

terms of advancing not his personal agenda, but in fact serving well both the institutions he represented, such as the University of Chicago, and many, many philanthropic activities which he has been involved in.

But there are some in this Chamber who I fear would rather not have an Ambassador, but would rather have a political issue. My preference is to have an Ambassador serving the United States with distinction in Luxembourg. And I believe Mr. Hormel will do that.

Mr. President, the Providence Journal newspaper in my home State of Rhode Island put it best when they headlined the editorial by simply saying "Vote on Hormel."

Mr. Hormel does not want this ambassadorship as a pulpit to advance any agenda. What he wants to do is represent our country with distinction and great diligence. I believe he will do that.

In his own words, in a letter to Senator GORDON SMITH, our colleague, he said:

I will not use, nor do I think it appropriate to use, the office of ambassador to advocate any personal views I may hold on any issue. . . . I assure you that my public positions will be those of the U.S. Government.

I believe that however one feels about Mr. Hormel's qualifications, this institution deserves to give him a vote, to give him an opportunity to have his case decided openly here on the floor of this Chamber, allowing individual Senators to make whatever point they may choose to make about his qualifications, about his potential to serve. But to deny him his vote, I think, is to deny not only one individual but this country the opportunity to make a decision about his qualifications to serve.

I hope that we can quickly bring his nomination to the floor for a vote and then let the will of the majority prevail. I believe it is wrong and unfortunate that we retain this nomination and not allow it to come to the floor for the vote. I hope in the days ahead we will vote on Mr. Hormel and we will vote favorably.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent to be permitted to yield myself 10 minutes of the time of Senator DORGAN.

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

PATIENTS' BILL OF RIGHTS

Mr. KERRY. Mr. President, countless Americans have come to understand that the health care system in this country is in a total state of disarray, if not crisis. It is a crisis of confidence. It is a crisis of coverage, bought and paid for with hard-earned dollars from our fellow taxpayers, but a coverage that seems to disappear when you need it the most.

Our fellow citizens no longer believe that their insurance companies are pre-

pared to provide them with the quality of service or the choice of doctors that they were promised or that they paid for with their premiums. Some health insurers have put saving costs way ahead of the prospect of saving lives.

I think most people in the Senate have come to understand the nature of this crisis. The impact of the decisions of the insurance companies in countless stories across America and across my State of Massachusetts is immeasurable. Americans are suffering because the system puts the choices of the insurance company administrator far ahead of the choice of a doctor.

The story of Ellen O'Malley, a mother of two, from Canton, MA, underscores the full measure of the problem that we face today. Ellen passed away in the summer of 1994, a victim of breast cancer at the age of 38. Her husband, Steve, a schoolteacher in Canton, and her two daughters, could tell anybody in the Senate about the trouble that people face today as a result of the way in which choices are made for the delivery of health care. They could also tell you about the struggle of what it is like to live without a mother and wife. I think all of us understand that happens and that there are sometimes unavoidable consequences of some diseases. But clearly there are totally avoidable consequences of what kind of care is delivered to somebody in the course of an illness.

The O'Malley family's story is even more tragic than the loss of Ellen because they would tell every Senator about the new language that they learned, the experience that they went through, as a consequence of her illness—a vocabulary of the HMOs. Ellen O'Malley should not have had to spend her last year of life jumping through bureaucratic hoops just to get treatment for breast cancer. She shouldn't have had to be shuttled around the city of Boston from one hospital to another hospital, from one doctor to another doctor, because an HMO refused to take the word of her own family doctor or her oncologist. Ellen O'Malley was very, very brave in facing the struggle with a killer disease. She should not have been asked to be brave in facing a different struggle with the bureaucracy.

The simple fact is that health insurers should not make the decisions that are fundamentally the decision of a doctor or a trained health care professional. The truth is that in times of family crisis, people should not have to worry about whether or not a bureaucrat is going to allow them to be able to see a doctor in whom they have placed trust. That is precisely the kind of turmoil that Ellen O'Malley suffered every single day of her illness.

Steve O'Malley remembers his wife hearing the promises from their HMO when they were signing up, promising that she would undergo care with her doctor, Dr. Erban, who had treated her for the past 10 years, and the promise that she would be able to continue to

be treated at the New England Medical Center.

But the O'Malleys found that when push came to shove, when it came time for the promise to be delivered on, the promise disappeared. Steve O'Malley knows full well about an HMO that sent Ellen all over the city, to one hospital for a mammogram, to another hospital for a biopsy, and to still another hospital for treatment. Steve O'Malley remembers hours spent painstakingly writing lengthy appeal letters to the HMO, begging them to reconsider their decisions. He also remembers what it felt like to receive a 5-line form letter rejecting his wife's appeal.

Steve would tell you that the personal and painful decisions for his family were merely business decisions for the HMO, and that is unacceptable. It is unacceptable for the O'Malleys, as Steve remembers his late wife saying, "HMOs are great unless you're sick. They're fine if you have a cold, get the flu, break your arm, or stub your toe, but they are not fine if you're dying."

Steve and Ellen O'Malley and their two daughter suffered an enormous personal tragedy when breast cancer dashed their hopes and dreams for the future. I believe they should have been able, as a family, to endure that tragedy secure in the knowledge that Ellen could make her medical decisions side by side with the doctor she trusted—not a bureaucrat who never went to medical school and, more importantly, never knew Ellen O'Malley.

I believe that no HMO should rob a family of peace of mind in times of crisis. HMOs should be more than organizations that are great unless you are sick. For every person who buys into an insurance program, there ought to be the confidence that the coverage that you buy is the coverage that you will get. That is why we have proposed the Patients' Bill of Rights. We recognize we have built a system that currently puts paperwork ahead of patients and ignores the real life-and-death decisions being made in our health care system. We have to do better.

All across Massachusetts, I hear from people who are angry at how hard it is to find the health care that they believe they have purchased. And they are frustrated with policies that say that our elderly can't go to the doctor of their choice. They are convinced their HMOs don't give them straight answers about their coverage, and working families across the country believe it is time to take decisions out of the hands of the insurance companies and put them back with patients and doctors where they belong.

The U.S. Senate should agree with them. I believe it is vital for us to take up and pass meaningful patient protections now, in this Congress. There are judges all across the country who have watched in their courts as patients and families, victimized by HMOs, come before them, to beg for restitution, for a fair shake in getting the health care

they were promised in the terms of the policy that they purchased. Those judges were helpless because they didn't write the laws that limit the ability of working families to appeal the decisions by HMOs.

In Boston, we have a U.S. district judge, William Young, a Reagan appointee to the bench, who ruled on an HMO case not very long ago.

Judge Young knew the law and he knew that insurers could, in our current structure, put paperwork and profit ahead of patients. He knew he could send a message to those of us who write the laws in this country. That is why he wrote in his highly publicized decision in *Clarke v. Baldplate Hospital* that "while the insurer's conduct is extraordinarily troubling, even more disturbing to the court is the failure of Congress to amend the laws." Judge Young was challenging us to act on behalf of hundreds of thousands of families left unprotected today. He had never met Ellen O'Malley, but he challenged the Congress of the United States to stand up for her.

Mr. President, we have the Patients' Bill of Rights, S. 1890, which would prevent senseless tragedies in the health care system from happening. Under our plan, Ellen O'Malley would have been able to immediately appeal her insurer's rejection of her doctor's prescribed treatment. Under our plan, the decision of Ellen O'Malley's doctors would have come first in the insurer's decisions. There is little, obviously, we can do for the O'Malley family, except to perhaps in her memory pass a bill that will change the way in which all of these choices are made in the future. We could pass a Patients' Bill of Rights. The clock is ticking. I hope this Congress will do so in the next days.

I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Missouri is recognized.

Under the previous order, there are 22 minutes remaining on the time that was equally divided by a previous order.

Mr. ASHCROFT. Mr. President, I ask unanimous consent that we be able to speak until 10 o'clock on the issue of the marriage penalty.

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

ELIMINATION OF THE MARRIAGE PENALTY

Mr. ASHCROFT. Mr. President, we are here this morning—myself and several other Senators—because the American people should experience a tax cut before Congress gets its funding for the year.

We are here this morning to oppose cloture on the legislative branch appropriations bill. On Friday, Senator BROWNBACK of Kansas, and I attempted to enter into an agreement to offer the marriage penalty elimination amend-

ment to the legislative appropriations measure.

Marriage penalty elimination means that we simply want to stop penalizing people, tax-wise, because they are married. A cloture motion was filed because the Democrats would not allow us to offer this amendment to this bill. Therefore, a vote against cloture is a vote for eliminating the marriage penalty tax. If we are not going to be able to offer this amendment to the bill, we will be back on other pieces of legislation, because this issue of providing equity to people who are married, and returning the hard-earned money of American taxpayers is too important to ignore.

In 1948, President Harry Truman called the Republicans in Washington a "do-nothing Congress." Now the President and Senate Democrats are resurrecting Truman's phrase. I don't worry about being called a "do-nothing Congress." We have done plenty of things. But if we tried to do nothing about taxes, that label just might stick.

Last April, a group of like-minded Senators and I stated our intentions to oppose the Senate budget resolution unless meaningful tax cuts were included. We were promised that eliminating the marriage penalty would be the Senate's top tax priority for 1998. Mr. President, today, the 21st day of July, there are less than 40 legislative days left in this session of the Congress; yet, we are no closer to giving the American people the tax cuts than we were 3 months ago.

We stand here in mid- to late-July with the real possibility that Congress will not pass a budget reconciliation and will not deliver on the tax cut promise that was made to the American people. I think we ought to put this into context. This isn't a situation where cutting taxes would be a strain or be difficult. To add insult to injury, last week the Congressional Budget Office indicated that there would be \$520 billion of surplus over the next 5 years. Now, the \$520 billion of surplus over the next 5 years would be \$63 billion of surplus in this year alone.

We have not asked for the Moon. We have asked for a modest opportunity to cut and eliminate the marriage penalty. It would not take \$520 billion. It would not take \$420 billion. It would not take \$320 billion. It would not take \$220 billion. It would take about \$1 out of every \$5 that is to be provided in surplus, according to the Congressional Budget Office. So we are just asking that the American people have the opportunity to have, in return, \$1 out of every \$5 of surplus. This isn't asking that we have massive, Draconian cuts, or that we displace some Government program—although there are plenty of Government programs I would be happy to seek to displace. We are merely saying that, over the course of the next 5 years, some fraction—a minority fraction, as a matter of fact, not the major portion of it—of this rather substantial surplus be devoted to provid-

ing equity on the part of our taxation program, which is an insult to the values of America. I don't know of any place in the country you could go, or any group of individuals you could talk to that would not tell you that the families of America are simply fundamental, that if we have strong families in the next century, we are very likely to have a strong country. If we don't have strong families, it is going to be very difficult for our country to survive.

I believe that when moms and dads, as families, do their job, governing America is easy. If moms and dads can't do their jobs, if we pull the rug out from under families and make it tough for them, governing America could well be impossible. The truth of the matter is that families mean more to America than Government means to America, because the fundamental restraints of a culture, the values and precepts, are taught in families.

Government can try to do all those things. We have tried to replace families with Government before. The tremendous failure of the social experiment called the "Great Society" of the 1960s and 1970s told us that checks and Government programs weren't substitutes for moms and dads. They didn't work. What we need to do is make it possible for the culture to survive and to thrive, for the culture to prevail and to stop penalizing the most important institution in the culture—the family. Durable marriages and strong families are absolutely necessary if we are to succeed in the 21st century.

Starting in the sixties is when the marriage penalty became prevalent. For about 30 years, we have systematically penalized millions of people. The truth of the matter is that there are 21 million couples—about 42 million taxpayers—who collectively have paid \$29 billion. It is so easy to forget how much money a billion dollars is. A billion dollars is a thousand millions. Now, these 42 million taxpayers have collectively paid "29-thousand-million-dollars" more than they would have paid had they been single. That is an average marriage penalty of about \$1,400 per family. Think of that. We go into a family and, simply because the mom and dad happen to be married instead of single, we take \$1,400 off their table; we take \$1,400 out of that family's budget. These are not pretax dollars, these are aftertax dollars. It would go right to the bottom line.

Think of what a family could do with an extra \$130 or \$125 a month. Think of what it means to the family, the capacity of that family to fend for itself and to be able to survive as a family. We are attacking that family. The policy of America is attacking the principles of the American people. And it's easy. We can do it. CBO has told us that we are going to have five times as much money, or four times as much—a lot more money—well, \$520 billion extra. We said we have to have a minimum