RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

The Senator from South Carolina.

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THE DEATH PENALTY

Mr. THURMOND. Mr. President, it is most unfortunate that the President has decided to delay the first federal execution in almost forty years.

Mr. Juan Garza was a vicious drug kingpin who was found guilty of three murders and sentenced to death in 1993. He was also convicted of various drug and money laundering offenses. Of course, there is no way to know how many American lives he destroyed indirectly through his extensive drug trafficking into this country. He is just the type of criminal that the Congress had in mind when we reestablished the federal death penalty in 1988.

His lawyers are not claiming he is innocent. Rather, they are making general arguments about the fairness of the death penalty, and the President is apparently sympathetic to this.

Over the weekend, the White House confirmed that the President will postpone the execution for at least 90 days and maybe until after the November elections. The reason for the administration has given is that the Justice Department is still drafting formal clemency guidelines. Mr. Garza was sentenced to death 7 years ago, and his case has been tied up in appeals ever since. The Supreme Court decided in November that it would not hear his case, and in May a judge scheduled his execution for August. The Department has had more than enough time to prepare such guidelines.

Of course, the President does not need any special death penalty guidelines to act. The President has the power to commute Mr. Garza's sentence or even pardon him if he wishes. The President should make his decision and not further delay an already extremely long process.

This is consistent with this administration's treatment of the death penalty overall. Only steadfast opponents to capital punishment can argue that it is used too often in the federal system today. Last year, my Judiciary subcommittee held a hearing that discussed the federal death penalty in some detail. After becoming Attorney General, Ms. Reno established an elaborate review process at Main Justice to consider whether a U.S. attorney may seek the death penalty. She has permitted prosecutors to seek the death penalty in less than one-third of the cases when it is available.

Also, her review permits defense attorneys to argue that she should reject the death penalty in a particular case, but it does not permit victims to argue for the death penalty. I hope the Department's new clemency rules will allow victims to participate in the process. However, victims should be allowed to encourage the Department to seek the death penalty in the first place.

The death penalty is an essential form of punishment for the most serious of crimes. Yet, it has not been carried out in the federal system for 37 years. We should not continue to delay its use. When an inmate's appeals are exhausted, as they are in this case, the President should carry out the law.

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MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10:15 a.m., with the time to be equally divided between the Senator from Delaware and the Senator from New York.

Who yields time?

Mr. REID. On behalf of the Senator from New York, I yield 10 minutes to the Senator from North Dakota.

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ESTATE TAX REPEAL

Mr. DORGAN. Mr. President, I will comment briefly on the remarks made by the majority leader a few moments ago on the subject of the estate tax.

First of all, the question of repealing the estate tax or changing the estate tax is an important issue, but it is not an issue that is important to the exclusion of all other issues. The majority leader takes the position that the estate tax ought to be repealed completely so those in this country who die and leave $100 million in assets or $500 million in assets or $1 billion in assets, who now pay some estate tax, will be tax free. That is what ''repeal'' means.

I happen to believe we ought to change the estate tax to provide a significant exemption so that no small business and no family farm gets caught in the estate tax. I don't want people to try to leave the family farm or the small business to their children, only to discover there will be a crippling estate tax to pay. So I say, let's get rid of that situation. Let's provide an exemption—$8, $10 million—that takes care of the vast majority of cases.

But how about those folks who leave half a billion dollars or $1 billion? Do we really want to repeal the estate tax on that kind of estate? There are other and competing needs for the revenue involved. For example, we could pay down the Federal debt; we could provide a larger tax credit for college tuition; we could invest in elementary and secondary education; we could provide tax relief to middle-income families rather than to the wealthiest estates in the country.

I happen to believe we should change the estate tax, but I don't believe we ought to repeal the estate tax for the largest estates.

The majority leader says the problem is with the Democratic side of the Senate. No, the problem is that yesterday the majority leader came to the floor of the Senate and tried to pass the repeal of the estate tax by unanimous consent. No debate, no discussion, no amendments, $750 billion of tax cuts in the second decade after repeal—$750 billion in tax cuts by unanimous consent, without any debate, and without any amendments. That is what he tried to do yesterday. We objected to that.

Yesterday we proposed that he bring up this measure under a regular order. The majority leader objected to that. Democratic leaders proposed that the majority leader bring the bill up and allow 6, 8, or 10 amendments, with time agreements. But the majority leader has objected to that.

His position is: I want my way or no way. I want to bring it up and repeal all of the estate tax, which would mean generous tax cuts for the wealthiest estates in this country. If we don't do it his way, we were told, we won't have an opportunity to offer any amendments. That is the majority leader's position. The people elected to the Senate on this side of the aisle will not be able to offer amendments. He says in effect, ''We have an idea, we intend to push that idea, we demand a vote on that idea, and, by the way, you, Senators, don't have any right to offer amendments.''

That is the majority leader's position. That is not a position that is acceptable to me. It is not the way the Senate ought to work. There is something called a regular order.

Mr. DURBIN. Will the Senator yield?

Mr. DORGAN. I am happy to yield to the Senator.

Mr. DURBIN. I thank the Senator for raising the point that they were going to pass a $750 billion tax break for the wealthiest people in America, those who pay estate taxes, and do it without one minute of committee hearings—I see the chairman of the Senate Finance Committee on the floor—not a minute of hearing. This was going to be done without any discussion, any debate, $750 billion in tax breaks.

I ask my colleague, the Senator from North Dakota, whether or not he believes it also says something about the priorities of the Congress, that of all the different people who could be helped by this Congress, the highest, the single most important priority for the Republicans turns out to be the wealthiest. When it comes to helping people pay for their prescription drugs, when it comes to helping people, dealing with areas such as difficulties with HMOs, folks don't even have a voice in this debate. They are not even being considered.

Would the Senator address the whole question of prioritization, as to whether or not we are making the right decision in terms of helping the people who really need it the most in this country?

Mr. DORGAN. The Senator from Illinois is correct.