

## ORDER OF PROCEDURE

Mr. DASCHLE. Mr. President, Senator LOTT and I have been continuing in our discussions and negotiations throughout the day. We have reached an agreement, and we are now in a position to lay the resolution before the body. It is my intention to have a vote—as I understand it, there is no request for a rollcall vote—at 3:30 this afternoon. So I encourage those Senators who wish to participate in the debate, or to present their views, to come to the floor between now and 3:30. At that time, I will ask that the Senate vote on the organizing resolution.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DASCHLE. Mr. President, I ask unanimous consent that the vote occur at 3:30 and that it be a unanimous-consent request for a voice vote.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, Mr. President, and I will not object.

Mr. DASCHLE. Mr. President, I ask the request be vitiated.

The PRESIDING OFFICER. The request is so vitiated.

Mr. LOTT. Mr. President, if I could be recognized at this point, I do want to say I was certainly willing to cooperate with that. I have asked if there is a Member who feels the necessity of a recorded vote. I have not been so notified. I want to make sure Members understand we anticipate there will be a voice vote. However, there will be opportunity for debate and a colloquy which Senator DASCHLE and I will have between now and 3:30.

So Members can have some idea of what to expect, we do expect to have the vote around 3:30. In the debate or comments that will need to be put in the RECORD, they can still be made after that. But between now and that time, we still have an opportunity for Members to present their statements on the RECORD.

Mr. DASCHLE. I now, again, suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Chair recognizes the majority leader.

## CONDUCT OF A 50/50 SENATE

Mr. DASCHLE. The other day, I quoted the writer Thomas Wolfe who said:

America is not only the place where miracles happen, they happen all the time.

If the resolution I will soon introduce is not miraculous, it is, at the very least, historic. It is also fair and reasonable. The details and the spirit of this agreement, which I expect the Senate to pass later today, should enable us to conduct our Nation's first 50/50 Senate in a most productive and bipartisan manner.

I especially thank the Republican leader, Senator LOTT. We will enter into a colloquy in a period of time to be later determined, but I must say, without his leadership and his sense of basic fairness, this agreement would not have come about. He and I have spent many hours over the last several months, and now weeks, and certainly in the last several days, negotiating the details of this agreement. He spent many more hours consulting with the members of his caucus about it. He and they deserve credit for taking this unprecedented step.

I also thank and commend my colleagues on this side of the aisle for their good counsel and patience as this agreement was negotiated, and for their support of the finished product. I particularly thank our distinguished President pro tempore, ROBERT C. BYRD, for his advice. When you are making history, you can't have a better guide than the man who has literally written the book on the history of the Senate.

Our negotiations involve many difficult issues and many strongly held opinions. Neither party got everything it wanted. Both sides made concessions. Both caucuses made principled compromises. That is the essence of democracy.

This agreement accurately reflects the historic composition of the Senate. More important, I believe it reflects the political thinking of the American people. It calls for equal representation on Senate committees. Every committee would have the same number of Republicans and Democrats. And it specifies that Republicans will chair the committees after January 20. It allows for equal budgets and office space for both caucuses, at 50/50.

One of the most vexing questions we struggled with during our negotiations was how to break ties when committees are divided equally. We have agreed that in the event of a tie vote, either leader can move to discharge a bill or nomination. The Senate will then debate the motion to discharge for four hours, and that time will be equally divided. There will then be a vote on the motion. If the motion passes, the bill or nomination would be placed on the calendar.

Similarly, the resolution allows committee Chairs to discharge a sub-

committee in the case of a tie vote and place the legislative item or nomination on the full committee agenda.

We arrived at this process after much thinking and exchange of ideas. Senator LOTT has been concerned that equal representation on the committees could lead to gridlock. While I do not share that concern, I believe this was a fair concession to get this agreement.

As to cloture, the resolution provides that no cloture resolution shall be filed by either party except to end a debate, and in no case would cloture be filed before at least 12 hours of debate.

This provision reflects concerns on our side of the aisle. We wanted to ensure that there would be an opportunity for debate before cloture was filed. Here, too, I believe Senator LOTT and the Republicans have provided a fair compromise.

The resolution provides that the majority leader shall retain his prerogative to obtain first right of recognition but that both leaders may be recognized, as is currently the case, to make motions to proceed; and in scheduling legislation on the floor, both leaders shall attempt to attain an equal balance of the interests of either of the two parties; and if either party achieves a true majority during the 107th Congress, we would need to adopt a new organizing resolution.

Senator LOTT and I have discussed other ways to ensure bipartisanship in the Senate, from the right to offer amendments to the makeup of conference committees. We have pledged to work together to make the Senate operate in a fair and bipartisan manner, which I hope will enable us to demonstrate to the American people that their system of government is strong and sound.

I have been asked what bipartisanship will mean in the 107th Congress. We cannot quantify bipartisanship. Bipartisanship is not a mathematical formula; it is a spirit. It is a way of working together that tolerates open debate. It recognizes principled compromise—such as today's historic agreement. Bipartisanship means respecting the right of each Senator to speak his or her mind and vote his or her conscience. It means recognizing that we must do business differently after an election that gave us a 50/50 Senate and almost an evenly divided House. Above all, it means putting the national interests above personal or party interests.

Tomorrow, Congress will count the electoral ballots and officially recognize the results of the Presidential election. It is fitting that today we officially recognize the results of the Senate elections which gave us an even split between the parties.

Today's agreement makes a big downpayment on the bipartisanship we

owe our country. Democrats and Republicans made significant concessions, putting the national interest first and putting party aside. It is my hope and my expectation we are witnessing only the beginning of a cooperative and productive 107th Congress. This certainly sets a mark.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Mississippi.

Mr. LOTT. Mr. President, I wouldn't say this is my preferred result, but I think it is a reasonable one with a serious dose of reality. We have work to do and we need to begin it now, not in a week or two or three or four. We need to conclude the assignment of our Members to the all important committees that will be having hearings on the nominees. We need to go forward with the confirmation hearings on the President's nominations to the Cabinet, not in 2 weeks or 3 weeks but right away, as soon as possible, as soon as the necessary paperwork has been completed and the schedule has been agreed to by the senior members of the committees.

As soon as the Inauguration, we need to have in place a Secretary of the Treasury, a Secretary of State, a Secretary of Defense, perhaps a Secretary of Commerce—as many as we can get—so that this new administration will be ready to begin work the morning of Monday, January 22.

More important than these rules agreements or the organization resolution and the hearings of the nominees is, what are we going to do with it? What are we going to do about the concerns of the American people? Will we be able to come together and do what needs to be done to improve the quality, availability, accountability, and safety of our schools in America? I think we can.

But if we in this Chamber wrestle over finite details of the rules—while they do make a difference, rules do affect substance—I think the American people will say: What is this talk of bipartisanship? Why aren't you coming together, agreeing on this, and moving to the agenda of education and dealing with the problems of our defense needs in America, dealing with the problem of readiness of the defense of our country, confronting the needs of our people on Medicare and what we are going to do about prescription drugs and Social Security reform?

That was a big item in this campaign. To the credit of our President-elect, George W. Bush, he had the courage to step up and say we need to take a look at this.

The last discussion I had with the Senator from New York, Mr. Pat Moynihan, in this aisle was what we should do about reforming Social Security, how it could be done, and just with two or three actions, we could secure Social

Security for 70 years. By the way, he also talked about how he believes there should be some opportunity for individuals to invest some of that money.

Social Security, Medicare, prescription drugs, defense, education, tax relief for working Americans that keeps the economy growing—that is the agenda. We are going to have tough debates. We will have different approaches, but we will find a way to come together and get a result because the American people are expecting that of us—the Republicans, the Democrats, President George W. Bush, all of us.

I would prefer to have a clear advantage on every committee and a clear advantage number-wise on everything. While that is preferable, it is not the reality. There are those in this Chamber who will not agree with me that we are going to support this resolution. There are those in this Chamber who probably will not agree with Senator DASCHLE that this is enough. Some will say it is too much; others will say it is not enough. Who is to say?

The day may come when we will say: Well, yes, we didn't do that right; we didn't figure some of the things that might happen or the way the rules might be used or abused. If that happens, then we will have to deal with it. Senator DASCHLE and I will have to go to the Member on his side of the aisle or my side of the aisle and say: That is not in good faith. That is not what we intended. Or, when we make a mistake, change it. We have done that. One of the last actions we did this past session was to put back in place a rule dealing with scope coming out of conference that we changed a few years earlier. We finally realized it was not right, and we changed it.

What we have here, as difficult as it may make life for us, as difficult as it may be for our committee members and our chairmen and ranking members to make this situation work, it is going to require additional work, but it can be done. It is going to force us to work together more than we have in the past. No doubt. I do not think that is bad. I think this is a framework for bipartisanship. There has been a lot of talk about that word, and I am sure there are some people in this city, in this Chamber, who smirk at that, laugh at that. People across America are saying: I have heard enough of that; let's get some results here.

It is a framework to see if we really mean it. It can force us to live up to the truest and best meaning of that word—nonpartisanship, Americanship, that is what we ought to call it—to find a way to get to these issues.

The President has repeatedly talked about how he is going to be a uniter, not a divider; he is going to reach out. Be conservative, yes; he was elected because he is, but he also is compassionate about it.

The Government can be involved and be helpful in certain areas. It can be a

big problem in a lot of others. I guess I am of the school that follows the latter part of that more than the former, but there are clearly some roles for the Federal Government. I do not have to list them—defense, national transportation, health care concerns in America. This is America. We cannot leave any child behind. We cannot leave any mother or grandmother unattended. We have to be in a position to do something about those situations.

We should follow the President-elect. Shouldn't we follow him? He has laid down a marker. He has talked about coming together and getting results. Should we do no less?

This is a classic case of extending the hand of friendship, of good faith. Will it lead to tremendous accomplishments or will that hand of friendship be bitten or the posterior kicked by one side or the other? It could, but we have to start from a position of good faith and reach out and say we are going to make this work.

If it does not work, then the American people will see. If these 50/50 committees do not function, then we can talk about obstructionism, and one way or the other, the American people will know who is trying to make it work and who is stalling it. If we come to this floor and have a debate on a tax bill and it passes this Senate by whatever number and does not get to conference or is tied up in conference or is killed in conference, do you think the American people are going to stand for that? I do not think so. We cannot let that happen.

I have been here 28 years, in the House and Senate. I was here during the eighties. I watched Speaker Tip O'Neill. I had quite a relationship with him. On the floor, we fought like tigers. I even had his words taken down one time. He never uttered a word to me about that. He never held it against me. Privately, he could not have been any friendlier.

In instance after instance, even though he controlled the Rules Committee, he had the power to stop the Reagan agenda. He did not do it. He would not do it. He said: No, this is the President. He was elected. He has a right to have his program considered and voted on. And the Speaker fought him like a tiger.

I remember going to former Congressman—the Senator from Texas was there—Ralph Hall from Texas. I stood on the Democratic side of the aisle, and the Speaker came up and said: Ralph, you can't vote for this Reagan budget. I said to my friend, Ralph—actually, it was Sam Hall, not Ralph. RALPH HALL is a good man also.

Mr. GRAMM. That was the deciding vote.

Mr. LOTT. Sam, this is a chance where you can make a difference for history. We can control spending some,

we can give the people a little tax relief in a way that will help the economy grow.

He stood there with the two of us looking at him, took out his voting card, stuck it in the box, and voted for it. That required an act of courage. Did the Speaker get mad at him? Did the Speaker rough him up or punish him? No. He said: I am going to fight you, President Reagan, but as two good Irishmen, we will get together at the end of the day, we will have a good discussion, we will have a little fun, and we will talk about America.

That is what is going to happen here. There will not be obstructionism. If there is, it will be clear who is doing it, if it is on our side, one way or the other, or on the other side. This is not a prescription for inaction. It could be a prescription for action beyond our wildest imaginations.

We are going to talk a little bit more about what is in it. I will not go into all the details here. The resolution will be read. It is relatively short, relatively simple. In instance after instance, Senator DASCHLE and I discussed points, argued about points. When we could not come to agreement, we said we would deal with the rules as they are. So we got it down to what really matters.

Yes, we are going to have 50/50 on the committees, but remember the Senate is 51/50, it is not 50/50. It is 51/50. The Constitution very clearly provides for this. Our forefathers were brilliant. They were brilliant. They could not have seen this exact situation, and while it is not unprecedented, it is rare that we have had these ties of 50/50, or in one instance I think it was 48/48, maybe one time 38/38. It has been relatively rare in 200 years, but they provided for this. It is in the Constitution. Senator BYRD carries his around. Mine is not quite as tattered as his, but I have referred to it quite a few times in my life.

Article I, section 3:

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

That is the solution. If it is 50/50, the Vice President breaks the tie. It is equally divided. We will have a way to deal with it.

My concern about doing 50/50 was: It just cannot work, Senator DASCHLE. If we are killing a nominee or a bill in the subcommittee or in the full committee, there has to be a way to have that matter considered by the full Senate. Do my colleagues think if we had a Supreme Court nominee killed on a tie vote in the Judiciary Committee that the American people would stand for that or that the full Senate would be satisfied with that? No.

So we labored and we labored, and we tried a lot of different innovative ideas—some I suggested, some Senator DASCHLE suggested—and most or all of

them were not liked by both caucuses. Neither side liked them.

We finally came up with what I think is a further extrapolation of what the Constitution provides, and that is, if there is a tie by a unique procedure, a discharge petition, a superdischarge petition, if you want to call it that, a discharge action, the matter could be brought to the floor, debated, yes, but not blocked on a unanimous consent request, not filibustered, but to get it on the calendar, whether it is the Legislative or Executive Calendar. At that point, all the rules of the Senate apply. When we go forward from there, all rights and prerogatives are preserved. It could be filibustered.

A lot of my colleagues on both sides of the aisle, when I talked about what the rules already were, were shocked. Most people do not realize you can filibuster a Federal judge. Sure, you can filibuster. We had one last year the Democratic side filibustered, and then they said: Oops, we don't think that is a good idea; that is not something we want to start doing around here, and backed away from it. We did; they did. We are going to fix that. The rider is there.

On bills, sure, you can filibuster the motion to proceed, you can object to this, that, or the other and filibuster the bill. Nothing has changed on that. It will still be protected. I think we should try to find a way to do less of that, less filling up of the tree, no filling up of the tree, if at all possible. I don't intend to make that a practice, and I want to make it clear, and I will clarify it even later.

We should not have situations where we filibuster every bill and have to file cloture in every instance. We ought to have a full and fair debate on both sides and move on and have a vote. We can do that.

Different times call for different actions. Last year is history. It was an election year. It was an unusual election year. It rendered an unusual result. What are we going to do with it? Are we going to make this Republic work and produce for the people or are we going to argue over part B of rule XII of the Senate? It is important; I do not diminish it at all, but I think the American people expect more of us than that. This resolution may haunt me, but it is fair, and it will allow us to go on with the people's business.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. DASCHLE. Mr. President, the Senator from Idaho sought recognition first, and I will allow him to be recognized.

The PRESIDING OFFICER. The Chair recognizes the Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief. Others of our colleagues have

come to the floor. The hour is late and snow is falling.

We gather here today in the full recognition that elections have consequences. There is no question that the November election changed the character, the makeup of the Senate. We have heard now both of our leaders talk about the agonizing effort they have gone through for the last several weeks to understand the consequence in light of the rules of the Senate and the way we must govern in the coming months.

I am not quite sure if we can yet determine whether the glass is half full or whether the glass is half empty, but we know that somewhere right about at the middle, it is divided, and that it is in that division we must work out our differences to govern. That is what our two leaders have attempted to do.

The resolution before us this afternoon speaks to that line that we are attempting to draw and that we as Senators are attempting to understand.

I could tell you what I believe the election meant, but I am not quite sure that my opinion is any more accurate than anyone else's.

But I do know one thing that the American people will expect of us in the coming months. They will expect us to give a new President an opportunity to lead. They will expect us to allow a new President to form his Cabinet in the way he has chosen, for the purpose of developing that leadership and for the purpose of shaping his policies for us and the Nation, to evaluate and form those policies ultimately for us to be governed.

We have a responsibility in the Senate. We are going to start hearings on those nominees to that new Cabinet in the very near future. I hope, in the atmosphere of bipartisanship, and the kind of cooperation we see here today, the hearings will be fair, the hearings will be probative, but, most importantly, that in the end it is not the choice of an obstructionist to deny a new President his opportunity to lead and, therefore, his opportunity to form a new Cabinet. That is part of what our leaders struggled over: How do we sift that out and create that kind of fairness in the process?

Time will tell. And that is exactly what Leader LOTT has just said. Some of us on our side are very hesitant at this moment. We have worked with the other side, but we have also seen an element of what we would call obstructionism over the course of the last year. But that was last year. Since that time, an election has passed. We are now in the business of shaping a new Congress, with a new administration, to accomplish new goals for the American people. I hope we can work cooperatively to accomplish that.

Shall we live in interesting times? a Chinese proverb might say. I would say to whomever crafted that Chinese proverb, I have lived in enough interesting

times. Two years ago at this time we were talking about the procedures of the Senate for trying the impeachment of a President—interesting times. Following the November election, our Constitution hung in the balance for 36 long days—interesting times, historic times. And now, in a very historic way, the Senate attempts to govern itself in a 50/50 representation.

For this Senator, enough history. Now let's get on with leading and governing for the sake of the American people and for this great country.

I yield the floor.

The PRESIDING OFFICER (Mrs. LINCOLN). The majority leader.

#### SENATE PROCEDURE IN THE 107TH CONGRESS

Mr. DASCHLE. Madam President, I ask unanimous consent that the Senate proceed to the resolution we have at the desk, that no amendments or motions be in order to the resolution, and that the Senate vote without any intervening action or debate at 3:30 on adoption of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, and I will not, if I can be assured between now and 3:30 the Senator from New Mexico has an opportunity to speak, but I am not sure that will occur. I would object to the time certain. The rest of it I will not object to.

Mr. DASCHLE. How much time would the Senator from New Mexico be interested in?

Mr. DOMENICI. I would like to reserve 10, 15 minutes, let's say.

Mr. DASCHLE. How much time—

Mr. GRAMM. Ten.

Mr. DASCHLE. Will the Senator from Alaska seek recognition?

Mr. STEVENS. I will, but I seek to follow Senator BYRD. He is my chairman. I will follow Senator BYRD.

Mr. DASCHLE. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DASCHLE. Madam President, I modify the unanimous consent request that I made in the following manner. I ask unanimous consent that the following Senators be recognized in this order, and to the times allocated as I will suggest: Senator BYRD be recognized for 10 minutes, Senator STEVENS be recognized for 5 minutes, Senator GRAMM of Texas be recognized for 10 minutes, Senator DOMENICI be recognized for 10 minutes, Senator ROBERTS be recognized for 4 minutes, Senator BENNETT be recognized for 5 minutes,

and that Senator REID of Nevada be recognized for 2 minutes; that at the end of the debate the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows: A resolution (S. Res. 8) relative to Senate procedure in the 107th Congress.

The Senate proceeded to consider the resolution.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. To say that these are historic times would be hackneyed and trite. To say that the leaders of the Senate have risen to new heights and are acting and speaking as statesmen would be something other than trite.

I first want to congratulate my leader on this side of the aisle and my leader on that side of the aisle. I know they have gone through some excruciating moments. I know, without asking, that they have lost some sleep. I know, without inquiring, that they have rolled and tossed on their pillows, having been in their shoes myself.

When I came to the Senate, Lyndon Johnson was the majority leader. Politics did not prevail over statesmanship. He worked with a Republican President, President Eisenhower, in the best interests of the Nation.

When the great civil rights debate of 1964 occurred, Everett Dirksen did not play politics.

Had Everett Dirksen not worked with Lyndon Johnson and with Mike Mansfield, the Civil Rights Act of 1964 would never have been written. Had Everett Dirksen played politics instead of acting the part of statesman, cloture would never have been invoked on the Civil Rights Act of 1964.

When the Panama Canal treaties were before the Senate in 1977, had Howard Baker chose to play the part of a politician and not worked with ROBERT BYRD in the interests of the Nation as we saw those interests, the Panama Canal treaties would not have been approved. More lives would have been lost. Howard Baker acted the part of statesman. We both were swimming uphill. The Nation's polls showed that the people generally were much opposed to the Panama Canal treaties. We came together. Even in this past election, I still lost the votes of some West Virginians because of my support of the Panama Canal treaties in 1977.

We saw on those occasions the separation aisle here become a passageway to the best interests of the Nation; Senators from both sides joining hands and marching together.

On the Appropriations Committee, we do not need a resolution of this kind. We have always worked together,

Republicans and Democrats, on that committee. The longer I work on that committee, the better our members of both parties seem to work together. We have worked well throughout all the years I have been on that committee, when Senator Russell was chairman, when Senator McClellan was chairman, when Senator Ellender was chairman, and when Senator Hatfield was chairman, when Senator Stennis was the chairman.

I say here today and now that the paradigm of cooperation, of statesmanship, of bipartisanship has occurred during the chairmanship of TED STEVENS. I am one Democrat who has absolutely no compunction when it comes to stating the truth about a colleague. If I have to say that the chairman is a better chairman than I have been, I have no compunctions about that. I said that several times about Slade Gorton, the former chairman of the appropriations subcommittee on the Department of the Interior. He was a superb chairman. He was a better chairman of that subcommittee than I ever was. That is a westerner's subcommittee in the main.

TED STEVENS has been a chairman par excellence. We don't need any resolution. Whatever problem there is, he and I can settle it. There is no rivalry, none, between these two Senators. There is no party between these two Senators. There is only friendship and respect and trust. That is the way it has always been, and that is the way it is always going to be.

That is the secret to getting things done in this evenly membered Senate in these times, a 50/50 tie: trust, mutual respect and trust. I am not going to go to heaven if I hate Republicans. My old mom used to say: "You can't go to heaven and hate anybody, ROBERT."

Now, there are some people on both sides of the aisle who are extremely partisan. There are many others who are only moderately partisan. I think for the most part we can say that most Members on both sides are moderately partisan.

This agreement is a real accomplishment. I don't think I would have accomplished this, if I had been majority leader. That leader on the Republican side had an extremely tough way to go. Today he has risen to a new stature. I thought he did himself well during the impeachment trial. I thought my own leader set a fine example. Today these two leaders have set a wonderful example. But the example of statesmanship goes beyond these two leaders.

I know it has been difficult for Members, particularly on the Republican side, to come to an agreement such as has been reached here. But they have been willing to give up their partisanship for the moment in the better interests of the Nation.

Also, it is exceedingly important—I have already mentioned it here—to