

addition to the organizations he mentioned, this means jobs. Business cannot get lending from the banks because the banks will not lend money without terrorism insurance. There is no proposal that allows us to bridge the gap since September 11.

It is very difficult to get this insurance because it is very difficult to price. Prior to the events of September 11 we had some acts of terrorism, but they were isolated and limited. What happened on September 11 has changed so many aspects of this country, including the question of how to calculate the cost of terrorism insurance. Banks do not want to lend money. This is a practical matter. I wish it were otherwise. They do not want to lend money when the terrorism insurance will not be written, and it will not get written because people do not know how to price or cost it.

The idea was to frame some proposal to allow a bridge for a couple of years while the pricing of this product could be calculated, and to get the Federal Government out of it altogether but have us presently involved as a backstop should some catastrophic event occur. We would have a backstop so it would not wipe people out.

I am told today that if we have an event such as September 11 again, the insurance that exists today could only deal with about 20 percent of the cost of what happened on that day. Knowing that, we begin to understand why banks are not lending the money; why, then, developers, contractors, and so forth, are not going forward with their projects; and why people are being laid off. We have a ripple effect. That is the reason we need this bill.

I am not suggesting this is a perfect bill. But we do believe this proposal provides that gap for 23-36 months to allow for the pricing and free market factors to take over the costing out of terrorism insurance. In the absence of that happening, we get further delays. All the insurance contracts are being rewritten this year.

It is a major economic issue, one that cries out for an answer. I urge my colleagues on the other side not to hold this up any longer and not object to moving forward. If Members have a proposal, come forward and we will accommodate that amendment and vote on it one way or the other but don't stop the bill from moving forward altogether.

That is what is happening today and what has gone on for several months. It is causing great economic damage to the country. Talk to any major financial institution, talk to any major insurance company in this country, and they will say the same thing. The Republican objections to going forward on this bill are costing this country dearly. We need them to lift those objections, consider this bill, up or down, vote it up or down, but move on. Quit objecting to moving forward.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the period for morning business be extended until 5:30 p.m. today under the same conditions and limitations of the previous order; that at 5:30, the Senate proceed to Executive session as under the previous order, with the time equally divided and controlled; that the remaining provisions of the previous order in Executive session remain in effect, without further intervening action or debate.

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

Mr. REID. Mr. President, I have spoken to my friend, the Senator from Wyoming, Mr. THOMAS. When he completes his statement, we will go into recess, subject to the call of the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

MEDICARE EQUITY FOR VETERANS ACT

Mr. THOMAS. Mr. President, I will discuss a bill we have introduced in the last several weeks that I think is very important. It is called the Medicare Equity for Veterans Act of 2002. It is designed to provide some fairness between Medicare and VA health care. There are a number of Members who have introduced the bill that will require Medicare services to reimburse the VA facilities for services rendered to certain Medicare-eligible veterans. These service men and women have paid into Social Security and Medicare as have the rest of us but are prohibited from utilizing the program when they are treated at a VA facility. It is only fair that they be allowed to use their Medicare coverage in the private sector or at a VA facility.

An interesting thing has happened in the numbers with respect to veterans. The number of veterans enrolled in VA health care systems has more than doubled since 1996. Many VA facilities-eligible veterans, called priority 7, or category C veterans, being veterans who have served but their disabilities are not related to their military service and are able, financially, to care for themselves. This is where we have seen the greatest increase in the patient load.

At the VA facility in Cheyenne, WY there were only 131 of these priority 7 veterans who were treated in fiscal year 1997.

However, in fiscal year 2001, the same facility treated over 2,200 priority 7 veterans. So, clearly, the VA is experiencing substantial growth in that area and it is utilizing facilities—and that is good.

But the veterans are unable, even though they are eligible, to use their Medicare assistance. With this increase in numbers, unfortunately, the VA health care system has not kept pace in terms of its finances. In my State, Medicare would expand access to services in most communities and would provide primary care to those for whom it is not now available.

Specifically, the Medicare Equity for Veterans Act of 2002 establishes a 3-year demonstration program at 10 VA sites, 3 of which must be in rural areas. The Secretary of VA and HHS will either choose a Medicare+Choice or preferred provider option model for these sites. The options would give the Secretary some flexibility in that way.

We have more and more veterans who are in this category 7 who would like very much to use VA facilities to care for their needs. They are eligible for Medicare, and Medicare would then reimburse the VA. We would be able to do two things, of course: to be able to finance the VA facilities and at the same time be able to let these eligible veterans use their Medicare services.

I hope we can move this bill. I think it will be very good for VA veterans. I think it will also be good for Medicare. It can probably be done more cheaply than the private sector. The combination is a good remedy to some of the problems we have.

I yield the floor.

RECESS

Mr. REID. Mr. President, I ask unanimous consent the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 4:02 p.m., recessed until 4:33 p.m. and reassembled when called to order by the Presiding Officer (Mr. LEVIN).

The PRESIDING OFFICER. The Senator from Arizona.

NOMINATION OF PAUL CASSELL

Mr. KYL. Mr. President, I will speak in morning business but really on the subject of our 6 o'clock vote, the nomination of Paul Cassell to be judge for the district court serving the State of Utah.

I am not from Utah, obviously. And you might ask, what is an Arizona Senator doing speaking on behalf of a nominee from another State? The answer to that question is, I have gotten to know Paul Cassell, and I am a very big fan of Paul Cassell. I think he will do a superb job on the bench. I just want to take a couple minutes of my colleagues' time to explain why.

It is not often we have the opportunity, as Senators, to vote for a nominee, who we really have gotten to know in our work in the Senate, to serve as a district judge in another State. But Paul Cassell has testified before the Senate Judiciary Committee and has worked many hours with Senator FEINSTEIN and myself and some other Senators in helping to craft the victims' rights constitutional amendment.

You can have a view either for or against that amendment, but Professor Laurence Tribe from Harvard and Professor Paul Cassell from the University of Utah are the two legal professors, constitutional scholars, who have helped us most. They may represent different points on the political spectrum perhaps, but in terms of their legal scholarship and their ability to work together in helping us to craft this amendment, they have performed a magnificent service.

Again, whatever one thinks of the particular amendment, you cannot deny that these two professors have contributed significantly to the work of the Senate and, therefore, to the American people as a result of their work.

Let me just tell you a little bit about Professor Cassell first and then talk about his work on behalf of victims of crime. As I say, that is one of the primary reasons I am so supportive of him.

As I said, he is a member of the faculty at the University of Utah College of Law where he teaches criminal procedure and evidence and some other courses as well.

He has published over 25 Law Review articles, as well as major op-eds and various periodicals.

Before entering academia, Professor Cassell served as an assistant U.S. attorney in the Eastern District of Virginia and as Associate Deputy Attorney General at our Department of Justice.

He clerked for then-Judge Antonin Scalia in the U.S. Court of Appeals for the D.C. Circuit and then for Chief Justice Warren Burger of the U.S. Supreme Court.

Those of us familiar with these facts know if you are able to clerk for both a member of the D.C. Circuit Court of Appeals and then for the Chief Justice of the U.S. Supreme Court, you are a law student graduate with something on the ball. Certainly, Professor Cassell fits that category.

He received his J.D. in 1984 from Stanford University, where he was Order of the Coif and president of the Stanford Law Review.

So his academic credentials and his postacademic career have been outstanding.

He tried a number of cases when he was assistant U.S. attorney. As a matter of fact, he prosecuted 17 felony jury trials, and some of them were very famous cases. I will let others talk about those cases. But one of the most interesting things to me that Professor Cassell did—purely without pay; as a volunteer—was to represent the victims of the Oklahoma City bombing case.

You may ask, why did the victims in the Oklahoma City bombing case need representation? You can imagine, having as many victims as there were in that case—people who were either injured in the bombing or the families of people who were killed, all wanting to

be involved or participate in some way in that case, including even just the ability to be in the courtroom—it was a major battle.

As a matter of fact, the judge in that case—not once but twice—ruled that the families of the victims did not have a right to be in the courtroom during the trial. This was not because there were so many people that they could not all fit into the courtroom, although that was another issue, but the reason the court ruled that way was that the defense had argued it would be prejudicial to the defense, to the defendants, if the victims or their families were actually in the courtroom during the trial. Never mind that a judge always has the ability to say: Everybody will be motionless, will show no emotion, will behave themselves; and if they do not, then I will toss them out of the courtroom. That was not good enough in this case.

We in Congress passed a law saying: You have to let the people who were victims of the Oklahoma City bombing case sit in the courtroom. The case went back to the judge, and again the judge said no. One of the reasons he said no had to do with the reason for the victims' rights constitutional amendment, which I will not go into now, but basically he said the defendants' rights are in the U.S. Constitution, and the mere statute of Congress cannot override that. So these victims are going to have to have special rights. They are going to have to be in the Constitution. That is another argument, as I said.

But Paul Cassell, out of the goodness of his heart, represented all the victims in that case. I think the victims I have talked to would tell you, to a person, they were extraordinarily indebted to Paul Cassell for his service to them in that case.

There is much more I could say about this individual. Paul Cassell is a decent person who believes very strongly in the rights of both defendants and victims in the courtroom. He has served as a prosecutor for the United States of America and, therefore, has represented our Government in many cases against some truly bad felons. He has experience on the criminal side and on the civil side and has experience as a law professor, teaching not only constitutional law but evidence. That makes him uniquely qualified to go from where he is now to the bench.

It is not often that we find people who have this wide array of experience willing to serve on the Federal district court. It is much too easy in today's world for lawyers to make good money in the practice of law. But it is obvious that Paul Cassell has never been interested in just making money. He has wanted to serve, first, the people of the United States of America as an assistant U.S. attorney and then through his professorship to serve victims of crime and others on a purely pro bono basis.

We have a unique person who not only is extraordinarily well qualified

from his academic experience and the breadth of his practice experience but who also has demonstrated a desire to serve the people. For a person as young to have that kind of commitment and to be willing to go on the Federal district court is unique and certainly should cause us to vote for his confirmation.

I know him personally. We couldn't do better than to confirm Paul Cassell to serve on the Federal district court in the State of Utah. I commend my colleagues to support his confirmation when we vote in a little over an hour.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FAST TRACK TRADE AUTHORITY

Mr. BYRD. Mr. President, the Bush administration continues its push for fast track trade authority under the fictitious term "trade promotion authority." This is legislation that would enable the President to negotiate trade agreements without full congressional input. With fast track authority, there would be only limited Senate debate. With fast track authority the full Senate will have no opportunity to amend. Most Members of Congress will have no opportunity to protect the interests of the people, the communities, and the industries of their particular States, including ensuring the protection of the standard of living of our workers and their families within those States and communities.

Although the Constitution clearly gives Congress the duty—and the power, it gives Congress the power—"to regulate commerce with foreign nations," with fast track authority the Congress will simply applaud a presidential trade-negotiating effort by approving a trade agreement, or boo the effort by disapproving it. That is pretty unlikely, that it would be disapproved.

Members of Congress should never allow our options to be so restricted. We were sent here to promote and to protect the interests of our States as well as the national good, and those goals are best served by debate and amendment, particularly with regard to trade deals.

The workers of this Nation are losing ground, in large part, due to poor trade agreements. For Congress to abdicate its constitutional authority here is to, in my view, turn its back on millions of American workers—the workers who are the backbone of this Nation, and who deserve more than a cursory, neglectful wink and nod.