

Mrs. MURRAY. I ask for the yeas and nays on the nomination.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Connecticut (Mr. DODD), and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators were necessarily absent: the Senator from Nevada (Mr. ENSIGN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Oklahoma (Mr. INHOFE).

Further, if present and voting, the Senator from Oklahoma (Mr. INHOFE) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 50 Ex.]

YEAS—93

Akaka	Domenici	Mikulski
Alexander	Dorgan	Murkowski
Allard	Durbin	Murray
Baucus	Enzi	Nelson (FL)
Bayh	Feingold	Nelson (NE)
Bennett	Feinstein	Obama
Biden	Graham	Pryor
Bingaman	Grassley	Reed
Bond	Hagel	Reid
Brown	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bunning	Inouye	Salazar
Burr	Isakson	Sanders
Byrd	Kennedy	Schumer
Cantwell	Kerry	Sessions
Cardin	Klobuchar	Shelby
Carper	Kohl	Smith
Casey	Kyl	Snowe
Chambliss	Landrieu	Specter
Clinton	Lautenberg	Stabenow
Coburn	Leahy	Stevens
Cochran	Levin	Sununu
Coleman	Lieberman	Tester
Collins	Lincoln	Thomas
Conrad	Lott	Thune
Corker	Lugar	Vitter
Cornyn	Martinez	Voinovich
Craig	McCain	Warner
Crapo	McCaskill	Webb
DeMint	McConnell	Whitehouse
Dole	Menendez	Wyden

NOT VOTING—7

Boxer	Gregg	Johnson
Dodd	Hutchison	
Ensign	Inhofe	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider and lay on the table is agreed to, and the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

Mr. REID. Mr. President, I announce to all Democratic Senators: We are having a caucus in Room S-219. The subject matter of this caucus is interesting.

I have a unanimous consent request that I am going to propound.

Mr. President, I ask you and the other Members to be patient. I am having a little script prepared for me to read.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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

UNANIMOUS CONSENT REQUESTS

Mr. REID. Mr. President, I ask unanimous consent that when the Senate convenes on Monday, February 26, the Senate proceed to the consideration of H. Con. Res. 63, the House Iraq resolution; that there be 12 hours of debate; that the debate be divided equally between the two leaders; that no amendments or motions be in order; and that the Senate vote on passage of the concurrent resolution at the conclusion of that time.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object.

The PRESIDING OFFICER. The Republican leader.

Mr. McCONNELL. Mr. President, of course, I will object. This is right back where we were a week ago. As the distinguished majority leader and the distinguished majority whip have said on numerous occasions in the last couple of years, the Senate is not the House. Senate Republicans are going to insist on fair treatment on the most important issue on the minds of the American people today; that is, the war in Iraq. The Senate simply cannot—and I have heard Senator BYRD make these points on numerous occasions—cannot operate this way. The Senate Republicans insist on one or more amendments on the most important issue confronting our country—the war in Iraq.

What I had hoped was that the distinguished majority leader and myself would be able to work out a consent agreement that would allow us to have—he would pick his amendment, and it is apparent the amendment the majority would like to have is the House-passed concurrent resolution, and then there would be an alternative, at least one alternative. Many of my Members would like to have more than one alternative in this extremely important debate, but at least one alternative on this side of the choosing of the majority of Republicans. So, therefore, I object.

The PRESIDING OFFICER. Objection is heard. The majority leader is recognized.

Mr. REID. Mr. President, I have told the distinguished Republican leader that when we get to the matter dealing with implementing the 9/11 recommendations, that will be a vehicle which will be open to debate and amendment.

The unanimous consent request I propounded would complete work on

the Iraq surge issue within a matter of hours, as I indicated, so that we could move within a day, 1 day, to 9/11 and amendments—Warner, Gregg, McCain, whatever amendments the minority wanted to offer; they would certainly be permitted to do that.

We find ourselves in a very unusual position, Mr. President. We tried to proceed to this matter before. Everyone has heard the arguments used to stop us from going forward on this issue. Cloture was not invoked. We need not go over all the reasons, some of which have been outlined by the distinguished Republican leader just a few minutes ago. But there have been those on the other side of the aisle who think we should be in next week. Mr. President, speaking for this Senator, I am happy to be in next week. If you want to be in next week, we can do that. I have things in Nevada I have wanted to do for a while because I have been here for 5 weeks, but that is OK, I can take care of that, as everyone else can, if necessary. But we find ourselves in the same position, that there is a hesitation on behalf of the minority to go forward on now a very simple matter—a very simple matter.

The Warner-Levin amendment was a little more complicated than the simple House measure which says we support the troops and we are against the surge. That is what we think should be disposed of quickly. We can move to 9/11, all the debates on other things people want to do with Iraq and other issues. Certainly, they can do that. We can spend considerable time on that. As long as progress is being made, there is no reason to file cloture. There are other things we need to do the following week during the work period.

We are anxious to go forward on this issue. We have, again, been stopped from doing that. All the plaintive cries about not being able to debate Iraq—there were opportunities to debate Iraq, and they were turned down. I was disappointed, as I said earlier today, that the people crying the loudest are the people against going forward on Iraq.

It is my understanding, Mr. President, that the order is Senator LEAHY has 1 hour right now.

The PRESIDING OFFICER. The Senator from Pennsylvania is to be recognized first for 10 minutes and then Senator LEAHY.

The Republican leader is recognized.

Mr. McCONNELL. Mr. President, we are not here today, I assume, to debate the substance of the Iraq matter, but it is important to remember that both the majority leader and the majority whip in December were saying a surge might be a good idea, and now they are saying the only resolution we should have before the Senate is one condemning a surge. Let me repeat, that is not the way the Senate works.

So I would like to propose a unanimous consent request, Mr. President.

I ask unanimous consent that on Tuesday, February 27, at a time determined by the majority leader, after

consultation with the Republican leader, the Senate proceed en bloc to the following concurrent resolutions under the following agreement: a concurrent resolution, if received from the House, the text of which is at the desk; S. Con. Res. 7, the Warner resolution which is to be discharged from the Foreign Relations Committee; the McCain-Graham-Lieberman amendment regarding benchmarks; the Gregg amendment related to funding.

I further ask unanimous consent that there be a total of 12 hours of debate equally divided between the two leaders or their designees; provided further, that no amendments be in order to any of the measures; further, that at the use or yielding back of time, the Senate proceed to four consecutive votes on the adoption of the concurrent resolutions in the following order, with no further action or intervening debate: first, McCain-Lieberman-Graham, then Gregg, then Warner.

Finally, I ask unanimous consent that any resolution that does not receive 60 votes in the affirmative, the vote on the adoption be vitiated and the concurrent resolution be returned to its previous status.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, again, this is an attempt to divert attention from the issue before this body; that is, whether there should be a surge in Iraq. That is it—an escalation. And this attempt by my friend, the Republican leader, to divert attention from this very important resolution—we support the troops, we oppose the escalation—is now going to be obfuscated if, in fact, we agree to this request, and therefore we will not.

This body is going to have the opportunity to vote up or down if, in fact, we can proceed to the resolution. This body will have an opportunity to vote up or down: Do you support the troops? Do you support the surge?

I object.

The PRESIDING OFFICER. Objection is heard. The Republican leader is recognized.

Mr. McCONNELL. Mr. President, if this were to be allowed, this would be the second bill in a row where no amendments would have been offered to a 49-member Republican minority. I have been here a couple of decades now, and I am having a hard time recalling a situation such as this. This is the kind of thing Senator BYRD would get on his feet and decry as inappropriate in a body that thrives on debate and resolution. It is astonishing to me that it is being suggested, on the single biggest issue confronting the American people, that we would have 1 choice, dictated by a Democratic majority of 51 in a body of 100. That is simply unacceptable to this side of the aisle.

I think the message here from this discussion this morning is that the ma-

jority leader and myself ought to sit down, work out a consent agreement, a reasonable consent agreement to both sides, and structure the debate for our return.

Mr. McCAIN. Mr. President, will the Senator yield for a question?

Mr. McCONNELL. I will yield to the Senator from Arizona.

Mr. McCAIN. Mr. President, is the minority leader aware of the content of the measure that is proposed by myself, Senator LIEBERMAN, Senator GRAHAM, and others? What it is, is a proposal to set up benchmarks but also to support the surge or the change in strategy.

Can the Republican leader explain to me why it is we shouldn't have a proposal that opposes the surge, with a vote on that, and a proposal that supports it and a vote on that?

I have only been around here 20 years, not nearly as long as Senator BYRD has, whom Senator McCONNELL referred to, but aren't we allowed to have competing resolutions to debate, with time agreements, such as the minority leader proposed? Why in the world would we not agree to a resolution that would be in opposition to the resolution the majority leader insists on voting on by itself? I have never seen the Senate work this way. I have never seen the Senate only allow one proposal to be debated and voted on. We have a proposal that we think deserves debate and votes.

I ask the Senator from Kentucky, who has been here longer than I have been, if he has ever seen anything quite like this on a major, compelling, overwhelming issue before the American people?

Mr. McCONNELL. Mr. President, I would say to my friend from Arizona that I am as astonished as he is.

This side was willing, after considerable discussion back and forth, to go down to one alternative, and the Senator from Arizona graciously agreed that his would not be the one, that we would offer the Gregg amendment. Even that was an astonishing concession on the part of the minority, an astonishing concession on the part of the minority to a rather narrow majority to get the debate going. The vote we had a week or so ago was to continue the debate.

The message is clear: The majority can gridlock the Senate over this issue with its insistence there be no choices or the majority leader and I can sit down and do what we should do, which is to reach a reasonable consent agreement for the consideration of alternatives on the single biggest issue confronting America today.

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

Mr. McCONNELL. I will yield to the Senator from Kansas for a question.

Mr. ROBERTS. Mr. President, I just wanted to make it clear to myself and others what we are facing here; that is, there would be only one vote we would

have on the resolution that was passed in the House, which I feel I could not vote for because it is nonbinding—it is, again, to support the troops but not the mission, which I think is certainly unique in regards to how people feel about this—and that, basically, the McCain resolution, which I support, which sets out the benchmarks to give to General Petraeus and to give to Prime Minister Maliki to gain some kind of catalyst or effort that would say: Look, this is where the Senate stands, and hopefully we can get these things done so that we can see some progress, to see if it is possible to achieve some security in Iraq and give that Government a political settlement. And the second amendment I am talking about is the one of Senator GREGG, as I understand it.

Mr. REID. Mr. President, I ask for regular order.

The PRESIDING OFFICER. Senators are allowed to yield for questions.

Mr. ROBERTS. Mr. President, I would just ask what the play is, if I can do that?

Mr. McCONNELL. Mr. President, I say to my friend from Kansas that the status of the majority here is that we would have no alternatives at all.

Mr. ROBERTS. Mr. President, the one I would ask about, if I can ask a further question, is that of Senator FEINGOLD. It seems to me, if we are going to have a full debate, all choices need to be considered, and the amendment offered by Senator FEINGOLD should be considered and should be made in order. That has taken a lot of courage for him to offer such an amendment in a very forthright manner. I will say that I don't agree with it, but in discussions about the ramifications of all of these resolutions, which are nonbinding and which I call confetti resolutions because they do not do anything except send very difficult messages to everybody, I think that ought to be made in order and that ought to be a choice.

Mr. McCONNELL. Mr. President, I would certainly agree with my friend from Kansas that it might be in order to have multiple amendments on the other side, but certainly that would be up to the other side to decide.

Let me just conclude before yielding the floor that the message here is clear: Senate Republicans are going to insist on being treated fairly. Secondly, I am hoping the majority leader and myself can structure an appropriate consent agreement so that we can consider this matter in the near future.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Mr. President, I wrote down the plaintive cries from my friends on the other side of the aisle: never seen the Senate work this way.

I say to my friend, the distinguished senior Member of this body, Senator BYRD, who has a fine memory, we have memories. Now, there are 10 Senators

here who may not, but we remember, on a multitude of issues when we were in the minority, when we had no opportunity to debate anything or to offer amendments on anything.

One of the other words issued was “astonished.” Mr. President, we are in the U.S. Senate. Anyone with any memory whatsoever understands how we were treated before, but when I became the majority leader, I said that I believed in the Golden Rule. I said I would treat people the way I want to be treated, that this is not any time to retaliate. In fact, I have followed the Golden Rule. We have had bills, such as the matter dealing with ethics or the matter dealing with minimum wage, and, of course, the CR we just finished had input from both sides or it would not have passed.

So I would say this: We can go with the unanimous consent request I have propounded, and within a few hours, when that day ended, the 12 hours ended, we could be on whatever amendments they wanted to offer to the homeland security measure.

I will go one step further than that. My friend from Arizona has suggested that he be allowed to offer his amendment. I would accept that, that we do the House-passed resolution and we do the McCain amendment and we spend 12 hours on those two matters the minute we get back here after this break, or if they want to do it tomorrow or Monday, I would agree to that.

So my proposal, without a lot of fancy words here, Mr. President, is we would take up the House measure that is now before this body—it is going through the process and is at the desk—and also do the McCain amendment. Those two matters, those two resolutions, one opposing the surge and one in favor of the surge. No other amendments would be in order. We could do that. We can have a debate on that, and then still, just a matter of hours later, we can move to homeland security, and the people who believed they had been left out of the debate could offer whatever amendments they wanted to on homeland security. That is my proposal.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object, and I will object momentarily, once again the majority leader seeks to choose the Republican amendment. We were there last week when the majority leader indicated that he would agree to an amendment on each side but that he wanted to pick our amendment. So I am constrained to object on the basis that we on this side would choose, if we were to only have one resolution, what it would be. I, therefore, object.

Mr. President, I ask unanimous consent that on Tuesday, February 27, at a time determined by the majority leader, after consultation with the Republican leader, the Senate proceed en bloc to the following concurrent resolutions under the following agreement:

a concurrent resolution, if received from the House, the text of which is at the desk; S. Con. Res. 7, the Warner resolution which is to be discharged from the Foreign Relations Committee; McCain-Lieberman-Graham regarding benchmarks; and Gregg related to funding.

I would further ask consent there be a total of 12 hours of debate equally divided between the two leaders or their designees; provided further that no amendments be in order to any of those measures; further, that at the use or yielding back of time, the Senate proceed to four consecutive votes on the adoption of the concurrent resolutions in the following order, with no further action or intervening debate: the Gregg amendment; S. Con. Res. 7, the Warner resolution; the House resolution; and the McCain-Lieberman-Graham benchmarks.

Finally, I ask consent that any resolution that does not receive 60 votes in the affirmative, the vote on the adoption be vitiated and the concurrent resolution be returned to its previous status.

Mr. REID. Mr. President, I ask that the request be modified to say that the amendments that would be in order would be the House measure to which we referred, where we are in favor of supporting the troops and against the surge, and the McCain amendment.

I would say editorially, Mr. President, that is what the Senator from Arizona asked, and we will give it to him. We will have that debate, one in favor of the surge and one against the surge.

I ask my friend to modify his request.

The PRESIDING OFFICER. Will the Republican leader modify his request?

Mr. McCONNELL. Mr. President, I think the majority has already offered this suggestion just a while back.

Mr. REID. I am asking if the minority leader will modify his request.

Mr. McCONNELL. I, therefore, object.

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The assistant majority leader is recognized.

Mr. DURBIN. Mr. President, the Senate has heard this song before. We heard it 2 weeks ago, and we have listened as seven or eight Members on the other side have come to the floor repeatedly day after day. They have sent letters and held press conferences saying they earnestly want us to move forward on this issue, though they voted against it. They voted against the motion for cloture that would have brought us to a debate on the issue, and it is on their own legislation.

We offered them two Republican amendments, the Warner amendment and the McCain amendment, one opposing the surge and one supporting the surge. They wouldn't accept it.

Mr. SPECTER. Regular order, Mr. President.

Mr. DURBIN. When they did not accept this, a cloture motion was filed on

a motion to proceed, and they voted against it. They have come back since saying they want the opportunity to debate. They can't have it both ways.

The PRESIDING OFFICER. Regular order to proceed is called for. Under the previous order, the Senator from Pennsylvania is to be recognized for 10 minutes.

Mr. SPECTER. Mr. President, I had requested 10 minutes to speak on the judges, but I want to use a few moments here to talk about what is on the table.

We have just seen the Senate, for the better part of an hour, with a majority of the Senators on the floor, demonstrate gridlock and paralysis. I have an observation to make—and perhaps it would be an admonition or a warning—that the Senate is about to become irrelevant. We have, on the other side of the Rotunda, the House of Representatives taking up the issue of Iraq, which all Members here, with the speeches just made, agree is the most pressing issue facing the country, but the Senate can't address it. And the Senate can't address it because the majority leader has exercised his right under rule XV to fill the tree, which precludes any action by the Republicans, unless we Republicans exercise our right to withhold cloture.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. SPECTER. I will be glad to yield but on additional time.

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

Mr. SPECTER. I will yield to the Senator from West Virginia for a question.

Mr. BYRD. Mr. President, I just want to interpose a point here.

I think I heard the Senator make reference to the majority leader having the right to fill the tree. No, he doesn't. He does not. He has the right if no other Senator seeks recognition. But once the majority makes a motion or sends an amendment to the desk, at that second he loses the floor until the Chair states its business, and while he has lost the floor, another Senator can seek recognition. I merely make the point the majority leader does not have “the right.” No other Senator has “the right” to fill the tree. If other Senators do not intervene, then of course he will fill it.

Mr. SPECTER. Mr. President, if I may regain the floor because I have a very limited time, my observations after being here for 26 years-plus are that when the majority leader then seeks recognition again, he gets it.

Mr. BYRD. Yes.

Mr. SPECTER. And when he makes the amendment in the first-degree and then he seeks recognition again, he gets it, an amendment in the second degree, and he does fill the tree.

Last week I proposed to change the rule. This rule has been exercised by Senator Dole, Senator Mitchell, Senator BYRD, and all the majority leaders in the last two decades. I think it is time we change the rule.

We are not going to change the rule now. But I do believe that the Senate is in real danger of becoming irrelevant. I don't think we ought to be dominant over the House of Representatives, but I think we ought to at least be equal.

Mr. BYRD. Will the Senator yield?

Mr. SPECTER. No; I wish to finish. I think we ought to at least be equal. What we have is that we are close to anarchy. We have been debating the debate all week. The House has rules which we wouldn't want, where the Rules Committee goes off and comes back and limits what the House of Representatives can do. Sometimes that is despotism, and between anarchy and despotism, it is a fairly tough choice. But right now, I am finding it difficult—impossible—to answer my constituents about what the Senate is doing. I tell them the tree is filled. They think I am talking about an orchard. I tell them we are debating whether we are going to have a debate, and they can't understand what we are doing.

I counted the Senators on the floor during the exchange between the majority leader and the Republican leader. We had more than 50 Senators here sitting around on the debate for a debate without reaching a resolution. I think Senator McCONNELL is correct. I do not say that in the partisan sense, if I can attract the attention of the distinguished Republican leader. I think he is correct. But I repeat I do not say it in a partisan sense. There ought to be an accommodation and there ought to be an agreement reached between the leaders. When you have the proposal to have a variety of resolutions, that is the way of the Senate.

Senator MCCAIN has been here for 20 years. Senator McCONNELL has been here for 22 years. I have been here for 26 years. Senator BYRD has been here for—I can't count that high—48 years, going onto 49. This is not the way the Senate ought to work. But it is the way the Senate has worked, with all the majority leaders in the last two decades exercising their right of recognition and filling the tree and tying up the Senate.

Now the Senate is finally caught. We are finally caught where America and the world sees what we are doing. It is a little ridiculous to have this kind of gridlock and this kind of paralysis.

How much time do I have left, Mr. President? I have to talk about the judges.

The PRESIDING OFFICER. The Senator has 4 minutes 40 seconds.

Mr. SPECTER. Let me yield to the Senator from West Virginia who wanted recognition—for a question.

Mr. BYRD. Mr. President, I thank the distinguished Senator for yielding. I have this comment. First of all, I wish to congratulate the Senator. He is very observant. He is concerned about the Senate. He understands the rules. But while he understands the rules, we do not need any more rules. We have rules. Senators need to insist on their

rights as Senators and they ought to speak up so they can be heard and they ought to pay attention. We don't need new rules. We have rules that have been here for many years, and they have been tried and tried and tried again. We need to read the rules. Senators should read the rules and Senators should understand that they are Senators and they should be proud of that fact. We should demand that the rules be observed. I could do that. Every Senator can. We don't need new rules. We simply need to understand the rules we have. We need to insist on those rules, and the Chair ought as well to insist that the rules be observed.

No Senator needs to seek recognition to have the rules observed.

Mr. SPECTER. Mr. President, regular order. May I reclaim my time?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. How much time remains, Mr. President?

The PRESIDING OFFICER. Three minutes.

Mr. STEVENS. Will the Senator yield to me for a parliamentary inquiry? What is the time situation? The Senator has 3 more minutes. What follows the Senator?

The PRESIDING OFFICER. The Senator from Vermont has 1 hour in morning business, succeeded by the Republican leader.

Mr. STEVENS. I have been around for a little while. I would like to see if I could have 3 minutes following the Senator from Pennsylvania.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object, I have yielded already to Senator SPECTER on my hour. So far I have been dramatically changing and changing the schedule of my office to accommodate everybody. The Senator from Alaska is one of the oldest and dearest friends I have here. If he wants 3 minutes, I will not object to him following Senator SPECTER for 3 minutes. But then I will insist and will not yield on my hour after that because we created too many problems already in my schedule.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, on the sequence of speakers, I ask that following Senator LEAHY's 1 hour, there be 5 minutes for Senator CRAPO and 5 minutes for Senator CRAIG to talk about a judicial nomination.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SPECTER. As a final statement, it is my hope that the majority leader, Senator REID, and Republican leader, Senator McCONNELL, before the day is up, will come to terms and will announce some accommodation so that there can be a fair resolution of the debate—so this body does not become irrelevant

and we do not present a picture to the American people of gridlock and paralysis, but we show we are still the world's greatest deliberative body because we are about to cede that title to the House of Representatives which as we speak is deliberating, which we are not doing—and that we take up the Iraqi issue and we show the American people and the world we can reach an accommodation, we can debate in accordance with the traditions of the Senate.

I ask my colleagues to seriously consider the resolution I introduced to change rule XV.

I agree with Senator BYRD. We do not need more rules, but we need a little modification of rule XV.

I thank my colleague from Vermont and yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I have not been here as long as my good friend from West Virginia, but I am the senior Member of this side. I cannot remember a time when we tied together the concept of filing a first-degree amendment, then a second-degree amendment, with cloture so it entirely shut off any participation by the minority. It has been stated here it has happened. I do not recall that. I do recall back in the days of the Clinton administration, Senator BYRD had a proposal, a similar proposal, but we had a big ruckus. I am sure the Senator remembers. Senator Dole was our minority leader then.

This is a defining moment for the Senate. Because as the Senator from Pennsylvania has indicated, if the majority of one can go to the House and negotiate a bill and bring it back and there are not going to be any amendments, we are going to file a first-degree amendment, a second-degree amendment, and have cloture or else—the Senate is totally irrelevant.

Having been in the minority and in the majority, I think the majority ought to think twice. There is only one vote difference here right now, two votes when our good friend from South Dakota comes back. But as a practical matter, the rights of the minority—really the whole country—depend upon the minority in the Senate having an opportunity to voice some of the concerns about what has happened in the House.

I say, in all sincerity, this is a defining moment. I believe the message we are trying to send on this Iraq resolution is wrong. I think it is harming the people who represent us in Iraq and Afghanistan. Even Afghanistan is coming back. We are going to have to send a new group, the 175th, over there to deal with al-Qaida in Afghanistan, again.

Our people need support, and we need to be able to articulate the reasons why we support them. If we follow the outline of the majority leader, we will not have that chance except by talking and talking. But no amendments.

It is not right. It is not the Senate. I do not intend to stand by and see the

Senate lose its role under the Constitution to be the second House of the Congress. This is not a rubberstamp for the House. That is what we will be if we follow the intention of the majority leader now.

Mr. LOTT. What is the order, Mr. President?

LEGISLATIVE SESSION

The PRESIDING OFFICER (Mr. TESTER). Under the previous order, the Senate will resume legislative session.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will conduct a period of morning business.

The Senator from Vermont is recognized for 60 minutes.

Mr. LEAHY. Mr. President, I am going to speak on Iraq, but first—I see the distinguished Senator from Mississippi and the distinguished Senator from Pennsylvania on the floor—I will introduce a bill on behalf of myself, Senator SPECTER, Senator LOTT, and Senator REID, regarding the insurance industry.

(The remarks of Mr. LEAHY, Mr. LOTT and Mr. SPECTER pertaining to the introduction of S. 618 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

IRAQ

Mr. LEAHY. Mr. President, earlier today there was a lot of discussion here about whether and how we should have a debate on the Iraq war. I cannot think of any issue more important to the Senate.

I have said many times that the 100 men and women who serve here are privileged to do so. Someday, someone from our State will replace us. That is the genius of the Founders of this country. However, there are only 100 Members. There are 300 million Americans. The 300 million Americans expect the 100 Senators to speak for them. They do not have that opportunity themselves.

I consider it a great privilege to be here. I used to sit up in the gallery when I was a law student and watch the Senate, and I thought then as I do today that the Senate should be and often is the conscience of the Nation.

I heard the debates during the time of the Vietnam war. I became the only Vermonter to actually vote on whether to continue that war. Today, we have a different war but many people in this country are as concerned. Those for the war in Iraq, those against the war in Iraq.

I go to my State of Vermont and everywhere I go, whether I am in buying groceries and people come talk to me or I am at the gas station or if I am shoveling snow—and yesterday we had 2½ feet of snow at my home in Vermont—people stop and want to talk

about the war in Iraq. My guess is it is no different in any other State.

These are very patriotic, very honest, very concerned people, and they have legitimate questions. They always ask: Why isn't the Senate debating the war in Iraq?

A week ago, Senator REID, the distinguished majority leader, tried every which way to provide the Senate with an opportunity to debate a bipartisan resolution on Iraq. That effort failed, and it failed again earlier today. It was blocked by some in the Republican Party who insisted on a separate vote that was nothing more than a political ploy. Instead of a debate on the President's policy, they wanted the debate to be about who supports the troops. We all support the troops, but we have some very different views about the President's policy that put brave American men and women in harm's way.

As so often is the case when anyone asked a question, expressed reservations or outright opposed the President's policy in Iraq, the President's defenders accuse his detractors of not being patriotic or of not supporting the troops. What blatant balderdash that is.

For years I have fought for veterans' benefits, for fair treatment for the National Guard, for armor for our troops who were sent by this administration into battle unprepared—and still, 5 years later don't have the armor their vehicles need to withstand the roadside bomb blasts. I have fought to replace the depleted stocks of equipment that our troops need and depend upon so their families do not have to send to them what the Government should be providing. The absurd accusation that it is unpatriotic to disagree with a policy that has resulted in the deaths of thousands of American soldiers and created a terrorists' haven in a country that, before our invasion, posed no threat to the United States, has worn thin.

It reminds me of my days as a prosecutor, when a defendant was caught red-handed. What would they do? They would usually attack the accuser. They could not say "You caught me breaking and entering." Rather, their defense was "I was set up." Or "He made me do it." That is what has been going on since President Bush, Vice President CHENEY, and former Secretary of Defense Rumsfeld ignored all advice to the contrary and led us into this costly fiasco.

These are the people who, when they had a chance to get Osama bin Laden—and we all want to see Osama bin Laden brought to justice for the attacks on September 11—when they had him cornered in Afghanistan, they decided instead to invade Iraq. Iraq did not pose a threat. Iraq did not have weapons of mass destruction. The intelligence was as equivocal as it was distorted and manipulated. But the President was fixated on Iraq, and he has remained so ever since.

Remember how the Vice President confidently said we would be welcomed as liberators? Some welcome. Remember the President, dressed up in a flight suit on an aircraft carrier so he could make a rousing speech under the sign "Mission Accomplished." Thousands of Americans have been killed or injured in Iraq in the years since that phony photo op.

The flawed policies of this administration have thrust our troops into the maw of a bloody civil war. Our troops are not responsible for the mistaken policies they have been asked to implement. Policymakers in Washington are responsible for that and only we can change those policies.

My youngest son was a member of the Marine Corps. He was called up during the first Gulf War. He saluted and was ready to do his duty, as are all the loyal men and women in our armed services. That was a different war. Thank God it was over so quickly. Neither he nor many others called up were in harm's way.

But the policymakers made this policy and only they can change it, not the troops on the ground. The polls show, unmistakably, that a majority of the American people want the Congress to debate and vote on the Iraq war. They know it is the key issue of the day. They see it is a widening civil war. They want their sons and daughters to come home pursuant to as sensible a plan as we can muster.

It is that simple. We ought to be debating that. If there are Senators who feel the troops should be there longer, that more of them should be sent there, then come to the Senate and say so. But also, there are those who feel we have to do all we can to bring our men and women home. We should have the opportunity to debate and vote on it.

The costs of this misadventure have not just been onerous, they have been catastrophic. More than 3,000 Americans killed, more than 20,000 wounded. My wife and I have visited some of the wounded. These are devastating wounds, crippling wounds, blinding wounds, wounds that disable people for the rest of their lives. And tens of thousands of innocent Iraqis have lost their lives.

In material terms, we are fast approaching the \$1 trillion mark. We are throwing money out the door at a rate of more than \$2 billion per week to fund this war. We are told about the things we cannot afford in America because we have to fund the war in Iraq. We are cutting funds for law enforcement, for police on our streets so we can pay for police in Iraq. We can't upgrade our hospitals. And on and on.

And the international reputation of America, which has brought us great influence, has now been tarnished, especially among our allies, tarnished and diminished.

Where are we in Iraq? We are in the midst of a civil war among religious and ethnic factions, an insurgency that