

MEETING WITH THE PRESIDENT

Mr. McCONNELL. Mr. President, I remind our Republican colleagues that the President will be meeting with us at noon. We look forward to seeing him. He is, of course, always welcome here. I am sure we will have a lively discussion.

HEALTH CARE

Mr. McCONNELL. Mr. President, I wish to say a word about the administration's health care plan. Along with most Americans, the entire Republican conference opposed this legislation. We listened to the public and argued strenuously against its passage at every opportunity.

We also offered detailed reasons for our opposition, along with commonsense alternative reforms aimed at lowering the cost of health care without undermining the system we already have.

Since its passage, our arguments against the bill have been repeatedly vindicated, even as the administration's many promises about the bill have been called into question again and again. So Democrats may have passed this bill, but the debate is far from over. It is important that Americans know the ways in which the promises they heard aren't adding up.

The supporters of the bill said it would lower costs for families, taxpayers and small businesses and that the President would not support any plan that "adds one dime to the deficit."

As it turned out, Medicare's own experts say the bill will actually increase costs by more than \$300 billion.

The pricetag Democrats used to sell the bill is dramatically lower than the revised estimates that are now coming in. Sometime in the next several days, Democrats in Congress plan to add tens of billions of dollars more in health care spending on top of that, which, if they had been honest about it, would have been included in the original bill.

Needless to say, all this extra spending is money we don't have, and it goes straight to the deficit.

Take all this together, and it is no wonder that an overwhelming majority of Americans continue to oppose this new law.

Tomorrow, Senator BARRASSO will be on the floor offering what he calls a second opinion on the bill. This is an important effort that I think deserves and will continue to receive considerable attention. Dr. BARRASSO is holding the supporters of the bill accountable for the assurances they gave the American people, who deserve to know the real effects and the real impact of this bill.

Related to all this, of course, are the methods the administration and its allies in Congress used to pass the bill. The cornhusker kickback may be a household phrase, but it is just one of the questionable methods that were

used to force it through against the will of the public.

Another method was the stifling of critics, as was done by the Department of Health and Human Services.

I have spoken out repeatedly on the gag order HHS issued against private companies for doing nothing more than informing seniors about provisions of the bill that could affect their benefits.

Well, now you can add another layer of outrage to that unfortunate chapter in this debate because, just yesterday, I came across a recent flyer from the Department of Health and Human Services, which I am holding up, that does the very thing the administration didn't want private companies to do. They sent out a gag order against private companies saying you cannot express yourself about how this law would affect your beneficiaries. Now the government, at taxpayer's expense, is sending out—with our tax money—exactly the same thing to seniors that they would not let a private company do.

This flyer purports to inform seniors about what the health care bill would mean for them. Much of it directly contradicts what the administration's own experts have said about the law. This flyer—printed at taxpayers' expense and distributed to seniors—contradicts what the administration's own experts are saying about the health care bill. All this, as I said earlier, is bought and paid for by the American taxpayer.

This is a complete outrage. It is an absolute outrage. It is precisely the kind of thing that Americans are so angry about at the moment.

Here is the Federal Government telling a private business it can't communicate with its clients about important legislation and then doing the very same thing itself, paid for with our tax money.

The administration's own Actuary at the Centers for Medicare and Medicaid Services says seniors who use Medicare Advantage will lose benefits as a result of this bill. Yet the flyer they are putting out says absolutely nothing about that. Instead, it implies that nothing will change for seniors.

But perhaps most egregious is the claim that a bill which cuts Medicare by \$½ trillion will actually "preserve and strengthen" Medicare. What nonsense.

This is nothing short of government propaganda, paid for by the taxpayer. I am sure Dr. BARRASSO will have more to say about this in the weeks ahead.

I commend to my colleagues a brochure that was put out by the Centers for Medicare and Medicaid Services and the message therein by the Secretary of Health and Human Services, Kathleen Sebelius—"Medicare and the New Health Care Law—What it Means for You."

SUPPLEMENTAL APPROPRIATIONS

Mr. McCONNELL. Mr. President, yesterday, the Senate began consideration

of the supplemental spending bill to fund the surge of forces into Afghanistan and our ongoing efforts in Iraq.

President Karzai was recently here to talk about the situation in Afghanistan, and during that same week General McChrystal briefed the Armed Services Committee on the conduct of the overall campaign.

One message that came through from both visits is that the surge in Afghanistan is not yet complete and the counterinsurgency strategy General McChrystal has developed is still in its early stages. So it is impossible to overstate the importance of supporting our troops in the field.

In the coming year, the resolve of NATO forces in Afghanistan will be tested by the Taliban fighters. The Taliban leadership in Pakistan will be watching with interest to see if this Congress and our country stand firmly behind the counterinsurgency strategy and so will our Pakistani partners, elected governments in European capitals, and average citizens in Afghanistan.

Low-level Taliban fighters in Afghanistan will ultimately have to decide whether to side with a government that has yet to earn their trust or Taliban leaders. They will be watching our efforts as they weigh whether to side with the Taliban leaders or their current government in this fight. This is why we must keep up the pressure.

The stakes are as high as ever. We have seen that in recent weeks as the Pakistani Taliban has attempted to strike us here at home and as the Afghan Taliban has launched high visibility strikes at military installations in Kandahar and at Bagram. Afghan leaders who attend the coming peace talks will be waiting to see if the United States can be trusted to stay long enough to fulfill our promises of helping the security forces of Afghanistan become operationally effective.

American forces have brought great pressure on the Taliban in Afghanistan. That must continue if General McChrystal's strategy is to succeed. We must work together to help him ensure that the Taliban do not return to power in Afghanistan and that Afghanistan does not again become a sanctuary for terrorists.

In short, we must pass this bill with bipartisan support and resist the urge to slow it down or to use it as a mere vehicle for deficit spending on pet domestic projects that will only bog us down in a partisan fight.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2010

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 4899, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4899) making emergency supplemental appropriations for disaster relief and summer jobs for the fiscal year ending September 30, 2010, and for other purposes.

Pending:

Reid amendment No. 4174, to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

Sessions/McCaskill amendment No. 4173, to establish 3-year discretionary spending caps.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I have conferred with the distinguished chairman of the Appropriations Committee, Senator INOUE. There is no objection that I ask unanimous consent to continue for a few minutes as in morning business. I make such a request.

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

ENDING DISCRIMINATION

Mr. LEAHY. Mr. President, I support congressional action to move past the policies that discriminated on the basis of sexual orientation against men and women serving and wanting to serve in our Nation's military.

I commend Admiral Mullen, the Chairman of the Joint Chiefs of Staff, Defense Secretary Gates, and the President for their leadership on this important issue. America is defended by the finest military in the world. There should be no place in America, including in our military, for discrimination.

While the country and Congress work to move the country forward and open the doors of opportunity to all Americans, some still choose to sow division and partisan conflict. How ironic that the policy of nondiscrimination that Elena Kagan sought to encourage while serving as the Dean of Harvard Law School is poised to become the law of the land, while those who oppose her nomination continue to distort her lawful actions to ensure that the school followed its nondiscrimination policy.

I support the reversal of the don't ask, don't tell policy. I hope all Senators will.

Two weeks ago, President Obama nominated Elena Kagan to succeed Justice John Paul Stevens as Associate Justice of the Supreme Court of the United States. Much has been written and said about this nomination during the last 2 weeks and more will be said over the next month, as we prepare for the Judiciary Committee's hearing, which will begin on June 28. So far, there has been far too much talk about the process and too much partisanship surrounding this important matter. Among the most serious constitutional duties entrusted to the Senate is the

confirmation of Supreme Court Justices. So let us refocus on the qualifications of this extraordinary nominee, remembering that a Supreme Court Justice is there not to serve a Republican or a Democratic administration but all 300 million Americans.

When the President announced his choice back on May 10, he talked about Solicitor General Kagan's legal mind, her intellect, her record of achievement, her temperament, her fair-mindedness. No one can question the intelligence or the achievements of this woman. She is at the top of the legal profession. She is no stranger to breaking glass ceilings. She was the first woman to be dean of the prestigious Harvard Law School. It was from Harvard Law School that she earned her law degree magna cum laude. Previously, she earned a degree from Oxford University and graduated summa cum laude from Princeton University. She clerked for two leading judicial figures—Judge Abner Mikva on the Court of Appeals for the District of Columbia Circuit and then on the Supreme Court for one of the most extraordinary lawyers and judges in American history, Justice Thurgood Marshall.

As an advocate, Thurgood Marshall helped change America for the better by bringing cases that challenged racial discrimination. He won an extraordinary 29 of the 32 cases he argued before the Court, one of the most outstanding records of advocacy before the Court, including the landmark case of *Brown v. Board of Education* which helped bring an end to racial segregation in education in America, a blot on our country that was finally removed by that case.

Despite his obvious legal qualifications, when Thurgood Marshall was nominated to the Second Circuit Court of Appeals by President Kennedy in 1961, his nomination was stalled by opponents in the Senate before he was eventually confirmed by a bipartisan vote of 54 to 16. He gave up that lifetime appointment when called upon by President Johnson to serve as Solicitor General of the United States, the top legal advocate for the United States. Now, 40 years later, it is Elena Kagan who is serving as the Solicitor General of the United States, the first woman in America's history to serve as Solicitor General.

Two score and 3 years ago, President Johnson nominated Thurgood Marshall to be the first African American to serve on the U.S. Supreme Court. President Johnson said that it was "the right thing to do, the right time to do it, the right man and the right place." President Johnson was right, and that nomination helped move the country forward. The nomination was confirmed by a bipartisan Senate vote of 69–11.

The American people have now elected our first African-American President, a leader who is committed to the Constitution and rule of law. With his

first selection to the Supreme Court, he named Justice Sonia Sotomayor, the first Hispanic to serve on the high Court. She was confirmed last year and has been a welcome addition to the Supreme Court. Now he has nominated only the fourth woman in the Court's history, a nominee who when confirmed will bring the Court to a new high water mark of three women serving as Justices. Yet Senate Republicans seem to want to shift the standard from when the Senate was considering President Bush's nominees to the Supreme Court—John Roberts and Samuel Alito—and to apply a new standard to President Obama's nomination of Elena Kagan.

I have long urged Presidents from both political parties to look outside what I have called the judicial monastery and not to feel restricted to considering only Federal appellate judges as potential Supreme Court nominees. When confirmed, Elena Kagan will be the only member of the Supreme Court who did not serve as a Federal appeals court judge. When confirmed, she will be the first nonsitting Federal judge to be confirmed to the Supreme Court in almost 30 years, since the appointment of Justice Sandra Day O'Connor.

When the President introduced Elena Kagan to the country, I was interested in him talking about learning from Justice Marshall that "behind law, there are stories—stories of people's lives as shaped by the law, stories of people's lives as might be changed by the law." The President said that her understanding of law is not merely intellectual or ideological but how it affects the lives of people.

We heard Solicitor General Kagan earlier this month talk about the importance of upholding the rule of law and enabling all Americans to get a fair hearing. She said, "law matters; because it keeps us safe, because it protects our most fundamental . . . freedoms; and because it is the foundation of our democracy." Like her, I believe law matters and matters in people's lives. The Constitution is our protection.

Since her nomination, Solicitor General Kagan has met with dozens of Senators. I understand she will conclude her meetings with the Senators serving on the Judiciary Committee in the coming weeks. We have each had a chance to meet with her, speak with her, ask her questions, and learn more about her. At our Judiciary Committee hearing next month, the American people will have the chance to see her, hear her, and get to know her.

Fourteen months ago, the Senate considered Elena Kagan's impressive legal credentials when we confirmed her in a bipartisan vote to be the Solicitor General of the United States, the Nation's top lawyer. The person filling that vital post is informally referred to as the "tenth Justice," because the Solicitor General works so closely on significant cases before the Supreme Court. Solicitor General Kagan has