

SEC. 5. MULTIDISTRICT LITIGATION FOR CERTAIN CIVIL ACTIONS.

(a) IN GENERAL.—Chapter 303 of title 46, United States Code, is amended—

(1) by redesignating section 30308 as section 30309; and

(2) by inserting after section 30307 the following:

“§ 30308. Multidistrict litigation for certain civil actions

“(a) IN GENERAL.—A plaintiff in a covered civil action brought under chapter 301 or this chapter may elect to have the claims of that plaintiff—

“(1) severed from all other claims in the covered civil action; and

“(2) not be subject to section 1407 of title 28 or any similar provision of State law.

“(b) COVERED CIVIL ACTION DEFINED.—In this section, the term ‘covered civil action’ means a civil action for damages for personal injury or wrongful death arising from the blowout and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010.”

(b) CONFORMING AMENDMENT.—The table of contents for chapter 303 of title 46, United States Code, is amended by striking the item relating to section 30308 and inserting the following:

“30308. Multidistrict litigation for certain civil actions.

“30309. Nonapplication.”

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall apply to—

(1) causes of action and claims arising after April 19, 2010; and

(2) actions commenced before the date of enactment of this Act that have not been finally adjudicated, including appellate review, as of that date.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Madam President, I ask unanimous consent to engage the chairman in a brief colloquy regarding this legislation.

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

Mr. WHITEHOUSE. I thank him for his leadership, for his compassion. I was proud to join him as a cosponsor of his legislation. It is disturbing to me that his effort to speak for these families who have lost their loved ones has fallen on deaf ears and on a procedural objection that could just as easily have not stood. As we stand here in this empty room, where right now we could be voting on help for these 11 families, instead, we are milling about, killing time and waiting for something to happen.

I want to ask the chairman: If this oil rig that exploded and burned had been on land and these same 11 workers had been killed, would they be treated differently and far more generously, and would their families be treated differently and far more generously than in this actual case just because it happened to be out in the ocean as a deep-water drilling rig?

Mr. LEAHY. Madam President, the Senator is absolutely correct. When we held these hearings, he was an indispensable part. This is an inexplicable anomaly of the law that reflects a different era. Had they been assembling, for example, this oil rig, had they had it on land and it exploded, they would

be able to recover as anybody could. If it was an onshore oil rig—of course, we have many in this country and throughout the world—if they had been working on that and there had been an explosion and they lost their lives, there would have been remedies available. But because it was at sea and even if it is just barely at sea, the remedies are entirely different. To put it in laymen’s terms, they are basically limited to the value of what is left. Of course, there is nothing left.

Mr. WHITEHOUSE. Under the circumstances of this case, I know the objection was founded upon concern that this would defeat the expectations of potential defendants who might otherwise have to pay this verdict. As I understand it, the two most likely responsible parties—indeed, the one already decreed by the government for pollution purposes to be the responsible party—are BP and Halliburton, two enormous multinational corporations. If I am not mistaken, what we have done today is to send 11 American families, whose father, brother, or husband was lost through no fault of that individual from a tragic accident that has been described as being the result of real ineptitude and very poor safety practices out on that rig by big corporations, we are now taking the side of BP and Halliburton against those 11 families here on the eve of the Christmas holidays, taking away rights they would have if this accident had happened on the land.

My question is, don’t we think that BP and Halliburton could afford this? It is not as though it is the little Sisters of Mercy whom we are going to put out of business if we allow this to go forward.

Mr. LEAHY. The Senator is correct. Basically what the Senate has said is, we will protect British Petroleum and Halliburton over the rights and needs of the families of 11 men who died because of negligence. Is this what the Senate has come to? Is this what it has come to? By our failure to even vote, our unwillingness to stand up and vote, our effort to do a maybe instead of a yes or no, we are sending a Christmas present. I suppose we should say Merry Christmas, British Petroleum, Merry Christmas, Halliburton. We protected you and saved you from having to pay for your negligence. That is a pretty cold signal to send to these families of the 11 men who died.

Frankly, as I have often said, the Senate should be the conscience of the Nation. How do we express our conscience when we don’t even have the courage to vote yes or no on a matter of this significance?

Mr. WHITEHOUSE. I thank the chairman for his leadership and for his compassion. I am proud to join him today in this effort.

I yield the floor.

MORNING BUSINESS

Mr. WHITEHOUSE. I ask unanimous consent that the Senate proceed to a

period of morning business with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Colorado.

DEFENSE AUTHORIZATION

Mr. UDALL of Colorado. Madam President, we have again witnessed gridlock at its worst on the heels of the vote that just concluded. When the Senate was given a chance to lead on critical issues crucial to our national security, to our troops and to our leadership in the 21st century, the Senate let politics obstruct progress that we should make.

This is the second time this year we have prevented ourselves, if you will, from debating critical national security issues. Like so many other debates that we wanted to have this year, this one was derailed by obstruction before it even began.

The last time the minority party blocked debate of a national defense authorization act, they argued that the DREAM Act should not be considered as an amendment to the bill and that we needed to wait on the report of the Pentagon study group on how to repeal don’t ask, don’t tell before we can vote on the broader bill.

This time we did consider the DREAM Act in a separate vote and this time, after voting today, we voted after the Pentagon’s task force on don’t ask, don’t tell has weighed in with the most comprehensive review of a personnel policy that DOD has ever conducted on any policy being proposed. But the obstruction continues. There are new excuses this time. Opponents now say we need to extend tax breaks before we can consider legislation necessary to ensure our national security. It doesn’t seem to matter to those who voted no today that the Pentagon study group looking at repeal confirmed what many of us have been saying for years, that don’t ask, don’t tell can be overturned without disrupting our Nation’s military readiness. It doesn’t seem to matter to these opponents that Secretary Gates, Admiral Mullen, and a host of other military and civilian leaders believe that repeal by a Federal judge would be far more disruptive and damaging to readiness and morale than repeal through legislation that has been thoughtfully and comprehensively drafted by the Congress. This wide-ranging and highly respected group of military and civilian leaders has strongly urged us, the Senate, to act on this Defense authorization bill this month.

Unlike what some on the other side of the aisle have claimed, the repeal language in this legislation respects the Pentagon’s timeline and it gives our military leaders the flexibility they say they need to implement repeal in a way that tracks with military standards and guidelines. The best way to change the policy is for elected representatives—that is us—to pass the