

SENATE—Tuesday, February 15, 2005

The Senate met at 9:45 a.m. and was called to order by the Hon. DAVID VITTER, a Senator from the State of Louisiana.

The PRESIDING OFFICER. Today's prayer will be offered by our guest Chaplain, Pastor Aubry L. Wallace. Chaplain Wallace is from the Sheriffs' Department of Chilton County, AL.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray: That Almighty God will grant to this body His concurring aid in the governing process of these United States.

Our Eternal Father, He who watches over the affairs of mankind, I humbly pray that Your protection and guidance be with these Senators here assembled as they deliberate. Bless these in whose hands You have allowed the future of our beloved Nation to rest. Guide them by Your Holy Spirit. May every decision be right and in accordance with Your divine wisdom and will.

Keep them safe from any who would do them harm. Let no evil spirit affect their will to do justly, to love mercy, and to walk humbly with their God.

Heavenly Father, make them aware of Your presence as they participate in this grand experiment we call human government. And at the close of this session may they hear from You these words: Well done, good and faithful servant.

In the Name of His Son Jesus I pray. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 15, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID VITTER, a Senator from the State of Louisiana, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. VITTER thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, the Senate will begin today with a period of morning business until 12:30. At 12:30 the Senate will recess until 2:15 for the weekly party luncheons. Following the luncheons, we will resume debate in executive session on the nomination of Michael Chertoff to be Secretary of Homeland Security. Debate is equally divided until 4 this afternoon, with the vote occurring on the confirmation of Mr. Chertoff at 4 p.m. That vote will be the first vote of the day.

Yesterday I mentioned a number of items that are possible over the course of this week. Today we will continue to try to clear those bills for floor action. They include the genetic non-discrimination bill, the high-risk pool legislation, a Nazi war crimes bill, the committee funding resolution, and any additional nominations that may be reported by the respective committees.

We will, over the course of the day, keep all Members notified of the schedule as we bring these matters forward for floor consideration.

LEGISLATIVE ACCOMPLISHMENTS AND A LOOK AHEAD

Mr. FRIST. Mr. President, I will take just a few moments at the beginning of today to comment on last week and a brief look ahead.

Last Thursday, the Senate achieved its first legislative victory, a bipartisan victory of the 109th session. By a vote of 72 to 26, the Senate passed the Class Action Fairness Act. The process was that we worked together across the aisle from beginning to end. The bill was introduced with 32 cosponsors, 24 Republicans and 8 Democrats. It came out of the Judiciary Committee on a strong bipartisan vote. Every vote on every amendment was bipartisan, and the vote on final passage was strongly bipartisan as well.

I stress the bipartisanship because in the 109th Congress we have a lot to do, and it is going to demand that we continue to work together in that same spirit. I thank my colleagues on both sides of the aisle for their fairness and cooperation. We have delivered to the

American people a significant victory in the battle for fairness in the courts.

The class action bill does protect plaintiffs' rights while reining in the rampant abuse within the system itself. The consumer bill of rights protects plaintiffs from predatory lawyers and guarantees that they receive just compensation. The legislation restores justice to our court system by ending that practice of forum shopping, where we had nationwide cases that genuinely impact interstate commerce being moved to the Federal courts where they belong.

It took a while to have this success last week. Senator GRASSLEY, who was the lead sponsor on the bill, has been working on this for over a decade, and versions of this bill passed through the Judiciary Committee in each of the last two Congresses. In 2003, it came within one vote of passage. Finally, because of the continuing work of both sides of the aisle, people came together to recognize the intent was right, the legislation at different points could be improved, it was improved, and then we had relatively quick passage of it. The House will be addressing the bill shortly. Then hopefully we can have a bill to the President of the United States to be signed into law for the benefit of the American people.

Also, at the beginning of last week, on Monday, we passed a resolution commending the Iraqi people on their January 30 elections. As we saw over the weekend, those elections were finalized and, in terms of the final reports, again, it is a great victory for freedom and liberty throughout the world. It was an extraordinary event, and it was fitting that we came together on this floor to celebrate and commend the process and the results in those elections.

It was in the midst of terrorist blasts and terrorist threats that 8 million Iraqi voters streamed to over 5,000 polling stations to express that influence, that power and dignity that comes with voting. The various pictures that we all saw of families bringing their sons and daughters so that they could witness this moment in history is something that captures us all.

As I mentioned, over the weekend the votes were tallied of the 8.5 million people voting. For the first time in decades the Iraqi people have been able to speak and to speak freely—and they were heard, as we saw with the outcome. It is a transformation that is fundamental. It is a fundamental transformation of power from the people, instead of over the people. This has renewed a sense of momentum and optimism and hope.

The process, as we see, continues to unfold with negotiations going on as to who will be part of the Presidential Council. Again, looking from afar, from where we sit it is very encouraging to see the various coalitions working with each other, Shiites working with the Sunnis and working with other minority parties, all working together to fashion this government. It is an exciting time for the Iraqi people and all who watch.

Jumping ahead, today we will, as I mentioned in my opening statement, vote on the nomination of Judge Michael Chertoff to lead the Department of Homeland Security. We have heard much about the judge, both in committee and then on the floor yesterday, and we will over the course of today. He has a long and distinguished career in public service and law enforcement. In the mid-1980s he was an assistant U.S. attorney alongside Rudy Giuliani. He aggressively prosecuted mob and political corruption cases. He then went on to become New Jersey's U.S. attorney, where he oversaw high-profile and politically sensitive prosecutions in Jersey City, actually prosecuting the mayor of Jersey City, Mayor Gerald McCann, New York chief judge Sol Wachtler, and the kidnapers and killers of Exxon oil executive Sidney Reso. Fearless and scrupulous as a prosecutor, he became known not only for his legal brilliance but also for his skills as a manager and leader.

We all saw that take real meaning after 9/11. For the 20 hours after that worst ever attack on American soil, Judge Chertoff was central in directing our response. It was through his work as Chief of the Justice Department's Criminal Division that they traced the 9/11 killers back to al-Qaida, a central focus. We are indebted for all these things to his strong and unwavering leadership.

For the next 2 years Judge Chertoff was the key figure shaping our antiterrorism policies. His experience working directly with law enforcement, his expertise in homeland security policy, and his proven ability to lead in times of national crisis make him overwhelmingly qualified to direct our Homeland Security Department.

He earned unanimous approval in committee last week, with one member voting "present." I am confident that today Judge Chertoff, who has already been confirmed by this body three times, will receive overwhelming, strong bipartisan support. He is an outstanding candidate and we all look forward to working with him in his new capacity.

Another matter of security, a different type of security, which I hope we will be addressing this week—I mentioned it also a little earlier—is the Genetic Nondiscrimination Act. This is the security of information about us that can be used to give us health care

security. It is a bill that many of us on the floor have been working on aggressively over the last 7, 8 years. The bill, the Genetic Nondiscrimination Act, is just that. The bill is designed to protect Americans from having valuable genetic health information abused or misused by others—for example, being used against them to get health insurance coverage or being used in some way to discriminate against them for a future job. This whole field of genetic testing and genetic information has blossomed, in part because of a wonderful public-private project that was over about a 10-year period called the Human Genome Project. This explosion of information has introduced these genetic tests that can have—and it is early, they are early—but they do have the potential for having great predictive value regarding what disease or illness you might have later in life, and would allow you to prevent that, to take preventive measures if that is the case.

Right now, scientists tell us most Americans have about a half dozen potentially harmful genetic mutations. That is a statement that will change a week from now, a month from now, a year from now, as we learn more and more about it, but the point of this bill is that people run the risk of losing their jobs or not being promoted or not being able to get an insurance policy based on getting this test which could be of so much benefit to them. We need to prevent it, and we need to do it now, instead of waiting until it becomes a huge problem in the future.

One study in 2003 found that 40 percent of people at risk for colon cancer refused to participate in a screening exam, many citing the fear that the results might in some way cause them to lose their health insurance. That means they don't get this test. If they don't get the test, they lose the potential benefit to their own health and health security in the future. The knowledge of genetic risk has the power to save lives. As we look at tests that are early, and they are just being proven—the tests for heart disease, Alzheimer's, Parkinson's, a host of other diseases—there is great hope in these genetic tests becoming a powerful tool. The legislation we are considering this week is intended to make sure genetic testing is used as a tool to help and not hurt. I hope we will be able to pass that bill so that medical science does deliver a meaningful solution and keeps America moving forward.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leader time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 12:30 p.m. with the first 30 minutes under the control of the Democratic leader or his designee and the next 30 minutes under the control of the majority leader or his designee and the remainder of the time equally divided between the two leaders or their designee.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized.

TSUNAMI ASSISTANCE—NEW MODEL FOR DEVELOPMENT

Mr. DURBIN. Mr. President, pursuant to that consent, I would like to be recognized to speak to an issue which the whole world has focused on over the last several weeks and months. Within a few weeks, the Senate is likely to vote to send hundreds of millions of dollars in assistance to the nations that were devastated by the tsunami on December 26. We have seen the videotapes. We cannot forget them. Within a matter of minutes on that terrible day, whole families and villages were swept to sea. Schools, clinics, and hospitals were destroyed. Coastal cities were eliminated. What infrastructure there was in place was wiped out.

We are doing the right thing to come to the assistance of the victims of this disaster, one of the 10 most devastating natural disasters in recent history, but we should not overlook the fact there are many other challenges in this world. Millions have died in the Congo and the Sudan. Hundreds of thousands are still at risk. Preventable, treatable diseases kill millions more every year. Someone dies of AIDS every 10 seconds in this world. Someone new is infected every 6 seconds. Poverty kills. Bad water, hunger, poor sanitation kills; they are the weapons of economic injustice and economic disparity.

Nelson Mandela said recently:

Like slavery and apartheid, poverty is not natural. It is man-made and it can be overcome and eradicated by the actions of human beings.

Overcoming poverty is not just a gesture of charity; it is an act of justice. It is the protection of a fundamental human right, the right to dignity and a decent life. Our attention now focuses on the Indian Ocean, as it should. But let's not overlook the suffering in the world.

A number of years ago I went to Bangladesh. I went there to look at food programs. In the course of my visit, I met one of the most extraordinary people I ever had the pleasure to meet. His