

I think we could make real progress over the next several minutes and the next hour. But if not and if, in my judgment, we are just at a point where our business comes to a halt, it is important that we come forward on the floor of the Senate with the resolution on those committees.

I think we will have a productive day today. I am optimistic that we will. We have negotiated in good faith over the last week and a half. Now is the time to get on with the Nation's business.

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

Mr. FRIST. Absolutely.

Mr. REID. Mr. President, I was listening intently. But when does the leader think he would bring this resolution up, if we can't work something out?

Mr. FRIST. Mr. President, my intention is to review it with everybody who has been involved in the negotiations over the next several minutes or hour. But it is time for us to move ahead. So, very shortly. I hesitate to do so, to be very straightforward, because the overall negotiations have gone very well, and I did not in any way want to interrupt those negotiations. But at this point I am receiving phone calls from our colleagues, including the 11 freshmen, who, even if we met right now with committees, are simply not on those committees and are asking: What do we do? We came here. We were elected with the majority, and we are not on committees. We are not allowed.

It is incumbent upon me to get to it sometime very shortly. It may be this afternoon. It may be this morning. But sometime today we need to bring to a head the very simple Republican resolution to appoint chairmen, which we ratified on this side, and to appoint committees.

Mr. REID. Mr. President, my only suggestion to the leader would be that I think it would be in the best interests of all if we at least waited until the party caucuses so our leader and the majority leader could explain to their folks what the end might be. But we will await the decision of the leader. I will report to Senator DASCHLE momentarily.

Mr. FRIST. Mr. President, again, I am trying to have discussions in good faith. If in the next hour or hour and a half it is clear to me that no progress is being made—because by the time we have the policy luncheons, that will be 2 o'clock, and by the time we get back out here, it will be 3 or 4, and in essence we have lost a day. I do not want to make any commitment. I understand. That is why day after day I have not gone public, and I appreciate the Democratic leadership doing the same. But now all our colleagues are recognizing that our responsibility is to the United States of America and to this body, and we simply cannot leave next week with these things pending.

If I wait until tomorrow or the next day before we bring this to a head, it will be clear that we are going to be

here every single day. Right now, I think we have a chance. If we can do the committee resolution today—this morning—I think we can very quickly go to the appropriations process, the committee will be organized, and we can consider that legislation. Because so much work has already been done, we could, in fact, complete this and be able to have the recess that we initially planned. But if it is not done this morning or early this afternoon, I don't see how we will be able to do it.

Mr. REID. Mr. President, certainly we understand the difficulty in organizing. When the majority changed a year and half or 2 years ago, it took us 6 weeks to work this out. I certainly hope it doesn't take that long this time.

I also say both Senator DASCHLE and I yesterday indicated we agree with you that if we cannot complete our business this week, we should stay in next week. The chairman of the Appropriations Committee and Senator BYRD need to finish these bills, and they cannot do that if we are not in session.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. REID. Will the Senator yield for a unanimous consent request while the majority leader is on the floor?

Mr. CRAIG. Yes.

Mr. REID. I put us into a quorum call. I ask unanimous consent that during this morning business time that we have, the quorum calls be equally divided between both sides and not be charged against the party who asks for it.

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

The Senator from Idaho.

Mr. CRAIG. Mr. President, we are now in morning business?

The PRESIDENT pro tempore. We are now in morning business.

Mr. CRAIG. Mr. President, I will speak for a period of time in morning business.

#### COMMITTEE ORGANIZATION AND THE SENATE'S BUSINESS

Mr. CRAIG. Mr. President, I was pleased to see the minority whip and our majority leader on the floor a few moments ago, as I was viewing the floor from my office, hoping that an organizational resolution had been completed, that negotiations that had been underway now for nearly 2 weeks as to the organization of the Senate might bring us to a state where the Senate could begin to work.

Obviously, the American people have spoken very loudly in the last several months about the need to get our work done as it relates to both the economy,

the risk of war, and certainly the ongoing business of Government. And they spoke out loudly on November 5 as to who ought to be running the Senate. I think they would expect that transition, in a peaceful democratic system, would go smoothly and that we could be in the business of running the Senate. That simply has not happened to date.

I served, at the privilege of the majority leader, as chairman of the Committee on Committees. My task was to call all the Senators and get them fitted into the new committee structure and to recommend that kind of shaping for the ongoing business of the 108th. That work was completed well over a week ago. The majority leader urged me to get it done as soon as possible after the first of the year. Why? Because of the history of the Senate, that most organizational resolutions that get our Senate working occur usually in the first week of January, so we can be immediately at the people's business, so we can be immediately examining budgets and spending resolutions, and begin the work of shaping a budget for our Government to operate.

That simply has not happened. Why has it not happened?

I think the best evaluation of it appeared in the Wall Street Journal editorial yesterday, called "Daschle's Election Lesson." Mr. President, I ask unanimous consent that editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Jan. 13, 2003

#### DASCHLE'S ELECTION LESSON

So much for the theory that Democrats lost the Senate in November because they had obstructed President Bush's agenda. Judging by Tom Daschle's behavior so far this year, the new Senate minority leader has concluded that the lesson of their drubbing is that Democrats weren't obstructionist enough.

Only a week into the new Congress, the Daschle Democrats are already in full-throated opposition, assailing every White House idea and starting up the 2004 election campaign. Mr. Daschle's response to the President's tax cut hasn't been merely that it's wrong or helps "the rich," but that it's "obscene." (Tom, what are you going to say when you really don't like something?)

Democrats are also already vowing to defeat Mr. Bush's judicial nominees, even if it takes filibusters that let a mere 41 Democrats define Senate "advice and consent." Yesterday Mr. Daschle said the renomination of Charles Pickering Sr. "lays bare the Administration's real position on civil rights" and "exposes the Southern strategy clearly." Ah, racial harmony.

This same goodwill embrace is also being extended to new GOP Majority Leader Bill Frist. Despite a bipartisan deal last week to pass unemployment benefits by unanimous consent, Democrats sandbagged Mr. Frist on the floor by demanding more cash than the deal had called for. Hillary Clinton was seen giving orders on this ambush on the Senate floor. While the original deal ultimately passed, the vote was an omen of the Democratic strategy.

Which seems to be to use every opportunity to bollix up the Senate works. That

includes even delaying the handover of their majority status. Every new Congress requires "organizing resolutions," but Democrats have threatened to filibuster the Senate version unless they get virtually the same committee and staff funding as the majority.

Some of this haggling is understandable, but the demand for 50/50 funding is absurd. The historical split has typically been two thirds/one-third regardless of the Senate breakdown. Last Congress's division of 55/45 was the exception, because it began with the parties split 50/50, and Democrats only got to 51 midterm after Jim Jeffords defected to get a committee chair. Republicans have now won an election, and Democrats know the majority needs more funding because it has the duty of actually running the Senate.

Conveniently, any organizing delay allows Democrats to continue as committee chairmen, slowing the Republican start. Joe Lieberman, who is supposed to be the former chairman of Governmental Affairs, sent out a notice saying that he'd preside over this week's confirmation hearing for Tom Ridge, nominated to run the new Homeland Security Department.

This would mean a nice photo-op for the soon-to-be Presidential candidate, but it's an insult to Maine Republican Susan Collins, who should be running the committee. The White House pulled Mr. Ridge at the last minute to deny Mr. Lieberman his chance to knock the Administration around, but this only delays Mr. Ridge's ability to get on with the job.

No doubt the Senate will organize, but the shenanigans portend a nasty two years. Democrats are understandably sore about losing their majority, but rather than undertake some introspection they're jumping right back to the barricades. They apparently figure they can obstruct Mr. Bush's agenda and voters will blame Republicans who are supposed to be in control.

Maybe, but we seem to recall that's similar to the argument they made last year. Max Cleland and Jean Carnahan can testify from private life to how well it worked.

Mr. CRAIG. What the editorial in the Wall Street Journal said was apparently the former majority leader had not learned a lesson, that in the obstructionist character by which he operated the Senate for the last 18 to 20 months—that lost him the majority in the Senate, that denied us a budget and 11 appropriations bills, that denied us Medicare and prescription drugs, that denied the American people a great many things that not only was the President promising but the Senate and the House were working under—he should have learned a lesson; that he should be here helping facilitate the process of helping this Senate to move forward.

That has not happened. Why? I guess they don't realize they lost the majority; that somehow they are now in the minority, and it is the responsibility of them, in this Democratic process, to work with us to make our Government function appropriately. It has always happened that way in the past, but it isn't happening that way today.

Over the last week, the negotiations, which I have not been a part of but certainly which have been reported to me, largely say: We want everything we had last year. But they were in the majority last year. Are they entitled to

everything they had last year? No. There is a clear historic precedent that said the majority always got two-thirds of the funding to operate the committees and to cause this system of the Senate to function, and the minority got one-third.

It changed during the 107th because of the 50-50 relationship. And certainly, when I was asked, I would say that in a relationship like we have today, 51-49, with 1 independent, we could be more flexible than just 66 or one-third, two-thirds. But to suggest that they have everything they had last year, in helping set the agenda of the Senate, if that is what their position is, then the tactics they used in the last Senate, that gave them the minority in the new Senate, are being employed once again.

I know why they are doing it and why they think they can get away with it in this business, because it is inside ball, it is inside politics. The American public does not register with them. When we start talking about committee funding and staffing, that is of little interest to an American who is out of work, to a senior who is paying \$400 or \$500 a month for his or her prescription drugs. They want those problems solved and they want them solved now. And while, in many instances, we cannot move that quickly, it certainly is our responsibility to move.

The Presiding Officer at this moment is the new chairman of the Appropriations Committee. He and his staff have been working for weeks to move the 11 appropriations bills that fund Government through this system, and it has not happened. Why? Because he has not been given the authority, even though he is in the majority, to do it. Why? Because the former majority leader, now the minority leader, has simply blocked it.

The editorial I put in the RECORD from the Wall Street Journal, I thought, said it well in the closing paragraph:

No doubt the Senate will organize—and we will. And we may see that debate over a final resolution begin today—

but the shenanigans—some that I have just referred to—portend a nasty two years. Democrats are understandably sore about losing their majority, but rather than undertake some introspection they're jumping right back to the barricades. They apparently figure they can obstruct Mr. Bush's agenda and voters will blame Republicans who are supposed to be in control.

Maybe, but we seem to recall that's similar to the argument they made last year.

And then they go on to talk about certain Senators who lost their election. Maybe that message was not as obstructed from the American people as some of us might have believed it was.

The Senate is not working today. And the reason the Senate isn't working is because the minority leader, the Democrat leader, is doing everything

he can to block it from working. It is simple. It is straightforward. And I believe my comments are very honest.

Mr. GREGG. Will the Senator yield for a question?

Mr. CRAIG. I am happy to yield.

Mr. GREGG. I think the Senator is making an excellent point, and it goes beyond just the question of the operation of the Senate. It really goes to the constitutional form of government we have.

We have a constitutional democracy in this country. One of the key elements of constitutional democracy is that after there is an election in which one party is succeeded by another party in power, that transfer of power occurs smoothly and seamlessly. That has been the tradition in this country for over 200 years. Yet now we see the other side of the aisle insisting on maintaining their chairmanships after they have lost the majority. That flies in the face of the concept of a constitutional form of government, does it not?

Mr. CRAIG. I think the Senator from New Hampshire is straight on. What we are talking about is that peaceful transition of power, when you are no longer in the majority and it is the responsibility of the new majority to form a Congress, and that is what you do every 2 years with a new Congress.

This is the 108th Congress that we are now forming. I think the point of the Senator is made, which is that the Democratic Party is now in the minority and are still holding chairmanships and therefore refusing to allow committees to function on the whole, and to allow the majority—now Republicans—to shape the committees, bring staff on board, and establish the agendas. And what is most critical at this moment is to finish the work that was left undone in the last Congress.

The Senator from New Hampshire and I know, and certainly the Senator from Alaska who is in the chair at this moment knows, one of the single most important tasks we do every year is pass 13 appropriations bills to fund the Government. That is the budget of the U.S. Government. It is not just dollars and cents. It is policy—where you spend it, how you spend it, how much you spend, what it gets, programs that are discontinued, programs that are expanded. A budget is absolutely critical, and the funding of that budget is, in essence, the operations of the Government.

Yet last year the Congress was not able to perform, not able to pass those 13 appropriations bills. Why? Because of this Senate denying the Congress the time and the opportunity to move forward to get that done. We had hoped we could come back in and, during the month of January, move expeditiously to complete those 11 appropriations bills left undone, get those policy messages and spending messages out to the agencies that are clearly affected so that Government would run as we are expected to ask it to run. Of course, that is really what is being denied at

this moment by our inability to organize, the inability of the chairman of the Appropriations Committee—now presiding—to move forward. Yes, we have been working.

Right now, we should not be debating an organizational resolution on the floor or hoping we can debate it; we ought to have the omnibus appropriations bill on the floor with those 11 bills in it. That is what the debate of the day and the work of this week ought to be.

I hope the minority leader and the Democrats who serve in the Senate recognize that the game they play may be inside politics, but more and more of us are going to be talking outside the inside trying to reflect to the American people that, as the Wall Street Journal said, the shenanigans being played are to man the barricades and use obstructionist tactics to stop the Senate from moving and—I think the Senator from New Hampshire said it so clearly—in essence deny us the democratic process.

Mr. GREGG. If the Senator will yield further.

Mr. CRAIG. Yes.

Mr. GREGG. This is a significant point. We have had a number of extraordinarily enlightening discussions on this floor involving the history of the Senate and the history of the Senate in the context, for example, of the Roman Senate. If you look at the history of this Senate and at the history of legislative bodies similar to the Senate, when there has been a sliding away from the traditional transfer of power as a result of an election; when there has been a sliding away from that, that is when crisis has occurred. I know the Senator who was often giving us extraordinary statements and information on the issue of the Roman Senate, and he would probably have to concede that the Roman Senate—if I may refer to that body as the precursor of ours—really fell into disrepair and became a nonfunctional body when Caesar refused to abide by the Roman Senate and stepped on the authority of the Roman Senate and took away its authority and didn't acknowledge its elective role.

The only time in our history when we have not had a transfer of power that has occurred as a result of an election, when the right of an election has been superseded, was in the Civil War, and there were extenuating circumstances for why that occurred. It occurred in the Maryland Legislature, to be specific. So this decision by the other side of the body to retain their chairmanships in the face of an election which has removed them from them, because the majority has shifted, sets a precedent which has immense impact, potentially, on the way this body functions as a reflection of a democratic government.

So before the Democratic side of the aisle continues down this course, I think they need to think about what they are doing. Are they damaging the

integrity of our process, of the elective process, by continuing to insist that they remain in power when they have lost power through the election? That is what this is about. They want to retain power even though they lost power through the elective process. I think the Senator has touched the issue rather effectively. I suppose it can be understated, but I don't think it is.

Mr. CRAIG. Let me conclude because I see another colleague on the floor who wishes to speak. I am going to serve on the Judiciary Committee this year, along with several colleagues, for a lot of reasons, but primarily to move judges into our Federal court system that now lacks 150 seats. That third branch of Government isn't functioning largely because of the denial to move the President's nominees through in this past 18 to 20 months. We have seen that going on. Yet we are now being told that 41 Senators will filibuster, and that that simply won't happen if they don't get what they want.

The role of the Senate and the Judiciary Committee in this instance fits well into that advise and consent role that we play with the executive. My colleague from New Hampshire was talking about constitutional authority and constitutional responsibility and the transition, if you will, in a democratic process. Our job is to advise and consent. Our job is to review the President's nominees, and I hope we can bring every one of them to the floor for an open-ended debate—not to filibuster; that would be precedent-setting, but to have a debate and have an up-or-down vote. That is what the American people expect of us and they should demand it, and I hope the hue and cry from the hinterland becomes very loud in the next few months if the processes are denied simply by an obstructionist tactic of refusing to give up power when the electorate has spoken.

With that, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). The Senator from Alabama is recognized.

#### WHAT THE AMERICAN PEOPLE WANT

Mr. SESSIONS. Mr. President, I had the great honor of being elected by the people of Alabama to a second term this year. I traveled hard all over the State. I travel to every county every year in my State. I was out this past year talking with the American people and listening to what they had to say. I have a sense of what they are concerned about, what they want to see done, what they thought their vote meant.

They were, I believe, tired of politics as usual, political logjams, obstructionism. They wanted us to move forward, work together, and put the interest of the United States and the people first. They think we focus too much on parties and political interests. Certainly, sometimes what may appear to

individuals as a petty political party dispute really has significant policy impact for the country and the world, but the truth is that many times that is not so. Many times, the American people are correct that politics interferes and overcomes our responsibility to serve the people of the United States. Sometimes the debates we have here are indeed "insider baseball," as some would say. It reveals personal pique, pride, and sometimes plain obstructionism.

After the election, when the majority changed in the Senate, just ordinary people would grab my arm as I went about and they would say to me—and I have told others this, and they have said it in almost these same words—JEFF, maybe you can get something done now.

I think the message of this election was the American people wanted us to get the work done. I believe that strongly.

I was a Federal prosecutor for a number of years. I know the Presiding Officer has been a lawyer for a number of years. I remember the story—it has different versions—about a jury that had been out a couple of days. The judge was getting a little worried about them. He asked them how they were doing, and they reported: Fine, Your Honor, we just elected a foreman.

How much time do we have to piddle around with organizing resolutions? The situation with which we are struggling today is critical. We must pass an organizing resolution for this Senate. It is important because nothing much is going to happen in this body until we do. New Senators cannot even be assigned to committees until this organizing resolution is adopted. We can do better.

The Senate has been in session over a week. We still have not adopted the organizing resolution. The new majority leader, Senator BILL FRIST from Tennessee, has a reputation of working across the aisle, of being able to bring together people with different views, and he is a good and nice person. He desires a bipartisan resolution that is fair to everyone, but I think it would be a mistake for Members of this body to believe that because he desires to be fair and he desires to reach across the aisle, he is just vulnerable to being pushed around; that they can insist no changes occur in their vision of how this body ought to be organized, and they will just sit back and refuse to let the business of the Senate go forward until that happens. I believe that is wrong.

The majority leader is going to be open, but he will not capitulate and change the historic procedures that have guided the Senate over the years. Frankly, there is a reason on the financial end of this organizing resolution for the majority party to have additional resources. That reason is the majority has to chair the committees, and the chairman has to move the agenda of the committee. Not only