

has already passed. To do otherwise is unfair to this institution, unfair to the nominees, unfair to the President, and, most importantly, unfair to the American public who entrusted us with the responsibility to conduct the public business.

Madam President, we can and should do a better job of considering judicial nominees on the Senate floor. I stand ready and willing to continue to work with all of my colleagues and the administration on this important matter.

Madam 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. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

### ENERGY POLICY

Mr. REID. Madam President, in Reno, this weekend, the price of a gallon of unleaded gasoline was \$2.22. Premium gasoline costs more than that. The higher blend fuels in Nevada cost about \$2.50 a gallon.

My friend and neighbor from the State of Idaho, the senior Senator from the State of Idaho, was in the Chamber a few minutes ago talking about the fact that if we pass the energy bill that had previously been on the Senate floor, and the one that came back from conference, we would have all of our energy problems resolved. I want to disabuse anyone within the sound of my voice, that simply is not factual.

That energy bill was a bad bill. It did nothing to help the cost of gasoline. The thing it would do is give the industry just what it wants, billions of dollars in the form of subsidies and tax breaks, with no real conservation requirements.

We want an energy bill. We, the minority, want an energy bill. But we want an energy bill that will diversify our energy supply, reduce our Nation's dependence on foreign oil, and protect the environment.

The one thing the bill did not have in it that came back from conference was ANWR. That was at least something of which we were able to convince people of good will around here: The fact that the United States has, at its fingertips, less than 3 percent of the oil reserves of the world, recognizing that we cannot drill our way out of our problems. And that includes the oil that is supposedly in the ground in Alaska. We cannot produce our way out of our problems. Almost 97 percent of the oil reserves in the world are someplace else. So we have to do things that are smart and not only look to the short term but to the long term.

There is no doubt that the price of crude has contributed to the higher gasoline prices in Nevada and throughout the rest of the country these last

few years. But the outrageous 55-cent-per-gallon increase in Nevada, since January, has not been driven by the rising cost of crude oil only, but I believe by corporate greed and profit. These oil companies and refiners are getting rich, and middle-class families are getting gouged.

The stalled energy bill will do nothing to reduce the high price of gasoline because it fails to either improve regulations on an oil industry that is over-concentrated or rein in demand by adopting tougher fuel economy standards. Instead, the legislation proposes just what the industry wants—I repeat, giving billions of taxpayers' dollars to large oil companies in the form of subsidies and tax breaks, with no conservation requirement whatsoever.

The Bush administration's own analysis concludes that the legislative incentives to reduce our reliance on foreign oil in the bill will have only a negligible success. The administration report concludes that implementation of the energy bill would reduce net petroleum imports by about 1.2 percent in 21 years—a reduction hardly worth the billions of dollars taxpayers would give away to the oil companies.

We must also pressure the Saudis to increase production instead of cutting it back by a million barrels per day. I have said on this floor previously that Saudi Arabia and the OPEC nations can do a great deal to relieve the problems we have. They are our allies. That is something that I am not too sure exists. It is a one-way street with them. But I was pleased to hear that Saudi Arabia has said they will recommend at the next OPEC nations meeting to increase production by at least 1.5 million barrels a day. That is nice because they just cut back production by a million barrels of oil a day.

We need to be releasing oil from the Strategic Petroleum Reserve to drive down prices. We have to stop putting extra oil in the Reserve, for which we are paying an arm and a leg.

In terms of meeting the Nation's energy needs, we should increase the use of alternative fuels and renewable energy resources. That is the thing we can do to take a bite out of big oil. We can rely more on the Sun, the wind, geothermal, even biomass.

So I was encouraged that in the FSC bill the Finance Committee put in energy incentives, including the section 45 production tax credits for renewable energy. That will allow us to use the things that are renewable like the Sun, wind, and, of course, geothermal heat.

So I applaud Senators GRASSLEY and BAUCUS for having this section 45 production tax credit for renewable energy resources that expands and extends the credit for these issues that I have talked about, these renewable resources.

Renewable energy will protect consumers and create jobs. It is important to stop declaring our energy independence when that is not the case. I do not think it serves any purpose to come

out and talk about how great this bill is that failed. If it were that great, it would not have failed. It is a bill that does nothing to solve the energy needs of this country.

One of the big issues in that bill, of course, was the fact that this substitute fuel that had been manufactured around the country, MTBE—what the bill proposed is that you just simply forget the fact that companies that used MTBE polluted the ground, and that people have suffered from it.

No one knows of a better example of that than what took place in Utah, Nevada, and California. MTBE polluted the water systems there. These companies have had to respond in damages as a result of litigation filed by the water entities in that area. So what this bill would have done is taken away the right of these entities, such as in the Lake Tahoe area, to seek recourse for the damages caused by these chemicals to the water supply.

So the bill that was before the Senate, and the conference report that was defeated, was a bad bill. It was a bill that was a sop to the car manufacturers and the oil companies. That bill would have done nothing to solve the energy problems of this country.

The legislation we will be asked to work on this week, the FSC/ETI bill, has something that will help the long-term needs of the country. I hope we don't become righteously indignant as my friend did—for whom I have the greatest respect. He is a fine man, and we have worked together on a number of issues dealing with western land problems. The fact is, passing the bill that came before us, that was defeated because there weren't enough votes to go forward on the conference report, was some of the best action the Senate has ever taken. If we want to respond to the energy needs of the country, we need to do things that really help the consumers and not big oil and big auto manufacturers.

I was stunned to learn that New Yorker magazine has come out today with a story by a man named Hirsch that talks about some of the things going on in the torture chambers in Iraq, not the torture chambers that were there and run by Saddam Hussein but torture chambers that were there—I am embarrassed, humiliated, and disappointed to say—and were run by Americans. He talked about the story on public radio today, and this is a message that I understand and I think all Americans have to understand: We can't have a few enlisted people, as we refer to them—no longer draftees; everyone is enlisted—nonofficers, take the fall for what went on there. He talked about the reason pictures were taken, both the videos and stills.

I ask unanimous consent for 2 additional minutes.

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

Mr. REID. They were going to be used to show the prisoners' families and neighborhoods. That is why they

were produced. This was not something that was done by some soldiers just trying to do something to pass the time of day; the people who were in the officers corps instructed these men and women that they were to take these pictures and what they were to be used for in the future. I know some of these nonofficers did things that were wrong, and I am so grateful there were people in the military who came forward and said enough is enough. That is the reason we know about it now. But let's not have a few of the nonofficers be the scapegoats for what went on.

We are a mighty nation. We have to respond accordingly. We cannot allow a few underlings to take the fall for what obviously was a concerted action that officers were involved in. It is just a question of how high up in the officers corps the problem went.

The PRESIDING OFFICER. The majority leader is recognized.

#### UNANIMOUS CONSENT AGREEMENT—S. RES. 356

Mr. FRIST. Madam President, I ask unanimous consent that at 4:30 p.m. today, the Senate proceed to a resolution which is now at the desk regarding Iraqi prisoners. I further ask unanimous consent that the time until 5:30 p.m. be equally divided between the two leaders or their designees; provided further that no amendments be in order, and at 5:30 p.m., the Senate proceed to a vote on the adoption of the resolution, with no intervening action or debate. Finally, I ask unanimous consent that immediately following the vote, the preamble be agreed to.

Mr. REID. Madam President, I would ask the leader to modify his agreement to allow Senator DURBIN to use 15 minutes of our time during the debate time the Democrats have under this proposed unanimous consent request.

Mr. FRIST. No objection.

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

The Senator from Illinois.

#### IRAQ PRISONER ABUSE AND WILLIAM HAYNES NOMINATION

Mr. DURBIN. Madam President, I come to the Senate floor with a heavy heart. As so many other Americans, I am horrified at the graphic images of American soldiers abusing Iraqi soldiers and prisoners. We are in a situation today where our troops in the field in Iraq and Afghanistan have performed millions of acts of kindness and good will and bravery which, sadly, have been overshadowed by the recently disclosed photographs. That is a reality.

The war in Iraq is more dangerous today because of the scandal at the Abu Ghraib prison, and our standing in the world is being challenged. A nation which believes in the rule of law and democracy must demonstrate that in its own conduct. Our conduct is being called into question.

I am very concerned that we have reached this point. I am concerned that statements from the Bush administration, sadly, over the last 2 years have sent a message that we were prepared to bend some of the time-honored rules and standards when it came to the treatment of prisoners of war. Over 2000 years ago, the Roman orator Cicero said: Laws are silent in time of war.

In modern times, we have rejected this proposition. Some voices are now calling on us to turn back the clock, but we can't do that. That is not America. That is not what we are all about. Our great country was founded by people fleeing governmental repression. Our founders wanted to ensure that the United States would not oppress its citizens even during time of war, and that is why they included a prohibition on cruel and unusual punishment in the Bill of Rights of the Constitution.

After World War II, the United States and our allies, horrified by the genocidal practices of Nazi Germany, created a new international legal order based on respect for human rights. One of the fundamental tenets was a universal prohibition on torture and ill treatment. Each year Amnesty International and even our State Department issue report cards on countries around the world as to whether they are living up to that standard. Imagine what that report will look like the next time it is issued by our own Department of State.

In light of the horrific abuses that have come to light in recent weeks, we ought to take a moment to review the legal order that was created after World War II. International law absolutely prohibits torture as well as "cruel, inhuman or degrading treatment." The Universal Declaration of Human Rights states unequivocally:

No one shall be subject to torture or cruel, inhuman or degrading treatment or punishment.

The United States, with a majority of countries in the world, is a party to two treaties that contain absolute bans on torture, cruel and inhuman degrading treatment: The International Covenant on Civil and Political Rights and the Convention against Torture.

The Geneva Conventions govern the status and treatment of those in a war-time detainee situation. The U.S. Government has long held that as a party to the conventions, we are legally bound by its terms. The Geneva Conventions make clear that there are no exceptions to this prohibition against torture and such treatment during armed conflict.

Article 13 of the Geneva Conventions says: Prisoners of war must at all times be humanely treated. Prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity. Measures of reprisal against prisoners of war are prohibited.

Article 14 of the Conventions states: Prisoners of war are entitled in all cir-

cumstances to respect for their persons and their honor.

Article 17 states: No physical or mental torture, nor any form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatsoever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

The United States of America is a signatory to this international agreement. Army regulations implementing those provisions repeat these standards and make it clear that they apply to the men and women in uniform.

International law, U.S. law, and Army regulations speak clearly. Nonetheless, as we have learned in recent weeks, abuses took place at Abu Ghraib prison that clearly violate these standards. To quote army MG Antonio Taguba's report:

Between October and December 2003, at the Abu Ghraib Confinement Facility, numerous incidents of sadistic, blatant, and wanton criminal abuses were inflicted upon several detainees. This systemic and illegal abuse of detainees was intentionally perpetrated.

The report describes "the intentional abuse of detainees by military police personnel," including "punching, slapping, and kicking detainees," "using military working dogs, without muzzles, to intimidate and frighten detainees, and in at least one case biting and severely injuring a detainee," "breaking chemical lights and pouring the phosphoric liquid on detainees," "threatening detainees with a charged 9m pistol," "beating detainees with a broom handle and a chair," and "sodomizing a detainee with a chemical light."

Importantly, the Taguba report concludes that the military police were not trained or put on notice in other ways that these kinds of abuses were impermissible and would not be tolerated.

Let me say, before I read on, that you would know by human instinct that the things I have just read were wrong. You should know at the moment such an order is given that it is an unlawful order. But the fact is, when General Taguba looked into the background and training of these soldiers, little or nothing was done to prepare them for their assignment.

I will read further from the Taguba report:

Neither the camp rules nor the provisions of the Geneva Conventions are posted in English or in the language of the detainees at any of the detention facilities . . . There is a general lack of knowledge, implementation, and emphasis of basic legal, regulatory, doctrinal, and command requirements . . . I find that the 800th MP Brigade was not adequately trained for a mission that included operating a prison or penal institution at Abu Ghraib Prison Complex.

Unfortunately, the abuses in Iraq are, in some ways, the logical byproduct of the administrations' policies. In the aftermath of 9/11, the Bush administration made it clear that they believed that international legal order,