

Freudenthal; that the nomination be confirmed, and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, for the same reasons as noted earlier, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WHITEHOUSE. Mr. President, I call up Executive Calendar No. 702, the nomination of Judge D. Price Marshall to serve on the U.S. District Court for the Eastern District of Arkansas, a district court nominee who has been held up and filibustered. This district court nominee, Judge Marshall, is currently a judge on the Court of Appeals for the State of Arkansas. He spent 15 years in private practice in Jonesboro, AR. He served as a law clerk to Seventh Circuit Judge Richard S. Arnold. Judge Marshall was reported out of the Judiciary Committee on February 11, 2010, by voice vote and without dissent. He has been held and blockaded on this floor.

I ask unanimous consent that the Senate proceed to executive session, and notwithstanding rule XXII, the Senate proceed to Executive Calendar No. 702; that the nomination be confirmed, and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WHITEHOUSE. Mr. President, let's try another one.

I call up Executive Calendar No. 704. This is the nomination of Judge Timothy Black, again, a district court nominee, a local trial court nominee, to serve on the U.S. district Court for the Southern District of Ohio. Judge Black has served the Southern District of Ohio for 6 years as a Federal magistrate judge. He is currently a Federal magistrate judge in the court for which he is nominated as a district judge. Before that, he spent a decade as a municipal court judge and had a long career as a civil litigator. He was reported out of the Judiciary Committee without dissent after a voice vote on February 11 of this year. February, March, April—more than 2 months ago. He has languished on the Senate floor after clearing the committee without dissent—a judge, a district judge, a trial judge who serves now as the magistrate judge.

I ask unanimous consent that the Senate proceed to executive session, and notwithstanding rule XXII, the Senate proceed to Executive Calendar No. 704, the nomination of Judge Timothy Black; that the nomination be

confirmed, and the motion to reconsider be laid upon the table; that any statements relating to the nomination be printed in the RECORD; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, for the same reasons stated before, I object.

The PRESIDING OFFICER. Objection is heard.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### EXECUTIVE SESSION

##### NOMINATION OF LAEL BRAINARD TO BE AN UNDER SECRETARY OF THE TREASURY

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

The assistant legislative clerk read the nomination of Lael Brainard, of the District of Columbia, to be an Under Secretary of the Treasury.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon will be equally divided and controlled between the Senator from Montana, Mr. BAUCUS, and the Senator from Iowa, Mr. GRASSLEY, with the Senator from Kentucky, Mr. BUNNING, controlling 15 minutes of the time controlled by the Senator from Iowa, Mr. GRASSLEY.

The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I probably will not take the 15 minutes but somewhere between 10 and 15 minutes.

I rise in strong opposition to the nomination of Lael Brainard to be Under Secretary of the Treasury for International Affairs.

I do not think it is unreasonable for the American people to expect nominees to important posts in the Treasury Department to have a clean record in the payment of their taxes. After all, Treasury is responsible for collecting taxes. Treasury nominees have a special responsibility to live up to the same high standards the Department demands from ordinary citizens. But the American people deserve much more than just someone with a clean tax record. They deserve a nominee who is honest, trustworthy, and straightforward.

The Finance Committee's bipartisan investigation of Ms. Brainard revealed she does not have a clean tax record. At worst, she refuses to be straightforward and honest about her tax records.

The Finance Committee looks into the tax record of every nominee who comes before the committee. A routine

examination of Ms. Brainard's past few tax returns revealed many problems. When asked if she has paid all her taxes on time, she did not reveal several cases in which she had failed to pay her taxes on time.

When she was asked, on her nomination questionnaire, if she was current with all her taxes at the time she was nominated, she replied yes. But, in fact, that was not true. She was well overdue on paying county property taxes and DC employment insurance taxes at the time.

There were also several problems with the forms she was supposed to file to prove that her household employee was legally able to work in this country. On one form, there was a serious problem with a space that the household employee is required to sign. It appears Ms. Brainard filled in that space with her own signature, and she could not provide an explanation of why she did so.

On another form, dates appear to have been written over to change the year. She could provide no explanation of why this was done.

On two different forms, Ms. Brainard missed the deadline for completing the employer portion of the form. On another form, the employer portion was filled in 1 month before the employee portion, but the law requires the employee portion to be filled in first.

On yet another form, the employee certification section lists her husband's name, but the signature is hers.

On another form, the employee section is filled in, but the required employer certification section was left blank.

There was another problem of the home office deduction which she claimed in the past several years. She could not provide a clear and consistent reason for taking a home office deduction of one-sixth of her household expenses. She was unable to provide a credible reason for the size of the deduction. She reduced her home office deduction to one-twelfth of household expenses on her 2008 tax return. However, she did not reduce the deduction on her 2005, 2006 or 2007 tax return, all of which had the inflated deduction.

Some Senators might come to the conclusion that these tax problems alone should not disqualify the nominee. They may say that, at worst, this is simply a pattern of sloppiness. Do we want someone who is so sloppy in her tax responsibilities to be in charge of international affairs at the Treasury Department?

But this is not just a matter of sloppiness. This is a matter of total lack of candor with the Finance Committee and, by extension, with the Senate and, by extension, with the American people.

Ms. Brainard spent 9 months stonewalling the Finance Committee over all these tax issues. She gave evasive and incomplete answers to the staff of the committee. The level of evasiveness of this nominee appears to

be unprecedented. The committee had to submit 10 rounds of questions to clarify inconsistencies and incomplete answers Ms. Brainard had given. Several of those questions have been left unanswered.

The many tax problems of this nominee and the extreme difficulty the Finance Committee had in getting straight answers about these problems was outlined in a bipartisan memo Senator GRASSLEY entered into the CONGRESSIONAL RECORD on December 23 of last year. If we cannot trust Ms. Brainard to be truthful and straightforward when she is a nominee, how can the American people trust her to be straightforward and honest when she is confirmed and serving in the Obama administration?

As Under Secretary for International Affairs, she would be involved in some highly sensitive issues, such as the determination of whether China is manipulating its currency.

Do we want someone with such an abysmal record on truthfulness serving in this high position in the Treasury Department representing our country?

This is not just a matter of taxes. It is a matter of trust. The American people deserve a person we can trust in this very important position. That person is not Lael Brainard. We cannot trust someone who gives evasive, inconsistent, and incomplete answers to routine questions. We cannot trust someone who spends 9 months refusing to come clean about her record. We cannot trust someone who refuses to be straightforward about her tax problems because she is so desperate to be confirmed.

Mr. President, someone with this record is a terrible choice to serve in the Treasury Department. I urge my fellow Senators and my colleagues to consider this record before they vote on this nomination. I urge a "no" vote on this nomination.

I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator withhold his request.

Mr. BUNNING. Yes, I will.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mrs. MCCASKILL. Mr. President, I rise today to talk not about obstructionism but, rather, about transparency and the rules. And the rule I am going to talk about is a rule that, in fact, we embraced in the last Congress. When I first came to the Senate, we embraced this rule by a vote; I think it was 92 to 6. We said we are going to change the way we do business around here when it comes to transparency. I thought it was a great moment. I was excited that we were making these bold changes about the way the Senate works, to open the doors and let the sun shine in.

Imagine my disappointment some 2 years later when I realized that for many Members of this body, that was a meaningless exercise because in the area of secret holds, we are doing no better today than we were before we

passed S. 1 in those early weeks of my time in the Senate, in 2007.

Section 512 of that bill deals with secret holds. What we tried to do in that bill was to make sure that if a Senator wanted to oppose somebody, no problem; if he or she wanted to hold somebody, that is their right as a Senator. But own it. Own it. We are not here to be in a back room making a deal to leverage something for some kind of pork we may want in our district. What we are here to do is the people's business. If a Senator has an objection to a nominee, they should tell the public they have an objection and, frankly, they owe the public an explanation as to why. We are here working for them. We are doing the people's business here. We are not doing some backroom deal. We are doing the people's business.

So transparency is what this is about today, and section 512 lays out the exact steps that are necessary in order to make sure all of the holds become public. The process begins pretty simply: by someone making a unanimous consent request to move the nomination. When that motion is made, then the Senator who has the secret hold must submit a notice of intent specifying the reasons for the hold, and within 6 days that must be printed in the CONGRESSIONAL RECORD.

Why do Senators hold secretly? Well, I can't think of a good reason. I mean, sometimes it is that they want to slow things down, and they do not want to be honest about it. Sometimes it is that they want to leverage it for a deal in their State from that agency, and they do not want to be forthcoming about that. That seems a little unseemly, to say: I am going to block an unrelated nomination in order to get a deal. And that is the kind of stuff people are sick of. That is the kind of stuff they do not want us to do anymore. They want us to be upfront. If a Senator wants to block a nomination in an agency because that agency is not doing their will, then they need to be proud of that.

Here is the tricky part about this rule. Once the motion is made and therefore the clock starts ticking and a Member has to admit they have a secret hold and they have to own that hold, then what they can do is, before the 6 days, they can withdraw their hold, and that is when we start seeing an imitation of the World Wrestling Federation tag-team match. That is when another Senator comes in and tags up and says: Well, I will do a secret hold now. And then a motion is once again made, and guess what. That Senator backs out after 6 days and somebody else takes his or her place with the secret hold. So we get secret holds forever, ad nauseam—secret hold, secret hold, secret hold.

So I come to the floor today to begin the running of the clock. We have over 80 nominations pending. In a comparable time in the Bush administration, we had five. We have around 80. I

am now going to begin to make a motion on these 80. Why this particular group? I will tell you why this particular group. No objection has been made to these nominees in committee. Let me say that again. Every single one of the names I am going to move this morning had no objection in committee. So we have literally had every Member of this body on one of these other committees, and nobody objected. Nobody said a word. So right now, it is very difficult for the public to figure out why all these important nominees are not moving forward.

Vote no. I am sure there have been nominees on whom I have voted no. There is a nominee on whom I put a hold. I put a hold on a nominee, but I was very upfront and put in the record at committee why I put a hold. I wrote a letter on why I put a hold. I wanted everyone to know why this nominee was being held. I thought it was an important part of my duty as a Senator to explain why I was doing what I was doing.

So vote no. Hold a nominee. But don't do it under cover of darkness unless you have something to be ashamed of. If a Senator has something to be ashamed of, then they can do the tag team. The law lets them do it. They can just keep playing tag and getting another secret hold and then tag off again and get another secret hold.

If we want to know why the country doesn't trust us, it is because of this kind of nonsense, these kinds of secret hold shenanigans or, as my mother would say, this poodle dog. That is her word for nonsense. I don't think she means to insult all the poodle owners in the world, but it is a good phrase—poodle dog—for what this is. It is nonsense.

Mr. President, when I have 1 minute left, if you will notify me, I will begin making the motions on these people whose nominations are being secretly held by Senators and who are not being allowed their time to even respond to whatever might be the secret reason why they are being held.

NOMINATION OF STUART GORDON NASH TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 333; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I have no objection.

There being no objection, the nomination considered and confirmed is as follows:

## THE JUDICIARY

Stuart Gordon Nash, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 404, the nomination of Warren Miller, Office of Civilian Radioactive Waste Management, Department of Energy; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Reserving the right to object, I will make the same brief statement I made with Senator WHITEHOUSE. Some of these nominees are subject to discussion between the two leaders, working out time agreements for their consideration—at least some of the court nominees.

Now, I don't know about this specific nominee. I would say that I have no secret holds on anyone, so this is not on my own behalf. But in order to preserve the deliberation between the two leaders, on behalf of the minority I would object.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Will the Senator from Missouri yield for a question?

Mrs. MCCASKILL. Yes, I will.

Mr. DURBIN. Mr. President, the Senator from Arizona suggested that the leaders—meaning the Democratic and Republican leaders—wanted these held. Is the Senator from Missouri able to represent to the body that Senator REID would like to see all the names she is calling moved forward today, at this moment; that he is not asking for a delay in the consideration of any of these nominations?

Mrs. MCCASKILL. All of these nominees have secret holds. The purpose of my exercise today is to begin to enforce the rule around here that everybody voted for, with the exception of a handful of people, that we weren't going to do secret holds anymore.

I am certainly aware that the leader supports us doing this; that the secret hold has brought the nomination process not only to a halt but, more importantly, it has done it without the public even understanding why.

Mr. DURBIN. I will ask a further question, through the Chair. So the representation that these names or nominations are being held because of the leaders—meaning the Democratic and Republican leaders—is not accurate? There is no intention of the Democratic leader to hold any of these nominations; is that not true?

Mrs. MCCASKILL. That is true.

Mr. President, notwithstanding rule XXII, I ask unanimous consent that

the Senate proceed to Executive Calendar No. 500, which is the nomination of Julie Reiskin, member of the LSC; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Reserving the right to object, I am trying to follow the numbers as my colleague is going down through the unanimous consent requests, and I think my colleague skipped over the name of John J. Sullivan, of Maryland, Calendar No. 208, to be a member of the Federal Election Commission. Is there some objection on the other side or might we have an explanation as to why that name was skipped over?

Mrs. MCCASKILL. I would be happy to—

Mr. DURBIN. Regular order.

Mrs. MCCASKILL. Regular order, but let me explain how this list was compiled.

The PRESIDING OFFICER. The Senator from Missouri has made a unanimous consent request. Is there objection to that request?

Mr. KYL. I would be happy to object to that.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. By the way, just for the edification of the Senator from Arizona, there is one of these nominees on here who I believe is being secretly held by a Democrat. And by the way, I want to point out that the rule that does try to bring transparency to this process was one that was sponsored by Senator WYDEN and Senator GRASSLEY in a bipartisan way. The Wyden-Grassley effort that spanned a number of years was a bipartisan attempt to change and reform the way the Senate worked to provide more transparency. So this is really about transparency and this is about secret holds, and my criticism for secret holds is a bipartisan criticism. I don't think anybody should do a secret hold. I don't care if they are a Republican, a Democrat, an Independent, or any other party label, secret holds have no place in a public body.

Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 501; that the nomination of Gloria Valencia-Weber of New Mexico, Legal Services Corporation, be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and any statements related to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 556; that the nomination be confirmed—that is, the nomination of Benjamin Tucker for the Office of National Drug Control Policy—the motion to reconsider be made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 581, the nomination of John Laub to be Director of the National Institute of Justice; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and any statements related to the nominee be printed in the RECORD at the appropriate place.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. For reasons stated earlier, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 589, the nomination of Anthony Coscia; that the nomination be confirmed, the motions to reconsider be made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 590, the nomination of Albert DiClemente, of Delaware, to be a director of the Amtrak board of directors; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 592, Mark R. Rosekind, of California, to be a member of the National Transportation Safety Board; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 618, P. David Lopez, of Arizona, to be general counsel of the Equal Employment Opportunity Commission; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 620, Victoria A. Lipnic, of Virginia, to be a member of the Equal Employment Opportunity Commission; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 628, Jill Long Thompson, of Indiana, to be a member of the Farm Credit Administration Board, Farm Credit Administration; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 640, Eric L. Hirschhorn, of Maryland, to be Under Secretary of Commerce for Export Administration; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 643, Steven L. Jacques, of Kansas, to be an Assistant Secretary of Housing and Urban Development; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 647, Jim R. Esquea, of New York, to be an Assistant Secretary of Health and Human Services; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 648, Michael W. Punke, of Montana, to be a Deputy U.S. Trade Representative, with the rank of ambassador; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, notwithstanding rule XXII, I ask unanimous consent that the Senate proceed to Executive Calendar No. 649, Islam A. Siddiqui, of Virginia, to be Chief Agricultural Negotiator, Office of the U.S. Trade Representative, with the rank of ambassador; that the nomination be confirmed, the motions to reconsider be considered made and laid upon the table, no further motions be in order, the President be immediately notified of the Senate's action, and that any statements relating to the nominee be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. KYL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. MCCASKILL. Mr. President, let me just sum up. I had 20 I was going to try to do today. There are 80 of them. I will be back. This is not about trying to rush through nominations, this is about trying to make the rules work the way we wrote them. That means that beginning immediately, all of the motions I just made, the Members who are holding those nominees have an obligation under the law—under the law they have an obligation to “submit a notice of intent specifying the reasons for his or her objection to a certain nomination,” and not more than 6 session days after today, that must be printed in the CONGRESSIONAL RECORD.

These are the first 15 or so. I will continue to get them all on the record, hopefully by the end of the week, so that everyone knows next week, and maybe we will figure out why all these people are being held secretly. This is not about saying you should not vote no on these people. This is not even about not debating these people. This is about transparency and open government. That should be a bipartisan value, an all-American value in which we can all believe.

The PRESIDING OFFICER. The time of the majority has expired.

The Chair will clarify for the record that Executive Calendar No. 333, Gordon Nash of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia, has been confirmed.

Mrs. MCCASKILL. I saved us a roll-call vote.

The PRESIDING OFFICER. Who yields time?

Mr. KYL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Lael Brainard, of the District of Columbia, to be an Under Secretary of the Treasury?

Mr. KYL. I ask for the yeas and nays. The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD) is necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT) and the Senator from Oklahoma (Mr. INHOFE).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 119 Ex.]

YEAS—78

Akaka	Franken	Mikulski
Alexander	Gillibrand	Murkowski
Baucus	Graham	Murray
Bayh	Gregg	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Hatch	Reed
Boxer	Inouye	Reid
Brown (MA)	Isakson	Risch
Brown (OH)	Johanns	Rockefeller
Burr	Johnson	Sanders
Cantwell	Kaufman	Schumer
Cardin	Kerry	Sessions
Carper	Klobuchar	Shaheen
Casey	Kohl	Shelby
Chambliss	Landrieu	Specter
Cochran	Lautenberg	Stabenow
Collins	Leahy	Tester
Conrad	LeMieux	Udall (CO)
Corker	Levin	Udall (NM)
Crapo	Lieberman	Voinovich
Dodd	Lincoln	Warner
Dorgan	Lugar	Webb
Durbin	McCaskill	Whitehouse
Feingold	Menendez	Wicker
Feinstein	Merkley	Wyden

NAYS—19

Barrasso	DeMint	McConnell
Bond	Ensign	Roberts
Brownback	Enzi	Snowe
Bunning	Grassley	Thune
Burr	Hutchison	Vitter
Coburn	Kyl	
Cornyn	McCain	

NOT VOTING—3

Bennett	Byrd	Inhofe
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The nomination was confirmed.

Mr. LEAHY. Mr. President, the Senate yesterday, by a vote of 84 to 10, invoked cloture to end a Republican filibuster of President Obama's nomination of Lael Brainard to be Under Secretary at Treasury. As I said before that vote, the majority leader has taken a significant step to address the nominations crisis created by Senate Republican obstruction. Regrettably, that obstruction made it necessary for the Senate majority leader to file five cloture petitions to bring an end to Republican filibusters and allow the Senate to carry out its advice and consent responsibilities.

The refusal by Republicans month after month to come to agreements to consider, debate, and vote on nomina-

tions is a dramatic departure from the Senate's traditional practice of prompt and routine consideration of non-controversial nominations. Their practices have led to delayed up-or-down votes for more than 100 nominations stalled from final Senate action. The American people should understand that these are all nominations favorably reported by the committees of jurisdiction and are mostly nominations that were reported without opposition or with a small minority of negative votes. Regrettably, this has been an ongoing Republican strategy and practice during President Obama's entire Presidency.

Twenty-five of those stalled nominations are to fill vacancies in the Federal courts. They have been waiting for Senate action since being favorably reported by the Senate Judiciary Committee as long ago as last November.

To put this in perspective, by this date during George W. Bush's Presidency, the Senate had confirmed 45 Federal circuit and district court judges, on its way to confirming 100 judicial nominations by the end of his first 2 years in office. I know, I was the chairman of the Senate Judiciary Committee during much of that time, and worked hard to make sure that President Bush's nominees were not given the same unfair treatment given President Clinton's judicial nominees by Senate Republicans. Senate Democrats made real progress with respect to judicial vacancies. We did treat President Bush's judicial nominees more fairly than Republicans had treated President Clinton's and confirmed 100 during the 17 months I chaired the Judiciary Committee in 2001 and 2002.

President Obama began sending us judicial nominations 2 months earlier than President Bush had and still only 18 Federal circuit and district court confirmations have been allowed. If Republicans would agree to allow the Senate to act on the additional 25 judicial nominations reported favorably by the Senate Judiciary Committee but on which Senate Republicans are preventing Senate action, we could be at a comparable figure to the pace we attained in 2001 and 2002. As it stands we are 60 percent behind what we achieved during President Bush's first 2 years.

Republicans continue to stand in the way of these nominations despite vacancies that have skyrocketed to over 100, more than 40 of which are "judicial emergencies," as caseloads and backlogs grow and vacancies are left open longer and longer.

I understand and share the frustration of the Senator from Rhode Island who came before the Senate earlier today to speak about this obstruction. In the time he had, he asked the Senate to consider 5 of the 25 judicial nominees stalled on the calendar, and each time there was a Republican objection. He made the point that these judicial nominations have not only been waiting a long time, but they were approved unanimously or nearly

unanimously by all Republican and Democratic Senators on the Judiciary Committee. Still, after weeks, and in some cases months, Republicans will not consent to their consideration. They were nominees who are supported by home State Senators, including Republican home State Senators. Still, Republicans will not enter into agreements for their consideration.

I began urging the Republican leadership last December to allow the Senate to make progress on these nominations by agreeing to immediate votes on those judicial nominees that were reported by the Senate Judiciary Committee without dissent, and to agree to time agreements to debate and vote on the others. Presently, there are 18 judicial nominations being stalled from Senate consideration by Republican objection even though when they were considered by the Senate Judiciary Committee no Republican Senators on the committee voted against a single one. This is the Republican strategy of delay and obstruction—delay and obstruct even those nominees they support. They delayed confirmation of Judge Beverly Martin of Georgia to the eleventh circuit until this year. They delayed confirmation of Judge Joseph Greenaway of New Jersey to the third circuit. They delayed and filibustered the nomination of Judge Barbara Keenan of Virginia to the fourth circuit, who was then unanimously approved.

I further call upon Republicans to agree to time agreements on each of the other seven judicial nominees ready for final Senate action. Only one Republican Senator in the Judiciary Committee voted against Judge Wynn of North Carolina; only three voted against Judge Vanaskie of Pennsylvania; only four voted against Ms. Stranch of Tennessee, who is supported by the senior Senator from Tennessee, a Republican and a member of the Senate Republican leadership. Senate Republicans should identify the time they require to debate the nominations of Justice Butler of Wisconsin, Judge Chen of California, Judge Pearson of Ohio, and Judge Martinez of Colorado, who are all well-qualified nominees for district court vacancies, which are typically considered and confirmed without lengthy debate. They should not now be held up because they were targeted unfairly in committee by Republicans applying a new standard for district court nominees never used with President Bush's nominees, whether we were in the majority or the minority.

Republican obstruction has the Senate on a sorry pace to confirm fewer than 30 judicial nominees during this Congress—not the 100 we confirmed in 2001 and 2002. Last year, only 12 circuit and district court judges were confirmed. That was the lowest total in more than 50 years. So far this year, only six more have been considered.

The majority leader was required to file cloture on the nomination of Barbara Keenan of Virginia to the fourth

circuit. Judge Keenan's nomination was stalled for 4 months. After the time-consuming process of cloture, her nomination was approved 99 to 0. There was no reason or explanation given by Senate Republicans for their unwillingness to proceed earlier or without having to end their filibuster on that nominee either.

Similarly, there has yet to be an explanation for why the majority leader was required to file cloture to consider the nominations of Judge Thomas Vanaskie to the third circuit and Judge Denny Chin to the second circuit, both widely respected, long-serving district court judges. Judge Vanaskie has served for more than 15 years on the Middle District of Pennsylvania, and Judge Chin has served for 16 years on the Southern District of New York. Both nominees have mainstream records, and both were reported by the Judiciary Committee last year with bipartisan support. Judge Chin, who was the first Asian-Pacific American appointed as a Federal district court judge outside the ninth circuit, and if confirmed would be the only active Asian-Pacific American judge to serve on a Federal appellate court, was reported by the committee unanimously.

This obstruction and delay is part of a partisan pattern. Even when they cannot say "no," Republicans nonetheless demand that the Senate go exceedingly slow. The practice is continuing. The majority leader has had to file cloture 22 times already to end the obstruction of President Obama's nominees. That does not count the many other nominees who were delayed or are being denied up-or-down votes by Senate Republicans refusing to agree to time agreements to consider even noncontroversial nominees. That is the frustration I share with Senator WHITEHOUSE and many others. If Republicans wish to oppose a nomination they can, but they are stalling noncontroversial nominations that they support.

The Senate should be better than this. These Republican practices are destructive. When we see that Americans are frustrated with Congress, it is these kinds of practices that contribute to that frustration. I urge the Senate Republican leadership to change its ways. Agree to prompt consideration of noncontroversial nominees and enter into time agreements to debate and vote on those nominees that they oppose. Quit wasting the time of the Senate. The American people want us to act on Wall Street reform, not be bogged down in delaying tactics for the sake of delay.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action with respect to the confirmation of the Brainard nomination.

The Senator from Vermont is recognized.

Mr. SANDERS. Mr. President, I ask unanimous consent to speak for 10 min-

utes and that I be followed by Senator BURRIS for 5 minutes, at which point the Senate will recess for the party caucuses.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### FINANCIAL REGULATORY REFORM

Mr. SANDERS. Mr. President, a front-page story of the New York Times today points to the fact of the enormous power of big money in terms of financial reform. They say:

With so much money at stake, it is not surprising that more than 1,500 lobbyists, executives, bankers and others have made their way to the Senate committee that on Wednesday will take up legislation to rein in derivatives. . . .

When Congress deregulated Wall Street and allowed them to do pretty much anything they wanted to do— which brought us to where we are today; i.e., a massive recession—they spent, over a 10-year period, \$5 billion—\$5 billion—in order to work their way on Congress.

Last year, as we began to address financial reform, they spent \$300 million. So the issue we are debating now is not whether Congress will regulate Wall Street, it is whether Congress will continue to be regulated by Wall Street.

Their power is extraordinary. Their money is unlimited. If there was ever a time in American history where the Senate had to start standing up to big money interests and represent the needs of ordinary Americans, this is the time. The American people are looking.

Let me just touch on four issues that I think are key, if we are serious—underline "serious"—about financial reform.

No. 1, we have to break up the huge financial institutions which are at the cause of the crisis we are in and which exert so much power over our economy. The four major U.S. banks—Bank of America, Citigroup, JPMorgan Chase, and Wells Fargo—issue two-thirds of the credit cards in this country, write half of the mortgages, and collectively hold \$7.4 trillion in assets, about 52 percent of the Nation's estimated total output last year. Despite the fact that we bailed these banks out because they were too big to fail, incredibly, three out of four of these institutions are now larger today than they were when we bailed them out.

Enough is enough. I am joined as a progressive by many conservatives who understand that we cannot continue to have that concentration of ownership, not just in terms of the liability to the American people in terms of too big to fail but in terms of their monopoly control on the entire economy. So if we are serious about financial reform, now is the time to start breaking up these behemoths that exhibit certain enormous impacts on our whole economy.

No. 2, we have to end the absurdity of a Wall Street selling trillions of dollars

in exotic financial tools, instruments, at the same time small and medium-sized businesses are unable to get the loans they need in order to create the jobs our country desperately is in need of. At a time when we are in the midst of a major recession, at a time when we are losing our competitive advantages in the global economy, it is absolutely absurd that our largest financial institutions continue to trade trillions in esoteric financial institutions which make Wall Street the largest gambling casino in the world. We need to have them start investing in the real economy, the productive economy, in small and medium-sized businesses, in transforming our energy system and helping us rebuild our infrastructure, and in transportation and other desperate needs. They can no longer live isolated from the real world and engage in bets on whether oil is going to go up 6 months from now or whether the housing market goes down.

If we are serious about real financial reform, we need to pass national usury legislation. I get calls every week from Vermonters who are sick and tired of paying 25-percent or 30-percent interest rates on their credit cards. Every major religion points out that usury is immoral. It is wrong to charge people outrageously high interest rates when they are in desperate need. We need national usury legislation. I will be offering an amendment which will cap at 15 percent the amount financial institutions can charge on credit cards, which is exactly what exists for credit unions today.

Lastly, if we are serious about real financial reform, we need transparency at the Federal Reserve. The Fed cannot continue to operate in almost total secrecy. During the bailout, large financial institutions received trillions of dollars in zero or near-zero interest loans. Who received those loans and what were the terms? The Fed is not telling the American people. Did some of those banks turn around and in a mammoth welfare scam invest that Fed money, zero-interest money, in government Treasury bonds at 3 percent or 4 percent? The Fed is not telling us the answer to that question as well. It is time we had transparency at the Fed so the American people know what our Central Bank is doing.

Most of all, we need to end the "heads bankers win, tails everybody else loses" financial system that currently exists in the United States today. The American people are profoundly disgusted with the greed and recklessness and illegal behavior on Wall Street. They cannot understand how the very same people who created this recession in which millions of workers have lost their jobs, people have lost their homes, people have lost their savings, that these very same people are now receiving multimillion dollar bonuses. People don't understand that, nor do I, in fact. So we need a new Wall Street. We need real financial reform. I hope, in fact, that the