

see a specialist—I gather, to confirm the diagnosis. I don't know. As her symptoms worsened, she decided to visit the Mayo Clinic in Arizona. So she left her home country, paid her way down to Arizona and paid for the diagnosis and treatment that was called for in her case to prevent the permanent vision loss and potentially death that could have ensued had she not been treated in a timely fashion.

A Lindsey McCreith, also of Ontario, was profiled in the same article to which I referred. Mr. McCreith suffered from recurring headaches and seizures. When he went to the doctor, he was told the wait time for an MRI was 4½ months. Think about this. You are having seizures and the test that will reveal what if anything is wrong is going to be delayed 4½ months. One of the reasons, I am told, by the way, is that there are very few places in Canada where MRIs are located, where you can actually get the test. In any event, he decided to visit a clinic in Buffalo, NY—fairly nearby—in order to get the MRI. He did and it, too, revealed a brain tumor. Now Mr. McCreith is suing the Canadian Government's health care monopoly for jeopardizing his life.

I wonder if we want lawsuits to be the answer. When you can't get the care you want, you have to file a lawsuit to get it? Is that what we want in America? I don't think so.

There are also people whose care has been flatout denied. Britain's National Health Service has denied smokers treatment for heart disease, and it has denied hip and knee replacements for people who are deemed to be obese. The British Health Secretary, Patricia Hewitt, has said it is fine to deny treatment on the basis of lifestyle.

[Doctors] will say to patients: "You should not have this operation until you have lost a bit of weight," she said in 2007.

That is easier said than done for some people. In any event, if they need a health treatment and they need it now, there is a real question whether they can accomplish the "losing a little bit of weight," as Ms. Hewitt said. All Americans deserve access to quality care, but government-run insurance does not equate with access. Rationing will hinder access.

As I said, my colleague from Illinois, the distinguished majority assistant leader, says you can actually find some examples in the United States where there are long wait times. If that is true—and I don't doubt what he said—that is not good; it is bad. We should try to fix that so we don't have wait times. We should not justify having more wait times on the fact that we already have some. We should not say because there are some people in America who have to wait, therefore we should make it possible for everybody in America to have to wait; we should be like Canada or Great Britain.

That is not the answer. If we have wait times here, we should stop it, not say that we, therefore, might as well be

like Canada or Great Britain. Americans do not deserve or want health care that forces them into a government bureaucracy with its labyrinth of complex rules or regulations.

Think about the hassles of dealing with the IRS or Department of Motor Vehicles or Social Security Administration when you have a problem there and then imagine dealing with the same issues when it comes to getting health care. We can't enable a panel of bureaucrats, through rules and regulations, to put the politicians in charge of deciding who is eligible for a particular treatment or deciding when or where they can get it. It is wrong for America, wrong for the patients in America, and it is the wrong approach to health care reform.

Republicans believe there is a better way for health care reform. Rather than empowering the government, empower patients. Rather than putting bureaucrats in between your doctor and yourself, try to remove the constraints that physicians have and hospitals have for treating people. Try to remove constraints on insurance companies.

One of the things I have asked for, for example, with all of these wonderful ideas about more government regulation of insurance is, how about repealing some laws that currently prevent insurance companies from competing? I mentioned before you can't compete across State lines.

We all know if you want to incorporate as a corporation—why are all the corporations incorporated in Delaware, "a Delaware corporation"? It doesn't matter whether you are in Illinois or Arizona, corporations are incorporated in Delaware. At least that is the way it used to be. One of the reasons is Delaware had very benign laws regulating the incorporation of businesses. It was cheaper to do it, and there was less regulatory hassle. But if the distinguished Presiding Officer, for example, looked across the river to the west and saw an insurance company in Iowa that could provide him with better coverage at less cost than the company that insures him in Illinois, why should he be restrained from buying the policy from the company in Iowa? You could buy your automobile insurance that way. You could buy your home insurance that way. Why should you not be able to buy your health insurance that way? Well, you can't.

I am going to conclude this discussion, but just one idea is to remove some of the barriers to competition that would make it more likely that insurance companies could expand their coverage by competing, be required to compete with lower premiums and/or provide better access to care. It seems logical, and in this country, where people move around all the time—my family just drove all the way across the country from Washington, DC, out to Arizona to visit friends and family and go on to California. We travel all around this country all the

time. We move families, unlike back in the old days. Why can't we have an insurance regime that enables you to buy insurance from another State? It does not make sense; it inhibits competition; it makes prices higher; and it can have the effect of restricting care. Those are the kinds of things we need to do to reform our system, not put more government in charge and not put government between you and what your physician says you need, or even put some time delay between the opportunity to visit your physician when you know you have something wrong with you.

We are going to have more discussion about this in the future, but I want to back up what Senator MCCONNELL from Kentucky has said. Americans don't want government-run insurance companies any more than they want government-run car companies. It seems as though the government is starting to run everything now—from the banks, to the insurance companies, to the car companies. Now we are going to run insurance companies as well for health care. I do not think that is what the American people want.

I think the Senator from Kentucky is exactly right. I think he is right when he says no government-run care and that we should not be rationing care. Those are two of the most critical aspects of the legislation Senator KENNEDY has come forth with and among the things being discussed in the Senate Finance Committee as well. We need to draw a line: Put patients first, not put the government first.

(Mrs. GILLIBRAND assumed the Chair.)

#### GUANTANAMO

Mr. KYL. Now, Madam President, since I think I have a little bit more time on the Republican side—though if I have colleagues who wish to speak, I will be happy to finish for the moment—I will go for a little bit longer on another subject.

We have had kind of a running debate on the question of closing Guantanamo prison. This is a subject the Senate has spoken on by an overwhelming vote. I think 90-some Senators voted not to close Gitmo. The American people are 3 to 1 opposed to bringing Gitmo prisoners into their State. They are 2 to 1, at least, in opposition to closing Guantanamo prison. This is not something on which there is a little bit of doubt. The American people are very much opposed to closing Guantanamo prison and bringing those people to their own States.

Nevertheless, the assistant majority leader and five other Democrats voted for the appropriation of money—or the authorization of money—actually, the appropriation of money to close Gitmo and acknowledge that would require bringing many of those people to the United States.

Well, I happen to agree with Senator MCCONNELL that this is a bad idea, and

with the other 89 Senators who agreed it is a bad idea, at least until we have some kind of a plan to do it. So I was a little struck this morning when the Senator from Illinois said: Well, here is the proof of why we should close the Guantanamo prison.

We just have had an announcement we are going to try a terrorist, whose name is Ghailani, in the United States, and that proves we can close Gitmo.

Well, it does not prove that. It does not prove anything. What it proves is, we can try somebody in U.S. courts. We have done that with a few terrorists, and it is not a pleasant experience. The one that most of us recall in the Washington, DC, area was the trial across the river in Alexandria, VA, of Zacarias Moussaoui. That was extraordinarily difficult for the government to do. It was very difficult for at least two main reasons.

First of all, much of the evidence that was gained to try him was classified and could not be shared with him, and there were significant questions of due process as a result. How can we try somebody for a serious crime and not show them the evidence against them? That is one of the main reasons it is very difficult to try these terrorists for crimes.

The second problem is the security issue. The people in Virginia, in Alexandria—in the county there—will tell you, it was a costly and difficult thing for them to be able to conduct this trial of Zacarias Moussaoui there. Nevertheless, it was possible. Although costly, it was possible. It was even possible to get a conviction, I would suggest, primarily because of some decisions Moussaoui made. Nonetheless, it was possible to do so.

Everybody acknowledges there are some people who need to be tried for serious crimes, in effect, such as war crimes, and who should be tried in U.S. courts. It does not make it easy, but it can be done. What it does not prove is that it should be done for all of the people at Gitmo. In fact, not even the President suggests that. The President, in his speech a few weeks ago, acknowledged that many of the prisoners at Gitmo now are never going to have a trial. They are simply being held until the termination of the hostilities that have caused them to be captured and imprisoned in the first place. They are like prisoners of war who can be detained until the war is over.

Here, however, they do not even have the rights of prisoners of war under the Geneva accords because they do not adhere to the rules of war, they do not fight with uniforms for a nation state, and so on. They, in fact, are terrorists. So they are still allowed humane treatment, but they do not have the same rights as prisoners of war.

What that means is—as the President acknowledged, as the U.S. Supreme Court has acknowledged—we have a right to hold them until the cessation of hostilities so they do not kill any more people. We cannot just turn them loose.

The President, in his speech, made the point that at least 60—I think is the number that was used—of these prisoners have been released and that they were released by the Bush administration. That is true. The Bush administration was under a lot of pressure to try to release as many of these people who were being held as possible, and so they held determinations. They have a determination once a year and initially as to what the status of the individual is and whether he is still a danger. Eventually, in many of the cases, they decided the person could be released back to their home country or to a country that would take them and it would not pose a danger to the United States.

The problem is, there is a very high rate of recidivism among these terrorists. One in seven are believed to have returned to the battlefield. We have evidence of many of them, specifically by name, who returned and who caused a lot of death. There are two in particular I recall who both eventually engaged in suicide bombing attacks, killing, I think, 20-some people in one instance and at least a half dozen people in another instance.

So even when we try our best to make a determination that is fair to the individuals, but we do not want to hold people beyond the time they should be held—that they no longer pose a danger—we make mistakes and we release people back to the battlefield who are going to try to kill us, and they are certainly going to try to kill others, including our allies; and, in fact, they do so. That is a risk, but it is not a risk that we should lightly take.

The remaining 240-some prisoners at Guantanamo are the worst of the worst. These are people about whom it is very difficult to say: Well, they do not pose a danger anymore. We have already been through those, and, as I said, one in seven of those people have not only posed a danger, they have actually gone off and killed people.

So we have 240 of the worst of the worst, and the President correctly went through the different things that can happen to them. Some of them—a limited number—will be tried in U.S. courts, such as this terrorist Ghailani whom Senator DURBIN spoke of earlier this morning. It is hard to do. There are a lot of issues with it. But we will try to try some of them.

Others can be tried with military commissions. Others will not be able to be tried. They will have to be held. There may be a few whom we deem no longer a threat to us and they will have to be released but to whom nobody knows because nobody appears to want—well, the French will take one of them, and I think there may be another European country that said—maybe the Germans will take one. That still leaves a lot to go.

So the bottom line is, many are going to have to be detained. The question is, Where do we detain them? My

colleague from Illinois says: Well, there are other people who agree we should close Gitmo. Even my colleague from Arizona has certainly said that. But what he did not say is, before we have a plan to do so—and he himself has acknowledged this is really hard to do. And while he would like to close it—as he himself has said: I do not know how you do it—we certainly cannot do it without a plan, and we certainly cannot do it based upon the timetable that the President is talking about.

So it is one thing to say it would be nice to close it. It is quite another to figure out how to do it that would be safe for the American people.

Finally, just a point I want to mention—well, two final points. The Senator from Illinois said this is a problem he, meaning the President, inherited. No. The President did not inherit the problem of having to come up with a plan to close Gitmo by next January 20. The President made that problem himself. When he was sworn into office, I think it was within 3 days, he said: And we are going to close Gitmo within 12 months.

That is an arbitrary deadline that I submit he should not have imposed on himself or on the country because it is going to cause bad decisions to be made. We may have to try more people, such as this terrorist Ghailani, in the United States than we want to or than we should. In any event, we are going to have to try to find, I gather, facilities in which these people could be held in the United States.

FBI Director Robert Mueller testified before the House of Representatives that that posed a lot of problems, real risks, for the United States. Nobody is saying it cannot be done. The question is, Should it be done? Most of us believe, no, it should not be done; there are better alternatives.

The final point I want to make is this: What is wrong with the alternative of the prison at Guantanamo? It is a \$200 million state-of-the-art facility in which, as I pointed out yesterday, people are very well treated, humanely treated. They have gotten a whole lot better medical and dental care than they ever got or could have hoped to have gotten in their home countries, fighting us on the battlefield of Afghanistan or somewhere else.

The bottom line is, this is a top-rate facility. The people there do not mistreat prisoners. That is the myth. Somehow people conflate what happened at Abu Ghraib with Guantanamo. This brings up the last point. It is argued by my colleague from Illinois and others that, well, terrorists recruit based upon the existence of Guantanamo prison.

Think about that for a moment. Are we going to say because terrorists accuse us of doing something wrong—even though we did not—we are going to stop any activity in that area because we want to take away that as a recruitment tool? We would have to basically go out of business as the United

States of America if we are going to take away all that terrorists use to recruit people to fight the West. They do not like the way we treat women with equality in the United States. They do not like a lot of our social values and mores. They do not even like the fact that we hold elections.

So because that is used as a recruitment tool, we are going to stop doing all of that? What sense does this make? We treat people humanely and properly at Guantanamo. People were mistreated in another prison called Abu Ghraib. They are not the same. Abu Ghraib, therefore, does not represent the example of what we should be doing with respect to Guantanamo.

We will have more debate on this subject. I note the time is very short, and I meant to leave a little time for my colleague from Texas. I hope to engage my colleagues in further conversation about this issue. The American people do not want people from Gitmo put into their home States.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent to speak in morning business for 15 minutes.

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

Mr. CORNYN. I thank the Presiding Officer.

#### FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mr. CORNYN. Actually, Madam President, I intend to speak on the underlying bill. But because the bill manager is not here, I think my remarks are just as appropriate in morning business.

I rise to offer my support as a co-sponsor of the Family Smoking Prevention and Tobacco Control Act, the so-called FDA regulation of the tobacco bill that is currently before the Senate.

This is a rarity these days in Washington. It is actually a bipartisan bill—people of both parties working together to try to solve a real problem—and I want to particularly thank Senator KENNEDY and Senator DODD for their leadership on the bill. I also want to thank the Campaign for Tobacco-Free Kids for organizing more than 1,000 public health groups, faith-based organizations, medical associations, and other partners to support this legislation.

The House, as we know, passed the bill in April on a bipartisan basis, and now it is time for the Senate to do its job this week.

This comes to us in a rather unusual historical and regulatory posture. The fact is, we know tobacco is a killer. It is a killer. It kills 400,000 Americans each year in the United States, including 90 percent of all deaths from lung cancer, one out of every three deaths from other types of cancer, and one out of every five deaths for cardiovascular disease.

The real tragedy is not just that adults choose to smoke and harm their health—and many of whom, unfortunately, die premature deaths as a result—it is that many smokers begin their addiction to tobacco—the nicotine, which is the addictive substance within tobacco—when they are young, before they are able to make intelligent choices about what to do with their bodies and their health.

Every day about 1,000 children become regular daily smokers. Medical professionals project that about one-third of these children will eventually die prematurely from a tobacco-related disease.

Not surprisingly, at a time when we are contemplating health care reform in this country, the huge expense of health care and the fiscal unsustainability of the Medicare program, it is also important to point out that tobacco directly increases the cost of health care in our country. More than \$100 billion is spent every year to treat tobacco-related diseases—\$100 billion of taxpayer money—and about \$30 billion of that is spent through our Medicaid Program.

America has a love-hate relationship with tobacco, and Congress, I should say, and State government does as well. My colleagues will recall that tobacco actually presents a revenue source for the State and Federal Government. One of the most recent instances is when Congress passed a 60-cent-plus additional tax on tobacco in order to fund an expansion of the State Children's Health Insurance Program. So government has become addicted to tobacco, too, because of the revenue stream it presents, and that is true at the Federal level and at the State level.

However, because of the political clout of tobacco companies years back, when the FDA regulation statute was passed, tobacco was specifically left out of the power of the FDA to regulate this drug. The active ingredient I mentioned is nicotine, which was not acknowledged to be an addictive drug for many years until finally the Surgeon General did identify it for what it was: an addictive drug that makes it harder for people, once they start smoking, to quit.

Then, of course, we tried litigation to control tobacco and the spread of marketing tobacco to children and addicting them to this deadly drug, which it is. Then, we found out it had basically no impact, that massive national litigation through the attorneys general in the States. Basically, the only thing that happened as a result of that is lawyers got rich, but it didn't do anything to deal with the problem of marketing tobacco to children.

One might ask, as a conservative: Why would one support more regulation rather than less? Well, because of this split personality the Federal Government has in dealing with tobacco—recognizing it is a deadly drug, recognizing marketing often targets the

most vulnerable among us, and recognizing the fact that it kills so many people and increases our health care costs not only in Medicare but in Medicaid—why in the world wouldn't we ban it? I know the Senator from Oklahoma has said maybe the world would be a better place if tobacco wasn't legal. Well, we all know that is a slippery slope for the individual choices we make. If we were to ban tobacco, we might as well ban fatty food; we might as well ban alcohol. Obviously, the government would become essentially the dictator of what people could and could not do and consume, and I don't think the American people would tolerate it and I think with some good reason.

We have to accept individual responsibility for our choices. But, again, when you target a deadly drug such as tobacco and nicotine—this addictive component of tobacco to children—that, to me, crosses the line where we ought to say the Federal Government does have a responsibility to allow this legal product, if it is going to remain legal, to be used but under a regulatory regime that will protect the most vulnerable among us.

Many States have effective ways to deal with underage use of tobacco. I think the regime in my State of Texas works pretty well, but it is spotty and not uniform across the country; thus, I think, necessitating a Federal response.

This bill—which, as I say, should be our last resort, and in many ways it is—increases Federal regulation, I believe, in a responsible way, under an imperfect situation, where this legal but deadly drug is used by so many people in our country.

This bill gives the Food and Drug Administration the authority to regulate the manufacturing, marketing, and sale of tobacco products. It would restrict marketing and sales to our young people. It would require tobacco companies to disclose all the ingredients in their products to the FDA. There have been various revelations over time that there were actually efforts made by tobacco companies to provide an extra dose of the addictive component of tobacco, which is nicotine, in order to hook people at a younger age. I think by providing for disclosure of all the ingredients of these products to the FDA, and thus to the American people, we can give people at least as much information as we possibly can to make wise choices with regard to their use of tobacco, or not, preferably. It would require larger and stronger health warnings on tobacco products.

This bill would also protect our young people and taxpayers as well. Smokers will pay for the enforcement of these regulations through user fees on manufacturers of cigarettes, cigarette tobacco, and smokeless tobacco products. Nonsmokers will not have to pay any additional taxes or fees as a result of this bill.

I hope this bill does some good. I think it will. But the key to reducing