

SENATE—Thursday, June 24, 1999

The Senate met at 9:33 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Pastor Daniel Holland, Metro Church of Christ, Oviedo, FL.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Pastor Daniel D. Holland, offered the following prayer:

Our Father in Heaven, as we begin a new day, we recognize that You are God and we are Your servants. We confess that we have not always walked in the path of righteousness and ask for Your forgiveness.

May our work this day be honoring to You. Remind us today that You are a promise-keeping God.

As You gave wisdom to King Solomon, so You promise wisdom to those who ask You. We ask for the wisdom to know the difference between what is right and what is wrong.

As You were with Jesus during the difficult days of the cross, so You have promised never to leave us as we serve You. Please give us the spiritual strength to follow wherever You may lead, even when following means a personal price must be paid. As You promise forgiveness, help us forgive those who sin against us. As You promise to provide for our needs, help us to give of ourselves to others.

Father, give us faith to see Your great and precious promises and courage to govern according to them. Through Jesus Christ our Lord. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore. We will all join now in the Pledge of Allegiance to the flag.

The PRESIDENT pro tempore 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.

RECOGNITION OF THE MAJORITY LEADER

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

FIRST PLEDGE OF ALLEGIANCE

Mr. LOTT. Mr. President, I observe that for the first time, I presume, in history we have just opened the session of the Senate with the Pledge of Allegiance led by our most esteemed President pro tempore.

I yield for some brief comments on that to the Senator from New Hampshire.

The PRESIDENT pro tempore. The distinguished Senator from New Hampshire is recognized.

Mr. SMITH of New Hampshire. I thank the majority leader for his courtesy.

This is a historic day. Ironically, today, the House of Representatives is scheduled to pass a constitutional amendment protecting our flag from desecration and on this same day we are, for the first time in the history of the Senate, as far as I know, saluting the flag as we begin its proceedings.

I thank both leaders, Senator LOTT and Senator DASCHLE, for their support in bringing this resolution to the floor quickly, and also to thank Senators MCCONNELL, HELMS, DORGAN, MIKULSKI, WARNER, BROWNBACK, FEINSTEIN, ROBB, CONRAD, THURMOND, MURKOWSKI, and Senator GORDON SMITH for their co-sponsorship and to thank all of my colleagues as we had a 100-to-0 agreement to do this.

I am proud to be the sponsor of this historic resolution. I stand here at a very historic desk, the desk of Daniel Webster, who was here a few years before me.

This is history being made. I want to give credit to the person who helped make this history happen. Oftentimes, we get letters and phone calls from constituents, sometimes with good ideas, sometimes they are not so good. But in this particular case a young woman, who is in the gallery today, by the name of Rebecca Stewart, of Enfield, NH, made a simple phone call to my office. She said: Why don't we salute the flag before the proceedings begin in the Senate?

I said: That's a good idea. Why didn't I think of that? But I had not.

Thanks to Rebecca, who gave us the idea—and I looked into it with the Rules Committee and everything moved quickly, thanks to both leaders—here we are. Today, Rebecca brought with her the flag that was draped over the coffin of her husband's grandfather, who was a World War II vet.

I think it is very fitting this morning that a young woman from New Hampshire, which has the Nation's first primary, was first to see that the flag of the United States will from now on be saluted prior to the proceedings in the Senate.

I say thank you to Rebecca and to my colleagues for their courtesies in making a good idea come to pass.

I thank the Chair, and I thank my colleague for yielding.

Mr. LOTT. Mr. President, I wish to express our appreciation to the Senator from New Hampshire, Mr. SMITH, for his effort. The fact is that the Rules Committee moved swiftly on the resolution. I think I should note for the record that the House of Representatives started this practice some years ago, and it was instigated by my former colleague in the House, Sonny Montgomery. They have been doing it for a number of years, and I think it is most appropriate that we begin to do the same thing in the Senate.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, I think it is important that I take a minute to sort of review the bidding as to what has been going on. There have been a number of discussions as to how to proceed with the pending agriculture appropriations bill, as well as the two pending Patients' Bill of Rights proposals. Senator DASCHLE and I talked numerous times throughout the day. At one point, beginning on Tuesday night, we talked about trying to find a way to take the Patients' Bill of Rights issues up and deal with them on Wednesday and Thursday. We could not quite get that approved.

Then a proposal was made to go ahead and go forward with the appropriations bills and maybe some other legislative issues that could be cleared and to take up the Patients' Bill of Rights issue on Monday, July 12, when we come back from the recess, and spend until the close of business that week, Thursday, July 15, on the Patients' Bill of Rights issue. Originally, I was thinking it would just be sort of a jump ball; we would get started. We would go forward, no limits on amendments, no limits on time, but understanding everybody had to be fair with each other. There should not be an attempt on this side to block a reasonable number of amendments. Neither should there be an attempt on the other side to say we have to have 18 or 26 or 35 or any requisite number of amendments but just do like we do legislative bills—we take them up and go forward.

Concerns developed on both sides of the aisle, and we modified that proposal two or three times. As of late last night, about 6, we were still exchanging ideas. So we do not have a finalized agreement.

I think progress has been made toward finding a way to complete action on the pending bill; that is, the underlying bill, the appropriations bill, as

well as other important appropriation bills. We should be able to find a way to consider the Patients' Bill of Rights issue, because there is belief, I think on both sides, that there are some areas that need to be addressed. There are some rights that need to be protected. There should be some way to appeal decisions within HMOs. Once we make up our minds that we will get together and work through it, I think we will be able to do that. We can continue trying to negotiate, which I am always willing to do, or we can just go ahead and go forward and see what happens.

Keep in mind that this Patients' Bill of Rights issue, or pieces of it, would be on the agriculture appropriations bill, which is not the normal place we would want it. Also, I presume it won't be there when the appropriations bill comes back. So I do not quite understand why we would be doing it this way.

To enable us to negotiate, I will ask for a period of morning business, but I would like to discuss that momentarily with Senator DASCHLE and leadership on both sides.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. LOTT. In order to continue working to find a way to handle these appropriation bills, particularly the underlying bill, the agriculture bill, and the Patients' Bill of Rights, I now ask that there be a period of morning business until 10:30 today, with the time equally divided in the usual form.

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

Mr. LOTT. As always, we will notify Senators as to when votes are scheduled, and we will now have the opportunity for Senators who are on the floor and wish to speak to do so while we continue negotiations.

I yield the floor.

Mr. KENNEDY. Mr. President, as I understand, we are in morning business; is that correct?

The PRESIDING OFFICER. The Senator is correct.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, I see the Senator from California back on the floor prepared to offer her amendment on the pending legislation. It is an extremely important amendment.

I noted that she was here yesterday morning prepared to offer the amendment, and then in the midmorning, and

then at noontime, and then in the early afternoon, midafternoon, and late afternoon.

I am very glad we are going to have a brief period of morning business. But, as one Senator, I hope this is really the last time we are going to have a period of morning business and that we can get on to the business and the substance of this legislation.

We went through all day yesterday with continuations of morning business, and we had some 16 Members—those who are cosponsors of the Patients' Bill of Rights—who came to the floor prepared to speak on the Patients' Bill of Rights, different features of it. Many of them—I think eight of them—are actually prepared to offer amendments but were unable to do so because we were in continued morning business. I see that the Senator from California is prepared to move ahead and move this whole process forward.

I think the American people want us to move ahead on this. I think it is enormously timely that we do, and particularly in the way the Senator from California intends to address the Senate. I know she will speak for herself in a few moments.

We can see what happened in the last few hours among the doctors in this Nation. The American Medical Association is voting to try to come together in a way to advance, one, the quality of health care for the American consumer; and, two, to be able to deal with these economic pressures they are under from the HMOs, in order to give assurance to their patients that they are going to be able to receive the best in terms of health care.

It just underlines, once again, the importance of Senator FEINSTEIN's amendment in terms of what is going to be defined as medically necessary. That is at the heart of this whole issue on the Patients' Bill of Rights. I think we ought to be about the debate on that during the course of the day.

This is a very fundamental, basic difference. I have read carefully—and it didn't take a great deal of time—the comments of those who spoke yesterday in favor of what I call the "patients' bill of wrongs" being submitted by the other side, which was passed out of our Human Resource Committee. There was no real focus and attention on this fundamental and basic issue. We ought to be about it; we ought to debate it and vote on it and move ahead on other pieces of legislation.

I find that it appears with the proposal—I see the Senator on her feet at the present time—I listened with great interest to the proposal made by the Republican leadership suggesting how we proceed next week on the Patients' Bill of Rights.

The way I looked at their proposal that was going to be offered by the majority leader, it would effectively permit only one Democratic amendment

per day and we would have only 4 days, because under the proposal they would have a first-degree amendment, a Republican amendment, and then you could have a second-degree Democratic amendment and a second-degree Republican. That would take 6 hours. Then you would have a first-degree Democrat amendment, a second-degree Republican amendment, a second-degree Democrat amendment. That is 6 more hours. That is 12 hours with one amendment.

That is not the Senate, Mr. President. I don't believe that offer deserves to be accepted. We were tied up in morning business for a full day because they did not want to vote on a single proposition of whether the insurance company accountants or the medical profession ought to make the medical decisions. That is a very basic and fundamental one. This body ought to make a judgment and decision on that issue.

I see the Senator from California on her feet now, and I hope that after she makes a presentation on this, we will be able to just have the opportunity to commend our colleagues to her position. I have reviewed both her statement and her amendment; it is an excellent one. With the acceptance of her amendment, it will mean that every insurance policy in this country, virtually, will establish a higher standard of treatment for the American patients, for every child, for every member of a family, and that will be the basic standard that will be used.

I don't believe that the American families ought to have any less than the best. The Senator from California has an amendment to address that issue. We should listen carefully to it, and then we should move to let the Senate make a judgment on this decision. I look forward to the discussion and debate, and hopefully we can have some resolution of it.

I thank the Chair and yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from California is recognized.

PATIENTS' BILL OF RIGHTS

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Massachusetts for his remarks. I don't think anyone in the Senate has ever done more to advance the cause of responsible medical reform than Senator KENNEDY from the State of Massachusetts. He also has been here day after day, with comment after comment, in speech after speech, trying to urge this body to act.

My general style is probably not as forceful as that of the distinguished Senator from Massachusetts. But about this particular issue I am going to be persistent, and I am going to be here for as long as it takes, until there