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Senate

The Senate met at 12:01 p.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

O God our shield, we sleep and awaken refreshed because of You.

Let Your kindness shine brightly on us. Help us to remember that people of integrity produce fruit in its season. Enable us to wait for harvest time and not think that we have failed because we bear no fruit at planting time.

Today, bless the Members of this body with Your peace. Give them genuine love, true faith, and a good conscience. Place in their hearts a wisdom that will trust You even in the dark. Help them strive to please You with their labors. Strengthen them for life's inevitable storms. Bless also the many unsung champions who work with our Senators to keep America strong.

We pray in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU 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, February 14, 2005.

To the Senate:

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

appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. SUNUNU 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 majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will proceed shortly to executive session for the consideration of the nomination of Michael Chertoff to be Secretary of Homeland Security.

We have a consent agreement that will govern the debate on the nomination. During today's session, there will be up to 6 hours of debate on Michael Chertoff, and Senator COLLINS is here to manage time on behalf of the majority.

The agreement provides for additional debate between the hours of 2:15 and 4 o'clock tomorrow, with the vote on confirmation of the nomination at 4 o'clock Tuesday.

I remind all Senators that there will be no rollcall votes during today's session. We have a number of issues to address this week. Chairman ENZI and the HELP Committee have reported several bills that we are working on clearing for floor action.

In addition, the House is sending us several pieces of legislation, including the broadcast decency bill. We are talking to the appropriate committees of jurisdiction regarding the status of

that bill. The funding resolution for our committees is also scheduled for this week. Therefore, following the Chertoff nomination, there are a number of legislative items that we are hoping to clear. We will keep all Members apprised of the voting schedule as we proceed.

I want to remind all of my colleagues that on Friday of this week we will have a traditional reading of President Washington's Farewell Address. Senator RICHARD BURR is scheduled to deliver that address. I thank him in advance for his contribution to this long-standing Senate tradition.

I look forward to another good week, and I thank my colleagues for their attention.

Mr. DURBIN. Mr. President, will the leader yield for a question?

Mr. FRIST. I would be happy to yield.

Mr. DURBIN. Mr. President, I have received several inquiries about this. I have spoken to the leader about the status of the Federal transportation bill. We are now in our third year trying to come to an agreement on that bill. I ask the leader if there is any indication on his side of progress.

Mr. FRIST. Mr. President, in response through the Chair, the transportation bill is a major priority for the leadership on this side of the aisle and the leadership on the other side of the aisle. We have been in numerous discussions with the chairmen and ranking members for the responsible committees. There are five different committees involved. It remains a major priority. It is also, I might add, a major priority for the House of Representatives, which is committed to having appropriate committee action. We encourage the committees to act as soon as they practically can. Once that bill is ready, we will make sure it comes to the floor of the Senate. It is a bill which, as we all know, has strong bipartisan support.

We have passed a major transportation bill on the floor of this Senate,

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



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and it is time to look at what changes there might be, look to the budgetary objectives, and as soon as possible bring that bill to the floor.

Mr. DURBIN. Mr. President, if the Senator will further yield for a question through the Chair, I am sure the Senator is mindful that, in fact, a year ago in February we passed this bill, and we are very proud of our work product. I am sure it could have been better. We produced a very good product on a bipartisan basis, and then we failed to reach agreement with the White House and our colleagues in the House of Representatives.

My concern—which I am sure the leader shares—is that if we don't move in a similar timely fashion this year, we could enact it too late and lose another construction season which would be harmful to our economy and to the number of very good paying jobs that could be created across America with this bill.

I encourage my friend from Tennessee, and in the form of a question, I ask him if my hope is well placed that we can move quickly on this measure.

Mr. FRIST. Mr. President, the Senator's hope is well placed. I think what our colleagues just heard is a bipartisan leadership commitment to focus on this bill, to build on the past but recognizing that passing a bill in the Senate is not enough. We need to make sure we work with the House of Representatives and with the White House but taking the first step of getting it through the Senate.

The commitment is there. We will continue to encourage our chairmen and ranking members.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF MICHAEL CHERTOFF TO BE SECRETARY OF HOMELAND SECURITY

ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for the consideration of Executive Calendar No. 10, which the clerk will report.

The assistant legislative clerk read the nomination of Michael Chertoff, of New Jersey, to be Secretary of Homeland Security.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I rise in strong support of the nomination of

Judge Michael Chertoff to be the next Secretary of Homeland Security.

Based on my personal interview with him and his sworn testimony last week before the Committee on Homeland Security and Governmental Affairs, I am convinced that he has the character and the qualifications to excel in what is one of the most challenging and demanding positions in all of Government.

Let me begin my remarks today by first expressing my gratitude to the person whom Judge Chertoff seeks to replace. In the immediate aftermath of the attacks of September 11, Tom Ridge answered the call of service to his country. At a time when homeland security was little more than a concept, Tom Ridge stepped forward to begin the monumental task of making it a reality. He is a pioneer and a patriot. On behalf of all Americans, I thank Secretary Ridge and I wish him great success in his future endeavors.

Judge Chertoff now steps forward to answer this call. The strengths and experience he brings are impressive. He has devoted a significant part of his life to public service as a Federal prosecutor in New Jersey, as head of the Justice Department's Criminal Division, and now as a Federal judge. As the overwhelming vote for his judicial confirmation 2 years ago demonstrated, as well as the unanimous vote by the Homeland Security Committee, he is well respected on both sides of the aisle. Since 9/11, Judge Chertoff has established himself as the leading expert on the legal and national security issues surrounding the war on terrorism.

The debate on this nomination will take place in the context of where the Department of Homeland Security currently stands and where we want it to go.

For the context to be complete, however, it is important we also consider the environment into which the Department was born. In the immediate aftermath of the attacks on our country on September 11, America was a nation determined to defeat terrorism, but we were still feeling our way toward an effective response.

We knew from the start that protecting America from terrorism could not come at the cost of the freedoms that define us as Americans. In those perilous, uncertain days, however, the proper balance between the two seemed somewhat different than it does now in the relative comfort of today. Judge Chertoff recognizes the need for a constant reevaluation to maintain the proper balance between liberty and security. This is how he put it in a speech he gave at Rutgers Law School in 2003:

Measures that are easily accepted in the sudden response to overwhelming crisis demand somewhat greater testing in the light of experience. In the heat of the battle, the decisionmaker has to rely on foresight because he has no hindsight. We should not, therefore, judge him in hindsight. But at the same time, when hindsight does become available, we would be foolish if we did not take advantage of the lessons for the future.

As to the nature of that balance, here is what Judge Chertoff said in response to a question I posed to him during his confirmation hearing:

I believe that we cannot live in liberty without security, but we would not want to live in security without liberty.

Judge Chertoff does not just talk the talk of civil liberties; he has walked the walk. As both of my distinguished colleagues from New Jersey, Senator LAUTENBERG and Senator CORZINE, pointed out when introducing this nominee to the committee, Michael Chertoff, as counsel to that State's legislature, played a key role in investigating allegations of racial profiling in traffic stops and in crafting legislation to address this important civil liberties issue.

Nowhere is the tension between security and civil liberties more evident than in the matter of interrogating those detained in the war on terrorism. In his responses to our committee's written questions, Judge Chertoff made it absolutely clear that he believes torture is wrong, no matter where it occurs. His commitment to upholding the due process rights of those detained for immigration violations was unambiguous.

His commitment to civil liberties is clear. At the same time, there is no doubt that he is a tough-minded enforcer of the law. As a Federal prosecutor, he built his strong reputation for aggressively fighting organized crime, corruption, and fraud in both the public and private sectors. His success in those fights was helped greatly by his willingness to work closely with agencies that are now part of the Department of Homeland Security, such as Customs and the Secret Service, as well as with first responders such as State and local police.

In fact, on a recent trip to the Los Angeles area to study the security of our ports, I asked a wide variety of law enforcement officials what they thought of the nomination of Judge Chertoff. To a person, they enthusiastically endorsed his nomination. They felt his law enforcement background was precisely what the Department needs at this stage of this development.

I also point out, as head of the criminal division at the Department of Justice in the aftermath of September 11, Michael Chertoff underwent a true trial by fire, managing a critical organization during a time of great stress. He knows what is needed to fight the war on terrorism, the importance of strategic planning, and the need to constantly improve information sharing and cooperation among agencies at all levels of Government. Our Nation will benefit greatly from these attributes and from the experiences he has had.

The broad philosophy Judge Chertoff brings to this position is impressive, but so is his understanding of the myriad nuts-and-bolts issues that comprise Homeland Security. I was so impressed, when I questioned him in the first