

The breakthrough in identifying the sources of contamination did not come from the Centers for Disease Control, despite their good work. It did not come from the Food and Drug Administration. It did not come from the National Institutes of Health. The breakthrough came from the work of the Minnesota Department of Health and the Minnesota Department of Agriculture, as well as a collaborative effort with the University of Minnesota School of Public Health. This initiative has earned a remarkable national reputation.

With all due respect to their exemplary work, the Nation should not have to wait until someone from Minnesota gets sick or dies from tainted food before there is an effective national response to investigate and identify the causes. The problem is that the responsibility to investigate potential foodborne diseases rests largely with local and State health departments, and that is OK, if it worked everywhere the way it does in Minnesota. There is tremendous variation from State to State in terms of the priority and the resources they dedicate to this responsibility.

In Minnesota, it is a high priority, and we have dedicated professionals who have developed sophisticated procedures for detecting, investigating, and tracking cases of foodborne illnesses.

The peanut butter salmonella outbreak was so extensive and so shocking that it has finally put food safety on the agenda in Washington. It is a crowded agenda, as we all know, but food safety must be there.

In March, I joined with a bipartisan group of Senators to introduce the Food Safety Modernization Act of 2009, which would overhaul the Federal Government's food safety system. Other cosponsors are Senators DICK DURBIN, JUDD GREGG, TED KENNEDY, RICHARD BURR, CHRIS DODD, LAMAR ALEXANDER, and SAXBY CHAMBLISS.

This legislation is a comprehensive approach to strengthening the Food and Drug Administration's authority and resources. But I believe there is still much more that can and should be done. That is why, along with Senator CHAMBLISS, I have introduced the Food Safety Rapid Response Act. This legislation focuses on the Centers for Disease Control, as well as State and local capabilities, for responding to foodborne illness. It has three main provisions.

First, it would direct the Centers for Disease Control to enhance foodborne surveillance systems to improve the collection, analysis, reporting, and usefulness of data on foodborne systems. This includes better sharing of information among Federal, State, and local agencies, as well as with the food industry and the public. It also includes developing improved epidemiology tools and procedures to better detect foodborne disease clusters and improve tracebacks to identify the contaminated food products.

I can tell you, our State is proud to be the home of Hormel, Schwan's, Land O'Lakes, General Mills, and many other food processing companies, and they are eager to help because oftentimes they know the best way to trace back these foodborne illnesses. They want to have safe food and they are interested in helping.

Second, it would direct the Centers for Disease Control to work with State level agencies to improve foodborne illness surveillance. This includes providing support to State laboratories and agencies for outbreak investigations with needed specialty expertise. It also includes—and this is key—developing model practices at the State and local levels for responding to foodborne illnesses and outbreaks.

This is about the Minnesota model, these best practices. What happens in Minnesota, I will tell you—and I will bet it is as expensive in some other States, but what we do is smart. We take a team of graduate students—sort of food detectives—and they work together. Instead of having it go all over the State to a county nurse in one county and someone else in another county, this group of graduate students, working under the supervision of doctors and people who are professionals in this area, literally calls all at once. They work next to each other and they call people who have been sick or who are sick and that way, at one moment in time, they are able to immediately figure out what the people were eating and where the food came from. There are sophisticated laboratory techniques that go on everywhere, but what works here is this teamwork with graduate students.

Finally, this legislation would establish Food Safety Centers of Excellence. The goal is to set up regional food safety centers at select public health departments and higher education institutions. These collaborations would provide increased resources, training, and coordination for State and local officials so that other States can be doing exactly what Minnesota does. In particular, they would seek to distribute food safety best practices such as those that have become routine in my State.

Dr. Osterholm, at the University of Minnesota, is a national food safety and disease expert. Many of you may have seen him featured nationally with the latest H1N1 flu outbreak. He is credited with the creation of the Minnesota program. He has said that the creation of regional programs modeled on Minnesota would go a long way to providing precisely the real-time support for outbreak investigations at the State and local levels that is so sorely needed.

No one believes we are going to be able to do this all out of Washington. That is why we simply have to upgrade the places that our States are using, so when there is an outbreak we don't have to wait for people to get sick or die in Minnesota to solve these problems.

The recent outbreaks have shaken our confidence and trust in the food we eat. According to the Centers for Disease Control, foodborne disease causes about 76 million illnesses, 325,000 hospitalizations, and 5,000 deaths in the United States each year. Yet for every foodborne illness that is reported, it is estimated that as many as 40 more illnesses are not reported or confirmed by a lab.

The annual cost of medical care, lost productivity, and premature deaths due to foodborne illnesses is estimated to be \$44 billion. So there is a lot at stake, both in terms of life and money. I believe we can do so much better. I believe it because I have seen it in my State.

Senator CHAMBLISS, from the State of Georgia, where this latest outbreak occurred, believes it because he has seen the devastation to an industry's own State, where when you have one bad actor and then it gets out there and more people get sick and die, it doesn't help anyone in this country. The tragedy of so many families—three in my own State—hurts tremendously. So we know we can do better, and that is why we are introducing this bill on a bipartisan basis.

As a former prosecutor, I have always believed the first responsibility of government is to protect its citizens. When people get sick or die from contaminated food, the government must take aggressive and immediate action. I believe that together the Food Safety Rapid Response Act and the Food Safety Modernization Act will strengthen food safety in America and ultimately save both lives and money.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

TRIBUTE TO COLONEL RAMON M. BARQUIN

Mr. MARTINEZ. Mr. President, it gives me great pleasure to honor an individual who lived in pursuit of a free Cuba and a better America, COL Ramon M. Barquin, who died at the age of 93 on March 3, 2008.

Colonel Barquin was an accomplished military leader, an educator, a diplomat, and an entrepreneur. Although Cuba was his native home, he made our Nation a better place during the years he lived in exile.

Ramon Barquin was born in Cienfuegos, Cuba, on May 12, 1914. At the age of 19, he joined the Cuban army, served his country, and graduated from the Cuban Military Academy in 1941. During his years of military service, Colonel Barquin attended various U.S. Army schools here in the United States. Following a distinguished career in the military, Colonel Barquin found his passion in military education.

In the classroom, he worked to instill a culture of civic awareness within the military's ranks, founded the Cuban National War College, and eventually

was promoted to director of Cuba's military schools. Following his career in Cuban military education, Barquin was appointed as Cuba's military attache to the United States and delegate to the Inter-American Defense Board, where he was elected vice chair and led the team that developed the plan for a joint defense of the Western Hemisphere. For his work, Colonel Barquin was honored in 1955 by our government with the Legion of Merit, Grade of Commander.

While serving as attache, he learned of the shifting political winds in Cuba and conspired to prevent freedom from losing a foothold in his native land. I can remember as a young boy in Cuba living through tumultuous times. But I also remember my father often remarking that in Colonel Barquin, Cuba had its best hope for democracy.

It was the colonel's concerns that led him to participate in a failed military revolt against the Batista dictatorship and later to actively work against Castro's totalitarian regime. When Castro came to power, he asked Barquin to serve as defense minister. Concerned with the regime's repressive nature, Colonel Barquin refused and instead chose to serve in an ambassadorial post in Europe. As a result of that, he was able to flee to the United States and begin a new life, now in exile.

After briefly living in Miami, Barquin rekindled his passion for education by establishing a consortium of educational institutions in Puerto Rico. They included a K-12 school called the American Military Academy, summer camps, a university—Atlantic College—and an institute for civic education known as Instituto de Democratica. He was recognized for his hard work and entrepreneurship by the Puerto Rican government as the 1995 Educator of the Year.

Graduates of the K-12 academy he founded had kind words of appreciation for the colonel's work and character. One student remarked: "From the Colonel, I learned to love my country and he taught me the values that lead my life today."

As a Cuban American, a Floridian, and a Senator, it gives me great pleasure to pay tribute to an individual with a legacy as awe inspiring as that of COL Ramon M. Barquin. His unwavering commitment to freedom and democracy, his generosity, and his zeal for serving others is, and will be, sorely missed.

I also know that probably one of his proudest accomplishments was a wonderful family. I am privileged to know his son Ramon, who also carries his name, and also some of his grandchildren. I know that is, without a doubt, what I am sure he feels was his greatest legacy while he lived among us. I know that history would have been very different if he had had an opportunity to follow through on some of his ideas and some of his hopes.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant bill clerk proceeded to call the roll.

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

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

Mr. SCHUMER. Mr. President, I rise to speak to my colleagues on two issues this afternoon. One is the nomination of Judge Sotomayor to the U.S. Supreme Court and the second is on the public option in health care.

SOTOMAYOR NOMINATION

Mr. SCHUMER. Mr. President, several of my colleagues across the aisle have come to the floor to attack Judge Sotomayor's nomination to the Supreme Court. I must say, I think these attacks are entirely misplaced. I have always had a consistent standard for evaluating judicial nominees. I use it when voting for them. I use it when joining in, in the nomination process. I did under President Bush and continue to under President Obama. Those three standards are excellence, moderation, and diversity.

I am confident Judge Sotomayor meets these criteria. Based on my review thus far of her lengthy and impressive record on both the district court and court of appeals, her impressive career in both public and private sectors, and her stellar academic credentials.

I have also been deeply impressed with her personal story, a true story of an American dream. She pulled herself up from the projects in the Bronx to stand before this body as a nominee to the highest Court in the land. Her history is truly inspirational, a history of which we should all be extremely proud. It is a great American story. It is what the greatness of America is all about, as my friend from New Jersey said earlier.

I think some of the comments I have heard from my Republican colleagues this morning have distorted Judge Sotomayor's distinguished record, so let's take a minute to consider what the real story is and how Judge Sotomayor's record reflects the highest ideals of judging.

Judge Sotomayor's record reveals her to be both modest and moderate, dedicated to the rule of law and not outcome oriented.

For example, Senator SESSIONS spent some of his time this morning criticizing one particular case, *Hayden v. Pataki*, about felon disenfranchisement—because Judge Sotomayor's dissent would have resulted in an outcome with which he did not agree. He neglected to mention that her opinion was based on the plain text of the statute before the court and he also left out some of the key, revealing comments she made in her dissent:

No one disputes that States have the rights to disenfranchise felons;

No. 2:

The duty of a judge is to follow the law, not question its plain terms;

And No. 3:

I trust that Congress would prefer to make any needed changes itself rather than have the courts do so for it.

These are the kind of statements, in the very case my good friend from Alabama uses to criticize the judge, that we have heard from people on the other side of the aisle over and over as to what a judge should do: Not replace his or her own judgment for that of a legislature or that of the law.

Judge Sotomayor was following text to a result, not the other way around. These quotes tell us a lot more about Judge Sotomayor's judicial philosophy and commitment to rule of law than simply looking at the outcome in any particular case. Even when we look at outcomes, the entirety of her record gives us a more accurate picture of her judicial philosophy than the outcome of any one case. She rejected discrimination claims in 81 percent of the cases she considered, and in those 78 cases rejecting discrimination claims she dissented from the panel she was on only twice.

When my office looked at her record on immigration cases she sided with the immigrant in asylum cases only 17 percent of the time. That is average for the entire Second Circuit. This should put to rest any notion she is swayed by outcomes rather than by law.

Obviously, she sympathizes with the immigrant experience, that has been clear. But she does not let those sympathies stand in the way of her judging what the law says and mandates. So she is clearly not a judicial activist, someone who reaches beyond the proper role of a judge to impose her personal preferences.

I think it is about time to debunk the notion of judicial activism, as some are using. I think that judicial activism is starting to become code for many of my friends on the other side of the aisle for "decisions with outcomes with which I don't agree." When they say judicial activist, they are not looking at how close or far from the law. They are, rather, looking at: Well, I didn't agree with the ultimate decision.

That is why I prefer to use the term "modest" in describing my ideal judge. It was a term that was used by Justice Roberts when he was before us.

I will quote from the Federalist Papers as some of my colleagues have done. In Federalist No. 78, the primary source for justification for judicial review in the Constitution, Alexander Hamilton explains the role of a judge very simply: A judge must interpret the Constitution, interpret the laws, and when there is "irreconcilable variance between the two, that which has the superior obligation and validity ought, of course, to be preferred."

An "irreconcilable variance"—that imposes a high bar on any judge who is tempted to strike down a law or a practice or any decision by a legislature or