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No. 81

House of Representatives

The House was not in session today. Its next meeting will be held on Thursday, May 11, 2017, at 2 p.m.

Senate

WEDNESDAY, MAY 10, 2017

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. HATCH).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, You are our strength and always ready to help us. Uphold our lawmakers with Your powerful hands. Lord, let Your presence be felt by them as You guide them in these challenging times.

Give them the wisdom to do Your will, finding nourishment and reassurance in their fellowship with You. Help them to do their best in life's daylight, for the night comes when no one can work.

Empower our Senators to grow in grace and in a deeper knowledge of You. May they continue to prosper and be in health, even as their souls prosper. Inspire them to be strong and full of courage, ever confident in Your grace and mercy.

We pray in Your strong Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER (Mr. PAUL). The majority leader is recognized.

LEGISLATIVE SESSION

PROVIDING FOR CONGRESSIONAL DISAPPROVAL OF A RULE OF THE BUREAU OF LAND MANAGEMENT—MOTION TO PROCEED

Mr. MCCONNELL. Mr. President, I move to proceed to H.J. Res. 36.

The PRESIDING OFFICER. The clerk will report the motion.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL] moves to proceed to H.J. Res. 36, a joint resolution providing for congressional disapproval under chapter 8 of title 5, United States Code, of the final rule of the Bureau of Land Management relating to "Waste Prevention, Production Subject to Royalties, and Resource Conservation."

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Democratic leader and I be allowed to give our leader remarks at this time.

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

WELCOMING KENTUCKY VETERANS TO OUR NATION'S CAPITAL

Mr. MCCONNELL. Mr. President, today it is my privilege to welcome a distinguished group of Kentuckians to our Nation's Capital. Because of the incredible work of the Honor Flight Program, over 80 World War II, Korea, and Vietnam veterans from across my home State will travel to Washington.

Here they will see the memorials built to honor their service.

The Bluegrass Chapter Honor Flight has brought hundreds of veterans, most of them Kentuckians, to Washington for this purpose. Despite the significant logistical and financial planning that goes into these trips, Honor Flight works to make sure veterans have the opportunity to travel at no cost to themselves.

The program organizes travel and food for these veterans, many of whom would never be able to visit our Nation's Capital or see the memorials at all without Honor Flight.

The national monuments built on the Mall pay tribute to those who sacrificed for the cause of freedom. I wish to add my voice to those who welcome these veterans and thank them for their service to our country.

HEALTHCARE LEGISLATION

Mr. MCCONNELL. Mr. President, on another matter, I am glad to see many of our Democratic friends here with us today. Yesterday they sent me a letter indicating they want to participate as we work on legislation that can bring relief from ObamaCare. In that letter, they acknowledged the need to "improve and reform the health care system."

After 8 years of defending this failing law and its higher costs, reduced choices, and dropped coverage, I am glad to hear that Senate Democrats are finally willing to concede that the status quo is simply unsustainable. I appreciate their willingness to acknowledge that ObamaCare hasn't lived up to its promises.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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That is certainly a reality that Senate Republicans entirely agree with. It is why we are working to keep our commitment to the American people to move beyond the failures of ObamaCare.

If our friends on the other side of the aisle want to join us in replacing ObamaCare with commonsense reforms, I welcome their input. It is disappointing that it has taken our Democratic colleagues this long to come around, but I look forward to hearing their ideas now, and I look forward to joining in a robust debate on the Senate floor as we pursue smarter healthcare solutions.

As we continue working to address this critical issue, it is important to remember why we need to act in the first place. Across the country, more and more Americans are feeling the pain of ObamaCare. Listen to these recent headlines.

Thousands of Obamacare Customers Left Without Options As Insurers Bolt.

More Insurers Abandon Obamacare: Who Might Be Next?

Obamacare Choices Could Go From One to Zero in Some Areas.

ObamaCare is failing the American people, and it keeps getting worse. Families face skyrocketing premiums, fewer choices, and the risk of losing the doctors or plans they like. Just this week, we saw even more troubling news out of States like Maryland, where one major insurer proposed a premium increase of more than 50 percent, warning that the ObamaCare market is “in the early stages of a death spiral.”

We saw similar stories out of Connecticut too. There, insurers have also requested double-digit increases, which could top out at 52 percent amid worries that the last two insurers on the exchanges “may leave.”

These States aren’t alone. I continue to hear from Kentuckians who are desperate for relief from ObamaCare. Take this Campbellsville woman who purchased insurance on the ObamaCare exchanges after researching the best policy to fit her needs. Only then did she find out how hard it would be for her to actually get care. Here is what she had to say.

Today I am making payments for a health care plan that does not cover my doctors, [and] does not cover all my prescriptions. It is almost totally useless.

I am only one person but I’m sure I speak for many people who are finding themselves in this difficult situation.

ObamaCare is a failed law that continues to hurt Americans every single day. It is taking a bigger bite out of their budgets while, as too many have discovered, covering fewer services they actually need.

We have all received letters from our constituents like the one I just shared. These families are the ones shouldering the burdens of ObamaCare. They are the ones counting on us to act and move past the failures of ObamaCare. If we don’t, this situation will only get worse.

That is why we continue to engage in productive conversations with each Member of our caucus on the way forward on providing relief from ObamaCare. I look forward to continuing these talks and welcoming our Democratic colleagues to the conversation if they are ready to join us. It certainly is an important step for the entire Democratic caucus to acknowledge that the status quo is failing the American people and that Congress cannot sit by while Americans suffer the consequences of this failed law.

REMOVAL OF JAMES COMEY

Mr. MCCONNELL. Mr. President, one final matter, whatever one thinks of the manner in which Director James Comey handled the investigation into Secretary Clinton’s unauthorized use of a private server and her mishandling of classified information, it is clear what our Democratic colleagues thought of it—both at that time and consistently thereafter.

Last year, the current Democratic leader said it appeared to be an “appalling act,” one that he said “goes against the tradition of prosecutors at every level of government,” and the prior Democratic leader, when asked if James Comey should resign given his conduct of the investigation, replied “[o]f course, yes.”

It is also clear what our Democratic colleagues think of the man who evaluated Mr. Comey’s professional conduct and concluded that the Bureau needed a change in leadership. The Democratic leader just a few weeks ago praised Mr. Rosenstein for his independence and said he had developed a reputation for integrity.

What we have now is our Democratic colleagues complaining about the removal of an FBI Director whom they themselves repeatedly and sharply criticized; that removal being done by a man, Rod Rosenstein, whom they repeatedly and effusively praised—when Mr. Rosenstein recommended Mr. Comey’s removal for many of the very reasons they consistently complained about.

Two investigations are currently ongoing: The Senate Intelligence Committee’s review of Russian active measures and intelligence activities and the FBI investigation disclosed by Director Comey.

Today we will no doubt hear calls for a new investigation, which could only serve to impede the current work being done to not only discover what the Russians may have done but also to let this body and the national security community develop the countermeasures and warfighting doctrine to see that it doesn’t occur again. Partisan calls should not delay the considerable work of Chairman BURR and Vice Chairman WARNER. Too much is at stake.

Deputy Attorney General Rosenstein was just confirmed on a bipartisan vote, 94 to 6—94 to 6—and that sort of fair consideration should continue when the Senate receives an FBI Direc-

tor nominee. As I said yesterday, once the Senate receives a nomination to fill this position, we will look forward to a full, fair, and timely confirmation process. This is a critical role that is particularly important as our country continues to face serious threats at home and abroad.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

FIRING OF JAMES COMEY

Mr. SCHUMER. Mr. President, yesterday the President fired the Director of the FBI, Jim Comey, who was leading an active investigation into the Trump campaign’s possible collusion with Russia.

The President provided no reasoning for the firing other than he had the recommendation of his Attorney General—who has already had to recuse himself from the Russia investigation for being too close to the President—and his Deputy Attorney General, Rod Rosenstein.

There is little reason to think Mr. Rosenstein’s letter is the true reason President Trump fired Director Comey. Why? Because if the administration truly had objections to the way Director Comey handled the Clinton investigation, they would have had them the minute the President got into office, but he didn’t fire Director Comey then.

The question is, Why did it happen last night? We know Director Comey was leading an investigation into whether the Trump campaign colluded with the Russians, a serious offense. Were those investigations getting too close to home for the President?

The dismissal of Director Comey establishes a very troubling pattern. This administration has now removed several law enforcement officials in a position to conduct independent investigations of the President and his administration—from Acting Attorney General Sally Yates to Preet Bharara and now Jim Comey.

What should happen now, what must happen now is that Mr. Rosenstein appoints a special prosecutor to oversee this investigation. Deputy Attorney General Rosenstein sat in the Judiciary Committee and promised to appoint a special prosecutor at the appropriate time. He said: “I’m willing to appoint a special counsel whenever I determine that it’s appropriate.”

My colleague Senator COONS asked him: “Would you agree that it’s vital to the assurance of confidence in our democracy and law enforcement system that any investigation into these matters be fair, free, thorough and politically independent?”

Mr. Rosenstein answered: “Yes, I do.”

If there was ever a time when circumstances warranted a special prosecutor, it is right now.

Mr. Rosenstein already expressed concern that Director Comey damaged the integrity of the FBI. The Attorney General has already had to recuse himself from the investigation for being too close to the President.

If Mr. Rosenstein is true to his word, that he believes this investigation must be “fair, free, thorough and politically independent,” if he believes, as I do, that the American people must be able to have faith in the impartiality of this investigation, he must appoint a special prosecutor and get his investigation out of the hands of the FBI and far away from the heavy hand of this administration.

Mr. Rosenstein has the authority to appoint a special prosecutor right now. He needs no congressional authorization. This would simply be a step that he could take, as outlined in the Department of Justice guidelines and in a law passed after Watergate, to get an independently minded prosecutor who would be insulated from various pressures.

A special prosecutor is not subject to day-to-day supervision by the Attorney General or anyone else at the Justice Department. That means the special prosecutor would have much greater latitude in whom he can subpoena, which questions they can ask, and how to conduct an investigation. The special prosecutor can only be removed for good cause, such as misconduct, not to quash the investigation.

Third, there is built-in congressional oversight. Congress is notified whenever a special counsel is appointed, removed, or has finished with the investigation. The appointment of a special prosecutor would be a welcome step in the right direction, but it is not the only action that should be taken.

There are a great many outstanding questions about the circumstances of Director Comey’s dismissal, the status of the executive branch investigation into the Trump campaign ties to Russia, and what the future holds for these investigations.

So I will be requesting that the majority leader call a closed, and if necessary, classified, all-Senators briefing, with the Attorney General separately at which, and the Deputy Attorney General separately, at which they can be asked questions.

Some of the questions: Why was Attorney General Sessions, who had recused himself from the Russia investigations, able to influence the firing of the man conducting the Russia investigation? Did Deputy Attorney General Rosenstein act on his own or at the direction of his superiors or the White House? Are reports that the President has been searching for a rationale to fire the FBI Director for weeks true? Was Director Comey’s investigation making significant progress in a direction that would cause political damage for the White House? Why didn’t the President wait for the Inspector General’s investigation into Director Comey’s handling of the Clinton email investigation to conclude before making his decision to fire him? Was this really about something else?

No doubt, we will have an opportunity to question Mr. Comey, now a

private citizen, about what happened, but we need to hear from this administration about what happened and why, and what is going to happen next. That is why, again, I am requesting that the majority leader call a closed, and if necessary, classified, all-Senators briefing with the Attorney General and the Deputy Attorney General separately, at which they can be asked these questions.

I hope the majority leader agrees with me that we need to get to the bottom of this and get a handle on all the facts so that we can grapple with them. I remind him and my Republican friends that nothing less is at stake than the American people’s faith in our criminal justice system and the integrity of the executive branch of our government.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion to proceed.

Mr. McCONNELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 49, nays 51, as follows:

[Rollcall Vote No. 125 Leg.]

YEAS—49

| | | |
|-----------|-----------|----------|
| Alexander | Flake | Portman |
| Barrasso | Gardner | Risch |
| Blunt | Grassley | Roberts |
| Boozman | Hatch | Rounds |
| Burr | Heller | Rubio |
| Capito | Hoeven | Sasse |
| Cassidy | Inhofe | Scott |
| Cochran | Isakson | Shelby |
| Corker | Johnson | Strange |
| Cornyn | Kennedy | Sullivan |
| Cotton | Lankford | Thune |
| Crapo | Lee | Tillis |
| Cruz | McConnell | Toomey |
| Daines | Moran | Wicker |
| Enzi | Murkowski | Young |
| Ernst | Paul | |
| Fischer | Perdue | |

NAYS—51

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|--------------|------------|------------|
| Baldwin | Gillibrand | Murphy |
| Bennet | Graham | Murray |
| Blumenthal | Harris | Nelson |
| Booker | Hassan | Peters |
| Brown | Heinrich | Reed |
| Cantwell | Heitkamp | Sanders |
| Cardin | Hirono | Schatz |
| Carper | Kaine | Schumer |
| Casey | King | Shaheen |
| Collins | Klobuchar | Stabenow |
| Cooms | Leahy | Tester |
| Cortez Masto | Manchin | Udall |
| Donnelly | Markey | Van Hollen |
| Duckworth | McCain | Warner |
| Durbin | McCaskill | Warren |
| Feinstein | Menendez | Whitehouse |
| Franken | Merkley | Wyden |

The motion was rejected.

The PRESIDING OFFICER (Mr. COTTON). The majority leader.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 52, Robert

Lighthizer to be United States Trade Representative.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Robert Lighthizer, of Florida, to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT REQUEST—AUTHORITY FOR COMMITTEES TO MEET

Mr. McCONNELL. Mr. President, I have 13 requests for committees to meet during today’s session of the Senate. They include the Armed Services Committee briefing on capabilities to counter Russian influence in cyberspace, a Banking Committee hearing on North Korea, and a Homeland Security Committee hearing on cyber threats facing America. These committees and all the other committees are doing important work; therefore, I ask unanimous consent that the 13 committees be allowed to meet.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. DURBIN. Reserving the right to object, because of the decision last night of the President of the United States to terminate the Director of the FBI and the questions that has raised, we gathered together—the Democratic Senators—on the floor and listened as our leader at least suggested a path for us to follow as an institution facing this constitutional question. We believe it is timely, and as a result of that, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Washington.

CONGRESSIONAL REVIEW ACT RESOLUTION

Ms. CANTWELL. Mr. President, I come to speak against the Congressional Review Act resolution to over-run an important rule that has been put in place to protect the American taxpayer and to protect the health of American citizens.

For almost 100 years, the Federal Government has regulated undue waste in oil and gas fields. The story of oil and gas waste is as old as the story of oil and gas.

Early oil gushers, like Spindletop in Texas, revealed two things about oil as an emerging source of energy: First, there was a huge amount of it. Second, without rules in place, it could be easily wasted. That is why, way back in 1915, Attorney General Thomas Gregory issued a report to the public about this issue. Gregory wrote that the law at the time allowed oil companies to “occupy and operate any number of tracts of public oil land without restraint upon the quantities of oil produced or the methods of production and