

President Clinton's nominees. I would rather see us work with the President on the selection of nominees that the Senate can proceed to confirm than waste precious time fighting about controversial nominees who he selects in order to score political points. I would also rather see the Senate focus on addressing the real priorities of the country rather than catering only to an extreme wing of the Republican base with controversial nominees.

Mr. President, I ask unanimous consent that the letter to which I referred be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, March 20, 2008.

Hon. GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: I write again, as I did last November, to demonstrate my willingness to work constructively with you in accordance with the Senate's important role in the consideration of your nominees to high-ranking positions in the executive branch and to lifetime appointments on our Federal courts.

Since last September, the Senate Judiciary Committee has been hard at work seeking to help restore the Department of Justice. The leadership ranks at the Department of Justice were decimated by the scandals of the Gonzales era. The Judiciary Committee's hearing last week was the seventh hearing we have held since September on executive nominations. The Senate has proceeded to confirm a new Attorney General, a new Deputy Attorney General, and numerous other nominations to fill high-ranking positions at the Justice Department.

I regret to inform you that we were stalled last week in our efforts to fill two other critical positions at the Department, when an anonymous Republican hold blocked confirmation of Kevin O'Connor to be the Associate Attorney General, and Gregory Katsas to be the Assistant Attorney General in charge of the Civil Division. I was particularly disappointed with this unexpected development. We had worked hard to expedite these nominations, holding a hearing on the first day of this session of Congress. After a nearly month-long delay, when Republican Members of the Judiciary Committee effectively boycotted our business meetings in February, we were able to report these nominations to the Senate in early March. They were set for confirmation before the Easter recess, until the last-minute Republican objection stalled them. They join your nomination of Michael Sullivan to be the Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives as among those stymied by Republican objections. I trust at any future White House event on the status of nominations you will point out that several of your high-level executive nominations are being stalled by Republican objections.

With respect to judicial nominations, I want to commend you for working with Senators Warner and Webb to identify a nominee from those they recommended to you to fill a Virginia Fourth Circuit vacancy.

Your previous nominations from Virginia, William Haynes, Claude Allen and Duncan Getchell, were controversial and did not proceed. Following your withdrawal of the Getchell nomination earlier this year, I urged you to work with the Virginia Senators. I now thank you for doing so.

I expect your nomination of Steven Agee to be considered promptly following completion of the necessary paperwork. I want to encourage meaningful consultation with Senators of both parties. Just as we proceeded last year to confirm your nomination of Judge Randy Smith to the Ninth Circuit, once you had withdrawn his nomination for a California seat and resubmitted it for a vacancy from Idaho, I expect the Judiciary Committee and the Senate to proceed to confirm Justice Agee with the support of Senator Warner and Senator Webb. I urge you to work with Senators from other states, as well, so that we might make progress before time runs out on your Presidency and the Thurmond Rule precludes additional confirmations.

Your judicial nominations have fared far better than those of your Democratic predecessor. Nearly 90 percent of your nominations have been confirmed to lifetime appointments. Approximately three-quarters of your circuit nominations, compared to little more than half of President Clinton's circuit court nominations, have been confirmed. We have succeeded in reducing overall vacancies and circuit court vacancies to as few as half as many as during President Clinton's term. With four more judicial nominations on the Senate's Executive Calendar and another pending on the Senate Judiciary agenda, I am proceeding to notice another hearing for judicial nominees for the week immediately following the Easter recess. That will be our fifth nominations hearing so far this year.

Respectfully,

PATRICK LEAHY,
Chairman.

HONORING WALTER F. MONDALE

Mr. LEAHY. Mr. President, this weekend, Marcelle and I will attend an event at the University of Minnesota Law School to honor the life and career of Vice President Walter Mondale on the occasion of his 80th birthday which he reached in January.

Vice President Mondale is a valued friend whom I proudly consider one of my mentors in the Senate. As I reviewed materials for this weekend, I came across an editorial by Vice President Mondale that appeared in the Washington Post on July 27, 2007 entitled "Answering to No One." The editorial provides an excellent perspective on the Office of the Vice President and how that office evolved in recent history.

In order to remind all Senators and their staffs about this insightful article, I ask unanimous consent that the editorial be printed in the CONGRESSIONAL RECORD.

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

ANSWERING TO NO ONE
(By Walter F. Mondale)

The Post's recent series on Dick Cheney's vice presidency certainly got my attention. Having held that office myself over a quarter-century ago, I have more than a passing interest in its evolution from the backwater of American politics to the second most powerful position in our government. Almost all of that evolution, under presidents and vice presidents of both parties, has been positive—until now. Under George W. Bush and Dick Cheney, it has gone seriously off track.

The Founders created the vice presidency as a constitutional afterthought, solely to

provide a president-in-reserve should the need arise. The only duty they specified was that the vice president should preside over the Senate. The office languished in obscurity and irrelevance for more than 150 years until Richard Nixon saw it as a platform from which to seek the Republican presidential nomination in 1960. That worked, and the office has been an effective launching pad for aspiring candidates since.

But it wasn't until Jimmy Carter assumed the presidency that the vice presidency took on a substantive role. Carter saw the office as an underused asset and set out to make the most of it. He gave me an office in the West Wing, unimpeded access to him and to the flow of information, and specific assignments at home and abroad. He asked me, as the only other nationally elected official, to be his adviser and partner on a range of issues.

Our relationship depended on trust, mutual respect and an acknowledgement that there was only one agenda to be served—the president's. Every Monday the two of us met privately for lunch; we could, and did, talk candidly about virtually anything. By the end of four years we had completed the "executivization" of the vice presidency, ending two centuries of confusion, derision and irrelevance surrounding the office.

Subsequent administrations followed this pattern. George H.W. Bush, Dan Quayle and Al Gore built their vice presidencies after this model, allowing for their different interests, experiences and capabilities as well as the needs of the presidents they served.

This all changed in 2001, and especially after Sept. 11, when Cheney set out to create a largely independent power center in the office of the vice president. His was an unprecedented attempt not only to shape administration policy but, alarmingly, to limit the policy options sent to the president. It is essential that a president know all the relevant facts and viable options before making decisions, yet Cheney has discarded the "honest broker" role he played as President Gerald Ford's chief of staff.

Through his vast government experience, through the friends he had been able to place in key positions and through his considerable political skills, he has been increasingly able to determine the answers to questions put to the president—because he has been able to determine the questions. It was Cheney who persuaded President Bush to sign an order that denied access to any court by foreign terrorism suspects and Cheney who determined that the Geneva Conventions did not apply to enemy combatants captured in Afghanistan and Iraq.

Rather than subject his views to an established (and rational) vetting process, his practice has been to trust only his immediate staff before taking ideas directly to the president. Many of the ideas that Bush has subsequently bought into have proved offensive to the values of the Constitution and have been embarrassingly overturned by the courts.

The corollary to Cheney's zealous embrace of secrecy is his near total aversion to the notion of accountability. I've never seen a former member of the House of Representatives demonstrate such contempt for Congress—even when it was controlled by his own party. His insistence on invoking executive privilege to block virtually every congressional request for information has been stupefying—it's almost as if he denies the legitimacy of an equal branch of government. Nor does he exhibit much respect for public opinion, which amounts to indifference toward being held accountable by the people who elected him.

Whatever authority a vice president has is derived from the president under whom he

serves. There are no powers inherent in the office; they must be delegated by the president. Somehow, not only has Cheney been given vast authority by President Bush—including, apparently, the entire intelligence portfolio—but he also pursues his own agenda. The real question is why the president allows this to happen.

Three decades ago we lived through another painful example of a White House exceeding its authority, lying to the American people, breaking the law and shrouding everything it did in secrecy. Watergate wrenched the country, and our constitutional system, like nothing before. We spent years trying to identify and absorb the lessons of this great excess. But here we are again.

Since the Carter administration left office, we have been criticized for many things. Yet I remain enormously proud of what we did in those four years, especially that we told the truth, obeyed the law and kept the peace.

AMERICA'S WOUNDED WARRIORS ACT

Mr. BURR. Mr. President, today I rise to discuss S. 2674, a bill I introduced to improve and modernize the disability system of the Department of Defense and Department of Veterans Affairs so that it meets the needs of both our older generations of veterans and our wounded warriors coming home today.

One of the most sacred trusts we make is the one with our veterans. Their sacrifices, and the sacrifices of their families, are inspiring. The desire to provide these heroes with the benefits and services they need and deserve is certainly something we can all agree on.

With this sacred trust in mind, I recently introduced legislation to ensure veterans have a disability system that we can all be proud of—a system that is updated to reflect the modern day, is consistent, is not overly bureaucratic, and meets the needs of all generations of veterans.

The challenges facing our newer veterans are apparent. Over the past few years, I have met with many young servicemembers, some from my home State of North Carolina, who have suffered devastating injuries while serving in Iraq and Afghanistan. Almost as remarkable as their courage and their can-do attitudes, is their outlook about the future.

These wounded warriors rightfully expect that serious injuries should not prevent them from living productive and fulfilling lives. In fact, many want nothing less than to return to their units, and with modern medicine and technology, many are doing just that.

But for those who are not able to continue serving, like Ted Wade from my home State, they deserve a disability system that meets their needs and expectations. We should be giving them—in a quick, hassle free, and effective way—the benefits and services they need to return to their full and productive lives.

But, the need for an improved system became very clear last year, when news

reports detailed how some seriously injured servicemembers at Walter Reed endured a lengthy, hard-to-understand, bureaucratic process to try to get their disability benefits. This left many injured servicemembers and their families frustrated, confused, and disappointed. It left our Nation angry and ashamed.

Let me give you a brief idea of what an injured servicemember may have to go through. Consider a young soldier who is injured in Iraq and is no longer fit for duty because of his injuries. Before he can be discharged from the military, he may go through a lengthy, complex process with the Department of Defense to be assigned a disability rating between 0 percent and 100 percent.

If the rating is high enough—30 percent or more—he will get a lifetime annuity, health care for his entire family, exchange and commissary privileges, and other benefits. If it is below 30 percent, he will get only a lump-sum severance payment. But there have been no bright-line rules on how these ratings are assigned. Each branch of the military has used different procedures, so servicemembers in various branches often receive different ratings even for the same injuries.

After going through that confusing process, the injured soldier may then go through a similar bureaucratic process with the Department of Veterans Affairs to get a VA rating. That rating will determine not only the level of monthly disability compensation he will receive from VA, but eligibility for other benefits and services such as vocational rehabilitation and priority access to VA health care.

As if all of that isn't confusing enough, both DOD and VA assign those disability ratings based on the same VA rating schedule, but the ratings are often different. And, there are complicated rules over how much of the benefits from DOD and VA the veteran may receive at the same time. If those watching today are as confused by that description of the process as I am, imagine what our veterans have to endure.

On top of all that, the rating schedule used by both VA and DOD to determine who gets these critical benefits is completely outdated. This schedule was developed in the early 1900s and about 35 percent of it has not been updated since 1945.

The schedule is also riddled with outdated criteria that do not track with modern medicine. Take for example traumatic arthritis. The rating schedule requires a veteran to show proof of this condition through x-ray evidence. But doctors today would generally diagnose the condition using more modern technology, like an MRI.

Even worse, experts are telling us the schedule is not adequate for rating conditions like post-traumatic stress disorder and traumatic brain injury, which are afflicting so many of our veterans from the war on terror. Also, ex-

perts have told us that the schedule does not adequately compensate young, severely disabled veterans; veterans with mental disabilities; and veterans who are unemployable.

So, it's completely understandable why so many veterans are frustrated and confused by this system. The question is:

How do we fix it?

To help answer that question, two distinguished commissions issued reports last year laying out the problems with the system and giving us a road map to a modern, more consistent, and simpler system. One commission, the President's Commission on Care for America's Returning Wounded Warriors, was chaired by former Senator Bob Dole and former Secretary Donna Shalala. The other, the Veterans' Disability Benefits Commission, was chaired by General James Terry Scott.

Here are just a few examples of what these commissions found:

Despite their disability systems' different intents, processes, and outcomes, DOD and VA use the same outdated rating schedule . . . [which] has not been completely revised since 1945.

[T]he policies and procedures used by VA and DOD are not consistent and the resulting dual systems are not in the best interest of the injured servicemember nor the nation.

The purpose of the current veterans disability compensation program . . . is to compensate for average impairment in earning capacity . . . This is an unduly restrictive rationale for the program and is inconsistent with current models of disability.

The goal of disability benefits should be rehabilitation and reintegration into civilian life" but that goal "is not being met.

These two commissions strongly recommended that we need to: get rid of the overlapping, confusing roles of VA and DOD in the disability rating process; completely update the VA disability rating schedule; compensate veterans for any loss of quality of life, while also compensating them for any loss in their earnings capacity; and place more emphasis on the treatment and rehabilitation of injured veterans.

As the Dole-Shalala Commission cautioned, "We don't recommend merely patching the system, as has been done in the past. Instead, the experiences of these young men and women have highlighted the need for fundamental changes."

What's interesting to note here is that similar changes to the system were recommended in 1956 by a commission led by General Omar Bradley. Back in the 1950s, the Bradley Commission wrote in its report: "Our philosophy of veterans' benefits must . . . be modernized and the whole structure of traditional veterans' programs brought up to date." If my math is right that was over 50 years ago. Clearly, we are long overdue for some improvements.

I believe the bill I introduced will start us on the right path to making this system more straight-forward, consistent, and modern. Let me give you an idea of what America's Wounded Warriors Act would do.