

I will, of course, not give up. We will be back in January. We will start again. But this is deeply disappointing to me and to others who have relied on the good will of not just those in Congress but those downtown in the Federal agencies to understand there is a crisis. This is about health care. It is about "life and limb." And when you have this kind of crisis, you have a responsibility to the children, to the elders, to others living on Indian reservations, some of whom live in Third World conditions. We should not be putting up with that. We should reach out a hand to say there is a lot of trouble in the world—and we reach out a hand to try to see if we can help in other parts of the world—there is plenty to do right here at home as well. I support reaching out to troubled spots of this world. But I believe we also have a first responsibility to reach out in this country to say to people who are living in abject and desperate poverty without health care that we are going to solve those problems, we are going to work with them.

I got interested in and involved in these issues a long time ago when I saw a picture in a paper of a young girl named Tamara. Tamara was a 3-year-old American Indian girl living on an Indian reservation, and she was placed in a foster care home. The woman who placed her in the foster care home was handling 150 cases—150 cases. She did not have the time or the capability to check what kind of home they were putting this 3-year-old girl in. The result was, they put that girl in an unsafe home.

On a Saturday night, in a drunken party, a 3-year-old girl named Tamara had her nose broken, her arm broken, and her hair pulled out by the roots—at a drunken party in a foster home that no one had checked. This 3-year-old girl suffered scars that will be with her the rest of her life.

The fact is, we understand that some of these things are happening, and we have a responsibility to do something about it. I did something about that. There is nobody on that reservation handling that many cases anymore. No social worker can do that. What that child suffered was our responsibility.

So I got involved because I saw what was going on some long while ago. And the more I have worked on these issues, the greater I see the need for us to do the right thing. Senator MCCAIN feels exactly the same way, and we have worked as hard as we can work on a bipartisan basis in the Indian Affairs Committee, with the Republicans and Democrats on that committee, believing that health care is a priority, and that our responsibility to reauthorize the Indian Health Care Improvement Act is a primary responsibility.

And, again, I regret that we come to the last day of the session and find a circumstance where it is not going to be passed.

It takes no skill to oppose. I think it was Mark Twain who was once asked if

he would engage in a debate, and he said: Of course, I would be happy to engage in the debate, as long as I can take the opposing view.

They said: We haven't told you the subject of the debate.

He said: It doesn't matter what the subject is. Taking the opposing view will require no preparation.

That is how it is in this Chamber. It is how it is downtown in the agencies. It is the easiest thing in the world to oppose. It takes no preparation at all.

We come to the end of this session with enough having opposed progress on the Indian Health Care Improvement Act that this will not be done in this session of Congress. There will still be hope because we will turn to it again in January. My hope is those who have borne the responsibility of stopping this important piece of legislation will understand the consequences and decide to help us rather than hinder us as we try again in the next session of Congress.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ISAKSON). Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST— S. 4047

Mr. DEMINT. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 664, S. 4047. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid on the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, we have a number of objections on our side. On behalf of at least five Members in this caucus, I will be constrained to object, and I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from South Carolina.

Mr. DEMINT. Mr. President, I would like to speak a moment on the bill, if I may.

The Maritime Transportation Security Act requires the Transportation Security Agency to develop a biometric security card for port workers that would be used to limit access to sensitive areas within a seaport. To satisfy this law, TSA is developing a transportation worker identification credential—we call it TWIC—card. The law requires that the Secretary issue this card to an individual requesting it, unless he determines that the individual poses a terrorism security risk

or if they have been convicted of treason, terrorism, sedition, or espionage.

To fulfill this requirement of the Maritime Transportation Security Act, the Department of Homeland Security has drafted regulations that bar certain criminals from receiving these transportation worker identification credentials. Specifically, the Department of Homeland Security proposed regulations that would permanently bar from our ports criminals convicted of espionage, sedition, treason, terrorism, crimes involving transportation security, improper transport of hazardous material, unlawful use of an explosive device, murder, violations of the RICO Act where one of the above crimes is a predicate act, and conspiracy to commit any of these crimes.

It would also bar recent felons, those convicted within the last 7 years, or incarcerated in the last 5 years, from working in secure areas of U.S. ports, if they have been convicted of any of these felonies: assault with intent to murder, kidnaping or hostage taking, rape or aggravated sexual abuse, unlawful use of a firearm, extortion, fraud, bribery, smuggling, immigration violations, racketeering, robbery, drug dealing, arson, or conspiracy to commit any of these crimes.

These proposed regulations were developed in consultation and coordination with the Departments of Justice and Transportation to identify individuals who have a propensity to engage in unlawful activity, activity that places our ports at risk. Further, these regulations are nearly identical to the regulations that govern those who have access to our airports and who are involved with transporting hazardous material in the United States. These prohibitions are crucial because individuals who engage in the type of unlawful activity described in the proposed regulations have a greater likelihood to engage in activity that puts American ports at risk.

Our law enforcement officials understand this risk. They understand the threat our ports face with traditional crimes, particularly organized crimes, when they work with terrorists. For example, just recently the FBI apprehended a member of the Russian mafia attempting to sell missiles to an FBI agent he thought was acting as a middleman for terrorists. Joseph Billy, Jr., the FBI's top counterterrorism official, recently commented that the FBI "is continuing to look at a nexus" between organized crime and terrorists, and that they "are looking at this very aggressively."

The threat is not only criminals working directly with terrorists, it is criminals looking the other way when a suspect container comes through the port. Joseph King, a former Customs Service agent and now a professor at the John Jay College of Criminal Justice, outlined the concern very clearly:

It's an invitation to smuggling of all kinds. Instead of bringing in 50 kilograms of heroin, what would stop them from bringing in five kilograms of plutonium?

A criminal in one of our ports may think he is just helping his buddies smuggle in drugs, but inadvertently he may be helping to smuggle a weapon of mass destruction into the United States.

Earlier this year I offered an amendment to address this threat and ensure that serious felons are kept out of our ports. My amendment would have codified in statute the proposed regulations. The amendment passed unanimously and was included in the Senate-passed version of the Safe Port Act. Unfortunately, behind closed doors in the conference committee this amendment was almost completely gutted. The bill went from having language which prohibited 20 serious felonies that put our ports at risk to a list of just four—felonies so rare as to make the conference report language meaningless. I was extremely dismayed to see this language was stripped. I cannot understand who would oppose language that would ban serious felons from secure areas in American ports.

The ranking member of the Commerce Committee, the Senator from Hawaii, has stated in the CONGRESSIONAL RECORD that he supported the original DeMint language. I understand the chairman of the Commerce Committee, the Senator from Alaska, also supported the DeMint language. I am at a bit of a loss to conclude who in the Senate opposed this strong homeland security provision. Today the Senator from North Dakota said several of his colleagues did, but we don't know who they are.

While there does not seem to be a Senator who is willing to admit to opposing the provision, the longshoremen's labor union is more than happy to take credit for gutting the provision. Last month the International Longshore and Warehouse Union, in their newsletter, claimed credit for killing the provision. They stated:

Congress will return after the election in a "lame duck" session and work through part of November and December. We have heard rumors that Senator DeMint is particularly angry with the [union's] successful lobbying effort to strip his anti-labor provision. He may attempt to amend another piece of legislation, so the union will stay on guard to protect its members' interests.

Apparently they have, as we have seen today by the objection to this very commonsense measure. The unions are not stopping at just fighting legislation that I am proposing here to keep serious felons out of our port workforce. They are gearing up to mount a legal battle against the proposed regulations as well.

In response to a Wall Street Journal editorial on the subject, the union stated that the proposed regulations were "double jeopardy" and "unconstitutional." This is a clear indication that they have a legal challenge in mind. It seems clear now that once the regulations become final, they are going to take the Department of Homeland Security to court and that the proposed regulations are going to be bogged

down in lengthy legal battles likely for years.

The consequence will be that as we continue to fight this global war on terror, America's ports will be staffed by serious felons. Some may be tempted to come to the defense of the longshoremen with various so-called concerns: These individuals have paid their debt to society; barring these individuals is going to gut our port workforce; or that the crimes listed are somehow not related to homeland security.

These concerns are plain wrong. I don't disagree that convicted felons should be given a second chance. I hope they get back on their feet and become productive members of their communities. What I don't agree with is that we should give them a pass, literally and figuratively, to access the most secure areas of America's port infrastructure. When they are fresh out of prison, we should not trust them with the most vulnerable areas of our ports.

Second, I have heard that barring these individuals will empty the ranks of the port workforce. The facts don't bear this out. When the Department of Homeland Security issued nearly 350,000 ID cards for HAZMAT truck-drivers and subjected them to the same background check as I propose putting in the law, only 3,100 were disapproved, less than 1 percent. The workforce in the United States is elastic enough that we can pick up the few thousand longshoremen jobs opening up because the criminals in the port workforce had to be fired.

Finally, some are maintaining these are not serious crimes. I want someone to come down here and tell me which individuals he wants working at his local port—murderers, extortionists, drug dealers, arsonists, document forgers? I want to hear the rationale for stopping this important bill.

The list that the Transportation Security Agency came up with is a list of serious felons who represent a serious threat. It is going to keep these dangerous criminals out of our ports.

The bottom line is this: This bill applies nearly the same protections to seaports that already applies to our airports. It is a regime that has been successful. It will make our ports safer by keeping individuals who have shown a willingness to break the law out of our ports. This is very important. We can spend all the money in our treasury trying to screen cargo, and we have appropriated or approved a whole lot of money to secure our ports. But if we don't screen the people who work at our ports, we cannot expect to have effective port security. It is very unfortunate today that my Democratic colleague has taken this commonsense provision and objected to its consideration.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DEMINT. That is a good thing because I had finished my talk.

I yield the floor.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Ohio is recognized for 30 minutes.

Mr. DEWINE. I thank the Chair.

HONORING OUR ARMED FORCES

CAPTAIN SHAWN ENGLISH

Mr. DEWINE. Mr. President, I rise today to pay tribute to a brave soldier who died while serving his country in Iraq. On December 3, 2006, Army CPT Shawn English was killed when his humvee struck a roadside bomb. Captain English, who served as an Army deep sea diver, was based in Panama City Beach, FL, but news of his death reverberated in his hometown of New Albany, OH. Captain English leaves behind his wife Tricia and three sons, Nathan, Noah, and Austin. Captain English was 35 years old.

Shawn spent nearly his entire adult life in the military—first as an enlisted soldier and later as a commissioned officer. He grew up in New Albany. As a boy, he raised 4-H sheep and played football for New Albany High School, where he graduated in 1990. Shawn joined the military when he was 18 and went on to attend college at Wright State University, receiving his degree in 1999.

Shawn joined the Army after high school and by the time he deployed to the war in Iraq, he was already an experienced combat veteran. He had served his country bravely years before in the gulf war in an armored cavalry unit. He later joined a Ranger battalion before becoming a diver.

Shawn's middle school teacher Debbie Smith says that he was always energetic and a delight to have in the classroom—that he was a student with a wonderful personality. He simply loved to learn. "He was dedicated to defending our country," Debbie remembers, "and particularly making sure that children were safe."

Those closest to Shawn remember him as a family man. "He was a very loving father and a wonderful brother," said his sister Dawn. "I received an e-mail from him at around noon on the Saturday before he died," said his brother-in-law, Todd. "It was in response to the pictures of the Buckeyes game that I sent him. He was very short (in the e-mail), but said that he was tired and that things were really intense. He asked that I pray for him."

Shawn's father-in-law Curt expressed his grief at learning the news of Shawn's death. "It's just so hard for us to comprehend," he said. "We're heartbroken. I could not—do not—love my own sons more than I loved that man. He was such a good man. He believed in his country and had a deep faith in God."

Shawn was in Iraq to train and lead Iraqi soldiers. He had been in-country since February 2006. As his brother-in-law said:

Shawn had the option to come home, but said he had an obligation to his men and wanted to finish what he started. . . . He