

As I said, we have seen in other bailouts that some are treated better than others. This bill appears to enable the same thing by allowing the FDIC to treat creditors with equal claims differently. If the proponents of this bill think this bill does not allow the administration to pick winners and losers, they need to prove it.

This bill also contains a number of provisions that threaten the ability of small businesses to hire new workers. Other provisions would send jobs overseas. And just this morning, the Wall Street Journal pointed out a provision that would put new regulatory burdens on startup businesses that would make it harder for them to get off the ground. If this bill doesn't create new burdensome regulations that will make it harder for Americans to dig themselves out of this recession, then prove it. Prove it.

Every indication is that the chairman and the ranking member are making progress in their discussions and that this bill will have needed improvements. That is good. Some of the concerns I have just raised are among the topics being discussed. But in the end, Americans are not rooting for some deal. They have asked us for clarity. They are asking us, not for verbal assurances but for concrete proof, because at the end of the day I need to be able to look my constituents in the eye and prove to them that this bill does not allow for any bailouts. I need to prove to them that this bill doesn't treat some favored groups better than others. I need to prove to them that this strengthens the economy, that it doesn't make it worse.

People need to be convinced that we are doing what we are saying we are doing. This time they want proof and, frankly, I don't blame them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

STALLED NOMINATIONS

Mr. DORGAN. Madam President, I know we have a vote scheduled at 12 noon on a nomination. I know that is but 1 of 100 nominations that are on the calendar awaiting action by the Senate. It is probably not very surprising that people do not think much of this place when we cannot get nominations through, we cannot get business done. But people should understand the reason there are 100 nominations waiting on this calendar is because the minority has decided to say no to everything, just to dig in their heels and decide they are not going to cooperate on anything.

This afternoon I will again come to the floor and ask unanimous consent on the nomination of GEN Michael Walsh. I just wanted Senator VITTER

from Louisiana to be aware that I intend to do that again.

Let me say I am going to be back this afternoon to talk about the START treaty and also to talk about financial reform and a couple of issues that are important to me, particularly the issue of too big to fail and the issue of, what I call just gambling on naked credit default swaps. I will talk about both of those this afternoon.

But when I come this afternoon, I am going to ask unanimous consent on the nomination or the promotion of General Walsh. Let me again describe why this is important.

General Walsh is a decorated American soldier, served 30 years in the U.S. Army. He now commands a division of the U.S. Army Corps of Engineers. He has served in wartime. He has served in Iraq. Six months ago, on a bipartisan vote, unanimous vote, the Armed Services Committee decided to promote this general to major general, give this one-star general a second star. And 6 months later, this general has not been promoted. This person with a distinguished Army career has not received his promotion. His promotion has been derailed by one Member of the Senate. That Member has the right to object, and so he has objected to the promotion for this general.

My point has been that the objection to promoting a general with a distinguished wartime record and a distinguished record for 30 years is an objection based on a demand from one Member of the Senate that the Corps of Engineers do something that the Corps of Engineers has already told the Senator it does not have legal authority or legal ability to do.

As I have indicated on two other occasions, I do not come to the floor to criticize another Member by name. I have never done that before by name. But I did tell Senator VITTER from Louisiana that I intended to do that. As a matter of courtesy, I wanted him to know. I think it is wrong. I think it is a horribly bad decision for him to decide that he is going to hold up the promotion of a general who served this country for 30 years because he is demanding certain things for New Orleans and Louisiana the Corps of Engineers says it cannot do and does not have the legal authority to do.

Let me say as the chairman of the subcommittee that funds all of the water issues, and there are plenty of water issues in Louisiana—I know because I have been involved in it—we have sent billions and billions and billions of dollars of the American taxpayers' money to New Orleans and Louisiana in the aftermath of Hurricane Katrina. I am pleased we have done that because they were hit with an unprecedented natural disaster called Hurricane Katrina.

So I was one of those who helped, who helped do some of the lifting to get the money to New Orleans and Louisiana. But our colleague indicated the other day that he is unhappy with the

U.S. Government's response down in Louisiana.

Well, I would simply say to the folks in New Orleans and Louisiana: You know what life would be like were this money and were the Corps not down there with the billions of dollars that have now been spent. I think it is important to understand the value of that cooperation and the value of that partnership.

I understand there are some things about which people disagree. One of the issues raised by my colleague is an issue of the pumping stations down there. There is a disagreement about how they should proceed. He is demanding they proceed with a study in the manner that he determines it should proceed. My point is, the Appropriations Committee has already voted against that and said: We will not do it. No. 1, it costs more; and, No. 2, it provides less flood protection. So we are not going to do that.

To demand that be done, which the Corps does not have the authority to do at this point, and as leverage for that demand to hold up for 6 months the promotion of a distinguished soldier who has served in wartime, I think, is unbelievable.

So this afternoon I will come again and ask unanimous consent once again that this soldier get the promotion that he is owed and deserves. Senator JOHN MCCAIN, Senator CARL LEVIN, the ranking member and the chairman of the Armed Services Committee, both support this promotion. The entire Armed Services Committee voted for it unanimously, and yet 6 months later this soldier is not promoted.

I can understand people using a lot of leverage around here for various things. I have used some leverage myself on certain things. But I do not understand someone using the career of a soldier to make demands that cannot possibly be met. If he continues to do that for 6 or 16 months, the situation will be the same as it is now because the Corps of Engineers cannot do what the Senator from Louisiana is demanding they do.

It is simply, in my judgment, using this soldier's career as a pawn. That is terribly unfair to any uniformed soldier who serves this country, especially a soldier who has gone to war for this country. So this is fair notice that I will ask unanimous consent. I assume it will be somewhere in the 4 or 5 o'clock range today. My expectation is that the Senator from Louisiana will be on the Senate floor at that point. My hope is he would not object.

Finally, at long last, my hope is that he will allow the Senate to do the right thing and give this soldier's career and this soldier's promotion the due that it is owed by this Senate.

As I said, I am going to come back later today. I want to talk at some length about the START treaty, which I think is very important. I was in Moscow, Russia, within the last week and a half taking a look at global

threat reduction initiatives that we are working on with the Russians. It is very important that this START treaty be ratified by the Senate. I note that there are some of my colleagues saying: The only way we will ratify the START treaty, the only way we would support that and not block that would be if we get dramatic new monies for new nuclear weapons or something of the sort.

So I am going to talk about that today. I also am going to talk about the financial reform bill, which is now staring us in the face, and about, as I mentioned, the issue of something that sounds like a foreign language, but it is not: naked credit default swaps. That is not a foreign language; that is flatout gambling that has been done by the largest financial firms in the country that steered America right into the ditch. It is very important they be dealt with, and dealt with the right way in financial reform.

Also, I am going to talk about the issue of too big to fail. In my judgment, if you are determined to be too big to fail, then, in my judgment, you are too big. I believe divestiture is an important part of the solution to that. I will talk about that more this afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

EARTH DAY

Mrs. BOXER. I just want to say to my friend, I thank him for bringing the issue of the promotion of an Army Corps general to the floor today. I support his remarks. I support moving forward on that promotion.

Madam President, April 22 is Earth Day. It has been 40 years since then-Senator Gaylord Nelson first advocated setting aside a national day to focus on our environment. We have learned a lot in those 40 years. What we have learned is, it is very rewarding to protect and defend our environment. What we have learned is, when we do that, and we do it in the right way, we create millions of jobs and an economy that is very prosperous.

One very clear example of that is, take my California coastline. It is an economic driver. It is beautiful. It is an economic driver because people want to see it in all of its beauty. They want to enjoy its beauty. They spend a lot of dollars on tourism to come and visit my coast. They go to the restaurants. They go to the stores. That is why we have always argued against our colleagues who want to go and destroy—potentially destroy—that magnificent coastline, which is a gift from God, in my humble view.

It is interesting because the first Earth Day was inspired by a horrible oilspill that hit Santa Barbara, and the whole country saw the devastation, what happened to the wildlife, what happened to the ocean, what happened to the people there.

Ever since that time we have been taking a moment to take a deep

breath. By the way, breathing clean air is also an important part of Earth Day to actually appreciate this incredible gift that we have been given and to rededicate ourselves to the preservation of our environment.

In 1969, the Cuyahoga River in Ohio caught fire. Swaths of the Great Lakes were lifeless dead zones. Air in our cities was very unhealthy. All that happened in that year that then-Senator Gaylord Nelson decided to act on Earth Day.

When Senator Nelson took a trip, a plane trip, and looked down at the devastation of the awful Santa Barbara spill, he realized we needed a day to celebrate the Earth and to dedicate ourselves to protecting these gifts we have been given. Twenty million Americans rallied to celebrate the first Earth Day the following year in April 1970.

I think it is important to note that protecting the environment has been a bipartisan thing here, at least up until recent times. The Environmental Protection Agency opened its doors in November of 1970. It was Richard Nixon who signed that law. The Clean Water Act became law in 1972, the Safe Drinking Water Act in 1974, the Toxic Controlled Substances Act in 1976.

We have seen dramatic improvements in the air we breathe, the water we drink, and, again, very good growth in our economy over this period. We saw the gross domestic product rise from \$4.26 trillion in 2005 dollars, in 1970, to \$12.9 trillion. That is a three-fold increase in the GDP during the time we had these great environmental laws on the books.

So when the next politician stands up and says: You are going to devastate the economy, let's show him or her that is not so. If we take the lead—lead is a neurotoxin. When we keep it out of the area of our children, we know their IQs have gone up. It has been proven. We know what lies before us, clean energy. We know if we can get carbon pollution out of the air, it is going to unleash twice as many dollars from the private sector into finding new technologies, clean energy technologies. It will get us off of that addiction to foreign oil, \$1 billion a day. We will make products in this country that the whole world wants.

The world is going green. Why should we step back and allow China to make all of the solar panels? Why should we step back and allow Germany to make all of the windmills? They have taken over the lead from the United States of America.

I want to see the words “Made in America” again. I want to see them on products, clean energy technology products. I hope we will recommit ourselves to protecting this environment.

Today, we have a tremendous opportunity before us in clean energy. When we move forward to address the challenge of climate change, we will create millions of jobs and protect our children from dangerous carbon pollution.

Most importantly, clean energy will move us away from our dangerous dependence on foreign oil, which is costing us a billion dollars a day and making our country less secure.

America should be the leader in creating clean energy technologies that are made in America and work for America.

It will mean manufacturing jobs for people who build solar panels and wind turbines; it will mean jobs for salespeople who will have a world-wide market for these American made exports.

It will mean jobs for engineers, office workers, construction workers, and transportation workers too.

But today, other countries are moving quickly to take advantage of the enormous opportunities to manufacture and sell the solar, wind, geothermal and other clean energy technologies that will power the world in the coming decades.

Venture capitalists tell us that when we pass clean energy and climate legislation, it will unleash a wave of private investment that will dwarf the capital that poured into high tech and biotech combined. That means new businesses, new industries, and millions of new jobs for American workers.

Colleagues on both sides of the aisle are working on legislation to step up to the clean energy and climate challenge, building on the work we have done in the Environment and Public Works Committee. I look forward to working with them as this process moves forward.

This Earth Day, we have an unprecedented opportunity to reinvigorate our economy, create jobs, and put America on a new course to recovery and prosperity. Let's remember the lessons of the past and seize this opportunity.

I yield the floor.

Mr. SCHUMER. Madam President, I rise today to speak in support of the nomination of Judge Denny Chin to the United States Court of Appeals for the Second Circuit. Judge Chin is, first and foremost, a highly qualified and experienced nominee to one of the busiest courts in the country.

Judge Chin's life story speaks volumes about his own talent and determination, but also about the opportunities that this country offers—opportunities that made it possible for him to make the journey from Hong Kong, through Hell's Kitchen, to New York's best schools and now to the Second Circuit.

No one could be more qualified. No one could have a more impeccable record on the district court. And, he has the bonus of providing needed diversity to our appellate bench.

Nonetheless, after passing him out of committee unanimously, my Republican colleagues required the majority leader to file cloture on his nomination. It took 4 months—4 months—to get an up or down vote on him. It is good for the court system and the country that we are finally doing it this morning.