

EXECUTIVE SESSION

EXECUTIVE CALENDAR

THE PRESIDING OFFICER. The Senate will resume executive session for the consideration of the unfinished business.

The Senator from Connecticut.

HEALTHCARE

Mr. MURPHY. Madam President, I congratulate all of those responsible for the passage of this long-overdue legislation. I thank my colleagues on both sides of the aisle who made this happen but first and foremost all of the advocates all over the country but primarily in and around the Northeast. There were hundreds upon hundreds of individuals who rushed to that scene from my State of Connecticut, many of them dealing with potentially terminal diseases as a result of that action. I am glad we have stepped up in a bipartisan way and once again done the right thing.

I am on the floor to continue the conversation about healthcare. I wish I had as good news as comes with the passage of this legislation, which is going to extend the guarantee of healthcare to all sorts of heroes in and around New York. At the very same time, we are dealing with a potential calamity for millions of other Americans who also have serious conditions, who are dealing with diagnoses like cancer.

Today, if you have a preexisting condition, you know you are going to be able to get insured for that preexisting condition. If you are the parent of a child who has a serious illness, you don't have to worry about being denied care for your son or daughter because of that diagnosis. That is because we have the Affordable Care Act.

The Affordable Care Act has been on the books now for going on a decade. It says: No matter how sick you are, no insurance company can deny you care. That has made a world of difference for millions upon millions of Americans who have preexisting conditions.

The potential calamity comes in a court case filed by Republican Attorneys General, supported by the President and by Republicans in this Congress, that would try to use the court system to do what the Congress would not—overturn the entirety of the Affordable Care Act. Congress wouldn't do that. We debated it. We voted down measures to repeal the Affordable Care Act. Why? Because Americans all across this country rose up and said: We want you to fix what continues to be broken with the healthcare system, not tear down my coverage, not remove me from the rolls of those who are insured.

All across the country, over 20 million people have insurance just because of the Affordable Care Act—either because of tax credits we give people to afford private insurance or the 12 million people who got Medicaid because of the Affordable Care Act, never mind

all the folks who buy private insurance on their own, who can finally afford it because we don't discriminate against you if you are poor. People didn't want that taken away from them, so they rose up all across the country, and Congress listened. By the skin of our teeth, we voted down legislation to repeal the Affordable Care Act.

Because opponents of the Affordable Care Act—in particular, this President and Republicans who don't like it—couldn't get the job done in the people's branch, they are now going to the courts to try to repeal the Affordable Care Act. Right now weaving its way through the court system is a case called *Texas v. United States*. I won't go into the complicated legal argument. The goal of it, if it is successful, is to wipe out the entirety of the Affordable Care Act overnight. It has been successful at the district court level. It was just argued before the appellate court level, and by the account of witnesses who were there, the arguments didn't go too well for those of us who think the Affordable Care Act should stick around.

There is just a simple question right now for my colleagues: Do you support *Texas v. United States*? Do you support the lawsuit that would wipe out the entirety of the Affordable Care Act overnight and replace it with nothing?

I put Republicans on here because I actually know what the answer is from the Democratic side of the aisle. Every single Democrat in the Senate opposes this lawsuit. It is not because every single Democrat thinks you shouldn't change anything about the healthcare system; it is because we don't think it is a very good idea to kick 20 million people off of insurance, jack up rates for people with preexisting conditions, and have nothing to replace it—nothing. That is what will happen if *Texas v. United States* is successful. Petitioners are asking for the whole act to be thrown out and nothing to replace it. That would be a humanitarian catastrophe in this country, if 20 million people all of a sudden woke up and found they didn't have insurance coverage any longer; if insurers were once again able to charge that family of a child with a cancer diagnosis two times, three times, four times as much.

The question for Republicans is, Do you support this lawsuit? I think we need to get some answers. I think we need to get some answers. Some of my colleagues are on record saying they hope it fails. More are on record saying they hope it succeeds. But I don't think this body can just box its eyes and ears to the reality of what would happen if this lawsuit succeeds.

We are not riding to the rescue this Congress. Let me just be honest with you. Given how fractious the debate is here about everything but in particular about healthcare, there is no way that the Congress and this dysfunctional White House can reassemble all of the protections in the Affordable Care Act if the courts wipe them out. That is

just not realistic. We don't debate anything on this floor any longer. We don't have the muscle to pass minor pieces of legislation like this body used to do 20 years ago, never mind a reordering and reconstruction of one-sixth of the American economy, which is what the healthcare system represents.

Republicans need to start making a decision. Do you support this lawsuit or do you not? If you do support it, you can't just say "Well, you know, if everybody loses insurance and rates go through the roof for people with preexisting conditions, we will figure it out" without having a specific plan for how you are going to do that. It is not good enough to just say "I hope that lawsuit succeeds. I hope everybody loses their insurance. And then, the day after, we will come back and we will see if we can try to find people healthcare." That is irresponsible. That is not satisfactory. It isn't enough for people out there who are living life in fear that their insurance is about to vanish.

The problem is, the last time Republicans started thinking about what they would want to replace the Affordable Care Act with, it was a joke. It was a joke. The Better Care Reconciliation Act, which was Senate Republicans' replacement for the Affordable Care Act—CBO found that it would increase the number of people without insurance by 22 million. It found that by 2026, an estimated 49 million people would be without insurance, almost doubling the number who lack insurance today. That is not better care; that is much, much worse care. So forgive me if I don't have confidence that my Republican friends who run the Senate today are going to have a plan to deal with a successful *Texas v. United States* court case that keeps insurance for people in my State, the 111,000 people in Connecticut who get insurance through the private market with ACA subsidies and the 268,000 people in Connecticut who are covered in my State under the Medicaid expansion.

It is time for everybody in this body, whether Republican or Democrat, to step up and say: A, do I support the lawsuit to get rid of all of the protections in the Affordable Care Act, with nothing to replace it, and B, do I have a plan for what to do if the lawsuit that I support is successful?

Chris, from Westbrook, CT, is asking that question of everybody in this Chamber. Here is what he said:

I am a 30 year old patient living with muscular dystrophy type 2B. Preexisting conditions can happen to anyone. . . . Disease does not discriminate. . . . No amount of pre-planning or prudence can stop you from preventing a genetic disease, for example. . . . You can be healthy one day, and have a health crisis the next. Everyone knows someone with a preexisting condition. It is a lifesaver—having insurance when you have a preexisting condition means being able to afford lifesaving medicines and treatments.

Chris is watching carefully to see what the answer to this question is.

Jeff in Enfield, CT, told me that in 2012, at the age of 7, his daughter was diagnosed with type 1 diabetes. He said:

By the time we noticed the symptoms and took her to the doctor, she most likely had only a couple weeks left to live. She is healthy today thanks to a daily regimen of insulin. But insulin in the U.S. costs five to ten times what it costs everywhere else. . . . Without insurance, the expense of keeping our daughter alive would ruin us. The prospect of my daughter being un-insurable is terrifying. . . . Without the ACA's insurance protections, the problem would be epidemic.

The problem of people not being able to afford insulin all across this country.

Jeff continued:

How can anyone be expected to live under that kind of strain, especially a young person just starting out in life?

I am asking this question of my colleagues on behalf of my constituents, but millions of Americans who are sick or have a child who is sick are sick and tired of Congress playing politics with healthcare. You may not love everything that is in the Affordable Care Act. I get it. Republicans didn't vote for it. They didn't support it. They have been consistent in trying to get rid of it ever since it was put into law. I understand that. But I have taken my Republican friends at their word over the last 10 years when they have said: We want to repeal the Affordable Care Act and replace it with something better.

Asking the courts to overturn the entirety of the act with no plan to replace it is an abdication of the promise that has been made. I don't begrudge people trying to repeal a law they don't like if they think they can do something better, but Congress didn't repeal the Affordable Care Act because people didn't want us to do it.

This is an irresponsible and thoughtless mechanism to try to score a political victory, but it ends up playing with lots of people's lives.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

HONORING FORMER ASSOCIATE JUSTICE JOHN PAUL STEVENS OF THE SUPREME COURT OF THE UNITED STATES

Mr. DURBIN. Madam President, today America lays to rest the great Justice John Paul Stevens. On behalf of the U.S. Senate, it is my privilege, along with my Illinois colleague Senator DUCKWORTH, to introduce and have adopted a bipartisan resolution honoring this remarkable and noble man, a native of the city of Chicago.

During his Supreme Court confirmation hearings in 1975, then-Judge John

Paul Stevens faced a line of questioning about his health, which, in retrospect, is amusing. They were asking questions about his health 44 years ago. Justice Stevens had undergone a single bypass heart surgery 2 years earlier, and the members of the Judiciary Committee just wanted to make sure he could handle the rigors of serving on the U.S. Supreme Court. History has shown us that Justice John Paul Stevens had not only a strong heart but a good heart when it came to serving on the U.S. Supreme Court.

Sadly, that mighty heart finally did stop beating last week. Justice Stevens was 99 years old. He died peacefully with his daughters Elizabeth and Susan by his side.

My State of Illinois is proud to claim John Paul Stevens as a native son. He was a member of a prominent Chicago family, and he grew up in the luxury of his family's hotel, then known as the Stevens Hotel and now known as the Hilton Hotel on Michigan Avenue. He never used the privilege of his family's wealth to shirk his responsibilities as a citizen of America.

In World War II he was a lieutenant commander in the Navy. He was awarded the Bronze Star for his service on the code-breaking team, whose work led to the downing of the plane of the man who had planned the attack on Pearl Harbor. After the war, he became an accomplished attorney and a champion of good, ethical government.

It was John Paul Stevens' integrity, as much as his brilliant legal mind, that convinced President Gerald Ford to nominate him, then a Federal judge on the Seventh Circuit Court of Appeals, to serve on the U.S. Supreme Court in 1975. President Ford called then-Judge Stevens "the finest legal mind I could find." The Senate obviously agreed. The vote on the Senate floor for John Paul Stevens' confirmation was 98 to 0.

He was the second oldest and third longest serving Justice in the history of our Nation, but it is the quality of his service, and not its length, that most distinguishes John Paul Stevens' career on the U.S. Supreme Court. Justice Stevens approached disputes fairly, squarely, and succinctly. He took great pains to understand all sides of a case and give all sides a fair hearing. He rejected the easy path of ideology, and he was willing to change his position when the facts warranted it.

He authored the majority opinions in some of the most famous and important Supreme Court decisions in his time. One example was in 2004. Justice Stevens wrote the majority opinion in which the Court, by a vote of 6 to 3, rejected the Bush administration's view that prisoners at Guantanamo Bay could be held beyond the reach of the law with no access to the Federal courts. The case was *Rasul v. Bush*.

In 1984, in the landmark *Chevron* case, Justice Stevens wrote an opinion for a unanimous Supreme Court about the deference owed to Agency interpre-

tations of Federal statutes, crafting a legal framework that has been cited in more than 11,000 subsequent judicial opinions.

He was also often brilliant in dissent. In his lengthy dissent in *Citizens United v. FEC* in 2010, Justice Stevens rejected the radical and, I personally believe, dangerous notion that corporations have essentially the same First Amendment rights as individuals and should be allowed to spend, potentially, unlimited amounts of money on campaigns.

President Eisenhower famously said that he made only two mistakes as President, "and they're both sitting on the Supreme Court."

President Ford felt just the opposite about his choice in Justice Stevens. In 2005, the year before his death, President Ford wrote of Justice Stevens: "I am prepared to allow history's judgment of my term in office to rest (if necessary, exclusively) on my nomination 30 years ago of John Paul Stevens to the U.S. Supreme Court." I can think of no higher praise.

Justice Stevens stepped down from the Supreme Court 9 years ago. Anyone who had hoped that he might slip quietly into retirement was certainly disappointed. He continued in his retirement to speak and write forcefully and eloquently on major issues facing America.

In 2014, he testified before the Senate Rules Committee on the dangers that dark money in politics posed to American democracy.

He wrote three books. Justice Stevens once told an interviewer that the person who most motivated him to write was a professor from whom he took a poetry class at the University of Chicago. The professor's name was Norman Maclean. In his own retirement, Norman Maclean wrote a semi-autobiographical novel entitled, "A River Runs Through It and Other Stories." It was later made into a movie starring Robert Redford.

Looking at the life's work of John Paul Stevens, it is clear that a river ran through his life too. The currents in that river included a reverence for American democracy and the Constitution, compassion and respect for individuals, and a painstaking commitment to decide each case on its merits rather than relying on easy answers suggested by political ideology.

Justice John Paul Stevens was a good man and a courageous man, whose strong heart was matched by a brilliant mind, ceaseless curiosity, and a fierce commitment to justice. He fought the good fight. He served our Nation with honor, and he safeguarded and enriched our democracy. May he rest in peace and honor.

Madam President, as in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 282, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.