

all exercise does not always violate the cruel and unusual punishment clause. According to the cited fourth circuit precedent, there is no per se rule requiring a minimum of exercise time in all cases. The issue turns on the particular circumstances.

Moreover, the Clinton administration's misleading reading of fourth circuit precedent favorable to the murderers and rapists of Supermax notwithstanding, the Mitchell versus Rice case does not suggest that there is a constitutional right for these prisoners to go out of doors.

Under the circumstances at Supermax; namely, the nature of the dangerous criminals locked up there, and their need for close supervision, the Clinton administration should let Supermax afford these inmates the brief time out of their cells every second or third day that the administration finds constitutionally objectionable. If Maryland correctional authorities want to provide more out of cell time, that should be in their discretion.

And I certainly believe the Clinton administration ought to drop its position that these particular murderers, rapists, and other closely supervised criminals, have a constitutional right to fresh air. Many, if not all, of the murderers in this group are lucky to be breathing indoor air at all, which is more than their victims are doing right now, I might add.

With respect to hot food, out-of-cell exercise time, and access to fresh air, the Clinton administration is seeking extraconstitutional conveniences and comforts for convicted criminals who do not deserve them.

The lesson is this: an administration's crime policies are a web of many factors. They include, for example, the kind of judges a President will appoint. They include the prosecutorial policies of an administration, its outlook on the drug problem and how to combat it. And they include the manner in which the constitutional rights of the accused and of convicted criminals are assessed.

A more liberal administration such as the incumbent administration will wind up, on balance, softer on crime. A conservative administration will be tougher on crime. And a conservative administration will not abuse its power by trying to coerce States into coddling convicted murderers and rapists.

Mr. President, the criminal justice system in this country has not been run very well. We should do everything in our power—the first time people are convicted—for people we really can rehabilitate, whose lives we can change. Rehabilitation is a very important part of this.

But, by gosh, we have no room for coddling these convicted murderers and rapists. We have no room for that. And to have this administration start to demand that they coddle these criminals and file lawsuits against States and have the taxpayers pay for the coddling

of criminals—I am not just talking about criminals, but the most hardened criminals in America—I think is not only highly unusual with regard to the way I look at things, and I think most people in this country look at things, but it is typical for some of these more liberal thinkers who basically never blame the criminals for what they do, always blame society for not having helped them enough in these formative years.

The fact of the matter is, there is a word called "responsibility." We have to start requiring people to be responsible in our society even though they may have come from the wrong side of the tracks. Many people grew up on the other side of the tracks, in extremely difficult circumstances, and overcame those circumstances without turning to crime.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair, in its capacity as a Senator from the State of Ohio, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

HEALTH INSURANCE REFORM LEGISLATION

Mr. KENNEDY. Mr. President, the Senate and House of Representatives have an excellent chance to complete action this week on the Health Insurance Reform Act—if Senators and Representatives are willing to put aside partisanship and Presidential politics and act in the public interest.

This legislation is what the American people need and deserve. If it were sent to the President today it would be signed into law tomorrow. But it has been languishing in Congress for several weeks, primarily because some Republicans insist that the bill must also include a highly controversial provision on medical savings accounts.

Senator DOLE has said on several occasions that he would like to achieve final action on this legislation before he leaves the Senate. If Senator DOLE is serious about such action, it is difficult to believe he cannot make it happen. We can break the logjam this week and pass a bill that both Republicans and Democrats can be proud of.

The consensus reforms in this legislation are essential and long overdue. Twenty-five million Americans a year will benefit from its provisions. The legislation eliminates the worst abuses of the current health insurance system. Under the current system, millions of Americans are forced to pass up jobs that would improve their standard of living or offer them greater opportunities, because they are afraid they will lose their health insurance. Many

other Americans abandon the goal of starting their own business, because health insurance would be unavailable to them or members of their families. Still other Americans lose their health insurance because they become sick or lose their job or change their job, even when they have paid their insurance premiums for many years.

With each passing year, the pitfalls in private health insurance become more serious. More than half of all insurance policies impose exclusions for preexisting conditions. As a result, insurance is often denied for the very illnesses most likely to require medical care. No matter how faithfully people pay their premiums, they often have to start over again with a new exclusion period if they change jobs or lose their coverage. Some 81 million Americans have illnesses that could subject them to exclusions for preexisting conditions if they lose their current coverage. Sometimes, the exclusions make them completely uninsurable.

The reforms that passed the Senate 100 to 0 last April deal with each of these problems. Insurance companies are limited in their power to impose exclusions for preexisting conditions. No exclusion can last for more than 12 months. Once persons have been covered for 12 months, no new exclusion can be imposed as long as there is no gap in coverage, even if they change their job, lose their job, or change insurance companies.

The bill requires insurers to sell and renew group health policies for all employers who want coverage for their employees. It guarantees renewal of individual policies. It prohibits insurers from denying insurance to those who move from group to individual coverage. It prohibits group health plans for excluding any employee based on health status. Individuals with coverage under a group plan will not be locked into their job for fear they will be denied coverage or face a new exclusion for a preexisting condition.

The bill will also help small businesses provide better and less expensive coverage for their employees. Purchasing cooperatives will enable small groups and individuals to join together to negotiate lower rates. As a result, they can obtain the kind of clout in the marketplace currently available only to large employers.

There is nothing radical or extreme about these provisions. They were included in every proposal, Republican or Democratic, introduced in the last Congress, including Senator DOLE'S. When it became clear in 1994 that President Clinton's comprehensive health reform bill could not be enacted into law, Senator DOLE said that we should simply pass the things we all agree on. As he stated in August 1994 on the floor of the Senate.

We will be back . . . And you can bet that health care will be near the top of our agenda. There are a lot of plans and some have similarities. Many of us think we ought to take all the common parts of these plans, put them together and pass that bill.

A week later, Senator DOLE described those common parts—provisions to help Americans who cannot afford insurance, who cannot get insurance because of preexisting conditions, or who cannot keep insurance due to a job change.

The bill that Senator KASSEBAUM and I introduced in 1995 followed that suggestion. It included only those reforms that had broad bipartisan support in the last Congress. We agreed to oppose all controversial provisions—even provisions we would support under other circumstances.

With Senator KASSEBAUM's leadership, the legislation was approved by the Senate Labor and Human Resources Committee by a unanimous vote. By the time it was debated on the Senate floor, it had 66 cosponsors—28 Republicans and 38 Democrats—ranging from the most conservative Members of the Senate to the most liberal.

When the bill was taken up by the full Senate, Senator DOLE and Senator ROTH offered an amendment that had many constructive, noncontroversial provisions which strengthened the bill—fairer tax treatment for small businesses, deductibility for long term care expenses, tax relief for the terminally ill, and provisions to crack down on fraud in Medicare and Medicaid. Senator KASSEBAUM and I welcomed these provisions and accepted them.

But their amendment also included medical savings accounts, a proposal that would kill the bill. Fortunately, the Senate decisively rejected that proposal, and the amended bill, without medical savings accounts, passed the Senate unanimously.

Since then, unfortunately, a major impasse has developed over this issue. If the impasse can be resolved, the bill will pass. If not, the bill will die. Our best chance to resolve the impasse is now—this week. Senator DOLE wants the bill to pass before he leaves the Senate, and other Republicans are unlikely to reject a genuine request for action from their party's leader. Once Senator DOLE is gone, the prospects of ending the impasse are much more bleak.

Reasonable compromises are easily within our grasp on medical savings accounts. It is irresponsible for Republicans to hold the other bipartisan reforms in this bill hostage, if they can't get their way on medical savings accounts.

What happens to this bill is not going to make a difference in the outcome of the 1996 Presidential election. But it will make a difference, a very large difference, to the 25 million Americans who will benefit immensely from these needed health reforms. If we keep our eyes on them—if we keep those deserving families in communities across America uppermost in our minds, this bill will pass.

It is also clear who will get the blame if this bill dies. To kill this entire bill because they can't get all they want on medical savings accounts would be a

flagrant and despicable abuse of power by the Republican Party—and the American people should vote accordingly in the elections in November.

SEBASTIAN J. "BUSTER" RUGGERI

Mr. KENNEDY. Mr. President, I welcome this opportunity to pay tribute to a remarkable man, a brilliant trial attorney, and a dear friend, Sebastian J. "Buster" Ruggeri.

Buster is a legend in Greenfield, MA. He was born in 1914, 4 years after his parents arrived in Greenfield from Sicily, and grew up delivering groceries for his family's business. He went on to graduate from Rensselaer Polytechnic Institute in 1936, and Boston University Law School in 1939.

In 1942, after practicing law for several years, Buster joined the Air Force. He spent 3 years as a lawyer in the service, working his way up from private to lieutenant colonel and retiring as head judge advocate for a base of 40,000 service members in India.

After the war, Buster joined the Air Force Reserve Squadron based in Greenfield. He became commander of 85 men, retiring as lieutenant colonel after 22 years.

After this outstanding service to the Nation, Buster focused his attentions once again on the private practice of law. He quickly became known as the dean of the county's legal community. He is one of the brightest, most dedicated, and effective trial lawyers in western Massachusetts. His passion and knowledge of the law and his commitment to justice led to a remarkably successful legal career.

Buster's interests extend to many other areas. He is a leading member of the Greenfield and Franklin County Democratic Committees. No Kennedy has ever gone to Franklin County without Buster's advice, assistance, and friendship. He used to hold strategy sessions for my brother during his campaign for President in 1960, and he's been a valuable friend and adviser to me throughout my years in the Senate.

In addition to these commitments, Buster always made time for community service. He is a longtime member of the Lions Club and the Elks Club, and served as deputy director for the Elks. Buster is also a distinguished member of the Veterans of Foreign Wars and the American Legion. His professional achievements also include serving as president of the Massachusetts Trial Lawyers Association and the Franklin County Bar Association.

I congratulate Buster on his remarkable career, and I wish him well as he continues his unique leadership for his profession, his community, and his country. I ask unanimous consent that a recent article on Buster's extraordinary life be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A "COLORFUL PISAN" IN THE COURTHOUSE

(By Russell G. Haddad)

GREENFIELD.—By all accounts over the past half century observers could usually tell when attorney Sebastian J. "Buster" Ruggeri didn't have a strong case.

The demonstrative and gregarious Ruggeri never flinched from a weak hand. He would create a diversion from the facts of a case by waving his hands about and performing some theatrics.

"If he didn't have a strong case he would about at the jury," recalled former District Court Judge Allan McGuane could hear him from two floors away.

John A. Barrett, Franklin County's register of probate, recalls a time when Ruggeri had a 2 p.m. appointment in probate court, but called to say he would be late. He showed up 15 minutes late but has spent the previous hours appearing in courts in Boston, Worcester and Springfield before arriving in Franklin County.

It's just this kind of drive that over the years has earned Ruggeri, still practicing full time at 82, a reputation as an energetic trial lawyer who would take cases nobody else wanted.

Ruggeri—considered the dean of the county's legal community—still seems tireless. The self-described "colorful pisan" began practicing law in 1939, and seemed to thrive on crisis and providing that he could win despite the odds, his long-time associates say.

"In the courtroom you could feel his presence," Barrett said. "He commanded the attention of everybody."

Ruggeri, meanwhile, looks back on his legal career and takes pride in never doing anything halfway. He was a general practitioner, researching while, handling divorces, doing worker compensation cases, but also handled criminal cases, as serious as murder, and civil actions.

"I was always intense in my practice and tried to treat everyone fairly," said Ruggeri.

He said his family nickname—first was used by his parents when they called him for dinner—was always "Busty" but became "Buster" when Sen. Edward Kennedy call him that years ago.

In his heyday, Ruggeri was known as one of the most imaginative and hardworking trial lawyers in western Massachusetts.

"I could always express myself," he said smiling. "I'm at home being up front."

His style worked in what Ruggeri describes as his most memorable trial—a 1975 murder case in which he defended Ernest W. Morran. Ruggeri in his closing statement hammered away at the prosecution's case slamming his fist on the jury box.

He ended his remarks reciting a Robert Frost poem to reinforce his argument that police had ignored Morann's version of what happened and arrested the wrong man in Ashfield woods on a snowy night in November 1974.

"Two roads diverged in a yellow wood And sorry I could not travel both And be one traveler, long I stood And looked down one as far as I could Two where it bent in the undergrowth."

As if he were there today, Ruggeri finished: "Two roads diverged into a wood and I . . . " ". . . took the one less traveled by, And that has made all the difference."

Ruggeri explained that he learned early on in his career that he could sway juries by performing an impassioned plea. He had to convince the jurors that he believed in his client.

"You have become a part of it," Ruggeri said. "I just about live it."

Attorney John Callahan, who was a North-west District Attorney from 1970 to 1978 and