

seismic exploration and inventorying of oil almost all the way up to the coast. Why do they want to do an inventory for oil unless they want to drill? This is exactly the situation that the oil industry will not give up. They want to drill, drill, drill, and that has been part of our problem for five decades as we have gone through this drill, drill, drill mentality without going to alternative energy sources. That is what has led us to the point we are today—so dependent on oil—and even to the point of now importing 60 percent of our daily consumption of oil is coming from places such as the Persian Gulf, Nigeria, and Venezuela, all very unstable parts of the world.

Back to the breaking of the agreement. It was broken with regard to what we agreed to last year, that it was over and done with. We were going to protect the military mission area. That was broken yesterday in the Appropriations Committee.

Another thing that was broken in the Appropriations Committee was the fact that in our agreement, the two Senators from Florida had clearly tried to protect a \$57 billion a year tourist industry that depends on pristine beaches. Our tourism economy depends on those beaches not having oil slicks slapping up onto those pristine white sands.

Naturally, the Senators from Florida are going to protect that interest. People say: Oh, no, the spills that occur don't come from the oil rigs out there, they come from tankers. But isn't it interesting that we have so many photographs of oil rigs and oil slicks in the Gulf of Mexico as a result of Katrina raging across the Gulf of Mexico and ultimately hitting Mississippi and Louisiana? We have pictures of oil rigs that are up-ended on the shore. We have pictures of pelicans, hundreds of pelicans that are dying, covered in oil slicks as a result of that storm causing the spills from those oil rigs. Now, we don't want that in Florida. We want to protect our beaches.

It would be one thing if the geology showed there was a lot of oil and gas in the eastern Gulf of Mexico. But for the past 50 years, in the exploratory wells that have been there, there have been dry holes. The geology shows there is not that much oil and gas. Yet the oil industry never gives up, regardless of the agreements that have been made and were broken yesterday in the Senate Appropriations Committee. So it leaves no choice—no choice to the Senators from Florida. Senator MARTINEZ and this Senator will employ every available rule to us under the Senate Rules Committee to block the progress of that Energy appropriations bill as it comes to the floor.

There were representations made yesterday to this Senator and to Senator MARTINEZ that the leadership of the appropriations subcommittee will, in fact, strip out that part of the bill when it comes to the floor. I take those Senators at their word. If that is the

case, we will not have a big fight on the floor of the Senate, and we can proceed and go about appropriating the monies that we need in an energy and water appropriations bill—much needed funding for so many projects.

Mr. President, it is with a realistic heart that I have to make this speech today. So it comes to this. I will take the word of those Senators, and I will rely on their word that we won't have to engage in all kinds of parliamentary maneuvers. But if that be necessary, it will be done.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

#### FIRING OF U.S. ATTORNEYS

Mr. SESSIONS. Madam President, we have had an unfortunate event occur. The Senate and House Judiciary Committees have issued subpoenas to the President for internal personal communications with the President's own personal staff and documents related thereto in a matter unrelated to a criminal investigation. A political inquiry is all this is about. Yesterday the President had to assert executive privilege and refuse to produce a very certain, limited number of documents relating to the replacement of U.S. attorneys around the country.

I served as a U.S. attorney for 12 years. I know U.S. attorneys serve at the pleasure of the President. I know U.S. attorneys on a few occasions actually try cases and get involved in cases. I did pretty often. I tried some fairly big cases. Most U.S. attorneys in larger offices preside over the office and career assistant U.S. attorneys and FBI agents and so forth and investigate cases and prosecute them. That is the way it goes.

The reality is that they can be removed at any time by the President. It is not a congressional function to determine whether or not a U.S. attorney is removed. The Congress is involved only in the confirmation of U.S. attorneys.

The President and Attorney General Gonzales did not handle the recent resignation of 8 U.S. Attorneys very well. I believe they thought they could do it and not really have much of a reason for it, yet say they thought performance was not good. Maybe they simply wanted to replace that attorney with someone else. But U.S. attorneys have friends in law enforcement. They have friends in the local community. They have Senators who recommend them and help them get confirmed. They have clout. It became a big brouhaha. There was a big dispute about it, and various accusations were made.

I was present for the hearings before the Judiciary Committee. Frankly, most of the accusations have been proven baseless. But in explaining it all, the Attorney General and some of his staff did not do a good job. They embarrassed the Department, frankly, and fed demands for more and more and more to keep this story alive, to keep this matter going. Now we are at the point where subpoenas have been issued.

The committee issued five subpoenas on June 13. Two of the subpoenas were issued to the White House for documents to be produced on or before June 28, 2007. A third subpoena was issued by the House Judiciary Committee to Harriet Miers for both documents and testimony, for a response by July 12. Harriet Miers was a lawyer for the President. She was White House Counsel. The fourth and fifth subpoenas were issued by the Senate Judiciary Committee to Sara Taylor for documents and testimony respectively and called for a response on or before June 28 and testimony for a hearing on July 11.

This is an overreach legally. It is an overreach insofar as the traditional comity that should exist between co-equal branches of Government. Executive privilege is not a principle that should be lightly dismissed. It is a very real, legitimate principle that our Government has. What would we have next? Would we want to be subpoenaing the law clerks for Justice Stevens and Justice Ginsburg and Justice Roberts of the Supreme Court to see what those staffers told the judges before they rendered their ruling? What about Senators and our staffs? How about that?

This has not been a stonewalling by the administration on the U.S. attorneys issue. The Department of Justice has released or made available for review approximately 8,500 pages of documents. Top officials in the Department of Justice, including the Attorney General himself, the Deputy Attorney General, Paul McNulty, the Attorney General's former chief of staff, and many other officials have testified at public hearings and submitted themselves for on-the-record interviews to answer any questions. The President offered to go even further by providing Congress with additional documents, to make available for interviews the President's former Counsel, Harriet Miers; Karl Rove, his political counselor; Deputy Counsel, Bill Kelly; former Director of Political Affairs, Sara Taylor; Scott Jennings, Special Assistant to the President. All of those would be made available to be inquired of.

That was an effort by the executive branch to satisfy the curiosity of the legislative branch and to go as far and even further, maybe, in my view, than required by law. That was a genuine, generous suggestion as to how to handle this conflict between the two branches, our desire to look in there and see everything that went on and pry open the lid and probe and fish a little bit and see what we find and a legitimate right of a President to have a

staff that responds to his or her demands and gives the President unvarnished advice, pointing out problems, honestly and openly, without any expectation it is going to be on the front page of the New York Times the next day, for heaven's sake.

So I just want to say, I am sorry and disappointed our chairman, Chairman LEAHY, has utilized the power the committee gave him to decide whether to issue a subpoena or not, to actually issue subpoenas.

So now what has happened? The President said: These subpoenas go too far. Even so, I am not afraid to have my people talk. The President has offered that Harriet Miers come to the Hill and be interviewed by the Judiciary Committee. But in preserving the historic integrity and confidentiality of a President and their own staff, the President does not want to produce confidential communications made to him by his staff. I think it would erode any President's legitimate prerogative, for time immemorial, if Congress were able to do that.

I would suggest we in this Senate can understand that. Who of us would want our chief of staff to be hauled in to some committee when there is no suggestion of a criminal offense having occurred and then being cross-examined on everything our chiefs of staff told us? I just met with my chief counsel, Cindy Hayden, and we talked about these issues. She is an excellent lawyer. We have recently met and talked about the immigration bill that the Senate was debating.

Maybe the White House, which took a different view than mine on immigration, would like to embarrass me by issuing subpoenas to see if they could find out something in memos or documents or conversations we had about the bill and the flawed legislative process that brought it to the floor.

The executive branch has the power of subpoena also. Would our Members over here on the Senate Judiciary Committee be happy if the White House issued subpoenas to find out if any of our Members may have delayed the confirmation process in order to impact the outcome of some case that might be pending before a court of appeals at a given time in a given State?

Would we want to have all that happen to us? If these are criminal things, you get to do that. If they are not criminal things, comity, respect between our branches would suggest that any leader have certain rights to have candid, confidential communications with their own staff about matters of great importance to our Nation. The courts have it. Congress has it. The executive branch has it. There is case law that has addressed this type of privilege. Executive privilege is not something that is made up; it is something that is very real.

Now, I am not one who would want to come in and predict how cases would come out, but based on the openness the President has shown with regard to

providing to the Congress his staff people for interviews, I am not sure there is a legal basis for this.

Yes, in the meantime, it will look good politically. Those who issued the subpoenas—and are proud of themselves, knowing the President probably will never be able to accept this and would have to resist and have to object—can accuse him of hiding. They can accuse him of stonewalling. They can say he is in denial, that he will not cooperate with the Congress, that he is operating in secrecy. These baseless accusations will just further fuel the charges people have made about this good man who is trying to serve the country the best he can. I certainly believe that.

So here we are. Chairman LEAHY issued the subpoenas. Now the President has objected, which he has a perfect right to do. What happens now? There are several options, one of which is to litigate. If that path is chosen, a court will have decide it. It will go to the courts, and there will be an argument whether there is a legitimate evoking of executive privilege.

I wish it had not happened. That is all I am saying. We, I believe, have overreached in this instance. I cannot imagine we would want to demand that the President's own lawyer, Harriet Miers, be required to produce every memo she gave to the President and every conversation she had about any matter in the White House unless it amounted, as I said, to some criminal offense, which nobody is suggesting has occurred here. It is just not good policy, and we have to be bigger than short-term politics in this Senate. We have to be bigger than that.

I want to say, in my best judgment, we should not have shoved it this far. We have overreached. The President does have a legitimate claim of executive privilege. Over 8,500 documents and e-mails that went from the White House to the Cabinet Department, the Department of Justice, have been produced. It is only those conversations and communications between the President's closest advisers and the President himself which the White House feels should not be produced because of the historical implications of it for Presidents in the future. In this instance, I think the President is within his rights.

My best judgment, based on what I know today, is that this is not legitimate under our current law, and it is absolutely not justified under our discretion as Members of Congress. We ought to have more respect for the other branch than to push this request beyond the limits to the point we have today.

So, Madam President, I want to be on record to say that I understand why the President would object to making these disclosures of internal communications between the President and his own personal, closest staff, after, of course, having produced communications between he and his staff and the

Department of Justice that have been produced and making those staff members available for private inquiry among the leadership of the Congress. I think that was a real strong gesture of openness, but that was promptly rejected because I think some in the Congress—Senate and House—would rather have a fight and try to make a political point than actually get to the truth of those matters.

Madam President, I thank the Chair and yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Without objection, it is so ordered.

#### IRAQ

Mr. REID. Madam President, this Sunday is the halfway mark of the year 2007. It is also the 2-month mark since President Bush vetoed the supplemental appropriations bill we sent to him which would have set a responsible path to reduce our combat operations, save lives, and finally change course in Iraq. President Bush called our bill a "recipe for chaos."

Now that 2 months have passed, here is what has happened under the President's escalation plan. It is clearly chaos: 126 brave Americans died in May alone, and more than 100 in June. This quarter has been the deadliest in the entire war. Sectarian killings have not declined. Yesterday, more than 20 Iraqis were beheaded. There is little evidence the Iraqi Government will meet any of the political benchmarks they have set for themselves. The surge was supposed to create the space for Iraq's political leaders to make the difficult decisions to unite their country. That has not occurred.

I have said from the beginning that as long as President Bush remains obstinate and the Republicans in Congress continue to toe his line, this tragic war will continue. There is no sign of President Bush awakening to the devastating reality of this intractable war. But this week, there is new reason for optimism in that my Republican colleagues in the Senate are finally willing to join in calling for a new direction.

A couple of days ago, on Tuesday, I congratulated the ranking member of the Foreign Relations Committee, Senator RICHARD LUGAR, for courageously breaking ranks with President Bush and calling for the war to end. Senator LUGAR said, among other things:

Persisting indefinitely with the surge strategy will delay policy adjustments that have a better chance of protecting our vital interests over the long term.

I agree with those words.