

daily lives of everybody in the food chain from the farmer who will be forced to plant fence row to fence row of a crop that is less efficient to the grain elevator that will have to adjust storage options to separate the types of grain, to the manufacturer that will need different labels for different States, to the distributor that will need expanded storage for sorting, and to the retailer who may be unable to afford offering low-cost, private-label products, and, finally, to the consumer who will be forced to pay for all this additional cost to the tune of \$82 billion.

Now we come to our final task as elected officials of this body taking a vote. But before we do, we should all know that never before—never before in my experience as chairman of the House Agriculture Committee and chairman of the Senate Agriculture Committee and all the years I have had the privilege to serve on both committees—we have never seen a bill in the Agricultural Committee with so much support, never. Over 800 organizations all across the food and agriculture perspective have a stake in this bill. It is at the national and State and local levels. They all support the bill. The bill has the support of the National Association of State Departments of Agriculture, the American Farm Bureau, and many, many more.

Virtually every farm group is in town. I just talked to the American Soybean Association this past week. One farmer said: Hey, if I cannot have agriculture biological crops with regard to increasing the yield that I plant, what am I going to do? Am I going to plant fence row to fence row? Am I going to lose in this situation when farming income is declining and farm credit is getting tighter?

The fundamental role of the Agriculture Committee is to protect American farmers and ranchers who provide a safe, abundant, and affordable food supply to a very troubled and hungry world. So I will be voting yes to do just that, and I encourage my colleagues to do the same. Voting no today means telling your constituents next week that you are raising their grocery bill by over \$1,000. Good luck with that.

It is a pretty simple vote. You are either for agriculture or you are not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. DONNELLY. Mr. President, later this morning we continue to work on whether to consider a food labeling bill here in the Senate. As a dad, I know this bill is about much more than just words or symbols or a label. It is about the confidence we have in the food we eat and the food we feed our children. As a Hoosier, I also know this bill is about preserving confidence in a long and proud Indiana tradition of growing the food that feeds our communities and provides a safe and reliable food supply for the world. Whether you are a parent or a farmer, a Republican or a

Democrat, our objectives in this debate should be the same: to provide consumers with access to accurate information about the food we eat and to do so in a way that does not mislead consumers into falsely thinking their food is unsafe.

I believe strongly that consumers, our families, our kids, moms and dads, brothers and sisters deserve to feel confident in the food we feed our families. I want to know how much sugar is in my ice cream and how many calories are in that roast beef sandwich that I love so much. It is clear from this debate that many Americans want to know even more about where and how our food is produced. I believe we should have that information, and it should be easy to find.

It is also common sense. This information should be delivered in a way that is fair, that is objective, and that is based in sound science. I have heard from many Hoosier farmers who are very concerned that some labels or symbols on packages would amount, in consumers' minds, to warning labels and could send a misleading message that the safe and healthy products our farmers grow—think of sweet corn in our fields—are somehow unhealthy or even dangerous.

This morning, my good friend, Senator TOM CARPER from Delaware, and I filed an amendment that builds off the framework of the proposal before us today. A framework I first suggested in the Agriculture Committee markup of this very bill. It creates a national voluntary bioengineered food labeling standard. It stipulates that if food companies fail to make sufficient information available, then a national food labeling standard for bioengineering becomes mandatory.

Our amendment works for farmers, it works for manufacturers, and it works for our families. It establishes ambitious goals for the availability of information related to bioengineering by requiring that after 3 years, 80 percent of the food products covered by the legislation would provide direct access to information. If the food industry does not meet this threshold, then the labeling requirement becomes mandatory.

Our amendment also requires clear and direct access to information on bioengineering. This could include explicit disclosures, such as organic or GMO-free, or voluntarily disclosing bioengineering on the box. Or companies choosing to participate in the voluntary program could use various electronic methods of disclosure, such as a Web site or a QR code in conjunction with a phone number that clearly indicates to consumers—to our families—where they can find more information and provides direct access to that information. This is important because our shared goal is to provide direct access to information about the contents of our food to everyone, whether you have access to the Internet or a smartphone or a regular phone. So let me repeat: Our amendment allows for

electronic disclosure to be used only in conjunction with a phone number, and both methods would have to provide direct access to information on the product's contents.

Finally, our amendment preserves State consumer protection laws and remedies. States write laws to protect our citizens from mislabeled products and to provide for remedies in case of false or misleading statements. Our amendment preserves those laws.

Consumers, our families, farmers, and food producers are looking to the Senate for leadership. After months of discussion, we have been unable to agree yet on a proposal that gives consumers the information they want in a responsible way, but the issue remains. This will be another week of uncertainty for producers, for manufacturers, for our families who do not have the information they want, and for the producers and manufacturers I mentioned who don't know what is expected.

I am going to continue to work on this issue with Senator ROBERTS and Senator STABENOW. I strongly encourage all my colleagues to consider the ideas that Senator CARPER and I have put forward and to try to work with us to find a solution that works for America.

Thank you, Mr. President.

I yield back.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. MERKLEY. Thank you very much, Mr. President.

I am rising to speak to this issue from a simple American citizen point of view. The American citizen wants the right to know what is in their food. They want to know how many calories; they want to know what the minerals and the vitamins are and what the ingredients are. It is a simple standard because it is important to an individual to know what you are putting in your mouth, what you are putting on the table for your families and your children.

This is a principle that we have honored time and again on our packages. We proceeded to put on our packages whether fish is farm raised or wild caught because citizens wanted to know. It makes a difference to them. It is their choice. It is their judgment. We put on our packages whether juice is from concentrate or is fresh because citizens wanted to know. It is important to them. It is their right to know.

We put the list of ingredients on the package in a simple format, not so that someone can spend an hour trying to research what is in it. No, we have a simple 1-second test. You pick up the food off the counter, you turn it over, you look at the list of ingredients and you say, this has the vitamin C I wanted; this has the calories I wanted—the 1-second test.

That is what is at stake because the bill that is before us right now kills the 1-second test. It kills immediate access to information for consumers. It says

we are going to eviscerate States' rights to respond to this desire of citizens to know what is in their food. This is a desire that stretches all across the United States, all genders, all ages, all parties. In fact, 9 out of 10 Americans say they want this simple information on the package to meet this 1-second test just like calories.

Now here we are in this deeply divided Nation, this Nation in which we see in this Presidential campaign extremes to the left and the right and everything in between, and we wonder what is happening. Isn't there anything we can agree on?

Well, the fascinating thing is that here is something we can agree on: 80-plus percent in every category—Republicans, Democrats, Independents—almost all of them near the 9-out-of-10 factor, women over 80 percent, men over 80 percent, young over 80 percent, old over 80 percent. In other words, all of those are between 80 and 90 percent no matter who you are, where you are, what your gender is, or how old you are. Nine out of ten Americans want to know what is in their food, and they want it easily accessible on the package.

My colleague talked about direct access to information. In this case, "direct access" is somewhat of a term subject to interpretation because to the consumer, direct access is the 1-second test. I pick up the package, I flip it over, 390 calories, thank you very much. Done. But the term today is being used for indirect access.

Let's look at these different hall-of-mirrors proposals that are being put forward. OK. Sham No. 1 is the 800 number, an 800 number on the package. What is the purpose of that 800 number? The package doesn't say. There are 800 numbers on all kinds of packages. You call up the company and complain because there is contamination in your frozen peas. What is the purpose of it? Is it so you can call the company and ask about new products coming out? Without any information around it, it is just a number. And citizens don't just go to a product and call a number. Why? Because they are busy. They are going down the grocery store aisle. They have a supermarket cart. They have a child in there. They want the 1-second test. They don't want to be told they have to call a call center and get in a phone tree and press a bunch of buttons, and then a message comes on and says: I am sorry, due to high call volume, we will get to you in maybe 20 minutes, but stay on the line and we will play sweet music for you. And maybe—if you stay on the line long enough—maybe it is not 20 minutes; maybe it is an hour. You get someone in a call center overseas who is saying things in an accent you can't understand. Citizens hate that. And they hate pretend, false solutions. This does not mean direct access to information. This is direct: It is in my hand, 1 second. I see it. That is direct.

Now there is another idea. It is called a QR code, or quick response code—

quick response, computer code. Why is this on the package? No explanation. So is putting something with no explanation on a package helpful to consumers? No. Is it there so you can scan it when you check out to see what the price is? Is it there to find out about new products that are coming out from this company? Is it there because you might possibly find out information about discounts? You have no idea. There is no explanation. And when you use that code, you give up personal information. So you have to have a phone. You have to have a smartphone. You have to have a data plan. You have to give up your privacy. And there is no explanation why you would even bother to go to it. That is completely misleading. That is why I call it the hall of mirrors. It is like you are at a circus. We have an 800 number, we have a QR code, no real information, no direct access to information.

Let's be honest with the American public. Nine out of ten Americans want this information presented in a simple format. A nationwide poll that was done in November did a followup question: Would you prefer for it to be simply stated on the package or have a QR code? Again, 9 out of 10 said they wanted a direct statement on the package.

Look how much room this takes up. Isn't it a lot simpler just to put a little symbol on there? That is all people want. They are not asking for anything that takes up room or costs anything, just like it doesn't cost anything to put another ingredient on your package if you add it to your ingredient list. Labels are changed all the time.

I met with industry, and they said: Here are our top three priorities.

Priority No. 1 is, we want a single national standard so we don't have conflicting State standards.

OK. That is understandable. We are on the verge of having that. In July we would have one State with a standard. There is nothing on the horizon for two States. There are several States that have said: If a whole bunch of States sign up, we will do something collectively. But certainly we are not at risk in the months ahead of more than one State standard, so there is no emergency here. But I agree with the underlying principle that, indeed, when it comes to labels, a warehouse shouldn't have to worry about whether it is shipping product to one subdivision of the State or another subdivision of the State or one State versus another State. So one standard is reasonable.

The second thing they said is, we don't want anything on the front of the package because that might imply there is something wrong with the food.

OK. Fair enough.

The third thing they said is, we don't want anything pejorative.

Fair enough. Have the FDA select a symbol to put on the package.

We could solve this whole debate immediately for those who want to put on a QR code and just say: Scan this code

for GE ingredients in this product. OK. Now the consumer gets the 1-second test. They look at it and see there are GE ingredients, and that is all they want to know. They don't want to scan it and give up their privacy, and they don't want to have to go to the Web site and look up the product, where information would probably be misleading anyway. So that is fair enough.

Now, there is a third idea that has been put forward, a third thing that is supposed to count as answering customer inquiries, and that is in this bill—to put information on social media. This triples the size of the house of mirrors. A consumer goes to look at the product to see if it has a code. No. Does it have an 800 number? No. Oh, there is this social media thing. Well, we all know there are over 100 companies doing different types of social media. We know the famous ones. We know Facebook and Instagram and Twitter. So where on their social media did this company put that information? Well, now you really have to be a detective. You could spend hundreds of hours trying to figure out the answer to that.

So the 800 number is phony, the QR code is a scam, and this whole social media thing is a sham.

All citizens want is for us to be honest with them about the ingredients. That is all they are asking for. It is not very much. Scientific studies point to the benefits of some genetic engineering, and they point to problems that have arisen from some genetic engineering. It should be up to the citizen. The citizen has the right to know.

In this age where we are so divided, we have one thing in common, and that is that 90 percent of our citizens—whether from the Presiding Officer's State or any of the States represented by Senators in this distinguished Hall, 90 percent of the citizens want a simple indication on the package. So why today are so many Senators coming to this floor saying they don't care about what their citizens feel? They don't care about their citizens' rights, and they don't care about States' rights.

I have heard so many colleagues who are planning to vote for this sham and scam today come to this floor and talk about the beauty of States as a laboratory for ideas. Well, now, here is Vermont. Vermont has said: We will step up. We will be the laboratory. We will be the first standard and experiment in putting simple information on the package.

Before we make any decision, the rest of the Nation gets the advantage to observe that State laboratory and then to say: Is it working or is it not working? Are there problems being created? How can it be improved? Do we want this as a model for the Nation for a single standard, or do we say that we absolutely don't want it as a model for the Nation?

Well, many of my colleagues here plan to crush the State laboratory. They have given fancy speeches about

States' rights, but they are coming down today to vote to crush States' rights to respond to a fundamental concern of their citizens.

I must say I like the idea of the State laboratory and to see what one State does, but I also understand the underlying concern that in short order there might be multiple States and conflicting standards, and that is not a functioning situation for interstate commerce.

So if we take away the right for a State to give the 1-second test for direct information—1 second—turn over the package; there are 880 calories. That is the test. Turn over the package. GE ingredients are present. Thank you. That is the 1-second test. If we are going to crush the ability of a State to respond to a fundamental concern of its citizens, then we need to provide the same basic provision not in a scary fashion and not in a fashion that takes up space on the package, not on the front of the package; one standard for the entire United States, but it has to meet that test. That is all. It is a simple, fair exchange.

So today I urge my colleagues to vote against cloture because this bill is among the worst bills I have ever seen on the floor of the Senate. It is without good justification, without resolving the issue at hand, crushing States' rights, taking away citizens' right to know, and putting out three phony scam, sham alternatives. That is a very sad state of affairs.

Another sad state of affairs is that this bill is on this floor having not gone through committee. We have heard a lot of pontificating about good process in the Senate and how we were going to have good process, but here is a bill written entirely outside the halls of the committee, never considered in the committee, and here it is on the floor. Such an important issue would merit substantial debate. Such an important issue would merit a full and free amendment process.

But two things happened immediately after this bill was introduced. The first is that the majority leader immediately filed cloture; that is, to close debate. So before one word—not one word had been said on this bill because no one was able to speak between the bill being put on the floor and cloture. Oh, hey, I just filed the bill, and I am closing debate. That is not a fair and open process. Then the tree was filled, so no one can put an amendment forward. On such an important issue, that is not a situation that is acceptable.

Furthermore, this was deftly timed to occur simultaneously with the five big primaries yesterday. So this is a moment where the American people are paying attention to Florida, they are paying attention to Illinois, and they want to know what happened in Missouri. They want to know what occurred in these five States. The press is paying attention to that. That is the one day of debate allowed before this cloture motion is voted on.

So let's take this bill and put it in committee and actually have a committee process to consider it. Then bring it back to the floor with whatever changes the committee makes, and hopefully the committee would honor the fundamental right to know by consumers. Bring the bill back to the floor and have a full and open amendment process on something so important to citizens. But do not crush States' rights. Do not steal consumers' right to know and try to do it in the dark of night while the Nation is distracted by major primaries. It is wrong on policy, it is wrong on process, and it is an injustice to every citizen in our Nation.

Here is the situation: The Nation is very cynical about this body. This body here, they say, isn't responding to the concerns of the American citizens. Is there any single bill that has been more an example to justify that cynicism than this bill which is before us right now? When 9 out of 10 Americans say this is important to them, the majority of this body says: We don't care. When 9 out of 10—or roughly that number—Democrats and Republicans and Independents all agree on something, this body says: We don't care. Isn't the cynicism of the American citizens justified?

Here is the thing: Our Nation was founded on a simple principle. That principle is embodied by three beautiful words in the beginning of our Constitution: "We the People." Well, we the people want simple information on the package. So if we are here to honor that principle, why is this bill before us, I ask my colleagues. Why a bill that says the interests of a few titans in crushing a State laboratory is more important than the views of 90 percent of Americans? And when those Americans are asked, more than 7 out of 10 say this is very important to them, so this isn't one of those casual issues. Why is it so important? Because this is food they put in their mouths and on their table, and even if they have no concerns about the GE product itself, they feel they have a right to know.

So let's return to the principles on which this Nation was founded. Let's quit feeding the cynicism of citizens across this Nation who see these powerful special interests doing the opposite of what citizens ask for. Let's be a Chamber that honors our relationship with our constituents, not one that tries to stomp out their rights. Let's not allow debate to close on this bill. Let's send it back to committee. Let's have a committee process. Let's have a floor debate in the future, with full and free amendments, on an issue so important to our States and so important to our citizens.

Thank you, Mr. President.

The PRESIDING OFFICER. The majority leader.

Mr. McCONNELL. Mr. President, I am going to proceed on my leader time.

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

#### FILLING THE SUPREME COURT VACANCY

Mr. McCONNELL. Mr. President, the next Justice could fundamentally alter the direction of the Supreme Court and have a profound impact on our country, so of course—of course the American people should have a say in the Court's direction.

It is a President's constitutional right to nominate a Supreme Court Justice, and it is the Senate's constitutional right to act as a check on a President and withhold its consent.

As Chairman GRASSLEY and I declared weeks ago and reiterated personally to President Obama, the Senate will continue to observe the Biden rule so that the American people have a voice in this momentous decision. The American people may well elect a President who decides to nominate Judge Garland for Senate consideration. The next President may also nominate somebody very different. Either way, our view is this: Give the people a voice in filling this vacancy.

Let me remind colleagues of what Vice President BIDEN said when he was chairman of the Judiciary Committee here in the Senate. Here is what he said:

It would be our pragmatic conclusion that once the political season is underway, and it is, action on a Supreme Court nomination must be put off until after the election campaign is over. That is what is fair to the nominee and is central to the process. Otherwise, it seems to me . . . we will be in deep trouble as an institution.

Chairman BIDEN went on.

Others may fret that this approach would leave the Court with only eight members for some time, but as I see it . . . the cost of such a result—the need to reargue three or four cases that will divide the Justices four to four—are quite minor compared to the cost that a nominee, the President, the Senate, and the Nation would have to pay for what would assuredly be a bitter fight, no matter how good a person is nominated by the President.

That was Chairman JOE BIDEN.

Consider that last part. Then-Senator BIDEN said that the cost to the Nation would be too great no matter who the President nominates. President Obama and his allies may now try to pretend this disagreement is about a person, but as I just noted, his own Vice President made clear it is not. The Biden rule reminds us that the decision the Senate announced weeks ago remains about a principle and not a person—about a principle and not a person.

It seems clear that President Obama made this nomination not with the intent of seeing the nominee confirmed but in order to politicize it for purposes of the election—which is the type of thing then-Senate Judiciary Committee Chairman BIDEN was concerned about. It is the exact same thing Chairman BIDEN was concerned about. The Biden rule underlines that what the President has done with this nomination would be unfair to any nominee, and, more importantly, the rule warns of the great costs the President's action could carry for our Nation.