

Because of preexisting conditions, neither my husband's health issues nor my pregnancy would be covered under private insurance.

Because of preexisting conditions. So because her husband had a heart problem and because she was pregnant, that works against them. That is the system we have for too many families.

So when people talk about: Oh, the HELP Committee passed a bill, the Affordable Health Choices Act, which I believe does stabilize costs and ensures quality and secures our choices, it is more than that, it is more than the headlines and the descriptions. We can go right to the bill language and show how this legislation, in a very specific way in a number of instances, responds to what Trisha Urban has told us in her letter, what she has challenged us with. She didn't write to me to say, Well, this preexisting thing is kind of a nuisance. It was a bar, an impediment to her and her family getting health care, basic health care. Why should this even be something we have to legislate about? One would think that in America today, with all of the wealth we have and all of the great power, we would have fixed this years ago, but we have families who are not getting health care because the insurance company says you have a preexisting condition. Sorry, you have to wait; or sorry, you get no treatment at all.

That is the status quo, and that is one of the costs of doing nothing. How do you calculate a preexisting condition being a bar to you getting coverage? I don't know. I know one thing: Despite all the talk in Washington about what this might mean, who is arguing with whom, what the debate is about between Democrats and Republicans, in this bill we answer Trisha Urban's question on preexisting conditions. Here it is.

This is bill language not some talking point or some general description. This is in the bill that sometimes people in Washington don't want to examine because the language is reform. The language is against the status quo. The language on this provision, especially, is a dramatic change in policy—something the insurance companies have not wanted to do on their own. The American people are finally saying, through their elected representatives and this bill, that we are going to make sure preexisting conditions don't bar treatment, that preexisting conditions don't prohibit Trisha Urban and her family from getting the kind of health care they deserve.

Here is what section 2705 says:

Prohibition of preexisting condition exclusions or other discrimination based on health status.

The American people want to know what is in the bill.

A group health plan and a health insurance issuer offering group or individual health insurance coverage may not impose any preexisting condition exclusion with respect to such plan or coverage.

It is right in the bill. There are some people here who would not talk about

that because they would rather debate no bill. They would rather debate, well, we have a suspicion that it is going to cost too much. But they don't show any evidence, and they don't have a competing argument or a bill. This is right in the bill—"may not impose any preexisting condition."

That is a dramatic change in health care policy in America in 2009. It is not part of the debate. For the next couple of weeks and months, what we are going to do is tell people a lot about what we have been working on in Washington. Day by day, we will tell them what is exactly in this bill, and we will keep talking about it so more people understand it.

Unfortunately, some would not understand it because the special interests in Washington would rather talk about the perceived controversy.

I suggest that people go to the Web site for the committee that worked on this bill. The HELP Committee Web site is help.senate.gov. Go to that Web site and review the language on preexisting conditions or anything else. I believe at the end of the day, it is going to be very clear who stands for the status quo and doing the same thing and no change versus what the President and a lot of us are trying to do, which is change, reform, and give people, such as Trisha Urban, some peace of mind, some stability to know that she and her family—which is, now that her husband is gone, she and her daughter would not have to worry about this ever again.

Isn't that what we ought to be doing? I think we can do that together and in a bipartisan way. I believe we have no choice but to turn away from the status quo and go down the path of change and reform.

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

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

The legislative clerk proceeded to call the roll.

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

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

Mr. McCAIN. Mr. President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. We are in morning business.

Mr. McCAIN. Is the Senator from Delaware waiting to speak?

Mr. KAUFMAN. Yes.

Mr. McCAIN. I am glad to follow the Senator from Delaware.

SOTOMAYOR NOMINATION

Mr. KAUFMAN. Mr. President, I rise today in support of the nomination of Judge Sonia Sotomayor to be the Associate Justice of the U.S. Supreme Court.

Last week, the Judiciary Committee held 4 days of hearings in Judge

Sotomayor's nomination, including 2½ days of testimony from the judge herself.

I came away from these hearings deeply impressed with her intellect, thoughtfulness, demeanor, and integrity. These characteristics, already plainly evident in her judicial record and lifetime of accomplishment, shone even more brightly in last week's hearing.

Her respect for the law, for precedent, and for the prerogatives of the Congress will help ensure that the Supreme Court is a place where every party, whether powerful or powerless, can get a fair hearing.

In short, the hearings confirmed that Judge Sotomayor has all the essential qualities that will enable her to serve all Americans well, and the rule of law, on our Nation's highest Court.

Mr. President, my support for Judge Sotomayor is even stronger given our current economic circumstances. One might ask, what is the connection between our national economy and the Supreme Court nomination? The answer lies in the fact that today, while we have a real need for significant financial regulatory reform, we also face a Supreme Court too prone to disregard congressional policy choices.

I raise the economic crisis, and the regulation that will be necessary to prevent the next crisis, because I am concerned that the current Supreme Court is overly protective of corporate interests at the expense of everyday Americans.

As I watch this Court, I am reminded of the recent observation by legal commentator Jeffrey Toobin that the record of the current Chief Justice "reflects a view that the court should almost always defer to the existing power relationships in society."

As Toobin reports, in every major case the Chief Justice sided with the corporate defendant over the individual plaintiff. In business cases before today's Supreme Court, I am worried that it is possible to predict the outcome simply by knowing the parties and the nature of the dispute. The facts and the law sometimes seem secondary. For example, in *Leegin v. PSKS*, the Court overturned 96 years of precedent and effectively legalized agreements between manufacturers and retailers to fix prices. In *Exxon v. Baker*, the Court sided with a company that recklessly destroyed the livelihoods of tens of thousands of Alaskans, dramatically reducing their punitive damages award that represented just a small percentage of the company's earnings. In *Gross v. FBL Financial Services*, the Court made it more difficult to prove age discrimination. And in *Ledbetter v. Goodyear*, the Court made it impossible for many plaintiffs to recover for unequal pay based on intentional sexual discrimination. So egregious was the *Ledbetter* decision that the Congress made sure legislation overturning it was the first bill to reach President Obama's desk. And legislation is pending that would overturn

Leegin as well. Congress shouldn't have to pass every bill twice.

It is essential for our economic recovery that the Court respect the intent of Congress when it acts to regulate the markets. And make no mistake, we must reform our financial markets. The last 2 years have given us the final grade on an economic theory that is deeply suspicious of regulation and trusts the markets to police themselves. The grade was an F. America will no longer stand for a system that permits financial institutions to profit from risky bets and then beg the taxpayer for a bailout when those bets go bad. Three decades of deregulation has gone too far. The ability of the greedy and the powerful to enrich themselves at the expense of the taxpayer must be stopped.

Congress can and will enact a dramatically improved regulatory system. The President can and will make sure the relevant enforcement agencies are populated with smart, motivated, and effective agents. My concern is that a Supreme Court resistant to Federal Government involvement in and regulation of markets could undermine those efforts. I am not suggesting that we face a return to the New Deal-era Court, a Court determined to strike down regulatory reform as beyond the authority of Congress, but a Court predisposed against government regulation might chip away at the edges of reform, materially reducing its effectiveness.

That is why my questioning of Judge Sotomayor focused on her experience with business and business cases. She worked as a commercial litigator and business lawyer for 8 years. For the past 17 years, she has served on the most active Federal courts for business disputes—6 years on the Southern District of New York and 11 on the Second Circuit Court of Appeals. Based on that extensive record, and her answers to questions last week, we now know not only that she possesses enormous expertise in business litigation but also that she calls these cases right down the middle, without any bias or agenda. For Judge Sotomayor, the facts and the law, not the identity of the parties, drive the result.

When Justice Souter announced his retirement in May, I suggested that the Court would benefit from a much broader range of experience among its members. My concern at the time wasn't the relative lack of women or racial or ethnic minorities on the Court—though that deficit is glaring. I was pointing to the fact that most of the current Justices, whether they were Black or White, women or men, share roughly the same life experiences.

Judge Sotomayor will bring a much needed breadth of experience to the Court. Unlike the other Justices, who lack extensive experience with private industry and any experience on the trial court, Judge Sotomayor understands the motivation and needs of the

businesses that come before her. Judging from her ability to communicate her thoughts and ideas during the committee hearings last week, I am confident that other Justices, and by extension the entire Court, will benefit by the addition of Judge Sotomayor's voice to its deliberations in business cases.

As we undertake financial regulatory reform and other fixes for our damaged economy, having judges who leave the lawmaking to lawmakers is absolutely essential. Judge Sotomayor told me she understands that "policymaking is up to the Congress" and that "judges can't substitute their own judgment" for that of the Congress, regardless of their view of the wisdom of a policy or regulation.

Throughout her career, she has taken each case that comes without predilection, giving full consideration to the arguments of both sides before reaching a decision. That is precisely the approach to judging we need on today's Supreme Court.

Mr. President, Judge Sotomayor has a superior intellect, broad experience, superb judgment, and unquestioning integrity that would make her an outstanding nominee at any time. But given our current economic crisis and the likely role of the Court in reviewing legislative responses to that crisis, I submit she is the ideal nominee at this time. Her extensive experience as a commercial litigator, business lawyer and judge in business cases, and the passion for the law she has demonstrated throughout her career suggests she will be a leader on the Court at a time when such leadership is essential.

I urge my colleagues to confirm Judge Sonia Sotomayor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

SOUTHERN BORDER VIOLENCE

Mr. MCCAIN. Mr. President, I come to the floor today to talk about the violence that continues to plague our southern border region by Mexico's well-armed, well-financed, and very determined drug cartels.

Last weekend, I went to Yuma, AZ, and met with Border Patrol and Customs and other law enforcement agents who do such an outstanding job for our country.

By the way, the temperature was approximately 115 degrees, and our men and women, who are serving so well, were out there trying to secure our border and keep our country safe.

Despite the increased efforts of President Calderon to stamp out these bloodthirsty and vicious drug cartels, violence has increased dramatically, claiming over 6,000 lives in Mexico last year alone. The murderers carrying out these crimes are as violent and dangerous as any in the world. Many have extensive military training and carry out their illegal activities with sophisticated tactical weapons and no regard for human life.

Last week, the Washington Post reported that 12 Mexican Federal agents were murdered and left alongside a mountain road in retaliation for the arrest of the leader of the country's most violent drug cartel, La Familia. According to the article, this act represents "the highest one-day death toll for Federal forces in the 3-year-old drug war." The article provides the deadly details of the violent attack, reporting:

The attacks began at dawn on Saturday . . . shortly after the arrest of the right-hand man of La Familia founder Nazario Moreno Gonzalez. After La Familia gunmen were repelled in their attempt to free (the leader), they went on what police described as a shooting rampage to "avenge" his capture. The attacks, in which convoys of gunmen mounted surprise assaults on government positions in eight cities, went on for 10 hours Saturday and continued sporadically Sunday.

The bodies of these brave law enforcement officers were accompanied by a note promising future violence from La Familia if the Federal Government continues its law enforcement efforts. I remind my colleagues that this is the same drug cartel that, according to the Washington Post, "announced its presence 2 years ago by rolling five decapitated heads into a dance hall."

Earlier this month, two American citizens with dual citizenship were dragged out of their homes and shot several times in the head in the Mexican state of Chihuahua. The reason was that the victims, according to the Associated Press:

helped lead the town's approximately 2,000 inhabitants in protest against a May 2 kidnapping. The residents refused to pay the \$1 million ransom kidnappers requested and demonstrated in the Chihuahua state capital to demand justice. Even after (the kidnapped victim) was released unharmed a week later, the (town's) people continued to lead marches demanding more law enforcement in the rural, isolated corner of Chihuahua state. They also set up a committee to report any suspicious activities in town to police, quickly becoming an example for other Chihuahua communities.

Yesterday's Washington Post front-page story about these events states:

Chihuahua today is the emblem of a failed state, run by incompetent authorities who have little ability to protect the citizens.

The violence that has terrorized Mexican citizens continues to seep across the border, devastating families and crippling communities. In my hometown of Phoenix, there have been over 700 reported kidnappings in the past year. This has led to Phoenix being declared the "kidnapping capital of the United States," second only to Mexico City in the world. In many cases, kidnap victims are intertwined with criminal elements of society, involved with illegal cross-border smuggling operations.

The police chief of Phoenix testified in April before the Senate's Homeland Security Committee that Phoenix is a transshipment point for illegal drugs and smuggled humans, both coming to Phoenix before being shipped to other points throughout the United States.