

[Rollcall Vote No. 340 Leg.]

YEAS—98

Akaka	Dorgan	Lott
Allard	Durbin	Lugar
Allen	Edwards	McConnell
Baucus	Ensign	Mikulski
Bayh	Enzi	Miller
Bennett	Feingold	Murkowski
Biden	Feinstein	Murray
Bingaman	Fitzgerald	Nelson (FL)
Bond	Frist	Nelson (NE)
Boxer	Graham	Nickles
Breaux	Gramm	Reed
Brownback	Grassley	Reid
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Campbell	Hatch	Sarbanes
Cantwell	Helms	Schumer
Carnahan	Hollings	Sessions
Carper	Hutchinson	Shelby
Chafee	Hutchison	Smith (NH)
Cleland	Inhofe	Smith (OR)
Clinton	Inouye	Smith (D)
Cochran	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Corzine	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
Dayton	Leahy	Voinovich
DeWine	Levin	Warner
Dodd	Lieberman	Wellstone
Domenici	Lincoln	Wyden

NAYS—1

McCain

NOT VOTING—1

Torricelli

The conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. HOLLINGS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess from 2 p.m. until 4 p.m. today. There is already an order in existence that the time we are in be morning business.

Mr. BYRD. Mr. President, reserving the right to object, I certainly don't want to be an impediment to what the distinguished majority whip is trying to do. I do have a couple of speeches I want to make. I will go down to my office to get them. One has to do with Thanksgiving. The other has to do with another matter of great importance.

Mr. REID. Mr. President, if I could amend that request, we have from 3 to 4 o'clock for which the Chaplain has arranged for the Senate family to be together in the Russell Rotunda.

I amend that request so that we end at 2 o'clock, or whenever Senator BYRD completes his remarks.

I was present last year and the year before when Senator BYRD gave his Thanksgiving speech. I hope I can be present this year when the speech is given. It is something I look forward to. It has become, at least for me, kind of a Thanksgiving tradition to hear the things for which Senator BYRD is thankful because they always trigger in my mind the things I am thankful for, or that I should be thankful for.

I renew my request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

ENERGY

Mr. MURKOWSKI. Mr. President, I would like to share with my colleagues a situation developing that I think deserves attention as we contemplate the Thanksgiving recess and shortly thereafter, hopefully, the break for the Christmas holidays.

Throughout the year, our new President has requested that Congress take up and pass an energy bill. The question of our Nation's energy security, the question of our continued dependence on imported oil from overseas, and the question of our vulnerability relative to terrorist activities here at home bring to this body the reality of taking positive action to correct that situation.

The circumstances surrounding our vulnerability need some examination. That examination should focus, first, on the lessons of history.

Many people in this body, and many young people in this country, do not remember 1973. They do not remember the Arab oil embargo. They do not remember the gas lines that were stretching around the block. They do not remember the inconvenience that was associated with that reality.

What were the circumstances, then?

We were 37 percent dependent on imported oil. The public was indignant at that time. They blamed the government. They blamed everybody. How could this country allow itself to become that dependent on external sources of oil?

Today, we are 57 percent dependent on imported oil. The Department of Energy has indicated by the year 2010 we will be somewhere in the area of 66 percent dependent on imported oil.

What do we do about that?

There are two logical steps we can take. One is to use less oil by being more creative with technology, increasing efficiency; and the other is to produce more domestically.

Where does America's oil come from? Fifty-seven percent comes from over-

seas. The rest of it comes from Texas, Louisiana, Pennsylvania, Colorado, and my State of Alaska. However, it is important to note that Alaska has produced about 20 percent of the total crude oil produced in this Nation for the last 27 years.

We had a great debate in this body in the early 1970s. That debate was whether or not Congress should authorize the building of an 800-mile pipeline from Prudhoe Bay to Valdez to move the oil. There was a tie vote in the Senate. The Vice President, Spiro Agnew, broke the tie, and the pipeline was authorized. As a consequence, we have been producing for many, many years up to 2 million barrels of oil a day. Now that pipeline is producing a little over 1 million barrels a day.

The important point to recognize, as we reflect on what we can do now—and what we can do now is to open up that small sliver of the Arctic known as the ANWR Coastal Plain—is what that will mean to this Nation's dependence on increased imports from overseas. It will reduce that dramatically.

We do not really know what is in ANWR because Congress has never authorized the opening of this area. But the geologists estimate somewhere between 5.7 and 16 billion barrels. That may not mean much in the overall scope of things, but it is estimated that the current proven oil reserves of Texas are about 5.3 billion barrels. So this could be very, very significant.

Let's compare it back to Prudhoe Bay because Prudhoe Bay is an actual experience. We have been there for 27 years. The experts indicated that field would produce about 10 billion barrels. Today, it is on its 13th billion barrel. It is still producing a million barrels a day.

So when you talk about what might be in ANWR, whether it is 5.7 or 16 billion, even if it is 10 billion, it is as big as Prudhoe Bay. It has a very significant potential in reducing, if you will, our dependence on imports.

What is involved here? I have stood in this chamber numerous times and have indicated that you have to get a feel for the magnitude of the area. The ANWR area is a million and a half acres in the sense of the classification of 1002. I do not want to confuse Members, but what I am saying is that only the 1002 area—or a million and a half acres—can be authorized by Congress out of the 19 million acres that are in ANWR. Nineteen million acres is the size of the State of South Carolina, a pretty big piece of real estate. Out of that 19 million acres in ANWR, we set aside 8½ million acres in a wilderness in perpetuity. We set aside another 9 million acres in a conventional refuge, leaving this million and a half acres only for Congress to consider making available for exploration.

The House passed an energy bill, H.R. 4. In that bill they authorized that only 2,000 acres of the 1002 area could bear a footprint of development. That reminds me of the Hollywood movie star, Robert Redford, who is very much opposed

to opening this area. He has a 5,000-acre farm in Utah. I mention that to put things in perspective. A 2,000-acre footprint out of 19 million acres, that is what we are talking about.

I know America's environmental community is very much opposed to this. This is an issue that is far away. The American people cannot see it. They cannot see the good record of Prudhoe Bay or the contribution of the 27 years of production from Prudhoe Bay. So it is an ideal issue for America's environmental community. It is like a cash cow, if you will pardon the expression. They have milked it for all it is worth, and they will continue to do so because it is warm and fuzzy. They throw in a polar bear. They do not tell you that you cannot take a polar bear for trophy, cannot shoot a polar bear in Alaska because they are protected marine mammals. You can go to Russia or you can go to Canada if you want to shoot one. They talk about the porcupine caribou herd. They talk about the Gwich'in people. But they do not tell you that the Gwich'ins in Canada are leasing their land for oil exploration. They are developing their corporation and their opportunity for jobs, a better lifestyle, a better education, and so forth. They do not tell you that we have had experience with the central Arctic herd of caribou in Prudhoe Bay that was 6,000 strong in 1978 and that is now over 27,000 because you cannot shoot them, you cannot take them.

So every argument that the environmentalists use against opening ANWR is a bogus argument. These arguments are not based on sound science; they are based on emotion.

What is this issue really all about? It is not about replacing imported oil, if you will, but it is about reducing our dependence on imported oil. If we made a commitment in this body to open up ANWR, one of two things would happen, or perhaps both. OPEC would, in my opinion, increase production because they would know that the United States means business about reducing its dependence on imported oil. As a consequence, you would see a stabilization in price.

What OPEC has done now is they have put together a self-disciplined commitment of the countries that make up OPEC to have a floor and ceiling. The ceiling is about \$28 a barrel, and the floor is about \$22 a barrel.

If you do not believe that, just look at what OPEC did the other day. They decreased production a million and a half barrels. What does that do? It makes the price go up. We are caught in that leverage. Of course, right now, we have seen a tremendous reduction in oil demand because of the terrorist activities, lack of air traffic in this country, the reduction of people driving. But that isn't going to be the case forever. We are going to go back and begin to use fuel at a higher degree.

I am all for alternatives. I am all for renewables. I am all for wind and solar.

But let's face it, America and the world moves on oil. We have no other means of transportation currently available. Our airplanes, boats, and trains all move on oil. There is no relief in sight. We use heating oil to fuel our homes. So until we develop a new technology, America is going to have a continued dependence on oil.

We have an opportunity here, in the stimulus package, to address a real stimulus. A real stimulus is opening up ANWR because here is what ANWR would do: It would provide at least 250,000 direct jobs.

This isn't something the Federal Government has to underwrite or the taxpayer has to basically contribute to. These are private sector jobs, skilled labor, welders, pipe fitters, Teamsters, you name it. These unions support this. They are in contrast to the environmentalists who are opposed to it. This is the biggest jobs issue in the stimulus package.

What else is there in this proposal? There is an opportunity for the Federal Government to garner about \$3.3 billion in bonus bids as a result of this 1002 area being put up for lease. That is a lot of money. That can offset some of the responsibilities we have to address in response to terrorism, the cost of the war, security. There are lots and lots of things that we can use this revenue for.

If you look at the jobs, if you look at the revenue and recognize that none of this is going to cost the taxpayer one red cent, we should consider the real merits of a stimulus package that contains a provision to provide the authority to open up this area.

We have brought this to the floor time and time again. We have proposed opportunities for committee action. As the ranking member on the Energy and Natural Resources Committee, I can only express my disappointment in the process. The Democratic leader has taken away from the authorizing committee, the Energy and Natural Resources Committee, and the chairman, the ability to address the formation of an energy bill in the committee. For some reason there is a terrible fear to have a vote on this issue in committee or, for that matter, on the floor.

I know there are several Members from time to time who have ideas of Presidential aspirations. This body and the American people have a right to have an energy bill debated on the floor of the Senate and voted upon. The President has asked for it continually. He deems it as a stimulus. We don't seem to be able to move.

What happened is—as a member of the Energy Committee, I am obviously pretty close to it—I thought we could proceed, have a markup in the committee, vote it out of committee, and take it to the floor. The Democratic leader intervened, took the authority away from the chairman of the committee. We have been waiting for the majority leader to come up with an energy bill and present it to us. He has

not done it. We know it will not include ANWR. There is absolutely no question about that.

Yet, here we are with a situation that is ongoing. Time runs and nothing is done. We face a crisis associated with our vulnerability and dependence on foreign oil.

Let me add a couple more points that bear some reflection. Currently we are importing almost 1 million barrels of oil a day from Iraq. How can we justify on the one hand becoming more dependent on a source that was our enemy just a few years ago when we fought the war in the Persian Gulf and on the other hand, importing oil from that country and enforcing a no-fly zone over Iraq on a daily basis? We are putting the lives of our men and women at risk in enforcing that. We occasionally take out targets in Iraq. I have said it before and I will say it again: We take their oil, put it in our airplanes, and enforce a no-fly zone. They take our money, develop missile capability, a biological capability, and aim it at our ally Israel. We don't know what they are doing because we don't have inspectors over there anymore. It is a grossly inconsistent policy.

We have differences of opinion, of course. I respect my colleagues with regard to issues such as this. I find it ironic that the spokespersons who stand before this body communicating directly their feelings on the issue have never been up there. They have never taken the time. Each year Senator STEVENS and I offer trips to ANWR. They don't come. Yet they are experts.

Members have opinions on this, but they don't go up and see for themselves. They don't evaluate. They don't talk to the people who live there. My Native and Eskimo people have rights, too. There are 95,000 acres of private land that they own in the 1002 area, the 1.5 million acres in question. The Native and Eskimo people have no access. They can't even drill for gas to heat their homes. Is that democracy? Is that fair and equitable? Should they not have the same rights as any other American who owns private land? This is a terrible travesty on the people of my State. It is unjustified.

We are a big piece of real estate with a small population. We have real people. We have a village in the area. Some people say: This pristine area, it is an extraordinary area. It is a huge area. To suggest that a 2,000 acre footprint suddenly is going to have a disastrous activity associated with it is absolutely inconsistent with reality.

We have a village there of 300 people. It has a little school, a health care facility, a little airport. These are real people. They have real hopes, real aspirations. They are very disappointed that this body fails to hear their cry and the Members who feel very strongly about this are refusing to go up and talk to them, to recognize that they are really there.

I have said this before, as we look at terrorist activities, as we look at vulnerability, let's look at the Mideast for a moment. Look at Saudi Arabia. Some individuals predict that Saudi Arabia is setting itself up for what happened a few decades ago with Iran, the fall of the Shah, America's ally.

Bin Laden's terrorist activities in the oilfields of Saudi Arabia could wreak havoc. What you would see is the price of oil skyrocketing. A couple of tankers in the Straits of Hormuz taken out by terrorist activities could accomplish the same effect.

These are the real risks associated with our increased dependence. If you look at the terrorists who we can identify with the Trade Center disaster, a lot of them had Saudi Arabia citizenship, including bin Laden. Where does the money come from? You and I are associated with the business community. We know where it comes from. It comes from oil. That is the wealth of the Mideast; it funds terrorism. Make no mistake about it.

A good friend of mine, a Member of this body for many years, Mark Hatfield, is a pacifist. He said: I would vote for ANWR any day than send another man or woman of our Armed Forces to fight a war on foreign soil, a war over oil.

This Senator has been a good soldier. I have been here 21 years. I have lived with this issue for 21 years. I have asked for votes. We passed this bill in 1995 in both the House and the Senate. It was vetoed by President Clinton. It is not going to be vetoed by the White House this time around. The point is, we can't get the leadership to bring it up.

I am going to have to filibuster something around here. There are a few things left to get some kind of a commitment from the Democratic leadership to get a vote on this issue in a timely manner. We have that right. All we want is a vote. We will take our lumps. But they don't want to vote on it.

They don't want to vote on it, even to the point where they are fearful if I were to bring this up in committee and prevail, that somehow it would pass and it would represent a position of strength.

Let me conclude by alerting Members that we are not going to let this issue go away. We are going to force a vote. If I have to force a filibuster, I will. This time this issue is going to come up before this body and be addressed once and for all.

I thank the Chair for the time. I thank my colleague for his indulgence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I am pleased to follow my distinguished colleague from Alaska, who has been here for 21 years. I can personally attest to that and take an affidavit to that fact because I came here on the same day that he did. We have worked together

over the years and we have a curious relationship, in the sense that he is senior to me in the Republican caucus because it was done alphabetically, and "M" comes before "S." I am senior to Senator MURKOWSKI in the Senate because I come from a State that is somewhat larger population-wise but not geographically. But it is always a pleasure to follow Senator MURKOWSKI on the floor or any other time.

TRYING TERRORISTS AS WAR CRIMINALS

Mr. SPECTER. Mr. President, I have sought recognition to comment on a couple of subjects today. First is a subject that is very much in the forefront of the news, which is the proposal to try terrorists in military tribunals as opposed to trials in U.S. courts of law.

The Attorney General of the United States is quoted in this morning's press as citing circumstances that the administration believes would require this change in procedure, and it is a matter that I believe ought to be considered by the Congress, because under the Constitution the Congress has the authority to establish military courts and tribunals dealing with international law.

I have written today to the chairman of the Judiciary Committee suggesting that prompt hearings be held on this subject. We are going to be returning after the Thanksgiving recess, and we will have a chance to look into this matter. Events are unfolding very rapidly now in the war in Afghanistan, with major advances being made by the Northern Alliance, with U.S. commandos on the ground, moving in an effort to find Osama bin Laden. I have predicted consistently since September 11 that we would find him and, as President Bush has said, we would either bring bin Laden to justice, or we would bring justice to him. So the issue of military courts is something that may be upon us sooner rather than later.

The Constitution provides that the Congress is empowered to define and punish violations of international law, as well as to establish courts with exclusive jurisdiction over military offenses. Under articles of war, enacted by Congress, and statutes, the President does have the authority to convene military commissions to try offenses against the law of war. Military commissions could be convened to try offenses, whether committed by U.S. service members, civilian U.S. citizens, or enemy aliens, and a state of war need not exist. So there has been a delegation of authority by the Congress. But under the Constitution it is the Congress that has the authority to establish the parameters and the proceedings under such courts.

In World War II, in the case of *Ex parte Quirin*, 317 U.S. 1, eight German saboteurs were tried by a military commission for entering the United States by submarine, shedding their

military uniforms and conspiring to use explosives on unknown targets. After their capture, President Roosevelt proclaimed that all saboteurs caught in the United States would be tried by military commission. The Supreme Court of the United States denied their writs of habeas corpus, holding that trial by such a commission did not offend the Constitution.

In World War II, we obviously faced a dire threat. The decision was made, understandably at that time, to have that kind of a trial procedure and not in regular civil Federal courts. Our current circumstances may warrant such action at the present time, but I do believe it is something that ought to be considered by the Judiciary Committee.

I note the presence of the distinguished chairman of the committee in the Chamber. I just commented, Senator LEAHY, that I have signed a letter to you on this subject. I thought it worthwhile to go far beyond the letter and to talk about this subject because I believe it is a matter of very substantial importance.

Mr. LEAHY. If the Senator will yield for a moment, I haven't seen the letter, but the press described it to me and asked me about it. I told them I totally agree with you on that, that we should have hearings on this—actually a number of these steps. One of the difficult things, as the Senator knows, is getting the Attorney General to come up here and testify. I think the last person to be able to even ask him a question in our committee was the senior Senator from Pennsylvania during the terrorism bill.

I only heard part of what the Senator was saying, but his usual fashion is to lay out the law and the history very clearly. I do believe we should have hearings. I intend to have a meeting with the FBI Director this afternoon. I am also going to talk to the Attorney General on this and a number of other issues, including some about which the Senator has expressed concern to me. He really should come up here before we finish for the year. We should discuss some of these issues.

I think the Senator from Pennsylvania is absolutely right in raising this. I appreciate him doing it. He does us all a service.

Mr. SPECTER. I thank my colleague from Vermont for those comments. I think the Attorney General would come up on an invitation. We are due back here on the 26th. I think it would be in order to make this the first order of business of the committee on the 27th. That would be 12 days' notice.

I note that there is a very extensive Executive Order implementing this procedure. This matter is not something which burst upon the scene yesterday. It has been under consideration.

I noted that a key Member of the House of Representatives was quoted in this morning's press as not having been consulted. I noted the chairman is also