

now. We should be removing barriers for smaller companies such as his. Nearly 200 House Democrats agree with that, and so does President Obama. As I said yesterday, this bill is about as bipartisan as it gets. The only thing standing in the way of passing it in the Senate is the Democrats who schedule legislation around here, and the only reason they could have for blocking it is that it steps on their campaign strategy.

I think that is a mistake. I think the American people can see Republicans in the House passing all these bipartisan bills aimed at spurring job creation, and they wonder why Senate Democrats won't actually take them up.

This should be easy. They have already done the hard work of finding jobs bills that we know can pass both Chambers and that the President would probably sign. Let's take up the bipartisan companion bill of Senators TOOMEY and TESTER to the House bill—their bill is S. 1544—and let's pass it, and then let's send it to the President for his signature so it can become law.

If you are for creating jobs, you should be for this bill. As the AP put it last month:

Companies use the cash they raise to grow—and that means hiring people . . . and at a time when 14 million Americans are looking for work and the unemployment rate has been stuck near 9 percent for two years, the last thing the economy needs is for one engine of hiring to stall.

A recent report by NASDAQ of companies that went public from 2001 to 2009 found that those companies increased their collective workforce by 70 percent after making the initial public offering—a 70-percent increase in employment after making an initial public offering.

What this bill does is enable more companies to take that leap and start hiring once they have. This is the kind of thing we should be doing more of in the Senate. Let's put the partisan bills aside and let's focus on bipartisan legislation. Instead, why don't we shoot for success.

#### DETAINING ENEMY COMBATANTS

Last week, the White House announced that Prime Minister Nouri al-Maliki of Iraq will be meeting with the President here on December 12. This meeting comes at an important time, as our own military forces will be drawing down their presence within Iraq, and the future of our bilateral security relationship remains very uncertain. But our withdrawal from Iraq raises another important matter I hope the President will raise with Prime Minister Maliki and which highlights some of the difficulties that will result from the military drawdown there, and eventually in Afghanistan, as well, both of these drawdowns the President has ordered. What I am referring to is the law of war detention.

In July of this year, Senate Republicans wrote to Secretary of Defense Panetta concerning the custody of Ali

Mussa Daqduq, the senior Hezbollah operative currently in our joint custody in Iraq. Daqduq is in joint custody in Iraq between the United States and the Iraqi Government.

In 2005, Daqduq was directed by senior Hezbollah leaders to travel to Iran, where he trained Iraqi extremists in the use of explosively formed penetrators, mortars, and other terrorist tactics. Among other things, Daqduq is suspected of orchestrating a kidnapping in Karbala, Iraq, 4 years ago that resulted in the murder of five U.S. military personnel. It is a safe bet that if Daqduq is transferred to Iraqi control, he will return to the fight against the United States. President Obama should insist in his meeting with Prime Minister Maliki that U.S. forces retain custody of Daqduq and transport him to the detention facility at Guantanamo Bay.

The detention of Daqduq touches on three important issues in the ongoing war on terror. First, with the withdrawal of our military presence from Iraq, the United States will lose the ability to detain enemy combatants such as Daqduq in Iraq. Current plans are for the U.S. military to have completed our transition to the security forces of Afghanistan by the end of 2014, and we should expect that we will lose the ability to detain enemy combatants there as well. Our military commanders in Afghanistan should therefore anticipate losing the ability to detain enemy combatants by that date. As we saw in the capture of Abdul Warsame, the Somali terrorist accused of providing materiel support to al-Qaida in the Arabian Peninsula and Al Shaabab and detained on a U.S. Navy ship at sea, there remains a strong likelihood that our military and intelligence community will need a secure detention facility to house these foreign fighters. The issue is, what are you going to do with them.

Rather than being kept in military custody overseas, Warsame was flown to the United States and placed in the civilian system. But the logical place for long-term or indefinite detention of foreign fighters such as Warsame is not on a ship at sea or in our private prison system but rather, as I have said many times before, at the secure detention facility at Guantanamo.

Second, it is worth noting that the Obama administration has tied its own hands in the matter of indefinite detention of enemy combatants. The administration's plan to buy a prison in Illinois for conversion to a military detention facility makes clear that the President does not oppose law of war detention. He is fine with bringing foreign fighters into the United States and indefinitely detaining them in military facilities inside our borders, and yet he opposes detaining them indefinitely at the military facility in Guantanamo, where they will benefit from humane treatment but they won't enjoy the legal rights of detainees who are brought here, including the possibility of release into the United States.

Third, the Executive orders signed by the President in January in 2009 were issued with an eye toward fulfilling candidate Obama's campaign promises, rather than after conducting a serious review of sound counterterrorism policy. Now, 3 years after taking office, the President has had enough firsthand experience dealing with terrorism to know that many of the terrorists held at Guantanamo can't be sent back to places such as Yemen, where they are likely to return to the fight. But the President's own Executive orders have denied our military commanders and our intelligence community the certainty they need when they capture, detain, and interrogate terrorist suspects. His early Executive orders, for instance, ended the CIA's detention program and directed the closing of Guantanamo. The order to close Guantanamo makes little sense.

It is not Republicans who are tying the President's hands in prosecuting the war on terror. He did that himself with the shortsighted Executive orders he signed during his first days in office. As our country withdraws from Iraq and transitions further responsibilities to the Afghan security forces in Afghanistan, we will need a place to send foreign fighters such as Warsame and Daqduq. That place is the military detention facility at Guantanamo Bay in Cuba.

In his discussions with Prime Minister Maliki, the President should, of course, discuss the role the U.S. military will play in Iraq after the end of this year and how our two countries can work together to preserve the gains made through the sacrifice of so many brave Americans, and to combat Iranian influence. But in addition to these important matters, the President should also insist that the Prime Minister retain custody of Daqduq and send him to Guantanamo as soon as possible.

Madam President, I yield the floor.

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#### RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

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#### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 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 final half.

The Senator from Illinois.

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#### MILITARY DRAWDOWN IN IRAQ

Mr. DURBIN. Madam President, I listened carefully to the statement made

by the minority leader, Senator MCCONNELL, the Republican leader. His last statement was about the military drawdown in Iraq.

There were some of us on the Senate floor who were here 10 years ago when the vote was taken on the invasion of Iraq, and 23 of us voted no—1 Republican and 22 Democrats—because we felt the focus of American military power and energy should be to avenge what happened on 9/11 by focusing our resources on the great men and women in uniform in Afghanistan and al-Qaida and Osama bin Laden. President Bush and his supporters believed otherwise. They called for a war in another country, in Iraq, a country which was not implicated in any way with what happened on 9/11. Twenty-three of us thought that was a mistake.

Well, here we are almost 10 years later. We have spent \$1 trillion in Iraq, we have lost over 4,400 of our brave men and women who served in uniform, and now we have a leadership in Iraq which is suspect. Maliki, the leader, has shown in the past to be close to the Iranians—not our friends and not the friends of Western values. I am unhappy with that outcome. But when you deal with democracy or some form of it, the people of a country choose their leaders. That is the reality.

President Bush, before he left office, negotiated a timetable to bring American troops home from Iraq, and the timetable called for that to happen by the end of this year. What President Obama did when he came into office was to take this planned withdrawal of American troops by President Bush and implement it. There came a question at the end whether all of the troops would leave or some would stay. What President Obama tried to negotiate was a guarantee that if American troops stayed in Iraq, they would not be charged and tried in Iraqi courts; that they would be subject to punishment for wrongdoing but it would be under the premise, as it would in most cases, that it would be done under American military law. Mr. Maliki and the Iraqis said no, and the President said we are not going to leave our men and women in uniform in Iraq subject to a government and courts that may not treat them justly or fairly.

I think the President made the right decision. I think if he had made the other decision and said, Leave them there and let the Iraqi prosecutors do what they wish, we would have heard speeches on the floor from the other side about what an outrage it is to put American soldiers in harm's way, in jeopardy of an Iraqi military justice system or justice system that may be unfair and unjust. The President said, no, our troops will come home.

Now comes the criticism from the Republican side of the aisle that we are leaving under a timetable established by President George W. Bush, leaving because President Obama could not get a guarantee of fair treatment of American soldiers if they stayed. What else would a President do?

Then the argument is made, well, the problem we have is that we may reach a point where some of the people accused of terrorism now being held in Iraq—we are not certain what is going to happen with them now. That is a good question, and I don't know the answer to it. But Senator MCCONNELL—he is consistent—believes we should not ever consider bringing such a foreign person accused of terrorism into America's judicial and court system. He argues that since this is a war and these are terrorists involved in the war, these people should all be directed to military courts in the United States, military tribunals. We have had that argument on the floor. In fact, we had the debate when we had the vote, when Senator AYOTTE offered it 1 or 2 weeks ago.

The majority sentiment in the Senate reflects a reality, and here is the reality: Since 9/11, 2001, more than 230 terrorists have been successfully prosecuted in the article III criminal courts of America. So even those who are foreign born, such as the most recent one, the Underwear Bomber—do you remember the story? He was on a plane headed to Detroit, tried to detonate a bomb, his clothes caught on fire, they put out the fire and arrested him. He pled guilty a few weeks ago in America's criminal courts. He was prosecuted by the Department of Justice, investigated by the Federal Bureau of Investigation, and pled guilty. He wasn't the first. In fact, since 9/11 more than 300 accused terrorists have been successfully prosecuted in our courts, the same courts Senator MCCONNELL questions whether they could adequately protect America. Three hundred times accused terrorists have gone to jail. How many have been prosecuted in military tribunals in that same period of time? Three. Three. Three hundred to three, if you are keeping score.

What I say is this or any other President should have the power to make the right decision as to where someone should be prosecuted. If it is in our court system, so be it. There is ample evidence that the FBI and our prosecutors are up to that task. If it is in the military tribunal, so be it. Let the President make that decision.

Senator MCCONNELL sees it otherwise, and he believes it is a mistake to go to our criminal courts. I would ask him, if he believes that, to explain the score 300 to 3 over the last 10 years.

One last point. This notion that we cannot safely incarcerate convicted terrorists in American prisons has been proven wrong 300 times since 9/11. These men have been sent to American prisons all around the United States, including Marion, IL, where we house convicted terrorists. I have been to southern Illinois recently, and people are not running screaming in the streets because four or five people convicted of terrorism are sitting in the Marion Federal penitentiary. Our people who work there will take care of

those folks, and the folks who live around that community have no fear.

I might add that Senator MCCONNELL is mistaken in referring to the Thomson prison. Let me say a brief word about something that means a lot to me. Ten years ago, my State built a prison in Thomson, IL, and then didn't have enough money to open it. It has been sitting there largely empty for a decade. Now the State of Illinois is prepared to sell it to the Federal Bureau of Prisons. The Federal Bureau of Prisons negotiated a good price—good for the State of Illinois and good for us—and saves us about \$35 million over building a new prison. So we get a pretty good deal as Federal taxpayers and Illinois gets sold a 10-year-old prison it is not using. That is pretty good and creates a lot of local jobs.

This has the support not only of myself but the Republican Senator from Illinois, Mr. MARK KIRK, and Republican Congressmen who represent this area. We all support this issue. The notion that Guantanamo detainees are coming to Thomson is a dead issue. The President proposed it initially. I had no objection to it, but it was clear the political sentiment on Capitol Hill opposed it. I accepted that, I accepted political defeat, if you will, on this issue, and said: So be it. No Guantanamo detainees can ever go to the Thomson prison if that is what it takes to close the deal.

The President agreed to it. Attorney General Eric Holder sent a letter upholding it. Senator KIRK, who felt very strongly about this, acknowledged that this letter made it clear this administration was not going to transfer those prisoners to Thomson. Here it comes back on the Senate floor today.

I can just say to my friend Senator MCCONNELL I hope he will sit down with Senator KIRK who will explain this is no longer an issue. I am not fighting this issue, the President is not fighting it, there will be no Guantanamo detainees at Thomson. Let's do something right for our Bureau of Prisons and right, I hope, for my home State of Illinois.

#### VETERANS EMPLOYMENT

On a separate issue, we are going to consider a Veterans bill today on veterans unemployment, and we will vote on it soon, in the next day or two. It is a bipartisan bill, and it should be. It is a bill that is based on President Obama's jobs bill, which said in addition to all the other unemployed in America, we should give special help to our returning veterans.

I remember the President's speech at the joint session of Congress. Members on the Republican side did not jump up and applaud very often, but they sure did when the President said we ought to help our veterans: They fought for America; they should not have to come back home and fight for a job. Let's give them a helping hand. Everyone stood up and applauded, as they should have.

This bill provides incentives for people to hire unemployed veterans—we

estimate there are about 240,000 of these veterans—and the tax credits and all the other counseling and assistance is paid for in the bill. It appears now that this bill—inspired by President Obama's jobs bill and added to it, I might add, the work of the Senate Veterans' Affairs Committee under Senator PATTY MURRAY—is likely to pass on a bipartisan basis, and it should, in time for Veterans Day.

Let me add another point, if I can. I want to help these 240,000 veterans and all veterans go to work. That is something we have a duty to do, a solemn moral duty to see happen. But don't forget there are 14 million unemployed Americans. President Obama's bill goes beyond veterans and says there are many other people needing a helping hand. Help the veterans first—OK, I am for that; I sign up—but keep on the topic, keep on the subject of putting America back to work.

Unfortunately, now, on three separate occasions we have called up President Obama's jobs bill on the Senate floor, and we could not get one single Republican Senator to vote for it—not one. Their reason is very clear, and they are very explicit about it. President Obama pays for his jobs bill by imposing a surtax on those making over \$1 million a year. In other words, if someone is making more than \$20,000 a week in income in America, they are going to pay a little more—it is about 5 percent—for the money earned over \$1 million. The Republicans have come to the floor and said clearly: No deal. We will not agree to any jobs bill that imposes any new tax burden on the wealthiest people in America.

That is their position. They are very open about that position.

Who disagrees with that? Virtually everyone in this country. An overwhelming majority of Democrats and Independents and a majority of Republicans and tea party members say it is not unfair to ask the wealthiest to pay a little more in taxes to get the American economy working again and to get people back to work. That is what the President proposes.

As we pass this Veterans bill this week, remember it started in the President's jobs bill. It is now bipartisan, as it should be, and we should not stop here. We need to continue the effort. Last week we tried to put money into rebuilding America, infrastructure across America—roads, highways, airports, mass transit. We could not get a single Republican to support us—not one. A week before that we said: Let's try to focus on teachers, policemen, and firefighters who are losing their jobs. Let's try to make sure they do not lose as many as might happen if we do not act. We could not get a single Republican to support that either.

They will not support any provision in the President's jobs bill that adds one penny in new taxes to a millionaire in America. That is their standard. That is what they are using.

The Veterans bill does not do that, so they said they will go along with it.

But it begs the question: If we are serious about dealing with this recession and putting people back to work, let's not stop with the veterans of America. Let's start with the veterans of America, and let's do the right thing by them and the rest of this country. A payroll tax cut for working Americans struggling paycheck to paycheck so they have more money, more money to get by, makes sense. They will spend that money—they will need to—on the necessities of life and the purchase of goods and services that will create more jobs; second, tax credits to hire those unemployed; third, make certain we invest in infrastructure, not only what I mentioned, roads and highways, but school buildings and community colleges. Also, make sure we do our best for the policemen, firefighters, and teachers who are facing layoffs all across America.

Those ought to be priorities. They are the President's priorities. They should be our priorities in the Senate. The President has strong bipartisan support for what he is setting out to do. The sad reality is we have little or no support when it comes to votes in the Senate.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

(The remarks of Mr. WHITEHOUSE on the introduction of S. 1829 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. WHITEHOUSE. I thank the chair and yield the floor and note the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Virginia.

Mr. WARNER. Madam 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.

#### NET NEUTRALITY

Mr. WARNER. Madam President, I rise in opposition to S.J. Res. 6. This resolution would basically roll back the FCC's compromise over what we have all been debating: net neutrality. This is a subject area I have more than a passing interest in. It is a subject I had the good fortune to be involved in during the practice of my business for over 20 years before I got involved full time in politics and public service.

I, and I know the Presiding Officer and probably all of us in this body, recognize that the power of telecommunications and the power of the Internet to transform people's lives has been remarkable. Demand for Internet use is growing dramatically. Today, nearly 2 billion people use the Internet. By 2015—and that is a mere 4 years from now—that number is expected to reach 2.7 billion.

That is pretty significant: 2.7 billion people using the Internet out of a total worldwide population of 7 billion folks. We are rapidly hitting the point where nearly half the world will use the Internet in one form or another to communicate, to effect commerce, to socially interact. This is a tool. Making sure this tool, this network, this technology, this transformative field truly remains open, free, and available to all and is not unduly hindered by government regulation is something we all aspire to. Yet even as we see this tremendous growth in the Internet, we see constraints—constraints put on by spectrum resources and access to high-speed broadband. Mobile app providers seem to be multiplying exponentially day by day. There are already over 600,000 applications or "apps" for the iPhone. Android—a more recent entrant into the market—now has over 500,000 "apps."

One of the most incredible things is that the United States lays claim to inventing the Internet which was developed by government research linking a whole series of computer networks back in the late 1980s and into the early 1990s. While the United States has been at the forefront of Internet development, unfortunately due to broadband constraints and spectrum constraints, the United States, which used to be a leader, is no longer in that leadership role. For example, homes in South Korea have greater access to faster, more advanced wireless networks and broadband than we do.

So the question in the resolution we are debating is: How do we make sure we continue to grow access to broadband? How do we make sure the Internet, with all its wonderful new applications, is available in the most open and technology-neutral way?

The FCC has wrestled with this issue for some time, and the FCC is the appropriate place to be wrestling with this issue. Last December, the FCC came out with an order—an order that reached some level of compromise between a series of very strong competing interests. By no means do I believe the FCC December 2010 order is perfect. But it does represent a dramatic step forward in that a majority of the players, candidly, in the industry have reached some accommodation.

I do not believe this order in itself is a sufficient answer. I do believe we in Congress are going to need, at some point, to come back and review the Telecommunications Act of 1996. While that offered great promise—and I was someone who was still in the private sector at that moment in time, someone who thought we were going to see true interconnection opportunities for truly local competitive access in terms of telephone services—that did not come to pass. As a matter of fact, I have a number of companies that went down the tubes that I invested in that assumed that 1996 Act would open those kinds of activities. It did not come to pass.