

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

Mr. WELLSTONE. Mr. President, I ask unanimous consent to follow Senator KYL.

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

PRESIDENT BUSH'S SECURITY MEASURES

Mr. KYL. Mr. President, I ask unanimous consent to have printed in the RECORD at this point a column in the December 5 edition of the Arizona Republic, the primary newspaper in my hometown, Phoenix, written by Robert Robb.

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

CRITICS OF BUSH SECURITY MEASURES FORGET WE'RE AT WAR

A democracy at war remains a democracy. That means that the government's policies, including the conduct of the war, remain appropriate subjects for discussion and debate.

To underscore that point, and highlight the contrast with the fascist enemy, Winston Churchill continued the practice of the prime minister standing for questions before Parliament during World War II.

As Churchill put it in his war memoirs: "(A)t no time was the right of criticism impaired. Nearly always the critics respected the national interest."

Churchill's description connotes a higher standard of conduct than ordinarily pertains in a democracy for those who criticize war policies, to be careful about facts and fair about issues, to check the customary political hyperbole, grandstanding and posturing.

The critics of the Bush administration's war policies are beginning to fail this higher standard.

This is, in part, because President Bush failed to ask for a formal declaration of war against al-Qaida, the Taliban and other specified terrorist organizations.

The bombs falling in Afghanistan should have settled the question. But without a formal declaration, there are still those who want to treat this as a law-enforcement action, rather than as a war.

But a war it is, and it has a domestic as well as foreign front.

Enemies of the United States entered the country, stole airplanes and killed thousands of Americans. The government believes that there are other enemies still in the United States who plan to commit similar acts of violence.

One of the war fronts is finding and incapacitating those enemies living within.

Critics now casually and routinely depict the efforts of the Bush administration to do so as an assault on civil liberties.

There were reasons to object to certain provisions of the anti-terrorism legislation, and, indeed, I so objected.

But the actual powers granted the government by the legislation are routinely mischaracterized in the public debate. More importantly, the general charge that the Bush administration is trampling on civil liberties is irresponsible hyperbole not justified by the record to date.

The administration has detained a handful of people as material witnesses, as permitted by the grand jury laws. It is detaining a larger number on suspected immigration law violations.

Clearly, the administration is selectively enforcing long-neglected immigration laws.

But enforcing a law isn't trampling on civil rights just because enforcement previously has been lax.

The Bush administration has been roundly criticized for wanting to ask questions of young men from Middle Eastern countries. Given that all of the hijackers were of a similar background, as are overwhelmingly the members of al-Qaida, that's a perfectly sensible desire.

These interviews are voluntary at a time of war. The adverse reaction to them is more revealing of the character of the critics than of the administration.

Then there are the potential military tribunals for foreign combatants. Under President Bush's executive order, he must personally designate someone for such a trial. A military tribunal would consider evidence with probative value, although classified information could be reviewed in camera, or in a judge's private office. Defendants would have procedural rights and an attorney.

We are at war. Having such a mechanism in place may be important to protect the security of the United States. Having the option poses no threat to civil liberties. Whether such tribunals adequately protect defendant rights and fairly administer justice can only be ascertained in practice.

Senate Judiciary Chairman Patrick Leahy, D-Vt., is going to bring Attorney General John Ashcroft before his committee to answer inflated civil rights concerns. This is supposedly part of Congress' vaunted oversight function, which receives no mention in the Constitution.

Meanwhile, Leahy is neglecting the clear constitutional duty to act on judicial nominations.

Leahy would better serve the nation by bringing some judges before his committee for confirmation, rather than trying to unfairly put Ashcroft in the dock.

Mr. KYL. Mr. President, I wanted to insert this column in the RECORD not only because the author is one of the best writers from my hometown newspaper, and frequently has very wise things to say, but also because his column is right on point for something that has been troubling me. The title is "Critics of Bush Security Measures Forget We Are at War."

The point he is trying to make is that in this question of deciding how we are going to make Americans more secure from terrorist attack, some people are getting carried away in the expression of concerns about the civil rights or due process rights of people who might be the subject of military commissions or other investigations by our law enforcement or military people in connection with this war on terrorism.

I think he makes a good point. His essential point is that it is not a zero sum game, that we can both provide for the security of our citizens on the one hand and, on the other hand, ensure that American citizens will always have their due process rights, and even for those who are not American citizens, who become the equivalent of prisoners of war, and that the United States, through procedures developed for the military commissions, will treat them fairly. I think that is a very legitimate point to make.

The Attorney General is going to be before the Judiciary Committee, and he will be asked to respond to a lot of

questions about how he is handling his investigations and how the military commissions will work. I note that the President's order to the Defense Department to develop the procedures for military commissions has not yet resulted in the rules and regulations, and rules of evidence and procedures, and so on, at least as far as I know. So it is premature to criticize those rules.

In the Judiciary Committee yesterday we heard from two eminent law professors, who I am sure would be happy to be called liberal in their political ideology: Laurence Tribe, with whom I have worked and for whom I have a lot of respect; and Cass Sunstein; as well as two Republican witnesses, both with significant experience in this area. All four agreed this was the kind of circumstance that justified the creation of military commissions and, indeed, that such commissions were constitutional. The two more liberal professors said they would make some changes around the margins. But nobody questioned the authority of the United States of America to set up these tribunals in order to take care of those people who might be captured, particularly in the Afghanistan situation, or said it would not be appropriate to try to bring them to justice under our article III court system in the United States.

I point that out to ask my colleagues to look at this column. I think it is very well written. It makes the point of what we need to be considering when we characterize the issue as a zero sum game, which it is not. We don't need to deprive anybody of appropriate civil liberties at the same time we are ensuring the security of the United States and its citizens from terrorist attacks.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. REID. Will the Senator withhold for a unanimous consent request?

Mr. WELLSTONE. Yes.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the previous order with respect to the debate time prior to the cloture vote on the motion to proceed to S. 1731 be changed to reflect that the time begin at 11:45 a.m. today, and that the time until 11:45 a.m. be a period of morning business with Senators permitted to speak therein for up to 5 minutes each, with the remaining provisions of the previous order remaining in effect.

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

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

MENTAL ILLNESS DISCRIMINATION

Mr. WELLSTONE. Mr. President, when I was speaking about the homeless veterans, many who struggled, I

wanted to bring colleagues up to date about the whole issue of discrimination against people who are struggling with mental illness.

It is difficult to believe that in the year 2001 there is a whole class of citizens—probably well over 20 percent of the families in this country have a loved one who struggles with mental illness—certainly, all of us know someone who does—and they face discrimination. There still is a tremendous stigma attached to people who struggle with mental illness. I remember testimony from a doctor who said that when someone is in a hospital and they have had surgery for cancer and they have had chemotherapy or radiation treatments and they come home, neighbors gather around and give them support. Do you know what. That is exactly the way it should be.

Often, if it is somebody who struggles with mental illness and they get out of a hospital, you don't see neighbors gathering around and saying we want to support you. It is still considered by too many to be a moral failing, even though it is a brain disease.

There was an editorial today—and I will not read from it because I think Senator DOMENICI will—from the L.A. Times that is so powerful, calling for parity and ending the discrimination for this brain disease.

Unfortunately, this discrimination is reflected in the coverage. What we have right now in so many health care plans around the United States of America, if you or your loved one—and, again, I am so sorry I don't have the figures with me. Just take suicide among young people. Suicide kills more young people than cancer and about six, seven, or eight other terrible diseases we all hear about.

Suicide in Minnesota is the second leading cause of death in young people. Nationwide it is the third. Your son or daughter is severely depressed and you need help. You are told you have a few days in the hospital, and that is it. You can have some outpatient visits outside the hospital, but just a few days, and that is it. Also, the copays and deductibles are very high; in other words, what you have to pay before there is any coverage or the percentage you have to pay.

It is completely different if your child has diabetes or a heart condition or a broken ankle. We would not do that to people. We would not say: OK, you struggle with this disease, diabetes; you are in the hospital a few days and then you are out or you can only see your doctor so many times and there is no more coverage.

Even in our Medicare system, which I want us to change as well—by the way, the highest percentage population of suicide is with the elderly. People do not realize that. All too often we say: Oh, well, if I was 80 and I was having a hard time walking, I would be depressed, too. It is incredible the way we trivialize this illness and the way we discriminate.

Do my colleagues know that in our Medicare program, if one goes under part B to see a doctor for a physical illness, it is a 20-percent copay. If you struggle with depression and go to see someone for help, it is a 50-percent copay. That is blatant discrimination. That should end.

Senator DOMENICI and I—I thank him for his work; it has been an honor to work with him—bring this bill to the floor. There has never been a hearing in the House of Representatives on the problem of discrimination. We offered an amendment to the Labor-HHS appropriations bill. We had 66 Senators who signed on, and it passed out of the HELP Committee 21 to 0. We passed it. Then it went to the conference committee.

I am speaking for myself, not for Senator DOMENICI or any other Senator. It is clear what is going on. We are in a fierce fight, but it is one of these fights that is not as open and public as one would want. Robert Pear wrote an update about this issue in the New York Times today. Thank goodness.

Overall it is hard to get the public's attention on this issue. There is a fierce fight going on. The insurance industry has gone to a couple of people in the House and has basically said: Kill it. Thanks to the work of PATRICK KENNEDY, MARGE ROUKEMA, and others in the House, I believe there are around 250 House Members who have signed a letter saying: Keep this in the conference committee, pass it, end the discrimination.

If we ended the discrimination, it would be civil rights. We would end the discrimination in treatment for people who struggle with this illness. Believe me, I say to my colleagues, it is an illness. It is for real.

Second, if there is money in the plans, the care will follow the money, and a lot of kids will get help rather than winding up incarcerated. A lot of people will get help rather than winding up homeless. A lot of adults will get help rather than winding up in prison. A lot of people will not miss as many days at work and be more productive and families will be better off. There will be fewer problems. This is the thing to do. It is the right thing to do.

The CBO says it will cost 1 percent increase in premiums. That is it. Not to mention the \$70 billion David Satcher, our Surgeon General, said we spend as a result of our failure to provide the treatment for people. Mr. President, \$70 billion over 5 years is \$350 billion. It is not only morally the right thing to do, it is economically the right thing to do. It is 2001. We should have done this 100 years ago.

The insurance industry marches on Washington, DC, every day, and they put the word out, they put the fix in: Kill it in conference.

I have come to the Chamber of the Senate today to ask my colleagues to please be strong and hang in there.

Senators HARKIN and SPECTER are our key leaders. Hold the line. I have come here to appeal to House Members to not kill this bill, and I have come to appeal to the White House: We need your help. This is the perfect example of compassionate conservatism. It is a matter of ending the discrimination.

Kay Jameson, who has written some brilliant books and just won a McArthur Foundation Genius Award—she deserves it—has written that the gap between what we know and what we do is lethal. The tragedy to all this is that these illnesses—I mentioned depression as one example; I could mention many others as well—are diagnosable and treatable, in fact, with a far greater success rate than many of the physical illnesses.

My wife Sheila and I started going to some gatherings with an organization called SAVE which was started by Al and Mary Ann Kluzner in Minnesota. Al Kluzner is a Republican. I hope Mary is not. I am teasing.

The point is, this illness does not know any political party boundaries. It does not know any economic boundaries. SAVE is an organization of family members who lost loved ones to suicide. One feels that it is their own fault where all the evidence shows this is a brain disease. It used to be it was maybe 50 people coming together, and sometimes now the gatherings are 300 and 400 people. This is all about making sure they get the help. This is all about making sure that the illness is treated. This is all about preventing suicide. This is all about dealing with a broad range of mental illnesses that affect adults and children throughout our country, and yet we have this discrimination. We do not even tell the plans they have to provide the coverage. I want to. We just say if you have mental health coverage, treat it the same as physical health. There should be no discrimination.

This insurance industry has tried to put the fix in and stop this in conference committee.

I am still hoping we can get the support from the White House. I am still hoping we can pass this legislation because the consequences are so tragic if we fail to pass it.

Mr. President, I will stop, otherwise I will go on for hours. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

COMPREHENSIVE ENERGY POLICY

Mr. MURKOWSKI. Mr. President, it is my understanding that the majority will be introducing a comprehensive energy bill this morning or perhaps