

I find myself on the horns of a dilemma. I support the provisions in this bill. I debated for them. I was the sole Republican in the committee who voted for the Lieberman-Levin language on don't ask, don't tell. I think it is the right thing to do. I think it is only fair. I think we should welcome the service of these individuals who are willing and capable of serving their country. But I cannot vote to proceed to this bill under a situation that is going to shut down the debate and preclude Republican amendments. That, too, is not fair.

So I am going to make one final plea to my colleagues to enter into a fair time agreement that will allow full and open debate, full and open amendments to all the provisions of this bill, including don't ask, don't tell, even though I will vote against the amendment to strike don't ask, don't tell provisions from this bill.

Now is not the time to play politics simply because an election is looming in a few weeks. Again, I call upon the majority leader to work with the Republican leaders to negotiate an agreement on the terms of debate for this bill so that we can debate this important defense policy bill this week, including the vital issue of don't ask, don't tell.

I thank the Chair.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. MERKLEY). Morning business is closed.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3454, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the bill (S. 3454) to authorize appropriations for fiscal year 2011 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I hope we will proceed to the Defense authorization bill this afternoon. The Senator from Maine, as far as I am concerned, has raised a very legitimate question about whether amendments will be offerable to this bill, and the majority leader has spoken on that on the Record. This is what he said last Thursday. He said:

... in addition to issues I have talked about in the last couple days, there are many other important matters that both sides of the aisle wish to address. I am willing to work with Republicans on a process

that will permit the Senate to consider these matters and complete the bill as soon as possible, which likely will be after the recess.

So the majority leader has said he is more than willing to engage in that process.

If that process does not lead to a fair result, then—if we can get to the bill—if the Republicans feel there has not been adequate opportunity to offer amendments, the opportunity will be there to prevent the passage of the bill until those amendments are considered. This is the normal process. But to deny an opportunity to move to the bill so we can engage in a debate on amendments and so we hopefully will have an opportunity, as we should, to debate amendments on the bill, it seems to me is prejudging the outcome of the debate.

The time to determine whether there has been adequate opportunity to debate the bill is after you have had an opportunity to debate the bill. That judgment cannot be made in advance, particularly in the face of the majority leader's assurance. I agree with the Senator from Maine that it is important this assurance be there. It is there, it was there, in part, because of the issue she has raised over the last few days.

When the majority leader says let us get to the bill because he agrees—he has talked about a number of issues, but in addition to the issues which he has talked about, which include a debate on don't ask, don't tell, include a debate on the DREAM Act—in his words, “there are many other important matters that both sides of the aisle wish to address” and that he is “willing to work with Republicans on a process that will permit the Senate to consider these matters and complete the bill as soon as possible, which likely will be after the recess.”

But we need to get to the bill. We need to get to the bill so we can then begin to debate amendments. I think many Senators have amendments they want to offer. It is not unusual on a Defense authorization bill. We usually have hundreds of amendments that are offered. Last year, I believe we adopted something like 60 amendments. That process will again occur but only if we can get to the bill.

To insist in advance there be an agreement, let me tell you, as manager of the bill, I love unanimous consent agreements. I love time limits. I love time agreements. I love agreements to limit amendments. That is fine. But until you get to the bill, you are not in a position to work out such agreements. These are theoretical issues. We do not even know what amendments are going to be offered to this bill—until we get to the bill. How can you have an agreement on what amendments will be in order when we have not gotten to the bill and the amendments are not even filed?

So it is a legitimate point the Senator from Maine makes that she wants to be sure, as I hope every Senator

does, that there will be adequate consideration of amendments during the debate on this bill.

The Republicans have the ability to stop a completion of consideration of this bill until—unless and until—there is an opportunity to have a debate on amendments the way we usually do on the authorization bill. That ability to stop the completion of this bill is there, but it can only be utilized if we get to the bill.

To try to figure out in advance all the amendments which might be filed and what amendments will be ordered and what time agreements will be reached is, it seems to me as a practical matter, impossible to do.

The assurance of the majority leader was there and is there. I am not going to repeat it because I have already quoted it twice—but that assurance that other amendments, besides the ones he has talked about publicly, will be in order. Again, I think everybody understands the rules of this place. Nonrelevant amendments can be offered. They have in the past on this bill, including by the Senator from Arizona, who offered a very nonrelevant amendment against the wishes of Senator WARNER, an amendment having to do with campaign finance reform not too many years ago. That amendment, although nonrelevant, was passed by this body. I supported that amendment, against the wishes of the chairman of the Armed Services Committee, Senator WARNER.

There are dozens of nonrelevant amendments which have been offered on the Defense authorization bill. To suggest somehow or other that only began last year when there was a—or on the last bill—when there was a debate on hate crimes is inaccurate. It was not a debate on the addition of the hate crimes amendment which began the consideration of nonrelevant amendments on the Defense authorization bill. As a matter of fact, it was the fourth time the hate crimes amendment was adopted on the Defense authorization bill. The first time was when Senator Thurmond was chairman of the committee, against his wishes but nonetheless adopted. There are literally dozens of other nonrelevant amendments that have been considered. Why? Because the rules of the Senate permit consideration of nonrelevant amendments on bills.

This is one of the few authorization bills that needs to be passed, not just because it supports the troops, critical not only in wartime but generally, but also because of the rules of this body requiring there be an authorization bill for defense for a number of specific matters, including military construction.

So our hope is we can begin consideration of this bill. I am going to give the reasons why we need to consider this bill in a few moments. But, again, I wish to assure colleagues there is plenty of opportunity to prevent this bill from being adopted if there is not adequate consideration of amendments

that people may want to offer—relevant amendments and, yes, nonrelevant amendments—because the rules of the Senate permit the consideration of nonrelevant amendments. So I hope we can get the votes of 60 Senators this afternoon to begin consideration of this bill.

We have enacted a Defense authorization bill every year for the last 48 years. We have done so because the bill always contains important bipartisan measures to improve the compensation and quality of life of our men and women in uniform, provides our troops the equipment and support they need in ongoing military operations around the world, and enhances the oversight and efficiency of DOD operations. Yesterday afternoon, I described in detail many such measures that are included in this year's bill.

Before I continue, I do have a parliamentary inquiry as to what the time situation is: How many minutes are there available prior to the recess for the caucuses, and what is the division of that time?

The PRESIDING OFFICER. The majority controls 36½ minutes and the minority 40 minutes.

Mr. LEVIN. So the majority has 36 minutes; is that what I understand?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. So I yield myself 10 additional minutes, Mr. President.

This bill includes a handful of contentious provisions which were adopted during the course of the markup. There always are contentious provisions in this bill, and the reason we are here is to debate those provisions. Hopefully, we will have that opportunity.

Some of the provisions in the bill I support, some of the provisions I objected to in committee and I voted against them. But we should not deny the Senate the opportunity to take up a bill which is essential for the men and women in the military because we disagree with some provisions in the bill.

These are legitimate issues for debate, and the Senate should debate them. But the only way we can debate and vote on the issue—the various issues, contentious and otherwise—is if the Senate proceeds to the bill.

It has been argued that we should not proceed to consider this bill for a number of reasons: One, because of the don't ask, don't tell provision in the bill. Another one is because there was a cut in the bill to the money requested by the administration for the Iraqi Security Forces Fund. It has been argued there is "wasteful" spending that was added by the Armed Services Committee. Another issue is because of the likelihood that nonrelevant amendments, such as the DREAM Act, will be offered.

First, as to don't ask, don't tell, the Secretary of Defense and the Chairman of the Joint Chiefs informed our committee in February that they support the President's decision to work with

Congress to repeal the existing law. Secretary Gates said:

The question before us is not whether the military prepares to make this change, but . . . how we best prepare for it.

The committee held two hearings on don't ask, don't tell policy and questioned numerous other witnesses in other hearings about the policy as they came before the committee. The amendment of the policy was debated on and voted on in the Armed Services Committee. It is clearly relevant to the bill because the original policy was adopted as a provision of the fiscal year 1994 Defense Authorization Act after being debated and voted in the committee 15 years ago.

The argument, then, is made that it is inappropriate for us to act on don't ask, don't tell before the Department of Defense has completed its review of the issue. But the provision that is in this bill and the provision we adopted in committee doesn't tie the military to any specific course of action. There will not be any change to the law or to the military's policy before the Department has completed its comprehensive review and considered the comprehensive survey of the force now underway. Even when that review has been completed, under our bill, no change can take place until and unless the President, Secretary of Defense, and the Chairman of the Joint Chiefs of Staff consider the results of the review, and only if then they can certify to the Senate and the Congress that the change can be implemented in a manner that is consistent with standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention.

That certification, if it is not made, then will result in this policy not changing. Only if the President, the Secretary of Defense, and the Chairman of the Joint Chiefs, obviously in consultation, as the law provides, with the Chiefs of Staff—only then, if the certification is made that our standards of military readiness, military effectiveness, unit cohesion, and recruiting and retention can be maintained, will this law be changed.

The Senate should debate and vote on don't ask, don't tell as we debated the original provision on that issue. As I understand it, by the way, one amendment that has been filed is a motion to strike. But amendments are not limited to that. The majority leader specifically said there may be other amendments relative to don't ask, don't tell that would also be able to be considered. But only if we can get to the bill can we consider those other amendments. We are not going to have the opportunity to debate this issue and vote unless we proceed to the bill.

As to the cut in the money requested for the Iraqi Security Forces Fund, I pointed out yesterday this decision was consistent with the previously expressed view of the Congress and the Armed Services Committee that the Government of Iraq should assume a

greater responsibility for the financial burden of building Iraqi security forces as U.S. forces draw down. Iraq, according to a GAO analysis we just received, has a cumulative budget surplus of \$52 billion through the end of fiscal year 2009, and as much as \$5 billion in unspent security funds. It is well positioned to pay for its own military equipment instead of coming to the American taxpayers for large hand-outs.

This issue was debated and voted on in the committee. There was an amendment of the Senator from Arizona to strike \$1 billion, which we added for our military, and provide the money, under his amendment, to the Iraqi Government instead. What we did is, we had a request for \$2 billion. We reduced that to \$1 billion. The Senator's amendment was to restore the \$1 billion. We defeated that amendment in committee after debate by a vote of 15 to 10.

I know the Senator is disappointed in that outcome, but that is what debates are for. The Senate should debate and vote on the issue, but we are not going to be able to do that unless we proceed to the bill.

As to the "wasteful" funding that the Senator from Arizona says was added by the committee, yesterday I gave a detailed accounting of how the committee proposes to spend the money for added force structure, force modernization, and quality of life for our troops. The Senator responded and gave several examples of what he considered to be wasteful spending. Well, let's take a look at some of those. The Senator—by the way, we added \$4 billion. We made cuts and we added. We made changes of \$4 billion in that budget request for force structure, force modernization, and support of the troops. The wasteful spending list of the Senator yesterday was \$28 million out of \$4 billion. Apparently, \$4 billion was a pretty good spending decision when questions were raised about \$28 million.

Let's look at some of the \$28 million that is labeled wasteful spending: \$3 million because it was for a "plant-based vaccine development." This effort that we are supporting, an additional \$4 million, has been identified by the military as the most promising path so far to rapidly produce the millions of vaccine doses that could be needed to respond to a biological threat against our troops on the battlefield. And \$8 million was pointed to by the Senator, which is going to a physical fitness center at an Air Force base. That fitness center has been identified by the Air Force as being mission essential.

These are not porkbarrel items added by Senators who just want spending in their States. These items have been identified by the military as being essential items for them. It wasn't in the budget. They could not find the money. We did.

The Senator questioned the proposed spending of \$7.6 million for a quiet propulsion load house. I doubt that too

many Members of the Senate know what a quiet propulsion load house is. It is a place where we test our ships to make sure that they meet requirements for avoiding enemy detection. The Navy said it "requires new ship propulsion technology to be sufficiently tested, evaluated, and certified to ensure that signature performance goals and objectives are met prior to fleet introduction and operational use."

The Navy says the current equipment does not have the capability to test and evaluate either reduced or full-scale electric propulsion motors with the necessary quiet load machine to approve and certify electric propulsion technology and design. The Navy says it needs the new facility to be operational within the next 5 years.

I believe the 10 minutes I have allocated to myself is up. So I will withhold further comment on the arguments made against the bill.

My main point is the time to debate can only come if we can get to the bill. That is the issue this afternoon, not whether issues are debated—they are and there are plenty of issues to be debated, not as to whether issues will be debated. They will be, and the majority leader has said so. To try to get an agreement in advance on what amendments will be in order before the bill comes up and amendments are filed is a task that cannot be achieved. Only the intention can be stated to allow that to happen. The majority leader has stated that intention and the ways to implement it. There is plenty of leverage to stop the bill from passing if there is inadequate opportunity. We will get to the bill only if 60 Senators decide we should move to its consideration before the recess on the Defense authorization bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I believe the chairman has agreed that he and I would have 5 minutes each before the vote this afternoon; is that true?

Mr. LEVIN. Mr. President, it is my understanding there will be a modification. There is no objection on this side to the following: that the unanimous consent agreement we previously entered into would be modified so the vote would occur at 2:30, and the time between 2:15 and 2:30 would be equally divided. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, for the benefit of my colleagues on this side, we will recognize in the proper order as we go from one side to the other: On my side Senator INHOFE would be recognized for 10 minutes, Senator BROWN for 5 minutes, Senator SESSIONS for 5 minutes, Senator CHAMBLISS for 5 minutes, and Senator LEMIEUX for 5 minutes. I believe that comes out to approximately 40 minutes.

Mr. President, I want to make it clear why I am opposed to moving to the National Defense Authorization Act of fiscal year 2011 at this time.

I am not opposed in principle to bringing up this Defense bill and debating it, amending it, and voting on it. I am not opposed to having a full and informed debate on whether to repeal the don't ask, don't tell law and then allowing the Senate to legislate.

What I am opposed to is bringing up the Defense bill now, before the Defense Department has concluded its survey of our men and women in uniform, which gives them a chance to tell us their views about don't ask, don't tell. Whether you agree or disagree with this policy, whether you want to keep it or repeal it, the Senate should not be forced to make this decision now, before we have heard from our troops. We have asked for their views, and we should wait to hear from them and then give their views the fullest consideration before taking any legislative action.

This isn't just my view. This is the view of all force service chiefs: GEN George Casey, Chief of Staff of the U.S. Army; ADM Gary Roughead, Chief of Naval Operations; GEN James Conway, Commandant of the Marine Corps; GEN Norton Schwartz, Chief of Staff of the Air Force.

Let me quote from my colleague, GEN George Casey. Remember, these are the service chiefs who are responsible for the training, equipment, morale, and well-being of the men and women in uniform who serve under them. What did General Casey say? He said this:

I remain convinced that it is critically important to get a better understanding of where our soldiers and families are on this issue, and what the impacts on readiness and unit cohesion might be, so that I can provide informed military advice to the President and the Congress. 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.

The survey is not complete and will not be complete for some time.

Admiral Gary Roughead said this:

We need this review to fully assess our force and carefully examine potential impacts of a change in the law. My concern is that legislative changes at this point, regardless of the precise language used, may cause confusion on the status of the law and the Fleet and disrupt the review process itself by leading Sailors to question whether their input matters.

GEN James Conway, Commandant of the Marine Corps, said:

I encourage the Congress to let the process the Secretary of Defense created to run its course. Collectively, we must make logical and pragmatic decisions about the long-term policies of our Armed Forces—which so effectively defend this great nation.

GEN Norton Schwartz, Chief of Staff of the Air Force, said:

I believe it is important, a matter of keeping faith with those currently serving in the Armed Forces, that the Secretary of Defense commissioned review be completed before

there is any legislation to repeal the Don't Ask, Don't Tell law. Such action allows me to provide the best military advice to the President, and sends an important signal to our Airmen and their families that their opinion matters. To do otherwise, in my view, would be presumptive and would reflect an intent to act before all relevant factors are assessed, digested and understood.

It could not be more clear what our uniformed service chiefs are saying: Complete this review before repealing the law.

Then the question is: Why would the chairman of the Senate Armed Services Committee and the majority leader ignore the very explicit recommendation of the four service chiefs? One can only draw one conclusion: November 2 is a few days away. The President of the United States, we all know, made a commitment to the gay and lesbian community that he would have as one of his priorities repeal of the don't ask, don't tell policy. Looking at a bleak electoral situation, they are now going to jam this legislation through—or try to—in direct contravention to the views of our service chiefs.

I spend a great deal of time with the men and women in the military. It is my job. It is my job to do so, both the Guard and Reserve in Arizona and traveling around the world to visit our men and women in places such as Kandahar, Baghdad, and other places around the world. Every place I go, the men and women are saying: Look, let's assess the impact of the repeal of this law. I get that from the senior enlisted men whose responsibilities are great. Why are we now trying to jam this through without the survey being completed and without a proper assessment of its impact?

I urge Members not to vote in favor of bringing the bill to the floor at this time so the troops can be heard. Let us hear from the men and women who are serving in the military.

I remind my colleagues that last year, they brought up the hate crimes bill and then put amendments on the hate crimes bill so there were no other amendments allowed until the hate crimes issue was resolved. That is the concern of the Senator from Maine, that the majority leader and/or the chairman will fill up the tree—in other words, make it so other amendments are not allowed until this issue is disposed of and then, of course, other issues.

In light of all the challenges that the Defense authorization bill entails—training, equipment, pay, benefits, all of the aspects of Defense authorizations that are so vital—why would the majority leader and the chairman want to bring up don't ask, don't tell, then the DREAM Act, then secret holds, and then reserve the rest of the issues for after we come back after the election?

Again, one can only draw the conclusion that this is all about elections, not about the welfare and well-being and the morale and the battle effectiveness of the men and women who are

laying it on the line in Iraq and Afghanistan today.

The most fundamental thing we could do to honor the sacrifices of our troops is to take the time to listen respectfully and carefully to what they have to say about this major change before the Senate takes any legislative action.

If the Senate goes down this path, we would be ignoring the views of the troops and casting aside the professional military advice given by each of the four service chiefs, all four of whom oppose the Senate taking any action on don't ask, don't tell before we hear from the troops.

By the way, the way the legislation is framed, the service chiefs are not involved in the final decision; only the President, the Chairman of the Joint Chiefs of Staff, and the Secretary of Defense are. Why in the world before the certification is made would not the service chiefs be required to certify that as well?

This is not about filibustering. It is not about the reasons why we are not taking up this legislation or why I am opposing this legislation. It is all about the battle effectiveness, the morale of the men and women who are serving in the military today who have volunteered to put their lives on the line so the rest of us may live in a safe and secure environment. We owe them a right to have their voices heard before we act legislatively, motivated by the upcoming election.

Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we do alternate when there are Members who wish to speak. That would be the appropriate course. So I will yield myself 5 minutes to respond to the Senator from Arizona.

Mr. President, I want to quote Admiral Mullen. Admiral Mullen reached a conclusion about the necessity to change this policy. He reached this conclusion, I hope and believe, without any regard to an election coming up. Admiral Mullen, Chairman of the Joint Chiefs of Staff, in front of our committee back in February said the following:

It is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do. No matter how I look at this issue, I cannot escape being troubled by the fact that we have in place a policy that forces men and women to lie about who they are in order to defend their fellow citizens. To me personally, it comes down to integrity, theirs as individuals and ours as an institution.

To suggest that Admiral Mullen somehow or another reached his conclusion because there is an election coming up it seems to me would be totally inappropriate, and I hope no one is making that suggestion. He reached a conclusion about gays and lesbians serving in the military. He stated his conclusion. Election driven, insulting? Of course not. He reached a conclu-

sion—so did Secretary Gates—reached a conclusion that this policy must change. Because an election is coming up, Secretary Gates, a Republican, decides this policy must change because there is an election coming up? Of course not. It is because they reached a conclusion that the policy needs to change, and the study they got underway is to determine how to implement that change.

What do we do in our bill? What we say in our bill is very explicitly there is not going to be a change in policy unless and until there is a certification from the Secretary of Defense and the Chairman of the Joint Chiefs and the President of the United States that the changes in policy, which they are going to presumably provide, will not undermine the morale, the recruiting, the retention of troops in the United States.

Our bill that is in front of us specifically says there will be no change in policy unless and until that certification comes. We want to hear from the troops also—the way the Chairman of the Joint Chiefs of Staff wants to hear from the troops, the way the Secretary of Defense wants to hear from the troops—as to how to implement a change in policy. And we go beyond that. We say there will not be a change in policy unless and until there is a certification from the Chairman of the Joint Chiefs that there will be no negative impact on morale, retention, and recruitment. That, it seems to me, is a totally appropriate way to legislate. That does pay respect to the men and women of the Armed Forces.

Unless the opponents of this language suggest that Admiral Mullen, the Chairman of the Joint Chiefs, and Secretary Gates, who have reached a conclusion that this policy must change, unless they are suggesting that their conclusion is driven by elections, it seems to me it is wrong to suggest the fight legislatively is election driven.

Was the decision to implement this policy 15 years ago election driven? No, it was based on a decision at that time that don't ask, don't tell was the right policy. I did not think it was. I voted against it. But the decision was made.

To argue now that it is all about elections misunderstands the importance of this issue, the significance of this issue, and what the people of this country have come to understand, which is the service by gays and lesbians is just as valued as the service by others. Giving their lives up for the country, being buried in Arlington Cemetery, as gays and lesbians are, who have had the uniform of this country on, is the ultimate sacrifice citizens can make for this country. Gays and lesbians have made this sacrifice, and nongays and lesbians, obviously, have made this sacrifice too.

One other point. Is my time up?

The PRESIDING OFFICER. Yes.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I will stay within the time given me. We have all had to reduce our time on this side. We have many Members who wish to speak.

Let me cover a couple of points and respond to statements made by the chairman of the Armed Services Committee.

I was around in 1993. Actually, it was the last year I was serving in the House, and I was on the House Armed Services Committee. I remember very well when the gay lobby started becoming active during that time during the Clinton administration. They said: We want to change the policy. That is why they went through this policy called don't ask, don't tell, which allows people to serve regardless of what their conditions are, their preferences are, but they do not talk about it. They do not use the military as a forum to advance their liberal agenda.

It seemed to work. In the law—and it is still the law today—section 571 reads—this was passed in 1993, 17 years ago:

The presence in the armed forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

I was one who applauded Secretary Gates—this is back on February 10—when he said we are not going to be doing anything to change it until we study it and, most important—and this is the whole issue, I believe—we hear from those in the field, we hear from the troops in the field. These are the guys who have gone through this. They understand what it is all about. And they were told they would be heard. That is the whole idea, that we would not do anything until December 1 when all the results were in.

I am a product of the U.S. Army. I served proudly in the U.S. Army, and I can tell you right now, there are some reasons in the military why this would not work.

Senator McCain covered the statements that were made by the service chiefs, but they are worth looking at again. It is very significant that these service chiefs were outspoken in their opposition to changing this policy or to repealing don't ask, don't tell. It is difficult for a general in the armed services to go against a President.

I remember in 1998 when GEN John Jumper was strong enough to stand up and say what was happening in the Clinton administration in terms of downsizing of the military. It took a lot of courage. But the other thing that is—and a lot of things have been said about Secretary Gates and Admiral Mullen, but they will be the most instrumental in this. Here is what their philosophy was. This is a statement I will read, and I want everyone to listen carefully. This is from the Secretary of Defense—Gates—and Admiral Mullen, Chairman of the Joint Chiefs of Staff. They said, jointly:

We believe, in the strongest possible terms, that the Department must, prior to any legislative action, be allowed the opportunity to conduct a thorough, objective, and systematic assessment of the impact of such a policy change.

What they are talking about is the study we said was going to take place. But then, wait a minute, something happened. Three things happened 1 month later. This statement was made April 28. Then 1 month later, on May 27, three things happened. What are those three things? First of all, Gates and Mullen agreed to this compromise and then totally reversed their position of just 1 month before. Now, the chairman of the Armed Services Committee was talking about their position. This was their position, and yet they reversed it at the same time on the same day—May 27—that the House voted to repeal don't ask, don't tell. There were a couple of conditions there, and the Senate did the same thing, with one exception—one Senator in the Senate Armed Services Committee. It was right down party lines. In other words, every Republican Senator but one opposed this idea of repealing this without going through the study. The study is the critical thing. We have to go through the study before we would be in a position to know what those in the field want to do. I think this is very critical because it is not a matter of what you want to do with this, it is a matter of hearing from the troops in the field.

Let's put up the next chart. People are saying: Well, don't worry about it. The Senator from Michigan just said: Don't worry about it because, first of all, it has to be certified that there is no negative impact on readiness. It is going to be certified by Mullen and Gates and the President.

But wait a minute—certified? They have already made up their minds.

Look, here is the most important—Admiral Mullen said:

Mr. Chairman, speaking for myself, it is my personal belief that allowing gays and lesbians to serve openly would be the right thing to do.

He is the one who is supposed to certify this. He has already certified it. It is right here. When they say that 60 days after the first of December, that certification has to take place, it has already happened.

Secretary Gates says:

I fully support the President's decision. The question before us is not whether the military prepares to make this change, but how we best prepare for it.

There you have it. Both of them are saying the same thing. They are saying: Well, we have already made up our minds. They are the ones certifying. And the third party, of course, is the President, and the President's position is very well known on that issue.

So I think this whole thing is so phony when they talk about this certification, but the reason I want to get in as much as I can in the limited 10 minutes is to let you know that it is

not the only thing that happened on May 27. I call it black Thursday because not only did they vote to repeal the policy that has worked so well for the last 17 years in terms of gays in the military, but they also passed an abortion amendment that allows abortions in military hospitals.

Now, very quickly, this has been going on—it has been changed for many years. In 1970, an Executive order allowed abortions in DOD hospitals. In 1984, Bob Dornan—remember B-1 Bob? A lot of us remember him. He changed it and tried to limit the abortions in government hospitals. In 1988, DOD hospitals barred abortions from the military facilities. President Clinton changed that and relaxed the laws. Then in 1996 the authorization bill reversed Clinton, and therefore they were not able to have abortions in military hospitals. Now, that is the law as it is today. But there is an amendment—and we have not even talked about this amendment—that is going to open the military hospitals for abortions.

I had the honor of addressing this Values Summit last Friday, and I can tell you right now that the people there, when they heard about all of this that was in this bill, were pretty shocked. And the question came up, Why is it that we keep hearing over and over what is in this bill?

Let's get the next chart up there. Why are they so anxious to get this thing on the floor when we are not going to be able to have amendments? We all know what the rules are around here. To my knowledge, since I first came to Congress, this is the first time we will have an authorization bill where we will not have a chance to amend it, where we won't have a chance to offer amendments. Normally, there are 100 or so amendments. A lot are agreed to, and our positions are heard. Not this time.

First of all, I think this is a political mistake. It is a dumb thing to do, to try to use the Defense authorization bill in times of war to advance a liberal agenda. What is that liberal agenda? That agenda is to have open gays serving in the military, it is taxpayer-funded abortions in our military hospitals, and it is amnesty for illegals. I think they are making a mistake. I agree with the Senator from Arizona that it is totally political. It is all set up for the November 2 election. And I can assure you that all of America is watching, and they don't think the Defense authorization bill, in times of war, is the appropriate thing to do to advance a far-left liberal agenda—an open gay policy in the military, taxpayer-funded abortions, and amnesty for illegals.

With that, Mr. President, I have used my 10 minutes, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I believe by unanimous consent we have an order of speakers, and I think the next one is—well, I will let Senator MCCAIN speak.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. How much time remains, Mr. President?

The PRESIDING OFFICER. There is 20 minutes remaining for the Republicans and 19 minutes for the Democrats.

Mr. MCCAIN. Mr. President, I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROWN of Massachusetts. Mr. President, I rise today to speak about a very important piece of legislation before this body, and that is, obviously, the Defense authorization bill—a bill that provides the tools and resources for our men and women serving in the military.

It has been my honor to serve on the Armed Services Committee with the chairman, who is sitting right here. Being the new person on the block, I have greatly enjoyed the back-and-forth of that committee process and the fair and free way we are able to debate amendments—some of which passed and some didn't. But always, at the end of the day, there was a handshake and a smile, and we would go on and do our business.

I remember a lot of us, especially the newer people, asking about our concerns, which haven't been addressed here, and I remember the chairman saying that we would be able to handle these things during the bill process when it came to the floor. That was the general consensus by Senator MCCAIN and others—don't worry, we will handle a lot of these things on the floor. So I was actually looking forward to that fair and open process, similar to what we did during the financial reform bill.

Unfortunately, what has traditionally been a very open and bipartisan process has, in fact, evolved into a dynamic display of political grandstanding. My question is, What happened? I feel the majority party is using our men and women in uniform as a tactic to pass politically expedient legislation entirely unrelated to the Defense authorization bill, which, in my view, is not appropriate.

There has been much discussion by the leader about his plan to add the DREAM Act as an amendment to the Defense bill. Let me be clear: I am willing to debate the merits of the DREAM Act, and even comprehensive immigration reform, but not in a manner that exploits our men and women who are serving in the military by using legislation that is supposed to be solely focused on supporting them, and additionally not allowing for that open amendment process that I thought was promised to us during the committee process and something I have understood as being part of the very important history of this body.

As my colleague from Arizona pointed out yesterday on the floor, the extraneous legislation the leader intends to attach to the Defense authorization

bill would never, ever be referred to the Armed Services Committee if it was introduced independently. In the past, the authors of the Defense bill, led by Senator LEVIN and Senator MCCAIN, have been allowed to come to the floor and debate the process and enact necessary pieces of legislation that keep our men and women in the armed services safe and keep the military going. It is a traditional custom that, by and large, has been shunned. It has been shunned for political gamesmanship and posturing in favor of advancing the defense authorization process.

Once again, Mr. President, as the new person here—well, I guess the second newest person here now—it is an incredible but not surprising turn of events that we have suddenly decided to refuse an open debate on the things we have been working on for some time—certainly since I have been here. An amendment process would allow for everyone's ideas to be considered, as we did during the financial reform and as we did during the actual committee process itself.

Not only have the authors of the bill been effectively shut out, but so has every other Senator. Are my needs and the concerns of Massachusetts not the same as the majority leader's needs or the President's needs? We have issues that affect Massachusetts, and all the other Senators have needs that affect their States that they feel can contribute to the men and women and the way they serve and are protected. When an issue as critical as our national defense comes to the Senate floor, we should absolutely allow for an open process. This is too important an issue to cut off debate and control the process. I know it is football season, but we should not use this as a political football. It is inappropriate.

On another issue of critical importance, as I said before, we spent 4 weeks on the financial reform legislation, and we had over 30 votes on that particular bill. When the process was over, everyone was able to offer any amendments they wanted. I am disappointed that we are not having that same opportunity here. We should absolutely go through that same process.

In closing, I am hopeful that in the days ahead we will turn our focus back to jobs and the economy, where we can start listening to the American people, who are demanding we focus on reducing our Nation's debt, our out-of-control spending, lowering taxes on individuals and families, and getting our economy moving again. I believe that is the biggest national security issue we have in front of us right now—making sure we have the economic engine to not only continue with our economic strength throughout this world but obviously providing the tools and resources for our men and women who are serving.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BROWN of Massachusetts. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wish to thank Senator BROWN for his service on the committee. He has been invaluable to the committee, and I very much appreciate that.

The Senator's statement that he favors an open process is one that I share. That is why I talked to the majority leader, and the majority leader made a statement last Thursday which I hope the Senator from Massachusetts would look at relative to the process. The majority leader has talked about a number of amendments which he would like to see offered and would intend to offer. That is his right, as it is the right of any Senator.

Last year, we adopted the hate crimes bill, which was a nonrelevant amendment. There was some objection to it. Many years ago, when the Senator from Arizona offered a campaign finance amendment to the Defense authorization bill—totally nonrelevant—Senator WARNER, sitting right over here, very much objected to it. He said it would sink the bill. It did not sink the bill, by the way; it was passed by the Senate—nonrelevant. And we have adopted other nonrelevant amendments on this bill and other bills because the rules of the Senate allow for nonrelevant amendments.

As to whether this process is going to be open to other amendments, I assure the Senator from Massachusetts it will be, and I will make sure I do everything in my power to see that happens. That is why the majority leader, last Thursday, assured the Senate—and these were his words:

In addition to issues that I have talked about in the last couple of days, there are many other important matters that both sides of the aisle wish to address. I am willing to work with Republicans on a process that will permit the Senate to consider these matters and complete the bill as soon as possible.

So Senator REID was giving the assurance that other amendments besides the three he has identified publicly are going to be in order. He is not going to try to cut off debate.

As chairman of this committee, I have, for 30 years now, fought to make sure this bill was open to amendments, and I will continue to do that. Last year, I think there were something like 60 amendments. So there is not going to be an effort to cut off debate on amendments which Members of the Senate want to offer that is different from any other time when this process is used.

We have to manage a bill. We have to get a bill passed. After there is debate on a bill, there comes a time when the majority leader says to the managers: We have to get a bill passed. You have to find some way we can get a bill passed. Then we enter into, hopefully, unanimous consent agreements, where we work out how many amendments are left on each side. That is what our intention is to do here, too—to work

out these kinds of agreements as this matter unfolds.

But the issue now is whether we are going to get to debate the bill, whether we can get to the point where we can offer amendments and reach agreements on what amendments are left that would be in order and on time agreements. We can't get to that point unless we are allowed to proceed to the bill.

As far as I am concerned, it is totally inaccurate to say the men and women in uniform are being in some way not respected by proceeding to this bill. If we cannot debate this bill this year, if we cannot offer a motion to change don't ask, don't tell language, strike the language, whatever, then we are not taking up the bill which is so critical to the men and women in uniform. This bill is critical to them.

If there are Members here who want to strike or modify don't ask, don't tell, the time to do it is when we get to the bill. We cannot do it now. We cannot amend this bill now unless we get to the bill. There is no point, it seems to me, in talking about the need to amend the bill—which I happen to agree is in order—unless we get to the bill. It becomes a theoretical statement that something will or will not happen, unless we can get to the bill.

I do not know of a time when there has been a filibuster against getting to the Defense authorization bill. No matter how contentious issues have been, and they have been contentious over the years, the idea that there is a filibuster against proceeding to the bill so we cannot debate the kinds of issues which need to be debated, it seems to me, is what denies the men and women in uniform the opportunity to get a bill passed that is so important to them.

We need to get to this bill. We need to make progress on this bill. I believe, as the majority leader has said,—I believe what he said—that this is not going to be the kind of closed process which some have suggested and imputed to him.

I yield the floor.

Mr. MCCAIN. Mr. President, I yield myself 30 seconds.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. We are depriving the men and women in uniform from having a voice in this by short-circuiting a process by passing legislation before the study is completed. That is a fact. That is the view of all four service chiefs, and I read it and I will continue to put it in the RECORD.

Senator SESSIONS, I believe, is next?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I will yield myself 30 seconds.

The Chairman of the Joint Chiefs of Staff has reached a conclusion, the Secretary of Defense has reached a conclusion—that this policy should be changed. It should be. We ought to debate it. Whether to change this policy, how it is changed—how it is implemented is what they set in motion, a



study to help them decide. That is the process they agreed to.

Have they offended or insulted the men and women of the Armed Forces by concluding that this policy should change? Has the Chairman of the Joint Chiefs, Admiral Mullen, somehow, in some way, not taken into consideration the well-being of the men and women of the Armed Forces when he concluded this policy should change? Has Secretary Gates been guided by elections coming up when he concluded that this policy should change and that the study that is underway should be taken in order to determine how to implement that change?

I don't consider that they have offended or insulted the men and women they command. This language surely protects exactly what Secretary Gates and Admiral Mullen have put into motion—a study as to how to implement a change in policy. That is what this study is all about. That is what we require be completed prior to any change in the policy.

We have gone a step beyond—a step beyond—requiring that they certify—obviously, after consultations with the Chiefs of Staff; that is required by law—that they certify that there will not be a negative impact on morale, recruitment, or retention.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, this is a policy of the President of the United States. He determined to change the policy that has been in effect for quite a number of years, and by all accounts has been working very well. All four service chiefs favor keeping that policy. He selected Admiral Mullen. He selected Secretary Gates, who has not been an enthusiastic supporter of this change, frankly. He has gone along with the Commander in Chief who appointed him. He has indicated that we ought to have a study first—made a commitment, really, to our men and women in uniform that there would be a study first, and we are not running an objective study.

So Admiral Mullen did testify he personally believed this was a change that ought to be made. But the Army Chief of Staff, General Casey; the Chief of Naval Operations, Admiral Routhead; Air Force Chief of Staff Schwartz; the Commandant of the Marine Corps, General Conway; and now General Amos—who just testified this morning will be replacing General Conway—oppose it and believe we owe it at least to the men and women in uniform to study the impact this might have. I just believe it is not necessary to ram this through this fast before we complete a study. I oppose that.

We had reports of a general—he has denied how he was quoted in the Washington Times, General Bostick, in Europe, who made statements that upset a very large group of people—he is a personnel general, three stars—about how everybody had to go along with this agenda, be on board with it, and

suggested, according to the article, you would not be able to stay in the military if you were not endorsing this proposal. He said it was the equivalent of civil rights and you were being a bigot if you somehow had a different view.

I just think that is dangerous. To say this is not going to have a corrosive impact on the men and women in the military is a mistake. I think it is being raised up in importance and being raised up in the potential to damage the military by the fact that it is being rammed through before a fair and objective review of the policy is conducted.

I believe that firmly. If this is going to be changed it ought to be done respectfully, carefully, not moved through right now on this bill because of fear that the study will not be positive and it will not be able to be passed next year, maybe after the American people have sent some new Senators to this Senate. Maybe then it will not be so popular and have so much support.

I am frustrated that I would have to vote against moving to the Defense authorization bill. Last year was the first time I did that because attached to the bill was an unrelated, controversial hate crimes piece of legislation. I voted for bills that had other stuff in it I didn't agree with, but I try to be supportive. But I will not, and I urge my colleagues not to allow the Defense bill to be a train that carries through controversial, unpopular pieces of legislation. It is just not the right thing for us to do, and we are going at it again this year.

We have had a tradition of bipartisan support of Defense bills. I guess the first 12 years I was here we have always had massive bipartisan support, and I have signed them. This action is overriding that tradition. It is not helpful.

I will just note, as the ranking Republican on the Judiciary Committee, I am very disappointed that the majority leader has made clear that one of the amendments he is going to approve for us to vote on would be the controversial, unpopular DREAM Act that has not had a hearing—at least in years that I can recall—in the Judiciary Committee where it should be—to give amnesty to people who came into our country illegally.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SESSIONS. I urge my colleagues to vote against moving to this bill until it is cleaned up and does not have this controversial legislation on it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, how much time is on this side?

The PRESIDING OFFICER. There is 12 minutes remaining.

Mr. LEVIN. I ask unanimous consent that a letter from GEN John Shalikashvili, the retired Chairman of the Joint Chiefs of Staff, be printed in the RECORD.

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

GENERAL JOHN M.D.

SHALIKASHVILI, USA (RETIRED),  
Steilacoom, WA, September 16, 2010.

DEAR SENATORS: I am writing to urge the Senate to vote in support of the 2011 National Defense Authorization Act. Each element contained in the legislation that passed the Senate Armed Services Committee is essential to the maintenance of a strong, capable fighting force for our nation. Provisions in the bill will ensure that our soldiers have the pay they deserve and the equipment, training and support they need to conduct their critical missions. In particular, I support the DADT repeal language that passed through the Senate Armed Services Committee earlier this year and is currently part of the pending legislation.

The Pentagon is currently conducting a study on how to implement a policy of open service. Congressional repeal is vital for the Pentagon to implement their findings, whatever they may be. As I have said before, repeal strikes down the law that straitjackets military leaders' ability to craft a sensible and practical policy about open service. Most importantly, the current repeal language allows the Pentagon the time it may need to answer any questions about how to actually implement the change.

Additionally, repeal would allow military leaders to make personnel decisions based on a person's skills, experience, and overall job performance. Reflecting on my own service and experience, I am quite confident that sexual orientation does not impact a person's ability to defuse IEDs, provide medical care for someone wounded in the line of duty, or translate intercepted enemy intelligence into English.

Passing the 2011 National Defense Authorization Act, including repealing DADT, would serve the interests of our nation's security and all of its service men and women.

Sincerely,

JOHN M.D. SHALIKASHVILI.

Mr. LEVIN. Let me read just part of this letter.

I am writing to urge the Senate to vote in support of the 2011 national Defense Authorization Act. Each element contained in the legislation that passed the Senate Armed Services Committee is essential to the maintenance of a strong, capable fighting force for our nation. Provisions in the bill will ensure that our soldiers have the pay they deserve and the equipment training and support they need to conduct their critical missions. In particular, I support the don't ask, don't tell repeal language that passed through the Senate Armed Services Committee earlier this year and is currently part of the pending legislation.

He goes on:

The pentagon is currently conducting a study in how to implement a policy of open service. Congressional repeal is vital for the Pentagon to implement their findings, whatever they may be. As I have said before, repeal strikes down the law that straight-jackets military leaders' ability to craft a sensible and practical policy about open service. Most importantly, the current repeal language allows the Pentagon the time it may need to answer any questions about how to actually implement the change.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. LEMIEUX. Mr. President, I have served in the Senate for 1 year. I have watched the process of different pieces of legislation come to the floor of the Senate.

One of the most frustrating things, to the American people and certainly

frustrating to me, is that we as Senators do not have the opportunity to offer amendments on these large pieces of legislation, legislation in this case that authorizes the actions of young men and women who are fighting to protect our safety and freedom around the world, that the Senator from Florida or Senator from Arizona or Senators from other States cannot stand up and say: I have an idea. I have a proposal. I have an amendment. Let it be aired in front of this body, let it be debated, and let's see whether it rises or falls on its merits.

Instead, we get these rules that are closed where the majority leader comes down and says: I am going to fill the tree, which is Senate parlance meaning: I am going to close off all debate except for on the amendments I choose to put before the American people.

That is not right. That is why the American people are, in part, so frustrated with Congress. We are not debating the issues that any individual Senator may bring forth on behalf of their constituents on what they think is the right way to move forward. Instead, we are going to amendments on issues that should not be attached to this bill, in my opinion.

Don't ask, don't tell is a highly controversial amendment, one that has not been debated, one that is not going to have the opportunity to have the input of the military. We are supposed to be conducting a thorough examination and evaluation of the U.S. military before we make this substantial policy change—while we are fighting two wars at the same time. We are going to pass it and then see whether it is going to have an impact on military readiness? Does anybody doubt what the conclusion will be if it is passed, what the military will then say?

If, for some reason, they had the courage and were able to have the freedom to actually express their opinion, do you think this body would undo it? Instead of allowing us to have the process we are supposed to, where we are supposed to get a sense from the military about how it will impact military readiness, we are going to pass, presumably, over the opinion of the four chiefs of the different branches of the military who oppose this measure, including General Amos, who will join now as the Commandant of the Marines, this controversial measure.

Then we have the DREAM Act which, as my colleague from Alabama said, has not gone through the Judiciary Committee. Many in my State support the DREAM Act. It is a very difficult situation for kids who were brought to this country by their parents, through no fault of their own, have gone through public school, now go to a university and may not have the chance to stay and work in this country. I understand and I am sympathetic to that. But to attach that to this bill without trying to fix the broken immigration system, without first securing our borders, is disingenuous and irresponsible.

So I, too, will not support moving forward on this Defense authorization bill. This is not the way this Congress should act. This is not the way the process is supposed to work. It is unfair to the American people. It is unfair to the members of the military. What should happen is we should have an ability to bring any amendments forward that are germane to the Defense authorization bill and let them rise and fall on their merits.

What should not happen is that extraneous amendments that do not relate to this issue be stuck on and that all debate be closed.

The American people are upset. They are frustrated with their government. Their government is broken, and this is just another example of how badly it needs to be fixed.

With that, I yield the floor.

THE PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, if what the Senator from Florida said is going to occur, it indeed would be a broken system. But the majority leader has said and said publicly that there are many other important matters that both sides of the aisle wish to address other than the ones he has raised himself, and he is willing to work with Republicans on a process to permit the Senate to consider these matters and complete the bill as soon as possible.

I do not know exactly what the Senators are saying when they say this is a closed process, when the majority leader says, no, it is not. I mean, they want to debate amendments. You cannot debate amendments unless you get to the bill and offer amendments. I wish to debate amendments too. There are provisions in this bill that I do not like that I voted against in committee as chairman.

There are a number of provisions I would like to see stricken in this bill. But you cannot strike a provision or try to strike a provision before the bill is on the floor to debate. The issue here is whether this filibuster against bringing this bill to the floor so we can debate the amendments is going to succeed.

That is the issue today. Should we be able to debate amendments? You bet. I fought for that as long as I have been either chairman, ranking member or member of the Armed Services Committee and other committees. Of course, we ought to be able to debate amendments.

But the debate today is whether we can get to the point where we can debate amendments. People want to strike the language on don't ask, don't tell. The only way we can get to that point, to strike or modify that language, is if the filibuster does not succeed this afternoon; otherwise we cannot get to that point.

We are debating now whether we can bring a bill to the floor so we can do exactly what the Senator from Florida wants us to do, be able to offer amendments, be able to strike language, modify language, add language.

As to whether nonrelevant amendments should be added, if we want to change the rules of this Senate, offer an amendment to the rules. But the rules of this Senate allow nonrelevant amendments to be offered, and dozens have been offered on Defense authorization bills, including by the Senator from Arizona, who about a decade ago offered a very contentious amendment to change the campaign laws on terms of disclosure.

The Senator, who was chairman of the Armed Services Committee, John Warner, argued passionately to the Senator from Arizona: Please, do not offer that to this bill. It could sink this bill. That was the argument of the chairman. The Senator from Arizona went ahead anyway, as was his right. By the way, the chairman of the Armed Services Committee acknowledged it was the right of the Senator from Arizona to offer nonrelevant amendments, and the Senator did that, the Senator from Arizona. It was not the first time.

Senators on both sides of the aisle have offered nonrelevant amendments to the Defense authorization bill and to other bills because that is their right. What is broken around here is the determination on the part of the Republicans to not allow us to proceed to debate bills. That is what is broken, in that the filibusters are now being used over and over and over in a way that they have never been used before, at least in this quantity, to stop a bill from coming to the floor.

How do we debate the amendments which the Senator from Florida rightfully says we should debate unless we can get to the point where we can debate them. We cannot debate them now. The bill is not before us. The question this afternoon is whether we are going to allow this bill to come before us so the Senate can do exactly what the Senate should do, which is to have Senators be able to offer amendments, debate those amendments, accept or defeat those amendments. That is what the Senate should be doing.

But we cannot do that if a filibuster denying the Senate an opportunity to debate the bill succeeds. Then we cannot do that. We cannot do what the Senator from Florida wants us to do, and I want us to do, to debate amendments, to have Senators be able to offer amendments. That is the problem which we face more and more in this body, and I deeply regret it.

I do not know how to change this system without changing the rules, which we are not going to be able to do. I do not know how we can prevent a filibuster succeeding or delaying the Senate from acting for days and days and days, from being able to debate. Filibusters have their place, I believe, to protect the minority. They have their place so that the minority can be assured of extended debate. I have supported that.

But the filibusters are being used now more and more to prevent us from debating, not to guarantee the opportunity to debate for the minority,



which is a legitimate function of the filibuster, but to prevent us from debating. This filibuster, if it succeeds this afternoon, is going to prevent us from debating the very issues which need to be debated. Don't ask, don't tell, we should debate it. We cannot debate it if we do not get to the bill. The DREAM Act, should that be offered, should it not be offered? We cannot debate that unless we get to the bill.

As to the other provisions in this bill, one of the Senators mentioned the language about abortions. By the way, he said taxpayer-paid abortions, which is not in the bill, as I think the Senator from Florida knows. It only allows abortions on a voluntary basis, which are legal, if the woman pays for the abortion. These are not taxpayer-paid abortions. So putting that aside, it is a legitimate subject for debate. How do you debate it if we cannot get to the bill?

That is what this issue is about this afternoon. Will we get to a bill, which I think all of us believe is a critically important bill to the men and women of the Armed Forces? How do we get to that bill? How do we debate these issues, which I agree with the Senator from Florida need to be debated, rightfully are debated, if we are not able to get to the bill? That is the issue which we will decide this afternoon.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, how much time remains?

The PRESIDING OFFICER. Five minutes.

Mr. McCAIN. How much time is remaining on both sides?

The PRESIDING OFFICER. Five minutes remain on the Republican side and 4 minutes remain on the Democratic side.

Mr. McCAIN. Before my colleague speaks, very briefly, maybe the Senator from Michigan has forgotten what happened last year on hate crimes. The bill was brought up, then the majority leader filed, as is his right, the first amendment.

Then only amendments that the majority leader agreed to were allowed on hate crimes. So we got stuck for a week on it. I predict to you that is exactly what would happen with the DREAM Act and with this issue as well because the majority established that precedent last year.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I came over to speak on this bill and in opposition to the motion to proceed. I sit here and I listen to the distinguished chairman of the committee talk about the fact that this is an open process and that we have to get to this bill and everybody can file amendments.

Well, when it comes to filing amendments to the Defense authorization bill, the majority leader is just like me. He is a Member of the Senate. He has the right to file amendments. I

have the right to file amendments. That is not the case here. That is not what we are arguing about.

What has happened is the majority leader, for political purposes, has come down and he has called up the Defense authorization bill and he has done what we call filling the tree. He has filed three Democratic amendments for his benefit and then he has filled the tree and he has not allowed me to file an amendment. He has not allowed the Senator from Florida to file an amendment.

So when the chairman stands and says: We have to get to the bill. Well, we are on the bill. Is it right for the majority leader to be able to file amendments and nobody else to file amendments? I do not think so. That is what we are arguing about today. If you believe that is a fair process and that is an open process, then you vote for the motion to proceed.

But if you believe the process ought to be that every Member of the Senate has the right to come down, whether you are a member of the Armed Services Committee or not, and file an amendment and call up your amendment and have a debate on it and a vote on it, then you need to vote against this motion to proceed. This is not the process that the Senate is used to following. It is the process this majority leader has seen fit to follow time and time again, and it is not right. It is not the way the Senate is supposed to work.

I intend to vote against the motion to proceed.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, parliamentary inquiry: Are we on the bill now?

The PRESIDING OFFICER. The Senate is not on the bill.

Mr. LEVIN. If cloture passes this afternoon, would we then be able to be on the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCAIN. How much time is remaining?

The PRESIDING OFFICER. The Senator from Arizona has 2 minutes remaining.

Mr. McCAIN. How much time is remaining on the other side?

The PRESIDING OFFICER. There are 2 minutes on the Republican side and 3½ minutes on the Democratic side.

Mr. McCAIN. Well, again, I would point out again that not only do the members of the Joint Chiefs of Staff and our service chiefs object to this truncated process, being left out of the final decisionmaking process, they do not have to sign on to any conclusions that are reached as a result of this ongoing survey. But there are others, such as the incoming Commandant of the Marine Corps, who says, my personal view, the current law and associated policy have supported the unique requirements of the Marine Corps.

Thus, I do not recommend its repeal. My primary concern with proposed repeal is the potential disruption to cohesion that may be caused by significant change during a period of extended combat operations.

We are in two wars, and now we are pursuing the social agenda of the Democratic Party instead of taking the priority, as it is much called for; that is, the welfare, the morale, the battle effectiveness of the men and women in the U.S. Marine Corps.

So last year there was an amendment allowed, but procedurally, when we did the hate crimes bill, there were only amendments that were agreed to by the majority leader. That is what we fear will happen in this debate, and certainly the DREAM Act, which is also on the agenda for the elections is clearly not something that should be addressed by the Armed Services Committee. By all rights, it should be done by the Judiciary Committee.

I regretfully reach this stage. But I urge my colleagues to vote in opposition to the cloture vote.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield the remainder of the time to the Senator from Connecticut.

Mr. LIEBERMAN. I regret that I have been held up in another event, that I could not get here until now. But I rise to speak in favor, of course, of the cloture motion and of taking up the National Defense Authorization Act.

This is critically important legislation. I know the debate has been mostly about a couple of parts of it or one amendment or maybe two amendments that may be offered to it.

But the National Defense Authorization Act has to be passed. It has been passed every year for more than half a century. Why? Because it authorizes increases in compensation and benefits for members of the military and their families. No matter what you think about any amendments that may or may not be put in, I do not think any of our colleagues truly want to stop that from happening, nor do they want to stop the authorization of the procurement of military equipment that our soldiers need to protect them and to continue to be the most effective fighting force in the world, nor do they want to stop the authorization for military construction in the United States and around the world that our troops and their families need to live decently.

This is a motion to proceed. It is not a vote on the bill. To me, this ought to be an easy vote, no matter what you think about don't ask, don't tell or the DREAM Act or even what you think about the procedure adopted because, let's remember, at any point once we go to proceed, if people in the Chamber do not think Senator REID has allowed enough amendments, they can begin a filibuster and stop it right there. This

bill won't come to a final vote, regardless of what is in it, until there are 60 Members of the Senate who want it to come to a final vote.

I wish to speak for a moment about don't ask, don't tell. Senator LEVIN has done an excellent job in the debate. I voted against the policy as a member of the Armed Services Committee in 1993, when it first came up. I was privileged to be an original cosponsor, with many others, of the legislation to repeal it this year, working with Senator LEVIN and others on the committee, including Senator COLLINS who, to her great credit, had the guts to join us because she believes don't ask, don't tell is un-American—my word—not fair and hurtful to military effectiveness.

More than 14,000 members of the military have been put out of the services since 1993 under don't ask, don't tell, not because they weren't good soldiers, sailors, marines or airmen, not because they violated any military code of conduct but only because of their private sexual orientation. That number is the equivalent of an entire division of warfighters we need in places such as Afghanistan and elsewhere around the world. It is also a waste of money to train those 14,000. Estimates are that taxpayers paid over \$600 million. We waste that by tossing them out, not because they are bad soldiers but because of their private sexual orientation.

I know some have said repealing don't ask, don't tell doesn't belong on this bill. Don't ask, don't tell was originally adopted as part of the Defense authorization bill. It is, frankly, the best and most logical place around which to repeal the policy. I know Senator LEVIN has talked about the process. There is a fundamental judgment that the President, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and those of us who have sponsored the amendment to repeal don't ask, don't tell have made, which is that it ought to go. It is un-American. It is inconsistent with our best values of equal opportunity, who can get the job done, not what one's private life is about. It is hurting our military. That judgment has been made.

The study being done at the Pentagon is to determine how to implement this best without intervening in military effectiveness. Then we put in the amendment which is in the bill. This provision, as Senator LEVIN has pointed out, doesn't go into effect until 60 days after the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff certify in writing that repeal of don't ask, don't tell is consistent with standards of military readiness, military effectiveness, unity, cohesion, recruiting, and retention. We couldn't ask for more in the way of due process. We don't direct the military exactly when and how and over what timeframe they actually go about pulling apart this unjust don't ask, don't tell policy.

It will be a close vote today. It would be a shame if we don't get the 60 votes. If Members are against don't ask, don't tell being repealed, vote against it when the amendment comes up. Submit an amendment to strike it. But don't stop the whole bill which is so important to our military. If for some reason we don't get the 60 votes today, Senator REID has made clear we are coming back, and we will do this in November or December. We have to pass this bill for all the reasons I have stated, for our military effectiveness when our troops are in combat. There will come a day before the end of this year when there will be a motion to strike the repeal of don't ask, don't tell. I don't think opponents of don't ask, don't tell have the votes to accomplish that. When that day comes, we will support our military and America's best values by ending this nonsensical, unfair policy.

In America, we judge people by whether they can get the job done, not by any quality about them personally. I think we will get this job done before the end of this year. I hope we can do it beginning this afternoon. But if we don't, we will come back.

I thank Senator LEVIN for his extraordinary leadership.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. All time has expired.

Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:34 p.m., recessed until 2:15 p.m. and was reassembled when called to order by the Presiding Officer (Mr. BEGICH.)

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2011—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The time between now and 2:30 p.m. will be equally divided.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 2½ minutes to Senator REED.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, we are at a critical juncture in proceeding to the National Defense Authorization Act. This bill is routinely taken up every year. I want to emphasize again, we are at the first step. This is just a motion to go forward to begin to debate the bill. I would hope we could at least summon sufficient votes to agree to talk about these critical issues.

This legislation contains important programs for our military. We have a military that is at war in Iraq and Afghanistan. They need equipment, and they need support. We have included changes for the quality of life of their families. One change, significantly, is to make the TRICARE system comparable to the new health care system

by allowing children who are up to 26 years old to stay on their parents' policies.

There are some controversial provisions and proposals. One is don't ask, don't tell. The other is the DREAM Act. First, the minority or anyone has the right to move an amendment to take out or change provisions with respect to don't ask, don't tell. I would disagree with that and oppose that, but that is something that can and will happen and will engender a very strong, positive debate. The other issue is the DREAM Act. I think that has a significant connection to this bill because that is one of the ways in which a youngster who came to the United States—not by his or her choice but because of a family choice—under 16 years of age who later joins the military, and who serves honorably, can be put on a path to eventually become a citizen. That has a strong nexus to this bill. But that issue has to be proposed on this legislation and voted for by a majority of Members.

So we are here simply to begin an important debate and discussion to support our men and women in uniform across the globe, and their families. To deny at least the initiation of such a debate seems to be exactly contrary to why we should be here, which is to support our military, to debate difficult issues, and then to take votes up and down to decide the policy of the United States.

With that, I urge all my colleagues to support this motion to proceed to the bill.

Mr. President, I yield any remaining time I have back to the chairman of the committee.

The PRESIDING OFFICER. Who yields time?

Time will be charged equally.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I will yield myself just a minute and a half. I would ask that the Republicans have their speaker—if they are going to be using their time—to come immediately after me; otherwise, it would not be fair for us to be using up all of our time in advance.

Mr. President, this morning a number of Republican Senators stated they would support the current filibuster of this bill because they were afraid that if we take up the bill, we are going to have a closed process that would limit their ability to offer amendments. The majority leader has addressed this issue. He specifically said last Thursday that he is "willing to work with Republicans on a process that will permit the Senate to consider these matters and complete the bill as soon as possible." He is very clear on this. He is not trying to prevent other amendments from being offered. However, there are not going to be any amendments, there is not going to be any opportunity to vote on any amendments unless we get 60 votes to overcome the current filibuster and proceed to the bill. It makes no sense for Senators to