



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 106th CONGRESS, SECOND SESSION

Vol. 146

WASHINGTON, TUESDAY, JUNE 6, 2000

No. 68

Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, yesterday was the eighty-first anniversary of the passage of the nineteenth amendment establishing women's suffrage. Thank You for the heroines of our heritage as we celebrate progress in the rights of women in our society. We thank You for the impact of women on American history. We praise You for our founding Pilgrim foremothers and the role they served in establishing our Nation, for the strategic role of women in the battle for independence, for the incredible courage of women who helped push back the frontier, for the suffragettes who fought for the right to vote and the place of women in our society, for the dynamic women who have given crucial leadership in each period of our history.

Today, Gracious God, we give You thanks for the women who serve here in the Senate; for the outstanding women Senators, for the women who serve as officers and in strategic positions in the ongoing work of the Senate, and for the many women throughout the Senate family who glorify You by their loyalty and excellence.

In Your holy name we pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE V. VOINOVICH, a Senator from the State of Ohio, 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.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. VOINOVICH). Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 12:30 p.m., with Senators permitted to speak for up to 5 minutes each.

The Senator from Idaho is recognized.

SCHEDULE

Mr. CRAIG. Mr. President, today the Senate will be in a period of morning business, as the Chair has mentioned, until 12:30 p.m., with Senator DURBIN and Senator THOMAS in control of 1 hour each.

Following morning business, the Senate will recess for the weekly party conferences. As a reminder, the official Senate picture will be taken at 2:15 p.m. today. I encourage my colleagues to be prompt in an attempt to complete the photo in a timely manner.

When the Senate reconvenes, it is hoped the Senate can begin consideration of the Department of Defense authorization bill. Senators who intend to offer amendments to this important legislation are encouraged to keep their amendments germane in an effort to complete action on the bill prior to the end of the week.

I thank my colleagues.

The PRESIDING OFFICER. The assistant minority leader is recognized.

ITEMS TO ACCOMPLISH BEFORE THE JULY 4 RECESS

Mr. REID. Mr. President, I look forward to this period of time prior to the July 4 recess, as does the entire minority. We are hopeful we can make progress on the appropriations bills, which certainly need to be accomplished. Also, I hope there will be an opportunity to do something about the Patients' Bill of Rights, prescription drugs; that we can complete work on

the minimum wage, and the juvenile justice bill.

A number of these matters have been languishing, waiting for the conference committees to act. We have all had our time at home, and we are ready to go. We hope we can move forward, I repeat, with the appropriations bills and these matters I have outlined.

BUILDING A BIPARTISAN COMPROMISE

Mr. CRAIG. Mr. President, I certainly concur with my colleague that I hope we can move forward on these critical issues. We are now working hard at accomplishing some of those efforts. As he mentioned, the conference on the Patients' Bill of Rights is at work. We hope we can build a bipartisan compromise as necessary to produce that kind of program and law and protection for the American consumers of health care.

There is a great deal of work to be done. I hope we can come together in a united and bipartisan way to resolve some of these issues, to move the appropriations bills forward, to make sure we complete our business in a timely manner.

Of course, I understand, as I think my colleague from Nevada understands, that is going to take cooperation from both sides. Tragically, and sadly, we got into a bit of a nonproductive period prior to the Memorial Day recess. I hope the recess has cleared the air and we can come back in a productive way.

MEASURES PLACED ON THE CALENDAR—S. 2645 AND H.R. 3244

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

The PRESIDING OFFICER. The clerk will read the bills by title.

The assistant legislative clerk read as follows:

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



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S4507

A bill (S. 2645) to provide for the application of certain measures to the People's Republic of China in response to the illegal sale, transfer, or misuse of certain controlled goods, services, or technology, and for other purposes.

A bill (H.R. 3244) to combat trafficking of persons, especially into sex trade, slavery, and slavery-like conditions in the United States and countries around the world through prevention, through prosecution and enforcement against the traffickers, and through protection and assistance to victims of trafficking.

Mr. CRAIG. Mr. President, I object to further proceeding on these bills at this time.

The PRESIDING OFFICER. Under the rule, the bills will be placed on the calendar.

The Senator from South Carolina is recognized.

(The remarks of Mr. THURMOND and Mr. DURBIN pertaining to the introduction of S.J. Res. 46 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolution.")

The PRESIDING OFFICER. Under the previous order, the time until 11 a.m. is under the control of the Senator from Illinois, Mr. DURBIN, or his designee.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I ask unanimous consent that at 12 o'clock I be allowed to speak for 15 minutes in morning business.

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

Mr. REID. Mr. President, I ask unanimous consent that the time between 12:15 and 12:30 be reserved for myself.

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

Mr. DURBIN. Mr. President, I yield to the Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. I thank the Senator from Illinois.

THE NEED FOR A MORATORIUM ON EXECUTIONS

Mr. FEINGOLD. Mr. President, the Federal Government has not executed a person in the name of people of the United States of America since 1963. For 37 years, we as a people have not taken that fateful, irreversible step. I rise today because all that is apparently about to change.

Since January, I have come to the Senate floor several times to urge my colleagues to support a moratorium on executions and a review of the administration of capital punishment. Mr. President, the need for that moratorium has now become more urgent.

During the Senate recess just ended, a Federal judge in Texas set a date for the execution of Juan Raul Garza. In only two months, on August 5, he could become the first prisoner that the Federal Government has put to death since 1963.

In the early hours of a Saturday morning, when most Americans will be sleeping, Federal authorities will strap Mr. Garza to a gurney at a new Federal facility in Terre Haute, Indiana. They will put the needle in his vein. And they will deliver an injection that will kill him.

Mr. President, I rise today to invite my colleagues to consider the wisdom of this action.

More and more Americans, including prosecutors, police, and those fighting on the front lines of the battle against crime, are rethinking the fairness, the efficacy, and the freedom from error of the death penalty. Senator LEAHY, a former federal prosecutor, has introduced the Innocence Protection Act, of which I am proud to be a cosponsor. Congressman DELAHUNT and Congressman LAHOOD have introduced the same bill in the House. Congressman DELAHUNT, also a former prosecutor, is concerned that our current system of administering the death penalty is far from just. He has said: "If you spent 20 years in the criminal justice system, you would be very concerned about what goes on."

In my own home state of Wisconsin, at least eleven active and former state and Federal prosecutors have said that executions do not deter crime and could result in executing the innocent. Michael McCann, the well-respected District Attorney of Milwaukee County, has said that prosecution is a human enterprise bound to have mistakes.

Mr. President, police—the people on the front lines of the battle against crime—are coming out against the death penalty. They are finding that it is bad for law enforcement. Recently, when police chiefs were asked about the death penalty, they said that it was counterproductive. Capital cases are incredibly resource-intensive. They do not yield a reduction in crime proportional to other, more moderate law-enforcement activities.

A former police chief of Madison, Wisconsin, for example, has said that he fears that the death penalty would make police officers' jobs more dangerous, not less so. He expressed concern that a suspect's incentive to surrender peacefully is diminished when the government has plans to execute.

Ours is a system of justice founded on fairness and due process. The Framers of our democracy had a healthy distrust for the power of the state when arrayed against the individual. Many of the lawyers in the early United States of America had on their shelf a copy of William Blackstone's Commentaries on the Laws of England, where it is written: "For the law holds, that it is better that ten guilty persons escape, than that one innocent suffer." And Benjamin Franklin wrote, "That it is better 100 guilty Persons should escape than that one innocent Person should suffer. . . ."

Our Constitution and Bill of Rights reflect this concern for the protection

of the individual against the might of the state. The fourth amendment protects: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures. . . ." The fifth amendment protects against being "deprived of life, liberty, or property, without due process of law. . . ." The sixth amendment guarantees that "the accused shall enjoy the right . . . to have the assistance of counsel for his defense." And the eighth amendment prohibits "cruel and unusual punishments."

Our system of government is deeply grounded in the defense of the individual against the power of the government. Our Nation has a proud tradition of safeguarding the rights of its citizens.

But more and more, we are finding that when a person's very life is at stake, our system of justice is failing to live up to the standards that the American people demand and expect. More and more, Americans are finding reason to believe that we have a justice system that can, and does, make mistakes.

Americans' sense of justice demands that if new evidence becomes available that could shed light on the guilt or innocence of a defendant, then the defendant should be given the opportunity to present it. Unfortunately, apparently, the people of New York and Illinois are the only ones who understand this. They have enacted laws allowing convicted offenders access to the biological evidence used at trial and modern DNA testing.

If you are on death row in a state other than Illinois or New York, you might be able to show a court evidence of your guilt or innocence based on new DNA tests. But your ability to do so rests on whether you're lucky enough to get a prosecutor to agree to the test or convince a court that it should be done. Or, as we have seen very recently, your ability to show your innocence may rest with the decision of the governor. And that raises the risk of a political decision, not necessarily one that is based solely on fairness or justice.

Mr. President, I am not surprised that both Texas Governor George Bush and Virginia Governor James Gilmore are no longer confident that every prisoner on death row in their states is guilty and has had full access to the courts. Allowing death row inmates the benefit of a modern DNA test is the fair and just thing to do. But scores of other death row inmates, in Texas, in Virginia, and around the country, may also have evidence exonerating them. They may have DNA evidence. Or they may have other exonerating evidence. We must ensure that all inmates with meritorious claims of innocence have their day in court. But, among problems in our criminal justice system, the lack of full access to DNA testing is, unfortunately, just the tip of the iceberg.