership on both sides will see what can happen when we are brought to the wall, with our backs to the wall, and we have to ram through such important legislation without giving it careful consideration because we do not have the time and we rush these—can you imagine what is happening to the process when we approve appropriations bills in the Senate Committee on Appropriations and then do not bring those bills to the Senate? We do not bring those bills to the Senate.

I will tell you, friends, I have been in this body now 46 years this year, and it was never that way in the old times. We always passed the appropriations bills. I believe you will find on the record, we passed them, with my help, on both sides of the aisle. I never did anything by myself. It was an absolute cooperation between both sides of the aisle in the Appropriations Committee. We did not have all of the recriminations and the fault finding. We worked together, and we brought those 13 bills to the floor, and we acted on them.

Something badly wrong is happening to the appropriations process in the Senate, and I hope and plead with my colleagues that we take a good look at what is happening and that we all, as it were, rise up in arms against this way of pushing everything to the end of the session.

We have squandered time. You remember the filibuster one night we had here? Remember the filibuster one night? Well, that is just one example of how we have foolishly squandered our time. And we have not been in here 5 days a week working. How about that? We ought to do better.

I feel very, very badly about what has happened here. I never knew anything about this. I never knew this was in the bill until after I got up in the conference today and urged Senators to vote for it.

Mr. STEVENS. Neither did I.

Mr. BYRD. I said: I don't like this process. I don't like the fact that the minority is being shut out—at least one stage. I do not think the minority should ever be shut out. That is not in the book of the legislative process. That is not in the legislative process as I taught it over at American University. That is not in the legislative process as I learned it from those who came before me. That is not in the legislative process as it was when I was the majority leader.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for an additional 10 minutes, if necessary.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I thank the Chair and I thank all Senators.

And so it is a terrible albatross around the neck of the Senate, and it is a terrible disservice to the people of these United States, who need to have their Senators examine bills carefully.

Part of it is our fault. We don't have to be out of here on Mondays. We don't have to be out of here on Friday afternoons. They didn't run the Senate like that when I was coming up here. I didn't run the Senate like that when I was majority leader. I told my own crowd: You elected me leader, and you can throw me out if you want to, but as long as I am leader, I am going to be leader. I am not here for the pleasure of Members. I am here to get the work done. And we worked and we had votes. Any of you who were here when I was majority leader, we had what were called bed check votes on Monday morning at 10 o'clock.

So I don't like this process. We are getting paid to work 5 days a week, 6 days a week, or 7 days a week, if it is necessary. I hope we don't start coming in here on the Sabbath and working. We need to keep the Sabbath day holy. But I say to you, my friends, we ought to get away from this bog-tailed schedule that we work on here—being in the Senate 2 days a week, or 2½ days.

So there are many things that can be attributed to the breakdown here. There are many complaints that can be made, many fingers can be pointed, and many truths can be stated, pointing out where we are falling down.

A number of Senators, may I say, have come to the floor to denounce, rather harshly, this provision that was included in the Omnibus appropriations bill, which would authorize—I know TED STEVENS; he would never want this kind of authority. That is laughable. He would never want this kind of authority. I would not either—chairmen of the Appropriations Committee and their designees to access the tax returns of companies and individuals. Why, this is a slam at the integrity of the Appropriations Committees of the two Houses, and especially it is a terrible thing to have somebody put this in a bill and lay this burden on the chairman of the Appropriations Committee. We don't want that. I have been chairman and I would not want that kind of authority.

I want to thank Senator STEVENS for coming to the floor and pledging to do what he can to correct this problem. I recognize that is not his fault. It is the inevitable result of a horrendous process that has developed in these last few years. You can go back and see the record for yourselves. The record speaks and the record tells the truth.

I want to assure my colleagues that I knew nothing of this provision until after I had made my fine speech in the caucus talking about this bill, how good it was and how bad it was, and then urged Senators to vote for it, saying that it was better than having a continuing resolution. And lo and behold, the distinguished Senator from North Dakota got up right behind me and he and the Senator from Montana pointed out that this language was in the bill. I had not seen it. If I had known about it, I would have been the first Senator to the floor to deplore it.

I would have done everything in my power to keep it from being included. It is egregious and it ought to make every Senator hopping mad at the process that caused it, at the process that caused this in the wee hours of the night—to have our staffs operate with fatigue in going over these matters.

Why do we have to do it in the wee hours of the night? Because you are up against the gun, up against the deadline.

Look at this massive piece of work that must be examined. This is what happens—I will say it again—when the Congress writes legislation behind closed doors. This is what happens when the Congress tries to cobble together nine appropriations bills, seven of which have never been considered by the Senate, into an Omnibus appropriations bill. This is exactly why we failed the people out there who are watching through those electronic lenses. We fail the American people when we cannot complete the appropriations process on time.

I think it is a disservice to the chairman of the committee and to Senators who try hard to keep things going here and to move on a schedule that will get us through and not keep us waiting until the end of the session, when it is too late to act with care and to properly operate the oversight process. We open ourselves up to these kinds of abuses.

I am told that the Senate now will do something about this. We have already allowed a unanimous consent request here that has been agreed to. I hope—that isn't quite enough—the majority leader, who was here a moment ago, will try to get a commitment from the Speaker of the House.

Mr. STEVENS. We have that.

Mr. BYRD. Very well. I am told by my colleague, Senator STEVENS, that we have that commitment. Well and good. They will join the Senate in passing the joint resolution to remove this provision. I am also concerned about what the distinguished Senator from North Dakota brought up when he spoke of the fact that when a bill is passed into law, it is a law, and it is either going to be repealed or vetoed. We need to hear from the leaders of both bodies that this provision will be removed, and we need also to hear from the leaders of both bodies that this won't happen again.

I myself had said that I would vote for this bill. I am going to vote against it out of protest against this awful process. I have campaigned against this process on the floor; I have urged that we not let ourselves get into a situation wherein we have to nail together, tape together, put together pieces of appropriations bills, and whole appropriations bills, and come out with an Omnibus appropriations bill. And now we are going to be faced with a conference report that we cannot amend. So I will vote against this process. I will not support a process that results in this kind of chicanery. I thank all Senators for listening.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

SENATOR BYRD'S BIRTHDAY

Mr. BURNS. Mr. President, I agree with my friend from West Virginia. No man should be put through this on his 87th birthday. Happy birthday, Senator BYRD. We hope you make it home in time for the cake.

I yield the floor.

Mr. STEVENS. Mr. President, is it possible now to proceed to the conference report that is before us?

I ask unanimous consent that we proceed to the conference report before us.

Mr. CONRAD. Mr. President, reserving the right to object, I say to my colleague that there are discussions going on to try to resolve this matter. I think they are about to bear fruit. I just left a conversation in the cloakroom, and they were coming up with a process to try to make certain that this provision never becomes law. It sounds as though they are making progress. Before we proceed, I think we will want to have the leaders here to be able to tell the rest of us what they have arrived at.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, we have just had an election. Republicans are firmly in power in the White House and also in the Congress. Now, just 18 days after the election, we see in this bill breathtaking arrogance of power. It is an abuse of power because it gives power to Republican leaders, at the expense of your right of privacy, to pry and snoop into your tax returns.

They can even leak your taxes to the press and post them on the Internet without penalty. It is an abuse of power because it gives insurance companies the power to deny your right to know all of your health care options. It gives insurance companies the power to order your doctor to tell you only part of what you need to do.

It is an abuse of power because this bill gives the power to corporations to prevent you from knowing where your food comes from. It is an abuse of power because it gives companies the power to deny your right to overtime pay.

What other abuse of power is in this bill? We should take some time and delay action until we have read it and until we have the opportunity to fix it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. May I inquire if we are still in morning business with Senators able to speak for up to 10 minutes each?

The PRESIDING OFFICER. We are in morning business, limited to 10 minutes each.