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Senate

The Senate met at 10 a.m. and was called to order by the Honorable TOM UDALL, a Senator from the State of New Mexico.

PRAYER

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

Let us pray.

Almighty God, who speaks in the winds' whispers, enable our lawmakers to hear Your call above the many voices of the world. Grant that the claims of labor, the attractions of ambition, or the cares of this world may not make them fail to hear You speak. Lord, give them the wisdom to obey You promptly, refusing to put off until tomorrow the decisions they ought to make today. Cleanse them from any lack of discipline which would keep them from making the efforts which obedience demands. Honor their obedience by permitting them to share in Your glory. May their example of faithfulness and patriotism raise up a new generation of Americans who will love You and country.

We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable TOM UDALL 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 14, 2009.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable TOM UDALL, a Senator from the State of New Mexico, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. UDALL of New Mexico thereupon assumed the chair as Acting President pro tempore.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. REID. Following leader remarks, there will be a period of morning business. It will be for 1 hour, with Senators permitted to speak for up to 10 minutes each during that time. The majority will control the first 30 minutes and Republicans will control the final 30 minutes. Following morning business, the Senate will proceed to consideration of the conference report to accompany the Energy and Water appropriations bill, H.R. 3183. Under the previous order, there will be 10 minutes for debate equally divided and controlled between the managers of the bill. I ask unanimous consent that there also be 10 minutes under the control of Senator COBURN and that the provisions under the previous order notwithstanding remain in effect.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Upon the use or yielding back of the 20 minutes for debate, the Senate will proceed to a cloture vote on the Energy and Water appropriations conference report. That vote is expected before noon today. The Senate will recess from 12:30 until 2:15 to allow for the weekly caucus luncheons. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 1776

Mr. REID. Mr. President, S. 1776 is at the desk and due for a second reading; is that correct?

The ACTING PRESIDENT pro tempore. The Senator is correct.

The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 1776) to amend title XVIII of the Social Security Act to provide for the update under the Medicare physician fee schedule for years beginning with 2010 and to sunset the application of the sustainable growth rate formula, and for other purposes.

Mr. REID. I object to any further proceedings.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

FALLEN POLICE OFFICER MILBURN BEITEL

Mr. REID. Mr. President, I was a police officer during the time I was going to law school. I worked at night time. I have some knowledge of law enforcement. My brother Larry was a long-time officer for the sheriff's department in Las Vegas. That has now been

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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combined with the Las Vegas police department and is called the Clark County Metropolitan Police Department. The reason I mention that is anytime we see someone killed in the line of duty as a police officer, it is scary and sad. The men and women who protect us live with danger every day.

In Las Vegas, we had a police officer by the name of Milburn Beitel who is going to be buried today. His friends called him Millie. He was 30 years old. He died early last Thursday morning after his patrol car crashed at the intersection of Washington Avenue and Nellis Boulevard in Las Vegas. The officer with him is in very serious but stable condition. They expect him to live, thank goodness.

My thoughts and those of anyone within the sound of my voice and anyone who cares about law enforcement, which is everybody in America with rare exception, are with Officer Beitel's family, his friends and fellow officers. Our thoughts are also with the second officer, whom we wish a full and speedy recovery.

We also share the grief of the Las Vegas Metropolitan Police Department. This is the second time in 5 months that the department has lost one of its own. This past May, Las Vegas police officer James Manor, a husband and a brandnew father, was responding to a call in the same Las Vegas community where he grew up. He was struck by a drunk driver and killed. He was 28 years old.

Terrible events such as this one make us appreciate the selfless police officers who have fallen in the line of duty—far too many. We think of their loved ones, people whose father or mother went to work in the morning and never came home, those who know the terrible experience of mourning a son or daughter, those whose husband, wife, or best friend was taken from them too soon.

This morning, we are reminded of the bravery of those who go to work every day and put their lives at risk to protect people they don't know. We remember and honor Officer Beitel. We thank him and his fellow officers and their families for their service and sacrifice, not only the Las Vegas Metropolitan Police Department but police departments all over the country, for the valiant work they do, including the men and women who take care of this beautiful Capitol and protect us and the millions of visitors who come here every year.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

MILITARY COMMISSIONS AMENDMENT

Mr. McCONNELL. Mr. President, most Americans recognize that our

continued success in preventing another terrorist attack on U.S. soil depends on our ability as a nation to remain vigilant and clear-eyed about the nature of the threats we face at home and abroad. Some threats come in the form of terror cells in distant countries, others come from people plotting attacks within our own borders, and still others can come from a failure to recognize that distinction between everyday crimes—everyday crimes—and war crimes.

This last category of threat is extremely serious but sometimes overlooked, and that is why Senators GRAHAM, LIEBERMAN, and MCCAIN have offered an amendment to the Commerce, Justice, and Science appropriations bill that would reassure the American people the Senate has not taken its eye off the ball.

The amendment is simple and straightforward. It explicitly prohibits any of the terrorists who were involved in the September 11, 2001, attacks from appearing for trial in a conventional U.S. courtroom. Instead, it would require the government to use military commissions; that is, the courts proper to war for trying these men.

By requiring the government to use military commissions, the supporters of this amendment are reaffirming two things: first, that these men should have a fair trial; and, second, we are reaffirming what American history has always shown; namely, that war crimes and common crimes are to be tried differently and that military courts are the proper forum for prosecuting terrorists who violate the laws of war.

Some might argue that terrorists such as Zacarias Moussaoui, one of the 9/11 coconspirators, are not enemy combatants, that they are somehow on the same level as a convenience store stickup man. But listen to the words of Moussaoui himself. He disagrees.

Asked if he regretted his part in the 9/11 attacks, Moussaoui said:

I just wish it will happen on the 12th, the 13th, the 14th, the 15th, the 16th, the 17th, and [on and on].

He went on to explain how happy he was to learn of the death of American servicemen in the Pentagon on 9/11. Then he mocked an officer for weeping about the loss of men under her command, saying:

I think it was disgusting for a military person to pretend that they should not be killed as an act of war. She is military. She should expect that people who are at war with her will try to kill her. I will never cry because an American bombed my camp.

There is no question Moussaoui believes he is an enemy combatant engaged in a war against us.

The Senate has also made itself clear on this question. Congress created the military commissions system 3 years ago, on a bipartisan basis, precisely to deal with prosecutions of al-Qaida terrorists consistent with U.S. national security, with the expectation that they would be used for that purpose. The Senate reaffirmed this view 2 years

ago when it voted 94 to 3 against transferring detainees from Guantanamo stateside, including 9/11 coconspirators.

We reaffirmed it, again, earlier this year when we voted 90 to 6 against using any funds—any funds—from the war supplemental to transfer any of the Guantanamo detainees to the United States. Just this summer, the Senate reaffirmed the view that military commissions are the proper forum for bringing enemy combatants to justice when we approved, without objection, an amendment to that effect as part of the Defense authorization bill.

Sometimes it seems like the only people who do not believe that men such as 9/11 mastermind Khalid Shaikh Mohammed should be treated as enemy combatants are working in the administration. How else can we explain the fact that over the summer the administration flew Guantanamo detainee Ahmed Ghailani to New York to face trial for bombing Embassies of the United States in Kenya and Tanzania, an attack that killed more than 200 people, including 12 Americans? This was an act of war. Ghailani does not belong in civilian court alongside con men and stickup artists.

Our past experiences with terror trials in civilian courts have clearly been shown to undermine our national security. During the trial of the mastermind of the first Trade Center bombing, we saw how a small bit of testimony about a cell phone battery was enough to tip off terrorists that one of their key communication links had been compromised.

We saw how the public prosecution of the Blind Sheik, Abdel Rahman, inadvertently provided a rich source of intelligence to Osama bin Laden ahead of the 9/11 attacks. We remember that Rahman's lawyer was convicted of smuggling orders to his terrorist disciples. These are just some of the concerns that arise from bringing terror suspects to the United States.

Trying terror suspects in civilian courts is also a giant headache for local communities, as evidenced by the experience over here in Alexandria, VA, during the Moussaoui trial. As I have pointed out in previous floor statements, parts of Alexandria became a virtual encampment every time Moussaoui was moved to the courthouse. Those were the problems we saw in Northern Virginia, when just one terrorist was tried in civilian court. What will happen to Alexandria or other cities if several men who describe themselves as "terrorists to the bone" are tried in civilian courts there?

It is because of dangers and difficulties such as these that we established the military commissions in the first place. If we cannot expect the very people who masterminded the 9/11 attacks to fall within the jurisdiction of these military courts, then whom can we?

Democratic leaders, including the President, assure us they would never release terror suspects into the United States. But lawyers have repeatedly