

detained indefinitely. Are you sure, Mr. Attorney General, that a court will not order him released?

This begs the question: Why should we incur the time, expense, and risk our national security on a show trial if we are just going to detain these terrorists forever anyway? Rather than showcasing our judicial system, this strange logic seems to make a mockery of the civilian judicial system. While the Attorney General has declared that failure is not an option, he does not control judicial rulings, nor the facts and perceptions that may sway any one of 12 jurors who will decide KSM's fate. A conviction will be expected, but there can be no guarantees.

Make no mistake, America is still at war. The war on terror is real. It will not go away just by calling it another name. We cannot afford to bury our heads in the sand. While Khalid Shaikh Mohammed may ultimately be convicted, our success in the war against terror will only be final when we have hunted these terrorists into extinction. We need look no further than the terror plots disrupted earlier this fall in New York, Colorado, Illinois, and at Quantico, to name a few, to understand the threats we faced on September 11 are still very real. For the men and women massacred in cold blood at Fort Hood, the ongoing threat of terrorism is all too real.

The Obama administration is standing at a crossroads of history. It can either persist in downplaying the reality that we are at war with terrorists or it can affirm that its top priority is to keep Americans safe by winning this war on terror.

Madam President, success in this war on terror cannot simply be defined as getting a guilty verdict against KSM in a civilian Federal court. If the Department of Justice jeopardizes our intelligence sources and methods, incurs unnecessary security risks, and creates a high-profile public platform for KSM to spew his hatred and espouse hirabah, they will only increase the likelihood that these detainees will proselytize fellow inmates in Federal prisons and convert followers worldwide. That is not success; that is failure of the worst kind—an avoidable failure.

These are not the hypothetical gambles that some on the left have dismissed casually. As former Attorney General Michael Mukasey, who presided as a judge over one of the trials, has stated, we know these domestic terror trials have exposed sensitive classified information and given important intelligence information to al-Qaida, allowing them to go undetected in more ways than they need.

A few examples:

The east Africa Embassy bombing trials made Osama bin Laden aware that cell phones were being intercepted, prompting al-Qaida to alter its methods of communication.

The trial of the World Trade Center bomber, Ramzi Yousef, tipped off terrorists to a communications link that

provided “enormously valuable intelligence,” but was “shut down” after the disclosure.

Within days of being provided to the defense in the Omar Abdel-Rahman trial, the blind shaikh, a list of unindicted coconspirators, including Osama bin Laden, was provided to bin Laden.

During the trial of Zacarias Moussaoui, 48 classified documents—reports of FBI interviews with witnesses—were inadvertently provided to Moussaoui as part of the government's pretrial discovery response. In ordering the U.S. Marshals to seize the documents from Moussaoui's cell, the judge noted that “significant national security interests of the United States could be compromised if the defendant were to retain copies of this classified information.”

I believe these examples provide ample evidence that public trials of these types of terrorism cases are a clear win for terrorists seeking to learn more about our intelligence sources and methods.

Were there no alternatives, we would proceed with this type of trial, despite the risk, because our Nation values due process. However, the military commissions process, first approved by Congress in 2006, and again last month, ensures a fair trial with rights to counsel, discovery, and appeal, but without the costs and risks of Federal civilian trials.

The concept of military commissions is one our Nation has relied upon before. When Congress created the military commissions process after September 11, it established a framework to ensure that intelligence sources and methods would not be jeopardized. While changes have been made over the years to the process itself in light of Supreme Court decisions, the general framework and principles remain solidly in place.

This process isn't new to this administration either. The administration is not only using this process, the Attorney General announced that the USS *Cole* bomber will still be tried under the commission. They worked with Congress to make the changes to it themselves.

Yet in the case of the 9/11 conspirators, the administration has chosen to reject the tried and true method of prosecuting enemy combatants in a venue where intelligence sources and methods are unlikely to be compromised in favor of circuses that will make the trial of Zacarias Moussaoui, with its endless motions and Moussaoui's challenge of a duel to former Attorney General Ashcroft, seem like a mundane proceeding.

This is an unnecessarily dangerous gamble. While the decision to take this gamble with our national security is clearly a matter for the executive branch, the administration has found a willing ally in many of my colleagues in Congress. Earlier this month, I joined 44 other Senators, from both

sides of the aisle, in supporting an amendment to prohibit taxpayer funds from being used to prosecute in a civilian court the 9/11 perpetrators. Unfortunately, we were outvoted. The amendment didn't pass.

I encourage my colleagues to rethink their opposition. When the appropriate time comes, I hope they will reaffirm that our national security interests must have priority over politically correct prosecutions.

America is rightfully a different nation today than it was before September 11. We were attacked in a way and at a magnitude that we hope never to experience again. But we simply cannot rely on hope alone. Following these terrorist attacks, we took critical steps to try to ensure we are never attacked like this again. We made sure that we gave our intelligence professionals the tools they needed to fight terrorists, not just criminals. We gave them the tools they needed to fight a war and keep America safe.

We must always remember the lessons of September 11. We owe it to the victims of these and other terrorist attacks to keep our Nation safe. I call on the President from this floor to reverse this disastrous decision by the Attorney General and reaffirm his commitment to our national security and to winning this war against terrorism.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. REID. Madam President, I apologize to the Republican leader. I was detained in my office talking to another Senator, so I apologize for not being here and his having to wait.

UNANIMOUS CONSENT
AGREEMENT—H.R. 3590

Mr. REID. Madam President, I ask unanimous consent that on Friday, November 20, at 10 a.m., the Senate proceed to a period of debate on the motion to proceed to H.R. 3590, until 11 p.m., with the time controlled in alternating 1-hour blocks, with the majority controlling the first hour; and at 10 p.m., Friday, there be 30-minute blocks until 11 p.m., with the majority controlling the first 30 minutes; further, that on Saturday, November 21, at 10 a.m., the Senate continue with controlled debate in alternating blocks until 6 p.m., with the majority controlling the first hour block; that at 6 p.m., the majority control the time until 6:30 p.m., the Republicans then control 6:30 to 7:15 p.m., the majority control 7:15 p.m. to 7:30 p.m., the Republican leader controls 7:30 to 7:45, and the majority leader controls 7:45 to 8 p.m.; that at 8 p.m., the Senate proceed to vote on the motion to invoke cloture on the motion to proceed to H.R. 3590; that if cloture is invoked on the motion, then all postcloture time be yielded back, the motion to proceed be agreed to, and the motion to reconsider be laid upon the table; that after the bill is reported, the majority leader be recognized to

call up his amendment and that it be reported by number only.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

SERVICE MEMBERS HOME OWNER-SHIP TAX ACT OF 2009—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Madam President, I move to proceed to Calendar No. 175, H.R. 3590, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill 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 Calendar No. 175, H.R. 3590.

Harry Reid, Tom Harkin, Jack Reed, Edward E. Kaufman, Jeff Merkley, Roland W. Burris, Daniel K. Akaka, Patty Murray, Richard Durbin, Sherrod Brown, Michael F. Bennet, Jeanne Shaheen, Sheldon Whitehouse, Bill Nelson, Mark Udall, Benjamin L. Cardin, Christopher J. Dodd, Patty Murray.

Mr. REID. I ask that the mandatory quorum required under rule XXII be waived.

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

Mr. REID. I thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. FRANKEN. Madam President, I ask unanimous consent that I be allowed to speak in morning business for up to 5 minutes.

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

COBRA SUBSIDY EXTENSION AND ENHANCEMENT ACT

Mr. FRANKEN. Madam President, I rise today to urge my colleagues to support S. 2730, the COBRA Subsidy Extension and Enhancement Act.

As you may know, COBRA allows jobless workers to keep their health care as they look for new work. The Recovery Act included a COBRA subsidy through the end of this year, but if we fail to act, millions of Americans currently looking for work will be faced with a further unbearable burden—the tripling of their COBRA payments.

I am very pleased with the Senate Patient Protection and Affordable Care Act that was released yesterday. This bill will help bring down health care costs for families and the Federal Government. We will invest in prevention and provide incentives to doctors to provide high-quality health care. I commend Leader REID, Chairman HARKIN, Chairman BAUCUS, and Chairman DODD for moving us one critical step

closer to secure, affordable health care for all Americans. But while health care reform will bring long-term relief, the proposed COBRA extension will help us bridge the gap before health care reform is fully implemented.

Take, for example, the situation of one of my constituents, Gregory, from Lakeville, MN, southeast of the Twin Cities. Gregory has built a professional career in the printing industry, the same industry my dad was in. He was a printing salesman for 30 years. The printing industry has been especially hard hit by our current recession. Gregory's wife depends on him for health insurance. She has rheumatoid arthritis. My mom had rheumatoid arthritis. Gregory also has two daughters in school.

Gregory was laid off this March and has been tirelessly looking for a job ever since. But there aren't any jobs to be found. Now he has accepted that he may have to change fields, but he is 57 years old. A career change at 57 isn't easy. Unless Congress passes a COBRA extension, his premiums will nearly triple, going from \$350 a month to \$940 a month. In today's dismal economy, who has \$940 each month to spend on health care insurance, especially if you don't have a job?

Gregory has explored the option of a private insurance plan, but his wife's preexisting rheumatoid arthritis makes private plans an impossibility. Gregory is hopeful, as am I, that passing a health care reform bill will eliminate this problem of preexisting conditions. But in the meantime, what are families like Gregory's supposed to do?

Gregory's family is not alone in this plight. CBO estimates that 7 million workers and their families have used the COBRA subsidies in 2009. That includes thousands and thousands of Minnesotans. The expiration of the subsidy will make premiums so expensive that many families will be forced to drop their coverage, adding further to the number of uninsured Americans. Now is not the time to put another burden on struggling families.

The COBRA Subsidy Extension and Enhancement Act will provide relief to families by extending the COBRA subsidy another 6 months, through June of 2010. By that time, our economy will have made significant progress in job creation, and many Americans will be back on the job. The extension will also include an increase in the subsidy—from 65 percent to 75 percent—allowing more families to retain coverage. During this recession, the last thing Congress should do is pull the plug on benefits before folks have had a chance to get back on their feet.

I know my colleagues Senators BROWN and CASEY share the same goal of passing meaningful health care reform this year. But they also know the importance of providing a stopgap measure to deliver relief to families who are struggling in the current downturn. I thank them for their leadership on these critical issues.

I urge my colleagues to swiftly enact the COBRA Subsidy Extension and Enhancement Act and allow more families to maintain health care insurance coverage as they look for work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

APPROPRIATIONS BILLS

Mr. COCHRAN. Madam President, in the coming weeks and months, the Senate is scheduled to complete action on bills that will have a profound impact on Federal spending for many years to come. I rise to express my concerns about the manner in which new spending is being proposed in that legislation.

Congress has sent 5 of the 12 annual appropriations bills to the President for his signature. Four other bills are in conference with the House. The Senate has not yet acted upon the three remaining bills under our jurisdiction.

Last year, Congress completely abandoned the appropriations process. The year before that, only a few bills were acted upon by the Senate before all of the bills but one were bundled into an omnibus bill and sent to the President.

Thus far this year, we have not been able to complete action on all 12 appropriations bills, but we have made significant progress. The Senate has debated a stand-alone Agriculture appropriations bill and an Interior appropriations bill for the first time in 4 years. Ideally, these bills should be subjected to the scrutiny of the full Senate every year. This year, there have been hearings in each subcommittee, and the bills have been subjected to subcommittee and full committee markups. We have tried to get the bills to the floor individually so all Senators have an opportunity to offer amendments, and so we can avoid the necessity of grouping the bills into an omnibus bill.

The chairman, who is the distinguished Senator from Hawaii, Mr. INOUE, deserves the credit for these improvements. All Senators on the committee have cooperated, though.

Despite the many difficulties associated with enacting the appropriations bills, the process compels us to hear testimony, analyze programs, and consider funding needs and priorities on an annual basis. It is not always a smooth or easy process, but it has the benefit of compelling us to continually re-evaluate the level of Federal spending. That is not the case when we create long-term or permanent mandatory spending programs.

I don't mean to criticize the oversight of the authorizing committees. Many of them do excellent work in this regard, holding agencies and funding recipients accountable for their management decisions. But once a funding stream is made mandatory, it is difficult to reduce or cut off the spending or to use the leverage of future funding to motivate more efficient management of Federal programs or activities.