

quest to expand the reach of their Executive power. There is no question that this time will be remembered as a dark chapter in America's otherwise steady march toward justice.

But for now, all we can do is honor the trust and authority given to us as individual Senators by the American people and do what we, as Senators, can to turn the page to a brighter day because it needs to be turned.

What we can do today is reject this nomination. The next Attorney General must be able to stand up to the President and stand up for the rule of law.

If confirmed, I hope Judge Mukasey is up to that challenge. But because he has not given me confidence of his independence, I will vote against confirmation, and I urge my colleagues to do the same.

Mr. President, I ask for the yeas and nays on the nomination of Mike Mukasey to be Attorney General of the United States.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Michael B. Mukasey, of New York, to be Attorney General?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New York (Mrs. CLINTON), the Senator from Connecticut (Mr. DODD), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would vote "nay."

Mr. LOTT. The following Senators are necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Texas (Mr. CORNYN), and the Senator from Arizona (Mr. MCCAIN).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Texas (Mr. CORNYN) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 40, as follows:

[Rollcall Vote No. 407 EX.]

YEAS—53

Allard	Dole	Martinez
Barrasso	Domenici	McConnell
Bayh	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Feinstein	Roberts
Brownback	Graham	Schumer
Bunning	Grassley	Sessions
Burr	Gregg	Shelby
Carper	Hagel	Smith
Chambliss	Hatch	Snowe
Coburn	Hutchison	Specter
Cochran	Inhofe	Stevens
Coleman	Isakson	Sununu
Collins	Kyl	Thune
Corker	Landrieu	Vitter
Craig	Lieberman	Voinovich
Crapo	Lott	Warner
DeMint	Lugar	

NAYS—40		
Akaka	Inouye	Nelson (FL)
Baucus	Johnson	Pryor
Bingaman	Kennedy	Reed
Boxer	Kerry	Reid
Brown	Klobuchar	Rockefeller
Byrd	Kohl	Salazar
Cantwell	Lautenberg	Sanders
Cardin	Leahy	Stabenow
Casey	Levin	Tester
Conrad	Lincoln	Webb
Dorgan	McCaskill	Whitehouse
Durbin	Menendez	Wyden
Feingold	Mikulski	
Harkin	Murray	

NOT VOTING—7

Alexander	Cornyn	Obama
Biden	Dodd	
Clinton	McCain	

The nomination was confirmed.

Mr. MENENDEZ. Without objection, the motion to reconsider is laid on the table.

The President shall be notified of the Senate's action.

LEGISLATIVE SESSION

The ACTING PRESIDENT pro tempore. The Senate will resume legislative session.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2008—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, there will be no more rollcall votes this week. The first vote next week will be at 10:10 Tuesday morning.

I 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.

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

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

The Senate will be in order. Members will take their conversations off the floor.

UNANIMOUS CONSENT REQUEST—S. 1233

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate may proceed to the consideration of Calendar No. 335, S. 1233, at any time determined by the majority leader, following consultation with the Republican leader; that when the bill is considered, the only amendments in order to the bill, other than the committee-reported amendment, be first-degree amendments that are relevant to the subject matter of the bill and that they be subject to relevant second-degree amendments; that upon the disposition

of all amendments, the committee-reported substitute amendment, as amended, if amended, be agreed to; the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed to, and the motions to reconsider be laid upon the table, en bloc; that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 1315

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate may proceed to the consideration of Calendar No. 336, S. 1315, at any time determined by the majority leader following consultation with the Republican leader; that when the bill is considered, the only amendments in order to the bill, other than the committee-reported amendment, be first-degree amendments that are relevant to the subject matter of the bill and that they be subject to relevant second-degree amendments; that upon the disposition of all amendments, the committee-reported substitute amendment, as amended, if amended, be agreed to; the bill, as amended, be read the third time, passed, and the motion to reconsider be laid upon the table; that the title amendment be agreed to, and the motions to reconsider be laid upon the table, en bloc; that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 2168

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 459, S. 2168; further that the committee amendments be agreed to; the bill, as amended, be read the third time and passed; the motion to reconsider be laid upon the table, with no intervening action or debate; that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CRAIG. Mr. President, I wish to discuss my opposition to two bills reported by the Veterans' Affairs Committee, but I continue to hope we can resolve the concerns I will address today.

Unanimous consent has been sought to pass two controversial bills: S. 1233,

the Veterans Traumatic Brain Injury and Health Programs Improvement Act, and S. 1315, the Veterans Benefits Enhancement Act. Although both bills are well-intended, they contain unacceptable provisions that I believe would be detrimental to the care our returning wounded warriors deserve and currently receive at VA facilities. At the very least, these provisions are controversial enough to merit considerable floor debate, and therefore I have no alternative but to oppose the unanimous consent agreement.

In the past, the Veterans' Affairs Committee has worked in a bipartisan fashion to settle differences at the committee level and avoid taking up Senate floor time to debate and amend significant veterans legislation. Unfortunately, that is not the case with S. 1233 and S. 1315. Even so, I do not want to close the door on these bills because each has numerous provisions that I support or have sponsored in the past. Both bills contain provisions to enhance the care our veterans receive, and I believe that if we can return to the negotiating table, we can find an acceptable solution to both my concerns and the concerns of my colleagues.

I would like to address these two bills separately because they clearly raise different issues. S. 1315, the Veterans Benefits Enhancement Act, contains a number of important provisions that will enhance benefits and services for America's combat veterans returning from the war in Iraq and the global war on terror and for all veterans with service-connected disabilities.

Among those provisions that I believe are important and responsible for us to provide our veterans are retroactive payments under the traumatic injury protection program of Servicemembers' Group Life Insurance for those injured outside of Operation Iraqi Freedom or Operation Enduring Freedom theaters of operation between October 7, 2001, and December 1, 2005. This will ensure that soldiers injured on their way to fight in OIF or OEF, but not in the theater of combat, are eligible for these benefits.

Other provisions in this bill will expand the housing grant assistance program available to those with severe burn injuries—juries that are a sad and terrible reality of our current conflict. We must continue to adapt and modify the benefits our veterans receive based on the changing environment in which our soldiers fight; these provisions are a great example of our ability to do so.

However, there is a section within this bill that I vigorously oppose. In fact, this provision is the sole reason for my unwillingness to support the bill, and I would like to explain it here today. Included in S. 1315 is a section that would expand benefits to certain Filipino veterans residing both in the United States and abroad. I have supported, and continue to support, improving benefits for Filipino veterans

who fought under U.S. command during World War II. However, I believe that the approach taken in this section with respect to special pension benefits for non-U.S. citizens and non-U.S. resident Filipino veterans and surviving spouses goes beyond the intent of veterans benefits. Further, I do not believe such a provision would have the support of the American people.

Let me explain.

Pension benefits for veterans in the United States are paid at a maximum annual rate of \$10,929 for those with no dependents, \$14,313 for those with dependents, and \$7,329 for a surviving spouse. The maximum VA pension represents somewhere between 16 percent and 31 percent of the annual U.S. household income of \$46,000. Contrast that with the average Philippines household income of \$2,800. The special pension for Filipino veterans in S. 1315 would amount to an astounding 86 percent to 161 percent of the Philippines household income.

This legislation did not take into account the vast discrepancy between the standard of living in the United States and the Philippines. By refusing to look at the purchasing power of the benefits being provided here, this legislation would pay veterans in the Philippines far more in benefits and pension than we pay our own veterans. It is especially ironic that a bill intending to treat Filipino veterans equitably would create such a dramatic inequity for our U.S. veterans.

Furthermore, the offset that S. 1315 uses to ensure that the bill is in compliance with congressional budget rules would have the effect of reducing pension amounts to elderly, poor, and disabled veterans predominantly residing in the United States. I acknowledge there is considerable agreement that these extra payments for certain categories of veterans were never contemplated by Congress and, therefore, are not justified. However, if presented with the choice of using the savings from eliminating these payments to provide extra pension assistance to low-income veterans in the United States or to underwrite the kind of special benefit I described earlier, I believe the American people would choose to take care of our own veterans' pensions first—and when providing benefits to the Filipino veterans, they would insist that those benefits are adjusted to reflect the real differences in costs of living between our two countries.

The other bill I would like to address today is S. 1233, the Veterans Traumatic Brain Injury and Health Programs Improvement Act. I was originally a cosponsor of this legislation and would very much like to see it move forward and be signed into law. However, there are a few provisions that are premature, considering the current capacity of our VA medical facilities, and I hope my colleagues will agree these provisions should be deferred to a later date.

The provisions I must regrettably oppose at this time are the proposed admittance of Priority 8 and Priority 4 veterans into the VA health system. To ensure VA can meet our Nation's obligation to veterans with combat or military-related disabilities, lower income veterans, and those needing specialized care like veterans who are blind or have spinal cord injuries—to ensure appropriate care for these veterans, former VA Secretary Anthony Principi suspended additional enrollments for veterans with the lowest statutory priority. This category includes veterans who are not being compensated for a military-related disability and who have higher incomes.

It has become very clear, especially over the last few years, that servicemembers returning from Iraq and Afghanistan are enduring lengthy waiting times for care. In the face of such assessments, I do not understand why we should be in a rush to open up the health care system to hundreds of thousands—if not millions—of new patients who by definition are not in need of immediate assistance or can afford private health care.

Moreover, it appears that the provision in this bill would open VA to new enrollees on the day the legislation is signed into law. Yet no plan is required to ensure that the enrollment process would be orderly and executed so as to minimize impacts on current patients, nor is there any requirement that the necessary funding be available prior to its implementation. Instead, VA would simply open the doors and wait to see who arrives. I believe that is irresponsible and unfair to the current enrollees who are in most need of care.

We should forgo opening up the VA health care system until such a time as the Secretary of the VA can certify that troops returning from Iraq and Afghanistan are being provided timely, high-quality health care and neither timeliness nor quality would suffer because of newer enrollees, such as Priority 8 veterans. VA's health care system was created primarily to care for "he who shall have borne the battle." Congress should ensure that this unique group of veterans is not unduly burdened by any new influx of higher income veterans with no military-related disabilities.

Some Senators may contend that money can overcome any obstacle to providing all veterans with health care through VA. However, since any money provided for new patients would be used to acquire new staff, new equipment, and new space, it is important to know if those resources are even available.

Let's first consider where VA will find the new staff needed to care for the huge influx of patients this legislation proposes. It is widely known that our Nation has a shortage of primary care physicians and nurses to provide basic health care services in non-VA facilities. This issue was made clear in a July 2007 report from the Health Research Institute of Pricewater-

houseCoopers which showed that the United States will be short nearly 1 million nurses and 24,000 physicians by 2020. In this environment, simply finding new staff to hire will be a challenge for any health care system, including VA.

Further, assuming the requisite staff can be found, I am skeptical that VA has the necessary clinical space in which to provide more primary and specialty care services. I am also skeptical that many VA facilities could open the additional operating rooms, postsurgical recovery units, and intensive care units that would be required with a large increase in patients.

Last, the Congressional Budget Office has scored this legislation at \$1.3 billion for the first year of inclusion of just Priority 8s into the system, or \$8.8 billion from 2008 to 2012. However, it must be noted that CBO assumed Priority 8s would only be allowed to enroll in the system for 1 year, after which enrollment would be closed. Based on past experience, it is highly unlikely that Congress will maintain such a 1-year limit and virtually certain the costs would continue to rise above and beyond what CBO projected for implementation of this legislation.

When the VA health care system can support a substantial increase in patients, I will be more than happy to address this issue with my colleagues. However, at this point, when even our returning wounded warriors are forced to sit in long waiting lines to receive care, it would be grossly irresponsible for us to move forward with this legislation, and I must therefore continue to object to its passage.

The underlying legislation also contains a provision waiving required inpatient care copayments for Priority 4 veterans with higher incomes. I have concerns with this provision as well.

The passage of this provision would change VA's policy of charging a copayment for the care of a nonservice-connected condition, to allow an exception for circumstances that have nothing to do with a veteran's ability to pay. A grateful Nation has seen fit to provide cost-free care for service-connected conditions and has generously extended the same benefit to those with limited financial resources. However, with this provision, it would no longer be relevant whether veterans could afford to contribute even modestly to the cost of their care. Rather, cost-free care would be provided to a population of patients based solely on a particular health condition. That is a bad precedent.

If this legislation passes, I believe that in the not too distant future, it will be strongly argued by higher income, service-connected veterans that their benefit—cost-free care for service-connected conditions—has been diluted. And the dilution is not fair because now they would be charged for nonservice-connected care, while those with similar economic means in Priority 4 would not be forced to make co-

payments for the same type of care. With this provision as precedent, a future Congress will be forced to concede to the dilution and its unfairness. Then they will probably be forced to accede to the change.

All that being said, I would like to make sure that my colleagues understand that while I am objecting to passage of these bills in their current form, I sincerely hope and believe that accommodations can be made so that we can pass these bills and get much needed improvements made to the VA health care and benefits systems. Both bills have very meaningful and well-intentioned provisions that I support; unfortunately, there are a few provisions that I believe are detrimental or simply unfair to our Nation's veterans, and for that reason I am here on the floor of the Senate explaining my reasons for objecting to passage of these bills.

I look forward to discussing with my colleagues ways that we can move these bills and reach a compromise that benefits our brave veterans.

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

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

MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

VETERANS DAY

Mr. McCONNELL. Mr. President, 89 years ago this Sunday, the guns fell silent in Europe. It was the end of a global conflict so savage that many people doubted anyone would ever want to start a war again. New technologies had clashed with old ways of fighting to create new horrors and apocalyptic battles like the Somme, which tested not only the limits of armies but our powers of comprehension.

America had no role in starting the war, but we played a decisive one in ending it. Our Doughboys earned the gratitude of entire nations. They gave their countrymen a new sense of purpose. And America would always remember Armistice Day, as President Wilson said, with "solemn pride in the heroism of those who died in the country's service and with gratitude for the victory. . . ."

As we all know, the War to End All Wars did not live up to its name. Just 11 years after it ended, a former corporal from the German Army who had fought on the Western Front was al-

ready building a regime that would bring new horrors. At the end of World War I, museums were dedicated to the memory of war. But soon enough even "Big Willie," the first tank, was being rolled out of one of those museums and converted into shells and shrapnel for another terrible war.

And again, the world would turn to America for help. More than 16 million U.S. servicemen would be called upon to defend the cause of freedom against tyranny and terror in World War II—young men like 2LT DAN INOUYE Honolulu and a 19-year-old surfer from Manhattan Beach, CA, named TED STEVENS.

It has been noted that when American servicemen came home from World War II, no one said, "We Won!" They said "It's over!" Because, as President Roosevelt once observed, "The primary purpose of the United States of America is to avoid being drawn into war." When called, our young men and women have served. But when the fight is over, they just want to go home.

And World War II was like that. Everybody just picked up where they left off, stepped right back into the assembly line, or the office, or the baseball diamond, or the boxing ring. These are the humble heroes of our country, the only aristocrats in a democracy—men and women who risk their lives so we can live in freedom and peace. And who ask nothing in return but to return to their hometowns and to carry on as they please.

And so it is up to us to speak well of them, to honor them in special ceremonies and songs and in this annual day of remembrance that for the last 53 years we have referred to simply as Veterans Day. Since 1954, Americans have paused on November 11 not just to remember the men who fought in the Great War those who fought in all our wars: from Valley Forge to Antietam, from the beaches of France to the jungles of Vietnam—paused to remember and to thank them for what they have done for us and for the "millions not yet born" whose freedom will rest on their sacrifice.

We also remember this Veterans Day those who will soon be called veterans, the men and women in Afghanistan and Iraq who are have volunteered to protect us in this new era from new horrors and the many men and women who have died in this struggle for freedom—people like SGT William Bowling, of Beattyville, KY, a shy but proud husband and father who was killed earlier this year by a roadside bomb while patrolling the streets of Baghdad.

Like so many before him, Sergeant Bowling threw himself into his mission. "This is the job he wanted to do," his wife Jennifer said shortly after his death. "He wanted to serve his country."

By his courage and devotion to duty and the cause of freedom, Sergeant Bowling showed the best that Kentucky and this country have to offer.