

Wyoming, we are developing our wind resources, so we need the green jobs, and Wyoming has world class winds. But to me, this bill also costs jobs. And Americans want all jobs, not just some jobs. People don't want to lose the jobs they have with a promise that they may get a green job in exchange someday down the line. Americans want all the jobs. They want to keep the ones they have, and they want to create more jobs, more opportunities. To me, the Waxman-Markey bill fails to do that.

The administration says that the Waxman-Markey bill will create millions—millions—of new jobs. This administration also promised that after Congress passed the so-called “economic stimulus package” they would create or save 3½ million jobs. Since the bill's passage and being signed into law, unemployment has reached 9.5 percent in this Nation. Last month, almost half a million people lost their jobs.

The administration's economic experts said that unemployment would not exceed 8 percent if the stimulus package passed. It passed, and was signed into law, but they were wrong. And not just by a little.

In an interview with George Stephanopoulos, Vice President BIDEN acknowledged that administration officials were too optimistic when they predicted that unemployment rates would peak at 8 percent. The Vice President said that “the administration and I misread the economy.”

Well, is it possible, then, that the administration is misreading the economic predictions of millions of new jobs being created in this bill? The administration failed to make the grade on the \$787 billion stimulus package, and I believe the administration is failing again by supporting this misguided climate change bill.

It is a fact that the climate change legislation will cost jobs in the American economy. That is why there is language in the bill to retrain workers who lose their jobs. Why will this legislation cost jobs? The Waxman-Markey climate change bill is designed to make fossil fuel more expensive. Advocates say we must make fossil fuel more expensive to change the behavior of businesses and of consumers. That means making everything that is powered by fossil fuel more expensive. Fossil fuel powers your car, your home, your office; it powers the airplanes we fly in, the trains we ride in, trucks; things that we use for our own transportation but also things where we ship goods from farms and small businesses to the marketplace all across this country and even abroad.

All these things will be made more expensive because of the climate change bill that passed the House. When you increase the cost of bringing goods and services to the marketplace, especially in a recession, it becomes a recipe for economic disaster. It leads to lost jobs and lost economic opportuni-

ties. We can't afford in this country to lose more jobs.

By deciding to pass Waxman-Markey, the majority will increase the cost of doing business. The legislation will increase the cost for every small business. The legislation will force them to pay more for everything that uses energy. Those costs will put businesses in debt or even out of business. Jobs will be lost and unemployment will continue to climb.

The administration talks about creating green jobs. Well, we certainly want those jobs, but we also want the red-white-and-blue jobs that have powered America for centuries. There was a Washington Post article on July 21 entitled “U.S. Green Jobs Seen Taking Years of Planning.” Let me emphasize the word “years.” The article mentions upfront that:

Alternative energy jobs can provide vocations across many sectors of the economy, but policy to spark them can take years to develop.

Not now, not 6 months from now, not a year from now, but years into the future. Promises of immediate green jobs being created across the country because of this Waxman-Markey bill are another misreading by this administration. The economic stimulus package was simply the first thing the President misread. Those jobs never materialized. The green jobs promised in Waxman-Markey may also take years to develop. However, the job losses that the bill creates will occur immediately.

In an Investors Business Daily editorial on July 17 entitled “Following California Off a Green Cliff,” the editor states that:

America remains the richest country on Earth, but it might profit from adopting a bit of the attitude displayed by much poorer but up-and-coming economic rivals such as China and India. Those nations don't take prosperity for granted. That is why they aren't such good sports on global warming. They prefer to get rich and then go green.

The author goes on to say:

The U.S. isn't so poor that it can't afford strong environmental policies. But it can't afford to take its prosperity for granted either.

Let me repeat a couple of lines from those quotes: First, that America remains the richest country on Earth. And that last line: But it can't afford—that is we, the United States—to take our prosperity for granted. We here in Congress—the Members of this Congress—cannot afford to take the prosperity of this Nation for granted. If we pass Waxman-Markey, or a bill similar to it, that prosperity will erode further. We should create jobs, and we should create more wealth in this country. We need to keep business costs low so businesses can expand and create wealth for our Nation. We can do that by making America's energy as clean as we can, as fast as we can, without raising energy prices for the businesses and the families of America.

Our end goal must be to do everything we can to keep the jobs we have

now and also to find ways to add new green jobs. Americans want all of these jobs and more. We need them all.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. SESSIONS. Mr. President, I want to make a few comments on the Defense bill that passed late last night. Senator LEVIN and Senator MCCAIN did a very fine job in working through all the difficulties we faced and tried to put together a bill that would support our troops. Indeed, I was on a video conference this at noon with a group of Alabama National Guardsmen and their families, an MP company from Prattville, AL, that is undertaking its third deployment. The company was last deployed to Guantanamo and now they will be going to Iraq. We owe a great deal to these people who put their lives on the line for us. They leave their families and loved ones and go into harm's way to execute the policies that we have set. As a result, we must never forget what we owe them. I hope we never do.

I think the bill we passed has some good things in it. Some are troubling to me. I did not speak last night, in the late evening, about section 1031 of the National Defense Authorization Act entitled “Military Commissions and al-Qaida.” It was an important little amendment and I want to share a few thoughts about it.

What we discovered was in the Defense authorization bill, al-Qaida was removed from the unlawful enemy combatant definition. My amendment put that back into the bill. If you are a member of al-Qaida, you have earned the designation of an unlawful enemy combatant, or belligerent. We are now using the words unlawful enemy belligerent. Those individuals are people who operate outside the rules of warfare. They do not wear uniforms. They deliberately and systematically target women and children and innocents. They do not comply with the rule of law, the Geneva Conventions, and they, therefore, are not given the normal and full protections of the Geneva Conventions.

A person who is at war with the United States, as al-Qaida has repeatedly announced that it is, who does their military activities without complying with the Geneva Conventions, deserves to be attacked. They deserve to be killed or captured by the U.S. military. If captured, they deserve either to be prosecuted or held until the hostilities are over. That is what the

historic rules of warfare are, it is what we have always done, and we need not be confused in this war and start treating it as if it were some sort of criminal activity. Doing so would compromise our ability to be effective and place at greater risk those individuals whom we send in harm's way, such as the 217th Military Police troop from Prattville, AL, which is going to Iraq. We don't need to be confused about what this is. It is not a law enforcement operation.

We also adopted an amendment last night that prohibited the intelligence communities of the United States, our agencies or our military, from giving Miranda warnings to people captured on the battlefield. Giving Miranda warnings to unlawful enemy combatants is unthinkable. It is a confusing thing. What you are basically telling these people that we capture is: Don't talk, we will give you a lawyer.

In fact, some of the NGOs, were telling Americans not to talk to them and ask for lawyers, because we were beginning to give Miranda warnings.

The premise of this amendment is not an overreach. It is consistent with our law.

Make no mistake, al-Qaida has announced it is and continues to be at war with the United States. We are at war with them. We cannot mince words. We cannot lead the world to believe that we have softened our resolve to defeat this enemy that threatens us.

According to a CNN report from July 15, 2009, al Zawahiri, bin Laden's deputy, called on Muslims to join in a jihad against the United States. I wish that were not so but that is what it is. Last week a terrorist group affiliated with al-Qaida targeted two American-owned hotels in Jakarta, Indonesia. On July 21, just a few days ago, a Wall Street Journal article pointed out last week's hotel bombings were not some isolated event:

In the 19 months leading up to the Jakarta attacks, Islamic terrorists have brought their holy war to upscale properties in Kabul, Afghanistan; Islamabad, Pakistan; Mumbai, India; and Peshawar, Pakistan. The casualties thus far number 116 people killed and hundreds more injured.

I ask my colleagues, in the middle of the war against al-Qaida, is it wise to remove al-Qaida from the definition of unlawful enemy combatant, or even the new form "unprivileged enemy belligerent"? That is the new word we are using and perhaps it is all right. I don't know why we changed. But we have to be careful the words we use.

Can anyone imagine the Congress removing "Nazi" from the wartime definitions in the middle of the Second World War? What do we hope to achieve by taking al-Qaida's name out?

Fortunately, last night it was put back in. But what would have been achieved by removing their name from that list of organizations against which we are at war?

The original Military Commissions Act passed in 2006 made it clear that

the unlawful enemy combatant definition covered hostile groups "including a person who is part of . . . al-Qaida, or associated forces."

Let's be clear about what removing al-Qaida from the definition would have meant in the legal proceedings related to detainees. It will cloud them under uncertainty and ambiguity. Judges, whether military or civilian, will have to second guess whether al-Qaida members are truly eligible to be held as enemy combatants.

This is not an unjustified concern. Let me tell you about one case where a Federal judge questioned whether an al-Qaida member who fought in the jihad could still be held as an enemy combatant. On April 15 of this year, Judge Huvelle of the U.S. District Court for the District of Columbia granted the habeas corpus petition of Yasin Muhammed Basardh, over the objections of the Obama administration.

Habeas corpus petition is a right of a person in the United States who is held by the Government to ask why they are being held. It is referred to in the Constitution. Many of my colleagues have said you are denying these prisoners habeas corpus petitions—denying them, taking away something to which they are entitled.

I would point out that is not correct. Nobody ever understood habeas corpus, as referred to at the founding of our Republic, as something applied to people captured in war against the United States. That was never what it meant. It is only a most recent incorrect definition of habeas that applied it to people who are trying to kill Americans and are at war against Americans. Some of the courts are confused on this, in my view. Congress has been a bit confused about it also.

But Judge Huvelle, unwisely, I think, concluded that the United States could no longer hold Mr. Basardh because he no longer posed a realistic risk of joining the enemy—in his opinion. Judge Huvelle is not involved in the war. He is sitting safe and comfortable here in the District of Columbia. The execution of a war is placed in the hands of the men and women in the military to protect our country, whose lives are on the line.

So this judge reached this conclusion because Basardh was cooperative while in custody at Guantanamo Bay. In her decision in 2009, Judge Huvelle failed to mention the many salient facts that showed why the Obama administration and the Bush administration before it opposed this man's release. According to unclassified Administrative Review Board records, Basardh was closely associated with al-Qaida, and directly linked to Osama bin Laden. He admitted:

No. 1, traveling from Yemen to Afghanistan to join the jihad, saying, "Yes, I did go to Afghanistan for the Jihad."

No. 2, training at the al-Qaida-run al Farouq camp near Kandahar in Afghanistan;

No. 3, staying at Osama bin Laden's house in Kabul when the U.S. bombing began. "It was Osama bin Laden's private house," he said.

No. 4, meeting with bin Laden himself on numerous occasions.

No. 5, responding to Osama bin Laden's call for all fighters to retreat and assemble at Tora Bora and,

No. 6, being in the cave with Osama bin Laden at Tora Bora.

If Federal courts are going to second guess the military on cases like Basardh under the current Military Commissions Act, Congress certainly should not weaken this act any more and give them any more ability to undermine our efforts.

To the contrary, Congress should be crystal clear that membership in al-Qaida qualifies a detainee for unprivileged enemy belligerent status. My amendment removed any doubt over the detention of anyone who is a member of al-Qaida or served in its aid. My amendment will make clear that cases like this should not happen again. Simply put, if you are a member of al-Qaida you are going to be detained and held until the war is over, in the same way Nazi army prisoners of war treated during World War II.

I urge my colleagues to think about this, to make sure we are fully cognizant of the dangers our country faces, and retain this language that was initially omitted, keeping al-Qaida by name as a group which we are at war against. It is important that doesn't get removed by the conference committee. I am going to be watching. I think it is a big deal.

Oftentimes when the conference committee meets, they make substantive changes in the bill. Following conference, it will come back to the floor, and at that time we will be unable to amend it. I am going to watch. I think the American people need to know we are not confused in our thinking. We know against whom we are at war and we are committed to this effort and we are supporting our fabulous men and women who place their lives at risk for us. We must not undermine their efforts by creating circumstances in which Federal judges can treat military captives as ordinary criminals with all the rights pertaining thereto.

I yield the floor.

DEFENSE AUTHORIZATION

Mr. KYL. Mr. President, I rise today to discuss an amendment I submitted with 12 cosponsors that the Senate adopted yesterday by voice vote. My amendment, No. 1760, as modified by a second-degree amendment I offered, No. 1807, sets some important benchmarks for the President to meet as his administration negotiates and prepares for Senate ratification of a follow-on to the 1991 START agreement, which expires this December 5.

As my colleagues know, the Constitution entrusts the Senate with the responsibility of advice and consent on treaties.