

home States have said publicly and repeatedly they want to vote to change policy. They will have that chance on the Levin-Reed amendment, which will be brought up for a cloture vote tomorrow morning.

This session, which we will now commence, is not likely to end during the next 24 hours. During that period of time, it is an opportunity and an invitation for Members of the Senate to come to the floor and express their feelings about this war in Iraq. For those who support the President's position and want to continue along this present course, they have their chance. For those on both sides of the aisle who believe we ought to bring this war to an end, they also have their opportunity.

It is unfortunate the Republican minority has insisted on this procedural obstacle, has insisted on filibustering this amendment, and is trying to stop us from getting to the heart of the issue about changing this policy in Iraq. But the American people know this, and they know that those who are doing their best to protect the President, protect him politically, protect his position, are going to be well known across this country at the end of this debate.

I hope those who agree with us on the Democratic side and the three Republicans who join us will come together with us and dramatically change this policy, change this war in Iraq, and bring it to an end responsibly.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

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

DEBATE TIME ON IRAQ WAR POLICY

Mr. MCCONNELL. Mr. President, listening to my good friend from Illinois, the majority whip, discussing the 60-vote threshold reminds me of what the majority leader said back on January 30, 2007:

Sixty votes are required for just about everything. I have talked with Senator MCCONNELL about this. You know we have to come up with a number of resolutions that require 60 votes because, as you know in the Senate, a lot of times 60 votes are required for just about everything.

Now, that is life in the Senate. On the Defense authorization bill, we had two amendments last year, the Kennedy and Enzi amendments, and both required 60 votes. We are happy to have this debate tonight. It is my understanding the other side last evening agreed to accept the Cornyn amendment to the Defense authorization bill. As we indicated, we have a request for a rollcall vote on that amendment. However, we will be happy to schedule that vote at a reasonable time today. I am told—and we heard again—that we

plan to be here this evening leading up to the cloture vote on the Levin amendment, and we would be happy to have that vote today. There is no particular reason to have the Levin-Reed vote tomorrow; we could have it today.

But look, it is perfectly fine with us to stay here today and this evening to discuss this very important issue. I couldn't agree with my friend from Illinois more that it is the significant issue in the country at this particular juncture. We will be prepared to work with the majority whip and the majority leader to work out a floor schedule that allows us to rotate back and forth on a regular basis throughout the afternoon and the evening, and we look forward to working that out in a way that is fair to both sides and gives us ample opportunity for a vigorous debate about this extremely important issue.

I yield the floor.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, pursuant to the statement made by the Republican leader, I ask unanimous consent that the Cornyn amendment be scheduled for a vote at 2:15 and that it be a majority vote and that Senator MCCONNELL can withdraw his amendment, which is currently pending.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. Mr. President, reserving the right to object, Senator CORNYN is in a hearing this morning, so we would want to provide a little bit of time for him this afternoon, but I think we should be able to work this out shortly. We would pursue a discussion with the floor staff and see if we can't lock this in. There is no particular reason why we couldn't work this out. For the moment, I object. Maybe the vote could occur at 2:45. Would that be acceptable?

Mr. DURBIN. Mr. President, I amend my unanimous consent request to 2:45, with the time equally divided between 2:15 and 2:45, and that the Cornyn amendment will then be called for a vote, with the standard of the majority as to whether it passes or fails.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. And no second-degree amendments, I might add, and the McConnell amendment withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. Reserving the right to object, could we state the consent request again?

Mr. DURBIN. I can try. It is that the debate will commence at 2:15 on the Cornyn amendment, with the time equally divided for 30 minutes; at 2:45 the Cornyn amendment will be called for consideration—for a vote—with no second-degree amendments; that the vote standard for passage of the Cornyn amendment will be a majority vote; and that Senator MCCONNELL will withdraw his pending amendment. I

think that is the sum and substance of it. The McConnell cloture motion would be withdrawn.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

ALL-NIGHT SESSION

Mr. DURBIN. Mr. President, I would like to say in response to the Republican minority leader, he found two amendments where we required a 60-vote margin on the last Defense authorization bill. Those two amendments did not relate to the Defense authorization bill. They were minimum-wage amendments. They required budget points of order. The Senator from Kentucky has been unable to find an Iraq amendment raised in the Defense authorization bill nor in the supplemental appropriations bill which required this extraordinary majority.

Now the Republican leader has agreed to a majority vote on the Cornyn amendment, something we offered yesterday. Now we are asking that during the course of this debate, I hope he will reconsider his position on the Levin-Reed amendment. This too should be a majority vote, an up-or-down vote. What is so frightening on the Republican side of the aisle to face a majority vote?

We know an overwhelming majority of the American people want to change this policy in Iraq. Yet the Republicans have insisted that when it comes to the key amendment—the Levin-Reed amendment, which will actually bring our troops home and end this war responsibly—in that situation, they want an exceptional majority, 60 votes, to be considered. Well, we are going to debate that and we are going to debate it long and hard between now and 24 hours from now. The Senate will be in a rare all-night session. Some of the critics of this all-night session have said that it is an effort to get some publicity. Well, if they are arguing that it is an effort to get the attention of the American people, they are right because the American people want us to debate this honestly and openly.

I happen to believe as well that the Senate spending a sleepless night is no great sacrifice. Soldiers and the families who pray for them spend many sleepless nights. It is time for the Senate to do the same. It is time for us to come to the floor and express what is in our hearts about this war—a war that has claimed over 3,611 American lives; a war which has cost us 30,000 injuries, 10,000 of them severe injuries, including amputations, traumatic brain injuries, and severe burns; a war that has cost this Nation over \$500 billion and costs us more than \$12 billion a month. Is it worth one night of lost sleep to discuss and debate that? You bet it is. That is why we are here. That is what the Senate is all about.

I hope the Republican minority leader, Mr. MCCONNELL of Kentucky, having agreed to a majority vote on the

Cornyn amendment—a Republican amendment—will now give us a majority vote, an up-or-down vote, on the Levin-Reed amendment. I don't understand why he would agree to one standard for one Iraq amendment and then insist on a higher standard for a Democratic Iraq amendment. I think most Americans can see through that.

I yield the floor.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for 60 minutes, with Senators permitted to speak therein for up to 10 minutes each, with the first half of the time under the control of the Republicans and the second half under the control of the majority.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

BROADCAST FREEDOM ACT

Mr. DEMINT. Mr. President, I rise to speak in support of the Broadcast Freedom Act, which I offered along with my friends from Minnesota and South Dakota, Senators COLEMAN and THUNE. Some would say that the fairness doctrine is the perfect example of a regulation whose time has past. Others would say it is a regulation that was never necessary to begin with. In any event, it is certainly not a regulation that we need today. I think it is worth a brief recap of history of American mass media to show how utterly silly this doctrine would be if reinstated in today's environment.

In 1949, the year the fairness doctrine was created, there were 51 television stations in the United States. In 1985, when the doctrine was repealed by the FCC, there were 1,200. Today, there are nearly 1,800 television stations. The radio industry tells a similar story. In 1949, there were about 2,500 radio stations in the United States. In 1985, the number had grown to 9,800. Today, there are almost 14,000. There was significant growth of these numbers between 1985 and today. We need to understand why it is happening.

You see, it was in 1985 that the FCC said the following when it repealed the fairness doctrine:

We believe that the interest of the public and viewpoint diversity is fully served by the multiplicity of voices in the marketplace today.

That was when we had far fewer radio and television stations. That statement was made over 20 years ago. The number of voices in the market was plentiful then. In the last two decades, those numbers have grown even larg-

er—by 50 percent in television and over 40 percent in radio.

Keep in mind, too, that there was no Internet in 1985, and there was no satellite radio offering hundreds of channels nationwide. There was no digital television or radio allowing for multicasting. There were not even wireless phones, much less ones that could go on line and even carry video. Of course, nobody had yet heard of the podcast, blogging, or YouTube. All of this has now changed. It is easy to see that if the fairness doctrine was unnecessary in 1985 because of the multiplicity of voices, it is downright laughable today.

I also wish to speak to the fact that this doctrine, if reinstated, would have the opposite effect that its opponents tell us they seek. They say they want both sides of important issues presented with equal time. Well, what happens if nobody is available or willing to offer an opposing viewpoint? The answer, clearly, is that the discussion will not take place at all. And all the bureaucracy that is required to keep track of what someone said and what has to be responded to would cause most of these stations not to deal with important issues at all.

Commercial radio and television are businesses. They are on the air only as long as someone is willing to pay for advertising. Advertising is only attractive when someone is watching or listening. People watch or listen to things they find worth their time. If a radio or television station is prevented from airing programming on public issues or is forced to carry programming that may not suit their audience, they will have a very difficult time retaining listeners, advertisers, and ultimately their businesses. It is not in the public interest for the Government to force content on or prevent content from reaching the American people. The FCC recognized that in 1985, and we should all recognize it today.

Mr. President, I ask my colleagues to support the Broadcast Freedom Act, which prevents the FCC, now or in the future, from reinstating the arcane and damaging so-called fairness doctrine.

earmark transparency

Mr. DEMINT. Mr. President, I would like to speak now about the ongoing efforts in the Senate to block the earmark transparency rules.

It has now been 180 days since they were unanimously adopted by the Senate. Yet they still have not been formally enacted. Even worse, the majority wants to take them behind closed doors, where a conference committee can kill them in secret. They tried to kill these reforms on the Senate floor but failed. Now they are falling back to their plan B, which is to gut them in conference.

That is not how we should write a bill about openness, honesty, and transparency. I hope my friends on the other side will change their minds. These are Senate rules I am talking

about, and there is no reason why we need to negotiate with the House. The House already has their earmark transparency rules. My friends on the other side should stop blocking earmark reform and stop trying to change these rules in secret so we can move on.

Americans have seen the ethical problems associated with earmarks. They have watched what happened to Duke Cunningham, and they have seen a number of Members of Congress forfeit their seats on appropriations committees due to conflicts of interest. Americans understand that lobbying and ethics reform will not be complete—in fact, it would be meaningless—if we don't do something to shine the light on earmarks. Let me repeat this because I think it is very important. Americans do understand that ethics reform is not complete without meaningful earmark reform.

Many of the reforms in the ethics bill address what people outside of Congress can do, but earmark reform addresses what we here in Congress can do. That is the difference. Americans want, more than anything else, Congress to be restrained and open about what we do. They want us to reform the way we spend their money and shut down the secret congressional favor factory. Nothing would do more to restore America's faith in their Government than enacting reforms that ensure their elected officials are not going to use their ability to spend Federal dollars to enrich their friends and supporters.

Mr. President, I wish to draw the Senate's attention to an article that ran this morning in *The Hill* newspaper about earmarks—earmarks that have not been properly disclosed. The majority likes to say they are complying with the rules, but that doesn't appear to be the case. This story says:

As a proposal to require full disclosure of all Senate earmarks languishes, Senators have not claimed responsibility for at least \$7.5 billion worth of projects approved by the Appropriations Committee, according to an analysis by a budget watchdog group.

Obviously, the piecemeal approach being used by the Democrats is not working. We cannot allow appropriators and other committees to police themselves. They are not doing it now, and they never will. We need a single enforcement rule for the whole Senate that doesn't keep loopholes for secret earmarking. Let me repeat: \$7.5 billion in earmarks already this year are undisclosed. This is business as usual in the Senate.

I wish to point out that the Defense authorization bill we are debating now violates the rules. It discloses the earmark sponsors, but the committee failed to post on the Internet the letters from these sponsors certifying that they do not have a financial interest in the earmark they have requested.

Before I conclude, I want to update the Senate on some progress we are making on earmark reform.