

means something. It means that illegal immigrants will continue to flow into America. The number is 12 million; in 5 years, it will be 20 million. We will have done nothing. It will mean our legal immigration policies will be backward, and thousands of people who should be in this country, because of their skills and because we need them, will not be allowed to enter. We will lose competitive advantage. We hear it all the time, companies wanting to locate in America because they love our system but, because they can't get employees, going to Europe or Asia.

On the immigration bill, a great nation is able to deal with its problems. A great nation leads and overcomes narrow, partisan, and sometimes nasty division to move forward. A great nation fails when it becomes paralyzed. I hope, I pray that what happened yesterday on the immigration bill is not portentous of the future. I hope and pray what happened yesterday on the immigration bill does not portend that we will be tied in a knot on every single issue of major import—education, health care, energy, immigration—and not able to move forward.

The double whammy: Yesterday, the Supreme Court, a new majority—the two new members of the Supreme Court who had impressed upon us their fidelity to stare decisis, to the rule of law, judicial modesty—with one stroke of the pen threw out decades of progress on civil rights in a reading just about everyone who participated in *Brown v. Board* who is still alive commented on and said that the reading flies in the face of *Brown v. Board*, despite the fact that the Chief Justice said by allowing segregated schools to continue, he was helping implement *Brown v. Board*. That is doublespeak, if there ever was. The Nation was set back again.

What is happening? What happened here on the Senate floor yesterday and what happened across the street at the Supreme Court indicates that a narrow ideological minority is setting this country back, paralyzing this country. We live in a vast, changing global world where we need to move forward. We seem paralyzed because of a small ideological minority.

I hope the American people will understand what has happened. I hope the American people will voice their protest. I hope the Supreme Court will come to its senses and not continue on this path of rollback on civil rights. I hope the Senate will come to its senses and come together on a fair immigration bill that deals with our Nation's problems. I pray for the future of this country.

I yield the floor and suggest the absence of quorum.

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

The legislative clerk proceeded to call the roll.

Mr. WEBB. Mr. 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.

#### IMMIGRATION

Mr. WEBB. Mr. President, I would like to address a few things this morning, some in retrospect of what has been for all of us a pretty emotional couple of weeks of debate, and also looking forward to what is going to occur when we return after the July 4 work period.

The first thing I would like to point out is my admiration for our majority leader for how he handled the situation on the immigration bill. I think it was an extraordinarily difficult situation for our majority leader to have been in, and he did a great job with a very difficult assignment. I think we should back up and remember the bill that was put before us had not gone through debate. It was put together in a bipartisan way but removed from the committee process. In other words, people from both sides of the aisle, including some pretty strong members of the leadership on both sides of the aisle, got together and put together this extraordinarily complex bill, which the President himself wanted to see passed, and then it fell to our majority leader to attempt to get the provisions of the bill through the Senate. So we had a situation where there were members of the other party involved in putting together the components of the bill, we had a President who was urging that the bill be passed, and then our majority leader was the individual upon whom it fell to try to make this happen, with very little cooperation, quite frankly, from the other side.

So I would just like to express my admiration and support for the majority leader for the way he handled himself during this process.

Also with respect to the immigration bill, I think there has been a lot of rhetoric that has flown back and forth over the last 24 hours or so about motivations of individuals and what caused people to vote one way or the other. I think some of this is unfortunate. I think some of the people who have made some of the more extreme comments are going to be looking back at them 4 or 5 years from now and perhaps be a little bit embarrassed. This was an enormously complex piece of legislation. There were parts of the legislation which were very good, and hopefully we can find a way to bring them into law at another time. But there were parts in that legislation which needed to be fixed.

I, personally, as the Presiding Officer knows, attempted to get an amendment through the Senate that, in my view, would have brought fairness to the issue of legalization and practicality—fairness in the sense that the proposed bill was going to legalize every individual, virtually, who had come to the United States in violation of American laws by the end of last

year—and I felt strongly for a good bit of time that those who came during a period of lax immigration laws and who were able to put roots down into the community should be provided a path toward citizenship. I made this case during the campaign last year, and by saying that last year, I was viewed to be sort of on the forward edge of where this debate was going to go. But this bill, by reaching out and including virtually everyone who had been here by the end of last year, inflamed the passions of a lot of people in this country who otherwise would support fair immigration reform.

At the same time, the amendment I offered also proposed to eliminate what is called the touchback provision, which would have eliminated—for those people who had been here for 4 years and had put down roots—the necessity for them to go back to their home country in order to apply for a green card.

I think that approach was fair. I regret that the amendment didn't pass. At the same time, I and a number of other people found it impossible for us to vote for the bill as it was coming up with the provision that was so much broader.

The bottom line on immigration now is there are laws on the books. We have seen a lot of talk over the past day or so that immigration reform is dead. These comprehensive immigration reform packages have a way of falling under their own weight because the issue itself is so complex. What we should be doing now, in the next year and a half or so, given that there is an election, is to do everything we can to enforce the laws that are on the books. One idea I like is the \$4.4 billion recommendation that was put into title I of this immigration bill that just failed that would go toward border security, and employer certification could well be added to any appropriations bill, where the measure would be relevant and could help existing law.

So for those who are attempting to say that all immigration reform has now skidded to a halt because a flawed bill was not passed by this body, I say let's enforce the existing laws. There are a lot of laws on the books. One of the greatest problems we have had is particularly in the area of workers being hired by employers on a large scale who know they are here without papers. In those sorts of areas, there are laws on the books we need to enforce.

#### CONFIRMATION OF GENERAL LUTE

Mr. WEBB. Mr. President, yesterday, this body confirmed General Lute of the U.S. Army to be a Deputy National Security Adviser to cover the operations that are ongoing in Iraq and Afghanistan. I voted against General Lute.

I will explain why I voted against General Lute because I believe there is a pretty important principle at stake

with respect to civil-military relations that I think has been ignored over the past 20 years or so. I have no problems with General Lute's qualifications. There was a letter from White House counsel on the issue of constitutionality, which indicated there is no constitutional preclusion from a uniformed officer serving as a political adviser to the President. I found that legal opinion incomplete.

We should understand that the legal opinion came from the counsel to the President. We could not exactly have expected that he would have said anything otherwise. But I find it incomplete in the sense that it did not address the true dangers if we continue to do this as we have been over the past 20 years.

The danger to our system is this: The U.S. military is a decidedly non-political organization. I grew up in the military. At the time I was growing up, my father would not even tell me how he voted because he believed it violated his duty in terms of being a non-political arm of the U.S. Government.

The difficulty, when a President brings an Active-Duty military officer inside the room, in an area where they are giving political advice—not military advice but political advice—unavoidably is that this particular individual then becomes a part of a political administration. If they keep the uniform on, when their tour is done and they go back into the military, they are inseparable from the political administration in which they served, particularly in the eyes of other military people.

So two things happen: One is you have a political entity inside the U.S. military that, in some ways, threatens open dialog inside the military because now you have a former member of a particular administration inside the uniformed circle.

Here is a good parallel. I was Assistant Secretary of Defense and then I was Secretary of the Navy. Let's say we allow military people who become Secretaries of the Navy to go back into uniform and compete for promotion among other uniformed people. It is a very difficult thing in terms of how it affects the neutrality of the American military, and also it creates, in many military people, the notion that they have to become political in order to succeed. We don't want that.

I would have voted in opposition to the other individuals who were named by Senator WARNER yesterday as people who have served in administrations and then returned to the military, including Colin Powell, whom I respect personally; General Scowcroft, whom I admire greatly; and, quite frankly, the sitting Director of the Central Intelligence Agency today.

I believe any uniformed officer who agrees to serve as a policy adviser inside an administration, with political implications to that job, should agree to take the uniform off and not return to the active military. I intend to pur-

sue this over the coming years. This isn't related directly to General Lute. It is a principle that I think we need to establish here in the Congress.

#### TROOP ROTATION

Mr. WEBB. Mr. President, the third point I wish to make, looking forward, is that when we return, we are going to be looking at the Defense authorization bill. I am going to be introducing an amendment when this bill comes up that, in my view, speaks directly to the welfare of our troops and their families. After more than 4 years of combat operations in Iraq and Afghanistan, we still have not developed the type of operational policy that looks to the welfare of the people who are having to serve again and again. We have allowed the strategy, such as it is—which is all over the place—to define the use of our troops, and we have reached the point, as we work to resolve our situation in Iraq and dramatically reduce our presence—I hope—where we are burning out our troops.

The evidence is everywhere. We have a small group of people who have been carrying the load for this country. They have been going again and again. We are violating the normal rotation policies that we took great care to put in place over long years of experience. Traditionally, in the U.S. military, on the active side, there is a 2-for-1 ratio. If you are gone for a year, you are back for 2 years. If you deploy at sea for 6 months, you are back for a year. That is not downtime; that is well time. When I say it is not downtime, that means they are not sitting around doing nothing when they are back. When people return from deployment, they have to reacquaint themselves with their families and take care of those sorts of things. They have to gear units back up, get the equipment, train, lock on, and go to different training areas. So the 2 for 1 generally is split: a third gone, a third recuperating and getting ready, and a third getting ready to go.

What we have today in the ground forces of the active military is not even a 1 for 1. People are returning and immediately getting ready to go back. We are seeing the wear and tear of this on our Armed Forces. The West Point classes of 2000 and 2001 are the most recent “canaries in the coal mine,” if you want to look at what is happening to the Active Duty military because of these continuous deployments. The time has not been made available to do other things when they return. The West Point classes have a 5-year obligation before an individual can leave the military. The West Point classes of 2000 and 2001—the two most recent classes—have an attrition rate that is five times as high as the attrition rates before the Iraq war. The West Point class of 2000 had lost 54 percent of its members from active duty by the end of last year. I don't know the number for today. The class of 2001, with an ac-

tive obligation which ended as of last June—only last June—by the end of last year, within 6 months, had lost 46 percent of its class. You are seeing the same thing in the staff NCO ranks. We are starting to see it in a way that I cannot recall since probably the late 1970s, when the bottom fell out particularly of the U.S. Navy.

In the Guard and Reserve, the normal rotational cycle is 5 to 1. What we are seeing now in many units is less than 3 to 1. So I am going to introduce a bill that will basically say that on the active side, however long an individual has been deployed, they have to be allowed to stay home at least that long before you send them back. If you are Guard and Reserve, however long you have been deployed, you have to have been at home at least three times that length before you are sent back because of the nature of the Guard and Reserve.

In my view, this amendment is an absolute floor; it is our absolute duty as fiduciaries of the well-being of the people who serve that we don't let it go beyond that. As a point of reference again, in the Army right now, they have gone on 15-month tours with only 12 months at home. Historically, if you were gone 15 months, you should have 30 months at home. This needs to be fixed. I hope the Senate will overwhelmingly support us.

There are two questions about this policy that have come up in my discussions on the Armed Services Committee. The first question from some is, is it within the Constitution for the Congress to tell the Commander in Chief what the rotation cycle should look like? My answer is that it is clearly within the Constitution. Congress has the power to set these sorts of regulations. In fact, there is precedent. If you look at the situation of the Korean War, where because of the emergency of the attack from North Korea, we were sending soldiers into Korea who were not trained—they never fired a weapon before—because they had to fill the bill of going over there. The Congress stepped in and said you cannot send any military person overseas until they have been in the military for 120 days. That was the Congress properly exercising its constitutional prerogative in order to protect our troops. This is what we are going to do.

The second issue that has come up is whether this is micromanagement. Quite frankly, when the leadership of the U.S. military is not stepping up and defending their own people, we have a duty to slow this thing down. This war has been going on for more than 4 years. We have a lot of issues we are going to be discussing in this authorization bill that are designed to get a better policy that will reduce our footprint, that will enable us to fight international terrorism around the world, that will increase the stability of the region with proper diplomatic efforts and will allow us to address our strategic interests elsewhere.