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Senate

The Senate met at 2 p.m. and was called to order by the Honorable JIM WEBB, a Senator from the State of Virginia.

PRAYER

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

Let us pray.

Lord God Almighty, maker of Heaven and Earth, thank You for not leaving us solely to our own resources. You have provided us with the witness of nature and the testimony of sacred scriptures to lead us toward certainty. You protect us from dangers and empower us to run and not grow weary.

Strengthen our lawmakers for today's work. Lead them through these confused and troubled times to the road that fulfills Your plans. Bless them with productivity and progress for Your glory. Lord, help them learn how to better serve You by serving others. Fill this Chamber with Your presence and our Senators with supernatural power to discern and do Your will. Enable them to live out their lives in the spirit of unselfish service.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM WEBB 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. BYRD).

The assistant clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 22, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM WEBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, today following the remarks of the two leaders, the Senate will conduct a period of morning business for 1 hour. The time in morning business will be equally divided and controlled between the leaders or their designees. The Senate will then resume the Labor appropriations bill.

ORDER OF PROCEDURE

I ask unanimous consent that after the morning business time has expired, whatever time Senator MCCONNELL and I may use will not be deemed to go against the morning business for other Senators.

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

Mr. REID. Mr. President, last Friday there was a 1 p.m. filing deadline for first-degree amendments to the bill. Today we should have a good idea of which amendments will be offered and will require rollcall votes. The Senate will vote today at 5:30 and there could be more than one rollcall vote. We will complete action on this bill tomorrow morning, so Members should be pre-

pared to cast a number of votes prior to the Senate recessing for the caucus luncheons on Tuesday.

I have had my staff check with the managers of the bill and their staffs, and there could be anywhere from one to five votes tonight. It is up to the managers of this bill. Senators will be advised of that at some subsequent time.

I note 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.

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

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

CHILDREN'S HEALTH CARE AND FISA

Mr. REID. Mr. President, I am so pleased the Presiding Officer is the junior Senator from the State of Virginia. I don't believe there is a Senator during these last 9 months who has added more structure to the Iraq debate than the Senator from Virginia. I say that because today I received a call from the Director of the Office of Management and Budget, Mr. Nussle, who said: I am going to send you the rest of the supplemental appropriations bill for the war in Iraq. I said: Thank you very much.

We are now being asked to appropriate another \$200 billion for 2008 for the war in Iraq. Another \$200 billion. That is \$200 billion on top of the \$450 billion in the Defense appropriations bill. That is \$650 billion—none of it paid for. The entire war in Iraq has been paid for with borrowed money. We are borrowing money from China, India, Saudi Arabia, Japan, and Mexico to finance this war.

When we sent a bipartisan—and I mean bipartisan—children's health

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



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care bill to the President, it was paid for. It was bipartisan. We had some of the most conservative Members of the Senate supporting the Children's Health Initiative. Senator GRASSLEY from Iowa, Senator HATCH from Utah were the leaders, two of the leaders in moving this forward, a bill to provide health care for kids.

It was so important when this bill passed 10 years ago on a bipartisan basis, children's health. Why did it pass? Because we found there were children who did not qualify for Medicaid. The poorest of the poor get Medicaid. We found there were a number of children whose parents didn't make much money—100 percent of poverty, 200 percent of poverty. Therefore, we passed a bill for these children who had fallen through the cracks so they would be able to have some health insurance. Did it cover all children? No. But it covered a lot of the children who needed help. By the time 10 years had gone by, 6½ million children were covered.

This bipartisan, bicameral piece of legislation that passed here would provide for another 4.4 million children, for a total of 10 million children who would qualify for this program. Ninety-two percent of the children were on this program when the President vetoed it. Ninety-two percent of them were 200 percent above poverty. How much is that? It is debatable how much it is but about \$35,000. How would parents with two children pay for health insurance? The average cost of health insurance for a family of 4 is \$1,500 a month, \$18,000 a year for health insurance for their children. When they only make \$35,000 a year, half of their income would go for health insurance. There would be no money left for groceries. Also, they have to pay taxes, fuel costs, a place to live. So this is the group of people whom Congress decided to help.

What did the President and his people do? They came back and said it is a socialized medicine program. I don't know what that was supposed to mean, because the program is private insurance. The States issue the amount of money they have to health insurance companies, and the kids who are covered are privately insured there. The President is so far off base. He and his people also said one of the Congressmen from Nevada agreed with the President, and he couldn't support this because it helped illegal aliens. That is factually baseless, meaning not 1 percent of that statement is correct. In fact, in the legislation that was vetoed by the President, a child who is an immigrant would have to have been legally in the United States for 5 years before they qualified. Therefore, the program would not even cover legal immigrants, unless they have been here 5 years. It was totally paid for, unlike the Iraq war. It was all paid for.

Because of the President's hard-heartedness, in the State of Nevada, far more than 100,000 will be eliminated from the program.

The first elected job I had in the State of Nevada was for a county hospital, an indigent hospital, frankly. One of the problems we had was children who were uninsured. It is still that way. It is still that way. This is a program that would allow children who are sick or injured to go to a hospital—that hospital, the one where I was, now the University Medical Center—and the children's bills would be paid for by an insurance company. If not, those children who have no insurance come to the facility, and who pays for that? You do. I do. Everybody in this room pays for it, because their health insurance costs more money because of indigent care. Taxes are raised to take care of indigents' health care. Insurance premiums are raised to take care of all this. It affects us all. It is a very poor quality of care.

The President had the audacity to say not long ago that everybody has insurance, in effect. They can go to an emergency room if they are sick. The most inadequate care is administered in emergency rooms because it is not set up to be the family physician.

Every dime of the money for the Children's Health Initiative was paid for. It is no wonder the American people are frustrated. We have been fighting for America's priorities while the President continues investing only in his failed war strategy, and he wants us to come up with another \$200 billion and sign off on it. That is what he said today. He gave his press statement today and he said: Those people who won't sign off on this bill immediately are not for the troops in Iraq. Isn't this getting to be a little old? Pretty soon we will be approaching the sixth year of this.

This war is costing the American people three-quarters of a trillion dollars, money borrowed from other countries. This is so even as his own Pentagon leadership is now on record saying our ground forces are stretched dangerously thin because of the current Iraq strategy. GEN Casey told Congress very recently:

The Army is out of balance and the current demand for our forces exceeds the sustainable supply. We are consumed with meeting the demands of the current fight and are unable to provide ready forces as rapidly as necessary for other potential contingencies.

This is the man who is in charge of the Army, the Secretary of the Army. He takes care of the Army. He is the commander of the Army. I don't remember the title; I have lost it momentarily. But he is the guy in charge. He certainly should know. The Iraq war is leaving us less secure and unprepared to fight an effective war on terror and spawning the unexpected. And the unexpected can come at any time. That is the world in which we live. President Bush should not expect Congress to rubberstamp this latest supplemental request. We will not do that, Mr. President.

In the coming weeks, we will hold it up to the light of day and fight for the

redeployment and change in strategy that is long overdue.

I wish to comment on FISA, which has gotten so much attention. We will continue to stand up for the American people. We will continue to do the best we can to revise and improve the FISA bill. It is important that we do that. The Foreign Intelligence Surveillance Act is so important. It has been good for this country for many decades. We need to update that. We all agree it is important to improve the temporary surveillance law the President signed in August by enacting new legislation that provides strong intelligence tools to fight terrorism while protecting the privacy of law-abiding citizens. There is no contradiction between security and liberty. We can fight terrorism without compromising liberty and the values embedded in our Constitution.

Last Thursday, Senator ROCKEFELLER and the Intelligence Committee, on a bipartisan basis with Senator BOND, took a step toward improving the flawed surveillance law the President signed in August. I appreciate the hard work of Chairman ROCKEFELLER and Vice Chairman BOND and the members of the committee in seeking to address the complex issues that are at stake.

In the coming days, other Senators will examine in great detail the work of the Intelligence Committee. I am sure other Senators will weigh in with ideas for defining and improving the legislative efforts, so that all Americans can have high confidence in the effectiveness and constitutionality of our intelligence tools. In particular, the Senate Judiciary Committee has shared jurisdiction over the FISA law and is going to mark up the Intelligence Committee bill. The Judiciary Committee has an important role to make sure the final product protects the constitutionally and the legally sound basis that the Intelligence Committee sought.

Mr. President, I believe the administration has chosen again to stonewall Congress from finding the information and documents needed for Congress to properly consider this legislation. Remember, the Intelligence Committee said we are not going to deal with immunity until we look at those documents. They were able to look at the documents with nothing preconceived. They had the opportunity to look at those with no—I have talked to Senator ROCKEFELLER, and there was no agreement between the administration and the Intelligence Committee as to what would happen if they looked at those documents.

Here is why I am so disturbed. The White House said, on October 19, through their advocate, Dana Perino—the question was asked:

I'm wondering if, in general terms, you can describe those documents and perhaps lay out who else in Congress he may allow to see them?

"He" meaning the President.

Here is what she said:

The Senate Intelligence Committee . . . had showed a willingness to want to include in their legislation retroactive liability protection for companies that were alleged to have helped the United States in the days after 9/11. Because they were willing to do that, we were willing to show them some of the documents they asked to see.

Mr. President, JAY ROCKEFELLER told me within the past hour that there was no preconceived agreement at all. They wanted to see the document to find out what they should do legislatively.

She says:

But to the extent of anyone else being able to see the documents, I think we will wait and see who else is willing to include that provision in the bill.

I want the record to be very clear that the Judiciary Committee should be able to see those documents. How else can they make a judgment as to what they should do legislatively? They should not have to make some deal with the White House that "we will let you look at these, but we will write the legislation for you." That is wrong. I think it is very clear that the House committees of jurisdiction should also see those documents. It is absolutely wrong for the White House to say, I repeat, that they will let you look at these, but only if you will agree to sign this legislation or you give your approval of the legislation.

We can't do that.

On Friday, the White House Press Secretary said the key documents would be held out to the congressional committees as a prize for anyone willing to commit to a specific legislative path. That is an insult to the American people and to Congress.

I repeat in the most emphatic terms that the administration must turn over these documents to the Senate Judiciary Committee and to the relevant House committees to do their business as they must, and they must do so immediately.

We believe this administration should move forward quickly. I would like to do it before Thanksgiving. Why do I want to do that? This legislation which came out of the Intelligence Committee is good. It strengthens our national security. It provides the Intelligence Committee the tools it needs to go after foreign terrorists and other threats to the American security.

Does this mean the Judiciary Committee cannot improve the legislation? I am confident that perhaps they can. Is the Intelligence Committee's work the know-all and do-all? No. That is why we had joint referral. But it is a good piece of legislation. It gives better protection for America and increases the role of the Foreign Intelligence Surveillance Court. Two, it requires court approval to target U.S. persons overseas. Three, it explicitly prohibits targeting any person reasonably believed to be in the United States. Four, it eliminates ambiguous language on warrantless domestic searches. Five, it states the exclusive means by which electronic surveillance and interception of domestic communications may be conducted.

Also, just as important, other than those five points, it increases oversight and accountability by expanding the requirements in the semiannual report submitted to the congressional Intelligence and Judiciary Committees on intelligence collecting that is authorized by the act. It also requires the head of elements of the Intelligence Committee acting under their authority to conduct yearly audits of intelligence collection. Third, it requires the inspectors general of the Department of Justice and the Intelligence Committee to review the use of the new authority with respect to references to U.S. persons' identities and communications. And it grants limited immunity from potential liability to any telecommunications company that may have assisted the Government in the aftermath of September 11. That is why it is so vitally important that the Judiciary Committee and the respective House committees see what the Intelligence Committee saw without any preconceived arrangements by the White House. Five, it sets forth the procedures so that the Federal courts can review an attorney general certification to determine whether the electronic communication service provider acted within specific orders and in accordance with the certification as directly prescribed by statute. Finally, it sets a 6-year sunset to allow Congress to evaluate the new authority to be carried out, should any of this be changed. That is why we have joint referral, to have the Judiciary Committee take a look at this.

The Intelligence Committee has worked hard to come up with what should be the final legislation that comes to the floor. Finally, the House passes legislation, and we work it out in conference.

We want to move forward. It is important to do that. We acknowledge that. I think it is so wrong that the White House is saying: You can do this but only as we tell you how it can be written; otherwise, we are not going to show you the documents

That is defenseless on the part of the White House.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees.

Mr. REID. 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.

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

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

Mr. LEAHY. Mr. President, I ask unanimous consent that I be able to speak for 6 minutes.

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

TRIBUTE TO THE HONORABLE JAMES L. OAKES

Mr. LEAHY. Mr. President, last week, I had a long talk with Mara Williams, the wife of former U.S. Court of Appeals Judge James Oakes. Jim, who had served as Vermont's attorney general, as our Federal district judge, and with distinction as chief judge of the Second Circuit, had died the previous weekend at the age of 83.

Mara told me how the family had been with Jim a few days before he died, and we then talked about the legacy he left.

I spoke of knowing Jim for 40 years, and how I, and my family of lifelong Democrats, had voted for him for attorney general and had hoped he might be our Governor. As it turned out, the country was far better off having him on the Second Circuit Court of Appeals, and would have been even better off had he been elevated to the Supreme Court, a position he would have held with great distinction.

We all knew of Jim's legal mind and great ability, his dedication to public service, his wonderful sense of humor, and his love for his family, but I knew him especially as a man with a great and good conscience.

Jim Oakes epitomized the role of judge as the protector of our fundamental rights. A decade ago he noted that he was a person who "still believe[d] that a federal judge can make a difference and—in cases of extreme necessity where basic rights are being infringed—should make a difference when the rest of our political structure bogs down." This appreciation for the role of judicial independence is something we must admire and remember.

We worked together when he was attorney general and I was State's attorney, and I particularly remember one very difficult and tragic murder case where we were able to forge an unprecedented use of a grand jury to bring about justice when it looked like that would not have been possible. We talked about that as recently as a couple of years ago, but then, with Jim, we could pick up a conversation from where we had left off 6 months before where we had last seen each other.

Fran Lynggaard Hansen quoted his eldest daughter, Cynthia Meketa, as saying:

He had a very high intellect, but he was never a snob. He had ups and downs in his