



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 110<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, THURSDAY, FEBRUARY 15, 2007

No. 29

## Senate

The Senate met at 10 a.m. and was called to order by the Honorable BARACK OBAMA, a Senator from the State of Illinois.

### PRAYER

The PRESIDING OFFICER. Today's prayer will be offered by the Reverend Dr. J. Layton Mauze, III, of Gastonia, NC.

The guest Chaplain offered the following prayer:

Let us pray.

Gracious God, Creator of life and the sustainer of all things, including political things, we bow before You this day in humility and with thankful hearts to acknowledge that our lives are a gift of Your grace, renewed every morning and nurtured every day in Your tender care.

We begin this time together by acknowledging our faith in You and our dependence upon You. We begin by saying that our religious faith and commitment do influence our opinions and convictions, our daily and political life.

So help us never to let our politics or our religion become dirty by default, but help us to keep the moral integrally related to the political, and give us the wisdom and courage to stand for the hard right against the easy wrong.

Strengthen and encourage each of these Senators today, we pray, and guide and protect our beloved Nation, particularly in these ethically difficult times. May justice prevail and leadership based on integrity be the dominant note.

Keep us all faithful to the opportunities and challenges this day will bring, and make us a blessing to all those our lives will touch.

To that end, grant us that illumination without which we walk in darkness, that inspiration without which we spend our days in mediocrity, and that intelligence without which we stumble in folly.

This, our prayer, we offer to You in faith, and with thanksgiving in the strong Name of our God. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable BARACK OBAMA 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 legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 15, 2007.

To the Senate:

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

ROBERT C. BYRD,  
President pro tempore.

Mr. OBAMA 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, this morning there will be a brief period of morning business until 10:20, and then we will proceed to executive session to consider the nomination of Randy Smith, to be a U.S. Circuit Court Judge, and Marcia Morales Howard, to be a U.S. District Judge. Debate on

these nominations is limited to a total of 10 minutes equally divided and controlled between the chairman and ranking member of the Judiciary Committee. At 10:30, the Senate will proceed to vote on confirmation of these two nominations.

I would like to indicate to Members that a third rollcall vote is likely shortly after these votes on the adjournment of the Senate, so Members should plan on three votes instead of two.

Following these votes there will be morning business, with the first hour controlled by Senator LEAHY and then the Republican leader or his designee will control an hour.

Mr. President, in a short time, we will approve the first circuit court judge of this Congress. The distinguished Republican leader and I have had conversations about having as little acrimony—in fact, hopefully none—on circuit court judges. The last Congress will be noted for a number of things and one will be the contentiousness of the circuit court judges that came before the Senate. I have made a commitment to my friend from Kentucky that we will move forward on these. We have had conversations with the President, and he is going to do his best to send us circuit court judges that are not people who cause a lot of heartburn on this side, and we think that is totally possible and in keeping with the standards President Bush wants for these circuit court judges. So this is a time when we are going to try to work together to move forward.

Randy Smith is the first, and I say to everyone, it wasn't easy to get him here. He has been nominated for one position and then another position. There was a little holdup to begin with, but we are beginning to work through this, as we wish to do. We have members of the Judiciary Committee who

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



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understand this and the two managers of this committee, the chairman, Senator LEAHY, and the ranking member, Senator SPECTER, know of our concern, and that is the concern of Senator MCCONNELL and myself, and we are going to do our very best to make sure this is not our last circuit court judge but the first of a significant number who can at least meet the standards of Congresses similarly situated as ours.

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#### RECOGNITION OF THE MINORITY LEADER

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

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#### NOMINATIONS

Mr. MCCONNELL. Mr. President, let me echo the remarks of my good friend, the majority leader, about the circuit court judge situation. We are off to a good start. I wish to thank him, and I wish to thank Chairman LEAHY for moving the Randy Smith nomination to the Ninth Circuit. As the majority leader has indicated, that vote will be at 10:30. We have had very good conversations, the majority leader and myself, about restoring comity to the Senate on the business of dealing fairly with the President's nominations for circuit court judgeships.

The President has met the Senate halfway—some would say more than halfway—demonstrated by his actions at the beginning of the Congress and by the people he has chosen to resubmit for our consideration. The President's efforts have been recognized and lauded by the Washington Post, the Los Angeles Times, and several other publications. These papers have noted the burden is now on the Senate to reciprocate and treat the President's nominees fairly, and we are off to a good start in doing that.

Moving the Smith nomination today is an act of good faith on the part of the majority leader and Senator LEAHY, which I and others on this side of the aisle appreciate. It is a good beginning. Of course, it is only a beginning, but it is a good beginning. As I have said, the President should be treated as fairly as his three immediate predecessors, each of whom finished their terms with the Senate in control of the opposition party. Yet those Presidents received an average of 17 circuit court nominations confirmed. If this President is not treated as fairly as his predecessors, then, of course, the comity and cooperation in the Senate might be harder to come by. But there is no indication that will be the case, and I am not predicting it. In fact, I am optimistic we are going to be able to move through these nominations with a high level of fairness and comity. Again, I wish to thank both Senator REID and Chairman LEAHY for their fair treatment of this first judge as we begin to move down the path toward getting a reasonable number of

circuit court nominees confirmed during this 2-year period.

I yield the floor.

#### ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that there be 2 minutes equally divided between the votes on the judicial nominations with the time equally divided and controlled between the chairman and ranking member of the Judiciary Committee.

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

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#### RESERVATION OF LEADER TIME

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

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#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 10:20 a.m., with Senators permitted to speak for up to 10 minutes and the time equally divided between the two leaders or their designees.

The Senator from Maine is recognized.

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#### IRAQ

Ms. SNOWE. Mr. President, I rise this morning to speak to the Senate regarding the fact that we are contemplating adjournment for a recess of approximately 12 days without having taken any votes on the question of Iraq. The Senator from Nebraska and I sent a letter to both leaders yesterday, expressing our deepest disappointment and disapproval about the failure of this institution to address the most consequential issue of our time. We are at a critical crossroads with this preeminent issue. Yet the Senate, in keeping with its historical traditions and practices, has failed to grapple with this monumental question.

Therefore, the Senator from Nebraska and I have said we should have a vote on the motion to adjourn for this particular recess because we object to recessing without the Senate having any agreement, any understanding, any debate, any votes on this most profound question. It does no honor to the Senate or to this country. As I said earlier in the week when I expressed my disappointment that we have yet to construct an agreement on how to even move forward procedurally to debate a nonbinding resolution, irrespective of where my colleagues may stand on this question, whether you are in the majority or in the minority, various viewpoints ought to be able to be expressed, and we ought to be able to have votes in the Senate. Unfortunately and regrettably, that has not occurred, at a time in which the President has already indicated his plan for the troop surge and which is already underway.

There is a majority in the Senate who are in opposition to the troop surge and to that specific mission. Others have different viewpoints on the question. But irrespective, we know there are a majority in the United States who are in opposition to the troop surge.

The Senator from Nebraska and I, in fact, moved across the political aisle and joined the Senator from Delaware and the Senator from Michigan on the Biden-Levin-Hagel-Snowe resolution on January 17, when it was introduced in the Senate. Here we are today, a month later, and there has been no consequential action on the question of Iraq.

The House of Representatives is debating and will be voting. As I said on Monday, when our troops are on the frontlines, the Senate is on the sidelines. While the House of Representatives is debating and voting, the Senate is dithering. That is regrettable because we have some serious questions about the President's troop surge. We ought to be able to express our views on the floor of the Senate and to have those votes. This is a critical moment in our Nation. The Senate has lost its sense of the place it now occupies—or should occupy—in history.

If we look back at major moments of the Senate historically, the Senate has risen to the occasion, but we haven't on this question. So we are going to adjourn for the recess without having a plan on how we are going to proceed on this question, without any votes, on the major issue of our time.

So what has changed in the last 3 days? There have been no negotiations. There has been no consensus. There has been no agreement. There has been no understanding of how we are going to proceed and how we are going to debate this question. And we are going to recess. Well, the troop surge isn't taking a recess. The men and women in uniform on the frontlines in Iraq are not taking a recess, the Iraq war is not taking a recess, but the U.S. Senate is taking a recess.

My primary objection to the troop surge has been rooted in the fact that I examined the track record and concluded we should not commit any more troops to instilling a peace that the Iraqis are not willing to instill for themselves and to seek for their own nation. They are fighting amongst themselves rather than for themselves.

Yesterday, I spoke with the father of a soldier who died last Friday while supporting our Operation Iraqi Freedom.

SSG Eric Ross of Maine, stationed in Texas, and two of his brothers in arms were killed as they entered a booby-trapped building in Baquba. What was even more tragic is the Iraqi squad that was accompanying them, who were supposed to go in with them, refused to go in. What did they know? Why did they refuse to go in? Where were their allegiances? Who were they fighting for? Those are the kinds of circumstances and situations to which