

It had been my hope last year, as we worked through the process, to have a bill by consensus. Senator FRIST and the then-Democratic leader, Senator DASCHLE, did a great deal of work and exchanged letters. At one point we thought we were on the verge of a consensus, but it did not work out.

In order to pass a bill, as we all know, in the last stages of a legislative session, it has to be by consensus because any single Senator can hold up a bill in its final stages. That consensus was not possible, and although we were very close on many issues, there are some issues where there is still some difference of opinion. The differences have been narrowed, and we have come a long way.

It is my hope to circulate a draft discussion bill, and there likely will still be some blanks. We will fill in as many of the blanks as we can, and then Judge Becker and I will be available to meet with the stakeholders in my conference room on Monday to talk about the areas where there has been agreement, to talk about the specifics on a draft discussion bill, and to talk about the areas where there are still differences as to how we might bridge that gap.

I have worked with Senator LEAHY. I commend him for his work with Chairman HATCH on this matter. We have talked about having a hearing next Tuesday on January 11. I am not unaware of the fact that it is not a convenient time, but Senator LEAHY will be present and I think there will be some other Senators present. We have given several weeks notice. We are aware it is a difficult time, but there are many hearings held in the Senate with just a few Senators, the chairman, and the ranking member present. I think it is important to move ahead.

At that time, it is the expectation that we will hear testimony from Judge Becker to lay out the draft discussion bill and then to hear testimony from the stakeholders identifying the parts of the bill which they choose to comment about where there are agreements or where there are disagreements. We know from experience that the early part of a legislative session is necessarily slow, but that early on in February, certainly in March, sometimes by mid-February, we begin to move ahead and the calendar begins to be crowded.

There are many items which the President has identified as legislative priorities. We will have confirmation hearings starting with White House Counsel Gonzales on Thursday and there will be other confirmation hearings. So it is my hope to be able to present a bill through markup at a very early date. Whether that can be done in late January or early February, frankly, remains to be seen.

When we marked up this bill the last Thursday of July of 2003, it was a very long markup. It lasted more than 12 hours, as the distinguished Presiding Officer will recollect. In a sense, we

had the longest markup in the history of the Senate with the sessions in Judge Becker's chambers and the 32 sessions in my conference room. I thought it would be useful to briefly describe where we have been and in a sense where we are going so our colleagues will know what the status is as fully as it can be described without actually circulating a draft discussion of the bill, which will be done at the earliest possible time.

I thank the Chair. I commend him for his lonely vigil. This was a thriving Chamber three hours ago with standing room only and suddenly the business of the Senate is not quite so pressing with only the Presiding Officer and this Senator present. So in the absence of any other Senator, 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. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAPO). Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that I be allowed to speak for as much time as I consume.

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

#### DELIVERING SOLUTIONS TO THE NATION'S PROBLEMS

Mr. FRIST. Mr. President, I would like to take a few minutes to expand on what I discussed at the outset of this session, now about 3 hours ago. I would like to focus not just on what we must do as individual Senators, but also on what this Senate can do and can achieve together, as a body. With the President and the House as partners, we can deliver meaningful solutions to the real problems that confront our Nation. We can secure freedom and safety and a healthier future for generations of Americans to come.

We made much progress toward these goals in the last Congress and we did so in a very narrowly divided Senate. Even with the rough and tumble of election year politics, we found ways to work together for the common good of our country. We can, we must, and I believe we will achieve at least the same and hopefully even greater success in the Senate.

No doubt it will be a challenge. The makeup of this Senate is unique. The margins between the majority and the minority may be wider, but the margins at the ends of the ideological spectrum are wider still.

We also have our own prerogatives as equals, as individual Senators, as members of our respective caucuses. And we have principles, principles to which I hope each and every one of us will hold tight during the next 2 years and throughout our careers in public service. But we also have an obligation to

this body and to the people and to the Nation we serve to conduct that business with civility and with foresight and a sharp focus on those meaningful solutions. The agenda before us is simply too ambitious, too urgent, and too important to the future of our country and the world to do otherwise. Every Member of this body can take pride in the accomplishments of the last Congress, the 108th Congress. We took on big issues. We took on huge challenges. And our actions translated into solutions. Together we proudly moved America forward.

For years Congress talked about providing seniors with relief from the skyrocketing cost of prescription drugs through Medicare. Finally, in 2003, Congress took action and passed the first substantial improvement to Medicare since the program was created 40 years ago. Today, more than 6 million seniors have prescription drug discount cards that are saving them 10 percent to 25 percent on their medicines; tens of thousands more are signing up every week; and within 12 months every senior on Medicare will have affordable access to a comprehensive prescription drug benefit. Challenge; action; solutions.

Before President Bush took office, our economy was tilting toward recession. Then the Internet bubble burst, corporate scandals rattled investor confidence, and terrorist attacks devastated our economy. We took action. We cut taxes for every American who pays taxes and we reduced taxes on businesses, helping them invest and expand and be more competitive in the global economy. Since August 2003, our businesses have created over 2.4 million jobs, we reduced the unemployment rate from a peak of 6.3 percent last June to 5.4 percent today, and aftertax income is up by more than 10 percent since 2000. Challenge; action; solutions.

On September 11, 2001, the United States was ruthlessly and brutally attacked by terrorists. More than 3,000 innocent men, women, and children were murdered. America and indeed the world changed forever. I am proud of the support this body has given to our Commander in Chief and the brave men and women who risk their lives every day to defend our country. We provided \$87 billion to help our military buy equipment and support operations in Afghanistan and Iraq. To date, our forces have killed or captured three quarters of al Qaida's leadership. They have toppled two terrorist regimes, and in the process they have liberated 50 million people and put them on the path to self-government.

The Senate also adopted the most sweeping overhaul of our intelligence system since the creation of the CIA itself. This will bolster and better organize our intelligence efforts to win the war on terror and face those new security threats of the 21st century. Again: Challenge; action; solutions.

These are just several of the achievements of the last Congress. But the

pattern that has been set is clear. America faced urgent challenges. We acted with solutions, and with the heart and drive and genius of our people we moved America forward.

Earlier today we witnessed 34 Members take that oath of office of a U.S. Senator. It is a wonderful tradition that dates back to that first Congress in 1789. The oath at that time was a simple 14-word phrase:

I do solemnly affirm that I will support the Constitution of the United States.

Those same 14 words form the vital core of today's oath, the oath that 34 Senators took now 3 hours ago. They bind us and all who have served in this body before us, many of whom joined us today, to a common, a timeless, and a paramount cause.

Our first responsibility above all else is to do our constitutional duty. Nothing should come before it. Nothing should stand between it—not party, not ideology, and certainly not politics.

Yet, in the last Congress I believe the Senate failed to perform an essential constitutional duty. It failed to offer advice and consent to the President by filibustering ten judicial nominees and threatening to filibuster another six. These filibusters were unprecedented. Never in the history of the Senate has a minority filibustered a judicial nominee who had clear majority support. This was an abrupt and an unfortunate break in more than 200 years of Senate tradition, of Senate history. This tradition must be restored, not merely because we honor the traditions of the Senate, but because this tradition reflects the proper role for this body, the Senate, as designed by our Framers in the constitutional arrangement.

Next month we will have the opportunity to restore Senate tradition. I will bring one of the President's very capable, qualified, and experienced judicial nominees to the floor. We can debate that nomination. We can vote to support it or to oppose it. And we must offer the President advice and consent by giving this and future judicial nominees who are brought to the floor up-or-down votes.

Some, I know, have suggested that the filibusters of the last Congress are reason enough to offer a procedural change today, right here and right now, but at this moment I do not choose that path.

Democratic colleagues have new leadership. And in the spirit of bipartisanship, I want to extend my hand across the aisle.

I have a sincere hope that we can move forward past difficulties—beyond the past difficulties we saw in the last Congress—and look forward to a future of cooperation.

I seek cooperation, not confrontation. Cooperation does not require support for the nominees. Cooperation simply means voting judicial nominees brought to the floor up or down.

So let me say this: If my Democratic colleagues exercise self-restraint and do not filibuster judicial nominees,

Senate traditions will be restored. It will then be unnecessary to change Senate procedures. Self-restraint on the use of the filibuster for nominations—the very same self-restraint that Senate minorities exercised for more than two centuries—will alleviate the need for any action. But if my Democratic colleagues continue to filibuster judicial nominees, the Senate will face this choice: Fail to do its constitutional duty or reform itself and restore its traditions, and do what the Framers intended.

Right now, we cannot be certain judicial filibusters will cease. So I reserve the right to propose changes to Senate rule XXII, and do not acquiesce to carrying over all the rules from the last Congress.

As a public servant who has twice taken an oath to support and defend the Constitution, I cannot stand idly by, nor should any of us, if the Senate fails to do its constitutional duty. We, as Senators, have our constitutional duty to offer the President advice and consent.

Although our constitutional duties are paramount, we also have a legislative responsibility to the people we serve and to the Nation. This is our opportunity to take on the challenges that each of us sought public office to pursue. After all, we are here not just to occupy our offices but to lead, to be bold, to take action, and to get things done.

First, there is work left undone from the last Congress, and we need to act on it.

America is long overdue for an energy policy. We need a plan in place to reduce our dependence on foreign oil and bolster conservation efforts. Last Congress, the Senate passed an energy bill that would have done just that. I am hopeful we will be able to do the same this year and work with House leaders and the President to finish the job.

We also need to eliminate frivolous lawsuits by reforming asbestos liability, medical liability, and our class action system. Frivolous lawsuits cost our economy more than \$250 billion per year. That is more than 2 percent of our gross domestic product—the equivalent of over \$800 on every American. To keep our economy growing and competitive, we need to act now.

I will bring class action reform to the floor early next month. I am confident we will pass this bill and take a big first step to restoring sanity and fairness to our legal system.

Second, in the last Congress, we led on the most urgent issues facing America. And we still need to keep our focus on issues such as protecting our homeland from biological threats. But we must also lead today on tomorrow's challenges. We need to look to the horizon and ask ourselves: What will be the cost in the future if we fail to act now?

The President has put Social Security reform among his top priorities for

his second term. He has laid out wise and essential principles: protecting the benefits of today's seniors, not raising payroll taxes, and giving younger Americans the opportunity to save, own, and invest a portion of their own Social Security dollars. But in the end, the details on how to accomplish Social Security reform will fall to Congress. This will require a tremendous amount of work, especially from our skilled committee chairmen. It will also require us to work together across the aisle—both parties in both Houses. If we do so, I believe we will be able to achieve the goal of putting a bill that addresses the short-term and long-term gaps in Social Security on the President's desk.

As we consider Social Security reform, we cannot turn a blind eye to other entitlements. Gathering on the horizon is a Medicare perfect storm: skyrocketing health care costs that are affecting every family and an increasing number of seniors—a doubling in the number of seniors—over the next 30 years, and fewer and fewer workers paying into the program.

Keeping the promise of Medicare to seniors will place an untenable burden on younger Americans and their children and their grandchildren. In fact, the total unfunded liability in the Medicare Program far exceeds Social Security's unfunded liability. We have a moral responsibility to begin to have a conversation about the long-term challenges facing Medicare.

In the short term, we can work to reduce health care costs in general. The fact is, our health care system—it is not even really a system. Our health care sector is fantastically inefficient. We can make it much more productive.

Just think about it for a minute. We can access our bank accounts from nearly anywhere in the world with our ATM cards, but we can't transfer our CAT scan results digitally from one hospital to another hospital across the street for a second opinion. We can pay bills on line, we can order groceries on line, and we can even apply for a mortgage on line—all in a matter of minutes. But if we happen to be in a car accident, if we are knocked unconscious with our lives at stake, paramedics and emergency room doctors cannot quickly check for blood type or allergies to our medicines.

It doesn't make sense. We can fix it by encouraging the use of information technology. By reforming our broken medical liability system, by expanding portable tax-free accounts, among other things, we can begin to hold that line on health care costs and improve our system.

I am pleased the President is firmly committed to working with Congress to make health care more affordable and accessible.

He is also committed, as I am, to protecting the values that serve as the foundation of a healthy society: Marriage, family, and a culture of life that protects human dignity at every stage of development.

Finally, we need to elevate global issues of moral consequence.

This is becoming increasingly apparent in the past week. During the last 9 days, we have all been deeply saddened by the unfolding tragedy in Southern Asia. Estimates now put the death toll at more than 150,000, more than a third of which are children. And the statistics don't capture the sorrow, the sadness, that sense of loss, the psychological impact that will leave long-standing scars.

When we resume our business later this month and the President requests our assistance, we will set aside what we are working on to provide funding quickly and cleanly.

Later tonight I will be leaving with several of our colleagues to travel to the devastated areas. We will report back about what America can do to aid relief and recovery efforts.

America is the most generous Nation in the world. We will step up with all the resources, all the compassion, all the hope that we can muster in these next few weeks and beyond. We have done so as a nation. We have done so as a people many times before.

Last Congress we stepped up in the fight against global HIV/AIDS. We stepped up with an unprecedented \$15 billion commitment. We will keep that commitment strong. We need to work hard to bring peace, stability, and humanitarian support to war-torn nations such as Sudan.

Americans are a compassionate people. We, as Senators, can help capture that and channel it for the good of the world. It is our responsibility. We will do just that.

In his most recent news conference, President Bush said this about his second-term agenda:

All of these goals require the energy and dedication of members of both political parties. Working in a spirit of bipartisanship, we will build the foundation of a stronger, more prosperous country.

The President is exactly right. The challenges before this Congress are so vital to the future of our country. We must work together to address them. Through our history, America has been served best by leaders who treat each other and their offices with respect and civility and decency.

I think of George Washington who, at the age of just 16, copied out by hand a list of 110 Rules of Civility and Decent Behavior in Company and Conversation. This act shaped the early character of Washington and in turn the indelible character of our Nation.

In recent history, Ronald Reagan and Tip O'Neill come to mind. Although they stood on opposite sides of the ideological spectrum, they enjoyed a wonderful relationship, a fruitful friendship. On the Speaker's 70th birthday, President Reagan invited him to the White House for a celebratory lunch. At the end of the meal, the President raised a glass of champagne and toasted the Speaker:

Tip, if I had a ticket to heaven and you didn't have one, too, I'd sell mine and go to hell with you.

Many have enjoyed friendships just like that in the Senate. I know I do, and so do many of our spouses. The Senate, as I have often said and referred to in my remarks earlier today, is a family. The sense of family does not come across on the television screen and certainly doesn't come across in the newspapers. What the American people too often see and what I don't believe they like is an extreme partisanship, a partisan bickering and a lack of cooperation. Some of that is just the nature of the news. Conflict, as we all know, sells advertising and catches people's attention, but it is also the nature of Washington today with all of the competing special interests.

There is still something else at work. Somehow, we have become more defined by the forces that divide us than the common cause that unites us. The civility that once was the hallmark of this body has eroded over time. I recognize, we all recognize, it will take time to regain it. But we must begin. We must begin now and we will begin.

I applaud the orientation for new Members that Senators CARPER and ALEXANDER and others helped organize just this November. Our nine newly elected Senators worked with veterans of this body to learn, as my colleague from Tennessee said, what it takes for the Senate to function as an institution and fulfill its constitutional role. We need more efforts just like this, such as in Senate policy forums, bipartisan leadership meetings, all of which would be a good start.

These are issues I have discussed with the Democratic leader. I ask our colleagues to come to Senator REID and me with other suggestions they may have over the next several weeks. Leaders on both sides of the aisle need to set an example, but the whole body needs to share in this effort. We all need to commit to restoring civility in the Senate. If we do, with time, I believe, the Senate again can become what it was in the so-called golden age, what the great statesman and Senator, Daniel Webster, called in his last major address:

... A body not yet moved from its propriety, not lost to a just sense of its own dignity and own responsibilities, and a body to which the country looks, with confidence, for wise, moderate, patriotic and healing counsels.

I close by expressing a concept that is by no means new but is essential to our deliberations and, in the end, to the future for America. It is the concept that this body, the Senate, act as one.

During my decade of service in this body, I have seen extraordinary acts of courage. I have seen men and women endure overwhelming currents of political pressure. Sometimes they have done this standing alone and independent; sometimes they have crossed the aisle and cast a deciding vote with the opposing party. Every time, however, it has been for one simple reason:

to do what their hearts told them was right for the people they represent and for the Nation.

Where leaders perform such acts of courage, they subjugate their own political interests to the higher purpose of the whole. Although they may pay a political price, they are rewarded with honor and with pride and with respect.

In the end, those rewards are priceless. Those rewards last—not only in the hearts of public servants but in the hearts of the people they represent.

The Senate's longest serving majority leader, the late Mike Mansfield, said of this body:

In the end, it is not the Senators as individuals who are a fundamental importance. In the end, it is the institution of this Senate. It is the Senate itself as one of the foundations of the Constitution. It is the Senate as one of the rocks of the Republic.

Let us do the duty of U.S. Senators, our constitutional duty and our duty to our people and our Nation. Let us do so with respect and civility and decency for this body and for each other. As we do, let us secure for every American a freer, safer, and healthier future.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Oregon.

#### HEALTH CARE

Mr. WYDEN. Mr. President, before he leaves the Chamber, I commend the majority leader for his interest in health care, in particular. I have always thought it is far away the most important issue at home. I have come to the Senate to talk about some of the opportunities in this session to work in a bipartisan way on these critical issues. In fact, I was going to mention that the Senator and I have pursued legislation to tackle the problem of child obesity. I appreciate the majority leader's interest in health care and look forward to working with him in this session.

Mr. President, colleagues, I have believed health care is the most important issue at home since my days as director of the Oregon Gray Panthers. I have thought health care was the most important issue because, in a sense, if our folks do not have their health, it is not possible to work, to learn, to raise children, or do much of anything the American people value.

For me, this is the big priority at home. When we look at what is happening today with medical costs gobbling up everything in sight, the demographic revolution with so many more older people, the tremendous lifesaving technologies we have today which, of course, carry a big price tag, all of these forces come together to present an issue that just cannot be ducked any longer. To put it in perspective, David Walker, the Comptroller General of the Government Accountability Office, put it pretty well, saying that the Medicare problem is about seven times greater than the Social Security problem and it has gotten much worse. It is