



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, WEDNESDAY, DECEMBER 5, 2007

No. 185

Senate

The Senate met at 12 noon and was called to order by the Honorable BOB CASEY, Jr., a Senator from the State of Pennsylvania.

PRAYER

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

Let us pray.

Loving Lord, give our Senators an extraordinary measure of grace to accomplish Your will. As they work under the duress of time and pressure from diverse interests, give them wisdom to make ethical decisions. Be with their staff members who run the offices and provide the information to make responsible decisions. Be with those who process the mountains of business in and out of the cloakrooms. Be, also, with those who transcribe the debates for the CONGRESSIONAL RECORD.

Lord, bless those who monitor parliamentary order, schedule, and voting records. Protect the men and women who provide security at the doors, on the floor, and on the street. Strengthen all who are a part of the Senate's support system.

We ask this in the name of He who is the light of the world. Amen.

PLEDGE OF ALLEGIANCE

The Presiding Officer 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 read a communication to the Senate.

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, December 5, 2007.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, JR., a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CASEY 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 there will be a period of morning business for an hour. As normally provided, the time is equally divided and controlled with the majority controlling the first half, Republicans controlling the final portion. When that time is up, we will have to see what we can do.

OBSTRUCTIONISM

Mr. REID. Mr. President, those who watch C-SPAN and people who are watching us in other ways are many times well versed in Senate procedure. People would note today that we didn't come into session until 12 noon. With all the many things we have to do, why are we taking the morning off, so to speak? We have so much work to do. But yet most people's work day is half completed and we are just starting.

The reason is we have another example of obstructionism. The reason we had to come in late today is because we have an extremely important piece of legislation that is being marked up in a committee. The Environment and Public Works Committee has been scheduled to begin to mark up a crucial

piece of legislation today, a bill that will take a major step forward in the fight against global warming. If there were ever an occasion when we had to unite as a country and as a world community to fight, it would be against the scourge of global warming which is taking place everywhere. You can't listen to the news without hearing about something global warming has affected. Yesterday on public radio there was a wonderful piece about Finland, how the glaciers are melting in Finland.

Under Senate rules, any Member has the power to object to a committee meeting after the first 2 hours after the Senate is in session. That is why we had to start the Senate late today, so that committee could go forward with its markup so they can hopefully report a bill to the floor by 2 o'clock this afternoon. Had we started at 9, they would have had to stop at 11 because we were told that Republicans would object to the hearing going forward.

Mr. MCCONNELL. Would the majority leader yield?

Mr. REID. I will be happy to yield.

Mr. MCCONNELL. There were no objections on this side. I think maybe the leader was anticipating an objection that did in fact not exist.

Mr. REID. That could be the case, Mr. President. We started at noon today because under the rules anyone can stop us from holding a hearing beyond that time and we were told that was what was going to happen and that is why we did this. It is very easy for people to say we didn't do it. Of course they didn't do it, but had the meeting started at 10 o'clock, they would have done it. We were told that is what they were going to do. It is easy now to come here after the fact and say we wouldn't have done that.

We can see from what is taking place in the committee, about the amendments being offered to try to stop this

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



Printed on recycled paper.

S14749

bill from coming forward. The committee that is meeting has one Republican who is joining with us, JOHN WARNER from Virginia. Every other member of that committee, unless there is some sudden light one of them sees, is going to vote against that bill and they indicated they would do everything they could to stop the markup from being completed today.

I am very happy that now the Republicans are saying we would not have done that. The only way we can protect ourselves, after having been given a direct warning that was what was going to take place, was start the Senate late.

If this were the only case of the Republicans doing everything they could to slow us down, then maybe it would be something that would need to be looked at very closely. But this doesn't have to be looked at very closely. It is everything that we have tried to do since we took the majority, and a slim majority it is. As we all know, about a year ago Senator JOHNSON was stricken with a bleed in the brain. He almost died. So our majority on that day went from 51 to 50—50 to 49 was our majority, and we have struggled with that until Senator JOHNSON was able to return a couple of months ago.

During this period of time this year, the Republicans have done everything they could to slow down and many times stop what we were doing. Look at the numbers. We are now at 57 cloture motions we have had to file. As I said yesterday, this is filibusters on steroids. Within a few days, it will break the record for a Congress of having clotures filed, necessary clotures filed.

We were forced to begin this session late, as I have indicated, to give the committee a chance to begin its work. It is unfortunate we have reached this point of overt obstructionism. If this Republican blocking tactic is a sign of what is going to come—we have already seen it; it can't get worse than what it already is, I don't believe—the remaining weeks are going to be interesting. We know we have been stopped from going forward on the farm bill. We tried everything we could to move forward on the farm bill. I even said you can have 10 amendments, we will have 5. They said no. I talked with Senator HARKIN today. He said—I don't know the exact numbers—I think we can do it with 17 and 14, or something such as that. I said, if you can get a deal like that, take it. We want to move forward on legislation and we are having a difficult time doing that.

Global warming is something we should be joining together to work on, to solve the problem. The work done by Senators LIEBERMAN and WARNER is bipartisan in the true sense of the word. It is a way to address global warming in an important way. Nations throughout the world are demonstrating their commitment to reducing greenhouse emissions. As we speak, there is a conference taking place in Bali. We have

10,000 people there, worried about global warming. Australia, with the change of leadership they had there in recent elections within the past couple of weeks, has now signed the Kyoto protocols. Which is the only industrialized nation not to have signed those? This administration; this country.

President Bush would not acknowledge the words "global warming" until the past 6 months. He has now at least been able to say the words and is doing some futile things to help, and even those small gestures are welcome to this country and to the world.

I want to talk a little bit more about the farm bill. I have spoken to Senator CHAMBLISS on a number of occasions. I have not sought him out. We have been on the floor and talked. I don't want to go around my friend, Senator MCCONNELL, unless I tell him I am going to do that, but I have had conversations in front of everybody. He indicates he would like to do the farm bill. We want to do the farm bill. At this time there are 287 amendments pending on the farm bill, amendments dealing with driver's licenses for illegal immigrants, all kinds of other amendments that have nothing to do with the farm bill. As a result of some of my conversations with my friends on the other side of the aisle, it does not appear we can work anything out on the farm bill.

How much more reasonable can we be? I have said if 10 and 5 is not good, how about taking, as I have just said, HARKIN and CHAMBLISS, who supposedly, according to my conversation with Senator HARKIN this morning, have now worked it out to less than 40 amendments. That will be fine, too. Let's move forward. I have even said, to show we are reasonable, have a couple of nongermane amendments. That is fine. We will be happy to take a shot at those. I don't know what they would be. I have been told—I think one of them may be dealing with driver's licenses. But we will be happy to do whatever needs to be done to help the American farmers and ranchers get some relief that they need.

We have also pending something that I think is pretty important. In addition to the farm bill, we have AMT. AMT is a buzzword for a tax proposal that was passed during a Republican administration, which had good intent when it started. Congress wanted to make sure and the President wanted to make sure that even people making a lot of money paid a little bit in taxes. But with inflation having risen its ugly head, as it does, it is affecting people no one anticipated would be affected. Right now, unless we change the AMT, people making between \$75,000 and \$500,000 would be hit with a tax they ordinarily would not get. The average tax, I understand, is less than \$2,000. Somebody making \$75,000 would get a very small tax; somebody making half a million dollars a year would be paying a larger tax.

That was not the intent of the tax. The vast majority of American people

don't make 75,000 a year and they certainly don't make a half-million dollars a year.

But we want to try to change that. We want to put in a patch so it doesn't affect those people this year. We have tried everything that I know legislatively possible, that is reasonable, to take care of this. Right now, a cloture motion is ripening, our 57th, and that would be on whether we can proceed to legislate on the House-passed bill. The House-passed bill patches it, but it is all paid for. We Democrats believe that tax cuts and any new programs should be paid for. The House has passed a bill and sent it to us which does that. I have been told by my Republican colleagues that it is extremely doubtful we will get cloture on that. I hope we can get a few brave Republicans to say we want to legislate on this.

The President said we should do something to fix AMT. That being the case, why doesn't he place a call or have one of his staff call the Senate and say, Why don't you let them proceed on this? We can offer some amendments once it is there. We will try to be reasonable in what amendments we offer and they offer on this AMT fix. But I think we should at least have the opportunity to move forward. They are creating the worst of all worlds. They are going around saying we have to fix AMT, but they are not allowing us to legislate on it.

Under our Constitution, all revenue matters have to originate in the House. We have what the House wants to do. On this, I have said let's see what we can do. We will vote on the House version and we will go with the 60-vote margin. I am happy to do that. We will vote on what Senators GRASSLEY and BAUCUS have reported out of the Finance Committee here in the Senate, and that is the AMT is not paid for. I don't agree with that, but that is what the committee has done so I accept that. Also as part of that package it has certain tax extenders that are paid for. I said, Let's vote on that. No.

Senator LOTT, the Republican whip, said he wanted to eliminate AMT forever.

That is more than \$1 trillion. But we are willing to vote on that. We have gotten no takers on that. I do not know how we can be more reasonable.

I do not want to get into the inner workings of the proposal made between Senator MCCONNELL and myself because I do not think that would be appropriate to talk about, some of the things. I would be happy to do that if he wants to, but some of the other suggestions made—I do not want to do my negotiating out here on the Senate floor. But I think the suggestions they have made have been very unreasonable. I don't know how we can be more reasonable than what we have done.

Now, I would hope we can work something out on AMT. As I said to my distinguished friend, the Republican leader, today, if the President wants an AMT fix and the Republicans say they

want one, why can't we move forward on doing something? I do not understand why we could not do that.

One of the other alternatives I have not suggested, but maybe what we can do is have a vote on not even paying for it, which I disagree with, but if that would be the will of the Senate, fine, we could set something up in that regard. We could have those votes out of the way this afternoon. We would not have to do the cloture vote in the morning. And we would see what the will of the Senate is. The way it is going to be, I have been told that the Republicans have been given their marching orders, as happens all of the time around here, that they are not free agents, that they cannot vote to invoke cloture on this alternative minimum tax, which I think would be a shame.

As I told my friend, the senior Senator from Kentucky, we would like to finish the business of this body by 2 weeks from Friday. That is our goal. I hope we can do that. I hope we do not have to work—we are not going to work on Christmas, but I hope we do not have to work Christmas week. It is possible we may have to do that. We have a number of important issues around here. We have an energy bill that is going to be sent either today or tomorrow from the House. I spoke to the Speaker this morning. We have to complete the alternative minimum tax. I think it would be the right thing to do to see what we are going to do on the Presidents's wiretapping proposal, as to how we can make that a better piece of legislation. We have gotten something that is bipartisan that has come out of the Judiciary Committee. The Judiciary Committee has met on a bipartisan basis. They have some things they want to change on that. But if we have to jump through all of the hoops and file cloture on that, that bill—the legislation that is now in force expires I believe on February 5. I think it would be good if we can complete that before we leave. There are certain other things we need to do before we leave. But it is a lot of work to do.

There is one minor little problem I did not talk about. We have to figure out some way to fund the Government for the rest of the year, either with some type of spending program to involve the Appropriations Committee or a last resort—something that both the Republican leader and I don't want—would be a continuing resolution which, in effect, eliminates the legislative branch of Government from being involved in what money is spent in the country for the next year.

Having said that, I would hope we can hold hands here a little bit in the next couple of weeks and see what we can get done: alternative minimum tax, farm bill, spending bills for our country, and if we really get fortunate, see if we can finish the FISA legislation, the wiretap legislation.

The ACTING PRESIDENT pro tempore. The Republican leader.

AUTHORITY FOR COMMITTEE TO MEET

Mr. McCONNELL. Mr. President, first with regard to the suggestion by my good friend, the majority leader, that there was some kind of objection to the Environment Committee meeting this morning, I was unaware of one. No such warning was given to the other side. The practice is for the committees to request permission on the day they meet. We did not indicate there was any objection. The committee is, in fact, meeting. I am unaware of any objection to its meeting.

If it makes it more formal, I ask unanimous consent that the committee continue to meet.

Mr. REID. Mr. President, I think that is a wonderful gesture. I would accept that unanimous consent request that the committee be able to continue its deliberations today past 2 o'clock.

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

Mr. REID. I appreciate that very much.

MOVING FORWARD

Mr. McCONNELL. Mr. President, reclaiming the floor, I know for anybody who might be watching on the outside that all of this parliamentarian talk probably makes your eyes glaze over. But the fundamental problem is this: As recently as a year ago, my party was in the majority, and I had the same problem—Senator Frist and I had the same problem my good friend from Nevada has: Our members do not want to cast any dangerous votes, any votes they do not want to cast.

The first session of the previous Congress, the 109th, was the most productive legislative session of my time here in the Senate. I recall Senator Frist and myself saying over and over and over again to our members that if we are going to pass this bill, we are going to have to give the minority their votes. And people were whining and complaining about having to cast votes. I recall the Democratic whip, the Senator from Illinois, saying: The Senate is not the House, and making the point that the minority is going to get its votes in order to advance legislation.

I understand that my good friend from Nevada gets complaints from his members about having to cast votes, but the fundamental responsibility of the majority is to pass legislation. In order to do that in the Senate—we do not have a rules committee—you have to work with the minority, and you have to give the minority side a reasonable number of amendments. That is the case on the consideration of the alternative minimum tax fix, and that is also the case with regard to the farm bill.

Now, my advice both privately and publicly to my good friend, the majority leader, on the farm bill is take it up

and go forward, which is the way we have done it in the past, and it is amazing how quickly you move along. You can sometimes spend more time trying to get a consent agreement, which by its very nature requires every single Member of the Senate not to object—we could have made more progress on the farm bill by simply going to the bill, taking up amendments, and moving forward. That was my advice. It is still my advice. If we turned to the farm bill, even if we didn't have a very narrow amendment list, we would make dramatic progress and make it quickly. Why? Because I think there are significant numbers of Members of this body on both sides of the aisle who want to pass a farm bill. There may be a few who don't but a significant number do.

So here is where we are, December 5. We have nearly a full year's worth of work to finish before we adjourn for Christmas. It is a little after noon, and we are talking about why we are getting started now—I gather based on some misunderstanding about phantom objections that, in fact, did not exist on this side to the Environment Committee meeting.

We have offered our good friends a path forward on the AMT, on troop funding, on appropriations, on the Energy bill, and the farm bill. Yet we cannot seem to get the kind of bipartisan agreement that allows the minority to have some say over amendments in moving forward.

On the AMT, the chair of the Finance Committee called the Republican proposal constructive and said that it was the beginning of an agreement. That was yesterday. We want to make sure 23 million people are not ensnared by this middle-class tax hike and that the tax returns of 50 million Americans are not further delayed. The consequences of a delay will be felt by millions of taxpayers who will see a delay in their refunds next year.

It is, however, important to virtually every member of my conference that the alternative minimum tax, a tax that will never be levied and never be collected, not trigger a tax increase on a whole lot of other Americans. The effort to "pay for" the AMT is highly offensive to members on my side of the aisle, and I think the majority knows that, and the way to get the AMT and the extenders passed is not to "pay for" them—in other words, not to go out and raise taxes on a lot of other Americans in order to continue basically the status quo. We know we are never going to levy the AMT, and we are never going to collect it. The same is true with the extenders. We know we will pass that package. That is existing tax relief. Why should we raise taxes on some other Americans in order to maintain the status quo, which is the absence of an alternative minimum tax and the extension of the extenders? That is a very strongly held principle, and I believe that is the view of enough Senators to insist that is the way it goes forward.