

he said yes to that. It is not required under our law.

I can tell you—and not with speculation and it is not a theory but a fact—that criminal defendants will routinely stop talking and providing information when you give them Miranda and appoint them a lawyer. The first thing a lawyer is going to do, even in a case such as this, is to advise his client not to make any more statements, if he has made any. If he says he wants a lawyer, the questioning must stop until one is produced. That is what it means to try a person in civilian court. It is different.

You better believe terrorists who are trained to exploit our system will do everything in their power to use that system against us, if we let them. When Khalid Shaikh Mohammed—mastermind of the 9/11 attack, that so horrible day—was captured, he immediately asked for a lawyer. He already knew. But he wasn't given one. Instead, he was interrogated at length over a period of time as a military combatant. These interrogations revealed critically important information that helped foil other attacks that could have been levied against the United States.

When Abdulmutallab was questioned, he was questioned for only 50 minutes before being given a lawyer, and then he stopped talking. So we are told: Weeks later, he started talking again. Don't worry, Jeff. Quit complaining. Five weeks later, now he has started talking. We got his daddy to come in, and maybe we can do a plea bargain with him or something and he will talk.

Well, you can do that if they are in military custody. That is not only done in civilian custody, No. 1. No. 2, what did they have to promise him to get him to provide information? Did they promise him leniency? Did his lawyer demand it? Did his lawyer demand a written plea agreement before he allowed him to speak?

That is what will happen in most cases. I don't know what happened in this one. But we are not talking about just this case. We are talking about the policy of whether it is better to treat somebody as an unlawful combatant if they come from al-Qaida or in a civilian trial in America. Fresh, immediate intelligence is awfully valuable many times, and it can grow stale very quickly, although other intelligence can be extremely important, even if the person you have captured waits 6 months to give it to you. You just never know. But the truth is, the more intelligence, the sooner obtained, enhances our national security. Things that are unnecessary, that are not required by law, that delay the obtaining of intelligence and delay the amount you get is damaging to our national security.

So that is the policy question we are dealing with—this decision to put vitally important intelligence at great jeopardy. Nevertheless, Mr. Brennan

insists that military interrogations are the same as those provided to civilians. But when a civilian asks that the interrogation stop, it must stop at that moment. This is not true in the military situation.

Well, let me back up a little bit. A person apprehended on the battlefield, a prisoner of war, who is a lawful combatant, wearing a uniform, fighting the United States in a lawful manner, according to the laws of war, cannot be excessively interrogated, cannot be tried for any crime but can be held until the war is over, whether it is 1 year or 10 years. That is the law of the world and the law of the United States. But if they are unlawful combatants, as these malicious, devious, murdering al-Qaida thugs are—they do not wear a uniform, they do not comply with the laws of war, they attack innocent civilians deliberately to spread terror—they are in violation of the rules of war.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SESSIONS. I thank the Chair, and I ask unanimous consent for 3 additional minutes.

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

What would have happened to Abdulmutallab if he were handled by the military? He would have been interrogated by people in short order who were intimately familiar with the situation that was developing in Yemen. They would have been able to ask him questions without a lawyer being present. He did not have to have a lawyer. They could use the legal interrogation techniques that Congress has passed into law and directed the military to use in these kinds of interrogations—and no more—or they would be in violation of the law. He would not be abused. Then eventually he would be tried, or not tried, as the military and the national security would dictate.

But if you arrest him and put him in a civil situation, he immediately has to be advised of his rights, immediately given a lawyer. He is then entitled to a speedy trial. He is entitled to demand discovery and information from the government about how they caught him and who provided the information. He could demand to go to trial and be able to speak out and use it as a forum to promote their agenda. There is a huge difference between the two.

For Mr. Brennan to act as if there is no difference, and for my colleagues to say President Bush tried these people, before we ever got the system up and running in a healthy way, is disingenuous. It is not accurate. It is not correct in a rational discussion of how this would be.

This is what President Obama said in an important "60 Minutes" interview about these terrorists:

Now, do these folks deserve Miranda rights? Do they deserve to be treated like a shoplifter down the block? Of course not.

Amen, Mr. President. Of course they are not entitled to Miranda rights. Of

course they are not entitled to be treated like a shoplifter down the block. But when they decided to try Abdulmutallab in a civilian court, that is exactly what they decided to do—to treat him with all the rights and rules an American citizen would have who is charged with a shoplifting offense.

We raised this issue last fall, back in September, with the Director of the FBI, about Miranda. I asked him:

So, if you're going to try terrorists in Federal court, they should be Mirandized, right?

If you want the statement, a particular statement at a particular time admissible in the Federal court, generally that—that has to be Mirandized.

In fact, you can't even ask him questions lawfully until you provide him the Miranda rights. If he says anything that is of value to the prosecution, it is dismissible.

Then what about this dramatic event in the Judiciary Committee? Senator LINDSAY GRAHAM, a very experienced Senator who still remains a JAG officer in the Air Force—after many years he still goes off to do his duty 2 weeks a year—he asked this dramatic question to the Attorney General.

If we captured bin Laden tomorrow, would he be entitled to Miranda warnings at the moment of capture?

Attorney General Holder:

Again, I'm not—that depends.

He never gave a full answer.

I thank the Chair and believe we have to get our heads straight on this matter and cease to provide the kind of due process rights that American citizens get and provide the kind of legitimate due process rights that a military commission provides—and they are great. But they are not the same. Understand, we are at war, and it creates a different dynamic in how the cases are processed.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. SESSIONS. Madam President, I withhold—noting the absence of a quorum request.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

#### BUDGET DISPARITIES

Ms. MURKOWSKI. Madam President, when President Obama delivered his first State of the Union Address several weeks ago, I tell you I was pleasantly surprised by his remarks on energy policy. In addition to calling for bipartisan legislation, the President indicated his support for more nuclear energy and new oil and gas development. I think those are all positive steps. They are taking us in the right direction, not least because they would draw strong support in Congress, and I think they would help create jobs all across the country at a time when we are looking at how we can boost the economy and create jobs. This is critically important.

Having listened to the President's ideas, I looked forward to seeing how

the administration would begin to act on them, how this would all play out in his new budget. When that document came out last Monday, I expected to at least see some progress in each of the areas mentioned during the State of the Union Address. Instead, I found some disparities—some were small; some were rather striking—between the President's words to Congress and the agencies' requests from us.

This disconnect is both disappointing and perhaps a little difficult to explain. At the very least, it is apparent that the vision the President presented to Congress does not match what some of his agencies have in mind. I do not believe these are welcome shifts. Quite a few of the budget proposals would impair our ability to establish a comprehensive energy policy that addresses climate change and reduces our dependence on foreign oil. Instead of promoting bipartisanship—which I think we all want to try to do—I am concerned these same proposals would only deepen the divisions we have within Congress.

Let me fill out some of the details. Let's start with nuclear energy. During his remarks, the President indicated his support for a "new generation of safe, clean nuclear powerplants in this country." To the administration's credit, I believe it did follow through on that one in the budget request. As I have said before, allowing the Department of Energy to guarantee more loans for nuclear plants is a step in the right direction.

But I remind him, it has been a year, and this administration has yet to help finance a single nuclear project. That certainly is not due to lack of ability because the DOE has already had the authority to guarantee \$18 billion in new projects. It certainly is not due to the cost because, if carried out properly, this important support would not cost American taxpayers a single dime. But I believe the administration took a step backwards in its budget, away from that progress when it chose to abandon the Yucca Mountain project. The end of the nuclear fuel cycle is just as important as the beginning. Yet DOE is abandoning our best option for a repository and further exposing taxpayers to billions for the government's breach of contract.

We also need to make sure in America we are producing the raw materials used to generate nuclear energy. Here again, the administration took a step back last year by withdrawing roughly 1 million acres of uranium-rich lands in Arizona. As a result, our Nation has lost access to some of its highest grade uranium reserves. This is kind of familiar territory for us. We should know by now that following the same path for nuclear energy that we have been following for oil will not work. It is not going to help improve our energy security. It risks trading our dependence on foreign oil for a similarly devastating dependence on foreign uranium.

I appreciate the administration's direction with the loan guarantees with

nuclear. I, again, support that. But when we turn to the discussion about where we go with oil and gas, I cannot say the same for domestic oil and gas production—at least when it comes to this budget and the various proposals for tax hikes, new administrative fees, and efforts to make the permitting process actually more burdensome.

During his State of the Union Address, the President called for tough decisions to be made regarding new development. I had actually hoped he meant that his agencies were preparing to push forward with a plan that would allow America to develop more of its resources. But it appears I was mistaken. Instead of seeking to increase production, the budget request includes at least 21 new taxes and fees for the oil, natural gas, and coal industries—21 new taxes and fees. Collectively, these increases would raise producers' costs of business by an estimated \$80 billion.

That is going to translate into higher energy costs for consumers, fewer jobs for the American people. We cannot forget what basic economics tells us: When you tax something, you get less of it. So we will probably become even more dependent on foreign energy as well.

I ask unanimous consent that a list of all these 21 tax increases and fees for oil, gas, and coal producers be printed in the RECORD.

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

**TAX INCREASES AND NEW FEES PROPOSED FOR AMERICAN OIL, NATURAL GAS, AND COAL PRODUCERS IN THE ADMINISTRATION'S FISCAL YEAR 2011 BUDGET REQUEST**

1. Repeal enhanced oil recovery credit;
2. Repeal marginal well tax credit;
3. Repeal expensing of intangible drilling costs;
4. Repeal deduction for tertiary injectants;
5. Repeal passive loss exception for working interests in oil and natural gas properties;
6. Repeal percentage depletion for oil and natural gas;
7. Repeal the Section 199 manufacturing deduction for income attributable to domestic production of oil, gas, or primary products thereof;
8. Increase geological and geophysical amortization period for independent producers to seven years;
9. Repeal expensing and exploration and development costs for coal;
10. Repeal percentage depletion for hard, mineral fossil fuels;
11. Repeal capital gains treatment of certain coal-related royalties;
12. Repeal the Section 199 manufacturing deduction for income attributable to domestic production of coal and other hard mineral fossil fuels;
13. Levy new fees on applications for permits to drill (APDs)
14. Authority to collect \$10 million in fees for on-shore oil and gas production inspection on federal lands, and parallel request for \$10 million in fee collections under MMS budget;
15. \$4.00 per acre fee on "non-producing leases" in both federal lands and waters;
16. Repeal of EPACT '05 provisions incentivizing production of deepwater gas;
17. Repeal mandatory royalty relief to deepwater oil and gas production;

18. Proposed increase in royalty from 12.5% to 20–30%;

19. Modify rules for dual capacity taxpayers to effectively create double taxation on income derived from foreign holdings;

20. Repeal LIFO (last in, first out) accounting procedure;

21. Reimpose Superfund taxes disproportionately on the oil and natural gas industry.

Ms. MURKOWSKI. To be fair, these proposals that were laid out do not necessarily come as a total surprise to us. Many of these were also part of last year's budget. Last September there was a senior official from the Treasury Department who raised some eyebrows. He was testifying and said that somehow America overproduces oil and gas—overproduces oil and gas.

As we continue to import about 60 percent of our total supply of oil and even some of our natural gas, that claim is incredible to me. Our Nation clearly imports too much oil, and we use too much oil. But we certainly do not produce too much of it.

The administration is pursuing at least some of these tax increases and fees in order to "end fossil fuel subsidies." Those are the words they use. This is part of an agreement reached with the G20 last year. But interestingly, the G20 seems to have a very different idea of what that actually means.

According to the group, developed countries such as the United States and Canada only indirectly subsidize fossil fuels such as with certain tax treatment, and even these quasi-tax subsidies are small in comparison to the developing or underdeveloped countries.

If there are any direct fossil fuel subsidies that this administration could then eliminate, you have to ask the question: What would those be? As nearly as I can tell, there are two programs that would technically qualify, by the G20's definition, as direct fossil fuel subsidies. The first one is LIHEAP.

Madam President, you are very familiar with that program, and I think you and I would be in complete agreement that this program, which helps needy Americans afford home heating oil and gas, should certainly not be eliminated. I think we have some considerable support in the Congress defending LIHEAP. The President, Vice President, much of the Cabinet, and dozens of other Senators certainly have gone on the record supporting it.

The second direct fossil fuel subsidy in your region is the Northeastern Home Heating Oil Reserve. Again, I do not think the administration considered either of these programs when agreeing to phase out fossil fuel subsidies, but that is what they are—they are subsidies.

To return to the budget request, the Department of Interior notes that:

Repealing fossil fuel tax preferences helps eliminate market distortions, strengthening incentives for investments in clean renewable and more energy efficient technologies.

This is another exercise in semantics and some political buzzwords. When

the government gives actual subsidies and gives actual tax breaks to renewable energy development, these are entitled “incentives for investment.” When the government refrains from taxing oil and gas producers more than they are already taxed, it is not an incentive for investment anymore. But now we are calling it a “market distortion.”

I lay this out to hopefully be able to verbalize my concern.

When the President spoke before the Congress at his State of the Union Address, when he spoke about tough decisions on new oil and gas exploration, I had hoped we would finally begin to be using more of our resources to meet our own energy needs. But from looking at the new budget, it looks more as though our energy producers will be the ones who will be making the tough decisions. They are going to be making a tough decision as to whether they continue to operate here, whether they shut down, whether they head overseas or whether they produce our energy.

The final area I wish to address is the issue of climate change. During his address, the President called on the Congress to develop comprehensive energy and climate legislation. But a few days later, when the budget came out, the EPA requested more than \$40 million in order to begin regulating greenhouse gas emissions on its own.

Here in the Senate we have at least 41 Members already on record as opposing that approach. That is about as bipartisan as any climate bill has been—as we have been—in this Congress. By allowing the EPA to move forward, the President is actually limiting Congress's ability to develop a bipartisan climate bill. Instead of debating cap and trade or a carbon tax, we are going to spend at least some of our time talking about the EPA's regulations. As I have said many times before, EPA's actions will harm our economy at a time when we can least afford it.

I also believe the debate over climate policy belongs here. It belongs in the Senate. It belongs in the House. It belongs here in Congress because that is where the best interests of our constituents can fully be represented.

The truth of the matter is the administration is looking to have it both ways. On the one hand, its budget assumes a cap-and-trade bill will pass and on the other it is seeking millions of dollars to impose these backdoor climate regulations. I hope the administration will change its mind on the matter and decide to work with us as we work toward a balanced and comprehensive bill. But I think we recognize that the threat of regulations has not worked. I do not think it will work. I think it is time to take that command-and-control approach off the table.

Some may wonder why I have taken the time to point out that the ideas in the President's State of the Union Address do not entirely match the prior-

ities that were outlined in the administration's new budget. This is not intended as a criticism of the President. I am ready to work with him on the ideas he has offered to see if we can make some real progress for the American people. But, instead, I raise these issues because I believe they help illustrate why we have had such a tough time agreeing on a path forward. I am happy to work with the President and his administration on nuclear energy, on offshore development, and work toward bipartisan legislation. But I am not willing to support many of the energy-related proposals we are seeing now within the administration's new budget.

Again, you might ask the question, why does it all matter? It matters because the budget is filled with programs that are authorized by Congress which are supposed to reflect not only our priorities but the priorities of the American people. And while it may not be readily apparent, the budget does send the signal about whether our work here is going to be continued by the executive branch. If the agencies seek to promote just some of our goals, and actually hamper others, that will only make Senators more cautious about what they are willing to support, especially if it is part of a comprehensive package.

Madam President, I am going to close this evening by simply reaffirming what I have said before. I am ready to work with the President on the ideas he has offered up during his State of the Union Address to help make those tough decisions on offshore development, to ensure a new generation of nuclear powerplants is built, to play a constructive role in bipartisan legislation.

But the energy proposals contained in the budget also make me question whether all of those priorities would receive equal treatment if put into law. I hope the agencies would carry out all of Congress's priorities—not just some—that could be contained in a bipartisan energy bill. The President's address several weeks ago makes me think that, in fact, this is all possible. But the new budget makes me question whether, in fact, that is the case.

With that, Madam President, I thank the Chair for the time and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### EARTHQUAKE IN HAITI

Mr. WHITEHOUSE. Madam President, bad things can bring out the best in people, and I rise today to speak about our response to the earthquake

that devastated Haiti last month and, in particular, about the compassionate efforts that Rhode Islanders have made to help those who suffered through this tragedy.

The 7.0 scale magnitude earthquake that struck Haiti on January 12, 2010, is the first great natural disaster of the new decade. Even before the quake struck, the small island nation of Haiti faced significant challenges as the poorest country in the Western Hemisphere.

Haiti has been wracked by years of political strife and the constant threat of hurricanes and tropical storms. This most recent catastrophe has led to, for us, almost unimaginable suffering on the part of the people of Haiti. On February 3, Haiti's Prime Minister Jean-Max Bellerive announced that over 200,000 people had been confirmed dead. The U.N. has estimated that over 3 million people have been directly affected by the disaster. In the capital of Port-au-Prince alone, over 700,000 people have been displaced, with over 480,000 departing the city altogether.

Even before the quake, many Rhode Islanders were helping down in Haiti. One constituent, Nathalie Gooding, a CPA from Warwick, was down there volunteering her time at an orphanage for young Haitian girls in Port-au-Prince. She was there when the quake hit. Days went by before her husband Michael and her children were able to communicate with her. As people with families around us—I know the distinguished Presiding Officer and I certainly can share the intense concern that family must have gone through hearing the news coming out of Haiti for hours and for days and knowing that their wife and their mom was down in the middle of that and not hearing from her. As my colleagues can imagine, it was a traumatic experience. Fortunately, as it turned out, Nathalie was safe and she is now back in Rhode Island with her family. But as I acknowledge our relief efforts after the quake, I also wish to acknowledge and commend all of the volunteers from Rhode Island and elsewhere who were so generously helping in Haiti even before the earthquake struck.

The response of the United States to this tragedy has been remarkable. In the weeks since the earthquake, the United States has provided over \$439 million in emergency humanitarian assistance. The Department of State, the U.S. Agency for International Development, the Department of Defense, and other government entities have all contributed to this effort. Water distribution, sanitation, and hygiene programs, food assistance, logistical support, provisions for shelter, and essential medical services have all been top priorities. The United States military has sent aircraft and ships to Haiti, including the USNS *Comfort* hospital ship and the aircraft carrier USS *Carl Vinson*. These vessels are providing medical treatment facilities and humanitarian assistance. In addition, the 22nd Marine Expeditionary Unit and the