

people, which is very strongly against trying these terrorists in the article III courts and in favor of trying them in military commissions. It seems to me there is sufficient understanding. The administration certainly agrees with the Military Commissions Act. It has said it would use that act to try some of these terrorists. It doesn't believe that act represents an unconstitutional approach to deal with these people. According to public opinion surveys, the American public opinion is very strongly of the view that these cases should be tried before military commissions.

That being the case, it seems to me there is an opportunity for us not to try to make this a partisan issue but to try to follow what the American people believe should be the case; that these cases can and should be tried before military commissions when appropriate; that there is also a place for them to be tried before article III courts; that some of them potentially can be returned to their country of origin, although that represents a significant danger, considering the fact that about 20 percent of them return to the battlefield to fight our forces or that there is a category that cannot be tried in either article III courts or before military commissions.

It seems to me we can have a legitimate discussion of this; that the law that the previous President signed into law that represents the point of view of both Democrats and Republicans, that allows for military commissions, can be used; that the President would be well within his rights to use military commissions; that it would comport with the law as acknowledged by the U.S. Attorney General and would reflect the views of the American people that it is important these terrorists be treated, first and foremost, as enemies of the United States and only if appropriate in article III courts as common criminals.

Finally, the last point I would make is, to some extent, the location of the trial is a lot less important than the primary objective when an enemy terrorist is captured; that is, to get intelligence.

I think this is what upset the American people: when, the first thing that happened, after 50 minutes of questioning of the so-called Christmas Day bomber, that he was read his Miranda rights and he stopped providing intelligence to those who were interrogating him.

Subsequently, that intelligence interrogation has resumed. But we will never know what kind of real-time intelligence was lost as a result of the reading of Miranda rights. When we try people in article III courts, we are going to have to quickly provide these Miranda rights. That ordinarily will mean we give up important—potentially give up important intelligence that we could gain by interrogating the individual.

Now, it is not the case that necessarily we would be foreclosed from

trying the individual in an article III court because we can rely on something other than the confession of the individual to gain his conviction. In the case of the would-be bomber on Christmas Day, there was plenty of physical evidence: he was burned badly, there were eyewitnesses, and we did not need a confession of the individual.

So the Mirandizing in that case was largely irrelevant; the point being that what we ought to be doing is getting the intelligence first and then deciding which is the appropriate court in which to try the individual. In many cases, that will be military commissions. An organization which has studied the history of the ACLU should appreciate the fact that military commissions are constitutional. They do not violate due process rights. A defendant such as Khalid Sheikh Mohammed could be tried before a military commission in a perfectly appropriate and constitutional way, and it takes nothing away from our article III court system or from President Obama's leadership as President of the United States to hold those trials of this kind of individual in the military commissions.

To describe this advertisement, I ask unanimous consent that a Fox News article dated March 7 be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ACLU LIKENS OBAMA TO BUSH IN AD SLAMMING POSSIBLE REVERSAL ON KSM TRIAL

The possibility that President Obama could send the self-professed mastermind of the Sept. 11 attacks to a military tribunal has earned him the highest insult from the left—that he's another George W. Bush.

A full-page ad in Sunday's New York Times left no doubt as to how the American Civil Liberties Union feels about the possibility of the president reversing the decision to send Khalid Sheikh Mohammed and his alleged co-conspirators to civilian court.

"What will it be Mr. President?" the ad asks in boldfaced type. "Change or more of the Same?"

In the middle of those words are four photos that show Obama's face morphing into Bush's.

"Many of us are shocked and concerned that right now, President Obama is considering reversing his attorney general's decision to try the 9/11 defendants in criminal court," the advertisement continues. "Our criminal justice system has successfully handled over 300 terrorism cases compared to only 3 in the military commissions."

The ad follows a series of reports that reflect a softening of the administration's position that the accused Sept. 11 architects must be tried in federal court instead of military tribunals.

The public softening is part of a test, a source told Fox News, to gauge how infuriated the left would be by reversing course. The White House knows Republicans like the idea of the tribunals being used—and needs their support on other key national security matters—but a shift on this issue could poison the waters between the president and the liberal base, as demonstrated by the ACLU ad.

"As president, Barack Obama must decide whether he will keep his solemn promise to

restore our Constitution and due process, or ignore his vow and continue the Bush-Cheney policies," the ACLU ad said.

Republican Sen. Lindsey Graham, R-S.C., speaking on CBS' "Face the Nation," said the ACLU ad was out of line.

"The president is getting unholy grief from the left," said Graham, who supports moving the defendants to tribunals. "The ACLU theory of how to manage this war I think is way off base."

Some are urging groups like the ACLU to look at the bigger picture.

Attorney General Eric Holder announced in November that the defendants would be heading to Manhattan civilian court, but that move has generated a huge backlash from New Yorkers, including the mayor and police chief, as well as Republicans in Congress. The backlash has forced the administration to reconsider not just the location of the trial but the forum.

"Foreign terrorists ought not to be tried in U.S. courts. Period," Senate Minority Leader Mitch McConnell told Fox News. "They ought to be taken to Guantanamo, detained there, interrogated there and adjudicated there in military tribunals."

A source told Fox News that if the administration decides to send the case back to the commissions, it could be part of a larger bargain to get support to close the detention center at Guantanamo Bay and bring those detainees to the U.S. Congress has barred the transfer of prisoners who don't have a path to trial—those who appear to be detained indefinitely—and refused to give the president the money for a facility to house them on American soil.

Mr. KYL. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

RED RIVER VALLEY FLOODING

Mr. FRANKEN. I rise today to commend the communities of Minnesota's Red River Valley for their extraordinary flood mitigation efforts this year. Spring flooding in the Red River Valley is an enormous challenge to my constituents in Moorehead and in surrounding communities and the communities downstream.

Last year, these communities experienced record flooding with snow melt draining into the Red River and resulting in over 40 feet of water filling the valley. The families of the Red River Valley saw severe overland flooding resulting in the devastation of their homes, road closures, and the cutting off of transportation in and out of the area.

This year, the Red River Valley is getting ready for what is generally forecast to be a major flood. Right now the National Weather Service is forecasting a 90-percent chance of major flooding of over 35 feet. I spent this past weekend in Moorehead, MN, and surrounding communities and communities downstream meeting with local leaders and talking to folks on the ground getting ready for the flooding.

Their flood preparation efforts this year are truly impressive. The city of Moorehead and Clay County have been acquiring houses in the floodplain and moving them out of harm's way. As a result, Moorehead is going to need one-third fewer sandbags this year compared to last year.

Volunteers are already at work sandbagging, getting ready to fortify the levees. I went to the Moorehead facility building this weekend to bag sandbags. We do that inside. They cannot freeze; the sandbags cannot freeze. It would be like stacking frozen turkeys. They have to be unfrozen when we stack them.

The sense of community solidarity in tackling this challenge is incredible. I was struck by how much the community has unified once again around preparing for these floods, and it was fun. So I would urge folks in the area to go down to the Moorehead facility building in the next few days and weeks and sandbag.

What I took away from being there this weekend and from talking to local and community leaders is that they are doing all that they can to prepare for these floods with the resources they have. But they need our help. I am determined to make sure we are doing all we can on a Federal level to help these communities through the next few months.

Right now, Congress needs to appropriate supplemental funding for FEMA's Disaster Relief Fund. FEMA has said they are reserving their remaining disaster relief funds for immediate needs until we appropriate the supplemental funding. Yet the longer we wait, the longer communities in the Red River Valley have to wait on important flood mitigation efforts such as removing the remaining homes in the floodplain.

I have contacted the FEMA Administrator urging him to exhaust all available options while Congress approves the President's request of \$5.1 billion in supplemental funding for the Disaster Relief Fund.

I stand ready to support Chairman INOUE in any of his efforts on this or any other bill on the Senate floor to approve this \$5.1 billion in supplemental funding.

Once again, I commend the communities in Minnesota's Red River Valley for their flood mitigation preparation for this year.

As the ice melts and the water rises, I will continue to fight to get Federal funding out to these communities to make sure we are doing all we can to support them in their flood preparations and in their recovery over the coming months.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

TAX EXTENDERS ACT OF 2009

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 4213, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4213), to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes.

Pending:

Baucus amendment No. 3336, in the nature of a substitute.

Reid (for Murray/Kerry) further modified amendment No. 3356 (to amendment No. 3336), to extend the TANF Emergency Fund through fiscal year 2011 and to provide funding for summer employment for youth.

Coburn amendment No. 3358 (to amendment No. 3336), to require the Senate to be transparent with taxpayers about spending.

Baucus (for Webb/Boxer) amendment No. 3342 (to amendment No. 3336), to amend the Internal Revenue Code of 1986 to impose an excise tax on excessive 2009 bonuses received from certain major recipients of Federal emergency economic assistance, to limit the deduction allowable for such bonuses.

Feingold/Coburn amendment No. 3368 (to amendment No. 3336), to provide for the rescission of unused transportation earmarks and to establish a general reporting requirement for any unused earmarks.

Reid amendment No. 3417 (to amendment No. 3336), to temporarily modify the allocation of geothermal receipts.

McCain/Graham amendment No. 3427 (to amendment No. 3336), to prohibit the use of reconciliation to consider changes in Medicare.

Lincoln amendment No. 3401 (to amendment No. 3336), to improve a provision relating to emergency disaster assistance.

Baucus (for Isakson/Cardin) amendment No. 3430 (to amendment No. 3336), to modify the pension funding provisions.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we are now on our sixth day of consideration of this important legislation to create jobs and extend vital safety net and tax provisions.

This legislation would prevent millions of Americans from falling through the safety net. It would put cash into the hands of Americans who would spend it quickly, boosting the economy. And it would extend critical programs and tax incentives that help create jobs.

Now, we had a productive week on the bill last week. By my count, the Senate has considered 29 amendments on this bill. We have conducted 10 rollcall votes.

As I count it, there are nine amendments pending. Those amendments are:

The underlying substitute amendment, the Murray-Kerry amendment on the TANF emergency fund and summer employment for youth, the Coburn amendment on transparency, the Webb amendment on executive bonuses, the Feingold-Coburn amendment rescinding unused transportation earmarks, the amendment by Senator REID of Nevada on geothermal receipts, the McCain amendment on the use of reconciliation to change Medicare, the Lincoln amendment on disaster assistance, and the Isakson amendment on pension funding.

On Friday, we reached a unanimous consent agreement that, after the Senate resumes consideration of the bill tomorrow, we will conduct up to four rollcall votes in relation to the following amendments: the side-by-side

amendment to the Coburn amendment on transparency, the Coburn amendment, the Murray amendment on youth jobs, and the side-by-side amendment to the Murray amendment.

And so Senators should be aware that we will have up to four rollcall votes at about 10:15 tomorrow morning.

We further agreed that at 2:30 p.m. tomorrow, the Senate will vote on the motion to invoke cloture on the substitute amendment. And we hope that we might conclude action on the bill thereafter.

Today, we will continue to process cleared amendments throughout the day.

I thank all Senators for their cooperation.

The PRESIDING OFFICER (Mr. FRANKEN.) The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent to speak in morning business for up to 6 minutes.

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

VIRGINIA JOB FAIR

Mr. WARNER. Mr. President, I rise today, and while I am speaking as in morning business, it is actually speaking in support of the legislation the chairman of the Finance Committee talked about, just taking it in a slightly different direction.

We spend a lot of time talking in this body about the necessity for us to focus on jobs and how Americans feel about that search for jobs. We read about unemployment numbers at 9.7 percent. While we say, with some relief, the numbers did not pop up during February, those numbers are still way too high.

I had a personal experience—I was not planning on speaking on the Senate floor, but I wanted to share with my colleagues and others an event that happened—actually is still happening—about 45 minutes south of this Chamber.

My office had decided to sponsor a jobs fair, where we would bring together more than 30 Federal agencies. We located this jobs fair down 45 minutes, as I mentioned, south of here at the University of Mary Washington at their Stafford campus.

For those who do not follow all of the ins and outs of Northern Virginia, we are blessed in Northern Virginia and Virginia overall with actually a rather low unemployment rate. Statewide our unemployment is about 7 percent, and in Northern Virginia our numbers are even much lower.

As I mentioned, we put together this jobs fair, not unlike what the Chair has done or other Senators have done. We were well represented with over 30 Federal agencies—from TSA to the Peace Corps to the Fish and Wildlife Service. We put out the word, not knowing exactly what kind of response we would get. This is the first jobs fair I have hosted as a U.S. Senator.

At first we were a little worried. Last week, last Wednesday we only had about 75 RSVPs for this jobs fair on a