

The legislative clerk proceeded to call the roll.

Mr. BARRASSO. I ask unanimous consent that the order for the quorum call be rescinded.

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

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

Mr. BARRASSO. I ask unanimous consent to speak for up to 30 minutes in a colloquy with a number of colleagues.

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

APPOINTMENT OF DR. DONALD BERWICK

Mr. BARRASSO. Madam President, I rise to discuss a recess appointment made last week when many of us were traveling to visit with constituents to talk about the issues of the day.

During that time, I was in Wyoming, and one of the main issues brought up at senior centers was the appointment by the President of Dr. Donald Berwick to be the head of Medicare and Medicaid. I heard the concerns of these folks because of statements Dr. Berwick had made about the British health care system and his love of the National Health Service in England. They are concerned as to how this gentleman, who has taken positions and made a number of statements, would run Medicare and Medicaid. Specifically, they had concerns because they had heard his statement:

The decision is not whether or not we will ration. The decision is whether we will ration with our eyes open.

Seniors around the State were concerned about what this means. Then to hear that the President made a decision to do a recess appointment of this very individual, without hearings in the Congress, without an opportunity for the American people to hear specifically his response to questions we might have—is this what the American people want? Absolutely not. We have a President who campaigned on a pledge of accountability and transparency. To me, this makes a mockery of that pledge because this nominee will not have to answer questions about statements he has made.

I see my colleague from Arizona, a State where people on Medicare are concerned, where we have many seniors, a State with a Medicaid popu-

lation that will be impacted. Yet we now have a director of Medicaid and Medicare, finally named by the President after a full year of debate on a health care law that cut \$500 billion from seniors on Medicare and crammed 16 million more Americans onto Medicaid, a program that is currently very broken. I say to my colleague from Arizona, my goodness, the impact on the folks in Arizona is astonishing.

There was an article today in one of the papers that talks about a Medicaid stalemate. They talk about his home State of Arizona. They say Arizona has had to cut about a dozen benefits from its Medicaid Program, including hearing aids, podiatrist services, capped physical therapy visits. Yet there was nobody in charge of Medicaid when the President and the Democrats in this body said: Hey, don't worry. We are going the cram another 16 million more Americans onto Medicaid—a system we know is broken.

So I turn to my colleague from Arizona and ask him his thoughts on this recess appointment at a time when seniors and folks around the country are concerned about the debt, the deficit, the economy, and now we are seeing the President making a mockery of his previous comments about accountability and transparency.

Mr. MCCAIN. Could I say to my friend, I think this issue is an alarming and disturbing one—perhaps one of the most disturbing, for two reasons: One is that this nomination had not even gone through the earliest stages of scrutiny by the relevant committee, not to mention the entire Senate; and the other, of course, is the individual himself who was being nominated, who could only be viewed as extreme, especially concerning many of his comments. One of his greatest rhetorical hits is: “any health-care funding plan that is just, equitable, civilized and humane must—must—redistribute wealth from the richer among us to the poorer and less fortunate.” That in itself is a remarkable statement.

But I wish to, for a second, with my friend, Dr. BARRASSO, go back to this process. The fact is, our colleagues on the other side of the aisle blocked for over 2 years the nomination for this position by President Bush, and this nomination was barely 3 months old. He had not even filled out the questionnaire, much less attend a hearing. So the rationale used by the administration was: Well, the Republicans are going to block it. Well, we may have. And given the comments and record of Sir Donald—he is a knight, I understand, knighted by Queen Elizabeth—well, the comments by Sir Donald certainly do give one extreme pause. But shouldn't we at least go through the process of the hearing?

I have been around here a long time, and I have not paid attention to every nominee and the process they have been through, but I cannot remember a time where blocking the nomination took place—or announcement of pre-

venting the nomination from moving forward was done before a hearing took place, or even the questionnaire.

In fact, I was very interested to see the comment of the chairman of the Finance Committee, under whose supervision in his committee this nomination would go through. I quote Senator BAUCUS:

I'm troubled that, rather than going through the standard nomination process, Dr. Berwick was recess appointed. Senate confirmation of presidential appointees is an essential process prescribed by the Constitution that serves as a check on executive power and protects Montanans and all Americans by ensuring that crucial questions are asked of the nominee—and answered.

So not a single question was asked of the nominee, much less answered. And, of course, I understand. Having been a committee chairman myself, I will take great umbrage of my party, the President, or the other party that the process was completely bypassed. Because the Senate has the responsibility of advice and consent. And over time, I must admit that both Republican and Democrat administrations have abused the recess appointment process. Yes, they have abused it. But I must say, this takes it to a new high or low depending on which way you view it.

We have now seen in this administration the appointment of various “czars,” people given responsibilities over vast areas of government as “czars.” They have got more czars than the Romanoffs. So this is another step, in my view, of incursion and encroachment by the executive branch on the legislative branch, a coequal branch of government. So that in itself is extremely disturbing.

Are we going to have nominations made—an announcement of those nominations, and then automatically are we going to have “recess” appointments made? What was the hurry? There is going to be another recess in August. There is going to be another recess in October, unless we go out for elections. But yet in their zeal and haste, they had to do it over the Fourth of July recess.

I tell you, my friends, this is more than just one individual. This is a gradual and steady erosion of the responsibilities of the Senate of the United States called advice and consent, which can set dangerous precedence for the future. I say to this administration, and my friends on the other side of the aisle—and I appreciate the comments of the chairman of the Finance Committee—if we allow this to go on, it will hurt the Senate as an institution, not just Republicans, not just Democrats, but it will hurt this institution, if we allow, unresponded to, a situation where a nominee—his name comes over, and not even a hearing, not even a question is asked—and immediately that nominee is recess appointed, which means they are in a position of enormous power and authority for a long period of time. And this appointment—this appointment—has enormous consequences in light of the passage of the most sweeping overhaul of

the health care system in America, having just taken place over our obviously strenuous objections.

But it happened. Now the individual in charge, the individual who will bear great responsibilities, has not answered a single question posed by Members of this body on either side.

I say to my colleagues, this is a dangerous precedent and one that should not go unresponded to by either Democrat or Republican because of our responsibilities as a coequal branch of government. I see my colleague, the Republican leader.

Mr. MCCONNELL. I say to my colleague from Arizona, I just came on to the floor and am not quite certain what happened earlier in this colloquy, but there is no doubt about it that they did not want Dr. Berwick's name to surface during the health care debate. They did not want any questions asked of him in public. We have had recess appointments, of course, by Presidents of both parties. Typically, they have gone through a hearing, a committee vote, and end up out here on the calendar so that at least there was some exposure to the nominee's views.

What we do know about this nominee is what he has said in the past about the British health care system. It is stunning that anybody in this country could look at the national health service in England and decide they were in love with it. So I would say to my friend from Arizona, and my friends from Wyoming and South Dakota, there is no question what they were up to here. They wanted to sneak this guy through with a minimum amount of exposure.

Mr. MCCAIN. Could I mention to my friend that even one of our not so strong allies from the Washington Post, Ruth Marcus, wrote a column saying:

There are legitimate explanations for Berwick's more incendiary comments on health care. It's too bad he didn't get to offer them. A cynic—who, me?—might think that the administration simply preferred not to suffer the political downside of a public airing.

A cynic might wonder, with Arkansas Democrat Blanche Lincoln facing a tough reelection fight, whether Berwick could even get through committee on a party-line vote. A cynic might think that the last thing Senate Majority Leader Harry Reid wanted before the election was a floor fight about rationing health care.

A cynic might look at the White House explanation—that it was urgent for CMS, without a confirmed administrator since 2006, to have a leader—and ask: Then why did you dither for 15 months before nominating someone?

In announcing the appointment, the president complained that “many in Congress have decided to delay critical nominations for political purposes.” True, but where's the evidence of delay in Berwick's case? You can't fairly accuse the other side of political gamesmanship when you short-circuit the process and storm off the court before the first set.

“To some degree, he's damaged goods,” then-Sen. Barack Obama said in 2005 about John Bolton's recess appointment as United Nations ambassador.

Would the president say the same about Berwick?

An excellent column.

Mr. MCCONNELL. And that was Ruth Marcus.

Mr. MCCAIN. I think it puts it pretty well. But none of us, of course, being cynics, would accept such an explanation by a columnist from the Washington Post.

I see my colleague from South Dakota.

Mr. THUNE. I would say to my friend from Arizona and to the leader that a cynic might also raise the issue of why it took the President 454 days to nominate Donald Berwick and then have a lot of his surrogates go on in front of the media and say: We had to do this because we needed to get this position filled. Madam President, 454 days—if this position was so critical and so important to this country, you would think they would have moved in a more expeditious fashion to get a nominee out there. They did not even have a hearing in front of the committee.

They could have had a hearing. They could have had a vote at the committee level. They could have brought him to the floor. They did not do any of those things that would be called for in the regular order because, as I think the Senator from Kentucky has pointed out, they did not want to take a tough political vote.

When you look at this man's record and the things he has said about the British health care system and some of the other comments he has made—I want to point out something here too which I thought was sort of interesting because he is going to be called upon to implement a 2,700-page bill, which, when the regulations are written, is going to be thousands and thousands of pages, not to mention the fact that as we debated this on the floor of the Senate, it ended up being about \$1 trillion, and when fully implemented \$2.5 trillion. So he has trillions of dollars under his jurisdiction. He has a 2,700-page bill that he is going to implement. And he came out and said:

I don't feel like a leader, so it's very hard for me to project myself into that situation. But inattention to detail is my biggest defect. I'm always leaning forward into something new. I can create a mess. Luckily, I have people who are willing to create the detail around the idea or, if they're really smart, know which ideas to ignore.

He is basically saying he is not a detail guy, and yet this massive new health care program, which is literally going to be thousands of pages, including regulations—and 2,700 pages, as I mentioned, in terms of the legislation itself—he will be called upon to implement it. And he has a vision clearly that the model he supports is the British health care system, the national health care system, which, as we all know, countries in Europe are moving away from. Why we would be moving in that direction, and why they would appoint somebody like this to this important position defies explanation.

But, more importantly, I think, as well, is they could have done this in the regular way. He could have come before the Senate and answered questions as any other nominee would. He should have had a hearing where he was able to respond to some of these statements he has made in the past. Yet they chose to do it in this way, with a recess appointment, notwithstanding the fact that it was 454 days before they put his name forward for nomination, and since that time 79 days, and they are blaming the Congress, and they are blaming the Republicans specifically for not moving this nomination, when, in fact, it was the President and his administration who waited that long to put somebody in this position.

Mr. MCCAIN. Could I ask the Republican leader a question. He has been around here a fair amount of time, as I have. I ask the Republican leader, has he ever heard of or recalled of a nominee who was recess appointed without even the questionnaire from the relevant committee of oversight being responded to or a hearing before that committee? For the life of me, I cannot recall that.

Mr. MCCONNELL. I say to my friend from Arizona, I do not know the answer to that. But we do know it was a curious, maybe not totally unprecedented but certainly unusual situation where a nominee is subjected to so little scrutiny and oversight—no questions, no opportunity to testify. This is a truly unusual situation. I think we know the answer as to why. This guy is in favor of rationing health care—openly, unabashedly, an advocate of rationing health care. I do not think they wanted to have him have to answer the questions. He may not have been very good at details, I say to my friend from South Dakota, but he got the big picture. And the big picture in his mind is:

The decision is not whether or not we will ration care—the decision is whether we will ration with our eyes [wide] open.

That is what he intends to do.

Mr. MCCAIN. So a nominee whose clear philosophy of record indicates redistribution of wealth, as he describes it, and a use of health care in a way that includes greater and greater “leveling of the small distribution of income in America”—does that give us some indication of the real intentions of the administration when they proposed health care reform in this package, despite the statements made by the President that if you like the health insurance policy you have, you can keep it; there will be no tax increases for people below \$250,000, et cetera? Does this appointment of an individual with a clear-cut philosophy that this is a way to redistribute wealth in America indicate that maybe the real—again, not being a cynic, but would give us some idea of a real intent of this “health care reform” we resisted so strenuously for more than a year?

Mr. McCONNELL. I think my friend from Arizona has it exactly right. Every single Member of the Democratic Party in the Senate voted for a bill that is going to impose \$500 billion of Medicare cuts over the next 10 years.

We have a physician, fortunately, in the Senate: Dr. BARRASSO. He intends to reach that target, does he not, I would inquire of my friend from Wyoming, by rationing health care?

Mr. BARRASSO. Madam President, I believe the President of the United States, I say to my colleague and friend, now has what he wants: his health care rationing czar—not someone approved by the Senate but someone he has appointed and put into place without an open hearing.

It is so interesting, as my colleagues from Arizona and South Dakota talk about, that the failings of the British health care system—a system that Dr. Berwick says, “I am romantic about; I love it; it is a national treasure, a global treasure,” but then the headline today is: “U.K. Will Revamp Its Health Service.” It says: Health care experts called the plan one of the biggest shakeups in the national health service’s 62-year history. Its new coalition government in Britain, grappling with weak public finances and rising health care costs, announced an overhaul of the state-funded health system that it said would put more power in the hands of the doctors and involves cutting huge swaths of bureaucracy.

This is at a time when we have just in this country passed not what we voted for but what the Democrats and the President voted for: a bill that increases the bureaucracy, including \$10 billion for Internal Revenue Service agents and higher and higher numbers of government workers and bureaucrats taking power away from the doctors, away from the patients. Now it is government-centered health care at a time when Britain is moving away from it, and the person the President of the United States has put in as his health care rationing czar is someone who calls that approach a national treasure; cutting \$500 billion from our seniors depending on that for Medicare, not to save Medicare but to start a whole new government program.

Britain is trying to revamp because they know that someone with cancer in the United States has a much better chance of survival than somebody in Britain. It is not because our doctors are better in the United States—and I have practiced medicine in Wyoming for 25 years—it is because people get care in the United States that is delayed and therefore denied in Britain. But Dr. Berwick is romantic. He has fallen in love with that national health service, a service that is not good for patients, and it is not good for providers.

I see my friend from South Dakota, another rural community and State. I am sure he is seeing and hearing the same things from his seniors there, their concerns about what is going to

happen to the cost of their care, the quality of their care, and the availability of the care, especially with Dr. Berwick now in charge.

Mr. THUNE. The Senator from Wyoming knows full well how difficult it is to deliver health care in rural areas. Being a physician himself, he knows the challenges we face.

It seems to me that notwithstanding the comments to the contrary, we have to look at what people do. In this case, what the administration has done is appointed somebody to run this massive new health care program who clearly is on the record by his previous statements in favor of redistribution of wealth, in favor of rationing of health care, in favor of government-run health care. He is romantic about the British national health system, which, as the Senator from Wyoming mentioned, is having all kinds of complications and problems, including runaway costs, and now they are trying to figure out how to move away from it. The problem they have is that 1.6 million people are employed by the British national health system, a huge employer in their country, so the economic impact, the political impact of making changes in that system is very difficult. That being said, it doesn’t seem as though they have any choice because they are facing such difficult fiscal circumstances in their country and they are seeing these runaway health care costs contributing in a very significant way to that.

So it seems to me, at least, that what we have done here with this massive health care bill passing in the U.S. Congress—\$2.5 trillion when it is fully implemented over a 10-year period—what we are already seeing now is the Actuary at CMS coming out and saying it is going to bend the cost curve up and it is going to cost considerably more above and beyond the normal year-over-year inflationary increases in health care Americans have already been seeing. Then we also have the CBO now coming out and saying it is not going to achieve the deficit savings that were advertised here on the floor when we had the debate. There is all this information coming out which validates the argument we were making at the time, and that is that we don’t want to move toward the government-run health care system that rations care. Then they put somebody in charge who believes in redistribution of wealth, rationing of health care, government-run health care—all things we argue this would lead us toward. Clearly, the administration really shows their hand when they appoint someone such as this to run this important, comprehensive, wide-reaching, and expensive bureaucratic program that very much will resemble, in terms of the model, what they are doing in Britain, which Britain is moving away from.

Mr. MCCAIN. Madam President, I ask unanimous consent to have printed in the RECORD the Wall Street Journal

editorial of July 12, 2010, entitled “Who Pays for ObamaCare? What Donald Berwick and Joe the Plumber both understand.”

I have some relationship to Joe the Plumber, not to Donald Berwick.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Editorial
July 12, 2010]

WHO PAYS FOR OBAMACARE?

WHAT DONALD BERWICK AND JOE THE PLUMBER
BOTH UNDERSTAND

Among Donald Berwick’s greatest rhetorical hits is this one: “any health-care funding plan that is just, equitable, civilized and humane must—must—redistribute wealth from the richer among us to the poorer and less fortunate.” Count that as one more reason that President Obama made Dr. Berwick a recess appointee to run Medicare and Medicaid rather than have this philosophy debated in the Senate.

We are also learning that “spreading the wealth,” as Mr. Obama famously told Joe the Plumber in 2008, is the silent intellectual and political foundation of ObamaCare. We say silent because Democrats never admitted this while the bill was moving through Congress.

But only days after the bill passed, Senate Finance Chairman Max Baucus exulted that it would result in “a leveling” of the “maldistribution of income in America,” adding that “The wealthy are getting way, way too wealthy, and the middle-income class is left behind.” David Leonhardt of the New York Times, who channels White House budget director Peter Orszag, also cheered after the bill passed that ObamaCare is “the federal government’s biggest attack on economic inequality” in generations.

An April analysis by Patrick Fleenor and Gerald Prante of the Tax Foundation reveals how right they are. ObamaCare’s new “health-care funding plan” will shift some \$104 billion in 2016 to Americans in the bottom half of the income distribution from those in the top half. The wealth transfer will be even larger in future years. While every income group sees a direct or indirect tax increase, everyone below the 50th income percentile comes out a net beneficiary.

At least at the start, Americans in the 50th through 80th income percentiles—or those earning between \$99,000 to \$158,000—are nearly beneficiaries too, if not for the taxes on insurers, drug makers and other businesses that will be passed on to everyone as higher health costs. This group will eventually get soaked even more—probably through a value-added tax—once ObamaCare’s costs explode. But at the beginning the biggest losers are the upper middle class, especially the top 10% of income earners, mainly because a 3.8% Medicare “payroll” tax surcharge will now apply to investment income. ObamaCare, in short, is almost certainly the largest wealth transfer in American history.

Distributional analyses like the Tax Foundation’s are usually staples in any Beltway policy debate, especially when Republicans want to cut taxes. Yet aside from this or that provision, none of the outfits that usually report for this duty—the Tax Policy Center of the Brookings Institution and Urban Institute, the Center for Budget and Policy Priorities—have attempted to estimate the full incidence of ObamaCare’s taxes and subsidies.

In part this may be because ObamaCare is such a complex rewrite of health, tax, welfare and labor laws. But it’s also embarrassing to liberals that much of ObamaCare’s redistribution will merely move income to

the lower middle class from the upper middle class, and the President habitually promises that people earning under \$200,000 will be exempt from his tax increases. We now know they won't be.

With his vast new powers over what government spends, Dr. Berwick will be well situated to equalize outcomes even more, and he certainly seems inclined to do so. The most charitable reading of his redistribution remarks, delivered in a 2008 London speech, is that any health insurance system will involve some degree of redistribution to the "less fortunate," that is, to the sick from the healthy.

Yet Dr. Berwick made those comments in the context of a larger, and bitter, indictment of the U.S. health system, even though the huge public programs he will run already account for about half of all national health spending. From his point of view this isn't enough. And his main stance was that individual clinical choices must be subordinated to government central planning to serve his view of social justice and health care guaranteed by the state.

The great irony is that this sort of enforced egalitarianism imposes higher taxes and other policies that reduce the total stock of wealth and leave less for Dr. Berwick to redistribute. Economic growth has been by far the most important factor in improving health and longevity, especially for those whom Dr. Berwick calls "the poorer and less fortunate."

Americans have learned the hard way over the past two years that this Administration believes in wealth redistribution first, economic growth second. Or as Dr. Berwick also put it in his wealth-redistribution speech, it is crucial not to have to rely on "the darkness of private enterprise."

Mr. MCCAIN. Madam President, I will quote the important part of the Wall Street Journal editorial, speaking of Dr. Berwick, Sir Donald:

With his vast new powers over what government spends, Dr. Berwick will be well situated to equalize outcomes even more, and he certainly seems inclined to do so. The most charitable reading of his redistribution remarks, delivered in a 2008 London speech, is that any health insurance system will involve some degree of redistribution to the "less fortunate," that is, to the sick from the healthy.

Yet Dr. Berwick made those comments in the context of a larger, and bitter, indictment of the U.S. health system, even though the huge public programs he will run already account for about half of all national health spending. From his point of view this isn't enough. His main stance was that individual clinical choices must be subordinated to government central planning to serve his view of social justice and health care guaranteed by the state.

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Americans have learned the hard way over the past two years that this administration believes in wealth redistribution first, economic growth second. Or as Dr. Berwick also put it in his wealth-redistribution speech, it is crucial not to have to rely on "the darkness of private enterprise."

That is an individual who is now going to oversee over half the health care provided in America who believes

that "the darkness of private enterprise" should not be relied on.

So I wish to say to my friends again, there are two issues here of great concern: the individual himself, his record, and what he clearly intends for the finest health care system in America—not on restraining costs but obviously a redistribution of wealth; second, this entire process of an individual not even filling out a questionnaire—a nominee—or any semblance of a hearing before the relevant committee before a "recess" appointment is made. This is an erosion of the constitutional responsibilities of advice and consent of the Senate.

Mr. THUNE. Madam President, if the Senator from Arizona will yield, just to put a final point on that, again, 454 days before the administration put forward this nominee, there have been 79 days since, and they are blaming Republicans for holding up this nominee—again, notwithstanding the fact that it was 454 days before they ever put it forward. If we don't have a hearing and he doesn't have to come in and answer questions about these at least what I would characterize as outlandish statements, again, it is an abrogation of the responsibility the administration has of working with the Senate, the Senate's power of advice and consent, to at least have a hearing, to at least have a vote, to at least have some public discussion about this gentleman's qualifications and his attributes with regard to this important position to which they are going to appoint him.

I wish to point out as well that there is one other example of this. The TSA Administrator, which is another very important job, by the time they actually got somebody submitted who could be acted upon here in the Senate, 482 days had lapsed. It was 521 days when the new TSA Administrator was finally approved, but we went 240 days when the post was vacant, from the time the post was vacated in January of 2009 until they appointed their first nominee, who then had to withdraw because of problems. Then they appointed somebody else who withdrew because of problems. They finally submitted somebody who was actually approved, but it took 521 days. That is not us. That is not the Republicans in the Senate holding things up, nor is it the case with Berwick's nomination where 454 days lapsed before the administration put his name forward. Then they just quickly, without giving us an opportunity—the Senate an opportunity—to do our job recess-appointed him to a position where he is going to be responsible for thousands of employees, obviously billions and trillions of dollars when it comes to the health care delivery in this country, and that is very unfortunate.

So, as the Senator from Arizona has pointed out, it is partly about this gentleman and what he stands for and what he intends to do with this position, but it is also the process by which he was actually put into this position

and how it completely short-circuited and bypassed what is regular order and what should be under our Constitution the responsibility of the Senate to provide advice and consent.

Mr. BARRASSO. Madam President, if I could just ask my colleague, talking about the Constitution and how we as Americans see ourselves, Senator MCCAIN just quoted a comment made by Dr. Berwick about the darkness of private enterprise. Dr. Berwick coauthored a book called "New Rules." In it, he argues that one of the primary functions of health regulation is to constrain decentralized, individual decisionmaking—constrain individual decisionmaking—and to weigh public welfare against the choices of private consumers. I mean, could anything fly further in the face of what Americans believe? The decisions, the choices of private consumers—that is how we make decisions in America. That is what I recommend for patients: Make your individual choice. What is best for you? How to help keep down the cost of your care; prevention, coordinating care; working and making smart choices for you as an individual. Who knows better? Who knows better how to spend your money? You do. Who knows better how to make choices for your life? You do.

That is not what Dr. Berwick is saying in this book, "New Rules." It is to weigh public welfare against the choices of private consumers.

So I inquire of my colleague from South Dakota, what would people from South Dakota think about that? This is somebody who is saying: Government knows better than you do. People of Wyoming have never felt that way, and I would imagine the people from South Dakota have never felt that way either.

Mr. THUNE. I say to my neighbor from Wyoming, he understands his constituents very well, and we share a border, but we also share a lot of other things, including a common set of values and a sense of individual responsibility and belief in freedom.

I think what this gentleman represents in terms of his view is completely contradictory to what the majority of my constituents and I am sure the majority of the constituents of the Senator from Wyoming would say with regard to how you ought to approach issues. The American individual, the American consumer is in a much better position to make decisions about their own health care than some government bureaucracy here in Washington, DC.

Essentially what Mr. Berwick has concluded over time—and he has had a long career analyzing and studying many of these issues—is that a government-run system where some government bureaucrat is in a position of making these decisions that are important to an individual—in this case, his health care or her health care—that is clearly a model he endorses and supports.

It is very contradictory, I would say, to what I think is the view of a majority of Americans. Frankly, one of the reasons I think many of us opposed the health care bill when it was under consideration in the Senate—and the Senator from Wyoming made some excellent comments during the course of that debate about his experience with health care as a practicing physician—is that clearly the American model is one that is very different from the European model.

What we have with Mr. Berwick is somebody who wants to remake the American health care system in the image of the model that we see in places such as Europe. His example of the British health care system, about which he is romantic, is a good example of how he intends to implement the health care bill passed in the Senate.

We have argued all along that the intention of those behind it is to move us in the direction of a more single-payer, European-type system as opposed to what we have experienced in this country and have enjoyed for such a long time, and that is one that has its basis at least in the market where we have individuals who are in charge of making many of the decisions, as opposed to some government bureaucrat.

This is very unfortunate in terms of the fact that this was an appointment that was made in the recess without the normal process being adhered to, with this gentleman coming in front of the Senate to answer questions and actually having a vote in the Senate.

For our colleagues on the other side to argue that the reason they had to do this was because Republicans were slowing or somehow delaying this process is completely inconsistent with any of the facts. As I said before, 454 days before the President put his nomination forward. Certainly, it is not the Republicans' fault they did not have a nominee up here. Then the fact that they did not have a hearing and there has not been a vote in the committee and now not a vote on the floor of the Senate is unfortunate, given the consequences and the impact the person who occupies this position is going to have with regard to delivery of this new health care reform legislation.

Mr. BARRASSO. It was interesting, on this floor someone on the other side of the aisle stood and said: If you are against Dr. Berwick, then whose side are you on? As I see my colleague from South Dakota, I can answer that question, and he can answer that question. If you are against Dr. Berwick, then whose side are you on? I am on the side of the American people—the American people who are concerned about \$500 billion in cuts to their Medicare, not to help Medicare, not to strengthen Medicare, but to start a whole new government program.

I am on the side of the people who believe we should not redistribute wealth in this country. I am on the side of my patients and friends in Wyoming who do not want the rationing of care. I am

on the side of my friends and patients in Wyoming who do not want government-run health care. But that is what we have now.

We have a President-appointed czar, essentially—a czar—to ration health care. That is not what the American people want. It may be what the Democrats in Congress want. It may be what the President of the United States wants. I view this as an arrogant use of Presidential power at a time when I think the American people were intentionally misled all during the fall because the President refused to appoint somebody, would not name anybody to be in charge of Medicare and Medicaid when the whole debate was going on. Only after the bill was signed into law—only then—would he announce to the country his choice was somebody way outside the mainstream of how we in America deliver health care, want our health care, how we care as patients, how we care as physicians—way out of that mainstream, someone whose approach is a very different one, who loves a system where we know people with diseases are denied care, where care is delayed, and where today the whole country is saying: I think we got it wrong. We need to relook at this. They see what is happening, and I think the American people will know what will happen to us as a nation if we go down the path of a nationalized health system where we redistribute wealth, ration care, and government runs the health care system of our Nation.

It is the wrong decision by the President. It is the wrong direction to go. The American people know it, and they do not like it.

Once again, the American people are not going to have their voices heard because the American people are going to be denied an opportunity to voice their opposition to this nominee to their elected representatives because the President decided he knew better than this Congress and made a decision to appoint someone at a time when the American people wanted their voices heard.

Madam President, I yield the floor, and I 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. KAUFMAN. Madam 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.

TRIBUTE TO DR. EDDIE BERNARD

Mr. KAUFMAN. Madam President, I rise once again to recognize one of our Nation's great Federal employees. Here are all the employees we have recognized to date.

Madam President, we in Washington are in the midst of a summer heat wave. I know it is the same for millions

of Americans across the country. This comes on the heels of a harsh winter where the Capital City endured heavy snowfall that shut down businesses and even certain government offices. The powerful forces of nature continue to challenge us.

Many Americans only notice weather in its extremes. The hard-working men and women of the National Oceanic and Atmospheric Administration, or NOAA, spend their careers making it easier for us to address nature's challenges. This year is NOAA's 40th anniversary. It was created in 1970 from three former agencies, and since that time NOAA employees have been at the forefront of weather prediction, oceanography, and fishery management.

Whenever anyone turns on the television and sees an alert from the National Weather Service, that is NOAA at work. If you go to the Pacific coast and enjoy the beaches, you can feel safe knowing that NOAA's tsunami warning system stands at the ready. NOAA personnel are also leading the way to ensure the long-term sustainability of our coastal fisheries so those who make their living from the sea can continue to do so for generations to come.

The great Federal employee I am recognizing today won the 2008 Service to America Medal for Homeland Security for his work at NOAA helping to detect and warn against destructive tsunamis. Dr. Eddie Bernard has served as Director of NOAA's Pacific Marine Environmental Laboratory in Seattle, WA, since 1982. One of the leading experts on tsunamis, he has published over 80 scientific articles and edited books on the phenomenon.

For 3 years Eddie directed the National Tsunami Warning Center in Hawaii, and he was the founding chairman of the National Tsunami Hazard Mitigation Steering Committee, a joint Federal-State effort.

In addition to his work on tsunamis, as Director of the Pacific Marine Environmental Laboratory Eddie oversees a number of important oceanographic research programs such as El Nino forecasts and studies of underwater volcanoes.

Eddie received his bachelor's degree in physics from Lamar University, and he holds master's and doctoral degrees in physical oceanography from Texas A&M.

In order to protect our coastlines against damage from Pacific tsunamis such as the one that devastated the coasts of South Asia in 2004, Eddie led the development of the innovative DART system. As a tsunami wave moves under the ocean, DART—which stands for deep ocean assessment of tsunamis—uses buoys to report data back to the Tsunami Warning Centers.

It took years to perfect, and Eddie and his team had hoped to get close to a 60-percent accuracy rate in predicting the scope and intensity of incoming tsunamis. As it turns out, they