



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 110th CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, THURSDAY, MAY 10, 2007

No. 77

Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JON TESTER, a Senator from the State of Montana.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Rev. Paul Rowold of Good Shepherd Lutheran Church in Polson, MT.

PRAYER

The guest Chaplain offered the following prayer:

We pray.

You call us, O Lord our God, to respond today to Your saving actions throughout history. In Micah 6, You call us to justice and humility and loving kindness. In Matthew 23, You call us again to justice and mercy and faith. Move within us, encouraging us to boldly live for the sake of others.

Give to our leaders the courage of those who do justice, the humility of those who value faith, the honesty of those who have received mercy, and the joy of those who show love. This is Your call to all true leaders.

Give to our Nation compassionate strength, faithful perseverance, and open ears and eyes and hearts, ready to respond to Your call.

Let Your wisdom guide us and Your hope fill us with new resolve and Your love send us to all who look to us for lasting justice, humble mercy, and bold faith.

You call us, O Lord our God, to respond today to Your saving actions in our lives, our Nation, and Your world. Move within us all, that we may answer Your call.

In Your mighty Name, we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JON TESTER 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 legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, May 10, 2007.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

Mr. REID. Mr. President, I yield to the Senator from Montana.

The ACTING PRESIDENT pro tempore. The senior Senator from Montana is recognized.

THANKING THE GUEST CHAPLAIN

Mr. BAUCUS. Mr. President, I wish to take a moment to thank Rev. Paul Rowold, pastor of Good Shepherd Lutheran Church in Polson, MT.

The prophet Isaiah wrote:

The Lord has given me the tongue of a teacher, that I may know how to sustain the weary with a word.

Thank you, Pastor Paul, for being here to sustain us today and opening our Senate in prayer.

Pastor Paul served Lutheran congregations in several other places in the country—Rockford, IL, and Englewood, CO—prior to his call to Polson, MT, in 1977.

Polson—for those of you who don't know, and I am sure more of you do—is a small community on the Flathead Indian Reservation in Montana. It sits at the south end of Flathead Lake, one of the largest natural freshwater—actually, to be precise, we have to get our adjectives lined up here—Flathead is the largest freshwater lake west of the Mississippi and, I might say, near some of the most pristine wilderness on the planet.

Pastor Paul is an expert on the Holy Land, and he has traveled there more than 20 times, both as an archaeologist and as a tour guide. We were just earlier talking about his experience as a tour guide and just how wonderfully warm he and his family have been received as tour guides when they have been in Palestine. It was very warm and encouraging just listening to him describe that.

He is here today with his wife Donna and two of his daughters, Katie and Stephanie, as well as with many of his extended family. They are all enjoying this moment with Pastor Paul, and we welcome all of you here today, too.

So, Paul, thank you for your life of faith, your leadership of the Good Shepherd Lutheran Church, and for your service to the community of Polson, MT, and to many others who I know attend your church.

Thank you very much.

The PRESIDING OFFICER (Mr. CASEY). The majority leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I have not had an opportunity to speak to the distinguished Republican leader about this, but I ask unanimous consent that the vote, rather than starting at 9:45, start at 9:55 a.m. This will still allow those who are attending hearings to get there immediately after casting their vote.

The PRESIDING OFFICER. Is there objection?

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



Printed on recycled paper.

S5881

Without objection, it is so ordered.

Mr. REID. Mr. President, I ask consent that all other elements of the previous order remain in effect.

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

Mr. REID. Mr. President, the effect of this consent agreement is that the rollcall vote will occur at 9:55. We will proceed then to the water resources bill. Since this is a very bipartisan bill, I hope cloture is invoked on the motion and shortly thereafter we can proceed to the bill so the managers, Senators BOXER and INHOFE, can work toward completing that action.

MEASURES PLACED ON THE CALENDAR—S. 1348 AND H.R. 2080

Mr. REID. Mr. President, I understand there are two bills at the desk due for a second reading.

The PRESIDING OFFICER. Without objection, the clerk will report the bills en bloc for the second time.

The legislative clerk read as follows:

A bill (S. 1348) to provide for comprehensive immigration reform and for other purposes.

A bill (H.R. 2080) to amend the District of Columbia Home Rule Act to conform the District charter to revisions made by the Council of the District of Columbia relating to public education.

Mr. REID. Mr. President, I object to any further proceedings on these matters.

The PRESIDING OFFICER. Objection is heard.

The bills will be placed on the calendar en bloc.

JUDICIAL NOMINEES

Mr. REID. Mr. President, I am concerned about comments made by a Republican Senator yesterday suggesting that I have made a commitment that the Senate will confirm a specific number of judges in this Congress.

Senator MCCONNELL and I have a lot of private conversations on a lot of different subjects. Senator MCCONNELL has told me that the number of judges confirmed and the way judges are handled in this Congress is very important to him. If that, in fact, is the case, that it is important to him, it is important to me, and I have told him that.

The only way this Senate is going to run well is if the Republican leader and the Democratic leader have an understanding as to how things should proceed. There are certain things I feel strongly about. He knows what they are. I feel that he understands how I feel about those things. And I think the converse is true: If I think something is important, he thinks it is important.

I reiterate, he believes the way judges are handled in this Congress is important to him. It is important to me. It is important to both of us for a number of reasons.

He and I are both lawyers, and we both revere the Federal judiciary. We

have worked with present members of the Supreme Court to work on increasing their pay. We have worked with them on a number of issues that are important to the administration of justice in this country. The Federal judiciary, really, is the third branch of our Federal Government, and it is entitled to great respect.

Senator MCCONNELL and I believe that the process for considering judicial nominees has become too partisan over the years. The way the Republican-controlled Senate treated President Clinton's judicial nominees was wrong. And, of course, Republicans have their grievances about the way Republican nominees have been handled. We could weigh them and say: You treated us worse than we treated you, and vice versa, but that does not solve the problem. In this regard, there is no need we look back to yesterday. We should focus on today and tomorrow, and that is what I intend to do.

I do agree, without any reservation, with Senator MCCONNELL that we should work to improve the confirmation process for a number of reasons, part of which is selfish; that is, I understand how the Senate works. Everyone is contemplating the election a year from this November. We are going to have a new President. It may be a Democrat, it may be a Republican. Those elections may tilt the balance of this Senate so that Democrats have more than just the one-vote majority we have now. But, Mr. President, I have been around here a long time. You never know what is going to happen in an election. We may find ourselves in the minority.

So I think one reason we should put all this stuff behind us is we want to handle the judges the same way, no matter who is President or who is in control of the Senate. The House has nothing to do with judges as far as confirmation.

I told Senator MCCONNELL we would work hard to process judicial nominees in due course and in good faith, and I will continue to do that. To Senator MCCONNELL, due course would mean 15 to 17 circuit court confirmations in this Congress because that is the historical average for Presidents during the last 2 years a President is in office. I cannot commit to a specific number. We should measure quality, not quantity. There is no reason we cannot confirm 15 nominees if, in fact, they are seen to be, on both sides, mainstream, capable, experienced nominees who are the product of bipartisan cooperation. But we should not confirm nominees who are out of the mainstream, who are unacceptable, for example, to home State senators.

Now, I say, Mr. President, I think we started off this year in a good light. The President decided not to resubmit names he knew were problematic, and I say publicly, as I have said to Senator MCCONNELL privately, that showed good faith. I appreciate that.

We have confirmed three circuit court nominees in this Congress, in-

cluding Debra Livingston of New York yesterday. There is a hearing for Judge Southwick that starts in 20 minutes. He is from Mississippi. That has been a seat which has been very difficult to fill. We have been through at least two nominees that I know of. I would hope this hearing goes well.

I will continue to work in good faith. We presently have pending two judges on the appellate level. We have a number of district court judges, but we will focus today on circuit court judges—Mississippi, Southwick, whom I just talked about, and one who was sent up late last month from Texas. We are going to make sure we work to move these as quickly as possible. But I do not have a specific numerical goal, other than the outline the Republican leader has given. The Senate should fulfill its constitutional duty with care and confirm nominees who deserve a lifetime appointment to the Federal bench.

Finally, let me say something about the two who are responsible for this Judiciary Committee, Senators LEAHY and SPECTER. It is no secret—it has already been written about—that Senator LEAHY and Senator HATCH, when they were running this committee, had a difficult relationship. It did not work out well. It has also been written about—and very clear—that the relationship between Senator SPECTER and Senator LEAHY is one of respect. They have done a lot of work together, good work together, and they get along extremely well, including with their work on judges.

I do not want the situation on the floor today to show any disrespect to the two men running that committee, LEAHY and SPECTER. They are doing the best they can. But I would hope that—in the Senate, PAT LEAHY has been here a lot longer than I have. He has a distinguished career—the only Democratic Senator ever elected from the State of Vermont. He had a distinguished career as a prosecutor before he came here. He has a wonderful family. I care a great deal about him, and I have worked very closely with him over these many years, trying to help when I could with the work he has in the Judiciary Committee. And I will continue to do that. So I can only say positive things about Senator LEAHY and Senator SPECTER as a result of what they are doing in that committee.

I do want the record to reflect that—maybe it was a misunderstanding of one of the Senators on the other side of the aisle to say I was not living up to my word in not moving forward on judges. At least that is what I was told he said. If that is the case, I am sure he did not understand all the facts. The record should be very clear that I am going to do everything I can as the majority leader, working with Senator LEAHY, to move these judges as quickly as we can. If, in fact, there are problems that arise during the confirmation process, I cannot make myself the Committee of the Judiciary. I am only