NOT VOTING—3

Jeffords Kerry Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ENERGY POLICY ACT OF 2003

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 14, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 14) to enhance the energy security of the United States, and for other purposes.

Pending:

Campbell amendment No. 886, to replace ''tribal consortia'' with ''tribal energy resource development organizations''.

Durbin modified amendment No. 1385, to amend the Internal Revenue Code of 1986 to provide additional tax incentives for enhancing motor vehicle fuel efficiency.

Domenici amendment No. 1412, to reform certain electricity laws.

Motion to commit the bill to the Committee on Energy and Natural Resources, with instructions to report back forthwith, with Frist amendment No. 1432 (to instructions on motion to commit), to provide a national energy policy for the United States of America.

Frist amendment No. 1433 (to instructions on motion to commit), to provide that all provisions of Division A and Division B shall take effect one day after enactment of this Act.

Frist amendment No. 1434 (to amendment No. 1433), to make a technical correction.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, as chairman of the Committee on Energy, I am ready to proceed at any time. We have no amendments on the Republican side, so the amendments are all on the Democrat side. We stand ready to accept amendments, to debate them, to vote on them, to get rid of them. We are on one of the sections that is clearly definable. It has a limited number of amendments, the so-called electricity section. We very much would like to proceed and ask the other side if they are ready, if they could perhaps start with an amendment on the electricity side, and let us know what the remaining amendments are so we can see how long it will take us to complete the electricity title of this bill.

I say that, and at the same time I put it as a question to the minority leader.

Mr. DASCHLE. Madam President, could the Chair inform the Senate as to what the pending business is?

The PRESIDING OFFICER. The pending question is the majority leader's second-degree amendment to his first-degree amendment to his motion to commit.

Mr. DASCHLE. Do I understand the Chair that the answer is the pending business is the motion to commit the bill, not the electricity title, is that not correct?

The PRESIDING OFFICER. The pending question is that motion and the amendments thereto.

Mr. DASCHLE. I inform my colleagues that is the issue.

Last night, the majority leader filled the tree and made a motion to commit, moving off of the floor for consideration of the energy title. I will talk about that for a couple of minutes as I consider those actions last night.

We have heard some very creative explanations from the majority about how the Senate has gotten into the mess we are in this morning. They are doing their best to blame Democrats, as usual. There is one simple explanation for why the Senate has not finished its work: Politics. The majority has been playing politics with this bill and with other issues. That is just not conducive to reaching the good bipartisan outcome we expect in the Senate. Republican leaders have been playing politics so much that some Members of the Republican caucus have themselves begun to protest.

Conservative Republicans now say their leadership could have finished this Energy bill if the Senate had not been repeatedly distracted by political matters. I agree.

In an article headlined ''Frist Schedules Judicial Votes, Slowing Energy Bill'' in today's addition of Rollcall, it reported that:

Though most Republicans are publicly blaming . . . ''obstructionism'' for the sputtering energy debate, many GOP Senators privately acknowledge that the [majority leader's] decision to pepper this week's schedule with unrelated votes on controversial judicial nominees has made it less likely the Senate will pass the energy bill before the August recess.

That is not Democrats talking; that is what Republicans have said.

The Rollcall article goes on to quote one Republican Senator:

It might have been better not to have brought [judges] up. I think it was a mistake.

That is according to JIM INHOFE, quoted in Rollcall.

It quotes Senator LARRY CRAIG, ''who is one of the many conservative Republicans who have complained about FRIST's unwillingness to push the energy bill to Senate passage, [and] said the majority leader could have avoided the time issue on judges by not bringing them up at all.

''It was unwise,'' said Craig, former chairman of the Republican Policy Committee.

I've been in the leadership—never at [Frist's] level—but I clearly realize the pressures put on you to do other things in the runup to a recess.

I've also been involved in tough floor debates before, and once you get on them, you stay on them, and you drive it until you finish it.

Senator CRAIG THOMAS agreed:

I wish we hadn't gone off it, frankly.

The Rollcall article went on to state that relatively few debate days spent on energy ''have been spread out over the past three months causing CRAIG and others to complain that the on-again, off-again schedule has prevented the bill from gaining the momentum to pass.''

Again, all quotes from Rollcall this morning.

Last evening provides a good but regrettable example of how this on-again, off-again Republican schedule has slowed the energy debate. The Republican leadership scheduled a vote for this morning on cloture on the nomination of one of the most highly controversial nominees we have had in this Congress. The outcome of today's vote was never in doubt. It was scheduled purely for political reasons, to satisfy a segment of the far right. A schedule of this vote elicited a vote last night not on energy but on a controversial judicial nominee. The Senate spent from 6 p.m. yesterday until 10:17 p.m. debating something other than energy, 4½ hours wasted on political debate brought on by Republicans, 4½ hours that could have been spent productively on the Energy bill.

That is not the only kind of interruption we have had this week. We even stopped action on the Senate floor on Tuesday for 2 hours so the Senators could attend a meeting at the White House. Guess what the purpose of that meeting was. For the Senate to be urged to complete the Energy bill. So we took 2 hours off of the floor debating the Energy bill to talk about how important it was to complete it—a few blocks from here at the White House.

Hurry up and wait seems to me to be the adage. Stop and start, switch gears. That has been the pattern all week long. In fact, that has been the pattern now for months. At one point we interrupted the Energy bill on June 12th and we did not return to it until the evening of July 24th, an interruption of 5½ weeks. To make matters worse, we are told the topsy-turvy schedule will continue tomorrow. As if the schedule were not bollixed up enough already, Senate Republican leaders now say we will be taking up the nomination of yet another controversial nominee for another political vote tomorrow.

As Republican Senators said today in Rollcall, that is just not the way to complete action on a major, complex piece of legislation.

Something else is very important about this debate. It has been omitted from what the majority is saying this morning. It is what this Energy bill and its debate is supposed to be all about. It is about ensuring Americans will have a comprehensive, balanced, reliable energy policy that protects consumers from energy market manipulation and high energy prices. These are important issues. It takes time to get them right. We have a duty to the American consumer to ensure that we fully consider what our energy policy should be in the future.