

the White House and which party has control of the Senate.

When President Clinton, a Democrat, was in the White House, sending over nominations, I expressed my personal dissatisfaction at the way they were handled by the Republican-controlled Senate, Republican-controlled Judiciary Committee. I crossed party lines and voted for Judge Paez, Judge Berzon, Judge Gregory, and the nomination of Bill Lann Lee. Now we have the situation reversed: A Republican President, President George W. Bush, and a Judiciary Committee controlled by the Democrats.

It is time for a truce. It is time for an armistice. We ought to sign a declaration if necessary to set forth a procedure to take partisan politics out of judicial confirmations. That is present very decisively with Judge Pickering. There is an element expressed by some members of the Judiciary Committee on the so-called litmus test, with some people believing that unless a judicial nominee is willing to endorse *Roe v. Wade* on a woman's right to choose, that individual should not be confirmed to the Supreme Court—really, an effort to place *Roe v. Wade* on a level with *Brown v. Board of Education*. But it is clear no one can be confirmed today who said *Brown v. Board of Education* should be reversed.

When the nominees are questioned before the Judiciary Committee, they frequently will say: I won't answer that question; it is a matter which may come before the court. That is customarily accepted. If someone were to say that about *Brown v. Board of Education*, not affirming that conclusion—that the decision ending segregation is a vital part of America—I think that person could not be confirmed. To establish that standard for *Roe v. Wade* I think is very contentious, but that awaits another day.

The issue of taking partisan politics out of judicial selection is one with us right now. Earlier this week, Judge D. Brooks Smith, who is a chief judge of the U.S. District Court for the Western District of Pennsylvania, a person recommended for that position by Senator Heinz and myself back in 1988, was confirmed and is now up for the Court of Appeals for the Third Circuit. Although not as heavily overlaid as Judge Pickering's confirmation was, there is an element of partisanship as to Judge Smith. I believe he has answered the questions adequately, and I am cautiously confident he will be confirmed.

It is my hope that if I am right—hopefully, I am not right and Judge Pickering will be confirmed by a majority here—if it turns out to be a vote along party lines, I am hopeful the Judiciary Committee will send Judge Pickering for action by the full Senate. There is precedence for that. Judge Thomas was not recommended by the committee and received a tie, 7-to-7, vote. That meant it failed. But by a 13-to-1 vote, the Judiciary Committee

sent Judge Thomas, who was then a circuit judge, to the Senate, where they voted 13-to-1 that the full Senate should consider him. The full Senate confirmed him 52 to 48.

Judge Bork received a negative vote of 5 in favor and 9 against, and then on a motion to send to the floor, Judge Bork got 9 votes that the full Senate should consider him, with 5 members of the Judiciary Committee dissenting.

In the old days, we used to have the Judiciary Committee bottleneck civil rights litigation, stopping it from coming to the floor.

I believe on the judicial nominations with the overtones of partisanship, this is a matter which ought to be decided by the full Senate. I urge my colleagues to give consideration that in the event there is not an affirmative vote in committee, at least Judge Pickering ought to have standing to have the full Senate consider his nomination.

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

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

#### EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent morning business be extended to the hour of 5:30 today.

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

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). Without objection, it is so ordered.

#### ORDER OF BUSINESS

Mr. DASCHLE. Madam President, there have been discussions all day long with regard to the so-called Schumer amendment, the matter involving photo identification and the election reform legislation. I think it is accurate to say that while no resolution has been reached, the discussions continue.

This has been an unfortunate and very unproductive period of time, but nonetheless I think it is appropriate at this point to announce there will be no more rollcall votes today. We will be in session tomorrow, and there is a likelihood that we will have at least a cloture vote. There may be other votes as well. So Senators should be advised that at least in the morning tomorrow there will be votes, perhaps beginning at 10 o'clock.

So we will keep Senators informed of our progress. We will not be going out of session tonight. My hope is we might still resume debate and further consideration of the election reform bill, but I think the time has come to recognize that at least if votes could be cast, we could postpone those votes until tomorrow. So no votes tonight but votes certainly in the morning.

I yield the floor.

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. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

#### MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak for up to 5 minutes.

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

#### ELECTION REFORM

Ms. STABENOW. Madam President, I would like to express my strong support for the Schumer-Wyden amendment to S. 565, the Martin Luther King Jr., Equal Protection of Voting Rights Act of 2001. While one of the important goals of this legislation is to prevent voter fraud, we must be careful that we do not go so far that we keep eligible voters out of the electoral process.

This bill currently requires first-time voters who registered by mail to provide either a photo ID or a copy of a utility bill, bank statement, a Government paycheck or other government document that shows the name or address of the voter when they go to cast their vote. While this may sound like a reasonable requirement on the surface, the practical consequences of this requirement could easily prevent countless eligible voters from voting.

For example, senior citizens, who vote in large numbers, often do not drive and therefore, do not have a driver's license to use as a photo ID. Voting age high school and college students, a group that we need to encourage to vote and participate in the democratic process, may not have a photo ID, and certainly will not have a Government paycheck or a utility bill in their name. A photo ID requirement also would place a heavy burden on the millions of Americans with disabilities who do not drive or do not live independently so that their name would be listed on a bank statement or utility bill.

Finally, a photo ID requirement could have an adverse impact on minority voters. Immigrants who have newly become U.S. citizens and come