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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray.

O God of light, You are our guide. Thank You for Your gentle leading. You are a mystery but not a puzzle; profound but not incomprehensible; loving but not passive; patient and longsuffering but not weak and indecisive.

Lead our lawmakers today with Your wisdom. Show them how to use their talents and abilities for Your glory. Give them patience to wait on the unfolding of Your loving providence. Remind them that the hearts of world leaders are in Your Hands and that You direct the course of human history.

Help each of us to pursue Your friendship and to embrace Your love.

We pray in Your wonderful 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.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, today, the Senate will conduct a period

of morning business. Last night, we were able to reach a time agreement on the Oman free trade bill, and Senators are encouraged to use that time this morning and then on Monday. We will have 30 minutes of debate on the trade bill remaining for Tuesday's session, and Senators should expect a vote on passage before the policy luncheons on Tuesday. That will be the first vote of the week. We are also attempting to clear some nominations and treaties for today, and we hope to have an agreement on those for later this morning.

EFFECTIVE TOOLS TO FIGHT TERRORISM

Mr. McCONNELL. Mr. President, I want to make a few observations about the war on terror, which certainly is an issue that has been front and center in the Senate and over in the House during the last few weeks.

There are really two issues. The first is, what are the tools the President needs to continue to effectively defend America?

We know that since 9/11 there have been no successful attacks on our country. We know before 9/11 they were at war with us. They tried to blow up the World Trade Center. They blew up our Embassies in East Africa. They blew up the USS *Cole* and killed 17 sailors. They were at war with us, but we were not yet at war with them.

Since we have been at war with them, we have not had a successful attack at home. Obviously, we are doing something very skillfully and very correctly. A part of that is the effective interrogation of terrorists and the effective surveillance of terrorists. Both effective interrogation and effective surveillance of terrorists prevent terror attacks and save lives. That has happened over the last 5 years.

Why does the President need these specific tools? Why does he need the bill he proposed? Intelligence leaders

have said, as recently as yesterday, that we will have to shut down a demonstrably effective program without these tools. We will lose the intelligence and the security the intelligence provides.

So what is next for us in debating these important issues to help protect Americans at home? Only one side of the argument has been prevalent in the last day or so. We will have an opportunity to fully define the two issues to which I referred. A floor debate will highlight important bright-line issues.

For example, do we provide sensitive classified information to terrorists? There has actually been the suggestion that somehow a fundamental sense of fairness would require that we hand classified information over to terrorist defendants. That will be one of the big issues confronting us in the Senate.

Do we shut down an intelligence program that we know—it's not in dispute—that we know has saved lives and protected Americans? Do we want our troops exposed to the vagaries and whims of international courts?

What about this idea that we should not define Common article 3 in the United States? Well, Common article 3 is going to be defined. We know that. The only issue is, who will define it? European courts are now defining it. Maybe the U.S. Congress and the U.S. courts ought to be the final word on defining Common article 3. So, as I said, the question is really not whether Common article 3 is going to be defined—it is going to be—but, rather, who will be defining that article.

Common article 3 was written back in 1949, almost 60 years ago. Some of its terms—like prohibiting “outrages upon personal dignity”—are inherently vague. As a result, foreign courts have been filling the void and doing that interpretation.

To give you an example, the European Court of Human Rights has declared as follows: merely having to wait on death row is “inhuman or degrading treatment of punishment.”

• 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 a European court defining waiting on death row as being unacceptable. A European court has further said being in a cell with limited natural light is "degrading," and that having little activities to occupy a prisoner is "degrading."

Now, the U.S. Congress should not sit on its hands and let some foreign judge—some foreign judge—define the meaning of Common article 3 in a way that most Americans would object to and which would put our troops at risk. That is why I support the President's position on using the Detainee Treatment Act—Senator MCCAIN's act that we just adopted last year by a vote of 90 to 9 in the Senate—as the standard, use the McCain Detainee Treatment Act as the standard for defining Common article 3.

The DTA prohibits "cruel, inhuman, or degrading" treatment as defined by established standards of U.S. law. That is Senator MCCAIN's bill, which we adopted last year, defining what is appropriate treatment of detainees.

So these will be the issues we will have to argue and discuss in the full Senate with all 100 Members participating. We have not heard from a whole lot of our colleagues on the other side of the aisle yet, and I know they are going to want to participate in this debate and share their views about whether these standards should be determined by the U.S. Congress or by European courts.

What we do know for sure, without question—no ambiguity—is that the current program works and has saved us from terrorist attacks and prevented us from being attacked again at home for over 5 years. The President needs tools to conduct these programs effectively to protect Americans at home. His proposal for terrorist detainees is one of those important tools. We do not all agree at this point about how to go about this, and that is why the Senate is a great deliberative body, and we will have that discussion on the Senate floor. But at some point we will come together and, hopefully, do it in a way where the interrogation of detainees can continue.

We know the Director of the CIA said yesterday that under the armed services bill, that program will have to be shut down. We know it has worked. We know it has saved lives. We need to solve this problem for the American people so they can continue to be protected at home, able to go about their daily lives in a manner they have become accustomed to over the years in this great, free society.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Thank you, Mr. President.

DETAINEES

Mr. REID. Mr. President, I think my friend, the distinguished majority

whip, is talking about things that really do not exist. We have now in the Senate a bipartisan agreement on how to approach the Hamdan decision, the detainee problem. We had all Democrats and four Republicans—far more than a majority in the committee—who voted yesterday to bring the matter to the floor that would solve this problem.

It is not a problem at this point that has been solved by the European courts. It has been solved by the U.S. Senate. We certainly know that the document that has come from the Armed Services Committee is imperfect, and we can always try to work to improve that. I think we should move forward on this issue. I think there is certainly nothing in the mind of the American people or the American public that what the President has suggested is final.

Certainly, he is not infallible, as indicated by Colin Powell—four-star general, general in the Army, Chairman of the Joint Chiefs of Staff, Secretary of State for a number of years. He says the President's approach is wrong. He is not talking about the European courts determining what we should do. He is saying that the approach of Senator MCCAIN and others is the proper way to go.

I would also say—without a long discussion—we have the same situation at this stage in the Senate dealing with domestic spying. We have a bipartisan solution to this issue. Members of the Judiciary Committee, on a bipartisan basis, voted to bring a bill to the Senate. Again, I am sure that bill is not perfect, but it certainly is a bipartisan solution to a problem that exists, one that is in compliance with the Constitution of the United States.

Mr. President, the Iraq war has been a diversion on the war on terror, and that seems pretty clear.

TAX EXTENDERS

Mr. REID. Mr. President, changing subjects just for a minute, prior to the August recess, Republicans attempted to win support for their attempt to repeal the estate tax by attaching that to a flawed minimum wage increase that was only meant for show and not to actually accomplish anything. And they also tied to it popular tax provisions, referred to as extenders.

Now, keep in mind the extenders were all agreed to by Democrats and Republicans. They had agreed to this, and the only thing that was not there was the signature, and that was to take place at 8 o'clock at night in the Capitol. When people came back to sign the conference report, word had come from the White House: Do away with this agreement. So that is why they came up with the so-called Trifecta: estate tax repeal, extenders, minimum wage.

Republicans were very clear regarding their strategy. Representative ZACH WAMP of Tennessee claimed that

Democrats had been "outfoxed." Well, of course, this bill did not pass because it was flawed. It was so unfair to the American people that you would do away with all these important tax provisions for the middle class in an effort to get a repeal of the estate tax that would affect the richest of the rich: 8,100 Americans.

The strategy of holding the extenders hostage to their estate tax giveaway put these important provisions in jeopardy of not getting enacted ever. As if to emphasize this point, Senator JUDD GREGG said—and I quote—"[i]f you don't kill the hostage, there's no threat." How about that.

Now, Senator BAUCUS yesterday—on more than one occasion—requested unanimous consent to delink the extenders, which have broad bipartisan support, from the Republicans' ill-fated attempt to repeal the estate tax for a small number of the wealthiest families in America.

American families and businesses are paying the price for this Republican do-nothing Congress's failure to extend these tax breaks. Millions of families and individuals are facing higher taxes today as a result of this failure.

Mr. President, this is just not HARRY REID, a Democrat, speaking. Look what was said yesterday by the chairman of the Finance Committee, a Republican, CHARLES GRASSLEY of Iowa:

A delay of legislative beyond the anticipated recess date of September 29, 2006, will cause hardship, tax compliance problems and confusion for the millions of taxpayers who claim these widely applicable tax benefits.

According to a memo from Senator GRASSLEY's office, after consulting with IRS officials, the IRS contracts with several printers to produce 1040 and 1040A income tax return forms are in jeopardy. It also said that IRS must finalize the information it is to submit to these printers by October 15 in order to ensure forms will be printed in time and be distributed to taxpayers at the beginning of 2007; that if Congress has not passed extenders legislation by that time, the forms will omit lines instructing taxpayers to compute State and local sales tax, college tuition, or out-of-pocket classroom expenses into their tax liability.

American families and businesses are paying the price because of this do-nothing Congress. They refuse to extend important tax breaks. Families who recently took their sons and daughters to college now wonder whether the tuition deduction Republicans allowed to expire last year will get reinstated.

What are these tax extenders? The State and local sales tax deduction. In States all over the country which have an income tax, they are allowed to deduct that from their Federal income tax. Now that the Republicans failed to act in States where individuals pay sales tax, they are not able to do this.

The tuition deduction is another one which allows parents and students to deduct all tuition and related expenses