

If I sound a little distressed and frustrated, it is that I am because this Senator is reflecting the feelings of his people.

What about the fishermen—those fishermen who have offered to use their boats for BP but have not been contracted to use them, but they can't use their boats because the waters are closed or even if the waters are not closed, the fish houses won't buy their fish because fish houses from all over the country are calling in and saying: We don't want your gulf fish; we think it is tainted.

What about those charter boat captains, in the height of the season, summer, on the gulf coast of Florida? Those boat captains don't have the recreational fishermen coming and chartering their boats to go out because over a third of the gulf is closed, and for the same reasons—they are worried about the fish. Are they getting hired by BP? Why are they hiring people from Tennessee and Arkansas and North Carolina with boats? Why aren't they hiring the Florida fishermen whose livelihoods have vanished?

I am expressing some of the frustration my people are expressing to me.

What about the poor hotel owners? They are at the height of the season. It starts Memorial Day and goes all the way to Labor Day. What about them? What about the restaurants that are in the height of the season? We hope people will come, because the beaches are still some of the most beautiful in the world. But the fact that they now see these silver-dollar-size tar balls—in some cases, hamburger-patty-size tar balls—that are all over the beach, are they still going to come and honor their reservation at the hotel? Will they go to the local restaurant? And if they do go there, will they order the local seafood?

There are a lot of frustrated folks. By the way, Mr. President, the Presiding Officer is the former chief executive of his State. What about the local and State revenues? The State of Florida doesn't have an income tax. The State of Florida has a sales tax. The sales tax—if people are not staying in hotel rooms, and they are not buying meals in restaurants, and if they are not buying down at the local stores, the revenue is starting to dip. What is going to happen to the budgets of the local and the State governments and the revenues they come to expect?

In the midst of all of this, we hear that BP says it will be accountable. Yet, we come out here on this floor—Senator MENENDEZ, Senator LAUTENBERG, and I—and ask unanimous consent that in order to eliminate the artificially low cap of \$75 million on liability for economic losses, there is always an oil State Senator who will stand up and object to our consent request to raise this artificially low cap. BP says it is going to, in fact, take care of legitimate expenses. But at the same time, BP was quick to point out in hearings that have gone on for sev-

eral weeks—and certainly the nine hearings this week will go on—it will point out that there is a certain responsibility of the operator of the rig, Transocean, and the operator of putting the cement down into the well, around the casing that was supposed to be set, but obviously was imperfect—that operator was Halliburton.

So, in effect, what we are going to have, and already have, is people pointing both ways. There are going to be so many lawsuits that will go on by the time they get to the bottom of this. And the investigation is going to go on for so long. In the meantime, what about our people and their livelihoods? What are they going to do?

I was told by the fishermen that you have to have 14 days in which to actually send in the requisition after you have done your work, once you have been signed up, and you then expect to be paid within 14 days after you submitted your request for payment. Plus 14 is 28, so where is the fisherman going to get any money within that month in order to pay his deckhands, his assistants, and to pay his bills? It can continue to multiply. You wonder why I sound frustrated? There is so much uncertainty and people are scared.

In the meantime, BP indeed has given some money for an advertising campaign—and that is a good thing—for Florida to run advertisements to say that our beaches are open, come on. But you know the reality of what they are hearing. I hope people will, because I can tell you those tar balls that are there—if people will get out there and clean it up—oh, by the way, it has to be an appropriately recognized group to go out and clean up the tar balls contracted by BP. Why can't we get our local governments to go out there and get those tar balls off the beach, so our guests and visitors can enjoy our God-given assets?

All of these are questions that are still to be answered. So I am going to try several times with my colleagues to continue to get this artificially low cap raised so it will send a message to any oil company that in the future you better not cut corners. You better not have that cozy, incestuous relationship with the government regulator you have had for the last two decades. You better not think you are going to influence the government regulator as you have—as has been stated by the inspector general's report in 2008—with sex, drugs, booze, gifts, trips. And the revolving door, as stated by the most recent IG report last month—the revolving door, where they come out of the industry, the door revolves, and they come in as the MMS, the Minerals Management Service, the government regulator; and then the door revolves and they go right back into the employ of the oil industry. That is a conflict of interest. That is not government oversight of an industry, and it has led to this circumstance, where three apparatuses did not work as back-up mechanisms on the blow-out preventer,

and it has led to the sad condition that we now have, where oil is gushing, and has been for 49 days, into the Gulf of Mexico and is ruining a culture and a way of life.

I want to say that the Presiding Officer's State is not immune, and the other Senator on the floor right now, his State—an Atlantic coast State as well—is not immune, because, sadly, sooner or later the winds are going to continue to carry this oilspill to the South. It is going to get in what is known as the Loop Current and some of it is already entrained in the Loop Current.

The Loop Current goes up into the northern Gulf of Mexico and loops back South, all the way down around the Florida Keys, and it becomes the gulf stream. It then moves North as the gulf stream up the coast of Florida, off the Keys. It then comes in and hugs the southeast coast of Florida quite close—very close—mostly in places less than a mile off the beach. It continues on up to the middle of the peninsula of Florida, and then it takes a turn to the Northeast and parallels the east coast of the United States. It goes up to Cape Hatteras, NC, and depending on winds, I would say to the two Senators who are hearing my words, even though that current, called the gulf stream, that goes off of Cape Hatteras across the Atlantic to Scotland—depending on winds and wave action, it can carry some of that oil to the rest of the Atlantic seaboard and to the States represented by the two very distinguished Senators here on the floor. So this could have profound effects.

The question is, how do we get it stopped and, thus far, nothing has happened. So I think it is time for all hands on deck. I think it is time to realize that we have to throw in every asset we have to try to keep this oil off the coast, and especially out of the wetlands, and don't let what happened to Louisiana happen to the rest of our States, especially those delicate wetlands where you cannot get oil out of them. Then maybe this nightmare will be over.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KAUFMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF AUDREY GOLDSTEIN FLEISSIG, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI

NOMINATION OF LUCY HAERAN KOH, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

NOMINATION OF JANE E. MAGNUS-STINSON, TO BE UNITED STATES DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF INDIANA

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nominations concurrently, which the clerk will report.

The legislative clerk read the nominations of Audrey Goldstein Fleissig, of Missouri, to be United States District Judge for the Eastern District of Missouri; Lucy Haeran Koh, of California, to be United States District Judge for the Northern District of California; and Jane E. Magnus-Stinson, of Indiana, to be United States District Judge for the Southern District of Indiana.

The PRESIDING OFFICER. Under the previous order, the nominations will be debated concurrently until 5:30 p.m. with the time equally divided and controlled between the Senator from Vermont, Mr. LEAHY, and the Senator from Alabama, Mr. SESSIONS, or their designees.

The Senator from Vermont.

Mr. LEAHY. Mr. President, it is interesting, as the distinguished Presiding Officer reported, that we are going to have these nominees. I say it is interesting because the Senate is being allowed to confirm only 3 of 19 judicial nominations that have been reported unanimously by the Senate Judiciary Committee over the past several months, but they have been stalled by the Republican leadership.

The distinguished Presiding Officer is one of the most valued members of the Senate Judiciary Committee. He has seen time and time again, we vote a nominee out, with every single Republican voting for the person and every single Democrat voting for the person. Then the nominee spends months waiting because they are being stalled by the Republican side of the aisle.

Of course, it is far more than just an annoyance to the nominees who are being stalled. Say, for instance, that someone receives a nomination from the President of the United States to become a judge. Perhaps they are in a law firm. The partners all come in, congratulate the nominee, and say: This is absolutely wonderful. When are you leaving?

Now, as a practical matter this person cannot take on new cases, and the

law firm has to be hesitant about what they take on so they do not have a conflict of interest later on before the Court. One can see how almost childish it becomes now to hold up a nominee who, eventually, when they are finally allowed to have a vote, will be confirmed unanimously or close to unanimously.

In the meantime, their lives have been disrupted, the judiciary itself is put in disarray, people question our judiciary which is supposed to be non-political, nonpartisan, and all of a sudden, looks as though it is ping pong.

The nominees we have here, these three women, were confirmed in early March. The distinguished Presiding Officer and I were there. They all were reported out without a single objection from the Senate Judiciary Committee, in early March. Three exceptional women. And these three women have been delayed for this considerable period of time by the Republican objections. There is no explanation; no excuse; no reason for these months of delay of these women, especially when all members of the Senate Judiciary Committee, Democratic and Republican, voted for these three women.

But they are just 3 of the backlog of 26 judicial nominees awaiting final Senate action, and 19 of the 26 were reported by the Judiciary Committee without a single negative vote from any Republican or Democratic Senator on the committee. This is not fair to the nominees, certainly not fair to these three women. It is not fair to any of the other nominees. In addition, 6 of the 7 Republicans on the Committee voted in favor of nominee Judge Wynn to the Fourth Circuit, and nearly half of the Republicans on the Committee supported the nomination of Jane Stranch to the Sixth Circuit. It is not fair to these nominees and it is not fair to the Federal judiciary. Still Republicans refuse to enter into time agreements on these nominations. This stalling and obstruction is unprecedented.

The Senate is well behind the pace I set for President Bush's judicial nominees in 2001 and 2002. By this date in President Bush's presidency—and I was chairman at that time—the Senate had confirmed 57 of his judicial nominees, both district court judges and courts of appeal.

Even after the three today will all be confirmed unanimously, the comparison will stand at 28 to 57. That is still less than half of what we were able to achieve by this date in 2002. I mention that because we had a Democratic majority and a Republican President, and we were treating President Bush's nominees far more fairly than they are treating President Obama's nominees.

What makes it even worse than playing politics with the independent judiciary is that Federal judicial vacancies around the country hover around 100. It has been nearly a month since the Senate confirmed a judicial nominee. None of the more than two dozen available

for consideration before the Memorial Day recess were considered. This Republican obstruction is unprecedented. This is not how the Senate should act, nor how the Senate has conducted its business in the past. This is new and this is wrong.

In May, just before the last recess, the Republican leader implied in a statement before this body that the Republican obstruction is merely a "sequencing" of judicial nominations that "is acceptable to both sides". That is not true.

Over the recess, I sent a letter to Senator MCCONNELL and to the majority leader concerning these matters. In that letter, I urge as I have since last December, that the Senate schedule votes on judicial nominees without further obstruction and delays; vote them up or vote them down. I called on Republican leadership to work with the majority leader to schedule immediate votes on consensus nominations—many of which I expect will be confirmed unanimously—and consent to time agreements on those which debate is requested. As I said in the letter, if there are judicial nominations that Republicans truly wish to filibuster—after they argued during the Bush administration that such actions would be unconstitutional and wrong—then they should so indicate to allow the majority leader to seek cloture to end the filibuster. Otherwise it is time to vote.

I would think that there should also be some respect for the committee where every single Republican and every single Democrat voted for them. Vote for them. Vote up or vote down. We are not elected to vote "maybe." There are only 100 of us for 300 million Americans, and the American people expect us to say "yes" or say "no," not "maybe." This delay is a big "maybe." It is wrong. It is unfair to these judicial nominees. It is unfair to the independence of the Federal judiciary. It is unfair to the people of America. It is certainly unprecedented in my 36 years here. I have never seen anything such as this.

I ask unanimous consent that a copy of that letter be printed in the RECORD at the conclusion of my statement.

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

(See exhibit 1).

Mr. LEAHY. The Judiciary Committee unanimously reported the nomination of Judge Fleissig to the Eastern District of Missouri more than three months ago, on March 4. She is currently a Federal magistrate judge in that district, previously serving as that district's U.S. Attorney, as an Assistant U.S. Attorney, and a civil litigator. Judge Fleissig earned the highest possible rating—unanimously well qualified—from the ABA Standing Committee on the Federal Judiciary. She has the support of both of her home state Senators, Republican Senator KIT BOND and Democratic Senator CLAIRE MCCASKILL.