

This is a big deal in Nebraska. Tens of thousands of people actually go to this game. He was sitting in the stands, and he took his time out from watching the Nebraska spring game to talk to me which is a high honor.

He wanted to point out that he was a small business person. He owned and started a heating and air-conditioning business and, until very recently, had five employees. Because he could see what was coming—particularly in health care—he got rid of all of his jobs, and it is just him now.

If you ask the question—and analytics are showing this—as to why small businesses are not taking proper risk going out into the marketplace to create new products and hire people, there are two simple—this is a bit simplistic—but two answers are what come forward. The first is health care, and the second is regulation.

You see, in the name of trying to create an orderly and just and fair economy when Washington overreaches and creates an environment that is setting up the guardrails for proper economic function, if it is too heavyhanded and it is penalizing those who don't have an army of lawyers and accountants and regulatory personnel, that means that the playing field suddenly shifts toward much bigger entities that, in many ways, can become impersonal.

The more Washington imposes regulatory burdens that are affecting the outlook and expectation of small business people, the more they are hesitating to hire.

The second factor is health care. Now, I think we have to have this hard conversation. We have a broken health care law. The Affordable Care Act, as it is called, could be called now the "Unaffordable Care Act."

The law was designed to fix some real cracks in our system that were very evident. People with preexisting conditions or people being priced out of the market were having a very difficult time finding health insurance, and that needs to be addressed, and it needs to be addressed through Washington policy.

But we need a health care system that is focused on decreasing cost and improving health care outcomes while also helping vulnerable persons. What we have gotten now is higher escalating cost, fewer choices, and a dampening effect on the entrepreneurial small business economy—again, where most jobs come from. It is not me saying this. This is what the statistics are bearing out and the research is bearing out; and it is a hard, hard reality.

Instead of just saying "no" to the Affordable Care Act, those of us who have said "no" many times also have a responsibility to find a responsible replacement in public policy for us—again, one that is going to increase competition, improve health care outcomes, give additional choice, while also decreasing cost, and protecting vulnerable persons.

Mr. Speaker, I think Americans deserve the best possible health care out-

comes in the world. The question is how do we get there?

Well, from my perspective, a new framework, a new architecture of approach is needed, but it basically expands a policy that we already have.

A long time ago, I had a very significant headache. I was in my twenties. I carried my own health care policy, and it was very expensive, so I had a very high deductible.

Because the headache was particularly severe, I decided: Well, I assume the family physician will probably just send me on to a specialist.

So I called the ear, nose, and throat specialist directly and went and got an appointment. She did an x ray and said: I can't really tell from the x ray, so I am going to have to do a CAT scan.

I said: Doctor, is that really necessary? You know, I understand the problem of liability and the need to push the boundaries on testing. Is it really necessary?

She asked me directly, almost kind of indignant, she said: Why are you talking to me about this? I said: Because I am paying for this. My deductible is very, very high. I am actually paying the cost of this test. I just want to know if this is absolutely necessary. Help me to make that decision.

She said: Oh, yes, of course, it is necessary. But now that you said that, I am just looking at your sinuses, so why don't we call places in town that have the machine and see if they will widen the cross section and give you a discount? I said: Great.

In 3 minutes, she had her assistant call. We found a place in town that was about \$75 cheaper than normal. The doctor got the test that she needed. Perhaps most importantly, in the aggregate, the resource was more properly allocated, all because I had the incentive to ask a simple question because I was actually paying for the test.

Now, we have a policy that encourages health savings accounts. Some Americans have them; some Americans don't. They are not appropriate for every American, particularly Americans who are getting older and at the ending point of their professional careers, because health savings accounts coupled with catastrophic insurance are a very, very proper way, I think, to manage health care when you are younger and in middle life. We ought to be expanding this.

The second point is: How do we get there? Guaranteed access to affordable, quality catastrophic health insurance with health savings accounts.

What you get for that is you are protected. If something really goes wrong, if you are in the hospital in the emergency, you shouldn't be put in the position of asking: Who is the chief anesthesiologist around here? I need to compare prices.

No, in those scenarios, you are protected. But in ordinary health care decisions, in partnership with your doctor—health care provider—making pru-

dential decisions about what is really necessary and what is not, I think this is a mechanism by which we can again significantly empower families to save money, control their first health care dollar cost, and be protected at the same time.

The health savings account is a tax-preferred vehicle whereby money is set aside on a tax-preferred basis and accumulates over time. Now, most people in their lifetimes don't get significantly sick, so there is the opportunity here again for young people to begin to set aside money in this tax-deferred account that actually helps them pay for when ordinary medical expenses arise. Then again, if something really goes wrong, you have catastrophic insurance.

Over time, these accounts would become larger and larger and help supplement retirement, help supplement the Medicare system, strengthening those important retirement security programs.

□ 1815

I think this is a key to reworking our current health care model, not for everyone, but an expansion of this opportunity, I think, is the right architecture in moving forward for the next generation, particularly, so that we guarantee access to affordable, quality health care.

I think we carry forward some important provisions in that no one with a preexisting condition can be denied. I think the provision whereby children can stay on their parents' health care longer, now until age 26—I actually supported that before the new health care law—is smart policy. We remove caps on insurance, but that doesn't save any money. It just penalizes those who get really sick. We carry those provisions forward, again, to protect persons in a vulnerable circumstance, but we give everyone the access to affordable, quality health insurance.

There is a lot of detail that would go into how you would make that happen—whether or not you would spread that cost over the entire market through regulation or whether you would subsidize it like the government does in other insurance markets, like flood insurance and crop insurance. Nonetheless, I think that is the right framework and architecture for a robust, competitive health insurance marketplace that is going to improve health outcomes, reduce costs, and protect vulnerable persons.

What will we get if we do this? What will we get if we are courageous enough as a body to step forward and say, "Do you know what? We can do better. Americans deserve better than the current arrangement?"

We will get peace of mind for ourselves and for our doctors. I think this would go a long way toward helping resolve the underlying problem here of stagnation in the economy, particularly among those who want to be entrepreneurs—small business persons

who are creating jobs, those who have a gift or an idea and who want to take a little risk but who now aren't empowered to do so because of the environment that has been created that has dampened their ability to seize this opportunity. This would be the key to unlocking a healthy economy, one that is focused on opportunity for all.

Mr. Speaker, I yield back the balance of my time.

THE STALKING GOVERNMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 2015, the Chair recognizes the gentleman from Texas (Mr. POE) for 30 minutes.

Mr. POE of Texas. Mr. Speaker, just a few weeks ago, this Chamber was filled with Members of the House of Representatives, and all of us stood up and raised our right hands, and we took an oath to support and defend the Constitution of the United States. It is the same oath the President takes and that others take—the military. We do that for a lot of reasons, but the main reason is that, in this country, the Constitution is paramount to all other law. I agree with that philosophy. The Constitution, I think, is a marvelously written document, as well as the Declaration of Independence, which justified the reason for us to start our own country.

Attached to the Constitution is what is commonly referred to as the Bill of Rights—rights to the people and prohibitions against government intruding on those rights. They call it the “Bill of Rights.” There were originally 12, and 10 of them passed. That is why we have 10 instead of 12 under the Bill of Rights. I would like to start and talk about only one of those rights. Since there are only 30 minutes, I am going to talk only about one of those, and it is the Fourth Amendment. Let's go through it together, Mr. Speaker.

The Fourth Amendment to the U.S. Constitution:

“The right of the people”—that is us—“to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated”—that sounds pretty absolute to me—“and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized.”

Now, you don't have to be a legal scholar or a lawyer to understand what this is talking about. It is the right of privacy—that government could go into our homes and our effects and our things and our stuff. It generally cannot do that except under circumstances which require that they go get a warrant.

I used to be a judge. Judge GREEN, who was just in here a while ago, used to be a judge. What that means is the police, generally, go to the judge and say: “Judge”—in a written document

with the affidavit that they swear to—“the affidavit states we believe—I believe—that there are,” let's say, “drugs—cocaine specifically—in Bobby Oglethorpe's home.” Bobby Oglethorpe is a notorious Texas outlaw, so I am going to use him as the one. It describes what they are looking for. They say where it is, and they give the address of where Bobby Oglethorpe lives in Houston. Then I read it to see if it states probable cause.

What does that mean? There are a lot of definitions to it, but, basically, the statement proves, with the affidavit of the peace officer, that there is probable cause to believe that that item is where the police officer says it is, and is drugs, so that would be illegal.

The judge signs the warrant. What that does is it orders the police officer to go to that specific location in a certain timeframe. You can't do it, like, forever. You don't have 6 months to go look for it. It is usually 3 days. You go over there, and you search that address, looking for that specific stuff—cocaine, drugs—that is in the possession of Bobby Oglethorpe. Then the police officer normally would leave a document with the person at the house as to what they seized.

The officer comes back to the judge and says: “Judge, I executed the warrant you gave me to Bobby Oglethorpe's house, and I brought you back the return on the warrant—what I seized—because I was ordered to go get it.” Then he files the return in the court with the clerk, and that varies from State to State.

Basically, the concept is, before government goes into your house or other things, an independent person—a judge—has got to separate the law—the police—from the citizen and make an independent decision as to whether or not what they are looking for is where it is, or they have not established probable cause. Now, that is a generalization of the whole concept of a warrant.

Why do we even have these things? It goes back to our history, our American history. Everything seems to be based on history, and it is good that we reflect on it.

Back in 1761, America was not a country, it was a colony, made up of 13 Colonies. At that particular time—this is not a new thing about warrants, this is not a new thing—British subjects who lived in England, specifically, had the right to have what was called a “specific warrant” issued against them before they would have to give up the item, as opposed to what I will show you as being a general warrant.

Generally speaking, before a magistrate in England would allow some British subject's home to be searched, the peace officer would have to go to a magistrate and show some specificity as to where the document or the item was, with some type of probable cause, but in coming to the Colonies, that was not true. English magistrates who ruled over the Colonies did not give colonists the same protection as other

British subjects back in England. So what would occur is this:

Those colonists, it has been said, were hiding rum, rum that had been brought into the United States—the Colonies—and other things, and they had not paid the tax on the rum. So the British would go to a magistrate and say: “Give us a general warrant to go search,” let's say, “Bobby Oglethorpe's great, great, great-grandfather. We will search his warehouse to find any items that may not have been stamped with the appropriate tax.”

The colonists didn't like that. That is a general warrant. You have got a piece of paper from a magistrate, saying, “Ah, go over there, and look around. See if you can find something that is illegally in the possession of colonists without the Stamp Act on there.” These were called “writs of assistance.” They were called “general warrants.” They are pretty much the same thing. I won't go into the difference of those two individuals.

With the colonists being the type of folks they were in Massachusetts, they took them to court. They took the British Crown to court. Their lawyer was James Otis, and he protested in a courtroom, saying, “Your warrant is not specific enough. It is too general.” The British judge, magistrate, ruled against the colonists, and there were several businessmen who were being sued in this case.

Now, that may not seem like a big deal, but John Adams, who later became President of the United States, observed all of this, and he said that act was the spark which originated the American Revolution. What is that? It is the act of government invading the privacy of the colonists. He said that sparked the American Revolution, what we now call the “Fourth Amendment,” because the colonists weren't protected from unreasonable searches and seizures. They weren't protected from specific warrants saying specifically what they were looking for in a specific place based on probable cause. The local magistrate would just write out a document, saying, “Go over there and look at this warehouse, and see if you find any,” in this case, “rum that doesn't have the stamp, that doesn't have a tax on there.”

Our history shows that this is an important concept. Now, what does it require?

It requires a specific warrant as opposed to a general warrant. It requires that it be specific as to what you are looking for. It has got to be based upon probable cause. It just doesn't give the police the authority to go into someone's home and look around and see if you find some contraband. You have got to have it based upon probable cause, sworn to, and it is limited in scope, as required under the Fourth Amendment, which we will read again if we have enough time.

The right of privacy was important to our ancestors—it is in the Fourth Amendment—and it is important to

Americans today. We are a little unique on this right of privacy. It is really not one of the things that a lot of other countries have. Remember, it is not supposed to be violated by government, our right to be secure in our homes and in our effects.

So here we are in 2015, and where are we?

This morning, somewhere in the United States, somebody woke up and sent out some emails and made a phone call. A person may have had a meeting, so he got his little iPhone out—5 or 6 or whatever it is—and pulled up Google maps to figure out a route to get from where he was to where the meeting was. He took his vehicle or maybe jumped in a cab and checked Facebook if he were in a cab, on the phone, texted his friend, and maybe even played what is now something fun, I guess, for some people—“Candy Crush”—on the iPhone.

After the meeting is over with, this individual may head off to the office, log onto the computer, do a little G-chatting with a friend about where he planned to go for dinner that evening, and later that evening, he uploads a photograph from supper, as we call it in Texas, on his Instagram. That is, maybe, a typical day for a lot of people.

But, all during that route of the American citizen's, the Federal Government has the ability to stalk that individual every step of the way because of the devices that he is using electronically. Maybe, until last year—until some news came out by the national media—most Americans were unaware that their every move could be tracked by Big Brother. Through the NSA, which I call the “National Spy Agency” now, the government has the ability to read citizens' emails, to read their texts, to know their phone logs, to track the location and travel and movements of citizens, to snoop and collect information about individuals through smartphones, apps, to read G-chats, and to look at private photographs—all unknown to the citizen.

The failure to disclose any of this information until recently is why many Americans now fear government intrusion—I call it government stalking—into our lives. The stalking government has kept its Peeping Tom activities a big secret until, primarily, Edward Snowden told us all about it.

□ 1830

His issue is a different issue, but now we know about it.

So how did we get here? Over the years, technology has rapidly changed and given power-hungry—my opinion—bureaucrats the capability to sift through data and find out more information than ever. Just because they have the physical ability doesn't mean that they have the constitutional right or any right to violate the Fourth Amendment because this protects Americans. The Fourth Amendment

doesn't protect government; it protects Americans. It protects citizens.

The government seems to justify the snooping, the Peeping Tom for a couple of reasons. The White House, the administration claims that NSA has no interest in monitoring American citizens; they are just looking for bad guys. Well, I have a hard time believing that. Until evidence came out to the contrary, the NSA, it seems, was snooping and spying on lots of Americans in the name of trying to catch the bad guys.

Furthermore, NSA, when they did a little investigation, they found dozens of instances where their own employees misused intelligence capabilities to spy on people—ex-girlfriends and others. Why? Simply because they had the ability.

So we have learned for years that the NSA has quietly, in my opinion, snooped and spied on millions of Americans without a warrant—and that is the key—and without their knowledge and without their consent. This is justified for a second reason, based upon the name of national security. It is said we live in terrible times. We do. We have got these terrorists running all over the world, bad guys trying to hurt us, so we at the NSA need to get this information to protect Americans from these bad guys.

Well, let's analyze that just for a moment if we can.

We have heard reports that, well, we have caught a lot of bad guys because of this information that NSA has seized, this megadata. So during a Committee on the Judiciary hearing last year, I asked Deputy Attorney General James Cole this question: How many criminal cases have been filed based upon this massive seizure of information by NSA, collecting information on Americans without the use of a warrant and storing it? And to my knowledge it still exists. How many criminal cases?

He testified: Maybe one. Maybe one.

So this nonsense about we are doing all of this because we have to catch the bad guys, they have got one criminal case that they can talk about. Even if there were more, it does not justify, in my opinion, the massive seizure of data without constitutional safeguards.

Let's read it one more time. “The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue”—in this case no warrants at all are issuing—“but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

That is not what is occurring. It is just massive amounts of information are being seized.

Let me try to describe it this way. Let's go back to Bobby Oglethorpe. Let's say that Bobby Oglethorpe lives close to where I do in Atascocita, Texas, and the police come to me as a

judge and say: Judge, we know that Bobby Oglethorpe lives in this ZIP Code here, but we don't know where he lives, and he is no good. He is a criminal, and he is in possession of firearms and drugs, and all kinds of illegal things he has done, but we don't know which house he is in in this particular ZIP Code, so we want to go search all the houses in the ZIP Code and hopefully we will catch him.

No judge in this country would sign a warrant and say: All right. Have at it. Start searching all the houses looking for this one guy with all this bad illegal stuff that he is in possession of.

No judge would do that. Why? Because it violates the Fourth Amendment. Why? Because it is not specific enough. It is a general warrant, like the British were imposing on the Colonies that, as John Adams said, sparked the American Revolution. Wouldn't do that.

Or another example, it is like finding a needle in a haystack. The government wants to seize the whole haystack. They can't do that. They have got to find the needle. They have got to be specific in their warrant. So, in my opinion, based upon the Fourth Amendment, the activity of the NSA, by seizing lots of data, violates the Fourth Amendment of the Constitution.

There are other examples.

So we talked about NSA seizure of data, and to my knowledge, like I said, they still store all this information.

May I inquire of the Speaker how much time I have left?

The SPEAKER pro tempore. The gentleman has 12 minutes remaining.

Mr. POE of Texas. Thank you. I appreciate it.

NSA. Let's move on to what is called ECPA. We will talk about the IRS a little bit.

This spring, most Americans are going to be filing taxes, their tax returns, and many Americans, including me, are concerned about the IRS' ability to take information from Americans without their consent or without a warrant. Sometimes that includes emails. So let's talk specifically about the concept of government seizure of emails without consent of the person who sent it or received it and without a warrant.

Current Federal law is that, if somebody has an email within 6 months of when that email was sent, that email, to be obtained by government—not just law enforcement, but any government agency—they have to get a warrant to seize that. But as soon as that 160 days runs, past 160 days, the government doesn't get a warrant because the law doesn't require it. I think in the spirit of the Fourth Amendment, the Fourth Amendment should require that.

Email, what is email? That is an electronic message sent to another person.

Let's go back to regular mail or snail mail, which some people call it. If I write a letter and I seal the envelope and I put the postage on there and I