

If anyone thinks I am exaggerating, I will give just one example. The filibuster is a prime guarantee of the principle of minority rights in the Senate. The filibuster is a device by which a single Senator can bring the Senate to a halt if that Senator believes his cause is just. But our partisan warfare has often transformed this unique, fundamental Senate tool into a political weapon which has been abused. As a result, there have lately been efforts to abolish it. If this should ever happen, a vital and historic protection of the liberties of the American people will be lost, and the Senate will cease to function as the one institution that has provided protection for the views and the prerogatives of a minority.

I lament the ever-increasing costs of running for a Senate seat. In 1958, Jennings Randolph and I spent a combined \$50,000 to win the two Senate seats in West Virginia. Today, Senators can expect to spend about \$7 million. Too much of a lawmaker's time, too much of a lawmaker's energy is now consumed in raising money for the next election or to pay off the last one.

I lament that too many legislators in both parties continue to regard the Chief Executive in a roll much more elevated than the Framers of the Constitution ever intended. The Framers of the Constitution did not envision the Office of the President of the United States as having the attributes of royalty. We as legislators have a responsibility to work with the Chief Executive, but it was intended for this to be a two-way street, not a one-way street. The Senate must again rise and be the coequal branch of Government which the Constitution of the United States intended it to be.

I lament the decline of the thoroughness of Senate committee hearings. In its classic study, "Congressional Government," Woodrow Wilson pointed out that the "informing function of Congress is its most important function." This was revealed in 1973 when, after 8 days of hearings and after hours upon hours of questioning, L. Patrick Gray, President Nixon's nominee to be Director of the FBI, revealed that White House counselor John Dean had lied—lied—lied—to FBI investigators, thus beginning the unraveling of the Watergate coverup. Today, we have the knowledge this could not happen with the time restrictions that are in place on the Senate's hearings.

I am pleased to say that during my half century in the Senate, there have also been positive changes in the Senate. I will mention a few. The first is the Senate has become more open and the Senate has become more constituent friendly. This was highlighted in 1986 when television cameras were finally installed and the American people all across this country could watch their Senators debate the issues of the day on C-SPAN. I am proud to have been a part—though a small part—but a part of that innovation.

During my tenure, the Senate has become more open and it has become

more diverse. When I came here in 1959, there was only one—one female Senator. In the 111th Congress, there are 17 women in the Senate. In the 50 years prior to my service, not a single—not one African American was elected to the Senate. During my 50 years here, three African Americans have been elected to the Senate. This is a small number, but one of those three has now been elected to the highest office in the land—President of the United States. So, my fellow colleagues, we have come a very, very, very long way.

Let me conclude my remarks by simply acknowledging it has been a wonderful 50 years serving in this "great forum of constitutional American liberty." I only wish my darling wife, who now sings in the heavenly choir above, were here today to say with me that I look forward—yes, look forward to the next 50 years. Amen. Amen.

That concludes my remarks.

I yield the floor and I say good night to the Chair and all the people here.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SANDERS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MINNESOTA SENATE RACE

Mr. McCONNELL. Mr. President, earlier today there were some comments about the Minnesota Senate race that I would like to briefly address. The only people who have pronounced the Minnesota Senate race over are Washington Democrats and the candidate who is the current custodian of the most votes. The people of Minnesota certainly do not believe the Minnesota Senate race is over. The Minneapolis Star Tribune, which never could be confused for a conservative publication, wrote an editorial in their paper today entitled, "Court Review is Key in Senate Recount."

Writing about yesterday's Canvassing Board findings, the editorial says—and again, this is in today's Minneapolis Star Tribune—the editorial today says:

As Minnesotans are learning, that determination is not the same as declaring a winner in this amazingly close race.

It went on to say:

Both Franken and Coleman should want court-ordered answers to questions that the Canvassing Board could not answer.

The winner of this contest deserves the legitimacy that would come with a court's politically independent finding that he got more votes than his opponent.

The bottom line is this: The Senate race in Minnesota will be determined by Minnesotans, not here in the Senate.

OPENING OF THE 111TH CONGRESS

Mr. McCONNELL. Mr. President, the opening of a new Congress is always an

important moment in the life of our Nation. Every time a gavel falls on a new legislative term, we are reminded of the grandeur of the document we are sworn to uphold. We are grateful to the citizens of our respective States—in my case the people of Kentucky—who give us the opportunity to serve. We are thankful once again that the U.S. Constitution has endured to guarantee the freedom and the prosperity of so many for so long.

The growth of our Nation over the years is one of the most remarkable feats of man, and it was far from inevitable. When Congress first organized under the Constitution, the United States consisted of 11 States and 3 million citizens. Today, more people than that live in Kentucky alone. Yet despite a bloody Civil War, the arrival of millions of immigrants, economic collapse, World Wars, social unrest, and the long-delayed realization of America's original promise of equality for all, we have come together as a body and as a nation. We have not just endured these things, we have flourished, and that is well worth remembering and celebrating as the 111th Congress convenes.

As we meet in January of 2009, America faces many serious challenges. None is more urgent than our troubled economy. President-elect Obama was one of those who recognized the gravity of the current troubles early on. He reassured many by fielding a solid team of economic advisers. He agrees with Republicans that we should put more money in the pockets of middle-class American families by cutting their taxes, and he has proposed working with Republicans to create jobs and to encourage long-term economic stability with a massive domestic spending bill the details of which Members of Congress and the American people are increasingly eager to see.

After a long and rough campaign season, it is encouraging for many Americans to see that the two parties in Washington are in broad agreement about something so important to their daily lives. And Republicans will work with President-elect Obama to make sure that as we consider this legislation the taxpayer is not taken for a ride.

All of us agree the economy needs help. We are concerned and taxpayers are concerned. But if we are going to appropriate an unprecedented amount of money from the Treasury for this spending bill, it is absolutely essential that we determine up front whether the spending is going to be wasteful or wise.

Specifically, the American people should have at least a week, and it looks as if we will have more than that, to see what this enormous spending plan includes. President Clinton proposed a \$16 billion stimulus package in his first year in office. Congress, back in 1993, rejected it for being too expensive. Now Democrats in Congress are proposing a stimulus that would

cost taxpayers more than 50 times what President Clinton's would have cost.

This potentially \$1 trillion bill would be one of the largest spending bills in U.S. history. It would increase the deficit by a half trillion dollars overnight and deepen an already enormous national debt.

Before we all agree to it, the American people need to see the details. They need to be able to see for themselves whether this is money well spent. If lawmakers think it is, then they need to make a convincing case to the people who are paying for it.

Now, 16 years ago we rejected a similar stimulus the size of the Minnesota State budget. We should not be rushed into voting for a bill that, by any estimate, will be bigger than all 50 State budgets combined, especially when many of the jobs it promises will not even materialize for another year. If we are serious about protecting the taxpayer, these projects will be awarded through a fair and open process and allowed to compete with other priorities in the budget. We should encourage, not discourage, questions about this bill in a reckless rush to meet an arbitrary deadline. We should be open to new ideas aimed at protecting the taxpayer.

Here are three new ideas worth considering: Congressional Democrats have talked about sending hundreds of billions of dollars to the States. If we loan those funds rather than give them away, States will be far less likely to spend the money frivolously, and the taxpayer would have greater assurance their money is well spent.

Idea No. 2: Congress has had nearly 1 year to review the fiscal 2009 spending requests. These remaining bills now make up a \$400 billion Omnibus appropriations bill. This is a bill that meets the level of spending proposed for the stimulus, and it is a bill that could pass Congress by Inauguration Day. If speed is one of the goals, it strikes me that passing the omnibus achieves that goal.

Idea No. 3, middle-class tax relief: One way to get more money into people's pockets quickly is to increase the size of their paychecks immediately. An immediate 10 percent cut in taxes for nearly 30 million Americans would provide a significant jolt to the economy that all of us want. These are ideas on which both parties could agree. Each of them is designed to protect and empower the taxpayer. So let's consider them. But either way the American people should be in on this spending plan because the potential for waste and abuse is enormous.

Now, some loose-lipped local politicians have already described the grant as "free money" from Washington. Others openly hope to use it on frivolous pet projects that no sensible taxpayer would sign off on if they had a choice. The American people do not want to be pick-pocketed. They do not want to be taken advantage of. They

want a real return on their investment, and all of us should be eager to show that we understand the difference.

President-elect Obama has said a stimulus plan will have to create jobs, have an immediate impact, and lead to the strengthening of the long-term economy. Republicans agree, and we will help to ensure just that by insisting on scrutiny and oversight in the face of pressure on congressional Democrats from interest groups and local politicians.

Here is an issue on which the Republicans and Democrats can work together for a positive result for the American people. My hope is that once we achieve it, we will have a model to build on for the remainder of the 111th Congress. The opportunities for cooperation are numerous. Throughout his campaign, President-elect Obama spoke about the importance of a strong national defense. He spoke of the need to reduce the national debt. He vowed to go through the budget line by line to cut wasteful programs. He pledged to cut taxes on virtually all Americans and on small business. And he promised to put America on the path to energy independence within the next 10 years. These are all goals Republicans support. At this moment, nothing should stand in the way of our achieving them together.

I have told the new President I am eager to work with him. I have told him he can expect cooperation on the confirmation of qualified nominees to key Cabinet posts so the American people do not have to worry about a power vacuum at places such as the Pentagon, the State Department, Treasury, or Homeland Security. I have discussed with him something he already knows but which is worth repeating on the first day of the new Congress. When it comes to new Presidents, history offers a clear path, a clear path to success and a clear path to failure.

Some new Presidents have chosen to work with the other party to confront the big issues of the day that neither party is willing or able to tackle on its own. Others have decided they would rather team up with members of their own party and focus on narrow, partisan issues that only appeal to a tiny sliver of the populace but which lack the support of the American mainstream.

In my view, the choice at this particular moment is clear. If the new President pursues the former course, our chances of achieving a positive for the American people will be strong. The parties will continue to disagree. This is good for democracy, but political conflict is not an end in itself. At this moment we have an opportunity to show the American people, and we know that.

The majority leader has mentioned that this year the opening of Congress coincides with two important anniversaries. The first is Senator BYRD's 50th anniversary. This feat of longevity has no equal in the history of this body,

and this is quite fitting for a Senator who has no equal in the history of this body.

When ROBERT CARLYLE BYRD took the oath of office on January 5, 1959, he could not have known that he would be the longest serving Senator in U.S. history or that he would one day write this body's definitive history. But through the support of his beloved Erma, his legendary devotion to our Constitution, and his tireless will to improve the lives of the people of his State, the senior Senator from West Virginia has accomplished a remarkable feat, and today we honor him for it.

The other anniversary we commemorate today is no doubt dear to Senator BYRD's heart because 150 years ago this very month the Senate moved from its old home down the hall, where we had the reenactment of the swearing in of new Senators today—its old home down the hall, to the room we are in now. This transition meant far more in its day than the mere packing of books and rearranging of desks because back then, as now, every expansion of the Capitol has come with a fresh realization of the great adaptability of the U.S. Constitution and is further proof of its greatness.

According to the CONGRESSIONAL RECORD, the man who was selected to speak on the occasion of the Senate's relocation in 1859 was John Breckenridge, a Democrat and a Kentuckian who served as Vice President under President Buchanan.

In his remarks, Breckenridge offered an eloquent lesson on the history of the Senate and, after paying appropriate tribute to the heroes of the Revolution, he made an intriguing suggestion to the Senators of his day. Breckenridge suggested that the Senators of 1859 had an even greater responsibility than the Senators of 1789 because, as he put it, "the population, extent, and the power of our country surpass the dawning promise of its origin."

If this was true in 1859, it is truer still in 2009. Americans have seen quite vividly over the past 8 years, and even over the past few months, that the challenges which confront America and our response to those challenges have a powerful effect on the wider world.

Not a single Member of this body is unaware of the profound impact of his or her decisions. And that is why not a single Senator in this body wishes anything but the best to President-elect Obama.

Despite party differences, all of us feel a certain institutional pride in having one of our own in the White House. And every American will feel a special national pride when, for the first time in our Nation's history, an African American man raises his hand to recite the oath of office from the Capitol steps.

The President-elect has promised leadership that sees beyond the politics of division. But that responsibility

does not rest with the President alone. It rests with all of us. Before Inauguration Day, there is the opening of this 111th Congress. This too is a great civic ritual. And this too should renew our optimism about the future of America and our optimism about achieving something important for the American people over these next 2 years. Now is our chance to deliver—not just in word, but in deed. This is a solemn charge. For some, it might cut against the grain. But if we are to have a future worthy of our past, it is a charge that must be kept.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

ERIC HOLDER CONFIRMATION HEARING

Mr. SPECTER. Mr. President, with the approaching hearings before the Judiciary Committee on the nomination of Eric Holder to be Attorney General, I thought it might be useful to frame some of the issues and put them into perspective, at least my perspective, in advance of the hearings, and to advise Mr. Holder in some greater detail than our brief meeting, when he paid his courtesy call a few weeks ago, to discuss some of those issues so he would be in a better position to respond.

I begin with the view that I wish to be helpful to President-elect Obama in his dealings with the enormous problems which face our Nation. I have come to know President-elect Obama in his capacity as Senator for the last 4 years. His office is right down the hallway. I consider him a friend, and certainly we are in need of action on some of the enormous problems our Nation faces. We approach these problems in the context of our constitutional roles. The Constitution, in article I, gives certain powers to the Congress and, in article II, certain powers to the executive branch. The core of our constitutional Government is checks and balances so we have that responsibility to have oversight and to give our candid judgments. Frequently, it is more helpful to say no than to say yes. When we deal with the position of Attorney General, we have a role which is significantly different from other Cabinet officers.

For example, Cabinet officers carry out the President's policies on a wide variety of issues and, to an extent, so does the Attorney General. But the Attorney General has a significantly different role in his responsibility to the people and to the rule of law. Senator LEAHY and I wrote extensively on this subject, published last October in *Politico*.

Some Attorneys General have been very compliant with the administration and have not fared very well historically. Attorney General Harry Daugherty was sullied by the Teapot Dome scandal. Although ultimately cleared, he resigned amid allegations of

impropriety. We had the Attorney General during the administration of President Roosevelt, Attorney General Homer Cummings, who yielded to the court-packing plan, certainly not the sort of institutional integrity which we would look for in an Attorney General. Some Attorneys General have been very diligent. Perhaps the best example is Attorney General Elliot Richardson, who resigned rather than fire Special Prosecutor Archibald Cox during the administration of President Nixon, and Deputy Attorney General Bill Ruckelshaus followed suit.

In today's press, there are reports about the distinguished career of Attorney General Griffin Bell, who just died. One of the hallmarks of Attorney General Bell's career was his willingness to say no to President Carter, who had appointed him. President Carter, it is reported, wanted a certain prosecution brought. Attorney General Bell said that it wasn't an appropriate matter for a criminal prosecution. Attorney General Bell advised President Carter that the way he would get that prosecution brought would be to appoint a compliant Attorney General, that he would resign before he would undertake that prosecution.

We have seen, regrettably, with the administration of Attorney General Alberto Gonzales, yielding to the Executive will without upholding the rule of law; the hearings conducted by the Judiciary Committee, for which I was ranking member, over the termination of U.S. attorneys; the attitude of Attorney General Gonzales on habeas corpus, testifying that there was no positive grant of habeas corpus in the Constitution, notwithstanding the explicit clause which says habeas corpus may be suspended only in time of rebellion or invasion. So this is a very key and critical appointment.

The Attorney General also has enormous responsibilities in advising the President more generally on the scope of Executive authority. Mr. Holder will doubtless be questioned at some length on the issue of the terrorist surveillance program, warrantless wiretaps, and the meaning of the Foreign Intelligence Surveillance Act; and where does congressional authority under article I stop on the flat prohibition against wiretaps without warrants, contrasted with the Executive's power as Commander in Chief under article II; and what are the Attorney General designate's views on attorney-client privilege restrictions, a matter which he initiated in 1999 and which has seen further restrictions in the Thompson memorandum and subsequently. Last Congress I introduced legislation to try to deal with that. There is also the reporter's privilege issue, where the Department of Justice has opposed the privilege for reporters where they have been held in contempt. A New York Times reporter was held in jail for some 85 days after the source of the confidential disclosure had been addressed. These are just a few of the

issues which we will be looking at in the confirmation hearings of Attorney General Holder.

With respect to Mr. Holder, specifically, he has had an outstanding academic and professional record—I acknowledged that early on—prestigious college and law school, Columbia; a judge of the District of Columbia Superior Court; involved in Department of Justice prosecution teams; and later served as Deputy Attorney General. But aside from these qualifications on Mr. Holder's resume, there is also the issue of character. Sometimes it is more important for the Attorney General to have the stature and the courage to say no instead of to say yes.

There are three specific matters which will be inquired into during the course of Mr. Holder's confirmation hearing. The first one involves a highly publicized pardon, the Marc Rich pardon. Mr. Holder testified he was "not intimately involved" in the Rich pardon and he assumed that regular procedures were being followed. But when you take a look at some of the details as to what was disclosed in the hearing by the House of Representatives and in the hearing in the Senate Judiciary Committee, which I chaired 15 months after the pardon, Mr. Holder met privately with Mr. Rich's attorney. According to Mr. Holder's own testimony, he tried to facilitate a meeting between the prosecutors in the Southern District of New York and Rich's attorney. Rich's attorney, Mr. Quinn, testified that Mr. Holder advised him to go straight to the White House rather than through the pardon office, which is the regular procedure. Mr. Quinn produced an e-mail from himself to a colleague with the subject line "Eric," in which he noted that "he says go straight to the WH, also says timing is good. We should get it in soon."

That is not conclusive, but these are matters to be inquired into. The pardon attorney was opposed to the pardon, but he never issued a recommendation because he didn't think the pardon was under serious consideration. Then the White House requested Mr. Holder's opinion, and he is quoted as saying that he was "neutral, leaning towards favorable" on the pardon.

On this case of the record, with the very close connections between Mr. Rich and very sizable contributions to the Clinton library and very sizable contributions to President Clinton's party, these questions inevitably arise and have not been answered satisfactorily. During the course of the hearings, both in the House and in the Senate, where I chaired the full committee hearing, the claim of executive privilege was made. We face a little different situation when we are looking at a confirmation hearing for Attorney General, in terms of the legitimate scope of Senators' inquiry which will be pursued. It ought to be focused on the fact that the charges against Rich were very serious. They involved tax evasion, fraud, trading with the enemy,