28 African American AmLaw partners and Fortune 500 general counsels: Benjamin F. Wilson, Managing Principal, Beveridge & Diamond, P.C.; John E. Page, Vice President, General Counsel and Secretary, Golden State Foods Corporation; Frederick R. Nance, Partner, Squire Patton Boggs LLP; Kevin J. Armstrong, General Counsel, DST Brokerage Solutions LLC; Anthony T. Pierce, D.C. Managing Partner, Akin Gump Stauss Hauer & Feld LLP; April Miller Boise, Vice President, General Counsel & Corp. Secretary, Veyance Technologies, Inc.; Kwamina Thomas Williford, Partner, Holland & Knight; Michael Parham, Sr. Vice President and General Counsel, RealNetworks, Inc.; Grace E. Speights, D.C. Co-Managing Partner, Morgan, Lewis & Bockius LLP; Gail D. Hasbrouck, SVP, General Counsel & Corporate Secretary, Advocate Health Care; John W. Daniels, Jr., Chairman Emeritus, Quarles & Brady LLP; Christopher P. Reynolds, General Counsel and Chief Legal Officer, Toyota North America; Ava E. Lias-Booker, Baltimore Managing Partner, McGuire Woods; Kevin J. Armstrong, General Counsel, DST Brokerage Solutions LLC; Dave Carothers, Managing Partner, Carothers DiSante & Freudenberger LLP; Philip G. Hampton, II, D.C. Administrative Partner, Haynes and Boone, LLP; Maurice A. Watson, Chairman, Husch Blackwell LLP; Dennis Archer, Chairman Emeritus, Dickinson Wright, PLLC; Erek L. Barron, Counsel, Whiteford Taylor & Preston; W. Anthony Jenkins, Member, Dickinson Wright, PLLC; Frank P. Scruggs, Partner, Berger Singerman LLP; Paul W. Sweeney, L.A. Administrative Partner, K&L Gates; Paul Lancaster Adams, Partner, Ogletree, Deakins, Nash, Smoak & Stewart; Sherrie L. Farrell, Member, Dykema; Richard H. Deane, Jr., Atlanta Partner-in-Charge, Jones Day; Bernard Gugar, SVP & General Counsel, Harpo, Inc.; Damario Solomon-Simmons, Managing Partner, SolomonSimmmonsSharrock & Associates; Steven Wright, Boston Executive Partner, Holland & Knight.

Audrey Strauss, EVP and Chief Legal Officer for ALCOA; Sara Moss, EVP and General Counsel for Estee Lauder Companies; National Conference of Women's Bar Associations; Women's Bar Association of DC; National Bar Association; Peter Walsh, Senior Deputy General Counsel for UnitedHealth Group; National Association of Women Lawyers; Constance Patillo; Frank Brown, Dean Emeritus at UNC-Chapel Hill; Tyrone Dash, Deacon at White Rock Baptist Church; National Association of Social Workers.

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TOOMEY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

KING V. BURWELL

Mr. HATCH. Mr. President, I rise today to discuss a tremendously important case that was heard this morning in the Supreme Court. The case is King v. Burwell, and it involves the administration of ObamaCare. I was privileged to attend the argument.

The King case is important for a number of reasons. It is important because it involves a fundamental component of ObamaCare, and it is important because of its significant implications for the rule of law.

From the early days of the Republic, a core component of our constitutional character has been the idea that the government is a government of laws and not of men. That means our leaders are constrained by the words of the laws in our statutes and in our Constitution. Government officials must follow the law even when their personal preferences would lead them in a different direction.

The current administration, however, is engaged in a sustained assault on the rule of law. I have spoken many times on the Senate floor about the President's disturbing disregard for the separation of powers and other limits on his authority. His offenses run the gamut of releasing Guantanamo detainees without first notifying Congress, to claiming that congressional inaction somehow clothes him with legislative-like authority to suspend immigration laws, to arrogating to himself the power to determine when Congress is in session. President Obama's actions in the King case are of a piece with the other Executive overreaches.

First some background. ObamaCare requires every person in America to buy health insurance. This is the so-called individual mandate the Supreme Court controversially upheld 3 years ago.

Most Americans receive health insurance through their employer, which pays a large part of the premium, but not all do. Many must purchase insurance on their own. And to ensure that such individuals are able to comply with the individual mandate, ObamaCare directs States to create health care exchanges—government-operated Web sites where consumers can go to compare and choose insurance plans. ObamaCare also provides subsidies for individuals who purchase insurance through these State-run exchanges.

Remember that most people receive health insurance through their employer and that their employer pays part of the premium. Individuals who purchase insurance on their own through exchanges, however, don't receive this employer subsidy, so they themselves must contribute more toward the premium. ObamaCare provides subsidies to these individuals to help offset the cost of insurance.

With that background, let me turn now to the legal issue in King. As I have described, ObamaCare directs States to establish health care exchanges. To be precise, the law says that ''each State shall, not later than January 1, 2014, establish an [exchange]'' that meets certain conditions set forth in the law. But there is a wrinkle: The Constitution does not permit the Federal Government to order States to do things. This is called the anticommandeering principle and is well established in Supreme Court case law. What the Federal Government can do, however, is incentivize States to act, and that is precisely what Congress attempted to do with ObamaCare.

Here is how the incentive works. Another provision of ObamaCare—the one at the heart of King—conditions the aforementioned subsidies on an individual's enrollment in a State-run exchange. According to this provision, a subscriber is eligible for a subsidy for each month she is covered by a plan that she ''enrolled in through an Exchange established by the State.'' The text of this provision could not be more clear. If an individual enrolls in a plan through an exchange established by the State, she gets a subsidy; if she enrolls in any other plan, no subsidy.

The incentive for States to act also could not be more clear. If a State fails to establish an exchange, its citizens lose out on millions of dollars. ObamaCare's proponents quite reasonably thought this would lead States to set up exchanges and would thus accomplish the same result—the creation of State-run exchanges—that Congress could not achieve through a direct command. In fact, I actually heard arguments by administration people that if they put enough pressure on the States, the States would do this.

Congress also recognized, however, that some States might not take the deal; thus, it provided a backstop. In yet another provision of ObamaCare, Congress instructed that if a State does not set up an exchange by the January 2014 deadline, the Department of Health and Human Services shall ''establish and operate such Exchange within the State.''

Crucially, however, Congress did not similarly provide that subsidies would be available to subscribers enrolling through a federally established exchange, and the reason is obvious: If subsidies were available under both State and Federal exchanges, States would not have any incentive to create their own exchanges because the subsidies would come either way. Fewer States would create exchanges, meaning the Federal Government would have to step in and create more exchanges of its own.

The restriction of subsidies to State-established exchanges was thus a key element of ObamaCare's entire cooperative federalism scheme. Without this restriction, the end result would have been a federally run health care market—a result unacceptable to several key ObamaCare supporters whose votes were essential to passage of the bill.

Now we come to President Obama's act of overreach. Notwithstanding the unmistakably clear text of the statute, which limits subsidies to plans purchased through State-established exchanges, and notwithstanding that this limitation was absolutely fundamental to accomplishing Congress's purpose of incentivizing States to establish exchanges, the President decided he would also offer subsidies for plans purchased through federally established exchanges.

President Obama's open defiance of clear statutory text and utter disregard for the balance Congress struck is an affront to the separation of powers and to the rule of law. The President and his enablers argue that subsidies for federally enrolled plans are necessary to accomplish ObamaCare's overall purpose of reducing costs and improving health care access. Without subsidies to individuals in the 34 States without State-run exchanges, the President argues that residents of those States will be hit with higher costs and unaffordable health care. The law must be rewritten, he says, to avoid the consequences the law itself imposes.

Laying aside the fact that the Constitution gives Congress, not the President, the power to amend laws, the President's argument is completely circuitous. The reason 34 States could afford not to establish exchanges is because the President said he was going to pay subsidies regardless of whether a State establishes an exchange. Why would a State go to the trouble and expense of creating an exchange if the end result is the same?

The President also grasps at exceedingly thin straws. Because the backstop provision instructs that if a State does not establish an exchange, HHS shall step in and establish such exchange itself, the President says this means Federal exchanges are State exchanges. Right is left and up is down.

But let's return to the real provision in dispute in King, the one that defines eligibility for subsidies. This provision says, again, that an individual is eligible for each month that she is covered by a plan that she ''enrolled in through an Exchange established by the State.'' An exchange established by the Federal Government is by definition not an exchange established by the State, regardless of whether the Federal exchange is a backstop or not.

It gets even worse for the President because the provision additionally specifies that the State exchange must have been established ''under section 1311 of the [statute].'' That section sets forth the requirements for creating State-run exchanges. Nowhere does it mention Federal exchanges. Rather, the conditions for creation of Federal exchanges appear in a different section—section 1321. Under no plausible reading of the text does a State exchange established under section 1311 mean a Federal exchange established under section 1321.

Advocates of the President's position would have us believe that statutes are infinitely malleable—up can mean down, right can mean left, established by a State can mean not established by a State. What matters to them is advancing some vague notion of statutory purpose that coheres with the President's leftwing agenda, regardless of what the statute actually says.

Those of us on the other side, however, insist that text matters, words matter. What the statute says is what matters, because at the end of the day the words in our statutes and in our Constitution are what bind our leaders and what prevent them from doing whatever they want.

The administration's actions in King have undermined the rule of law and contravened important constitutional checks on the President's authority. As has increasingly become the case under President Obama, it is now up to the Supreme Court to rein in the President's overreach and to reaffirm the fundamental obligation of all government officials to follow the law. I surely hope the Court will do so.

KEYSTONE XL PIPELINE

Mr. HATCH. Mr. President, I wish to address today's vote to override President Obama's veto of the bipartisan Hoeven-Manchin bill to authorize the Keystone XL Pipeline.

Our economy and North America's energy security would greatly benefit from building this pipeline. It would increase our GDP by approximately $3.4 billion annually. The State Department, which has provided clear-headed analysis of the benefits of this project, has found that Keystone would support roughly 42,000 jobs during the construction phase alone. It would provide refineries with up to 830,000 barrels a day of North American oil.

Moreover, the Keystone XL Pipeline would be an environmentally sound way to transport this oil. The State Department's extensive environmental impact statement concluded that building the pipeline would actually be better for the environment than not building it.

We have to be clear here. This oil is going to go to market no matter what. Building Keystone would take oil off the tracks and off the roads, transporting it in a way that is safer, more efficient, more environmentally sound, and better for creating good-paying American jobs.

In his veto message, President Obama suggested that an issue such as this is somehow too important to be left to the legislative process and that we should trust in the integrity of the regulatory process.

This is exactly the sort of debate we should be having in the Senate. This is the body that is supposed to debate the important issues of the day. When a project as important as this is stalled without meaningful justification for so long, our involvement is even more important.

In our consideration of this bill, we legislated according to the best traditions of this body, including robust debate, an open amendment process, and regular order. After years of mismanagement, our consideration of this bill showed how the Senate is back at work on behalf of the American people under our new leadership.

While I certainly hope we will find another means of approving the Keystone XL Pipeline, I am naturally disappointed that we came just a few votes short of overriding the President's veto and enacting this bill into law. Furthermore, I can certainly understand why many Americans will view this occasion as yet another example of how Washington is broken.

In many respects, I share this same frustration. Nevertheless, we cannot allow ourselves to slouch toward pessimism and disillusionment about every institution. Indeed, I think my fellow colleagues on both sides of the aisle merit praise for their responsible handling of this bill. Instead, we should shine a light on where exactly the problem is and offer real solutions to make Washington work on behalf of the American people.

At the end of the day, the Keystone XL Pipeline and so many other bureaucratic failures just demonstrate that our regulatory bureaucracy is broken. After all, this project is now in its sixth year of limbo, waiting for a single permit to be issued. This debate has gone on longer than an entire term of a U.S. Senator.

It should not take years and years of navigating the Federal bureaucracy only to have the government decide not to make a decision. This new Congress is focused on helping to create jobs and getting our economy back on the right track, which is why regulatory reform must be a key part of our agenda over the next 2 years. We must strive not only to approve this particularly important project but also to prevent similar abuses from occurring in the future.

Perhaps the two most troublesome features of the modern administrative state are, first, the size of the regulatory burden on the economy and, second, the lack of accountability in the regulatory bureaucracy. Both problems have been illustrated by the Keystone XL project, but they manifest themselves across the board throughout the regulatory process.

The growing Federal regulatory burden has been a concern for decades, but the problem is now worse than ever. Both the number of regulations and their combined cost have exploded in recent years. The American people are now bound by more than 1 million individual restrictions in the Federal Register, with a total cost of around $1.86 trillion each year. To put that in perspective, that is about 11 percent of our total GDP, it amounts to about $15,000 per household, and it totals over $300 billion more than annual individual and corporate taxes combined. In short, our regulatory burden is enormous.

Even as we resist President Obama's mad dash to add new rules, our Nation simply cannot afford to ignore the crushing burden of existing regulations. They weigh down our efforts to boost economic growth and make it impossible to get our country back on track.

Every President, from Jimmy Carter to Barack Obama, has embraced the