

the recovery of our economy is tenuous, the reform of abusive practices within the financial industry that both caused and exacerbated the suffering of millions of Americans is desperately needed. Congress must act now to address the fundamental weaknesses of the financial system and prevent history from repeating itself.

HEALTH CARE REFORM LAWSUITS

The SPEAKER pro tempore (Mr. TEAGUE). Under the Speaker's announced policy of January 6, 2009, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the minority leader.

Mr. CARTER. Mr. Speaker, we like to get on the floor of this House and we like to argue our points, and we like to try to couch the facts in such a way that you come to a conclusion that suits our political ends. That happens all the time in the courthouse when lawyers advocate for their clients. It happens here in Congress when folks advocate. There is a commentator, or maybe he wouldn't call himself a commentator, I don't know what he would call himself, who has the thing that says, "The spin stops here."

I would argue that the spin really stops in the republican form of government that our Founding Fathers created at the United States Supreme Court. Because at the United States Supreme Court, when they are looking at legislation passed by this body, the United States Supreme Court takes the facts that are presented to them, and they take the law as it exists, and then they look at the law that's being discussed and they discuss it in light of the Constitution of the United States.

In reality, all that we do in this Chamber and all that we do in every courthouse in this land to resolve problems either between individuals, between parties, or between States, or in some courts even between nations, all of that spin stops at the United States Constitution.

So we have just passed a gargantuan health care bill. So many pages you can hardly lift it even if you are a pretty good, strong, stout guy. And it has so many agencies and so many directions and so many things in it, and we have talked about them ad nauseam in this House. But the bottom line is it comes down to, now, this issue is being brought before the United States Supreme Court, or ultimately will be brought before the United States Supreme Court. And I would not in any form or fashion impose upon the United States Supreme Court my will. And I don't think anybody else in this body would either.

But I think we have at least a way to look at this that we need to look at it, and I don't really think we are talking about spin. What we are talking about here is what we think is in violation of that document where the spin stops.

Now, this has all been started, initially started with 14 States immediately upon the passage of this bill fil-

ing suit to question the constitutionality of the Democrats' health care bill. We now call it ObamaCare by some. This list has expanded into where now 20 States' attorneys general or their representatives have become involved in one lawsuit or another. Nineteen of the States have filed under Florida's lead in Tallahassee under multiple grounds, and Virginia has filed independently in Richmond solely on the constitutionality of the individual mandate.

The issue goes far beyond health care. If the commerce clause can be stretched to force individuals to buy health insurance, it will effectively moot the majority of the constitutional restraints on the power of the Federal Government. What does that statement mean when I just said that?

Well, if you go back and you read the Federalist Papers, if you study the things that were said about what took place in our constitutional convention which was held to write our Constitution and what the debates were among the representatives of the individual States at that time, the real underlying concern of everyone was the power of government. That's what everybody gathered together to talk about. We need something that manages our situation in America. That's what our Founding Fathers said when the 13 original States, prior 13 original colonies, gathered to discuss what document would we found our sovereignty on.

This gets off in philosophical concepts; but just remember that until the creation of the United States, which declared the sovereignty of our Nation, that means the supreme authority in our Nation lies with the people, and that the people would create an instrument which would set out the definitions and the boundaries of that supreme authority that gave the life's blood to our country. That was done because they had just fought a war with a tyrannical nation that had been imposing its will upon our Nation, at that time the people who lived here who ultimately became our Nation.

□ 2110

And they were fed up to their eyes with people imposing their will upon them. And they wanted to make sure that when they all agreed to get together and surrender certain things to a government, a centralized government that would govern in some capacity over all the States that created that government, that they would make sure that they were not creating another tyrant.

And I think if you read that and the Bill of Rights connected with the original Constitution, you will see that the very first thing they do is say, the government shall not do these things. And then they went on and said, the people have God-defined rights, and here are those rights. And the government's not going to interfere with those rights. And it was the government they were

restricting. It was the government they were talking about.

And when we set it up, and when we made the great compromise and all the other compromises which it took for these various parties to resolve their differences and create a government, it was all about making sure they weren't creating another tyrant. And I think they succeeded. And I think every American that has ever studied our Constitution is extremely proud of that document and the people who created it, because it did what they set out to do. It made sure that no government, no authority or organized government would be able to impose its will over the will of the American people at that time.

Now, this concept has now spread around the world. You know, we love to look at the free nations of the world. But at the time we created the Constitution of the United States, all those friends and allies that we call free nations of the world, they weren't free. And the concept was foreign to them, that the government couldn't impose its will upon the people. It was foreign. Kings did what kings wanted to do.

What was it they said in the History of the World, Part 1? It's good to be the king. Well, you know what? It was good to be the king, and that's why we weren't happy with King George, and we fought a war to get rid of him, because he was imposing his will and the Parliament was supporting him in England by imposing his will.

So we fought a war. We won. We wrote ourselves a Constitution. It said, we're not creating that kind of government.

So what our lawsuit is about is how far do we impose the will of the government over the will of the people?

These are basic premises. And it's been in constant debate since the founding of our country. And it has slowly and surely expanded the power and the force and the strength of the Federal Government.

But the bottom line is, we start with the premise that Americans did not want a government that imposed unfairly their will upon other people. And these lawsuits which have been filed, and these now 20 Attorneys General that are involved in carrying one or the other lawsuit to the United States Supreme Court, through the court systems, are raising issues that say, we've reached a point in this particular piece of legislation, the Democrats' health care bill, the Obamacare bill, whatever you want to choose to call it, it's being called that way in the papers, one way or the other, it is imposing upon people something it does not have the authority to impose. And really, it's a real simple argument.

What this bill does, it says everybody has to buy health insurance, period. End of story. You've got to have coverage. It is required of you. And it sets up massive plans and descriptions and all kinds of things that just will absolutely cause your mind to shrink up

like a prune when you start reading it, trying to figure out what all it says.

But when it comes down, you cut through all the garbage, you cut through all the spin, you cut through all the arguments, and just what does it do?

It says, we're going to set up certain things that insurance has to cover, and then you, American citizen, have to buy that insurance. That's what this bill says. You've got to buy it. And if you're not covered by insurance, either under some massive State plan, which we already have, Medicare, Medicaid and others, if you are not covered there, if you don't have private insurance, you've got to buy private insurance. You've got to go buy it.

Now, if you don't buy it, we're going to punish you, and we're going to punish you by, some call it a tax, some call it a fine, but it says we're going to put—you're going to pay this amount of money for not getting insurance.

And our Attorneys General of the now 20 States of this country are saying, whoa. Wait a minute. Besides all the burden you're putting upon the States, contrary to the contracts we made on, for instance, Medicaid, which is the plan we have to take care of those people who are literally unable to buy their own insurance, it is designed for the poor and for the needy, and it's a contract between the States and the Federal Government to create a plan that the States administer, that will take care of the poor people of the country. Now, it's been expanded to two times poverty, three times poverty, four times poverty and it goes on. And we've added to it what some call SCHIP, which is expanding it to cover uninsured children. And then some States have even gone so far as to expand uninsured children and their parents under this Federal, supposedly for poverty-stricken people, plan.

But the key to what the States are arguing about that plan is, but wait a minute. We made a deal with the Federal Government, and we're partners in this by contract. We agreed that we would administer the plan, we would decide what was best for the citizens of our State, and that's what our Medicaid program would be.

And honestly and truly, Medicaid programs across the country differ. The Medicaid program in Texas is different from the Medicaid program in Georgia. In most instances, they're relatively small differences, but they're differences that the States felt fit their people in their State because the States were in charge of administering Medicare.

The States have complained about sometimes some standards that this Congress has put on what kind of drugs you can give and what kind of services you will give. And those have been a series of debates, but they haven't broke the contract.

But one of the things that these States are arguing in this plan is not only are you mandating that people

buy a private product from a private company, an insurance company, but you're punishing them for not doing it. And then you're telling us that already provide a plan to cover a lot of these people that we have to take a massive infusion of new people that wasn't part of the deal. Massive. I'm talking about doubling and tripling some Medicaid budgets for the States. And we're not going to help you out with it.

□ 2120

Temporarily, we will help you out with it. We bailed you out with some of the stimulus money in the last year, but that is all going away. But you've got to take care of it. And not only do you have to take care of it, you have to administer that agency, take care of all of these new people we put in there. We're mandating you to do that. And they're saying, Oh, and by the way, while you're at it, this program that we've got that is going to impose that people have to buy a certain insurance policy, we want you to administer that, too. We not only want you to, we're mandating you to do it.

So our States are saying, Whoa, time out. That burden's bad enough. But let's get back to the original intent of the Framers of the Constitution. Should government be able to force you to buy something you don't want to buy? Now, you say to yourself, Well, but it's for the good of the general public that we do this. No. It's really because, if you've got a bunch of healthy people and you force healthy people who don't want to buy insurance because they don't figure they're going to have any health care needs for about 10 or 15 years, make them start paying premiums, make them become part of the pool, they won't cost you a dime so they can help pay for the people at the other end that are needing health care. So it's really a great big fancy way of expanding who pays the bill.

What it comes down to, what it means to the individual human being that is out there in the country whose only thing that the government could be regulating is his breathing because all he has done to be mandated to buy this policy is being alive. If he was dead, he wouldn't have to buy it. But he is alive. And our Federal Government by this bill is saying, Everybody alive out there, all 50 States and everybody out there, if you're alive, you're buying this product, and you've got to choose to buy it through a pool which will have certain insurance companies that will offer what we have decided those insurance companies will offer, what the Federal Government—this Congress, this President—has decided they have to offer as services under the policy.

But you've got the 19-year-old kid out there that says, Wait a minute. I'm 19 years old. I'm bulletproof. I'm healthy as a horse. I can run a 4.4 40. I can bench press 400 pounds. You're telling me I've got to go buy health insurance? Yes. I won't do it.

A-ha. You won't do it? Okay. How would you like to cough up 2,000 bucks in extra tax money every year just because you didn't pay it? Well, I wouldn't. Well, that is what we're telling you you've got to do.

That is what this bill says. You can couch it in all kinds of formal spin and you can spin it every way you want, but when you cut down to the bottom line, that is what it does. It says you have to buy something.

Now, as you're thinking about this, Well, this is not so unreasonable, John. Wait a minute. You know what? I'm a lawyer. I've been a lawyer since 1969. If you count the years, that's a long time. I've been a judge for 20 years. I can make a pretty darn good argument that everybody in this country ought to have a lawyer. In fact, I can make an argument that our world has become so complex that you are at risk for life and limb if you don't have a lawyer to stand up for you and to protect you not only against this Federal Government, but against the imposition of all governments and against the imposition of other entities, other partnerships, corporations, other individual people because everybody is out there just ready to sue you. So you need a lawyer.

If the policy of this Nation is that you have to buy a product that was created by this Congress from an individual, from a company, why can't I write a bill that says, Oh, by the way, everybody needs a lawyer, so you have to hire a lawyer or I will create an agency which will farm out all of these lawyers in America that you will—everybody will have a lawyer on your table, and if you don't, it will cost you \$2,000 a year for not having a lawyer, because if you don't have one—especially if you don't have one and you don't have any funds, guess what? We're going to have to provide you with one. Or if you commit a crime and you're indigent, we're going to provide you with one anyway, so we're going to make everybody have a lawyer.

I don't think that will get a lot of votes because lawyers aren't very popular, but the concept is the same. The concept is just the same.

We're saying to the American people, You have to buy a product from a company. If you don't buy that product, we're going to punish you. We're going to fine you, and it's going to be administered by the IRS with their authorities and rights going forward as IRS agents. It's no different than me and my bill requiring you to hire a lawyer. It's for the good of the Nation for you to have a lawyer.

But, hey, I can think of another example which a lot of the newspapers are using. In fact, I believe this one does. This is from The Washington Post. Is Health Care Reform Unconstitutional? Look at the last line of this. They say, Regulating the auto industry or paying cash for clunkers is one thing. Making everyone buy a Chevy is quite another. And that is the real

issue that we will switch over to another thing.

Right now, as I understand it, we, the Federal Government, along with the labor unions, own 51 percent of General Motors. So, arguably, all of us—because you know you will hear us very gloriously stand up on the floor and say, This House belongs to the people. Well, so you own—you're not a stockholder, but you, through your tax dollars, own 51 percent of General Motors, or some percent close to that area. Don't hold me to that number, but a whole lot of it.

Now, I will come up here and say, You know what? They're still going broke. It's arguably for the good and the best interest of the American people that everybody buy a Chevy. Then we will keep General Motors from going broke. Or a Pontiac or a GMC pickup or whatever General Motors makes.

So if the Constitution of the United States requires people to buy a health policy with mandates from the Federal Government as to what that policy will offer and it requires them to buy or they will be fined, why can't I require them to buy a Chevy?

Now, once again, I started off saying the buck stops at the United States Supreme Court. The spin stops at the United States Supreme Court. It's down to what those Supreme Court Justices are going to say the Constitution says about can the commerce clause, which is the only logical way any argument can be made that this would be something the government can regulate. It could be regulated under the commerce clause, which says the Federal Government has the right to regulate commerce between States, and commerce interstate between the Federal Government and States, and foreign commerce.

Now, the commerce clause has been expanded, and nobody is going to argue with that, and I'm not going to argue with it. But are we willing to say that because I breathe here tonight I'm in commerce? I'm not selling anything. I'm not buying anything. I'm not moving anything in any direction for the purposes of sale or for the purpose of anything to do with the economy or anything to do with commerce. I'm just here, and I'm breathing the air of Washington, D.C. Is that enough to make me in commerce and therefore be able to impose the power of the Federal Government upon my life to make me buy a certain product?

Is that a world that our Founders envisioned us getting involved in? I would argue it's not. Is that a world that the American people envision us getting involved in? I would argue it's not.

And I would argue, and I think the American people will back me up on this, and I can guarantee you our Twitters and emails are backing me up that say you can't impose upon us things against our will of this nature, we have to buy from a certain company, a certain product.

Wouldn't it be great for Dell computers if we said everybody has got to buy a Dell? Wouldn't it be great for some tractor company to say, By the way, even if you only live in an apartment, you need to own a tractor because it's in the best interest of America if the tractors do good? At what point can we stop all of this?

□ 2130

Those things seem silly, but the real spin and the real buck stops with the decisions that these courageous attorneys general across the country are going forward with, many of them against the will of their Governors because the political fight to stand up for the American people and to say to the United States Supreme Court, we need your help to tell us, are we going to impose the government's will to that extent, that's what I am here to talk about.

I am glad to see one of my loyal friends and classmates who, God bless him, he always comes when I am standing down here. I am proud to yield to my friend, PHIL GINGREY of Georgia.

Mr. GINGREY of Georgia. I thank the gentleman from Texas, Judge CARTER, for yielding to me. I was listening at the outset of the hour, and I will say to the gentleman that I agree with him completely in regard to where does the spin stop. And, of course, Judge CARTER said earlier, Mr. Speaker, that the spin stops at the Constitution; and he just commented a second ago, furthermore, the spin stops at the Supreme Court.

I think it's absolutely right, if Judge CARTER points out to our colleagues, the Constitution in the commerce clause says Federal Government can regulate commerce, but it doesn't say that the Federal Government can mandate commerce and that's exactly the point, Mr. Speaker, that Judge CARTER, Representative CARTER from Texas, is making.

He used some examples. I could throw out another and say, well, if the Federal Government can force, force people maybe against their will and their ability to pay, to have a health insurance policy, why couldn't they go on and say, well, every adult male and woman between the ages of 21 and 64 has to buy cowboy boots? And to take it a step forward say not just cowboy boots but cowboy boots that are made in the State of Texas.

Mr. CARTER. It's a good idea, but I don't think we can do it.

Mr. GINGREY of Georgia. Maybe that's what President Bush would have said since he is from the State of Texas.

But, Mr. Speaker, I think our colleagues get our point here. And I, quite honestly, when 20 States, the attorneys general of 20 States join in bringing a suit challenging the constitutionality of this provision that actually mandates commerce, and they represent, in the aggregate, those 20 States, what, about 40 percent of the population?

And then you have the State of Virginia, Attorney General Cuccinelli is filing his own suit on behalf of the people of the Commonwealth. In our great State of Georgia, Governor Perdue, Mr. Speaker, has asked our attorney general to join in this suit, to join Attorney General McCollum in the State of Florida and these other 19 States.

Our attorney general, our Democratic attorney general in the State of Georgia, Mr. Speaker has refused, even though the Georgia Constitution says if the Governor is requesting that the attorney general defend the State of Georgia, that the Constitution requires him to do that. But for whatever reason, I am not saying it's political, but our Democratic attorney general in the State of Georgia has declined to join in that suit.

I would commend Governor Perdue, and that there are great attorneys in the State of Georgia who have agreed to file suit on behalf of the State of Georgia and its 9.5 million residents, the largest State east of the Mississippi, fifth largest in population in the country. We are going to bring suit, and it's going to be done on a pro bono basis. These attorneys normally charged \$700 an hour for their services. They are highly skilled, very experienced attorneys, and they are going to do this because our attorney general refuses to do it, unfortunately.

But honestly, and I want to hear further, Mr. Speaker, the gentleman is an expert, Judge CARTER is an attorney and a judge for over 20 years, he is the expert. But I think, and I really want my colleagues to hear this, I think the Supreme Court could vote 9-0 in favor of these 20 suits that are bringing suit against the constitutionality of this provision, mandating commerce, forcing people against their will to engage in commerce, as Judge CARTER has said.

So I hope that it will be an expedited review, Judge, maybe I am not using the right terminology, and hopefully within a year, year and a half, that this thing will be settled.

Colleagues, what that will do is it will unravel ObamaCare. It will unravel ObamaCare because to try to simplify this, this thing would never have worked. Do you think, Mr. Speaker, that the health insurance plans, AHIP, these big insurance companies like Aetna, Blue Cross, Cigna, do you think they would have agreed to cover people with preexisting conditions at standard rates if they had not been given this deal?

They went over to the White House a year and a half ago, Mr. Speaker, along with the American Medical Association, and the American Association of Retired Persons and Big Pharma, and there was a deal for everybody, Mr. Speaker. That was a good deal for the health insurance industry because they were going to pick up all these additional people who were going to be forced to purchase health insurance, and not only health insurance, but as

Judge CARTER pointed out, Mr. Speaker, they were going to be forced and are going to be forced to purchase health insurance that has first dollar coverage.

Do you think there's any plans ultimately to expand health savings accounts and let young people who are healthy, as the judge pointed out, and taking care of themselves and exercising and doing all of the right things to buy a health insurance policy they can afford, one with a high deductible, but a low monthly premium, and it has catastrophic coverage, they are not going to be permitted to do that? They are going to have to get these first dollar plans by 2014, and they can't afford it.

I thank the gentleman, Mr. Speaker, for allowing me to share my thoughts. My colleagues, I think, know that I have practiced medicine for 31 years, and I know of what I speak in regard to the American people being opposed to having the Federal Government come in lock, stock and barrel and take over one-sixth of our economy to make decisions that should be made in the sanctity of the exam room between a doctor and a patient.

I look forward to the rest of your comments.

Mr. CARTER. Thank you. Just going over this, this is a welcome sign for all. It may not be all the States now because more have joined in. Let's just look real quickly: Washington, Colorado, Nevada, Texas, Idaho, North Dakota, Arizona, Louisiana, Nebraska, South Dakota, Utah, Michigan, Pennsylvania, Virginia, Indiana, South Carolina, Alabama, Georgia, Mississippi and Florida.

That's a pretty good gallery of the States, and it's not just one region. It's across the country, and it's because the American people are being affected across the country. Ultimately, the courage of these attorneys general will stand up for every American citizen on this issue, and I commend them, and I congratulate them, and I am looking forward to in some small way if I can work with them, because I think it's an important thing.

The gentleman mentioned expert. You know, we say in the legal position an expert is a guy from out of town with a briefcase. I have seen that in the courtroom a lot, and I would have to say I agree with that in some instances. No, we are all in some form experts on the Constitution because we can all stick one in our back pocket and carry it around and we can read it and we can learn what it says. In fact, that's kind of what's going on in the country right now. An awful lot of the people are getting themselves a Constitution and they are reading it. I said, wait a minute, this thing was to restrict government. This doesn't restrict government.

One of the arguments is being made, making the ninth and 10th amendment the commerce clause. The commerce clause says the U.S. Congress shall

have the power to regulate commerce with foreign nations and among the several States and with the Indian tribes. The ninth amendment says the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others of the rights retained by the people.

Remember, this Constitution starts off by saying, people have certain inalienable rights, rights that cannot be alienated. Granted by God, that's what the Constitution says by divine providence, and among those are life, liberty and the pursuit of happiness, which means there's more.

□ 2140

This Bill of Rights and the Constitution sets forth a lot of those rights, but they're not all the rights.

And remember, we go back to what were they starting to do? They were starting to get tyranny off our back; don't let the government impose its will upon us. That's what we started out with when the first Minuteman went to Bunker Hill and Breed's Hill to stand up against the Red Coats. It was because they felt like the government was imposing unfair will upon the individuals in the American colonies.

And then the 10th amendment goes on to say, "The powers not delegated to the United States"—that being the Federal Government—"by the Constitution nor prohibited to it by the States are reserved to the States respectively or to the people." So in other words, the rights that they don't deal with here belong to the States. And if the States are not going to be in charge of those rights, then back to the people. This is a hard concept because some people sitting at home and some people in this body are going to say, how do the people have rights that the government is not protecting? Well, they do. In fact, they took up arms once—and some would argue twice—in our Nation's history because of rights that people thought they had as individuals.

So this is part of this revolutionary republican society that we created. We created a republic and we were created out of a revolution. So we are fighting a basic argument, a basic constitutional argument that goes forward before the Supreme Court sometime hopefully in an expedited manner. And I agree with my friend, Mr. GINGREY, that expediting this is important for the American people.

I guess if there is ever anything written into a bill that turns out to be good news of this bill, it's that it does not get implemented until 2014, which means it kind of gets past a couple of election cycles where it might be an issue before it actually starts happening to us, which gives these Attorneys General the opportunity to carry this through the court system and hopefully to the Supreme Court so the Supreme Court can give us an opinion about this particular health care bill and whether or not we are going to ex-

pand the clause that says U.S. Congress can regulate commerce to the point where it can regulate individual activity of human beings to the point where it says you must buy something because it's for the good of you and the good of the Nation even if you don't want to buy it. That is where we are going to go and that is the question they are going to have to answer. It is going to be exciting to see what the conclusion is.

I have a tremendous amount of faith in the judicial system. And even though I have many times disagreed with the U.S. Supreme Court on issues, I have always—and still to this day by the oath I took, both as a judge and the oath we take as Members of Congress to preserve, protect, and defend the Constitution against all enemies foreign and domestic. Now, that oath says the ultimate sovereignty, we declare it to be the Constitution. I have always had confidence that our Supreme Court, even when I disagreed with them, over the long haul it would all be for the good of the Constitution. I look forward to that opinion that is going to come out of the United States Supreme Court.

Tonight I have to cut this a little bit short. We will be back talking about this on other days. So I thank my colleague for joining me, I thank my other colleagues for listening, and I yield back the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind all persons in the gallery that they are here as guests of the House and that any manifestation of approval or disapproval of proceedings or other audible conversation is in violation of the rules of the House.

MEMORIALIZING DOROTHY HEIGHT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2009, the gentlewoman from California (Ms. WATSON) is recognized for 60 minutes.

GENERAL LEAVE

Ms. WATSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and exclude extraneous materials on the subject of memorializing Dorothy Height.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. WATSON. Mr. Speaker, we come with heavy hearts today to memorialize a woman who made such a great impact on us who passed away early this morning.

Dorothy Height was a founding matriarch of the American civil rights movement whose crusade for racial justice and gender equality spanned more