

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business for up to 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders, or their designees, with the majority controlling the first half and the Republicans controlling the second half.

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

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

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

DETAINEE PHOTOGRAPHIC RECORDS PROTECTION ACT

Mr. LIEBERMAN. Mr. President, I rise to speak in morning business about supporting President Obama in his efforts to protect the safety and security of the American people, the American military, and the civilian personnel serving us all abroad. This goes to the question of the pending lawsuit by the American Civil Liberties Union that would require the publication of various photographs of treatment by Americans of detainees.

On May 13, President Obama announced that he would not release nearly 2,100 photographs depicting the alleged mistreatment of detainees in U.S. custody. Detainees are what we normally call "prisoners of war," except they have a lower status than that under the Geneva Conventions. Many of these photographs were the subject of a Freedom of Information Act lawsuit filed by the ACLU, while others were discovered during internal Department of Defense investigations into detainee abuse.

Last fall, as part of that lawsuit, the Second Circuit Court of Appeals in New York ordered the release of many of those photographs. Instead of appealing that decision to the Supreme Court at that time, government lawyers agreed to release the images, as well as others that were part of the internal Department of Defense investigation.

Senator LINDSEY GRAHAM and I strongly objected to that decision and wrote a letter to the President explaining our position. We know that photographs such as the ones at issue in the ACLU lawsuit are, in fact, used by Islamist terrorists around the world to recruit followers and inspire attacks against American service men and women. In particular, there is compelling evidence that the images depicting detainee abuse at Abu Ghraib was a great spur to the insurgency in Iraq and made it harder for our troops to succeed safely in their mission there.

After consulting with his commanders on the ground, including General Petraeus and General Odierno, President Obama decided to reverse the decision of the government lawyers and fight the release of these photographs. Of course, I feel very strongly that he made not only a gutsy decision but the entirely right decision.

The President said, in making that decision:

The publication of these photos would not add any additional benefit to our understanding of what was carried out in the past by a small number of individuals. In fact, the most direct consequence of releasing them, I believe, would be to further inflame anti-American opinion and to put our troops in great danger.

I strongly believe this decision was the right one by the President, acting as Commander in Chief. It will protect our troops in Iraq, Afghanistan, and elsewhere, and it will make it easier and safer for them to carry out the missions we have asked them to do. In fact—and this has become public in recent days, and I heard it earlier around the time the President made the decision—after learning that the release of these photographs was either possible or likely, before President Obama's decision to appeal, Iraq's Prime Minister Maliki said, according to these press reports, that "Baghdad will burn" if the photos are released, jeopardizing many of the remarkable security gains our military and civilian personnel have achieved in Iraq in recent years, putting our troops and personnel in danger.

To support the President's decision and establish a procedure to protect the release of similar photos in the future, for the exact same reason, Senator GRAHAM—my colleague and friend, who is now on the floor—and I introduced the Detainee Photographic Records Protection Act. That legislation would authorize the Secretary of Defense, after consultation with the Chairman of the Joint Chiefs, to certify to the President that the disclosure of photographs such as the ones at issue in the ACLU lawsuit would endanger the lives of U.S. citizens and members of the armed services deployed abroad. Essentially, our bill would codify the exact process that President Obama went through in arriving at his decision to fight the release of these photos.

Also, the language in the bill Senator GRAHAM and I introduced is clear, we believe, in that it would apply to the current ACLU lawsuit and block the release of these photographs, preventing the damage to American lives that would occur from that release.

The Senate unanimously supported the inclusion of a slightly modified version of the Detainee Photographic Records Protection Act in the supplemental appropriations bill for the wars in Iraq and Afghanistan. The Senate then approved the supplemental bill by a vote of 86 to 3 before we broke for the Memorial Day recess.

I rise today, along with my friend and colleague from South Carolina, to strongly encourage our colleagues in the Senate and in the House on the conference committee to include the modified version of the Detainee Photographic Records Protection Act in the conference report that is currently being negotiated.

We know there are those who are urging the conferees to delete this provision, or to water it down. That would be a terrible mistake. As President Obama well understands, nothing less than the safety and security and lives of our military service men and women is at stake—not to mention our non-military personnel deployed abroad, not to mention Americans here at home and throughout the world, who may be at risk of terrorist attack by an individual recruited to Islamist extremism and terrorism, as a result of the anger spurred by the release of these photographs.

Bottom line: American lives are at stake. Senator GRAHAM and I feel so strongly about this. I will speak for myself here and then allow him, in a moment, to speak for himself. Any decision to eliminate this provision from the Supplemental Appropriations Act, or to water it down so it has no meaning, would lead me, certainly, much as I support what is in the Supplemental Appropriations Act, to oppose that act, because I think a failure to back up President Obama in this matter would, as I have said, compromise safety and, ultimately, the lives of a lot of Americans, particularly those in uniform.

Let me be clear. By including the Detainee Photographic Records Protection Act in the conference report for the supplemental appropriations bill, Congress will not be condoning the behavior depicted in the photographs. In fact, the exact opposite is true. Such behavior has already been prohibited by Congress in the Detainee Treatment Act and the Military Commissions Act as well as by executive orders issued by President Obama.

We expect that those responsible for the mistreatment of detainees will be held accountable. And that is exactly what the Department of Defense has done with the internal investigations that are finished or are underway.

But the bottom line is that the release of these photographs, and potentially others that may be discovered, will endanger the lives of our military personnel and every U.S. citizen. Every American, whether in a military uniform or not, will always be a target for al-Qaida or supporters of al-Qaida around the world.

The public release of these pictures, which we know will be spread on violent jihadist Web sites around the world immediately after they are published, will only energize the efforts of our enemies.

With the inclusion of the Detainee Photographic Records Protection Act in the supplemental appropriations bill conference report, Congress has the opportunity to support the President in

his primary mission as Commander in Chief—and, frankly, our number one mission as well—to protect the safety and security of the United States.

I strongly urge my colleagues to include our amendment—which had unanimous support in this Chamber—in the final conference report.

I yield the floor for my friend from South Carolina.

The ACTING PRESIDENT pro tempore. The Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, I ask that my time be taken from the minority side when it comes to the 30-minute allocation.

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

Mr. GRAHAM. Mr. President, I stand up in support of my friend and colleague from Connecticut, Senator LIEBERMAN. We were able to get passed a piece of legislation, through an amendment on the supplemental bill, that is directly on point regarding the pending court case, the subject matter of which is releasing additional detainee photos of past abuse.

The President has looked at these photos, and we all understand that it is more of the same—that the photos in question came from American troops' cameras, who were engaged in inappropriate activity. Disciplinary action has been taken where appropriate, and nothing new is to be learned. There is no new evidence of crimes by people who have yet to be dealt with.

It would, as my friend from Connecticut said, be voyeurism for the sake of voyeurism. The photos are offensive but no different than what we have already seen.

The reason we are here supporting this legislation and supporting the President is because, as Senator LIEBERMAN said, the consequences of releasing the photos are not a mystery. Americans are going to die.

I just got back from a trip to North Africa, Morocco, and Algeria, and I went to Greece. Every embassy very much was worried about what would happen to Americans if these photos were released. They were preparing to be, quite frankly, under siege.

As Senator LIEBERMAN indicated in the Miami Herald article, when Prime Minister Maliki in Iraq was informed these additional photos may be released, another tranche of photos coming out about detainee abuse, according to American military officials involved, he went pale in the face and uttered the phrase: "Baghdad will burn."

To those who are arguing for the release of the photos, I do not question their patriotism, I do not question their motives. I question their judgment. To our House and Senate colleagues who are in conference, please understand that Senator LIEBERMAN, myself, and I think the vast majority of our Senate colleagues—we did not take a recorded vote—believe this is a life-and-death matter. I believe that to

release the photos would result in certain death and attack against American interests abroad, particularly against the diplomatic corps and our men and women serving abroad, and no higher purpose would be achieved here at home.

We made compromises in the legislation, but we did not destroy the intent of the legislation. And for the courts that may listen to try to discern the legislative intent, the intent by both authors was to make sure that the photos subject to the pending litigation were never released and Congress weighed in and agreed with the President's decision not to release those photos. We have changed the law, directly on point, to give legislative backing to the idea that these particular photographs, and those like these photographs, should not be released for a period of 3 years, and that is in our national security interests to do so.

I hope the courts will understand what we were trying to do and what we actually did.

To our House and Senate colleagues trying to find compromises on the supplemental legislation, please understand the purpose of this amendment, how important it is to the war effort, why the President is in support of the amendment. He is making a very responsible decision as Commander in Chief. I applaud him for doing that. This language needs to stay as is, intact. Again, it is a matter of life and death. And if for some reason it came out, it would be a disaster—because the court case is pending now—if it came out, please understand that there will be nothing done in the Senate for as long as I am here and Senator LIEBERMAN is here that would not have this amendment attached. You could not name a post office without this amendment. It is not going away.

I thank my colleague from Arkansas for her courtesies.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I thank my colleagues, Senator LIEBERMAN and Senator GRAHAM, for their thoughtful dedication to this issue and certainly looking for the right compromise and, more importantly, for their support of our troops, the men and women in uniform and those who serve this country all across the globe.

FAMILY SMOKING PREVENTION AND TOBACCO CONTROL ACT

Mrs. LINCOLN. Mr. President, I rise today to urge my colleagues to support and pass the legislation that is currently before the Senate, and that is the Family Smoking Prevention and Tobacco Control Act. The Family Smoking Prevention and Tobacco Control Act would implement important marketing restrictions on tobacco products and especially on the mar-

keting practices that have been shown to increase tobacco use among our Nation's young people.

I, like so many of my colleagues, some of whom are experiencing at the same time I am, and some who have already been through it—I am just beginning the teen years with my children. My twin boys will be turning 13 in a couple of weeks. Let me tell you, the pressure on our young people across this country is very real and very tough.

What we are talking about in this bill—the authority—is absolutely critical. The tobacco industry has a long and disturbing history of marketing its products to appeal to young people. Last year, the National Cancer Institute published a comprehensive report on tobacco marketing that documented the powerful influence that tobacco marketing has on our children.

The report found that "the evidence base indicates a causal relationship between tobacco advertising and increased levels of tobacco initiation and continued consumption" and that even brief exposure to tobacco advertising influences kids' attitudes and perceptions about smoking, as well as their intentions to smoke.

The tobacco industry spends more than \$13 billion per year to promote their products. Many of these marketing efforts directly reach our children. I want to share with folks an ad. Here is an ad that appeared in a convenience store in Delaware. Yes, it says what you think it says. It is a back-to-school special for Camel cigarettes—a back-to-school special.

I have to say, I so enjoyed when my kids were in elementary school and taking them to the store to get their crayons and their pencils and their notebooks. I think about now even in their teen years, we go and maybe we get a couple of new outfits, we talk about graph paper and what they are going to learn and all the exciting things. We prepare them for school, getting back to school. We are ending up school right now, but we will go through it in the fall again. It is unbelievable to me that we would run ads: back to school, get your bargain, here it is, a pack of cigarettes.

The industry also reaches our kids by saturating convenience stores, drug stores, and gas stations with tobacco advertisements, often placing ads and products near the candy and gum displays, or using other visual tricks such as bright colors and also through sponsorship of sports and entertainment events which are obviously what kids are interested in so often in the sports arena and other things with which they are involved.

Tobacco companies know that almost all new smokers begin as kids. They carefully design their products to make them more attractive to kids. For example, in this ad, flavors are used to make the smoke less harsh, more flavorful, and easier for kids to smoke.

We see in this ad, R. J. Reynolds has heavily marketed products with fruit