

on his own, he was more than a survivor. He began writing poetry at the age of 3; poems about hope, peace, love. His life philosophy was, "Remember to play after every storm." And he did.

Mattie believed wishes could come true. Once when he was near death, he said he had three wishes. He wanted to talk to Jimmy Carter; he wanted to have his book of poems published; and he wanted to see his poetry read on Oprah.

Guess what. All three happened. President Carter did call him and talk to him several times. He wrote several volumes of poetry. I have one with me today called "Heartsongs." This book reached the best seller's list because it reached the hearts of so many people. As soon as Oprah heard it, she had not only read his poetry but had Mattie on the show.

He was so sick at times the doctors were afraid he wouldn't make it, but through hope and prayer his life was saved, one miracle at a time.

After the chaos and confusion and heartbreak of September 11 and the terrible anthrax attack on the Capitol, I was pretty grief stricken. One night watching C-SPAN, like so many Americans at the end of the day, I saw this wonderful young boy reading poetry. I found his words so inspirational, so touching, that I immediately contacted him through his hospital, the wonderful Children's Hospital here in Washington.

Through the hospital, I arranged a visit to him at his home in Upper Marlboro, Maryland. I visited with Mattie and his mom, in their apartment especially arranged for people who live a life in wheelchairs but refuse to be handicapped. We had a great time, talking about life. Mattie was so lively, so witty. He was so filled with enthusiasm. He was filled with energy.

I brought the book that I wrote and he had his. I did a little reading from mine and he read his poems. It was a great afternoon with this special boy, there he was in a special motorized wheelchair with a special apparatus that enabled him to breathe.

Later on, I went to the Children's Hospital to give him the Children's Hope Medal of Honor. This medal is given to young heroes who have shown valiant effort and courage in facing life's daily challenges when they have a chronic or life-threatening illness. If anyone deserved it, Mattie deserved it.

I want the world to know who this little boy is. I want to tell you first of all what he said about himself and then what he said to us in what then proved to be a farewell. This is the poem.

I am Mattie J.T. Stepanek.
My body has light skin,
Red blood, blue eyes, and blond hair.
Since I have mitochondrial myopathy,
I even have a trach, a ventilator, and oxygen.

Very poetic, I am, and very smart, too.
I am always brainstorming ideas and stories.
I am a survivor, but some day, I will see
My two brothers and one sister in Heaven.
When I grow up, I plan to become

A daddy, a writer, a public speaker,
And most of all, a peacemaker.
Whoever I am, and whatever happens,
I will always love my body and mind,
Even if it has different abilities
Than other peoples' bodies and minds.
I will always be happy, because
I will always be me.

Isn't that great? But the last page in his book is "The Daily Gift."

You know what?
Tomorrow is a new day.
And today is a new day.
Actually,
Every day is a new day.
Thank you, God,
For all of these
Special and new days.

Mr. President, thank God for Mattie Stepanek and thank God for a loving, wonderful mother, Jeni Stepanek. Our hearts go out to express our condolences and our sympathy to her for all of the heartache she has had to endure. But we thank her for giving us this very special gift, Mattie Stepanek, who truly sang from his heart and was a peacemaker.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I thank the distinguished Senator from Maryland for what she had to say. My wife and I got to know Mattie. My wife invited him to speak at the spouses dinner, the First Lady's luncheon. She told me I had to come down and meet this young man. I remember coming in there and talking with him. I also talked with him again by phone. I sort of hung back because I was not a Senate spouse. I sort of hung back in the corner and listened when he spoke. What an inspirational little boy.

I know the tug I felt when I turned on the news this morning and heard what we all knew was going to happen had happened. He is no longer with us.

Somebody in the news said he probably had more life in that short span than most people have. The Senator from Maryland said similar things. In this case, it is true. He really had.

I thank her for her statement. I know Marcelle and I had our hearts enriched by having met him.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005—Continued

Mr. LEAHY. Mr. President, I have the floor, though I see the distinguished Senator from Virginia and, of course, I will yield to him if he is seeking the floor.

Mr. WARNER. Yes, Mr. President, I am seeking the floor at this point in time.

We have reached a juncture in the bill where the majority leader and the distinguished minority leader, together with the two managers, are trying to resolve what further business may occur on this bill. At this point in time I can only suggest to colleagues we are very close, hopefully, to resolving this matter. But until such time as we get

an indication on my side of the aisle of the ability with regard to the other side to reach constructive resolution of this matter, I am going to have to ask that a quorum be put in.

Mr. LEAHY. Mr. President, if the Senator—

Mr. WARNER. Reserving the right to the floor, I yield for a question from my colleague.

Mr. LEAHY. I wanted to accommodate the distinguished chairman, of course. I thought he was about to bring something up. I hope he would not put in a quorum call. I would like to speak about some of the matters that may be coming up later. I have been talking with him and Senator REID and Senator LEVIN. If it becomes ripe to make that agreement, naturally I would yield the floor immediately as I did for the chairman. But I find in the joys of allergies, my voice is fast disappearing and I would like to speak now while I know I can so speak.

Mr. WARNER. Mr. President, my good friend and I have done many things together. At this point in time, I think, in good faith, the leadership of the Senate, together with the two managers, has developed a construct. Until such time as that construct is put in place, I must say with due respect I will have to maintain the quorum call.

Mr. LEAHY. If the Senator will yield again before he did that? I note, as the Senator knows, I could be speaking now if I wanted to because I already had the floor and I could have refused to yield to him. I did not.

Mr. WARNER. I think you yielded to me.

Mr. LEAHY. I yielded to him, and had I not done that, of course I would have retained the floor and would have gone forth.

Yesterday we had hours upon hours of quorum calls. All I am suggesting is that I be allowed to continue, and at such point as the Senator reaches an agreement, I would, of course, yield to whomever wishes to make the unanimous consent request. Being unable to do that, I believe my courtesy in giving up the position I had has not been returned. But, of course, the Senator has the parliamentary right to do whatever he wants because he has the floor.

Mr. WARNER. Mr. President, I hope this is not a matter of courtesy. It is a matter of pure management of the bill. There has been a clear understanding between both sides, and I am abiding by the understanding on this side. I think this side has, in good faith, lived up to its commitments. From all I know, the manager on this side and the leadership on that side is doing everything to live up to their commitments.

Until that time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

MORNING BUSINESS

Mr. WARNER. Mr. President, I believe good progress is being made. I think there could be a proper utilization of the time. Given the structure of the understanding at the leadership level, which the Senator from Michigan and I are trying to maintain and will maintain, I would suggest that the Senate now go into a period of morning business with Senators to speak up to 15 minutes.

Mr. LEAHY. Twenty minutes.

Mr. WARNER. Let us say 15 minutes with the exception of the Senator from Vermont, who desires 20 minutes, and hopefully Senators who might wish to address issues relating to the bill can avail themselves of that opportunity. Would that be correct?

Mr. LEVIN. Reserving the right to object, I surely will not, it is our intent I believe at the end of this first period to have our structure put back in place—that we would immediately return to the bill and resolve it.

Mr. WARNER. That is correct.

Mr. President, at this point in time, is my unanimous consent request granted?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Vermont for his usual courtesy.

Mr. LEAHY. Mr. President, I thank my friend from Virginia. For over a quarter of a century we have been accommodating each other. I refer to the distinguished senior Senator from Virginia as “my Senator” when I am away from home. I have had the privilege of living part time during the year in his beautiful State, and we have tried to accommodate each other. I think this is the easiest way out of it. Otherwise, we would be in a quorum call. I do thank him.

PRISONER ABUSE

Mr. LEAHY. Mr. President, I understand that at the time the Leahy amendment comes up, there is likely to be a tabling motion. It would be, in effect, a second-degree amendment offered by others on the Judiciary Committee.

The amendment would require the Attorney General to produce documents that the Judiciary Committee needs in order to conduct oversight of the Department of Justice.

The Judiciary Committee has to get to the bottom of the prisoner abuse scandal. Aspects of this scandal are within the jurisdiction of the Judiciary Committee. To get to the bottom of it, we require documents from the Attorney General.

What happens if we are blocked from that? I say to my friends that if they vote to block us from getting the docu-

ments we seek, what they are doing, whether intentionally or otherwise, is contributing to a coverup.

Let me explain why this amendment is so important. There has been much debate over the last several days and weeks about the abuse of foreign prisoners, and the guidance provided by the President's lawyers with regard to torture. This debate will continue for some time throughout our country, particularly as more courts-martial are held, with the facts emerging slowly, and as the White House releases only some of the documents that are needed to fully understand the origins of the scandal.

In the meantime, the Senate, the body that is supposed to be the conscience of the Nation, should act. There are some very basic things we can do to clarify U.S. policy regarding the treatment of foreign prisoners. We can bring greater transparency to this issue. That is what my amendment does. It is very straightforward, with three basic sections.

First, it lays out U.S. policy with regard to the treatment of prisoners. Second, it establishes basic reporting requirements to which the Congress and the American people are entitled. Finally, it sets out a training requirement for civilian contractors who come into contact with foreign prisoners.

With regard to the policy, my amendment is very forthright. It states that the United States must treat all foreign prisoners humanely and in a manner that the United States would consider legal if perpetrated by the enemy against an American prisoner. That is a restatement of many decades of U.S. policy and the Army's own regulations.

My amendment also reaffirms the obligation of the United States to abide by the legal prohibitions against torture. That is the law of the land.

The memos authored by the Justice Department apparently reveal another view: that torture can be ordered by the President despite clear laws in the United States against it. Even President Bush now says he disagrees with that view.

We should reaffirm that torture is not allowed under any circumstances.

The amendment also codifies the longstanding Army regulation governing the treatment of foreign prisoners. That regulation states that where there is doubt about the legal status of a foreign prisoner, then the prisoner is entitled to the protection of the Geneva Convention, at least until a status can be appropriately determined by a “competent tribunal.” The procedures for the tribunal are specified in regulation.

Unfortunately, our government has ignored this regulation during the course of the war on terrorism and the war in Afghanistan. No such screenings have been conducted in Afghanistan. The administration simply designates someone as a terrorist and that is enough to land them in prison indefinitely.

We have not had one trial by military commission yet. And certainly we determined that some of these people we called terrorists, who could be held indefinitely, were not terrorists, because we let some people go. I suspect some more people will be let go.

We are in this bind because the administration failed to follow the Army's own guidance. The military lawyers knew there would be situations when the legal status of a foreign person captured by our troops was not clear, so they devised a very careful, very basic screening process. By conducting these status hearings, we would then know what rights and what legal protections the individual is entitled to. That is the military policy. It is certainly the policy our U.S. military wants other countries to follow, and the one we said we will follow.

My amendment further states that it is in the interest of the United States to expeditiously prosecute the cases of those held at Guantanamo Bay. We have given the administration wide latitude in how it operates in Guantanamo. Congress understands we are fighting a new kind of war, one where civilians are at great risk, where intelligence is critical, and where the country has to be tough against its enemy.

Having said that, after all the months and years we held prisoners in Guantanamo, not a single case has been prosecuted. Not five, not four, not three, not two, not one. Not a single prosecution. One would think that with the thousands of lawyers in our military and our Justice Department, we could act with some greater dispatch. One would think that of all the people locked up indefinitely, we could have found one, just one, in all those prisoners that we could have prosecuted. But that is not the case.

For the bad actors, the murders, the terrorists at Guantanamo, we need to bring charges against them so that the victims of their crimes can have justice and so that those accused, if found guilty, can finally have their fate determined. These indefinite detentions, where nobody is prosecuted, where no actions are taken, are contrary to our legal system and contrary to the security interests of the United States.

In the reporting section of my amendment, I ask for four basic pieces of information: One, a quarterly report providing the number of prisoners who were denied prisoner of war status and the basis for denying that status; two, the proposed plan for holding military commissions at Guantanamo Bay; third, previous Red Cross reports provided to the military regarding the treatment of prisoners—the ICRC reports can be submitted in classified form as the ICRC has requested; and four, a report setting forth prisoner interrogation techniques that have been approved by the administration.

Much of this information has dribbled out in press reports and through leaks. Why don't we set the record straight and let the American people have access to this information?