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## Senate

The Senate met at 9:45 a.m. and was called to order by the Honorable CONRAD R. BURNS, a Senator from the State of Montana.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Lord and our God, as the waters fill the sea, let America be filled with people who know You. Help our citizens to live for Your honor. Increase our faith, hope, and love that we may receive Your promises. Be merciful to our Nation, for You are our hope. The brightness of Your glory covers the heavens and light flashes from Your Hands. Hide not Your mighty power from us.

Empower our lawmakers today with the music of Your wisdom that they may bring hope out of despair and joy out of sadness. Teach us to celebrate, even in the darkness, because You are the God who saves us. Give us the strength to stand on the mountain. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable CONRAD R. BURNS 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. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 6, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable CONRAD R. BURNS, a Senator from the State of Montana, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. BURNS thereupon assumed the chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

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

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Tennessee is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, I do want to welcome everyone back following the Fourth of July recess. Today, we return to business for a relatively brief, under-3-week legislative period, but what I know will be a very productive legislative period. This morning we will proceed to executive session and the consideration of J. Leon Holmes to be a U.S. District Judge for the Eastern District of Arkansas. Pursuant to the agreement reached prior to adjourning, there will be up to 6 hours of debate today before the vote on the confirmation of this nomination. I anticipate that vote occurring sometime around 5:30 today, and that will be the first vote of the day.

We also expect to consider additional judicial nominations throughout this period prior to the August recess, and we will be scheduling those nominations as they become available.

Following the vote on the Holmes nomination, we will begin consideration of the class action fairness legislation, and that debate will begin after the vote and continue tonight. This class action bill is a bipartisan bill, and

I hope we will be able to consider it in a fair and expeditious way. As I mentioned, this is an abbreviated legislative period due to the respective party conventions which begin later this month. There is a lot of work to do over the next 3 weeks, including consideration of the appropriations bills.

The best way for us to ensure we complete the class action measure is for the Senate to focus on related amendments on that bill. The issue has been before this body previously; therefore, I hope we can consider relevant amendments and ultimately pass this legislation with a large bipartisan vote. If this bill becomes a vehicle for every unrelated issue that is stored in people's desks and in their minds, I am afraid this abbreviated schedule will not make it possible to do that. And if we insist upon offering a lot of unrelated amendments, the ultimate consideration of the bill clearly will be impossible because of the time involved.

Having said that, I will be working with the Democratic leadership to see if we can finish this bill in a reasonable period of time. Again, I welcome back all of my colleagues. It will be a very busy session over the next 3 weeks. I ask in advance for everyone's patience and cooperation during this period.

Mr. DASCHLE. Mr. President, if the majority leader will yield?

The ACTING PRESIDENT pro tempore. The Senator from South Dakota.

Mr. DASCHLE. Let me welcome him back and express the hope that we can work together on a number of issues this work period. Could the majority leader give us some indication as to what we might expect once the class action bill has been completed? What other issues do you expect to take during this 3-week period and in what order of sequence? If the majority leader could share that with us, it would be helpful as well.

Mr. FRIST. Mr. President, as we get back and do our planning over the course of the next several hours 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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days, we will do just that. As I mentioned, we have the class action bill. Once we complete that, we have appropriations bills. We are, at some juncture, going to consider the Federal marriage amendment, and there will be a number of other issues. But as they come forward, I would be happy to discuss it with the leader.

#### LEON HOLMES

Mr. FRIST. Mr. President, I want to spend a few minutes on what the Senate will be addressing over the next several hours. That is the consideration of the nomination of Leon Holmes to be a Federal district court judge in the Eastern District of Arkansas. His nomination has been languishing since January 2003. It is long past time that the Senate give Mr. Holmes the up-or-down vote he deserves.

Mr. Holmes is known in his home State of Arkansas as a brilliant and impartial jurist who follows the law. His nomination has brought substantial opposition from some liberal activists in Washington. But in Arkansas, he has earned respect and support from liberals and conservatives alike.

These supporters include Kent Rubens, who led the fight to strike down Arkansas's pro-life laws in the wake of *Roe v. Wade*. Rubens writes in a letter to Chairman HATCH and Senator LEAHY on March 21, 2003:

I cannot think of anyone who is better qualified to serve . . . As someone who has represented the pro-choice view, I ask that you urge your members to support this confirmation.

Or you can listen to this letter from Ellen Woods Harrison to Chairman HATCH and Senator LEAHY:

I am a female attorney in Little Rock, Arkansas. I am a life-long Democrat and am also pro-choice . . . I commend Mr. Holmes to you. He is a brilliant man, a great lawyer and a fine person.

And the editorial board of the Arkansas Democrat Gazette supports Mr. Holmes' nomination. They write:

What distinguishes Mr. Holmes is the rare blend of qualities he brings to the law—intellect, scholarship, conviction, and detachment . . . He would not only bring distinction to the bench, but a promise of greatness.

I should also note that Arkansas's Democratic Senators, Mark Pryor and Blanche Lincoln, strongly support Leon Holmes.

In light of this broad support for Mr. Holmes, one wonders if some activists in Washington are more interested in a witch hunt than in fairness. This body should not erect religious tests for judges. One's personal religious beliefs—in Leon Holmes' case, his Catholic beliefs—should not disqualify anyone from serving on the bench. I fear that the arguments put forth by some of my colleagues may lead to the disqualification of judicial nominees who are Catholic or Baptist or who hold deeply held religious views.

Nominees should be judged on their temperament and their ability to impartially uphold the law. The Framers of the Constitution wisely rejected religious tests for officeholders. I would hate to see this body try to upend that wise judgment of our Founders.

A judge should know how to separate his personal views from those of the law, and Leon Holmes' record of impartiality speaks for itself.

Mr. Holmes finished law school at the top of his class. He was inducted into Phi Beta Kappa while a doctoral student at Duke University. His doctoral dissertation discusses the political philosophies of W.E.B. DuBois and Booker T. Washington, and it analyzes the effort Dr. Martin Luther King, Jr. made to reconcile their divergent views. Mr. Holmes was habeas counsel for death row inmate Ricky Ray Rector, a mentally retarded man whose execution then-Governor Clinton refused to commute during the 1992 Presidential election.

Clearly, his record speaks of a man who is compassionate, thoughtful, and fairminded. Taken together, I believe Leon Holmes will be a just and impartial jurist. He deserves the Senate's support, and I trust that my colleagues will join me in voting to confirm him later today.

I yield the floor.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished minority leader is recognized.

#### ON OPTIMISM AND THE ECONOMY

Mr. DASCHLE. Mr. President, we hear a lot these days about how essential optimism is to economic growth and progress. These discussions remind me of that old saying that "an optimist is someone who believes we're living in the best of all possible worlds, and a pessimist is someone who fears this may be true." By those definitions, there are probably very few optimists or pessimists in America because we all know that America's economy today is not the best possible.

This morning, I want to say a few words about how we can strengthen our economy and create new jobs and a brighter future for hard-working middle-class families in America.

We are all relieved that the economy has finally started adding more jobs each month than it is shedding. After 2½ years in which our economy lost jobs every month, these new jobs are good news—especially for the millions of Americans who are looking for work. But there are still over a million fewer jobs in America today than there were 4 years ago. In addition, the latest job-growth figures, released last Friday, were considerably weaker than most analysts had predicted. That disappointing news reminds us that optimism alone is not a national economic policy. What we need is realism.

Many proposals have been introduced in this Senate to create jobs and to help people who have lost jobs find new ones. We owe it to the American people to consider a variety of ideas. And in weighing our economic options, the question we ought to ask ourselves is not whether an idea is optimistic or pessimistic. The question we should ask about every proposal is: Does it do right by America? Will it lead to the kind of economic growth that benefits all Americans, not just the fortunate few? Does it provide incentives to encourage companies to create jobs in America—rather than encouraging companies to ship American jobs overseas? Does it help the people and communities that have lost jobs these last 4 years? Does it give them the tools and the opportunities to replace those lost jobs with better jobs? Or does it just write them off? Does it do right by the millions of middle-class families who are working harder every year but are still losing ground economically? Optimism alone can't stretch a paycheck, or pay a mortgage, or put your children through college.

Some people point to the fact that the economy has finally started to create jobs as proof that we have solved the jobs problem. They say that all we have to do now is stay the course and be patient. I wish the people who say that would come to North Sioux City, SD, and some of the communities that surround it. Until very recently, North Sioux City was the headquarters for Gateway computers, one of the largest private employers in South Dakota. Four years ago, Gateway employed 6,000 people in the Siouxland area around North Sioux City. But the recession and the shakeout in the technology sector hit Gateway hard, as it did many tech companies. Today, only 1,700 people work for Gateway in the North Sioux City area.

I am not sure if it is a blessing or a curse, but the job losses at Gateway didn't come in one crushing blow. They came instead as a steady stream of layoffs. While none was large enough to grab national media attention, the cumulative impact of these layoffs on the families and communities in the Siouxland area around North Sioux City has been devastating. Some of the laid-off workers received severance packages. Some have found new jobs that pay less. Many are still looking for work. There are many more good workers today in the Siouxland area than there are good jobs.

These times are tough even for many people who are working. Over the past year, real weekly earnings actually fell for the average worker, according to the Department of Labor. In South Dakota and across America, workers are earning less than they did a year ago, but they are paying more—for gas, health care, tuition, and other basic necessities.

Even with the recent easing of prices, gas still costs 30 cents a gallon more in South Dakota today than it did a year ago.