

all the increase in the price of oil can be explained solely by the fundamentals of supply and demand.

Was there an explosion on Friday in an oilfield that disrupted a huge portion of the world's oil supply that we all missed? No. I don't see how a \$10 increase in 1 day can be explained solely by increases in demand relative to supply.

Not the Energy Information Administration, the official U.S. Government source for energy statistics. The EIA doesn't receive detailed information on who's trading what and why.

Was there a massive runup in gas on Friday by nervous motorists all across America? Since the EIA doesn't collect demand information from the gas pumps, I don't see how they could judge whether supply and demand explains the current futures prices.

Not the Federal Energy Regulatory Commission, the regulator responsible for the transmission of energy between States. FERC focuses mostly on the physical delivery side of the energy markets and doesn't analyze the futures markets.

Not the Federal Trade Commission, the regulator responsible for looking out for the interests of consumers and assaulting monopolies. The FTC can investigate the effects of consolidation in the oil industry and can help prevent price gouging at the pump, but they don't look at the nuances of futures market trading.

And I admit not this Senator either. I don't pretend to have all the answers as to why gas prices keep rising, but I certainly see a problem that needs to be addressed; it is a problem I see in Illinois and all across this country.

This issue is much too important to the American people to allow this to continue. Enough is enough. It is time for Washington and leaders across America to respond. We need to get to the bottom of this. There are far too many questions to which no one seems to have definitive answers—questions such as:

Are speculators driving up the price of oil far beyond what can be justified by supply and demand?

Are investors simply fleeing the stock markets because of the slowing economy and flooding the futures market with excess cash?

Are new investment vehicles, such as commodity index funds, driving up futures prices?

Are investment bank analysts issuing reports predicting huge increases in oil prices, in part, because those same banks will profit from that event?

Are large institutional investors taking huge positions in over-the-counter trades that are pushing market prices higher?

Are regulatory differences between the CFTC, which oversees American trading, and the Financial Services Authority, which oversees British trading, allowing traders to hide manipulative crude oil positions from the CFTC?

Are the big integrated oil companies using the rising price of oil futures to justify even larger increases in the price of gas at the pump?

If we had the answers to these and many other questions, we would have a better understanding of what is happening. We would better understand the policy steps to take next, and we would understand how to ensure that a crisis such as this doesn't continue or occur in the future.

It is time to give the CFTC the resources it needs to collect and analyze all the relevant data, so it can understand what is causing these huge price spikes.

It is time to give the CFTC—the regulatory agency involved—more workers, analysts, more cops on the beat to investigate every last detail of what is happening.

Look at this chart. By 2009, the CFTC will be asked to oversee around 980 million futures transactions of ever-increasing complexity. From the year 2000, where there were 145 million of these transactions, we now project that by the end of next year, that number will be 980. That is about six to seven times the number of transactions that occurred just a few years ago.

So at this Commission that regulates that industry and makes sure people aren't misusing it, how many cops on the beat have we had? In 2000, we had 546. Today, under the President's budget, it is 475. The number of transactions this agency is following to make sure they are not deceiving the public and that there is pure transparency increased by sevenfold, and the number of inspectors has gone down in that same period of time.

In Friday's Washington Post, the Chairman of CFTC, Walter Lukken, said:

We can hire an extra 100 people and put them to work tomorrow given the inflow of trading volume. We are doing the best we can in difficult circumstances. . . . This is something that we are obviously concerned with—the potential for manipulation.

It is time to pay attention to Chairman Lukken's comments. More important, it is time to ensure that extra resources are applied.

It is time to require the Commodity Futures Trading Commission to receive data on all trades of all sizes by all participants in the oil futures market that impact deliveries in the United States.

The CFTC then should be required to analyze that entire bed of data and report to Congress on the fundamental reasons behind the oil-price spike.

The American economy is clearly struggling. The cost of a tank of gasoline is an onerous burden to families, businesses, truckers, and farmers. Yet that price continues to rise. Enough is enough. It is time for us to give the resources to this agency so they will have the cops on the beat to make sure they are honest, open transactions, which we can monitor to make certain wild speculation doesn't drive our economy down even further. We have

the power within Congress to do it. If the President will not take the leadership on this issue, leadership must begin right here on the floor of the Senate.

As chairman of the subcommittee for the Commodity Futures Trading Commissions appropriation, I can assure you the resources that are needed for this agency will be the highest priority as we determine the appropriations bill that will be debated in the weeks to come.

It is time to figure out what is driving oil prices through the roof and bring them under control so our economy can continue to grow.

I yield the floor.

#### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

#### CONSUMER-FIRST ENERGY ACT OF 2008—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 3044, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to S. 3044, to provide energy price relief and hold oil companies and other entities accountable for their actions with regard to high energy prices, and for other purposes.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

#### FILLING THE TREE

Mr. SPECTER. Mr. President, I have sought recognition to comment about a practice that is being employed on a widespread basis, which I believe undercuts the fundamental institutional integrity of the Senate. I am referring now to a procedure known as filling the tree. That is an expression used inside the beltway—inside the Senate Chamber—for action taken by the majority leader to establish a procedural situation where no Senator can offer any other amendment.

The long tradition of the Senate has been it is an institution that encourages, harbors, fosters open debate, the presentation of issues, the discussion of matters, to bring not only in this limited Chamber, or beyond on C-SPAN2, if anybody is watching, but to the entire country.

That is what distinguished the Senate from the House of Representatives, for example. In the House, they have what is called a rule, and Members may offer amendments only in a very limited, circumscribed way and then in a limited period of time. But under Senate rules, any Senator may offer virtually any amendment virtually at almost any time on any subject and speak in an unlimited way, as long as he retains the floor.

Last week, the Senate took up legislation of great importance on global

warming. There are many complex issues involved in that subject. We started off with legislation which had been offered by Senator LIEBERMAN and Senator WARNER that had been modified by Senator BOXER, the chairperson of the Environment and Public Works Committee, and there were many other proposals in the wings waiting to be considered. One of those proposals was legislation prepared by Senator BINGAMAN and myself, the Bingaman-Specter bill.

In the consideration of global warming, there were many complex matters. I don't intend to go through all of them now, but illustrative of that is the issue of technology. Is the technology adequate to accommodate the goals and standards of Lieberman-Warner? What would be the economic impact on the provisions of global warming in terms of encouraging foreign countries to ship to the United States on exclusions where they might not have the same limitations?

For example, in the steel industry. On that particular subject, I testified before the Finance Committee last February 14 about the need for the United States to be a leader on global warming, but at the same time not to sacrifice our industry to foreign goods, and noted that the Chinese wanted a 30-year exemption. If they had gotten that, there would not be any steel industry. But there were many issues.

I came to the Senate floor a week ago today to speak on the subject on June 2. And then I returned to speak again on June 3. Then, by Wednesday, June 4, I found out that we were on our way to having the tree filled. Actually, I spoke on June 2, 3, and June 5 and found when there was no opportunity to offer amendments, I filed four amendments.

I bring up that matter because then there was a cloture motion on Friday. A cloture motion requires 60 votes. If we are going to do it on a Friday, it is extremely difficult to find enough Senators to have an adequate showing as to what it means.

In any event, the cloture motion vote was held, and the cloture motion fell far short. The majority leader took the bill down, and now we are no longer considering the question of global warming. That is a matter which, in my judgment, warrants very considerable time by the Senate. I don't know whether it is 2 weeks or 3 weeks or how many weeks it is, but I know it is a lot more than 4 days. And now it is gone.

Regrettably, it is not just global warming which is involved. Not long ago, we have had the issue of the so-called Ledbetter Fair Pay Act, S. 1843, legislation which would change the statute of limitations on enforcing employment rights for equal pay. This bill was introduced because the Supreme Court of the United States, in a 5-to-4 decision, enforced a 6-month statute of limitations on a woman who wanted to claim her Federal rights to equal pay.

It seemed to me the decision of the Supreme Court of the United States

was wrong. The plaintiff was being foreclosed an opportunity to go to court to get equal pay when she didn't even know she had the cause of action or the right to do that.

This issue then was the subject of a cloture motion. The motion to proceed failed on cloture 56 to 42. The bill was given no process. There was no committee referral, no debate, no opportunity for amendments, just talking points for Democrats, an illustration where cloture was filed.

The tradition of the Senate has always been to have legislation offered, to have it debated. If there is objection, people oppose it. If people are very determined not to allow it to come to a vote without a supermajority—that is, getting 60 votes for cloture—then they filibuster. But in the course of that process, there is an awakening of the American people about what is going on.

A good illustration would be the historic civil rights debates which went on in this Chamber for very protracted periods of time. But the American people hardly have any idea about what is involved in equal pay for women when the matter is called to the Senate floor and in a virtual nanosecond is dispensed with.

Had the Ledbetter Fair Pay Act received extensive debate, had there been opposition, had there been discussion, had there been some idea by the American people about what was going on, there could have been some public opinion registered on that as a very important matter.

The great difficulty is this is not a machination of the current majority leader. This is a practice which has been building up for a considerable period of time and, as with the case of so many matters, it is a matter of equal blame on both sides of the aisle, both Republicans and Democrats.

In a survey by CRS, going back to 1985, it was used infrequently. Senator Dole used it five times in 1985 and 1986; Senator BYRD, three times in 1987 and 1988. Senator Mitchell did not use it at all in 1989 and 1990. Then in 1991 and 1992, Senator Mitchell used it one time. Then in 1993 and 1994, Senator Mitchell used it nine times. In 1995 and 1996, Senator Dole and Senator Lott used it five times. In 1997 and 1998, Senator Lott used it three times. In 1999 and 2000, Senator Lott used it nine times. Senator Daschle then used it once in the next 2 years. The following 2 years, 2003 and 2004, Senator Frist used it three times. Then in 2005 and 2006, Senator Frist used it nine times. And in the 110th Congress, so far, Senator REID has used it 12 times. Every time that it is used, it totally undercuts the ability of the Senate to function in its traditional way.

Senator REID had this to say about this practice when he was not the majority leader but when he was the leader of the minority, the leader of the Democrats back on February 28, 2006. He was speaking in defense of a fellow

Democrat's ability to offer amendments to the PATRIOT Act reauthorization. Senator REID of Nevada said this:

Of course, even a good bill can be improved. That is why we have an amendment process in the Senate. I am disappointed that he has been denied that opportunity by a procedural maneuver known as "filling the amendment tree."

Senator REID goes on:

This is a very bad practice. It runs against the basic nature of the Senate. The hallmark of the Senate is free speech and open debate. Rule XXII establishes a process for cutting off debate and amendments, but rule XXII should rarely be invoked before any amendments have been offered . . . I will vote against cloture to register my objection to this flawed process.

Senator REID made similar comments a short time later on March 2, 2006, saying:

Don't fill the tree . . . That is a bad way, in my opinion, to run this Senate.

Senator DURBIN, speaking on May 11, 2006, on the 2005 tax reconciliation conference report said:

The Republican majority brings a bill to the Senate, fills the tree so no amendments can be offered, and then files cloture which stops debate. So we cannot have this conversation. We cannot offer other amendments.

I cite Senator REID and Senator DURBIN with particularity because they are the two leaders of the Democrats at the present time.

An eloquent statement on this subject was made by Senator DODD on May 11, 2006. Senator DODD had this to say when he was speaking about health care legislation:

I want to point out to our colleagues why I am terribly disappointed with the procedures we have been confronted with this evening dealing with this legislation . . . This is the Senate. This Chamber historically is the place where debate occurs. To have a process here this evening . . . to basically lock out any amendments that might be offered to this proposal runs contrary to the very essence of this body . . . if you believe the Senate ought to be heard on a variety of issues relating to the subject matter—when the amendment tree has been entirely filled, then obviously we are dealing with a process that ought not to be . . . the Senate ought to be a place where we can offer amendments, have healthy debate over a reasonable time, and then come to closure on the subject matter.

I could go on at considerable length with other Senators making the same point. But here we have issues of gigantic importance which are not being considered. They are not being debated. They are not being explained. They are not being subject to questioning on the Senate floor, one Senator on another.

The educational process of telling America what the alternatives and prospects are for legislative change is not being explored. Not surprisingly, it is bipartisan. About the only thing that is bipartisan around this place is various mechanisms to gain political advantage.

We have had furious debates over the issue of confirmation of judges, a subject on which I have spoken repeatedly

and have noted that in the past 20 years, every time the Senate is controlled by a party opposite the President, there is a slowdown of the confirmation process. It happened during the last 2 years of President Reagan's administration in 1987 and 1988 when Democrats won control of the Senate in the 1986 election. It happened in the last 2 years of the administration of President George H.W. Bush, and during the administration of President Clinton where we Republicans controlled the Senate for the last 6 years, it was exacerbated. It was even worse in blocking President Clinton's nominations.

As I have said on this floor on occasion, I voted with the Democrats. I thought the Republican caucus was wrong and said so. But each time it has been exacerbated and become more intense.

Then this body saw a very sharp debate in 2005 where there was the consideration of the so-called nuclear or constitutional option, which would have changed the filibuster rule from 60 to 51. Now we are, again, in a period of gridlock. There is no doubt that the very low public opinion ratings of us are due to the public realization, the public disgust about all the bickering that goes on here. The public sees it on many items, the partisanship and the effort at a partisan advantage. But I do believe the public does not have an understanding of these arcane rules, like filling the tree. They can hardly have an understanding since most Members of this body don't understand exactly how it works.

Mr. President, this is not a matter that comes to me this afternoon or yesterday or the day before. I have been watching it for a considerable period of time, and 18 months ago, on February 15, 2007, I introduced S. Res. 83, a resolution to amend the Standing Rules of the Senate to prohibit filling the amendment tree. So far there has not been a hearing and not been any action on that, but I intend to press this issue. I intend to try to bring some understanding to the American people beyond the confines of this Chamber.

I don't think I am going to have a whole lot of effect on my colleagues this afternoon because there are none of my colleagues here this afternoon, except for the—no, no, I know the distinguished Senator from Maryland is here—except for the distinguished Presiding Officer. And I compliment my colleague, Senator BEN CARDIN, on his fast start in the Senate. Of course, he had a lot of advanced training having come from the House of Representatives and been a leader in the Maryland Legislature. I work with him on the Judiciary Committee, and he is a first-class Senator. That extract can be used—let's see, you ran in 2006—you can use it in 2012, 2018, 2024, and 2030, Senator CARDIN, but beyond 2030, I am reserving my judgment.

But Senators are busy, and I am not in any way critical of Senators not

being here, but I intend to speak on the subject repetitively. I don't know that will do any good, but I intend to do that.

For years, Senator Proxmire used to stand at his seat on the aisle speaking about genocide. Every day he came to the Senate floor, and he was motivated because there was no television at the time he was speaking about genocide. I think television came while he was still speaking on the subject. Senator Proxmire was a remarkable Senator in many ways. My recollection is that he had 17,000 votes, which he didn't miss. I am not sure about the exact statistic, but I am sure he spoke extensively on genocide, and he had an impact. And now we know that genocide has been picked up as a crime against humanity and has been the subject of prosecutions under the War Crimes Tribunal.

So I intend to speak about this subject with some frequency, and I intend to press for a hearing on my resolution. I intend to press to see if we can get some action because if the American people knew what was going on, the American people would not like it. The American people live under the illusion that we have a United States Senate. The facts show that the Senate is realistically dysfunctional. It is on life support, perhaps even moribund. The only facet of Senate bipartisanship is the conspiracy of successive Republican and Democratic leaders to employ this procedural device known as filling the tree. It is known that way to insiders, and it is incomprehensible to outsiders.

Once known as a unique legislative institution, the Senate was referred to as the world's greatest deliberative body because any Senator could introduce almost any amendment on virtually any subject and get a vote on it. That was, as noted, the distinguishing feature from the House of Representatives, which is tightly controlled by the Rules Committee to restrict the parameters on what amendments are in order.

A principal reason, perhaps the main reason for the use of the procedural device of filling the tree, was to save the majority from taking tough votes. That backfired on Republicans in the last Congress, where the filling the tree rule was used in order to avoid bad votes. And, of course, we know the procedure backfired pretty hard for Republicans to lose control of the Senate. In the 2006 election we had to lose seven seats, a virtual impossibility, but we managed to do it.

But more important than the partisanship, more important than the increased use by both Democratic and Republican majority leaders is the impact it has on this institution. And more important than that is the impact it has on the legislative process and the working through legislation, which ought to be considered and, where warranted, enacted for the benefit of the American people.

Mr. President, in the absence of any Senator seeking recognition, I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### AMERICAN ENERGY POLICY

Mr. SESSIONS. Mr. President, the American people are very frustrated with the failure of Congress to act on the great problems facing our country, a lot of problems, but I believe they are especially concerned about surging gasoline and energy prices. They are angry. They do not believe we have done enough in this Congress, and I think when they find out the leadership of this Congress, the Democratic leadership, is proposing legislation that will raise, not lower gas prices, they will not be happy.

Indeed, I received a note today from my staff that an experienced reporter at the Birmingham News, Mr. Tom Gordon, today wrote that my home county in Alabama, Wilcox County, again leads the Nation in the percentage of income that its citizens spend monthly on motor fuel, 16 percent, because the county has low incomes and people drive long distances to work.

It is a big deal. It is absolutely a real matter of importance. I think we need to do something about it. They want us to reduce our dependence on foreign oil, to produce more clean American energy, to show we are taking steps to contain and I think maybe even hopefully reduce the surging prices.

These prices are threatening the family budget. They are threatening American jobs and the American economy. Turn on any news program and read any news magazine. We are on track to spend \$500 billion abroad this year to purchase 60 percent of the oil we consume; 60 percent-plus is being imported. This balance-of-trade deficit weakens our dollar, requiring even more dollars to purchase the same amount of oil. With the dollar getting weaker, you need more dollars to buy the same amount of oil. We are creating jobs and wealth in nations around the world with our money when this missing wealth in our country that we send abroad reduces our own jobs.

Families are routinely paying \$50, \$75, \$100 more a month for the same or even less gasoline than they were a few years ago. When this added expense reduces the ability of hard-working middle-class Americans to purchase what they need to get by on, or to take care of their families, and when this reduction in spending on oil reduces spending on things other than oil that the American people need, is it any wonder the economy is struggling, I ask? Is it