

disregard of the Congress by the Supreme Court. There is a feeling that the Congress is somehow unable, even in those cases where Republicans and Democrats join hands in an overwhelming majority—that somehow we are unable to express the will of the people or uphold the Constitution.

In statements that the Court has made, it acts as though the Congress is almost unnecessary; that we are not competent to do anything; that we are irrelevant. Well, not totally irrelevant. I have heard from the Justices that they do want a pay raise. Last year, of course, they were asking for permission to give high-paying speeches to special interest groups. I am glad the Court believes we are good for something.

Last week's ruling is really just the latest in a long and ever growing line of 5-4 decisions that second-guess congressional policy judgment to strike down Federal statutes and generally treat Congress as a least favored administrative agency rather than a co-equal branch of the Federal Government.

Last year the Court took aim at the Age Discrimination in Employment Act and the Violence Against Women Act. Before that, it was our laws on intellectual property and workplace standards. Before that, it was our gun control laws.

Now the Court's "federalism" crusade adds workers with disabilities to its growing list of victims: older workers, children in gun-infested schools, intellectual property owners, and victims of violence motivated by gender, to name just a few.

If you accept the common theme of this 5-4 majority in the U.S. Supreme Court, the Congress ought to just close up shop and leave town because they will do everything for the American people. The elected representatives of the American people are unnecessary with, as I said, the possible exception of voting for the pay raise that the courts have asked for.

Now it is up to another President Bush and another Congress to seek new ways to protect the rights of disabled Americans and the rights of the other groups sacrificed on the Court's altar of federalism. I believe Congress needs to reassert its Democratic prerogatives—respectfully but firmly. Congress needs to reassert, in fact remind, the Supreme Court of the Constitution, that we are a coequal branch of government whose policy determinations deserve respect just as they ask respect for their legal determinations. It is time for the people's elected representatives, Democratic and Republican, to reengage the bipartisan consensus of principle that produced the ADA, and to work together to restore the rights of ordinary Americans that have been taken away by an increasingly activist U.S. Supreme Court.

Again, as I have said, I have stood on the floor of the Senate defending the Supreme Court as much or more than anybody I know in my 26 years here. I have defended the Supreme Court on decisions even when I disagreed with the Court. I did that even with respect to the 5-4 decision on the Florida election—actually the national election. While I felt the Court was wrong, I stated that its decision was the law and that we must all abide by it.

But I am disturbed by this increasingly dismissive tone of the Court, in which it acts as though the Congress, Republicans and Democrats together, do not have the ability to represent the American people. The fact that we were elected by people all over this great Nation is almost irrelevant. In the ADA case, the fact that we had spent years on this, and that a Republican President had strongly supported our position, was irrelevant.

I think it is a dangerous path, just as it would be a dangerous path for us to be dismissive of the U.S. Supreme Court. It is equally dangerous for the Court to be dismissive of the Congress because ultimately the American people suffer. We as a Nation have maintained our democracy and fostered our wonderful growth because of our separation of powers—because of the way we have sustained the three equal branches of Government. What a shame it would be if one branch, the only unelected branch, continued to be so dismissive of the other two branches, both elected.

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

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

ASH WEDNESDAY

Mr. BROWNBACK. Mr. President, I rise to speak for a few minutes as if in morning business. It is on a broad topic. It is about this day and what this is.

It seems kind of interesting when we start to celebrate things like St. Patrick's Day or Valentine's Day. What is the basis? Why do we do these things? There is always this kind of digging into it to find a very interesting story.

For St. Valentine's Day, we celebrate it recognizing a priest who married people in Rome when it was forbidden. The Emperor at the time was not given enough soldiers to sign up for the military because they wanted to get married, have families, and stay home with their families. So the Emperor decreed that nobody could get married. The priest said: I don't agree with that. So he quietly and secretly married a num-

ber of people and was then later arrested, incarcerated, and beheaded for having done this nice, wonderful thing. It is a great reminder of what Valentine's Day is about when we send cards.

Today we celebrate Ash Wednesday. A number of people of different faiths celebrate Ash Wednesday.

What is Ash Wednesday about? It comes from a number of references in the Bible, particularly in Genesis where it says, "Dust thou art, and into dust thou shalt return".

It is a recognition of the symbolism of what we physically are, and how the physical body ends up.

This comes from the Web page of EWTN about Ash Wednesday: "The liturgical use of ashes originated in the Old Testament times. Ashes symbolized mourning, mortality, and penance. In the Book of Esther, Mordecai put on sackcloth and ashes when he heard of the decree of the King to kill all of the Jewish people in the Persian Empire. (Esther 4:1). Job repented in sackcloth and ashes. (Job 42:6). Prophecy of the Babylonian captivity of Jerusalem, Daniel wrote, "I turned to the Lord God, pleading in earnest prayer, with fasting, sackcloth, and ashes." (Daniel 9:3). Jesus made reference to ashes, "If the miracles worked in you had taken place in Tyre and Sidon, they would have reformed in sackcloth and ashes long ago." (Matthew 11:21).

In the Middle Ages, the priest would bless the dying person with holy water, saying, "Remember that thou art dust and to dust thou shalt return." The Church adapted the use of ashes to mark the beginning of the penitential season of Lent, when we remember our mortality and mourn for our sins. In the present liturgy for Ash Wednesday, it remembers that as well.

I simply rise to remind us of what the symbolism is, if we go around the hallways and see people with ashes on their foreheads. The symbolism there is about the mortality of each of us, that from dust we came and to dust we return. And it is a symbolism and a day of reflecting on our own sins and our own needs. I think maybe that is a useful thing for us to do as a nation, to reflect on what we have done right, and what we have done wrong, and see what we can do better as we move forward.

So this day of Ash Wednesday seems to be a good day for us to reflect on our own mortality, our own sinfulness, and what we can do to be better both individually and as a nation.

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

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

PRESIDENT BUSH'S TAX CUT
PROPOSAL

Mr. NICKLES. Mr. President, last night President Bush spoke before a joint session of Congress and outlined his agenda in many areas—certainly in education, in preserving and saving Social Security, and Medicare. He challenged Congress. He also made a very strong case for reducing our taxes. He said: We can pay down the debt, we can fund our priorities, pay down the debt to the maximum amount practical—in other words, retire every bond that would mature between now and the year 2010—pay down the debt as much as possible, and we can still give significant tax relief.

Some people said that is not enough. Some people said it is too much. The President said it is about right. I happen to agree with him.

To my colleagues on the Democrat side who responded and said: We would agree to a \$900 billion tax cut but we can't go for the \$1.6 trillion tax cut—when we talk figures, I think it is important we talk policy and not just figures.

The policy—and the bulk and the essence of what President Bush is pushing for—is reductions in marginal rates, reducing tax rates for taxpayers. Some have said: Wait a minute. This is a greater dollar benefit for higher income people. But the fact is the President's proposal cuts the rates more for lower income people than it does for those people with a higher income level.

Unfortunately, some people, when taxes are discussed, want to play class warfare. They want to rob Peter to pay Paul. They want to use the Tax Code as a method of income redistribution. I do not think we should do that.

If we are going to have a tax cut, I think we should cut taxes for the people who pay the taxes. We have programs where we spend money for the general population, most of that focused on lower income populations. But if you are going to have a tax cut, you should cut taxes for taxpayers. President Bush's proposal does just that.

He has greater percentage tax reductions for those on the lower income scale than he does for those on the higher income scale. Let me just talk about that a little bit.

He takes the 15-percent bracket and moves it to 10 percent for many individuals. That is a 33-percent rate reduction. He reduces other rates. He moves the 28-percent rate to 25 percent. That is 3 percentage points, but that is about a 10- or 11-percent rate reduction. Yes, he moves the maximum rate from 39.6 percent to 33 percent, and that is an 11-percent rate reduction.

Some have said that is too much for the upper income. I point out that that rate, even if we enacted all of President Bush's income tax rate reduction, is

still much higher than it was when President Clinton was elected because he raised the maximum rates substantially.

Let me just give a little historical background on what has happened to the maximum rate since I have been in the Senate.

When I was elected to the Senate in 1980, the maximum personal income tax rate was 70 percent. Ronald Reagan and 8 years later, it was 28 percent—a very significant reduction. Some people said that caused enormous deficits. That was not because the rates were cut because, frankly, revenues to the Federal Government doubled in that period of time. So revenues increased dramatically, though we reduced income tax rates from 70 percent to 28 percent.

President Bush, in 1990, agreed with the Democratic-controlled Congress—reluctantly, I believe—but raised the maximum rate from 28 percent to 31 percent, raised it 3 points, about 11 percent.

President Clinton, in 1993, raised the maximum rate from 31 percent to 39.6 percent—its current maximum rate—but he also did a couple of other things that a lot of people tend to forget about. He said: There will be no cap on the amount of Medicare tax that you pay on your income.

At one time, Medicare was taxed on the same basis as Social Security—about \$75,000. Now there is no cap. So you pay 2.9 percent. Actually, the employee pays 1.45 percent and the employer matches that. It totals 2.9 percent on all income. If you have a salary like Tiger Woods or Michael Jordan, you pay a lot of Medicare tax—2.9 percent. So you can actually add that 2.9 percent to the maximum tax rate, the 39.6 percent. So that increases to a total of about 42.3 percent.

Then President Clinton did something else. He phased out the deductions and exemptions for people who have incomes above \$100,000. We can add another 1 or 2 percentage points on as a result. So President Clinton, in the tax act that passed in 1993 by one vote in both the House and Senate—Vice President Gore broke the tie in the Senate—raised the maximum rate from 31 percent to about 44 percent.

President Bush today is saying, let's reduce the income tax rate down to 33 percent. He didn't take off the increase in the Medicare tax and didn't change the deduction limitation, so actually the net max tax, under the Bush proposal, is about 37.5 percent. Keep in mind, it was 31 percent when Bill Clinton was elected. So after all these reductions that President Bush is talking about, the maximum rate is still about 20 percent higher than it was when President Clinton was elected.

Yes, he has a tax reduction, but he is reducing taxes less than President Clinton increased them. That is the

point. Certainly, for upper incomes that is the case. Let me repeat that. President Bush has a tax cut. Some people say it is too much, his tax cut for upper income people. I have heard so much demagoguery and class warfare concerning people who make higher incomes. Their tax rates are much higher today. Assuming we pass all of President Bush's tax cut on income taxes, it is much higher than it was when President Clinton was elected, about 20 percent higher.

You might remember President Clinton, when he had a moment of truthfulness in Texas, admitted that. He said: You might think I raised taxes too much. I agree with you. I did raise taxes too much.

President Bush is saying we need some tax relief. We have enormous surpluses, and we have to decide who is going to spend the surpluses. Are we going to come up with new ways within the Government to spend them? We can. There are unlimited demands on spending public money, somebody else's money, unlimited. That is not too hard for people to figure out. If you ask your kids: Could you spend more money? You bet. You ask your friends: Could you spend more money? You bet. You ask your spouse: Could you spend more money? You bet. If we leave a lot of money on the table here, can we find more ways in Government to spend it? You bet. There are unlimited demands on spending somebody else's money.

We have to do what is fair, what is right. How much is reasonable? We actually have taxation, as a percentage of GNP, at an all-time high. We are taking in a lot more right now than we need to fund the Government. If we leave it on the table, we will find ways to gobble it up. That is what we have done in the last couple years.

Last year nondefense discretionary spending budget authority grew at 14 percent, far in excess of the budget. We didn't abide by the budget last year. Congress was spending money. We will do it again, Heaven help us.

I don't think we will because I believe we are going to have discipline in the budget process this year. Unlike what we have had for the last 8 years, a President who pushed us to spend more—we now have a President who says: Let's show discipline. Instead of having somebody in the White House who is going to be threatening to veto a bill unless we spend more money, we have a person in the White House saying he is going to veto a bill if we don't show some fiscal discipline.

President Bush, instead of saying let's rescind money that is a 14-percent increase, he said, we will even build upon it. We will increase spending with inflation, spending increases of about 4 percent, which is in excess of inflation. He is being pretty generous. He enumerated a lot of ways where he can spend money. He said: We can do all