

I have a chart I have asked to be brought out here. Obviously, no one is running very hard to bring it, but it should be here quickly.

We have had an unusual situation. This is, it appears, the 79th filibuster. That is too bad: to filibuster something to preserve Medicare? That is what this is all about. It is too bad. This is legislation that is important.

I say to everyone within the sound of my voice, there are no excuses. This is it. You go home and explain to your family physician: Well, I wanted to talk about it more or I wanted a 20-day extension; they would not give it to me.

We have had 79 Republican filibusters, and the sad part about it is, we are still counting. Remember, this is our Velcro chart. Remember, a short time ago, it was 78. We stuck on a "9" back there, and I guess when we come back after the recess we will have to peel that off and put on an "8" and a "0." Seventy-nine filibusters: untoward. And people who refuse to vote to let this legislation pass are destroying Medicare in the near future—certainly during the next 6 months.

Senate Republicans are playing a dangerous game of chicken, I guess. They have the audacity to say there are other ways of doing this. But in this game of chicken, the only losers will be Medicare patients—old people. Doctors will lose.

The Republicans who choose to block this important bipartisan legislation are going to lose. If there was any doubt that Republicans will regret this path of blindly following on this legislation, one need only look at their own. One need only look at a Congressman by the name of WALLY HERGER. WALLY HERGER is a long-time experienced Congressman. He represents the Second District of California. Here is what he did when he realized how good this legislation was. He realized that by blindly following the Republicans—who he thought knew what they were doing in the House—he made a big mistake.

Congressman WALLY HERGER was one of 59 Members in the entire 435 Members of the House of Representatives—one of 59—to vote against this legislation. Now, this is not some new guy who made a mistake because he did not know what hole to punch in the deal over there. He voted, and as soon as dawn broke in the House, he was on the House floor saying: I made a big mistake. Help me out of the dilemma I am in.

In fact, he was so concerned about this, he sent a letter to all of his constituents in his congressional district. He said, among other things:

From my conversations with House Republican leaders, it was my understanding that the bill—

The bill we are debating right here tonight; this bill—voted on by the House was primarily a political exercise. . . .

It was "primarily a political exercise."

And he said:

Clearly, the outcome of today's vote changed the dynamics of the situation.

Now, this is a direct quote from someone in the House of Representatives, a couple days ago, who voted against this legislation. Here is what he said:

Clearly, the outcome of today's vote changed the dynamics of the situation. . . . Had I known the process would play out this way, I would have supported the House bill. And if the bill comes back to the House for final approval, I intend to fully support it.

Now, my friend, WALLY HERGER, whom I know—I used to see him in the House gym—recognizes he has made a big mistake, and he takes a full page and sends this letter to all his constituents saying: I made a big mistake. Forgive me.

So Senate Republicans do not have the luxury of changing their minds like Congressman HERGER did because right now you have to make a decision, and you know what the facts are. WALLY HERGER learned them later. And I am sure the other 58 who voted "no" feel the same way. This was an overwhelming vote in the House of Representatives on a totally bipartisan basis to do the right thing for the American people. We must decide now whether to stick with President Bush as lemmings going over the cliff, or should we do the right thing and pass this legislation?

A "no" vote will wreak havoc on our health care delivery system in America. And who will it hurt the most? It will hurt the most senior citizens. And it would be too bad as we leave here for 10 days that this legislation will, in the vernacular, go down. It should not. This is legislation that is meritorious. As WALLY HERGER said, if he had understood the dynamics of this legislation, he would not have voted "no."

Mr. President, I believe it is time for the vote.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 6331, the Medicare Improvements for Patients and Providers Act.

Harry Reid, Max Baucus, Debbie Stabenow, Jeff Bingaman, Patty Murray, John D. Rockefeller, IV, Thomas R. Carper, Mark L. Pryor, John F. Kerry, Dianne Feinstein, Richard Durbin, Daniel K. Inouye, Bill Nelson, Bernard Sanders, Jon Tester, Jim Webb, Frank R. Lautenberg.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 6331, the Medicare Im-

provements for Patients and Providers Act of 2008, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KENNEDY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

The result was announced—yeas 58, nays 40, as follows:

[Rollcall Vote No. 160 Leg.]

YEAS—58

Akaka	Feingold	Nelson (NE)
Baucus	Feinstein	Obama
Bayh	Harkin	Pryor
Biden	Inouye	Reed
Bingaman	Johnson	Roberts
Boxer	Kerry	Rockefeller
Brown	Klobuchar	Salazar
Byrd	Kohl	Sanders
Cantwell	Landrieu	Schumer
Cardin	Lautenberg	Smith
Carper	Leahy	Snowe
Casey	Levin	Stabenow
Clinton	Lieberman	Stevens
Coleman	Lincoln	Tester
Collins	McCaskill	Voinovich
Conrad	Menendez	Webb
Dodd	Mikulski	Whitehouse
Dole	Murkowski	Wyden
Dorgan	Murray	
Durbin	Nelson (FL)	

NAYS—40

Alexander	Crapo	Lugar
Allard	DeMint	Martinez
Barrasso	Domenici	McConnell
Bennett	Ensign	Reid
Bond	Enzi	Sessions
Brownback	Graham	Shelby
Bunning	Grassley	Specter
Burr	Gregg	Sununu
Chambliss	Hagel	Thune
Coburn	Hatch	Vitter
Cochran	Hutchison	Warner
Corker	Inhofe	Wicker
Cornyn	Isakson	
Craig	Kyl	

NOT VOTING—2

Kennedy McCain

The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Mr. President, we have something that is long overdue. We have an agreement to take care of this. Nelson Mandela will soon be 90 years old, in a matter of days. The old organization he was a member of decades ago—and he is probably still a member, but I am not too sure—the African National Congress is still treated as a terrorist organization. This takes care of that. We will eliminate that. So the people coming here from that great country, which has done so well for so long now, will be able to come in without being considered terrorists.

REMOVING THE AFRICAN NATIONAL CONGRESS FROM TREATMENT AS A TERRORIST ORGANIZATION

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed

to the consideration of Calendar No. 852, H.R. 5690.

The PRESIDING OFFICER. Is there objection?

The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5690) to remove the African National Congress from treatment as a terrorist organization for certain acts or events, provide relief for certain members of the African National Congress regarding admissibility, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, with an amendment, as follows:

H.R. 5690

On page 2, strike line 12 through the end of line 21 and insert the following:

(a) EXEMPTION AUTHORITY.—*The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Secretary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may determine, in such Secretary's sole and unreviewable discretion, that paragraphs (2)(A)(i)(I), (2)(B), and (3)(B) (other than clause (i)(II)) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply to an alien with respect to activities undertaken in association with the African National Congress in opposition to apartheid rule in South Africa.*

Mr. LEAHY. Mr. President, I am very pleased the Senate will pass this legislation to exempt the African National Congress from designation under the Immigration and Nationality Act as a "terrorist" organization.

The historic role that the African National Congress played in ending the era of Apartheid in South Africa is well known, and I suspect that its designation as a terrorist organization is a surprise to many Americans. That the organization Nelson Mandela helped create to fight against an official policy of racism is deemed a terrorist organization is wrong and should be corrected.

I commend Senator KERRY and Congressman BERMAN for their attention to this issue, and the Members of the Judiciary Committee—Senators BIDEN, SCHUMER, WHITEHOUSE, FEINGOLD, and CARDIN—who have lent their support to this effort.

The overly broad laws Congress passed in haste after September 11, 2001, continue to unnecessarily bar legitimate asylum seekers from the sanctuary of the United States. I worked to ensure that the administration has the authority to waive these laws for organizations and individuals, but the administration has been unwilling to exercise this authority of its own accord.

Secretary Rice quite rightly pointed out that her government counterpart in South Africa must apply for a waiver of the material support bar in order to enter the United States for an official visit, and that it is an embarrassment. I would hope and expect that this embarrassment is no less acute when victims of violent conflicts are denied asylum in the United States because of these same laws.

The Judiciary Committee's recent oversight hearing with Secretary Chertoff was an example of an administration that will only make the tough, but correct decisions when the scrutiny or public embarrassment becomes too much. At this hearing, Secretary Chertoff announced that the Department of Homeland Security (DHS) reversed its position on a green card denial for an Iraqi who had been admitted into the United States on a special visa from Iraq. Salam Kareem Ahmad entered the United States after working as a translator for U.S. Marines in Iraq, and after receiving commendation from General Petraeus, only to be denied a green card by the administration.

Despite all of the administration's rhetoric about its commitment to freedom and democracy, DHS determined that Mr. Ahmad's involvement with an anti-Saddam Hussein group, the Kurdish Democratic Party, amounted to involvement with a terrorist organization. It should not take political pressure and media scrutiny to do the right thing. But in light of the administration's inattention to resolving injustices created by the material support bars, Congress is once again compelled to do what the administration can and should be doing on its own.

There is much work to be done by Congress and the next administration to fully resolve the terrible consequences these laws have brought about. I intend to continue working toward ensuring that our immigration and asylum laws are not used in a manner to harm those who come to the United States seeking its refuge and assistance. Our policies concerning asylum seekers have demonstrated America's commitment to human rights. The material support and terrorism bars that have prevented so many from our protection are a blemish on this legacy.

Mr. KYL. Mr. President, I rise to say a few words about the impending passage of H.R. 5690 and my amendment to that bill. My amendment narrows the individualized waiver provisions in the bill by excluding from waiver eligibility persons who are convicted of controlled-substances offenses and those for whom there is reason to believe that they will engage in terrorist activity after entry into the United States. The amendment also requires that the activities for which waiver is sought have been conducted "in association with the African National Congress."

With my amendment, the bill's grant of authority does not exceed that created by section 691 of the Consolidated Appropriations Act, 2008, on which I commented on December 18 of last year. Separate legislation is not needed to exempt Class III groups that are eligible for a waiver under section 691, a class that surely includes the African National Congress. I hope that in the future such matters will be addressed administratively rather than legisla-

tively. Nevertheless, by enacting today's bill we impress upon the executive the importance of exercising that authority in a prompt and thorough manner. We trust, of course, that the executive will not use such authority to grant waivers to persons who, for example, engaged in violence that was deliberately targeted at innocent civilians. But we do expect the relevant agencies to act to avoid the diplomatic embarrassments of the past. With the changes made by my amendment, I commend H.R. 5690 to my colleagues.

Mr. REID. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read the third time, passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the matter be printed in the RECORD.

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

The committee amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The bill (H.R. 5690), as amended, was passed.

UNANIMOUS CONSENT REQUEST— H.R. 6331

Mr. MCCONNELL. Mr. President, with regard to the Medicare issue upon which we just voted, we have had a number of discussions in the course of the week about the way forward. Senator GRASSLEY has made it clear he would like to lead us in negotiations with the majority, represented by Senator BAUCUS, to bring us together to get this Medicare extension completed. The way to do it is on a bipartisan basis.

Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of a Senate bill, which I will send to the desk. It is a clean 30-day extension of the Medicare payments bill.

Mr. President, I ask unanimous consent that the bill be read the third time, and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object. We are seeing another partisan game being played on something that affects the American people.

I have laid out in detail what this legislation does and what will happen to the American people if it doesn't pass. Obviously, the Republicans in the Senate have done what they feel is appropriate and that is to wipe out Medicare as we know it today.

People can chuckle all they want, but the senior citizens in America today and the health care delivery system are not chuckling. This is very important.