

[Rollcall Vote No. 76 Ex.]

YEAS — 88

| | | |
|-----------|-----------|-------------|
| Akaka | Dodd | McConnell |
| Alexander | Dole | Menendez |
| Allard | Domenici | Murray |
| Allen | Dorgan | Nelson (NE) |
| Baucus | Durbin | Obama |
| Bayh | Ensign | Pryor |
| Bennett | Enzi | Reed |
| Bingaman | Feingold | Reid |
| Bond | Feinstein | Roberts |
| Boxer | Frist | Salazar |
| Brownback | Graham | Santorum |
| Bunning | Grassley | Sarbanes |
| Burns | Gregg | Schumer |
| Burr | Hagel | Sessions |
| Cantwell | Harkin | Shelby |
| Carper | Hutchison | Smith |
| Chafee | Isakson | Snowe |
| Chambliss | Jeffords | Specter |
| Clinton | Johnson | Stabenow |
| Coburn | Kennedy | Kohl |
| Cochran | Kohl | Stevens |
| Coleman | Kyl | Sununu |
| Collins | Leahy | Talent |
| Conrad | Levin | Thomas |
| Cornyn | Lieberman | Thune |
| Craig | Lincoln | Vitter |
| Crapo | Lott | Voinovich |
| Dayton | Lugar | Warner |
| DeMint | Martinez | Wyden |
| DeWine | McCain | |

NOT VOTING — 12

| | | |
|--------|------------|-------------|
| Biden | Inouye | Mikulski |
| Byrd | Kerry | Murkowski |
| Hatch | Landrieu | Nelson (FL) |
| Inhofe | Lautenberg | Rockefeller |

The nomination was confirmed.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

IMMIGRATION REFORM

Mr. SPECTER. Mr. President, the Judiciary Committee has just concluded a markup on the immigration bill. For those who may be watching on C-SPAN2, a markup means we take a bill, which was the chairman's mark in this situation, a bill which my staff and I have constructed, taking parts of legislation introduced by Senator MCCAIN and Senator KENNEDY and legislation introduced by Senator KYL and Senator CORNYN, and amalgamated it into one bill with some other provisions which had been suggested by other Senators.

We had hearings on the issue. As is customary, we heard both from the administration and from outside witnesses. We had a series of markups.

Then, today, in an unusual Monday session, we convened at 10 o'clock this morning, and had a working quorum present by 10:10. We concluded right at 6 p.m. this afternoon and reported the bill out.

It is a very emotional issue. It is a very contentious issue. The President called for a civil debate, and we reached that objective. We had a very civil debate. It is expected that there will be considerable controversy when the bill reaches the Senate floor. That is to be expected on a matter as charged and as controversial as is this bill. It is my expectation that the Senate will work its will and will enact legislation. Then, under our bicameral system, we will go to work with the House of Representatives, which has a substantially different approach, having passed a bill that is an enforcement bill. Our legislation is comprehensive, including a temporary guest worker program and an approach to deal with the approximately 11 million undocumented workers in the United States.

On the subject of the 11 million undocumented workers, it had been my hope that we would have been able to reach an accommodation between McCain-Kennedy and Kyl-Cornyn.

Last week, and on Saturday and Sunday, the staff was here working full time, late every night. I was in town all of last week, Monday through Thursday, until Friday morning, trying to come up with an accommodation which would deal with the elements of Kyl-Cornyn.

There is obvious concern that we not produce a bill which would be justifiably categorized as amnesty, and I believe we have a bill which is not justifiably categorized as amnesty. We have a provision that people who were among the undocumented aliens will have to pay a fine, will have a criminal background check, will have to be at work for 6 years, and will have to earn their path to citizenship.

The option of having the undocumented aliens return home is a very difficult decision. There is no doubt they have violated the law of the United States by coming in without complying with our immigration procedures. They have come in because there has been a demand for the workers, because people have wanted to give them work. The employers have given them work. But to expect them to come forward and to identify themselves if they know they are going to be sent home is unrealistic.

It is obviously highly undesirable to create a fugitive class in America. We do not want 11 million fugitives, which is what we have at the present time. It could be possible to make arrests and to have deportation orders. But it is unrealistic to say we are going to find the 11 million, and that we are going to have facilities to detain them. If you detain somebody, you have to have a detention facility. You have to have beds. You have to be able to house them until deportation proceedings are

concluded, and that takes some time. The approach we have undertaken is to try to have them come forward, and have them come forward in a context where we are not rewarding their illegal conduct.

There are people who have waited outside the country for lawful admittance; in some countries, people have been waiting since 1983. Under the provisions of the bill which we passed out of the committee, the 11 million undocumented workers go to the back of the line. They will have to pay a fine, they will have to undergo a criminal background check, they will have to earn their way by working, and if they are out of work, they are subject to arrest and deportation at that point.

We are open to suggestions, as to any Senators who have ideas. We are not in concrete. If somebody has better ideas, there will be full opportunity to offer amendments on the Senate floor.

Title III, which relates to worksite enforcement, requires Social Security number identification, which we did not report out because that is a matter under the jurisdiction of the Finance Committee, and the Finance Committee rules require any amendments to those laws to be signed by 11 members of the committee, a majority of the committee.

Senator GRASSLEY gave us a report on the status in the Finance Committee. They did not have their work finished, so the Judiciary Committee could not take it up. There is a jurisdictional issue with the Finance Committee asserting jurisdiction and perhaps preferring to offer their amendments on the floor.

We did not take up title VII, which is judicial reform, because there is considerable controversy about the chairman's mark on those provisions.

We have included a modification in appeals to the federal circuit courts after the immigration judge has ruled, after the Board of Immigration Appeals has ruled. We have consolidated those actions in the Federal Circuit. We have heard from a number of judicial officials. We heard from the chief judge of the Federal Circuit that with increased resources, the court can handle the additional cases. But with regard to the changes we proposed in trying to provide more independence for immigration judges and in increasing the number of judges on the Board of Immigration Appeals so there are enough judges to write opinions, to try to cut down on the backlog and the number of appeals to the circuit courts, we ought to find out more.

We are noticing a hearing for next Monday morning where we will have an opportunity to hear from the judges, who have already written us: the chief judge of the Second Circuit, and a judge from the Seventh Circuit. We will hear from the chief judge of the Federal Circuit, and consider further the viewpoints of the Department of Justice and others on the issue of the independence of the immigration

judges on the Board of Immigration Appeals.

We have operated with the knowledge that the majority leader filed a bill under rule XIV and announced that would be the bill which would be taken up if the Judiciary Committee did not report out a bill. I think we have produced a bill which is the product of serious debate. I would have preferred more time, but as reported in the press today, we are operating under considerable pressure and we responded in a major way. Senators who had amendments to offer were heard and heard fully. There was an obvious effort to make the discussion as focused and as brief as possible. But every Senator who wanted recognition was recognized. Senators were permitted to speak, which is their right under committee procedure, until they had concluded. I think it is a major bill. The full Senate will have the opportunity to work its will.

I would talk longer, but the majority leader has scheduled another meeting at 6:30—a few minutes from now—to take up a number of provisions of the bill. My attendance is required there, so I shall conclude.

In the absence of any Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. We are in morning business.

The Senator from Kansas is recognized.

Mr. BROWNBACK. Mr. President, I want to follow the chairman of the Judiciary Committee and make brief comments about the immigration bill that came out of our committee with a strong, bipartisan vote.

It is a big issue. It is a tough issue. It is a tough issue that is confronting America. I believe that is what this body should be about—dealing with big, tough issues confronting America. That is what the committee came through and did.

The bill that came out of the committee today is not the final product. I think it needs substantial adjustment. Hopefully, during the 2-week period we are going to be discussing this bill on the floor, we will have a lot of discussion and we will get a final product that we can agree on that strengthens the immigration system.

Currently, our system is not working. It has not worked for some period of time. It has not worked for the country. It has not worked for the people wanting to come into the country. It needs to be changed. There is no question about it.

One specific item I wish to talk about is the need for comprehensive reform. The reason we need it is because of our past experience, when we have had just pieces of comprehensive reform.

A quick bit of history: In 1986, we had 3 million undocumented individuals in the United States, and Ronald Reagan put forward an amnesty program. In 1996—we seem to do this in 10-year increments—people were upset we had 7 million undocumented immigrants in the United States—3 million in 1986; 7 million in 1996—and we put forward an enforcement program and passed it into law and toughened up enforcement because that was seen as the need and the answer.

So we had an amnesty program in 1986, without enforcement; we had an enforcement program in 1996, without some sort of legalized system for people to get into the country. We had 3 million undocumented; we had 7 million undocumented. We are at 2006, and we have 11 million undocumented, and people are saying what we need is tougher enforcement. We did do that in 1996, and we increased the number of those undocumented whom we have in the country.

Now we have to increase enforcement. I think we have to do more than just border enforcement, though. We have to do interior enforcement and integrating our tax system and Social Security system along with the immigration system so we can catch people at the workplace, we can catch people in a place where they will be interior in the country and strengthen our enforcement that way. We have to get that done. So we have to strengthen enforcement.

But, at the same time, you have to have some way to bring people into a legalized system. President Bush has talked about a guest worker program. Others have talked about a circular program where you can come in, work for a period of time, and leave. Others have talked about a system where you can earn your citizenship by working here. That is what was basically passed in the committee bill, with much tougher enforcement and a way of being able to get the 11 million into a system where they can get into a legalized status and out of the shadows. That is what we want to take place.

We also have in the bill more interior enforcement. We have provisions that have yet to be worked out on Social Security and immigration enforcement that are being talked about with the chairman of the Finance Committee.

My reason for outlining that is that this is a big step we have taken today out of the Judiciary Committee. I serve on that committee. But it is not the final step. The President needs to engage in these discussions and negotiations, hopefully, as well as the House leadership, as we debate on the Senate floor one of the biggest issues facing this country today and its future. And make no mistake about it, this will affect the future makeup of the United States. It is a major issue.

I think it is one we can be proud of, that this is a nation of immigrants. We can be humbled by all of our humble beginnings that each of us came from and have grown in this country. Once given freedom and liberty, people can do amazing things. We have seen that time and again, the story of people who have come to the United States.

The final point I want to make is a philosophical one. One of the key measures in any society is what you do for the so-called least of these. It is what you do for those who are not in the Chair presiding in the Senate, even with the humble roots that he came from, or other individuals, it is what you do for the least of these, what you do for the huddled masses. That really is a key hallmark and a key measure for society. Those huddled masses that we enshrined in the Statue of Liberty are a key indicator of what we have stood for so much in the past.

Categories of people who are in the least of these status generally are referred to as widows and orphans and the foreigner amongst you. They are considered the least of these. People who have difficulty with status, difficulty having laws applied to them, have difficulty accessing the system are considered the least of these.

And what do we do. Today we took a step in dealing with the 11 million population, we believe, of undocumented in this country, trying to deal with them as beautiful, unique individuals. And then we have to, as well, deal with these as a nation of laws. We have to be a nation of laws. We can't just say: Well, the winds are this way or that way, and we have decided we are going to do this. We have to be a nation of laws. We have to get to a system that we can have people believe in and say this is a system of laws that will work, and yet still deal with our aspiration as a society to deal with people in difficult circumstances, the so-called least of these.

I think we have struck that balance today as a start. We have a long way to go to finish. We are heading toward the higher aspirations of what this country is about. It will be a very difficult and visceral debate, as people's passions are strong. It does amaze me that passions frequently change from the macro to the micro on an immigration debate. In a macro debate, people say: We need to be a nation of laws. On a micro basis, if it is their neighbor next door that is working and doing construction work, they say: Look, leave him alone. But on a macro basis, I want to deal with this on a tough situation. I have seen that so much, of individuals who will say on a macro basis: We need to have a tough set of laws, but don't pick on this individual I know personally and I really care for. They should have a chance to experience the American dream.

We are off to a good start of having a wholesome, full debate that is dignified, that is important, that deals with the highest aspirations of this

country and yet maintains and tries to get us back through the immigration system into a nation of laws and not situations where they are just thrown to the side.

Our current system is such, with the complexity and the time waits in it that a person may come here legally but their spouse can't be here legally for 7 to 10 years. So frequently the spouses decide, let's get there any way we can. Or you will find an agricultural worker in a system saying that it is just so complicated that we are going to go around the system to the point that half to three-fourths of our agricultural workers, foreign-born agricultural workers, are undocumented illegals. Yet without them you don't run the agricultural system. You could say that is a bad place to be in, and it is. But I think it also tells us the path to change that we have to get to be able to make a legal system that does work and that can get most people into it. We need to do so to be compassionate and a nation of laws.

It will be a tremendous debate. It is an important one for the country. It is an important one for the Republican Party, for us to have a good, full debate about this topic and how we move forward with it. I think we are going to have it, and it is going to be one of the most dignified and important moments in debates for this Senate during this term of Congress.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

TRIBUTE TO ERMA ORA BYRD

Mr. REID. Mr. President, I want the record to reflect that my dear friend, Senator JAY ROCKEFELLER, is unable to be on the floor tonight because of a medical condition. It is nothing that won't be resolved quickly, but he is unable to be here today. He asked me to read, verbatim, a statement he would give if he were here tonight.

Mr. President, this is a floor statement on the passing of Erma Ora Byrd, read by HARRY REID, as written by JAY ROCKEFELLER:

My dear friend and revered colleague of more than two decades has suffered a grievous loss, and I ask my colleagues to join Sharon and me in mourning the passage of Erma Ora Byrd, the wife and soul mate of West Virginia Senator, Robert C. Byrd.

Before Robert Byrd was a Senator, before he was an attorney, before the West Virginia Legislature named him the West Virginian of the 20th Century, Erma recognized something extraordinary in this son of the Winding Gulf coalfields. What we see today, she saw then in the gas station attendant and welder and butcher's apprentice who became her husband. Those of us who had the privi-

lege of knowing Erma, also know that this was hardly the last time her vision proved extraordinary. Throughout her life, her intelligence and common sense made her a close partner to one of America's most influential men. As Senator Byrd once said: "She is not only my wife, but also my best counselor."

Yet, as sharp as Erma was in finding her husband, Senator Byrd was equally astute. Not only was Erma a wise counselor, but she was also a constant source of support. A proud coal miner's daughter from Stotesbury, WV, she gave unhesitatingly and without reserve. She was the support system that got him from Capitol Hill to law school at the end of a hard day, and to the many meetings and appearances his job required. Always the model of grace and dignity, she was an extraordinary mother, grandmother and great-grandmother. She made Robert C. Byrd a better father, a better Senator, and a better man. In many ways, Erma Byrd was the quintessential West Virginia woman, teaching her family to work hard and care deeply, all the while giving unceasingly to those around her.

Their marriage was not some practical partnership—it was a love-match. After nearly 69 years of marriage, Senator Byrd still radiated, in the words of John Cheever, the deep and indisguisable joy of someone who has just fallen in love. Together, they shared the triumphs and setbacks of political life, always celebrating not elective office but the opportunity to help people in their home State, for which they cared so deeply.

Together, they knew tragedy as well, with the devastating and untimely death of a beloved grandson. For a time, Senator Byrd even gave up playing his fiddle as the music became too much to bear. But they found solace in each other, in family, and in their truly extraordinary faith in God.

During one of my last visits with Erma, I was sitting on my couch being charmed, as everyone always was, by her warmth and wit as we talked about everything in the world except the United States Senate. She was a welcome reminder that life existed outside our work and that delight was best discovered in mountain flowers and close family and old friends.

Just a few weeks ago at my home, Senator Byrd spoke lovingly and movingly about what we now know to be Erma's final days. Even as Erma's mind and body failed her, he felt profoundly that their hearts are forever linked and their souls will recognize each other always. You could see that as she suffered, he suffered, as she endured, he endured.

All the while Senator Byrd maintained a daunting Senate schedule, as she had wanted him to do, and every evening he returned home to his one true love.

As Erma's hardship is over now and she is in the loving arms of the Lord, Senator Byrd will have the complete support of West Virginia and his Senate family as he bears the new hardship of this loss, but with the added grace of Mrs. Byrd watching over him.

The circle has been broken. But we take strength from the sure knowledge that, in years to come, a better home awaits all of us, and for Senator Byrd his life will be complete again.

Mr. President, that ends the statement of JAY ROCKEFELLER.

Speaking for myself as the Democratic leader and as someone who has learned so much about the Senate from ROBERT C. BYRD, I recognize that at 7:20 p.m. on this past Saturday night, Erma Byrd, the wife of our own Senator ROBERT BYRD, passed away. Mrs.

Byrd had been struggling with illness for quite some time. But after years of pain and discomfort, she has found peace.

On behalf of the Senate, I offer our condolences to this good man, Senator BYRD, his daughters Mona and Marjorie, and to his dozens of grandchildren and great-grandchildren. It is our prayer that they, too, find peace and comfort during these difficult days.

This is a sad time for the Senate family. Erma's passing is a loss for all of us. She was a special person and will be missed. She touched the lives of everyone she met. She touched my life. My colleague from West Virginia, Senator ROCKEFELLER, had the privilege of knowing Erma better than most, and that has been certainly addressed in the statement I read for Senator ROCKEFELLER.

As I indicated, he is not able to be here today because he is recovering from back surgery, but he asked that I read this tribute to Erma, which I was so happy to do.

We are recognizing the loss of Erma Byrd, and in so doing, we have to mention the greatness of Senator BYRD, running for his ninth term for the Senate—ninth term. It has never happened before. I marvel at what I have learned from Senator BYRD. I can remember as though it were yesterday when he decided he was no longer going to be the Democratic leader. Senator Dole wanted to do a luncheon in recognition of Senator BYRD over in the Russell Building. It was a wonderful occasion. We learned about Senator BYRD more than we had known. We thought we knew him well. But he told us that day that we would learn some things we didn't know, and we did.

What a marvelous man. He could leave his home in Virginia for his home in West Virginia and back, 4 hours one way, 4 hours back, recite poetry over and back and never recite the same poem twice. He is a man with a mind that I have never seen before. He is an expert in Shakespeare. This man is so brilliant that he gave lectures here dealing with the line-item veto where he based his 10 lectures on the rise and fall of the Roman Empire. He could recite from memory every ruler that Rome had. His lectures were so dynamic that at the University of Nevada-Las Vegas, a professor taught classes to his graduate students based only on Senator BYRD's lectures.

I can remember going to a parliamentary exchange in West Virginia where we exchanged with British Parliamentarians. Senator BYRD stood and recited from memory the reign of the British monarchs, their names, how they spelled their names, the years they were in power, and what they had done. Unbelievable.

The reason I mention this is that Senator BYRD did not get there alone. He was supported—and that is an understatement—by Mrs. Byrd. His greatness suggests her greatness. I had the