

In the last election, the people of this country said: We think it is time for change in this town of Washington. We are sick and tired of this partisan bickering and this waste of time and Democrats banging heads with Republicans. Why don't you all just roll up your sleeves and be Americans for a change and try to solve the problems? You may not get it completely right, but do your best and work at it. Spend some time on it.

Look at what we have, an empty Chamber. This Senate Chamber should be filled with debate on critical issues, but it is not because, unfortunately, this is a procedural strategy on the other side of the aisle which is slowing us down.

This man whose nomination is before us should have just skated through here. This is an extraordinarily talented man. Mr. Harold Koh has a long and distinguished history of serving his country and the legal profession. During the Reagan administration, a Republican President's administration, he was a career lawyer in the Office of Legal Counsel at the Department of Justice; in 1998, unanimously confirmed as the U.S. Assistant Secretary of State for Democracy, Human Rights and Labor, a bureau in the State Department that champions many of our country's most cherished values around the world.

Mr. Koh's academic credentials are amazing—a Marshall Scholar at Oxford, graduate of Harvard Law School, editor of the Harvard Law Review, and he went on to be a clerk at the Supreme Court across the street, which is about as good as it gets coming out of law school.

Since the year 2004, Harold Koh has served as dean of the Yale Law School. Mr. Koh was a Marshall Scholar at Oxford. He has been awarded 11 honorary degrees and 30 human rights awards.

I don't know that you could present a stronger resume for a man who wants to serve our country, to be involved in public service and step out of his professional life as a lawyer in the private sector, with law schools. He has been endorsed by leaders, legal scholars from both political parties, including the former Solicitor General, Ted Olson, former Independent Counsel Ken Starr, former Bush Chief of Staff Josh Bolton, seven former Department of State Legal Advisers, including three Republicans, more than 100 law school deans, and 600 law school professors from around the country. What more do we ask for someone who wants to serve this country?

Several retired high-ranking military lawyers have written: If the U.S. follows Koh's advice, as State Department Legal Adviser:

[It] will once again be the shining example of a Nation committed to advancing human rights that we want other countries to emulate.

Here is an excerpt from a recent letter for support Ken Starr sent to Senators KERRY and LUGAR. I have had my

differences with Ken Starr. Politically we are kind of on opposite sides. Here is what he said of Dean Koh, who is being considered by this empty Senate Chamber as we burn off 30 hours. He wrote:

My recommendation for Harold comes from a deep, and long-standing, first-hand knowledge. We have been vigorous adversaries in litigation. We embrace different perspectives about a variety of different substantive issues. As citizens, we no doubt vote quite differently. But based on my two decades of interaction with Harold, I am firmly convinced that Harold is extraordinarily well qualified, to serve with great distinction in the post of legal adviser. . . . Harold's background is, of course, the very essence of the American dream. . . . Harold embraces, deeply, a vision of the goodness of America, and the ideals of a nation, ruled, abidingly, by law.

There is overwhelmingly bipartisan support for Harold Koh. Usually these nominations are done routinely late at night when there are few people on the floor, and when we are going through a long series of things to do. Someone with this kind of background does not even slow down as they move through the Senate on to public service.

But, unfortunately, the strategy on the other side of the aisle is to slow things down, do as little as possible this week. I sincerely hope that when the time comes, when the 30 hours have run, when the Republicans have finally decided they do not want to delay the Senate any longer, they will bring Mr. Koh's nomination to a vote.

I enthusiastically support his nomination and encourage my colleagues to join me in voting him out of the Senate quickly so he can continue his record of public service.

#### HEALTH CARE REFORM

Mr. President, you are well aware from your State of Oregon and from my State of Illinois how much this health care reform debate means to everybody we represent. When you ask the American people what we can do about health insurance, 94 percent of people across America overwhelmingly support change in our current health care system. Some 85 percent of the people across this country, Democrats, Republicans, and Independents, say that the health care system needs to be fundamentally changed.

This is the time to do it. This is the President to lead us in doing it. We had better seize this moment. If we do not, if we miss it, we may never have another chance for years and years to come. That is unfortunate.

Democrats want to build on what is good about the current system. It is interesting that so many people would say we should change the health care system, but about three out of four people say: I kind of like my health insurance.

So what we have to do first is to say we are going to keep the things in the current system that work, and only fix those things that are broken. If you have a health insurance plan that you like and you trust it is good for you

and your family, you need to be able to keep it. We should not be able to take it away from you. We do not want to. That is the starting point. And then when we start to fix what is broken in the system, we address some issues that I think are really critical.

Health insurance companies today can deny you coverage because of an illness you might have had years ago, exclude coverage for what they call preexisting conditions, which sadly we all know about, or charge you vastly more because of your health status or your age.

We want to make sure that the end of the day, after health care reform, we keep the costs under control, make sure you have a choice of your doctor, make certain you have privacy in dealing with your doctors so that the doctor-patient relationship is protected and confidential.

We want to protect quality in the system, to make certain we bring out the very best in medical care, and not reward those who are doing things poorly. We believe we can do this on a bipartisan basis, with both parties working together.

Some of the critics of this effort basically are in denial that we need to change our health care system. I do not think they are taking the time to look at it closely. Whether you talk to people, average families, or small businesses, large corporations, you understand that the cost of health care now is spinning out of control, and if we do not do something dramatic and significant about it, it will become unaffordable.

I had a group of people in my office who were in the communications industry. They are union workers. They are worried because every year when they get more money per hour for working, it always goes to health insurance. They learn each year there is less coverage: pay more, get less.

We have got to do something about containing the cost of a system that is the most expensive health care system in the world. We spend, on average, more than twice as much as the next country on Earth for health care for Americans. We have great hospitals and doctors. We have amazing technology and pharmacies. But the bottom line is, other countries get better results for fewer dollars.

So the first item we must address is bringing down the cost of health care, stop it from going through the roof, so that families and businesses can afford it, and government can afford it as well.

The second thing we have to make sure we do is protect the choice of individuals for their doctor and their hospital, their providers. There are limitations now. In my home town of Springfield, IL, my health insurance plan tells me there is one preferred hospital of the two I can choose, and I know if I do not go to that hospital, I can end up with a bill I have to pay personally. So there are limitations under the current system, and that is to be expected.

But we want to limit those to as few as possible so people are able to come forward and have the basic choice they want in physicians.

Then there is a question about how to keep the costs under control. If we are going to build this new health care reform on private health insurance, the obvious question is: Will there be a government health insurance plan such as Medicare available as an option so you can look at all of the private health insurance plans you might buy, and also consider the government health insurance plan, the public health insurance plan, as an option?

This is controversial. Health insurance companies say, if we have to compete with a government plan, they will always charge less and we will not be able to compete. Others argue that if you do not have at least one nonprofit entity offering health insurance, then basically the private health insurance plans will continue to be too expensive; they will not have the kind of competition they need to bring about real savings.

Many people on the other side of the aisle have come to the floor and criticized the idea of a public interest health insurance plan. They argue it is government insurance, government health care. But most Americans know that government health care is not a scary thing in and of itself. There are 40 million Americans under Medicare. That is a government health care program. Millions of Americans are protected by Medicaid for lower income people in our country. That has a government component too.

Our veterans come back from war and go to the Veterans' Administration, a government health program. I have not heard a single Republican come to the floor and say: We need to eliminate Medicare, eliminate Medicaid, close the VA hospitals, because it is all government health care. No. For most people being served by these programs, they believe they are godsend and they do not want to lose them.

Yesterday, the minority leader, the Republican Senator from Kentucky, came to the floor and talked about a future which is fictitious. He said: A government plan where care is denied, delayed, and rationed.

Those are fighting words, because no one wants their coverage denied, they do not want to wait in a long line for surgery, and they do not want to believe they are victims of rationing. It is important for them to have medical care given to them.

The language we hear from the other side of the aisle is language we are all too familiar with. The miracle of the Internet is that people can come up with a written document now, and by pressing a button or clicking a mouse, they can send that document to lots of different people.

A couple of months ago, a Republican strategist named Frank Luntz wrote a 28-page memo to give to Republican

Senators on how to defeat health care. Dr. Luntz—he calls himself “doctor”—Dr. Luntz said: Whatever they come up with, here is the way to beat it.

He had not seen the health care reform plan that President Obama might support or the Democrats might produce. But he says: This is how we stop them from passing anything, how we delay things, deny things. And he used those words. He said: We have got to use words that Americans will identify with, buzzwords like “deny,” “delay,” “ration.” And those are the words we hear every week now from the other side of the aisle.

The reason I mentioned the Internet is it turns out somebody punched the wrong button on their computer, clicked the wrong mouse button, and the next thing you know that memo spread across Washington. Everybody has it.

So we have seen the play book. We kind of know the plays they are running. We know their speeches before they give them. But they still come down and give these speeches over and over again.

I guess the starting point is this: Some of my colleagues and friends on the other side of the aisle want to keep the current health care system. They think it is fine. They do not want to change it. Well, I do not join them, and most American people do not join them either.

There are winners in the current system. There are people making a lot of money under the current health care system. Health insurance companies were one of the few sectors in the economy last year, 2008, that showed profitability when most American companies that were not health insurance companies were not profitable. So were oil companies, incidentally. But the health insurance companies that are making a lot of money do not want to see this system changed. It is a good, profitable system for them. By and large, they want to keep it the way it is. There are some providers who are doing quite well under the system, some specialists are making a lot of money, some hospitals are making a lot of money. They want to keep it as it is.

But we know we cannot. It is unsustainable. It is too expensive for individuals, families, and for businesses and for government, for us not to get the cost under control.

The Republican resistance to change in health care reform is not surprising. Last week we had a cloture vote and 30 hours of debate to proceed to the consideration of a bipartisan non-controversial bill. We have been through cloture votes and delays all of this week. We are in the middle of one right now. That is why those who are visiting the Capitol are wondering where all of the Senators are. This is a situation where the Republicans have decided they are going to force us to wait 30 hours before we do something, a waste of time that we cannot afford, and we have faced it before.

We have to understand that we need to have health care reform. The President is right that this opportunity comes around so rarely.

We have pretty good health insurance as Members of Congress. But I want to make it clear for the record, we do not have “special” health insurance. I have heard that argument being made. If you can get the same health insurance the Senator has, you would be set for life. We have great health insurance. But it is the same health insurance available to all Federal employees, 2 million Federal employees; 8 million employees and their families. We have a Federal health benefits program. We have an open enrollment each year to pick, in my case, from nine different health insurance plans available to me in my home State of Illinois for my wife and myself. That is a luxury most people can only dream of. All Federal employees have it, and so do Members of Congress, because we are considered Federal employees. But it is something most Americans do not have and we can make available to small and large businesses alike. It is important that we do this.

I hope we can get some support, some support from the other side of the aisle. Today in America, while we are going about our business, 14,000 Americans will wake up and realize something: Yesterday they had health insurance and today they do not. Every day in America, 14,000 Americans lose their health insurance.

I cannot imagine what life is like without health insurance. There was a time in my life when I did not have it. It was scary. I was a brandnew married father, baby on the way, and no health insurance. It happened. We made it through with a lot of bills that we took years to pay off. That goes back a long time.

Currently, if you are without health insurance, you are one diagnosis or one accident away from being wiped out. So going after bringing the cost of health insurance down is our first priority, but the second is to make sure everybody has some basic form of health insurance.

We have to understand that those of us who have health insurance pay more for our health insurance because some 47 million Americans do not have it. They present themselves to the doctors and hospitals, and in this caring Nation, we treat them and their bills are then absorbed by a system that spreads them around for all of the rest of us to pay. It is about \$1,000 a year. It is a hidden tax for families, \$1,000 more each year on health insurance premiums to take care of the uninsured in our country.

So now we have a chance to bring the uninsured into coverage. By bringing them into coverage, we will not only give them peace of mind, make them part of the system, we will reduce that \$1,000 hidden tax every family pays who has health insurance. So we have an opportunity to do something positive about health insurance.

For those who are following this debate closely, they probably heard this mentioned by others, but I want to make a point of it. There is an important article for people to read, and they can go online to find it. It is from the June 1st New Yorker magazine.

A man who is a surgeon in Boston, an Indian American, whose name is Dr. Atul Gawande, wrote an article about health care in America today. I will not go into detail about what he found, but it is an eye opener because he went to one of the most expensive cities in America when it comes to treating Medicare patients. It is McAllen, TX. He could not figure out why in McAllen, TX, they were spending about \$15,000 a year for Medicare patients—dramatically more than other towns in Texas and around the country.

What he found, unfortunately, is that many of the doctors in that city were treating elderly patients by running up their charges, by ordering unnecessary tests, by ordering hospitalizations and things that were not being ordered in other cities. The reason is, there was a financial incentive. The more tests, the more procedures, the more hospitalizations they can charge to Medicare, the more the doctor was paid.

Well, Dr. Gawande went down and met with the doctors and confronted them with it. There was no other explanation. That was it.

Then he went to Mayo Clinic in Rochester, MN—a place I respect very much, a place that has treated my family and treated them well. He found out the cost for treating Medicare patients in Rochester, MN, is a fraction of what it is in McAllen, TX.

At the Mayo Clinic it is cheaper to treat a Medicare patient than it is in McAllen, TX. Why? Well, it turns out it is pretty basic. The doctors who are on the staff of the Mayo Clinic are paid a salary. They are not paid by the patient or by the procedure. So their interest is not in running up a big medical chart of tests. Their interest is getting that patient well, and doing it effectively. They do it with fewer procedures and less money spent and better results at the end of the day.

So now we have a choice in this health care debate: Do we want to continue the example of McAllen, TX, which is abusing the system, charging too much, and not giving good health care results, or do we want to move to a Mayo Clinic model, one that basically is much more efficient and effective, keeps people healthier, at lower cost? I hope the answer is obvious. It is to me. I would like to see us move toward incentives such as the Mayo Clinic system.

The President spoke to the American Medical Association in Chicago last week. It was a mixed review. They were very courteous to him. There were a few people dissatisfied with his remarks, but it is a free country. We can expect that. Some of those doctors in that room understand it is time for change and some of them do not. Some

of them think change is going to be bad for them and bad for our country. But most of us understand if we work together in good faith, conscientiously, we can change this health care system for the better, reduce its costs, preserve our choice of doctors and hospitals, make certain quality is rewarded, and also make certain we cover those 46 or 47 million uninsured Americans and come up with a health care system that does not break the bank—not for families, not for businesses, and not for governments in the future.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### SOTOMAYOR NOMINATION

Ms. KLOBUCHAR. Mr. President, I will be joined on the floor today by some of my fellow women Senators to talk about the President's nominee for the Supreme Court. I will note that some of my colleagues on the other side of the aisle came to the floor yesterday to, as one news report described it, “kick off their campaign against her.” So we wanted to take this opportunity to get the facts out to correct any misconceptions and to set the record straight.

The Supreme Court confirmation hearing for Judge Sotomayor will begin on July 13, but my consideration of her will not begin then. I began considering her the day she was announced because, as a member of the Judiciary Committee, I wish to learn as much as I can about President Obama's choice to fill one of the most important jobs in our country.

Even though there are many questions that will be asked and many areas we will want to focus on, I wish to speak today about how Judge Sotomayor appears to me based on my initial review. After meeting with her and learning about her, I am very positive about her nomination. Judge Sotomayor knows the Constitution, she knows the law, but she also knows America.

I know Americans have heard a lot about her background and long career as a judge. But it is very important for us to talk about what a solid nominee she is because we have to keep in mind that there have been accusations and misstatements, many made by people outside of this Chamber on TV and 24/7 cable. There have been misstatements.

It came to me a few weeks ago when I was in the airport in the Twin Cities in Minnesota. A guy came up to me on a tram in the airport and said: Hey, do you know how you are voting on that woman?

I said that I want to listen to her and see how she answers some of the questions.

He said: I am worried.

I said: Why? She is actually pretty moderate.

He said: She is always putting her emotions in front of the law.

I said: Do you know that when she is on a panel with three judges—which they often do on the circuit court where she sits now, and they have her and two other judges—95 percent of the time she comes to an agreement with the Republican-appointed judge on the panel? You must be thinking the same thing about those guys because you cannot just say that about her.

That incident made me think we really need to set the record straight here about the facts, that we should be ambassadors of truth and get out the truth about her record and the kind of judge we are looking for on the U.S. Supreme Court. We need to make sure she gets the same civil, fair treatment other nominees have been given.

Judge Sotomayor's story is a classic American story about what is possible in our country through hard work. She grew up, in her own words, in modest and challenging circumstances and worked hard for every single thing she got. Many of you know her story. Her dad died when she was 9 years old, and her mom supported her and her brother. Her mom was devoted to her children's education. In fact, her mom was so devoted to her and her brother's education that she actually saved every penny she could so that she could buy Encyclopedia Britannica for her kids. I remember when I was growing up that the Encyclopedia Britannica had a hallowed place in the hallway. I now show my daughter, who is 14, these encyclopedias from the 1960s, and she doesn't seem very interested in them. They meant a lot to our family and also to Judge Sotomayor.

Judge Sotomayor graduated from Princeton summa cum laude and Phi Beta Kappa, and she was one of two people to win the highest award Princeton gives to undergraduates. She went on to Yale Law School, which launched her three-decades-long career in the law. So when commentators have questions about whether she is smart enough—you cannot make up Phi Beta Kappa. You cannot make up that you have these high awards. These are facts.

Since graduating, the judge has had a varied and interesting legal career. She has worked as a private sector civil litigator, she has been a district court and an appellate court judge, and she taught law school.

The one experience of hers that particularly resonates for me is that, immediately graduating from law school, she spent 5 years as a prosecutor at the Manhattan district attorney's office, which was one of the busiest and most well thought of prosecutor's offices in our country. At the time, it paid about half as much as a job in the private