

Fordham International Law Journal

Volume 35, Issue 6

2012

Article 7

A Conversation with United States Senator Jim Webb

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REMARKS

A CONVERSATION WITH UNITED STATES SENATOR JIM WEBB*

*Jim Webb***

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* “A Conversation with United States Senator Jim Webb” was an event hosted by the *Fordham International Law Journal* at Fordham University School of Law, Lincoln Center, on March 19, 2012. Senator Webb delivered remarks and later took questions from the audience. The following is a transcript of the event. Citations have been added.

** Jim Webb presently serves as the senior senator from Virginia.

As a combat Marine in Vietnam, an attorney, a senior defense department official, an Emmy-award winning journalist, a filmmaker, and the author of nine books, Senator Webb has maintained a lifelong commitment to protecting America's national security interests, promoting economic fairness and social justice, and increasing the accountability of government.

On his first day in office, Senator Webb introduced a comprehensive 21st Century G.I. Bill for those who have been serving in our military since 9/11, and within 16 months had guided the most significant veterans legislation since World War II through both houses of Congress. Along with US Senator Claire McCaskill of Missouri, he created the Commission on Wartime Contracting in Iraq and Afghanistan, with responsibility for bringing accountability for fraud, waste, and abuse brought about by the often-unsupervised contract processes in Iraq and Afghanistan. Long dedicated to reforming our criminal justice system, Senator Webb also designed and chaired a series of committee hearings and conferences to examine the issues of mass incarceration and policies toward drugs. He has become one of the strongest voices in Congress on the need for a top-to-bottom restructuring of the criminal justice system.

In the Senate, he has remained an active voice on military, veterans, economic, and foreign affairs through his membership on the Armed Services, Foreign Relations, Joint Economic, and Veterans' Affairs committees. With long experience overseas that predates his time in the Senate, particularly in Asia, Senator Webb now serves as chairman of the Foreign Relations Subcommittee on East Asian and Pacific Affairs. He also serves as the chairman of the Armed Services Personnel Subcommittee.

INTRODUCTION

Karen Greenberg (Moderator):

Today we should really be thanking the *International Law Journal* at Fordham Law School for having the idea of inviting Senator Webb and the Center for National Security, which I direct and who joined in on the coattails of the students' initiative, so we want to bring them together and welcome you.

I am going to say a few words of introduction and then I will leave the rest of the afternoon to Senator Webb who will speak to you and then he will take some questions and answers before he leaves. So, feel free to think about what you want to ask ahead of time.

I think probably Senator Webb doesn't need the greatest of introductions. He has had an illustrious career in which year after year, post after post, national security has been at the heart of what he has done. He was a Marine combat troop in Vietnam. He was the Secretary of the Navy. He has been a consistent consultant to Congress on issues related to Veterans Affairs. He has served as a journalist covering war zones, he has written I think nine books, two of which I have read, not all nine, but enjoyed. They are basically historical fiction with serious attention to national security issues. He is interested in the foreign policy dimension. He is interested in the domestic institutions and whether or not they widely can handle national security. He serves on the Senate Armed Services Committee, the Senate Foreign Relations Committee, the Veterans' Affairs Committee, and the Joint Economic Committee.

He has recently been called by the *Atlantic* as the person in Washington who should be considered the "headmaster" of US foreign policy.¹ So, without further ado, let me introduce you to United States Senator Jim Webb.

1. Steve Clemons, *Webb to Hot Head Senators: Cool It*, ATLANTIC, Mar. 9, 2012, <http://www.theatlantic.com/politics/archive/2012/03/webb-to-hothead-senators-cool-it/254239>.

REMARKS

Senator Webb:

Thank you very much. It's a pleasure to be here with you today. As I was coming in here today there were five or six different billboards saying, "A Conversation with Senator Webb." I fully intend this to be a conversation today. I didn't come with a set of prepared remarks and what I wanted to do was spend fifteen or twenty minutes talking about what we have been doing since I have been in the Senate and then encourage a full exchange of ideas and opinions here.

First, I bring you greetings from your fellow Jesuit law school to the South–Georgetown—from which I graduated many years ago. Although I once said that I would rather have spent three more years in Vietnam than go to Georgetown Law School again. My wife Hong is here and she graduated from your fellow New York law school to the North – Cornell – and actually was on the same Law Review that has sponsored this discussion today. My youngest daughter, Georgia, is here and we hope she will continue to play her computer game or this conversation will unwind.

I can't not point out my appreciation to Ashleigh Owens who worked so hard to put this event together. She was recently graduated from undergrad and did great work for us during our campaign. She has gone on to become the editor of the *International Law Journal* here. We were talking about our election in the reception before we came down here, and she said you know we just had a recent vote. I said we probably have the margin of my own victory in the room here today and she contributed to that. We started off thirty-three points behind. I had no money and no staff. I announced for the Senate nine months to the day before the election. Instead of debating one bill or another or getting tangled up in these unproductive finger-pointing discussions, we laid out what I believe were the three major challenges thematically facing our country. We stayed with it throughout the campaign. People started listening. We had a tremendous number of volunteers who came to join us.

I am very proud that whatever else we have done in the United States Senate, that on my staff we have focused the time

during those years on those same three principled themes that challenge our country. Two of the three are directly related to the conversation today and the second one is indirectly related.

What I would like to do in the opening set of remarks here is to talk about those three themes and to explain as best I can the approaches we have taken on them and then just open it up for questions. What I said six years ago was that we must get back to reorienting our national security policy, our foreign policy, in a way that is productive to our national interests around the world. We have to work to restore economic fairness and social justice in this country because it's breaking us apart. And thirdly, that we have to see a reassertion by the Congress of its traditional power in terms of balance of power between the Presidency and the Congress – the executive and legislative branches of government.

I. *Reorienting Our National Security*

With respect to our national security policies—even though I am very proud to have served in Vietnam as a Marine infantry officer, I'm very proud that my son served in Iraq as a Marine enlisted rifleman and my son-in-law is just back from his fourth tour, as an infantry sergeant—I was warning early on that I believe that the strategy behind the invasion of Iraq was flawed. And one of the principal points I laid down in many writings, even before I decided to run for the Senate, was that we do not need to be and should not be an occupying power in that part of the world.² There are better ways to address issues of international terrorism and our interests than to become an occupying power. I say, regrettably, we are paying some of the inevitable consequences of these long-term occupations presently. That does not take away from my appreciation for the tactical competence of our military, but I do believe that we need still to seek a different way.

It's a little bit different when you are in the Senate than it is when you are in the outside writing editorials. Most of you are law students—there is a term in negligence law called

2. See, e.g., James Webb, Editorial, *A New Doctrine for New Wars*, WALL ST. J., Nov. 30, 2001, at A14; James Webb, Editorial, *Heading for Trouble: Do We Really Want to Occupy Iraq for the Next 30 Years?*, WASH. POST, Sept. 4, 2002, at A21.

assumption of duty. If you are walking past a pond and someone is drowning in the pond you have no obligation to help them, but once you attempt to help them you do have a duty and you're held to a standard. I believe that has been one of the principal focuses in the past several years in terms of how we readjust our position in that part of the world. We can't abruptly change a policy that has been undertaken without certain consequences but we do need to reorient the way that we have been involved in that part of the world. Over the last ten years different methods have been tried and I think we need to work toward a different way of doing this.

Also with respect to our national security and foreign policy, I have spent a good part of my life in and out of East Asia: first as a young Marine many years ago, but subsequently as a journalist, as a business consultant, and as a novelist. I decided early on that it was very important for the future of the United States that our strategic posture reflect the overwhelming interest that we have in East and Southeast Asia. There is a tendency in the United States Congress because you are hit with so many different issues every day, to have boiled down our interests in East Asia to the relationship with China, and on a good day maybe talk about Japan, without really taking into account the enormous growth that has taken place in Southeast Asia. We have had two components with respect to our security interests in East Asia. The first has been the stability of Northeast Asia. If you look at the Korean Peninsula, it is the only place in the world where the direct interests of Russia, China, Japan, and the United States directly intersect. And over centuries, that region has become successively volatile, depending on whether one of those three other countries has assumed an unequal position as it relates to the stability of the region. The presence of the United States since World War II, despite the flare ups in Korea and despite the long war in Vietnam, has served as the guarantor of stability in that part of the world. You cannot have stability in the rest of East Asia and Southeast Asia if you do not have stability in Northeast Asia.

At the same time, our interests in East Asia are not simply the relationship that we have with China. Look at the countries of ASEAN—there are ten countries in ASEAN—they comprise about 650 million people of varying political systems and varying

economic systems.³ They are very strongly emerging in terms of their partnerships with the United States, their economic growth, and, quite frankly, the changes in the system of government that we are seeing. I decided early on that from our staff perspective, and from my position on the Senate Foreign Relations Committee, where I now chair the East Asia Subcommittee, that we would focus on six countries in East Asia—not to the neglect of the others, but because this is where the energy that we put into these relationships can actually magnify our relationships regionwide. They were Japan, Korea, Vietnam, Thailand, Singapore, and the emerging situation in Burma, or as some people say Myanmar. I have spent a good bit of time in all of those countries.

In 2009, after seven months of very careful preparation, I became the first American leader to visit Myanmar in about ten years. I still remain the only American leader who has ever met with General Than Shwe, who was the leader of the military junta in 2009. I also met with Aung San Suu Kyi.⁴ And I also, incidentally and not by design, was able to remove this individual John Yettaw, who had been arrested trying to save Aung San Suu Kyi—he paddled his way up a lake into her backyard and was imprisoned at the time.⁵

I have spent a good bit of time on our relationship with Japan, and particularly with respect to our basing system, which is undergoing a transformation in Japan and Okinawa. It is kind of ironic when I look at this issue. I first worked on an analysis of our basing systems in East Asia in 1974, when I was a student at Georgetown Law School and did an analysis of all military bases in the Pacific and how we could reorient them in terms of our national strategy.⁶ The interests that were in play then are still in

3. The ten countries comprising ASEAN are: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Vietnam. See *ASEAN Member States*, ASEAN, <http://www.aseansec.org/18619.htm> (last visited July 1, 2012).

4. See Press Release, U.S. Senator Jim Webb, Statement on “Historic Steps” in Bringing Burma Back to International Community, Jan. 13, 2012, available at <http://webb.senate.gov/newsroom/pressreleases/2012-01-13.cfm>; see also Patrick Winn, *Sen. Jim Webb Breaks the Ice in Burma*, CHRISTIAN SCI. MONITOR, Aug. 17, 2009, at 90.

5. See Karen DeYoung, *Webb Visit May Offer Opening with Burma; Junta Agrees to Free Imprisoned American*, WASH. POST, Aug. 16, 2009, at A1.

6. See JAMES H. WEBB, *MICRONESIA AND U.S. PACIFIC STRATEGY: A BLUEPRINT FOR THE 1980S* (1974).

play today. The basing system transition that we are making really needed some strong examination from the Congress, so we have participated in this. It is a vital issue not only for the relationship between the United States and Japan, but for the stability of our presence in that part of the world and for the stability from their perspective of their region.

I have spent time in Korea. I was one of the Democrats who took an early lead in encouraging the passage of the Korea Free Trade Agreement.⁷ There were a lot of members of the Democratic Party who were hesitant about the Free Trade Agreement because of labor issues and the impact they thought might happen on our manufacturing sector. We passed this agreement and I think it is going to be very healthy, not only for our relationships, but you can flip it around the other way and imagine what the impact would have been in Northeast Asia with all of the volatility right now in North Korea if we had not passed the Free Trade Agreement. We have done a number of other issues over there, but I'll just leave that as an abbreviation for now. The recent announcement by the administration that our strategic position around the world was going to be recalibrated into East and Southeast Asia—I forget the exact terminology that they used—it's not a new thing. It is probably the most important strategic presence for us, looking into our future.

II. *Economic Fairness and Social Justice*

We spent a good bit of time on the campaign trail and since talking about issues of economic fairness and social justice. I had an experience on the campaign trail which affirmed something that I've long believed, and that is we really have to reorient our criminal justice system. Back in the 1980s, I was the first American journalist who was allowed to go inside the Japanese criminal justice system. I spent a month doing a piece about Americans in Japanese prisons⁸ It really struck me in terms of the way the Japanese did prison management, the way that they did sentencing, the way that they had pretty much reduced the

7. Free Trade Agreement Between the United States of America and the Republic of Korea, U.S.-S. Kor., Mar. 15, 2012, *available at* <http://www.ustr.gov/trade-agreements/free-trade-agreements/korus-fta/final-text>.

8. James Webb, *What We Can Learn from Japanese Prisons*, *PARADE*, Jan. 15, 1984.

size of the career criminal population in their country, and the fact, which was stunning, that at that time in the 1980s, they had 40,000 people in prison in the entire country, which had half our population. At that time we had about 580,000, as I recall in our country. By the time I was running for the Senate, we had 2.38 million people in prison in the United States and, you know something? Nobody feels any safer than they did a year ago. There are two factoids you can see consistently on this issue. The first is we put more people inside the criminal justice system than virtually any other country around the world.⁹ There are seven million people involved in the criminal justice system, either incarcerated or under supervision. And, at the same time, poll after poll shows that the majority of people in this country feel less safe in their own neighborhood than they did a year ago.¹⁰ So we are clearly doing something wrong. This isn't a political question, this isn't a soft on crime question, it's basically a leadership question. How can we fix the system?

I was able to do two and a half years of hearings, with the assistance of Senator Chuck Schumer, who at that time chaired the Joint Economic Committee. I was not on the Judiciary Committee; I would like to have been on the Judiciary Committee, but the leadership asked me to be on another committee. I was trying to figure out how can I get hearings on this issue when I'm not on the Judiciary Committee? I was talking to Chuck Schumer one day and I said, "You know this Joint Economic Committee, would you let me hold a hearing on the economic consequences of mass incarceration?" He said "Good idea. We can hold a great hearing on the economic side of that issue."¹¹

How about the economic consequences of the way we handle drug laws in the United States? We had another great

9. See LAUREN E. GLAZE, BUREAU OF JUST. STAT., NCJ 236319, CORRECTIONAL POPULATION IN THE UNITED STATES, 2010 (2011); *Entire World—Prison Population Rates per 100,000 of the National Population*, Int'l Centre for Prison Stud., http://www.prisonstudies.org/info/worldbricf/wpb_stats.php?area=all&category=wb_poprate (last visited July 1, 2012).

10. *Most Americans Believe Crime is Worsening*, GALLUP, Oct. 31, 2011, <http://www.gallup.com/poll/150464/americans-believe-crime-worsening.aspx>.

11. *Mass Incarceration in the United States: At What Cost?*, Hearing Before the Joint Economic Committee of the U.S. Congress, 110th Cong. (2007).

hearing.¹² George Mason University Law Center sponsored a full-day symposium on the issue of how we handle drug laws in the United States.¹³ Dr. Alan Merten, who is the President of George Mason came to this supposedly to wrap it up and he couldn't get people to stop talking—people from both sides. He said, “This is one of the most incredible things I've ever seen.” People who had not been talking directly to each other on this issue for years were now engaging in trying to figure out a way that we can do a better job.

We spoke a lot about a growing economic inequality in this country on the campaign trail. First, I was looking at what had been said about there being two Americas. But it was very clear to people who were looking at this that there were not two Americas, there were three Americas. People at the very, very top have grown further and further away, based on a lot of different variables, but part of it being our tax laws, quite frankly, to the point where we really are in danger of having a fractured and totally separated society.

When I was allowed to give a State of the Union response to President Bush's State of the Union message in 2007,¹⁴ I put that issue first. When I graduated from college in 1968, the average CEO made twenty times what the average worker made, and by the time I was running for the Senate, the average CEO was making 400 times what the average worker made.¹⁵ At the same time, I have been very consistent and unyielding on the notion that we should not raise taxes on ordinary earned income. I don't care what you make. If you're a doctor and you're making a million dollars a year, if it's ordinary earned income, we shouldn't be raising taxes on that.

Everyone in this country has, and should have, the opportunity to accumulate wealth. The problem that we have in this country, in my view, is that we are not taxing income that is made off of accumulated wealth: capital gains, dividends. We're

12. *Illegal Drugs: Economic Impact, Societal Costs, Policy Responses: Hearing Before the Joint Economic Committee of the U.S. Congress*, 110th Cong. (2008).

13. Symposium, *Drugs in America: Trafficking, Policy and Sentencing*, George Mason Univ. School of Law, Oct. 15, 2008.

14. Senator Jim Webb, Democratic Response to the State of the Union Address (Jan. 23, 2007).

15. *Hot Topic: Are CEOs Worth Their Weight in Gold?*, WALL ST. J., Jan. 21, 2006, at A7.

taxing those at fifteen percent while we're taxing ordinary income as much as thirty-nine percent. Warren Buffett made this point.¹⁶ He made it very clearly. I think he was misrepresented by some of the Democratic leadership in terms of how he was trying to draw that distinction. This is an issue that I think is going to become a more dominant issue as more Americans understand it. I'm just going to leave it at that. But it's something that we really do need to look at in terms of overall fairness in our society.

III. *Reestablishing the Balance Between the Legislative and Executive Branches*

In terms of the balance between the legislative and executive branch, let me just start with this: I spent four years as a committee counsel in the Congress once I had finished law school, and it was a different Congress then. The way that Members of Congress asserted their constitutional powers was different than it was even from the time I was in the Pentagon in the 1980s and especially once I returned as a member of the United States Senate five years ago. The nature of oversight of the executive branch is different, and since 9/11, there has been a very strong accretion of power over to the executive branch. I don't think that Congress has done what it should in order to regain the necessary balance that has always protected our system. This is not a Republican issue; it is not a Democratic Party issue. It is an issue that needs to be addressed by both parties and by the legislative branch, itself. You get so busy in the Congress, and quite frankly the people who are running for reelection end up burning so much time fundraising that we don't focus enough on the relationship between these two branches.

I will give you two examples with respect to the current administration. The first regards the Environmental Protection Agency — environmental laws, climate change, and those sorts of issues. I have on many different occasions worked to make sure that we do not yield too much power to the EPA as they make these decisions. In fact, when President Obama went to

16. Warren E. Buffett, Editorial, *Stop Coddling the Super-Rich*, N.Y. TIMES, Aug. 14, 2011, at A21.

Copenhagen a few years ago for the climate change hearings, he issued a statement saying that his intention was to return from this meeting with a legally binding agreement, and I was the only member of the United States Congress who wrote him a letter—"In all due respect...", and I do respect him, saying that "as President, you do not have the power to bind the United States to an international agreement of this sort, only the Congress can."¹⁷

We see this most predominantly in foreign affairs. This was an issue that I and others raised many times with the Bush Administration with respect to the way that it proceeded forward, particularly in Iraq. The Congress would pass a piece of legislation or authorization, and the President, the executive branch, would come back with its own set of findings, presidential findings, and they were often completely contradictory. Even with the congressional authorization to go to war in 2002, which preceded my time in the Senate, the Bush Administration wrote a letter back to the Congress saying, "I appreciate very much your authorization but by the way, the Constitution doesn't require that I honor your obligation. I'm doing this because I want to."¹⁸ This has been a repetitive theme in the executive branch. It has also been a repetitive theme with the present administration. I think one of the most troubling issues today in terms of the balance between the presidency and the Congress regards the manner in which the administration unilaterally and continuously conducted military operations in Libya. I raised this issue early; I went to the Senate floor on it.¹⁹ The logic given by the administration for doing this was

17. Letter from Jim Webb, U.S. Senator, to Barack Obama, President of the United States (Nov. 25, 2009), *available at* <http://webb.senate.gov/newsroom/pressreleases/2009-11-25-03.cfm>.

18. At the signing of H.J. Res. 114 the authorization for use of force in Iraq, President Bush noted that while he had sought and was grateful for the "resolution of support" from Congress, that his request for it and subsequent signing of it did not "constitute any change in the long-standing positions of the executive branch on either the President's constitutional authority to use force to deter, prevent, or respond to aggression or other threats to US interests or on the constitutionality of the War Powers Resolution." Statement on Signing the Authorization for Use of Military Force Against Iraq Resolution of 2002, President George W. Bush, Oct. 16, 2002, *available at* <http://www.presidency.ucsb.edu/ws/index.php?pid=64386#axzz1zV5nM41W>.

19. CONG. REC. S3617 (daily ed. June 8, 2011) (statement of Sen. Jim Webb for himself and Sen. Bob Corker).

essentially that our government has, or our president has, the power to introduce military force for humanitarian reasons. Think how vague that term really is. This was not a situation where there was a treaty obligation directly to be met. It was not a situation where Americans were under attack or where Americans were being held hostage, or a retaliation for an attack that had taken place on American military people, as was the case in 1986 with respect to Libya when we did a retaliatory raid. It simply was based on humanitarian concerns. We can argue about the War Powers Act.²⁰ I think there are strong reasons to say that the War Powers Act per se should not be held constitutional if you read it very carefully. But, at the same time, there was no agreement from the administration that they had any requirement at all to come to the Congress for the authorization of continuing use of force. They went on for a month, and then after a month they basically said, "We don't have American troops on the ground, and if we don't have American troops on the ground, then we have the right to continue these types of operations without the agreement of the United States Congress."²¹ That is not the way that I think our government should work.

So, again, I think one of the things that I feel the best about from my time in the Senate is we said what we believed we were going to work on, we worked on them, and I think we have brought some measurable results to our country at the end of this period. There are a lot of issues that you are required to vote on. There are a lot of procedural issues in the Senate that you wish you could have had more input in, but that is also the nature of the beast. So, with that, I think I am going to stop and take questions.

QUESTIONS & ANSWERS

Audience Question:

My question is concerning Okinawa. What would be a reasonable response for the civilian phase-in of the base during this relocation in regards to the military's assumption of duty as

20. War Powers Resolution of 1973, 50 U.S.C. §§ 1541–1548 (2006).

21. See Scott Wilson, *Obama Says Hill's Approval Not Needed for Libya Action*, WASH. POST, June 16, 2011, at A1.

well as the humanitarian responsibility to clean up the base for a civilian repatriation?

Senator Webb:

The question regards the Okinawan basing system and the repatriation to the civilians. I think that you're probably referring to Futenma? Let me be as precise as I can and still answer your question.

There are several issues on Okinawa with respect to bases. The first is that the United States and Japan have agreed to relocate a number of bases to the less populated northern parts of the island. The second is that there was a proposal to move 8,000 Marines from Okinawa into Guam, which is actually something I had proposed many years ago. The difficulty was—from the perspective of myself and some others—they were doing this in a way that was not cost-effective or timely in their proposal. The 8,000 was actually going to be more than 20,000 Americans because they were going to be bringing dependents, putting in infrastructure, and schools, medical, roads, housing, et cetera, which isn't really compatible—let's talk about Guam first—with an island that's only 208 square miles. I think they could do it in a different way with what we call deployable, rotating units.

So before we got to Futenma, we had a big question about how the Guam relocation was going to fit into it. The difficulty with Futenma, just for people who haven't followed this, is that the proposal from the United States and Japanese national governments was to relocate this helicopter facility, which is now in the middle of a populated area that's grown around it, up to the far north of the island and to construct an offshore landing facility at huge cost. It would take probably ten years and cost billions and billions of dollars to do this. The negotiations bogged down because people up there didn't want to see this and the cost was so high. But, at the same time, there are big questions with respect to Futenma, itself, because of the potential for helicopter crashes and this sort of thing. In terms of repatriation, I think that is a Japanese national issue in terms of actually allowing people to move in there. Once these issues are resolved I think you can address the Futenma issue in terms of how the Okinawan people can move back into the facility.

Our proposal last year—I made two different trips, the second one with Armed Services Committee Chairman Carl Levin—was that you could take the Marine Corps aviation assets and put them in Kadena Air Force Base, which is a large air force base. It's 11,500 acres and, quite frankly, there is a place we could put the Marine Corps aviation units. At the same time to reduce the whole overall footprint even at Kadena, you could take some of these Air Force units and moving them to Guam and other places. When we first proposed this, I think there was some misunderstanding with Okinawans who thought we were saying to increase the activities on Kadena. I and my staff have met with at least forty groups from Japan and Okinawa over the last year to discuss this, and I think we have some pretty good understanding now, and some support for doing it. The first question is how you're going to reorient all these bases in a way that reduces the American presence and still keeps us viable in Okinawa, and then the second question would be about the terms of repatriation into Futenma. Just parenthetically, I'm not aware of any contamination issues on Futenma. That doesn't mean that they wouldn't be there, but it hasn't been addressed.

Audience Question:

Senator Webb, thanks a lot for all of your work on the Post-9/11 G.I. Bill.²² It has allowed a lot of people to attend institutions like Fordham. And my question has to do with the recent tragedy as we all know is indicative of a real heavy stress load on active duty and reservists. What do you think we can do better to take care of our veterans, number one, and number two, how does this impact the emergence of some kind of mechanism to mediate the drawdown effectively in Afghanistan, from Afghanistan, the way that the Sunni awakening did in Iraq?

Senator Webb:

The question is about Afghanistan, the recent incident and, by the way, thank you for your comment about the G.I. Bill. I probably should have mentioned that. That was a great day for

22. Post-9/11 Veterans Educational Assistance Act of 2008, H.R. 5740, 110th Cong. (2008) (codified as amended in 38 U.S.C. §§ 3301–3324).

me. I have said well before I even decided to run for the Senate that people who have been serving since 9/11 should have the same opportunity for the future as those who came back from World War II. The Vietnam people didn't get this kind of a G.I. Bill. They got a flat monthly stipend. I wrote that bill before I was sworn in, legislative counsel and myself. I introduced it on my first day in office, and it was not an easy lift getting that through. A lot of people don't realize that. A lot of things look good in retrospect; we had opposition from the administration and a lot of the key people in the other party on this. They thought that it was going to reduce retention in the military. But when you look at the models and some of the data, I was able to convince them that you're going to increase your recruitment when you have a benefit like this. It's a great G.I. Bill, and it was a great day for me when it was passed. I think we have pretty close to one million veterans who have now been able to take advantage of this G.I. Bill.²³

With respect to the situation in Afghanistan and the wear and tear on our troops, the first thing I would say, very carefully, is we do not want one incident to be the complete indicator of a change in policy. At the same time, we do have to recognize that I think our policies have contributed to the emotional wear and tear of the people who have served. The first major amendment that I introduced in the Senate was called the "Dwell Time" amendment.²⁴ A lot of people forget this. Right about this time in 2007, the Chief of Staff of the Army called me and told me that they were going to go to fifteen-month deployments with twelve months at home. For those of you who haven't served in the military, the traditional dwell time in between deployments, throughout my lifetime, has been two-to-one. For every year you're gone, you get two years back. If you're in the Navy and you're deployed six months, you get a year back. I told him, "I cannot believe you are going to accept that order. If you're going down to about a .75 dwell time, your troops are going to

23. See Press Release, Senator Jim Webb, Post-9/11 G.I. Bill Has Helped More Than 745,000 Veterans (June 29, 2012), *available at* <http://webb.senate.gov/newsroom/pressreleases/2012-06-29.cfm?renderforprint=1>.

24. Amendment to Specify Minimum Periods Between Deployment of Units and Members of the Armed Forces Deployed for Operation Iraqi Freedom and Operation Enduring Freedom (Dwell Time Amendment), S. Amdt. 2011 to H.R. 1585 (National Defense Authorization Act for Fiscal Year 2008), 110th Cong. (2007).

end up being overseas more than they're home." Then when they're home, they're not "*home* home." You come back from your deployment, and you get block leave. Then you go right back into training again. You've got to refurbish, train for the next deployment, get up and go again. Having worked on the Veterans' Committee years ago, looking at the post-traumatic stress issues of the Vietnam veterans—we did a lot of pioneering work on that—I have been concerned since that time that we are wearing out our troops. The "Dwell Time" amendment failed. I had it on the floor twice. We got filibustered both times. We got fifty-six votes each time.²⁵ There were people that were saying to me: "This is unconstitutional, that there can only be one Commander in Chief, that Congress can't say how long you can deploy somebody."²⁶ All we said on this "Dwell Time" amendment was "however long you've been gone, you get that much time back before you go again." You can waive it if you want, but if you've been gone a year, you should get a year back. There's no politics in this at all.

Is it constitutional? My view, and one of the points I made on the Senate floor,²⁷ was that if you go back to Korea, when the Korean War began, it was called a stop-start war. People hadn't predicted it. We had to get people over there quickly. We had people who were deployed to Korea who were learning how to fire a weapon on a ship on the way over. The Congress stepped in and said, "You cannot deploy any military person unless they

25. Amendment to Specify Minimum Periods Between Deployment of Units and Members of the Armed Forces Deployed for Operation Iraqi Freedom and Operation Enduring Freedom (Dwell Time Amendment), S. Amdt. 2909 to S. Amdt. 2011 to H.R. 1585 (National Defense Authorization Act for Fiscal Year 2008), 110th Cong. (2007) (Record Vote Number 341, required 60 votes in the affirmative, Yeah-Nay Vote: 56-44); S. Amdt. 2012 to S. Amdt. 2011 to H.R. 1585 (National Defense Authorization Act for Fiscal Year 2008), 110th Cong. (2007) (Record Vote Number 241, required 60 votes in the affirmative, Yeah-Nay Vote: 56- 41).

26. See Jill Zuckman, *Dems Rally Behind Rest for GIs*, CHI. TRIB., Sept. 19, 2007, http://articles.chicagotribune.com/2007-09-19/news/0709180976_1_webb-amendment-sen-warner-iraq (quoting dissenting Sen. John McCain as saying:

The Constitution of the United States gives no authority for the Congress of the United States to set lengths of tour or lengths of duty in the military, and I hope we will steadfastly reject this kind of micromanagement, which would create chaos in the personnel system in the armed forces of the United States.).

27. 153 CONG. REC. S18045 (daily ed. June 29, 2007) (statement of Sen. Jim Webb).

have been in the military for 120 days.”²⁸ It’s a safety net. It’s a way that the Congress can step forward: these are the American people we’re turning over to you, our military leaders, in stewardship. We have a right to put a floor under this.

We failed both times. My point on the floor was there is no operational policy at all that should dictate that you can drop your troop rotations as a matter of policy lower than one-to-one. So, we have been working on this for a long time.

With respect to the readjustment that needs to take place in our troop levels in Afghanistan, I go back to what I said in my opening statement about the assumption of duty. We have to do this in a way that does not create an abrupt destabilization. Quite frankly the model has not worked. The model that we tried in Iraq has not worked. We won the Iraq War in about a month, and then we went through this bitter, bitter occupation trying to separate out sectarian interests, constantly in the middle of it. My son was in Ramadi through some of the really tough fighting during that period. The Afghanistan model, I deferred to General Petraeus and others when they presented this notion. You even have Karzai saying now they don’t want American troops out in the villages.²⁹ Well, that’s what they are there for right now. They’re there, ostensibly, to create the capability of the Afghan National Army to fight. When General Petraeus testified on this a couple of years ago, one of the comments that I made was that the largest Afghani national army before this period was about 80,000, as I recall. We are building a national army, police force up to about 350,000, somewhere up there.³⁰ At the same time, you’re doing this in a

28. Universal Military Training and Service Act of 1951, Pub.L. 82-51, 65 Stat. 75 (codified as amended 50 U.S.C. § 454(a) (2006)) (“Every person inducted into the Armed Forces pursuant to the authority of this subsection . . . shall, following his induction, be given full and adequate military training for service in the armed force into which he is inducted for a period of not less than twelve weeks, and no such person shall, during this twelve weeks period, be assigned for duty at any installation located on land outside the United States, its Territories and possessions.”).

29. See Yaroslav Trofimov & Julian E. Barnes, *Karzai Demands U.S. Troop Pullback: Afghan Leader Wants Troops Out of Villages; Washington Says It Won’t Alter Plans*, WALL ST. J., Mar. 16, 2012, <http://online.wsj.com/article/SB10001424052702304692804577283134169463996.html>.

30. *Nomination of General David Petraeus to be Commander of the International Security Assistance Force and Commander of U.S. Forces Afghanistan: Hearing of the Senate Armed Services Committee*, 111th Cong. (2010) (question by Sen. Jim Webb, D-Va.) (“Can the

country whose governmental systems are not really top-down. The central government has not historically been able to control, in a way that we understand the word control, events spilling out into the local governments. So we are betting our success on two elements we really can't control. Can you get a viable national government? Can you really grow your national army/police force up to that number in that kind of a society?

I think there are better ways to address the issue of international terrorism. I actually wrote a piece on this on 9/12, right after 9/11, saying if you want to address the issue of international terrorism, you have to understand that it is *deliberately* not a part of any governmental system; it works the seams between governmental systems and you have to fight them with maneuverability.³¹ One thing I said in that piece was do not occupy territory, do not turn the best maneuvering forces in the world into static defensive forces.³² So, I think we have to adjust. I think it's in our national interest to adjust. The way that we do it is going to be very important.

Audience Question:

The question I have for you is—speaking of the Western Pacific—with the proposed draw down of our forces, do you feel that we are going to have the forces, specifically, naval forces, to meet our obligations in the Western Pacific? I remember when, of course, when you resigned as Secretary of the Navy over the 600-ship issue, and believe me I was, we were all in your corner at that particular time, so with what you've been talking about with shipping in the West Pac now, and on the other hand talking about conservatives drawing down our forces. How do you think we are going to be capable of doing that?

Senator Webb:

Afghanis really put together a viable national government? Can they really grow to 400,000, which I assume is still the goal when you combine the national police force with the national army, which is probably five times as high as what any viable Afghan National Army before, on a national level, has ever reached?").

31. Jim Webb, *The War on International Terrorism: Where Do We Go From Here?*, Sept. 13, 2001, available at <http://www.jameswebb.com/waronterrorism-wherefromhere.htm>.

32. *See id.*

So the question is can we really adjust in terms of energizing our presence in the Western Pacific.

There are two dynamics to it. The first is the size of our ground forces. I think what we are seeing here is an historical pattern – you and I both lived through it – where we have extensive ground combat, we grow our ground forces to match the sustainability that is required. The classic example of that is the Marine Corps when we were in Vietnam. It was 190,000 and went up to 307,000 people, then had to be brought back down after Vietnam.³³

We are seeing, hopefully, the right kind of drawdown from Iraq and Afghanistan. We don't need to be in Syria and a few other places. If you look at the numbers for the Army and the Marine Corps that they are projecting in the drawdown, they are actually a little bit above what they were at 9/11. We tend to look at the size being reduced, but they're still a little bit above what they were at 9/11. That doesn't trouble me—I think that is an inevitability—the other part of it does.

You are correct, when I was commissioned in 1968 we had 930 combatants in the United States Navy, you can't do that, this is not apples to apples here. We went from 930 down to 479 in the post-Vietnam drawdown. We got it up to 568 by the time that I was in the Pentagon. We're now about half that, we're at about 286 as I recall. We have a commitment from Secretary Panetta during his confirmation hearing that he supports the build-up to 313 ships. There are different kinds of ships; the submarine force is less. But we really need to do that. We need to work to increase the force structure of the Navy in a very tough environment. Can we? I don't know. I have been a voice on this and I feel strongly that we should, but we'll see.

Audience Question:

Senator, my question is about drone strikes on U.S. citizens, and statements from Attorney General Holder from a week ago.³⁴ Do you think this is something that breaks purely across

33. THE OXFORD COMPANION TO AMERICAN MILITARY HISTORY 418 (John Whiteclay Chambers II ed., 1999) (noting that the active duty Marine Corps troop numbers were 190,000 before and after the Vietnam War).

34. Attorney General Eric Holder, Address at Northwestern University School of Law on Targeted Killings (Mar. 5, 2012), *available at* <http://www.justice.gov/iso/opa/>

constitutional concerns or do you think there is some kind of balancing test as to whether or not the government can use that power. And if so on the balancing test, who should be in charge of making that call, the legislative or executive branch?

Senator Webb:

I think you're making one of the key points when it comes to the future use of military force: first of all *when*, and second of all, *who* is brought into not only the decision-making process, but the information process. I have great concerns about that. Not simply with the issue that you are raising, which is a valid issue. When should a small element of the United States executive branch be able to decide that they are going to conduct an execution of a United States citizen? I think it's a very troubling point and there are others. If you look at the situation in Libya, you see how, because of the fact that there weren't American military on the ground in Libya, it's a different ballgame when you talk about the accountability of the executive branch and the attention span of the Congress.

I think the Congress should be living up to a much higher standard when it comes to participating in those issues. You see it in other ways too. For instance, when we left Iraq, we signed a strategic framework agreement and a status of forces agreement, those were two separate agreements.³⁵ Now the strategic framework agreement in international law is designed to articulate the future relationship between two countries, going well into the future. We didn't get a vote on that. I was trying to ask for a vote on it. In fact, the Bush Administration couldn't actually classify the document but they put a restricted use on

ag/speeches/2012/ag-speech-1203051.html (defending the president's constitutional right to authorize lethal force against Americans who are overseas and who have joined terrorist organizations that pose an imminent threat to the United States without additional due process).

35. Strategic Framework Agreement for a Relationship of Friendship and Cooperation Between the United States of America and the Republic of Iraq, Nov. 27, 2008, *available at* <http://photos.state.gov/libraries/iraq/216651/US-IRAQ/us-iraq-sfa-en.pdf>; Agreement Between the United States of America and the Republic of Iraq on the Withdrawal of United States Forces from Iraq and the Organization of Their Activities During Their Temporary Presence in Iraq (US-Iraq Status of Forces Agreement), Nov. 17, 2008, *available at* http://photos.state.gov/libraries/iraq/216651/US-IRAQ/US-Iraq_Security_Agreement_ENa.pdf.

it.³⁶ So, you had to go into a little room and keep the door closed even to read the proposed strategic framework agreement. I will tell you, when I signed in to read that agreement, I was the only Senator who had signed in to read it. So this is a real question for the Congress. With the changes in technology and the capability to go into different places, at what point should there be an accountable measure? Of course there is another question here that you all might be thinking about, what happens when other people get drones?

Audience Question:

Thank you for speaking with us. In your opinion, is the War on Terror ever going to end? And either way, will the military keep taking the lead on it?

Senator Webb:

The question is: will the War on Terror ever end and will the military continue to take the lead on it?

I believe that there will always be some sort of threat in this regard. I think in the last ten years, as I mentioned earlier, we have looked at some different models and, I think, hopefully we have come to agree that some of these models don't work. With respect to the military, I think it's proper—and some of these threats are, by design, the type of threat that we should be using the military on. I think we're going to move more and more to special operations and forces and those sorts of things rather than these occupation forces that have been designed basically to create changes in governmental systems, which are optimistic. In terms of whether this function will continue to be civilian or military, there is also a very strong civilian role in this. Everybody

36. See Press Gaggle by Dana Perino and General Douglas Lute, White House Office of the Press Secretary, Assistant to the President for Iraq and Afghanistan (Nov. 26, 2007), available at <http://georgewbush-whitehouse.archives.gov/news/releases/2007/11/20071126-6.html> (offering a statement from General Douglas Lute providing that the Bush administration did not foresee a prospective agreement with Iraq having "the status of a formal treaty which would then bring us to formal negotiations or formal inputs from the Congress"); see also MATTHEW C. WEED, CONG. RESEARCH SERV., RL34568, U.S.-IRAQ AGREEMENTS: CONGRESSIONAL OVERSIGHT ACTIVITIES AND LEGISLATIVE RESPONSE (2008).

has a line that they draw on these issues. The line that I have drawn on this is that I do not believe that people who are detained or tried for acts of terror should be detained in the United States. I do not think they should be tried in our court systems, other than for acts that take place on American soil. I think that the downside of that in terms of expenditure of energy and our potential vulnerabilities that would occur here in the United States are not worth the upside.

Audience Question:

How are you feeling with the Iran situation, *this week*?

Senator Webb:

The question is Iran. Again, I think that the lines that have been drawn from our governmental systems are the right lines to be drawn but I don't see this week that there will be any sort of military action there. I think that when you have the former Chief of Mossad basically stating that this is a government capable of rational policy decisions, we need to do everything we can to encourage that sort of conduct from the Iranian government.³⁷ One thing that I will say about Iran that also relates to our foreign policy in other areas such as North Korea, Burma, even Pakistan, is that we really need to encourage the Chinese government to be a more active participant in solving these international problems, rather than taking advantage of them, economically, and in terms of their strategic posture. That has been a real difficult point with respect to Iran, with respect to Syria, formerly with respect to Burma, and also with respect to the Korean situation, and we'll see how that plays out. One thing that I have attempted to push very hard is the Chinese need to step up to the mat in a measureable way that correlates to the growth that they have had in their economy and other areas. They could help us a lot in Iran. They could help us a lot in Pakistan. Pakistan views China as its "number one friend."³⁸

Thank you very much.

37. See *Ex-Mossad Chief: Iran Rational; Don't Attack Now*, CBS NEWS-60 MINUTES (Mar. 11, 2012, 7:00 PM), http://www.cbsnews.com/8301-18560_162-57393715/ex-mossad-chief-iran-rational-dont-attack-now/.

38. See *Pakistani PM Hails China as His Country's 'Best Friend'*, BBC NEWS, May 17, 2011, <http://www.bbc.co.uk/news/world-south-asia-13418957>.