



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151

WASHINGTON, MONDAY, SEPTEMBER 19, 2005

No. 117

Senate

The Senate met at 2 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray.

O Lord, our Lord, sustainer of all life. This week, as we remember the ratification of our Constitution, remind us that without You we are powerless. Sometimes we feel like collapsing beneath the challenges. When we try to face temptations alone, we too often are defeated. When we seek to meet sorrow without Your presence, our wounds remain unhealed. We are too often fascinated by evil and bored by goodness.

Without You, Lord, we not only cannot know what is right but have no power to do it. Empower the Members of this body today with the blessings of Your presence. Be with each of them to help, to guide, to comfort, and to sustain; grant that whatever light may shine or shadow fall, they may walk in Your wisdom. Keep us all in Your will until we reach our journey's end.

We pray in the Name of our Lord. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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 MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will open with a period for morning

business for 60 minutes. Following that time, the Senate will resume consideration of the Agriculture appropriations bill which we began last Thursday. While we have no votes today, I encourage Members who intend to offer amendments to notify the bill managers and begin offering their amendments this afternoon. We will stack votes for Tuesday morning and hope to finish this bill early this week.

MEASURES PLACED ON THE CALENDAR—S. 1715 AND S. 1716

Mr. FRIST. Mr. President, I understand there are two bills at the desk due for a second reading.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1715) to provide relief for students and institutions affected by Hurricane Katrina, and for other purposes.

A bill (S. 1716) to provide emergency health care relief for survivors of Hurricane Katrina, and for other purposes.

Mr. FRIST. In order to place the bills on the calendar under the provisions of rule XIV, I object to further proceeding en bloc.

The PRESIDENT pro tempore. Objection is heard. The bills will be placed on the calendar.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 3 p.m. with time equally divided.

The Senator from Massachusetts is recognized.

HURRICANE KATRINA

Mr. KENNEDY. Mr. President, I thank the majority leader for taking the parliamentary steps that are going to permit us to consider some emergency help and assistance for New Orleans and the gulf area, in the area of education in particular. We are going to have more to say about that in a very short period of time. We want our friends there to know help really is on the way, particularly in the areas of education and health.

On Friday, 13 of my colleagues and I visited the stricken city of New Orleans and the gulf coast to see Katrina's devastation firsthand and hear from the affected residents. Like so many millions of Americans, I have been moved by the news coverage of Katrina and her brutal aftermath for the past 3 weeks. But nothing I have seen on television, nothing I have read in the newspapers, and nothing I have heard from the survivors we have embraced in Massachusetts could prepare me for the staggering scope of the devastation when witnessed firsthand.

The destruction is massive in its scope. In many areas, the destruction is total. Much of New Orleans is a ghost town. Troops and police patrol eerily quiet streets. The desolation is frighteningly real.

At least 40 percent of New Orleans was devastated by the calamity. We could see the high water marks on buildings, far above our heads. Debris is strewn everywhere. Massive amounts of muck, black as ink and ringed with the rainbow swirls of oil and chemicals, cover everything.

For so many of our fellow citizens—from New Orleans and throughout the gulf region—there is nothing to return to. In Mississippi, entire communities are completely gone. All that is left of entire blocks is the concrete slabs where families once lived. Even the old oaks that graced Mississippi's historic shoreline for generations could not withstand Katrina's wrath.

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



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Survivors' stories are heartwrenching. Three babies died at the New Orleans convention center from heat exhaustion. A first responder at the convention center found he was the only doctor for 10,000 people. Dozens of elderly residents died of heat stroke or kidney failure. One woman waded through the floodwaters to Charity Hospital, floating her husband's body alongside her on a door.

In Pass Christian, MS, the police heroically stayed behind and braved the storm to rescue as many people as they could. Finally, as the flood waters were rising, they saved themselves by climbing onto the roof of the police station and watched their cruiser below tossed by the surging tide.

Rescue workers we spoke with there found some 80 bodies—many in the attics of their homes, dead after desperately trying to claw their way through the roof to survival. Scratch marks were visible on the rooftops.

The city's mayor is still missing. But the city attorney has been named acting mayor and has stepped up as a leader with determination and compassion, helping people recover and rebuild their lives.

So much has been destroyed. But the spirit of the people we met remains strong. Like Job of the Old Testament, these people have had everything they own and cherish torn from their grasp. But they are determined to recover and rebuild their lives. They still have hope—and we must do all we can to help them.

I was inspired by the heroism of the relief workers, the military, the churches, neighbors, friends, strangers—all coming together to support those in need—truly America at its best. Those we met on Friday were physically and emotionally exhausted. There still does not seem to be enough time each day to help all those who need our aid—not enough energy to heal the many broken hearts. Relief workers have suffered broken bones, sprained ankles, sunburns, dehydration, and infections from the contaminated floodwaters.

But they press on, for they know there is so much remaining to be done. Those we met have an unyielding determination to rebuild that treasured region and rejuvenate its unique spirit. The work they do every minute, every hour, every day since Katrina struck, helps us all—our whole American family. They need to know that we are listening, and that we hear their concerns. We will not ignore them or put them aside. They deserve our leadership and our support, and we must prove to them that we are equal to the task.

My wife Vicki and her family hail from the New Orleans area, and Vicki lived several years in the city. Her family's deep roots there lend a special perspective to our concerns about the many affected by this terrible storm. Such a treasured and vibrant part of our Nation deserves nothing less than

our best efforts as Senators to help it rebuild better than ever.

States across the country are responding, and I am proud of Massachusetts's efforts. Almost 500 Army and Air National Guard soldiers and airmen from our State have been sent to provide direct support to the hurricane victims as part of Operation Helping Hand. They are performing functions as diverse as security, command and control, law enforcement, communications, medical care, including mental health care, and spiritual guidance. The Massachusetts Guard has also activated an additional 150 persons for indirect support, staffing the joint operations center and helping with logistics and airlifts. We have shipped more than 200 tons of cargo using 17 aircraft, including humvees, trucks, trailers, generators, a field ambulance, meals ready to eat, water, cots, tents, and medical supplies.

There are almost 200 evacuees now living at Camp Edwards on Otis Air Force Base on Cape Cod. We have enrolled them in health care plans, helped children find their parents, offered mental health counseling, and enabled those who qualify for veterans benefits and Social Security benefits to continue to receive them without interruption or delay—anything to make them feel welcome and at home.

For the evacuees who express interest in staying in Massachusetts, we are working with local housing authorities to have them placed in our towns, and the Black Ministerial Alliance has welcomed them into our congregations. FEMA will pay for plane tickets anywhere in the United States to reunite the evacuees with their family and friends.

Finding employment for evacuees and schooling for their children are top priorities, and Massachusetts businesses and schools are eagerly lending a hand. Some have already found employment, and a job fair at the base has helped others.

Massachusetts colleges have been eager to pitch in as well. Sixty public, private, and community colleges have enrolled over 1,000 displaced students and offered to assist them with financial aid. Displaced undergraduates will be able to attend public colleges and universities tuition-free. And many campuses have offered to expedite admission, waive fees, and help secure housing. UMass Amherst has already enrolled more than a dozen undergraduate students and is housing them in local hotels until more permanent housing is secured. Boston University has accepted 321 displaced students. Boston College has accepted 150 students from Loyola and Tulane. Amherst is taking in students from Xavier and Tulane. Amherst and Williams College have invited faculty from Xavier to join their campuses for the semester.

Katherine Barnett, a graduate student from Tulane, is now attending Boston University. "I didn't think at-

tending BU was going to be an option, but everyone there has been totally great," she said.

When the tsunami struck Indonesia in December, and when earthquakes devastated Armenia, El Salvador, and Iran, the courageous team of health professionals from Massachusetts General Hospital was always among the first to respond. The team's response to Katrina is no different. Dr. Susan Briggs from Massachusetts General is leading the effort. She told me progress is being made with the team's two mobile clinics, and they are reaching those in more remote areas. But in New Orleans, they are discovering many new storm-related medical needs as people begin to return to the city.

Three medical teams from Boston and one team from Worcester have been on the scene since the earliest hours of the disaster, and they have kept up a steady pace. Additional truckloads of medical supplies left Massachusetts at 5 o'clock this morning for the gulf.

I talked with a wonderful doctor at Mass General, Dr. Larry Bronner. He talked about calling up Broderick Chevrolet and saying they needed three big trucks for transport. The founder of that automobile distributorship said:

You tell us where you want the trucks and when you want the trucks; you've got the trucks.

That is typical of the kind of reaction across the board in my State, and I know in many others.

Now they are involved in a 35-hour trip down to New Orleans, even as we talk this afternoon.

As we traveled in New Orleans and Mississippi, I was heartened by the spirit of determination to overcome this disaster and improve the lives of those most affected. I saw it on the faces of those who stayed behind to help with rescue and relief efforts, just as I have seen it in the faces of those who have had to leave all they know and go to safe havens across the country. It is the same spirit of determination that will carry them down the long road to rebuilding.

The residents of the gulf region and New Orleans take pride in their cities and towns. They want to lead the way in reviving their own communities. That should not be ignored.

First and foremost, this means we cannot have big businesses and outside contractors taking over the process of rebuilding. Local businesses, big and small, should get the lion's share of the work. And local people should get the lion's share of the jobs.

The businesses and residents of New Orleans should rebuild New Orleans. Bay St. Louis should rebuild Bay St. Louis. Their communities should rebuild their communities. Pass Christian should rebuild Pass Christian, and we should be there to help.

Community leaders I spoke with in New Orleans mentioned the 9/11 families and their ability to band together as a voice for change, successfully pressuring the White House and Congress

to form the independent 9/11 commission. Katrina survivors, they told me, don't need veto power over every proposal to rebuild their region, they just need a voice in the rebuilding of their own communities.

There has been much discussion of the economic despair of those who were stranded in New Orleans and other areas, because they did not have the resources to escape the storm and flood. An enormous tragedy has afflicted a forgotten segment of our society, and it shames us all that in a country as rich as ours, we were not able to provide for the safety and security of all our citizens, but allowed race and class to devastate them.

Our collective effort for rebuilding and reconstruction is an opportunity to make amends for decades of neglect, and genuinely address the needs of those most direly affected by this disaster.

Estimates of the Federal Government's investment in this rebuilding effort are now as high as \$200 billion. We must be certain that these funds go to the rebuilding of the new Gulf Coast and not to the accounts of the biggest contractors with the best political connections. The enormous job of rebuilding New Orleans and the gulf coast must be done right.

The national government can help most by seeking to develop a common plan for the redevelopment of the region. We should have a commission on which everyone has a say—mayors, governors, community leaders, business leaders, citizens, the Federal Government—everyone. There should be hearings throughout the area to listen to the people's views of the kind of future they want. We should listen to the people of New Orleans on how they wish to revive the vitality of that special city. We should involve the best flood control engineers, the best community and urban development specialists, the best city planners, the best of everything. Redevelopment should not be determined by the biggest most powerful contractors. We need to work from a shared vision for the future in which we all do our part to build the new gulf coast.

I commend President Bush for making the rebuilding of this damaged region a high priority for the Federal Government, and I believe a commission would give all of us the plan we need to get the job done right.

We must cultivate and promote public-private partnerships that are so important to successful community redevelopment. Already, many organizations are setting about the business of rebuilding in the gulf coast region. Private companies such as Starwood Hotels and Resorts in New Orleans have already set a re-opening date of November 1, and local small business owners are beginning to set up shop again. National and local philanthropic organizations such as the Baton Rouge Area Foundation are beginning to examine the long-term housing needs of

the area. National efforts such as those of ACORN are underway to organize residents who have been displaced and given them a fair voice and fair representation in the process.

All of these groups and many others are key partners in the Federal, State, and local efforts to rebuild the gulf coast communities devastated by Hurricane Katrina.

It is essential, too, for contracts for rebuilding to include training for local people to do the jobs. That means training local residents for debris removal, environmental clean-up, construction trades and other skills necessary to get the region back on its feet.

Billions of Federal dollars will be devoted to the effort. We must make sure that it is the residents of the region that benefit through jobs and training.

We must give urgent attention to the few hospitals and clinics that are still operating, but they are working with reduced staff and few resources. Many, like East Jefferson General Hospital in the New Orleans area, do not have the resources to remain open much longer without government help.

We should also give urgent attention to schools, to help that few that can reopen to do so, and to build new ones that can become the anchors for new communities.

We must also make sure that we rebuild in a thoughtful way, drawing on the many lessons that we have learned from this disaster and other efforts at community building.

We need to build water control systems that will be able to withstand giant hurricanes and floods in the future. We need to rebuild roads and sewers and power lines and whole public transportation systems. We need to restore the ecological resources of the region.

The rebuilding process should not merely involve reproducing structures and systems in the way that they existed before the hurricane and flood. The people of the region have an opportunity to create better water control systems to ensure that this does not happen again. They have a chance to improve schools and rely on technologies necessary in the new economy. They have a chance to build the gulf economy of the future—and in doing so to improve the entire Nation's economic destiny. They have a chance to build a new economy that works for everyone—with diverse housing and more job opportunities.

This new economy will of course still include a vibrant tourism industry, and there will continue to be jobs for the many service workers who call New Orleans home. A local union representative stressed to me that New Orleans can't just be a city in which only millionaires can afford to live.

I am deeply concerned that the Department of Labor in Washington has taken harmful steps that will hurt the effort to revive the region. They have said that the big outside contractors

moving into the area can pay construction workers sub-standard wages. These workers have lost everything, and they are desperate to rebuild their homes and their lives and their communities. Yet now these giant contractors can come in from outside and deny fair wages.

We are talking about \$8-, \$9- and \$10-an-hour wages. That is what the prevailing wage is for basic construction trades in Mississippi, Alabama, and Louisiana. That doesn't sound like exorbitant wages for workers who are putting in a hard day's work. It sounds like fair wages to me—rather than bringing in outside workers who are going to work for depressed wages—not even the minimum wage.

This is important.

The Department of Labor also says these big contractors don't have to reach out to minority workers. The greatest devastation is for the poor, poor white and poor black, and we want to make sure that those workers—white and black—are going to have opportunities. But the idea that they are waiving all requirements to try to include local participation does not make sense.

Yet more than 40 percent of the people of New Orleans are African-Americans. They represent a vast share of the people in the shelters who are left with nothing. How can the Labor Department say that these outside contractors can come into Louisiana and Mississippi and thumb their nose at African-American workers there?

That, too, is gravely wrong. In his speech to the Nation last Thursday, President Bush acknowledged that we must address the legacy of poverty as we rebuild. But authorizing sub-standard wages and turning our back on minority workers is not the way to meet that goal.

We have the ability in Congress to help New Orleans and the gulf coast area to rebuild themselves better than ever. All we need is the will to do it. I have talked with my colleagues from the region in their offices and I listened to them on Friday as we saw the storm-ravaged areas. Senators LANDRIEU, VITTER, LOTT, COCHRAN, SESSIONS, and SHELBY are determined to get the gulf coast back up on its feet, and I have appreciated the opportunity to discuss this with them.

I appreciate, also, the leadership that Senator ENZI has provided on this issue as chairman of the Health, Education, Labor and Pensions Committee. Under his leadership, we introduced a strong bipartisan relief measure on education that should be before the Senate very soon. And we hope to have measures to meet the health and employment needs very soon.

Senator LANDRIEU in particular has been an inspiration to us all. She was tireless in her efforts to expedite the Federal response to the hurricane and is extraordinary in her resolve to help New Orleans recover. Her strength is a comfort to her constituents—and to the Nation.

Senator FRIST, our leader, deserves praise as he returned briefly to his earlier career as Dr. FRIST. I truly admire his courageous efforts to provide medical care in the early days at the makeshift hospital at the New Orleans airport.

Friday was not a one-time visit; it was just one day, but it will be a day I will not forget. We will not simply move on to a new issue tomorrow. This wound in our Nation runs deep, and our response must be equal to the task. The hurricane destroyed communities, but it did not and could not destroy their spirit. They will rebuild, and we will help them to the very best of our ability, because in the end, we are one Nation, one people, one family. It is in this way that we can best tap the true wealth of Nation. We must get it right.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to proceed for 4 more minutes.

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

SANDY FELDMAN

Mr. KENNEDY. Mr. President, I am sad to inform the Senate of the passing of a true giant in the world of education, Sandy Feldman, who headed the American Federation of Teachers. Sandy was a fighter for schoolchildren every day of her very productive life. She was determined to make a difference, especially to the millions of disadvantaged children in our schools—and she did. She inspired some many young people to become teachers. She helped them understand that teaching was not just a job, but it was a calling.

Sandy, you leave a proud and rich legacy. You will be an inspiration to students and teachers for many years to come.

We love you, and you will be missed but never, ever forgotten.

Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

NOMINATION OF JUDGE JOHN G. ROBERTS, JR.

Mr. SPECTER. Mr. President, I have sought recognition to speak about the confirmation of Judge John G. Roberts, Jr., to be Chief Justice of the United States.

Mr. President, no vote cast by a Senator in this body is more important than a vote cast on the confirmation of a Supreme Court Justice, with the exception of a declaration of war, or a resolution authorizing the use of force.

The confirmation process for Chief Justice is obviously somewhat more important than that for Associate Jus-

tice. It is even more important in the context of Judge Roberts who is 50 years old and has the potential to serve for decades in that very key position, as the second youngest Chief Justice in the history of the country and the 17th Chief Justice in our Nation's history.

Judge Roberts comes to this position with an extraordinary academic record—3-year graduate of Harvard College *summa cum laude*, *magna cum laude* in the Harvard Law School, and an illustrious career in private practice and government service. He argued some 39 cases before the Supreme Court of the United States.

We have examined some 76,000 documents. We have looked at his participation in some 327 cases in the Court of Appeals for the District of Columbia Circuit, where he was confirmed by the Senate 2 years ago by unanimous consent. We have seen his briefs in the Solicitor General's Office, and we have heard some 31 witnesses regarding his nomination. These included a witness from the American Bar Association, which rated him unanimously well qualified, the highest recommendation possible. The remaining thirty witnesses, who were chosen equally by the Democrats and the Republicans, testified at length about Judge Roberts' career. We know a great deal about Judge Roberts.

Based on all of these proceedings, including 17 hours of testimony before the committee, it is my judgment he is well qualified to be Chief Justice of the United States. I intend to vote aye when his nomination is called before the Senate.

He has taken a position that a judge should be modest and should look for stability in the law. On a number of occasions in his testimony before the committee, he emphasized the point that judges are not politicians and that judges ought not inject their own personal views into the law.

He commented about the flexibility of the law, saying that principles such as equal protection and due process were meant to last through the ages and have a flexible quality. He said, "They [referring to the framers] were crafting a document that they intended to apply in a meaningful way down through the ages."

While he would not accept the specific language of Justice John Marshall Harlan II that the Constitution is a living thing, he did testify that the language of liberty and due process has broad meaning as applied to evolving societal conditions.

He talked very directly when questioned about the right of privacy. He said that *Griswold v. Connecticut*, which established the right of privacy, was correctly decided. That case overturned the state law prohibiting the use of contraceptives for married people. He also said the holding of *Griswold* would apply to single people as well as to married people under the *Eisenstadt* decision.

When it came to the critical question of *Roe v. Wade*, I did not ask him

whether he would affirm or reject the *Roe* doctrine. I did not do so because I believe it is inappropriate to ask a nominee how he would decide a specific case.

As chairman, it was my view that any member could ask the nominee any question that the member chose to, and the nominee would be free to respond as he chose. Beyond refraining from specifically asking whether he would affirm or overrule *Roe v. Wade*, others and I questioned him extensively about the import of *stare decisis*, the Latin term meaning "let the decision stand." He emphasized that *stare decisis* was a very important principle in the law and that even where a justice might consider *Roe* wrongly decided, it takes more to overturn a precedent than simply to conclude it was wrongly decided initially. Because—and this is Arlen Specter speaking, not Judge Roberts—where the case has stood for some 32 years and has been reaffirmed most emphatically in *Casey v. Planned Parenthood*, it has become, as some have called it, a super precedent.

I then made the point that the Supreme Court had taken up the issue so that *Roe* could have been reversed, overruled on some 38 occasions. Should it come before the Court again, perhaps the balance of the 38 cases would make super-duper precedent to uphold *Roe*.

The question remains as to how he will rule. Nobody knows that for certain.

The one rule that seems to be the most prevalent one is the one of surprise. He testified extensively about his concern for civil rights. He talked about affirmative action. He agreed with Justice O'Connor that the impact of the people in the practical everyday world was of considerable importance. I questioned him about his participation in the case of *Romer v. Evans*, where he lent some counsel to the lawyers who were arguing the case involving gay rights and he participated in support of gay rights.

His partner at Hogan and Hartson, Walter Smith, had this to say about Judge Roberts' participation in that case. Mr. Smith said that "every good lawyer knows that if there is something in his client's cause that so personally offends you morally, ligiously, or if it so offends you that you think it would undermine your ability to do your duty as a lawyer, then you shouldn't take it on, and John wouldn't have. So at a minimum he had no concerns that would rise to that level."

I then asked Judge Roberts if he agreed with Mr. Smith's analysis and if he would have refrained from helping in that situation, and he said: "I think it's right that if it had been something morally objectionable, I suppose I would have."

His support of gay rights is not an insignificant consideration in our evaluation of his views of civil rights.

Judge Roberts made quite a point of contending that he had answered more