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House of Representatives

The House was not in session today. Its next meeting will be held on Monday, May 14, 2007, at 10:30 a.m.

Senate

FRIDAY, MAY 11, 2007

The Senate met at 9:30 a.m. and was called to order by the Honorable SHERROD BROWN, a Senator from the State of Ohio.

PRAYER

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

Let us pray.

Lord of hosts, You have done great things for us, filling our hearts with gladness. You keep our eyes from tears, protect us from unseen dangers, supply us with wisdom, and direct our steps. Each breath we take is Your gift; each of our heartbeats is borrowed. Your benefits and blessings astound us, particularly Your willingness to save us.

Give our Senators today the assurance of Your presence. Inspire them with a calm faith, a steady peace, and a firm resolve to do Your will. Let no weapon formed against them prosper and let no force of evil that seeks to harm them prevail. Rather, may each lawmaker hear Your voice saying, ''This is the way. Walk on this path.''

We pray in Your all-powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SHERROD BROWN 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 11, 2007.

To the Senate:

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

ROBERT C. BYRD,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, today we are only going to be in morning business. There are no rollcall votes today, nor will there be on Monday. However, on Monday, Senators BOXER and INHOFE, the managers of the Water Resources legislation, will be here for Members to come to the floor and debate amendments.

It is my understanding that at least one Member on the majority side has agreed to be here Monday to discuss his amendment.

Yesterday, Senator FEINGOLD discussed an amendment relating to Corps project prioritization. Senator FEINGOLD is willing to have that amendment voted on Tuesday morning after a brief period of debate. Therefore, Members should expect a rollcall vote or multiple votes prior to the 12:30 recess on Tuesday morning.

If we are unable to have the debates arranged so we have the votes on WRDA Tuesday morning, we will have a Federal district judge vote Tuesday morning. So we will have a vote Tuesday morning.

I suggest the absence of a quorum.

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

IRAQ

Mr. REID. Mr. President, last night, the House of Representatives passed a new Iraq supplemental. So now it is our turn. We have to take the next step to pass our version of the bill that will go to conference. The House has done their job. We now have to do our job.

We all know reaching consensus on a new bill to send to the President will not be easy. That is what the Republican leader and I were talking about right here.

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

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Passions run high on this issue—very high. But there is new reason this week to believe a bipartisan consensus in Iraq is emerging. It is what the American people want. A recent poll—in fact, it was from a couple days ago—shows 75 percent of Americans favor benchmarks and 60 percent favor a timetable for reducing combat forces. It is what President Bush's own military advisers say we need, including General Petraeus, who has said this war cannot be won militarily. It is what Democrats have stood for with firm resolve throughout these entire negotiations.

Now, in the last few days, we have seen our Republican colleagues move closer to our position. Over the weekend, the House majority leader, JOHN BOEHNER, said:

By the time we get to September or October, members are going to want to know how well this is working, and if it isn't, what's Plan B.

That is a timetable. The President has objected to our timetables. He vetoed our bill with timetables in it. The Republican leader in the House—the No. 1 Republican in the House—has told the President if things are not OK in September or October, something else has to happen. That is a timetable.

Senator LOTT said:

This fall we have to see some significant changes on the ground.

And days ago, Leader MCCONNELL echoed those sentiments as well.

Meanwhile, on Wednesday a broad coalition of Republican House Members expressed their dissent directly to the President. They went to the White House, spent an hour and 15 minutes with the President. One of them, TOM DAVIS of Virginia, called it their chance to confront a President who, as he put it, is in a bubble.

In the spirit of bipartisanship, I am inclined to agree with that assessment. The President is in a bubble. He is isolated.

Every day, the ranks of dissatisfied Republicans grow. But I wish my Republican colleagues—who now agree that President Bush's open-ended commitment has failed—would put some teeth behind their views.

We have courageous American troops in harm's way every day. We lost another Nevadan this week. There may be a State that has lost more than the Presiding Officer's State, but I do not know what State that would be. The State of Ohio has suffered significantly in the loss of life.

It is time for action. It is time to change course. It is long past due.

But I would say the shift we are hearing from the Republicans, even though a little bit quiet, each day is getting louder and louder and louder. It is a welcome shift, and it is very encouraging. It gives me hope that in the coming days, weeks, and months we will be able to work together with good faith and bipartisanship to give our troops and all Americans the new course they demand and deserve and the opportunity for our troops to come home.

We are going to do our very best to come up with something we can pass here in the Senate, send to the House, and confer, have a conference. We will do that to the very best of our ability. But, as I indicated earlier, it is not going to be easy.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WHITEHOUSE. 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.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Rhode Island is recognized.

POLITICIZATION OF THE DEPARTMENT OF JUSTICE

Mr. WHITEHOUSE. Mr. President, competence, independence, and sound judgment are the lodestar of the administration of justice in this country. Unfortunately, over the past few months, I and many Americans have been forced to question on all three counts those whom this President has appointed to lead the Department of Justice. Indeed, with each passing day, we sense more and more that something is gravely wrong.

For example, we have learned about the misuse and abuse of the Department's power to issue national security letters under the PATRIOT Act—which, even under the most legitimate and benign circumstances, represents a truly imposing authority. As you know, a national security letter, or NSL, is a Government demand for private information, issued without a warrant to third parties such as banks, phone companies, and Internet service providers. In March, the Department of Justice's inspector general reported that NSLs were being ''seriously misused.'' Among other things, there were no clear guidelines for issuing national security letters. They were issued without proper authorization, there was sloppy recordkeeping by the FBI, and there were no procedures for purging a citizen's private information if the investigation was closed.

We have also, of course, learned about the unprecedented firings of eight U.S. attorneys—dismissals which seem to have been motivated by politics, marred by incompetence, or, more likely, both.

The details of the Department's misjudgments in this matter, and particularly the degree to which partisan politics has infiltrated this Department, become more numerous and more damaging to the Attorney General's credibility every day. But the politicization of the Department should come as no surprise when we examine how the rules governing initial contacts between the White House and the Department of Justice on non-national security-related investigations and cases—traditional criminal cases—have changed since President Bush took office.

During previous administrations, there were strict rules governing contacts between the White House and the Department of Justice on investigations and cases—and for good reason. A strong firewall is necessary to prevent undue and untoward efforts to inject politics into the administration of justice. During the Clinton administration, this firewall was articulated in a September 1994 letter from Attorney General Janet Reno to White House Counsel Lloyd Cutler. It is my understanding that credit goes to Senator HATCH, then chairman of the Judiciary Committee, for his interest in seeing this policy confirmed in this way. So this has been a continuing and bipartisan concern, this question of the firewall between the White House and the Department of justice. The Reno letter stated:

Initial communications between the White House and the Justice Department regarding any pending Department investigation or criminal or civil case should involve only the White House counsel or deputy counsel, or the President or Vice President, and the Attorney General or Deputy or Associate Attorney General.

That policy is represented by this chart. On the White House side, the only people authorized to have these initial discussions on criminal cases are the President, Vice President, Deputy White House Counsel, and the White House Counsel. Within the Department of Justice, it is only the Attorney General, Deputy Attorney General, and the Associate Attorney General—a grand total of seven people.

As I noted during the Attorney General's testimony before the Judiciary Committee last month, that rule was changed in an April 2002 memo from Attorney General Ashcroft. The new policy permits initial communications on cases and investigations between the Office of the Deputy Attorney General and the office of the counsel to the President, and it also states that staff members of the Office of the Attorney General, if so designated by the Attorney General, may communicate directly with officials and staff of the Office of the President, the Office of the Vice President, and the office of counsel to the President.

The new rule is represented by this other chart. There are over 400 people in the White House now authorized to have those conversations with the Department of Justice, where before it was 4. Before, it was the very top administration officials in the White