



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 111th CONGRESS, FIRST SESSION

Vol. 155

WASHINGTON, TUESDAY, JUNE 9, 2009

No. 85

Senate

The Senate met at 10 a.m. and was called to order by the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our fathers' God, to You, the author of liberty, we lift this prayer. Long may our land be bright with freedom's holy light. Protect us by Your might, great God, our King.

Lord, it is so easy for us to forget Your gracious providence that sustained our Nation's Founders through bitter adversity. How easily we forget and assume that our might, wisdom, and ingenuity alone produced this land we love. Remind our lawmakers each day that they are helpless without You. May they not wait for calamities to fall before they acknowledge their dependence upon You. Lord, deliver them from the pride which believes that they alone can solve the problems that beset our Nation. Quicken their minds to seek Your wisdom, and return them to that noble dependence on You that enabled our forebears to persevere and win against great odds.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ROLAND W. BURRIS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, June 9, 2009.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROLAND W. BURRIS, a Senator from the State of Illinois, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. BURRIS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Mr. President, following the remarks of the leaders, the Senate will be in a period of morning business for 1 hour, with Senators allowed to speak therein for up to 10 minutes each. The majority will control the first 30 minutes, and the Republicans will control the second 30 minutes.

Following morning business, the Senate will resume consideration of H.R. 1256, the Family Smoking Prevention and Tobacco Control Act. Last night, cloture was invoked on that matter, and we also agreed last night that we would have a vote in relation to the Burr substitute amendment at 4:30 p.m. I hope we will be able to reach an agreement to consider other amendments prior to the vote in relation to the Burr amendment.

Senators will be notified if any other votes are scheduled. Staff is working now trying to come up with a list of amendments we can vote on.

The Senate will recess from 12:30 to 2:15 for the weekly caucus luncheons.

MEASURE PLACED ON CALENDAR—H.R. 31

Mr. REID. Mr. President, it is my understanding that H.R. 31 is at the desk and it is due for a second reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 31) to provide for the recognition of the Lumbee Tribe of North Carolina, and for other purposes.

Mr. REID. Mr. President, I object to any further proceedings at this time.

The ACTING PRESIDENT pro tempore. Objection is heard. The bill will be placed on the calendar under rule XIV.

RECOGNITION OF THE MINORITY LEADER

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

HEALTH CARE

Mr. MCCONNELL. Mr. President, when it comes to health care, Americans are looking for answers. They don't understand why basic medical procedures are so expensive. They don't understand why millions of Americans have to go without basic care in a nation as prosperous as our own. Many are worried about losing the care they already have and like.

So the need for health care reform is not in question. All of us want reform. The question is: What kind of reform will we deliver? And two very different approaches are now beginning to come into view.

According to one approach, the government plays the dominant role by getting into the health care business and leverages taxpayers' money to muscle everybody else out of the way. Under this approach, the vast majority of Americans who like the health care

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S6319

they have risk losing it when a government-run system takes over.

The other approach is to find ways of controlling costs, such as discouraging the junk lawsuits that drive up the cost of practicing medicine and limit access to care in places like rural Kentucky; lifting barriers that currently diminish the effectiveness of prevention and wellness programs that have been shown to reduce health care costs, like quitting smoking, fighting obesity, and making early diagnoses; and, finally, letting small businesses pool resources to lower insurance costs—without imposing new taxes that kill jobs.

This second approach acknowledges that government already plays a major role in the health care system, and that it will continue to play a role in any solution we devise. But this approach is also based on the principle that government cannot be the solution. Americans want options, not a government-run plan that drives every private health plan out of business and forces people to give up the care they currently have and like.

The Secretary of Health and Human Services acknowledged this concern about a health care monopoly when she described those parts of the country where certain private health plans already have a monopoly. "In many areas in the country," she said, "the private market is monopolized by one carrier . . . You do not have a choice for consumers. And what we know in any kind of market is a monopoly does not give much incentive for other innovation or for cost-effective strategies."

Well, if this is true of private health plans, then it would be especially true of a government-run health plan. If a government-run plan came into being, concerns about a monopoly would not just be regional, they would be national.

Another problem with a government plan is a feature that has become all too common in nations that have adopted one. Many of these nations have established so-called government boards as part of their government health plans that end up determining which benefits are covered and which benefits are not covered. Our former colleague and the President's first choice for HHS Secretary, Tom Daschle, envisions just such a board in his widely cited book on the topic. "The Federal Health Board," he writes, "would promote 'high value' medical care by recommending coverage of those drugs and procedures backed by solid evidence."

What this means is that the Federal Government would start telling Americans what drugs they can and cannot have. We know this because that is exactly what is happening in countries that have adopted these government boards. They have categorically denied cutting-edge treatments either because the treatments cost too much or because someone in the government decided the patients who needed it were

either too old or too sick to be worth the effort. When these countries enacted health boards, I am sure their intention was not to delay and deny care. But that is exactly what these government boards are doing.

The writer and commentator Virginia Postrel, who has written for the New York Times and the Wall Street Journal recently wrote an account of her own first-hand experience with breast cancer and her ability to treat it successfully with the drug Herceptin here in the U.S. Postrel said the availability of the drug increased her chances of survival from a coin flip to 95 percent. A year after beginning her treatments, Postrel wrote that she had no signs of cancer.

In the same article, Postrel points out that the situation is far different in New Zealand, where a government board known as Pharmac decided that Herceptin should not be made available to some cancer patients in that country. As one cancer doctor in New Zealand put it, New Zealand "is a good tourist destination, but options for cancer treatment are not so attractive there right now." Bureaucrats in New Zealand finally relented and allowed coverage for Herceptin, due in part to a public outcry over the limited availability of the drug.

New Zealanders have also been denied access to drugs that have proven to be effective in reducing the risk of heart disease and strokes. According to an article from 2006 in The New Zealand Medical Journal, the restrictions placed on statins by New Zealand's government board significantly hampered the preventative approach to heart disease. As the authors of the article put it, "[it is probable that . . . this one decision] has caused more harm and premature death to New Zealand patients than any of their other maneuvers."

Americans want health care reform. But they do not want reform that destroys what is good about American health care in the process. They do not want a government bureaucrat making arbitrary decisions about which drugs they or their loved ones can or cannot take to treat an illness. And they do not want to be told they have to give up the care they have. Americans do not want a government-run health plan. And they certainly do not want a government board to dictate their health care coverage. They want real reform that solves the problems they face without sacrificing the benefits they enjoy.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, 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 up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided between the two leaders, or their designees, with the majority controlling the first half and the Republicans controlling the second half.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I ask unanimous consent that I may speak for 15 minutes.

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

GUANTANAMO

Mr. DURBIN. Mr. President, for the last month, the Republican leader from Kentucky has come to the floor and argued that we should not move detainees currently in Guantanamo into the United States, even for trial. Luckily, the President, the Attorney General, and the head of the joint military chiefs of staff have come to the conclusion that it is in the best interest of the safety and security of the United States that one of these notorious terrorists be brought to the United States for trial. So it has been announced today that Mr. Ahmed Khalfan Ghailani is being brought to the United States, to New York, for trial.

Luckily, this administration is not following the advice and counsel of Senator MCCONNELL and some on his side. It is time for this man to face trial. What is he being charged with? He is being charged as one of those involved in the 1998 embassy attacks in Africa. This Tanzanian national has been held in Cuba since September of 2006. He was captured by our forces, and others, in Pakistan in 2004 and transported to Guantanamo. He is being charged with his involvement in the 1998 bombings of U.S. Embassies in east Africa, which killed 224 people, including 12 Americans.

The position being taken by the Republicans in the Senate is that this man should not be brought to the United States for trial. I think they are wrong. I think it is time that he answered for the crimes being charged against him. Twelve Americans died as a result of what we believe was his conduct. He needs to be held accountable. This argument that he cannot be brought to the United States and tried would virtually allow this man to escape punishment for the crime that we believe he committed. The Republicans' position that he should not be brought to the United States because somehow, if he is being held in a prison in the United States, it is a danger to the rest of us cannot be supported in fact.

There are 347 convicted terrorists presently being held in U.S. prisons—not one has escaped—in supermax facilities and no one has ever escaped. For the Republicans to argue we cannot bring this man to the United