

Howrigan on their hillside farm in Vermont. I can think of more than one occasion when Marcelle and I would be there. We would be listening to one of these stories, and I knew that we might be late for the next thing, but I didn't want it to end. I wanted to hear what else he had to say.

Harold was a man who seemed to accomplish more each year than most of us do in a lifetime. He built his Fairfield, VT farm to over 1,000 acres, including the land that had been worked by his family since the mid 1800s.

It is now tended by the next generation of Howrigans. I remember him as a dynamic man, as genuinely comfortable in his public duties as he was in the dairy parlor or out splitting wood. In addition to running the farm and tending to the family he loved so much, he accepted leadership roles in dozens of civic and agricultural organizations from local to national in scope. He moderated the Fairfield town meeting right up to this year. The town meeting is a sacred institution in Vermont. A town wants to make sure they have the very best and the fairest and the most knowledgeable to be their moderator. It also helps when you have somebody with an Irish sense of humor. This is a position of distinction in any Vermont town.

He was director of the St. Alban's Co-operative Creamery for 25 years and president for another 20. He was appointed by three Governors, both parties, to the Vermont Milk Commission. He was also a local and national leader among maple sugar makers. He served on University of Vermont advisory boards and on county commissions. All the while he tended the fire in the Fairfield sugar house each year and he got the cows milked each day and sang for 60 years on the choir at church. The church, of course, is named, as you would expect in a town full of Irish immigrants and descendants, St. Patrick's.

Nationally, he was a director of the National Milk Producers Federation for 20 years and chairman of the National Dairy Board. In addition to his work on dairy, he was a local and national leader for the maple industry, a prolific sugar maker. I know Marcelle and I and our children, when we were having something at the farm that called for maple syrup—and in our family, that is just about anything from English muffins to pancakes—everybody's eyes would light up if we knew it was Howrigan syrup.

Notwithstanding his prodigious service to his community, his profession and his country, his greatest impact was probably felt through his personal relationships with his family and what he considered, I think, all of Vermont, his extended family. As a friend, he was a trusted adviser on agricultural issues over several decades. I know Senator Jeffords also valued his friendship and advice and Governors consulted him regularly. But as dad and grandpa to a large, active family, he cultivated two

new generations of Vermont dairy farmers and maple sugar makers.

We could talk about all the different things he did, but it still does not give a picture of the man. He was known for a deep and spirited Irish pride, a sentiment I obviously share. I find myself comparing that other great Irish American and dear friend, Teddy Kennedy, whose recent loss I also mourn. But I also treasure the trip my wife Marcelle and I took with Harold to Ireland. There he felt he was truly in the Promised Land. We would walk about the streets of Dublin or small towns nearby. He was so proud of his family's Irish heritage, he never stopped smiling throughout his visit.

The day of his funeral, last week, Marcelle wore an Irish pin we purchased with him in Ireland. I, of course, wore a green tie in his honor. I watched his grandsons wearing some of the Irish ties Harold had owned. I listened to his son and daughter and grandchildren talk about him, capturing him in his stories and his nature. I think about the very last conversation I had with him just weeks before he died. In all these things, he never asked for anything for himself. He always asked me to watch out for other people. He led by quiet example and hard work and kindness and love.

I, along with the State of Vermont and many across the United States and across the Atlantic, will miss Harold. He was a dear friend, truly a great American. Similar to all Vermonters, I express my sympathy to his family and I say: Goodbye, Harold, my dear friend. 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. LEAHY. I ask unanimous consent that the order for the quorum call be rescinded.

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

#### EXECUTIVE SESSION

NOMINATION OF GERARD E. LYNCH TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Gerard E. Lynch, of New York, to be United States Circuit Judge for the Second Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 2 hours of debate, equally divided, between the Senator from Vermont and the Senator from Alabama or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, today the Senate finally considers the nomina-

tion of Gerard Lynch to the Second Circuit. I take particular interest in this because my own State of Vermont is part of the Second Circuit. I am a member of that bar, and I have argued cases before that court.

This is a nomination reported out of the Judiciary Committee over 3 months ago, on June 11 unanimously by voice vote. There were no dissents. When that occurred and the ranking Republican member said such glowing things about Judge Lynch, I assumed his nomination was going to be confirmed right away as we did with President Bush's nominations in similar situations. Now it is nearly 3 months later. In almost unprecedented fashion, someone who has had the strong support of both the chairman and ranking Republican of the committee is still on the Executive Calendar.

Judge Lynch has served as a highly respected Federal judge from New York for almost a decade. He has impeccable legal credentials. His nomination received the highest possible rating from the ABA's standing committee on the Federal judiciary, unanimously voted "well qualified."

The Senate can and must do a better job of restoring our tradition, a tradition followed with Republican Presidents and Democratic Presidents, of regularly considering qualified, non-controversial nominees to fill vacancies on the Federal bench without needless and harmful delays. We should not have to overcome filibusters and spend months seeking time agreements to consider these nominations. The American public wonders what is going on here.

It is imperative that we move to fill the growing number of vacancies throughout the Federal courts. These vacancies have already risen to over 90, including 21 on the circuit courts. I have been here with six Presidents. I cannot remember a time we have been this late in the year and, even though nominations have been made, nobody has been confirmed, all because of holds by the Republicans. Do they object so much to having President Obama as President that they will hold up well-qualified judges? These are supposed to be nonpartisan, outside the political area.

This alarming spike in vacancies is only further fueled by delays and inaction. In addition, 26 future vacancies have been announced. At this rate, as I said at the judicial conference this week with the Chief Justice and leaders of the Federal judiciary, the Federal judicial vacancies will soon be close to 120 unless we start acting on these nominations in a responsible and fair manner. These nominations should not be something where Republicans or Democrats might score political points. Our inaction on these nominations hurts the average American. They do not care about the politics. They want Federal courts that are going to work. They do not want cases delayed because we have vacancies in

the Federal court that we could easily be filling.

I do not think most Americans, when they go into a court, say: I am here as a Republican or a Democrat. They go in and say: I am here as a plaintiff or defendant. They are there to seek justice, not to find out there is nobody in the courthouse because the minority party does not want President Obama filling vacancies.

During the last Presidency, we worked very hard to fill vacancies. When I chaired the Senate Judiciary Committee and we had a President of the other party, we were able to reduce overall vacancies by two-thirds, from over 100 down to 34. We were able to reduce circuit court vacancies to single digits. Today, because we are blocked from getting judges through, because Republican Senators will not give this Democratic President the same courtesies we gave a Republican President, those vacancies have nearly tripled. In the 17 months I served as Senate Judiciary Committee chairman during President Bush's first term, the Senate confirmed 100 of the President's judicial nominations. So far this year, 9 months into the year, we have not confirmed a single Federal district judge or circuit judge. In fact, Judge Lynch will be the first.

Despite the fact that President Obama sent his first judicial nomination to the Senate 2 months earlier than President Bush, despite the fact that judicial nominees have the support of Republican home State Senators, despite the fact that the Judiciary Committee has reported favorably five judicial nominees to the Senate for final action, and despite the fact that judicial nominees have been pending on the Senate calendar for more than 3 months, we have not been able to reach agreement before today to vote on a single judicial nominee for either a district court or a circuit court.

The first of President Obama's nominations, that of Judge David Hamilton to the Seventh Circuit, was made in March. It has been on the Executive Calendar since early June, despite the support of the most senior of Senate Republicans, Senator LUGAR. The nomination of Judge Andre Davis on the Fourth Circuit was reported by the committee on June 4 by a vote of 16 to 3 but has yet to receive Senate consideration. We should not further delay Senate consideration of these well-respected, mainstream Federal judges.

During the last Congress, we reduced Federal judicial vacancies from 10 percent, under Republican control of the Senate during the Clinton administration, to less than half that level. We cut circuit vacancies from 32 to less than 10 last year. Ironically, during President Bush's two Presidential terms, more nominees were confirmed with a Democratic Senate majority than a Republican majority, and in less time. I am urging Republican Senators to work together with the President to fill vacancies on the Federal bench.

I hope that Republican Senators do not seek to return to the practices of the 1990s that more than doubled circuit court vacancies. The crisis they created led to public criticism of their actions by Chief Justice Rehnquist during those years. It is not a good sign that already this year Republican Senators threatened a filibuster of the Deputy Attorney General and pursued five filibusters, including one for Elena Kagan, the Solicitor General, one for Harold Koh to be the Legal Adviser to the State Department, and another that was finally broken just last week on Cass Sunstein, who heads the White House Office of Management and Budget's Office of Information and Regulatory Affairs. Nor is it a good sign that in March every Republican Senator signed a letter to the President threatening filibusters of his judicial nominees before they were even nominated.

We are supposed to be the conscience of the Nation in the Senate. If a Senator does not like a particular nominee, vote against him or her. But these are nominees that will probably pass unanimously.

I hope, instead, that both sides of the aisle will join together to treat the nominees of President Obama fairly. I made sure that we treated President Bush's nominees more fairly than President Clinton's nominees had been treated. We should continue that progress rather than ratcheting up the partisanship and holding down our productivity with respect to Senate consideration of judicial nominations. Our demonstrated ability to work together to fill judicial vacancies will go a long way toward elevating public trust in our justice system.

Another troubling sign is the refusal of every Republican Senator to cosponsor the comprehensive judgeship bill. Last week I reintroduced that legislation embodying your nonpartisan recommendations for 63 judgeships needed around the country. Not a single Republican Senator would cosponsor the bill. Even traditional cosponsors with whom I have worked for years would not join. Not one of the 18 Republican Senators whose states would benefit from additional judges yet supports the bill. For that matter, Republican Senators obstructed the hearing on a similar bill last summer, after they had requested the hearing. As we pass legislation that is leading to increased workloads in the Federal courts, we need to be cognizant of the increasing workloads and needs of the Federal courts.

Judge Gerard Lynch began his legal career as a Federal prosecutor in the U.S. Attorney's Office for the Southern District of New York, where he investigated and prosecuted white collar and political corruption cases, and argued complex criminal appeals. Through his exemplary hard work and considerable skill, he rose to be chief of the criminal division in the Southern District of New York, where he managed the office's criminal cases and supervised

well over 130 Federal prosecutors. Judge Lynch has also served as a part-time associate counsel for the Office of Independent Counsel and as a counsel to a Wall Street New York law firm.

He also has impeccable legal credentials. Judge Lynch graduated summa cum laude and first in his class from both Columbia Law School and Columbia University. He clerked for Justice Brennan on the Supreme Court of the United States and Judge Feinberg on the Second Circuit Court of Appeals. Judge Gerard Lynch began his legal career as a Federal prosecutor in the U.S. Attorney's Office for the Southern District of New York, where he investigated and prosecuted white collar and political corruption cases, and argued complex criminal appeals. Through his exemplary hard work and considerable skill, he rose to be chief of the criminal division in the Southern District of New York, where he managed the office's criminal cases and supervised well over 130 Federal prosecutors. Judge Lynch has also served as a part-time associate counsel for the Office of Independent Counsel and as a counsel to a Wall Street New York law firm.

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While maintaining a full judicial caseload, Judge Lynch has also been a distinguished legal scholar who has received praise as one of the country's outstanding law professors. For over 13 years, he taught criminal law, criminal procedure, and constitutional law as the Paul J. Kellner Professor of Law at Columbia University's School of Law. For 5 years, Judge Lynch also served as the vice dean of that fine legal institution. He is nationally known as a criminal law expert and has received numerous honors, including the distinction of being the first law professor to receive Columbia University's President's award for outstanding teaching.

Judge Lynch's nomination has received numerous letters of support, including strong endorsements from public officials and law professors across the political spectrum. Otto G. Obermaier, who served as President George H.W. Bush's U.S. attorney for the Southern District of New York, supports Judge Lynch's candidacy to the Second Circuit and called him a person of "superior judgment and intelligence" who is "intellectually gifted." Professor Henry P. Monaghan, the Harlan Fiske Stone Professor of Law at Columbia University, writes that Judge Lynch "is everything you want in a judge: fair, tough-minded, enormously experienced, highly intelligent, and apolitical" and his addition to the Second Circuit would "strengthen" that court. He has the support of the Senators from New York.

I congratulate Judge Lynch and his family on his confirmation today.

Mr. President, I suggest the absence of a quorum.

I withdraw that request. I see the distinguished senior Senator from New York in the Chamber, a man who works so extremely hard in the Senate Judiciary Committee, who has worked night and day for Judge Lynch, who has made sure we all realize what impeccable credentials he has.

I yield to the Senator, but I ask, first, unanimous consent that if there are quorum calls, the time be divided equally.

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

The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, first, I thank our chairman and leader, Senator LEAHY, for not just moving this very qualified nominee forward but for his diligence and steadfastness and patience as we try to move judges to the floor. Senator LEAHY, as everyone in this Chamber knows, is a very fair-minded person. He always goes out of his way to allow people to have their time to speak. We had this in the Judiciary Committee this morning. He has done an amazing job trying to move our judges through. I hope those on the other side of the aisle will hear his heartfelt plea that we stop all these dilatory tactics.

Having said that, today is a very good day because I am so pleased to rise in favor of the nomination of the first appointment by President Obama to a Federal appellate court that this body will consider. If Judge Gerard Lynch is any indication of the quality and temperament and intellectual firepower of judges whom President Obama intends to nominate, then my friends on both sides of the aisle should have reason to rejoice today.

As Chairman LEAHY has already noted, Judge Lynch was referred out of committee by a unanimous voice vote. Even my friend and colleague Ranking Member SESSIONS was able to support Judge Lynch despite having opposed his nomination to the district court bench in 2000.

Judge Lynch, who currently sits as a U.S. district judge in the Southern District of New York, comes to us today for confirmation much as he did in 2000 for his first confirmation: with an unimpeachable record of moderation, consistency, intelligence, and dedication to exploring all facets of complex legal questions. But since then, he has amassed an impressive record of moderation and thoroughness. In his 9 years on the bench, he has issued nearly 800 opinions, has tried nearly 90 cases to verdict, and has been overturned by the Second Circuit only 12 times—and one of those times, the Second Circuit was, in turn, reversed by the U.S. Supreme Court.

There should not be any doubt that Judge Lynch is not an ideologue. His opinions and his writings show moderation and thoughtfulness. He is pragmatic. His peers and those who prac-

tice before him have found him to be both probing and courteous—in sum, very judicial in his temperament.

In response to questions before the Senate Judiciary Committee in 2000, Judge Lynch said:

A judge who comes to the bench with an agenda, or a set of social problems he or she would like to solve, is in the wrong business.

As his record has shown, Judge Lynch is in the right business.

I have said many times that my criteria for selecting good judges are three: excellence—they should be top of the line legally; moderation—judges should not be too far right or too far left; and diversity.

As is somewhat known, despite the fact that President Bush and I clashed on Supreme Court nominees and some of these circuit court nominees, within New York and within the Second Circuit we had a very amiable arrangement where he would nominate two and then we would get—Senator Clinton and I would get to nominate one. We each had veto power on the other.

I am proud to say that Judge Lynch was one of my first choices to put on the district court bench. It was because of the recommendations of his peers, the lawyers with whom he practiced, and just how good the general legal community thought he was.

That stands true today. He still, more than ever before, meets the qualifications of excellence, moderation, and diversity.

There is no question of his excellence. He was first in both his classes at Columbia, undergraduate and law school—first, not even second or third. Pretty good. His opinions are scholarly, and one that was overturned by the Second Circuit was lauded by the panel as “a valiant effort by a conscientious district judge.”

There is also no question that Judge Lynch is, in fact, a moderate. His impressively low reversal rate should give the lie to any argument that he is outside the legal mainstream.

Now, the rap on Judge Lynch in 2000 among those 36 who voted against him was that he would be an “activist.” This view rose from out-of-context outtakes from two law review articles he had written. I repeat now what I said then: In both of these articles, then-Professor Lynch expressed the moderate view that the Constitution cannot as a practical matter remain frozen in the 18th century—the Constitution should not be expanded but it must be interpreted.

To illustrate my point about why Judge Lynch should be accepted as a paragon of moderation, I want to read two quotes.

First:

Text is the definitive expression of what was legislated.

Second:

A text should not be construed strictly, and it should not be construed leniently; it should be construed reasonably, to contain all that it fairly means.

The second quote was written by Associate Justice Antonin Scalia. The

first quote was from our nominee, Judge Lynch.

So the entirety of Judge Lynch’s copious opinions and rulings bears out the conclusion that he does not intend to legislate from the bench. He has been the definition of law enforcing and justice seeking. He has ruled for the State against prisoners, but he has also ruled that the State must protect the due process rights of those it seeks to detain. He has sentenced defendants convicted of horrible crimes to life without parole, and he has also expressed concern when he thinks a sentence might be too long—while imposing the sentence in complete accordance with the law. He has issued complex and scholarly opinions in securities and antitrust cases. Judge Lynch imposed the sentence that was required by law.

In sum, Judge Lynch is excellent, and he represents moderation.

Now let me say a word about diversity. Judge Lynch obviously is not a nominee who fits this bill. But I want to note another kind of diversity that I believe deserves mention. Before he went on the bench, Judge Lynch sought out opportunities to be more than a smart professor living in an ivory tower. He spent 5 years in the U.S. Attorney’s Office in the Southern District of New York as Chief of the appellate section and Chief of the Criminal Division. He worked as counsel to a prominent law firm. He took numerous pro bono cases. In short, he lived the life of a real lawyer while teaching and writing. Driven by his own conscience, he even registered for the draft during the Vietnam war rather than seek a college deferment. Very few do that. This is someone who has sought out a diversity of experiences which he now brings to the table as a judge.

I look forward to this new chapter in Judge Lynch’s service to our country. I hope he will get a unanimous vote, or close to it, from the Members of this Chamber.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. BURRIS). The Senator from Pennsylvania.

Mr. CASEY. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

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

#### HEALTH CARE REFORM

Mr. CASEY. Mr. President, as you can tell from the chart on my left, I rise today to speak about the issue that is probably the No. 1 challenge we face in the Congress today, which is debating and devising solutions for the improvement of our health care system in so many ways. I rise today to talk about some aspects of that and especially not only where we are headed in terms of focusing on both those with insurance and those without insurance but also to focus on some of the goals here.

From the beginning, both President Obama and Members of Congress have focused on a couple of priorities—first of all, to reduce costs. We cannot go forward with any health care bill that does not do that, and I think we will do that.

We have to reduce costs, but we also have to ensure choices. We have to continue to give the American people the kind of choice they should have a right to expect and give them a sense of a peace of mind in terms of what that choice will mean. We ought to make sure this bill, for example, leads to the following conclusion: You get the treatment you need from the doctor you choose. I think we can do that in the Congress.

Thirdly, I think we have to make sure, as we are controlling costs and ensuring choice, that we ensure quality and that we put both quality and prevention in the final bill. They are in the bill I voted for already this summer.

The Health, Education, Labor, and Pensions Committee, as people know, debated all summer, with hours and hours and hours of debate, accepting Republican and Democratic amendments, sometimes not agreeing, but we voted out a bill that did a lot of what I just talked about. It focused on making sure we are covering more Americans. It protected Americans who have coverage.

So many people, as the Presiding Officer knows—whether it is in the State of Illinois or the State of Pennsylvania or any State in the country—even those with insurance, are not secure, even those with insurance feel a sense of instability, a lack of control over their own destiny, sometimes because an insurance company says: We are going to deny you coverage because of a preexisting condition. Why have we permitted that? Why have we tolerated that year after year? Instead of just talking about preventing them from doing that, why haven't we literally made it illegal for an insurance company to do that? We are going to make sure this year we do not just talk about it but we legislate about it and make that part of our law.

So we will go through some of those issues, but the first thing I want to highlight is where we are headed if we do not do anything.

There are some people in Washington who, to be candid or blunt about it, want to scratch their heads for a couple more years or maybe 10 more years.

Here, as shown on this chart, is where we are headed by one estimation. The New America Foundation is the source for this information. But here we are in 2008. When you talk about the cost of an annual premium, OK, it is roughly—and actually we found out the other day that number is a little higher—we can say it is a little more than \$13,000 for family coverage. If you look between 2008 and 2016—just 8 years in that estimation, and we are already into 2009—that premium will

rise by more than 83 percent. Why should we allow that to happen when we know we can do something about it this year? So that is one way to look at this in terms of the cost of doing nothing.

Also, often people with insurance will say: Well, I have some problems with my insurance. I worry about a preexisting condition, I worry about exorbitant out-of-pocket costs, and I am glad you are working on that and I will support that part of the bill. But they say: Look, if I have coverage, I am worried about giving millions of more Americans coverage without some adverse effect to those who have coverage.

Well, let's look at this chart for a little bit of a discussion about this topic: families paying 8 percent surcharge on premiums. If we look at this chart, what this red or red-orange part of the chart shows is a \$1,100 hidden tax to cover the cost of uncompensated care for the uninsured. So the idea that those with insurance right now are not paying for those without insurance is ridiculous. Fortunately, in Pennsylvania, that number is a little lower, but it is still 900 bucks. So the idea that somehow if we change the system, improve the existing system, build upon what works but improve the system, that somehow that is going to adversely impact in a cost sense those with insurance—the Center for American Progress did this research—this chart and others show if you have insurance today, you are paying for those without insurance. Right now you are paying for them. We know that right now.

So, if anything, broadening the number of Americans who have coverage will actually reduce costs. It will be one of the contributors, I should say, of reducing costs—not the only way but one of the ways we do that.

Let me go to the next chart which is a depiction in very simple colors, red and green, about what the existing system does adversely as it relates to women. There are a lot of things that insurance companies do today that we don't like and we have complained about, but now we can do something about it. One is a preexisting condition problem and another one is the out-of-pocket costs and another one is how often insurance policies definitively discriminate against some Americans.

This map shows in the orange or red section: gender rating allowed. In other words, insurance practices that lead to policies in States that result in discrimination against women. So you want this chart to show all in the green States where gender rating is banned.

What we would like to do with our legislation, one of the goals—and it is in our bill and in the bill we passed this summer, the Affordable Health Choices Act—is to make sure the whole country is green on this issue, green in the sense that we have banned gender rating; that an insurance company can't say, when they are trying to determine

how they make up their policy, that if you happen to be a woman, a policy would discriminate against you.

Unfortunately, Pennsylvania is a State that has permitted this discrimination, along with all of these other States. So we ought to have a national standard. Very simply: No more discriminating insurance policies against women. It is that simple, folks.

What I voted for this summer in the bill we passed was this, along with other provisions. So that is something we shouldn't just talk about for another year or 2 or 5 or 10; let's do something about this now. Let's make this practice illegal this year, and we can do it with the legislation.

The next one is an enlarged version of some language. I mentioned preexisting conditions in my remarks today, and we are going to keep mentioning this because this is a reality for millions of Americans in the individual market, the people who have to go it alone. They are not part of the big pool of people getting insurance. They have to go it alone to get insurance. They are the ones who are often most adversely affected by preexisting conditions. Why should we tolerate that?

The other point about this chart is, I purposefully put legislative language on it because a lot of people here want to say: Well, this legislation and language gets complicated. Admittedly, some of it does, but this is pretty easy. This is in the bill we passed this summer. I will just read this one sentence. Anyone can understand this. This isn't some complicated legislative language:

A group health plan and a health insurance issuer offering group or individual health insurance coverage may—

We know what they are; we know exactly what we are talking about here—not impose any preexisting condition exclusion—

That is in our bill—with respect to such plan or coverage.

Let's do it this year. Let's make it illegal for insurance companies to do this to an individual or to a family or to those who happen to be employees of a small business.

So some of this debate gets lost in detail, but this is very simple language taken right out of the bill.

Let's go to the next one and our final chart before I conclude. I am going to spend more time on this issue, but I just wanted to spend a couple of minutes on this issue.

What happens at the end of this road with regard to health care as it pertains to children, especially children who happen to be poor or children with special needs? What will happen? At the end of the road, when we pass a bill and send it to the President and he signs it—and that is what I hope will happen, of course—will poor children and children with special needs be better off or worse off? That is still a question. That is still an open question we are debating right now.

Children are different than those of us who happen to be adults. They are not smaller versions of adults; they are different. Their treatment needs are different. We have to give them different kinds of preventive care. In Medicaid, for example, we give what they call early periodic screening and diagnostic testing, known by the acronym EPSDT. We focus on the special needs of children and give them early diagnosis, early treatment. That is what I am talking about in general. So they aren't small adults. It seems like a simple concept, but we have to say it more than we do. It is clear they have different needs, particularly the ones who are the most disadvantaged. The poor are the ones who could potentially be a lot sicker with the threat of sickness and disease. We make sure they get the highest quality care throughout their childhood. That is a resolution I introduced as a statement of policy.

So we are going to continue to debate not just a question of bringing down costs—that is central to what we are trying to do—not just a question of quality, and not only the question of enhancing choice and giving people some stability over their own lives with insurance and those who don't have insurance, giving them some affordable choices—that is all important, and we are going to spend a lot more time on those questions, but another question we have to address is, what happens at the end of the road for poor children or children with special needs?

The rule ought to be very simple: No child in those categories, no child worse off. Four words: No child worse off at the end of this.

So we will have a lot more time to continue to debate the legislation and a lot of these important issues. I think the American people want us to act. They don't want us to just debate and not get something done.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent to speak as in morning business.

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

#### MISSILE DEFENSE

Mr. MCCAIN. Mr. President, I rise today to express my deep disappointment with the administration's decision to cancel plans for fully developing missile defenses in Eastern Europe. This decision calls into question security and diplomatic commitments the United States has made to Poland and the Czech Republic. I believe it has the potential to undermine American leadership in Eastern Europe.

Given the strong and enduring relationships we have forged with the region's Nations since the end of the Cold War, we should not take steps backward in strengthening these ties. Yet I fear the administration's decision will do just that, and at a time when Eastern European nations are increasingly wary of renewed Russian aggression.

The administration's decision to abandon these sites comes at a time when the United States is in the midst of negotiations with Russia on reducing strategic nuclear weapons. Russia has long opposed the planned missile defense sites in Europe and has on numerous occasions tried to link reductions in offensive strategic nuclear arms with defensive capabilities such as missile defense. In fact, President Putin, on many occasions, has stated in very belligerent tones his opposition to this agreement that was already made between the United States and Poland and the Czech Republic.

The United States should reject the Russian attempt to further this argument and capitalize on these ongoing negotiations.

As rogue nations, including North Korea and Iran, push the nuclear envelope and work tirelessly to develop weapons capable of reaching America and its allies, we must aggressively develop the systems necessary to counter such belligerent efforts and enhance our national security, protect our troops abroad, and support our allies. Enhancing missile defense capabilities in Europe is an essential component to addressing threats we currently face and expect to face in the future. As Iran works to develop ballistic missile capabilities of all ranges, the United States must reaffirm its commitments to its allies and develop and deploy effective missile defense systems.

I wish to point out two important factors. The United States of America does not believe missile defense systems are in any way a threat to any nation. They are defensive in nature, and I believe they were a key component and factor in ending the Cold War.

Intelligence assessments apparently have changed rather dramatically since January 16. According to Eric Edelman, the Under Secretary of Defense for Policy under Secretary Gates during the Bush administration, intelligence reports on the Iranian threat as recently as January of this year were more troubling than what is being portrayed by the current administration. Mr. Edelman maintains that:

Maybe something really dramatic changed between January 16 and now in terms of what the Iranians are doing with their missile systems, but I don't think so.

You know what. I don't think so either. I think the fact is that this decision was obviously rushed. The Polish Prime Minister, according to news reports, was called at midnight. The agreement was made and ratified by these countries after consultation, discussion, and a proper process. They were not even notified of this decision. The decision to abandon the missile defense sites in Poland and the Czech Republic came as a surprise to them.

I understand that administration officials were on a plane supposedly to arrive in Poland today. I might add that Members of Congress were also not briefed on this decision prior to reading about it in the newspaper. I

was not informed. I didn't know what "new technology" was being recommended to be put in the place of the agreement. As short a time ago as August 20, the United States said:

The United States is committed to the security of Poland and of any U.S. facilities located on the territory of the Republic of Poland. . . . The United States and Poland intend to expand air and missile defense cooperation—et cetera.

We all know the Iranian ballistic missile threat is real and growing. We all know the administration is seeking the cooperation and help of the Russians. Now we will see. Now we will see.

Why was this agreement rushed into—or the abrogation of an agreement? Why the abrogation of this agreement between the United States with Poland and the United States with the Czech Republic rescinded in such a dramatic and rushed fashion? We all know the Iranian ballistic missile threat is real and growing. How many times have the "intelligence estimates" been wrong dating back to and including the Cold War? As many times as they have been right, I tell my colleagues—whether it be their assessment about the war in Iraq or whether it be the capabilities of many of our adversaries, including the Korean buildup, which we have been consistently wrong on.

The last administration reached out to the governments of Poland and the Czech Republic and asked that they make what many at the time perceived as an unpopular agreement. Despite threats from Russia, both governments recognized the importance such a defense capability would provide to their citizens and to Europe as a whole and agreed to allow the United States to place ground-based interceptors in Poland and a midcourse radar site in the Czech Republic. What are these countries going to do the next time we want to make an agreement with them, in view of the way this decision was made and announced or, shall I say, made known to the media before they were even told about it. It will be very interesting to see what we get in return.

According to a Christian Science Monitor's global news blog:

"We see this as a pragmatic decision," says Pavel Zolotaryov, deputy director of the official institute of USA-Canada Studies, suggesting that internal U.S. factors mainly account for Mr. Obama's choice. "Obama's sober approach is understandable, given the [economic] crisis, because this project would have given nothing but trouble."

If it sounds like Moscow has already discounted this sweeping strategic concession from Washington, experts suggest that's because Russia's foreign policy establishment had been expecting such a decision, at least since Obama hinted that he might give up the missile defense scheme during his summit with Russian President Dmitry Medvedev in Moscow last July.

"We've been getting signals since last Spring that made it seem almost certain that the missile defense plan would be set aside," said Fyodor Lukyanov, editor of Russia in Global Affairs, a leading Moscow foreign policy journal.

The Russians seem to have anticipated this decision. Unfortunately, the