

being appropriate. As members of his party said when they were in the minority, the Senate is not the House. I think there is a growing appreciation on both sides of the aisle that we ought not to operate that way.

With regard to the organizing resolution, I agree with the majority leader that we are very close to being ready to move forward on that. It is a difficult process for the two of us, but I think we have gotten close to being at a point of completion, which is, of course, essential to beginning our business.

TARP

Now, on another matter, Mr. President, a few months ago some of our Nation's top economic minds came to the Capitol to tell us about an impending crisis. The crisis, of course, was the accumulation of toxic assets at banks here and around the world that threatened to paralyze America's economy, jeopardizing the livelihood of literally millions. Without action, we were told, the Nation faced certain calamity.

For many, the normal impulse would be to let the bad actors who caused this mess face up to their mistakes. But since millions of families and small business owners, who did nothing wrong, were caught up in the errors of the few, we decided, with some degree of reluctance, to approve funding for the Troubled Asset Relief Program, now commonly referred to as the TARP.

Fearful of waste and abuse, Republicans insisted on a number of taxpayer protections. We also insisted on releasing the money in two installments so we could review how the first one was spent before approving the second. Yesterday, a request for the second installment was made. I had an opportunity to talk to the incoming President about that matter yesterday.

Throughout this ordeal, I have not wavered on one basic principle: I voted for the first installment on the condition that it be used to prevent a systemic—a systemic—economic collapse affecting every single American. And I continue to believe this money should be used for the reason it was first approved. The current administration, regretfully, used these funds for the auto industry, a move I opposed. Now congressional Democrats are suggesting more of the same. The American people still do not have assurances that this money will not be wasted or misused to play favorites.

So far, the incoming administration has not said whether it plans to limit the funds to their original purpose or to expand their use to help specific industries. The taxpayers are eager to hear the new administration's plan, and so are Republicans in Congress. We will hear from the incoming administration soon. We will be happy to listen. They will have a receptive, albeit cautious, audience.

Mr. President, 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, the Senate shall proceed to a period of morning business for up to 1 hour, with Senators permitted to speak for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KYL. Mr. President, I ask unanimous consent that all the remaining time on the Democratic side be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MINNESOTA SENATE ELECTION

Mr. KYL. Mr. President, I wish to speak briefly about the contest in Minnesota involving the Senate seat currently held by Senator NORM COLEMAN. Obviously, the other new Members of the Senate were sworn in last week, but this seat remains empty, a winner yet undeclared.

To be clear, under Minnesota law, that is the way it has to be right now because there is an election contest that has been filed in the courts, and under Minnesota law, therefore, neither the Secretary of State nor the Governor can declare the seat filled.

Senator COLEMAN had been declared the winner on election night and through the ensuing administrative canvassing process. But throughout the following State Canvassing Board stage of the proceedings, there were numerous inconsistencies and problems uncovered, and the board-certified totals were different. They are, obviously, at issue, and they are preliminary.

The Minnesota State Canvassing Board totals, for example, include more votes than voters in a significant number of the Minnesota precincts. So, clearly, there is something wrong, and it has to be resolved by the court.

The Coleman campaign has followed Minnesota election law in filing an election contest, and that comes before a three-judge panel in Minnesota before the end of this month.

The contest is based on significant errors. I wish to mention four of these

categories so folks will understand what is at issue.

First is newly discovered ballots which appeared for the first time during the recount and are included in the State Canvassing Board totals.

Second is missing ballots supposedly tallied on election night but which could not be found during the recount process—obviously a problem.

Third is double-counting of duplicate and original ballots of the same voter during the recount process.

Fourth is wrongly rejected absentee ballots and inconsistent standards regarding what constitutes a wrongly rejected absentee ballot applied in different locations throughout the State.

Let me discuss each of these briefly in turn.

On the newly discovered ballots, there are 171 such ballots that appeared without explanation several days after the election in Ramsey County precinct Maplewood P6. Election officials were unable to reconcile the number of votes cast with the number of voters signed in, but the board, nevertheless, included the additional votes in Al Franken's favor in its totals. Furthermore, the board directed that this issue should properly be dealt with during the contest phase, and that, of course, is now occurring.

On the missing ballots, there were 133 ballots in Hennepin County that could not be found during the recount and were declared "missing," despite the fact that there are any number of possible reasons for the change, including the possibility that the ballots never existed in the first place. But instead of following a consistent standard and including the new recount total, the board reverted to election night totals, again resulting in more votes for Al Franken.

On the double-counting, in at least 25 precincts in Minnesota, there are more votes than voters in the Canvassing Board's totals, and there are 150 separate incident logs prepared by local recount officials describing issues involving duplicate and original ballot counting. This is due to the counting of both the voter's original ballot and a duplicate ballot which was created to take the place of the original ballot, resulting in double-counting of some votes when both of those ballots are included in the total. That is, obviously a blatant error and one that threatens the sanctity of "one person, one vote." Obviously, most people get one vote. Those who got more than one vote have an advantage for whom they cast their ballot.

Both the Canvassing Board and the Minnesota Supreme Court directed the issue to be dealt with during the election contest. So that issue is now being dealt with.

Finally, on the category of wrongly rejected absentee ballots, during the recount process, a "fifth pile" was created for absentee ballots that were rejected but not because one of the four reasons stipulated by Minnesota election law. This fifth pile was requested

by the Franken campaign at the time they were trailing in the count, and the Canvassing Board granted the request without issuing any direction to ensure consistency among the counties in their review. A vast number of these ballots, which happened to generate more votes for Franken, were included in the Canvassing Board total. However, the board also refused to review over 160 ballots requested by the Coleman campaign.

We can see there are obviously some issues to be resolved. The three-judge panel will be appointed. The campaigns will convene with the panel, set forth the ground rules for the election contest trial, and then that will occur.

There are no stipulations for when the proceedings must be completed, and estimations are, at least from folks in Minnesota, that it could take a month, if not more.

As a part of that context, the Coleman campaign has requested the review of hundreds more ballots that may have been wrongly rejected. Because of the size of the pool of ballots to be reviewed and the erroneous recount totals including questionable votes for Franken, Senator COLEMAN has expressed confidence that the numbers will revert back to where they were on election night and his lead will be restored and then he would be declared the winner.

Obviously, this is for the Canvassing Board and the court in Minnesota to resolve. It is not for us to prejudge the result at this time. Unfortunately, the majority leader and his staff have publicly stated they would try to seat Al Franken while the contest is still proceeding, despite the fact there is not a signed certificate, which is required of every Senator. This dates back to 1884. This action, of course, was blocked, and we presume the process will continue in regular order to await the result of the proceedings.

It is true Al Franken attempted to declare himself the winner. Yesterday, the campaign requested the Governor and Secretary of State send him a certificate so he could be seated. But it was, of course, not granted because both officials indicated correctly that would directly violate State law.

So we are left with the matter of a vacancy in Minnesota, with the issue to be resolved by the people in Minnesota, properly under their law, the Canvassing Board, and the three-judge court. For my part, I certainly hope this phase will not fall prey to inconsistencies and problems that have led some experts and newspaper editorials to claim the election process needs to be fundamentally reformed. If it is done in the proper way and due care for the evidence that is presented, then hopefully everyone will be satisfied with the result and willing to abide by that result. It will then come to the Senate, and we will seat the appropriate candidate.

The Republicans ask for nothing more. We are certainly hopeful our

former colleague and soon-to-be current colleague, Senator COLEMAN, will resume his seat. But that is for the process in Minnesota to determine, not for that to be determined in some arbitrary way in the Senate.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is reserved for this side of the aisle?

The ACTING PRESIDENT pro tempore. There is 7 minutes 40 seconds.

Mr. LEAHY. I thank the distinguished Presiding Officer, my good friend from Montana.

JUSTICE DEPARTMENT REPORT

Mr. LEAHY. Mr. President, today we received a report from the Department of Justice's Office of the Inspector General and Office of Professional Responsibility about their investigation of allegations of politicized hiring and other improper personnel actions in the Civil Rights Division.

I held hearings on this situation. At the time, there was a Mr. Bradley Schlozman who testified. I stated, at the time, that I did not find his testimony credible.

Today's report confirms some of our worst fears about the Bush administration's political corruption of the Justice Department. Not only did senior Republican appointees violate Federal law by hiring based on politics in the Civil Rights Division, they also lied about it. Indeed, they lied about it under oath when they were called to explain themselves to Congress.

I am particularly disturbed about the findings that a senior Justice Department appointee, a very senior Justice Department appointee, Bradley Schlozman, made false statements under oath when appearing before the Senate Judiciary Committee. Lying to Congress undermines the very core of our constitutional principles and blunts the American people's right to open and transparent Government. It is one thing to have a witness come and say they disagree with the Members of Congress. That is fine. Everybody has a constitutional right to do that. Nobody has a right to lie under oath. Nobody has the right to break the law. And certainly a senior member of the Justice Department should not be able to consider himself above the law.

Not only did Mr. Schlozman lie to me and the Committee, but he then refused to cooperate with the Justice Department's own internal oversight offices' investigation into illegal hiring practices in the Department's Civil Rights Division. The clear determination that he broke the law corrodes our trust in our system of justice and in the Nation's top law enforcement agency. If somebody can break the law in our Nation's top law enforcement agency, the Department of Justice, what does that say to the rest of Americans? His actions, in fact, undermine the very mission of the Department's Civil

Rights Division, which is charged with enforcing Federal law and prohibiting discrimination.

A strong and independent Civil Rights Division has long been crucial to the enforcement of our precious civil rights laws, and experienced and committed career attorneys have always been the heart and soul of that Division. In the past, the people who worked there, no matter how much time you spent with them, you wouldn't know if they were Republicans or Democrats. All you would know is that these folks, who are among the brightest and best lawyers in the country, are dedicated to serving the United States of America and upholding our laws.

Contrary to those traditions, however, which we have had in both Republican and Democratic administrations, this report details troubling revelations of political appointees who marginalize and force out career lawyers because of ideology, and, corrupt the hiring process for career positions. It should come as no surprise that the result, and of course the intent, of this political makeover of the Civil Rights Division has been a dismal—a dismal—civil rights enforcement record.

This report is just one of the final chapters in the regrettable legacy of the Bush administration at main Justice, and it reinforces the need for new leadership.

Now, more than ever, it is necessary to confirm new leadership at the Justice Department, starting with Attorney General-designee Eric Holder.

I compliment the Department's Office of Inspector General. They did not allow politics to stand in their way. They went and investigated this situation.

I do wish the current U.S. Attorney's Office, appointed by this administration, had decided to prosecute someone for these deplorable acts. I think the only way you stop such blatant criminal violations, especially by people who know better, people who are sworn to uphold the law, is that they know they will go to jail for breaking the law. That is what should have been done. They broke the law in the Bush administration, and the Bush administration decided not to prosecute, and I think that raises real questions. Prosecution should be done no matter who breaks the law.

I recall one of the people who testified in that same investigation who said: We swear an oath to President George Bush. I said: No, you swear an oath to uphold the Constitution. Mr. President, that Constitution is the Constitution you are sworn to uphold and I am sworn to uphold. It is a Constitution that reflects all Americans. The Government is not of a person; indeed, whether you support an individual or not, the Government is for all Americans. The Constitution is for all Americans. When somebody deliberately, purposely, sets out to subvert the Constitution of the United States