

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—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