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## Senate

(Legislative day of Wednesday, May 26, 2010)

The Senate met at 10 a.m., upon the expiration of the recess, and was called to order by the Honorable MARK WARNER, a Senator from the Commonwealth of Virginia.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of our forebears, whose almighty hands lead forth in beauty all the starry bands. As Memorial Day approaches, we remember those who have made ultimate sacrifices for our freedom. Lord, pour Your richest blessings on our service men and women and the members of their families, surrounding them with Your shield of protection.

Teach us, Lord, this day through all our employments to see You working for the good of those who love You. Deliver our lawmakers from all dejection of spirit and free their hearts to give You zealous, active, and cheerful service. May they vigorously perform whatever You command, thankfully enduring whatever You have chosen for them to bear. Guard their desires so that they will not deviate from the path of integrity.

We pray in Your great name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable MARK WARNER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read as follows:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 28, 2010.

### To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MARK WARNER, a Senator from the Commonwealth of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. WARNER thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, following leader remarks, the Senate will be in a period of morning business, with Senators allowed to speak therein for up to 10 minutes each.

There will be no rollcall votes today. Our next vote will be a week from Monday at about 5:30. We will have a number of votes—we hope two or three, but at least we will have one.

We finished a difficult bill yesterday, the supplemental appropriations bill. It was tedious, but it was done very well. Senators INOUE and COCHRAN did an outstanding job. Members from both sides with strong feelings were able to compromise on a number of issues and allow us to finish this bill. The same thing happened—it took a little longer—on the Wall Street reform bill. Both of those pieces of legislation are now in conference.

We are going to await the action of the House before we can determine the direction of what we do with the extenders bill, the jobs bill. I will have some meetings during this coming week to determine how we will change

the bill we get from the House. I think the changes should not be major, but there will be some, and we have to work through that. I have spoken with the Republican leader, and we are going to have to have a number of amendments—not a large number, but we need to work through that, because the next work period is relatively short.

We don't have many speakers coming today, so the session should be relatively short.

I ask the Chair to announce morning business.

### RESERVATION OF LEADER TIME

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

### MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

### AUTHORIZATION TO SIGN ENROLLMENT OF H.R. 5128

Mr. REID. Mr. President, I ask unanimous consent that Senator UDALL of New Mexico be authorized to sign the enrollment of H.R. 5128.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

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

• This “buller” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WICKER. I ask to be allowed to speak as in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### DON'T ASK, DON'T TELL POLICY

Mr. WICKER. Mr. President, yesterday the Senate Armed Services Committee completed its markup of the Defense authorization bill. Normally, Senators are asked to wait for a period of days until the report can be issued and the specifics are made public. But yesterday the chairman clearly understood when we were finished with business that there were two items dealing with social policy that would be widely known immediately. I speak on those topics today with a clear understanding that the Chair knows that these items will be talked about, an exception to the general rule.

Yesterday, I believe, the committee made a very grave mistake with regard to the provision involving the repeal of the don't ask, don't tell policy. This has been the policy since the days of the Clinton administration. It has worked reasonably well. I am opposed to the repeal of the don't ask, don't tell policy.

In February of this year, Secretary Gates announced that a survey would be conducted with a view toward assessing whether this policy should be changed. There was a working group that was going to be established and a survey of servicemembers and their families would be conducted. This working group would report the results of this assessment by December of this year. At that point, the Congress and the administration would have additional information about how today's servicemembers and their families would feel about a change which would allow gays and lesbians to serve openly in the military. This would, of course, be a dramatic change.

That was the policy. A number of us were skeptical about it, but that was the announced policy. Somehow, in the last few days that has changed, and a so-called compromise has been put forward and adopted now by the committee and apparently by the House of Representatives also that would say that while the assessment is going on—which, as I said, is to end in December—that we would vote on this bill this summer, possibly in the next few weeks, to go ahead and repeal the don't ask, don't tell policy and then to allow the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff to review the assessment in December and see whether, indeed, the enactment of the bill by the Senate and House should go forward.

This seems to be getting the cart before the horse. I want to make several points.

This so-called compromise is not a compromise. It is, in effect, for all in-

tents and purposes, a repeal of the don't ask, don't tell policy. Giving the President and the two military people who are most answerable to him the authority to make this decision and pretend they might decide against it is a mockery, and it is a figleaf.

Does anyone doubt what their decision will be? After all, the President of the United States campaigned that he wanted to do away with the don't ask, don't tell policy. There is no question he favors this. The Secretary of Defense answers directly to him. The Chairman of the Joint Chiefs of Staff answers directly to the President of the United States. It is foolhardy for anyone in this Senate to suggest there will be any decision other than a repeal of the don't ask, don't tell policy.

It is said that these three people will wait for the assessment to see what military members and their families think. I think Congress has the authority to do this. Congress should wait for the assessment. We might be surprised. We might be troubled by what the assessment shows. But it is, as I said, a mockery to make the decision now in May or June or July and then look forward to an assessment which is due in December.

What has changed? I ask my fellow Members and the American people: What has changed? What has brought about this sudden compromise over the past weekend and attaching this bit of social engineering to the national Defense authorization bill?

Frankly, I think a lot of Americans are going to conclude that politics changed. We can look at RealClearPolitics that estimates Republicans may gain six seats in the November election. That would be before the December assessment is due. Some people say Republicans may gain 8 to 10 seats. That would change attitudes considerably with regard to don't ask, don't tell. It would allow the people of the United States to be heard on this issue.

Americans are justified in concluding that with this election looming, that is what changed. There has been no change in the national security needs to rush this process ahead and get the cart before the horse and make the decision before the assessment is made.

The point of view of those of us in the committee who voted against the Lieberman amendment yesterday is supported by the heads of the four branches of our service. They support the original plan of Secretary Gates announced in February to do an assessment and then to make a decision based on what we find out in the assessment.

I have a letter dated May 26, 2010, to Senator JOHN MCCAIN from George Casey, general, U.S. Army, the Chief of Staff of the Army. He says to Senator MCCAIN that his views have not changed since his testimony.

I quote directly:

I continue to support the review and timeline offered by Secretary Gates.

I remain convinced that it is critically important to get a better understanding of where our Soldiers and Families are on this issue.

Yesterday, in their wisdom, the members of the Armed Services Committee decided they knew better than our soldiers and their families.

General Casey said we need to know whether this "impacts on readiness and unit cohesion."

He concludes by saying:

I also believe that repealing the law before the completion of the review will be seen by the men and women of the Army as a reversal of our commitment to hear their views before moving forward.

ADM Gary Roughead, Chief of Naval Operations, in a letter to Senator MCCAIN dated May 26 says, among other things:

I testified in February about the importance of the comprehensive review that began in March and is now well under way within the Department of Defense. We need this review to fully assess our force and carefully examine potential impacts of a change in the law.

Yesterday, the members of the Armed Services Committee said: No, we disagree with Admirable Roughead, the Chief of Naval Operations. We don't need this review. We, as the elected representatives of the 50 States, are going to punt that decision to someone whose mind is already made up.

Admirable Roughead goes on to say:

I have spoken with sailors and fellow flag officers alike about the importance of conducting the review in a thoughtful and deliberate manner.

In this quick reversal that occurred just yesterday in the Armed Services Committee, we abandoned the thoughtful review.

GEN James T. Conway, Commandant of the Marine Corps, said to Senator MCCAIN in a letter dated 25 May 2010:

During testimony, I spoke of the confidence I had as a Service Chief in the DOD Working Group that Secretary Gates laid out in the wake of President Obama's guidance on "Don't Ask-Don't Tell." I felt that an organized and systematic approach on such an important issue was precisely the way to develop "best military advice."

He goes on to say:

I encourage the Congress to let the process the Secretary of Defense created to run its course.

That was the Commandant of the Marine Corps.

Finally, a letter from GEN Norton A. Schwartz, Chief of Staff of the Air Force, says:

... my position remains that DOD should conduct a review that carefully investigates and evaluates the facts and circumstances, the potential implications, the possible complications, and potential mitigations to repealing this law.

All four of our service heads were explicit in asking the committee to let the process continue. Yet, in our wisdom, with an election looming, the committee voted with a majority vote to go ahead and say: We really don't care to hear what the assessment says. We are just going to let three people make that decision on their own.