

agriculture. She did such a good job with those issues she was honored for her efforts with a "Golden Plow" award from the American Farm Bureau Federation.

Her support for farmers across the country and her willingness to work in a bipartisan fashion to forge workable solutions to difficult problems reflect the kind of principles that have helped to guide and direct her during her service in the Senate and throughout her life. Another is the importance of family—her own—and families just like hers all over the country.

Those aren't just my observations—they are common knowledge back in Arkansas. When BLANCHE won a seat in the House of Representatives everyone was certain that the sky was the limit for her. After she had served for 2 terms; however, she decided not to run for another when she learned she would soon be giving birth to twins. She decided to return home so she could take care of her family while she waited for another opportunity to serve the people of Arkansas to present itself—which is exactly what happened.

As her twins began to grow up, she was able to return to politics. She made a run for Dale Bumpers' seat when he retired and was elected by a margin of 13 percent. Her victory made her the youngest woman ever elected to the Senate, an expression of the great confidence and trust the people of her State had in her.

For 12 years BLANCHE has worn the title of Senator with great pride not for her accomplishment, which was historic, but for the opportunity it gave her to make the world a better place for the people of Arkansas, the people of rural America, the citizens of our great Nation and, of course, for those twins of hers.

I do not know what BLANCHE has planned for the days to come but I think I can predict with safety and certainty that we haven't heard the last from her—and that is a good thing.

Keep in touch, BLANCHE. We will always be pleased to learn what you are doing and your thoughts on the latest issues before the Senate. Diana and I send our best wishes to you and all your family. God bless and keep all of you.

#### HONORING OUR ARMED FORCES

DANIEL EDWARD DUEFIELD

Mrs. SHAHEEN. Mr. President, it is with a heavy heart that I rise today to honor the life of a young veteran, Daniel Edward Duefield, who died at the age of 24 on November 17 at his home in Grafton, NH. A veteran of the Iraq war, Daniel served his country on two tours of duty as a member of the 10th Mountain Division in the U.S. Army.

A native of New Hampshire, Daniel was born in Franklin on December 14, 1985. He attended Mascoma Valley Regional Schools and graduated from Mascoma Valley Regional High School in June 2004. From playing video games

with his nephew, Josh, to relaxing on a fishing trip, Daniel enjoyed spending time with family and friends.

He also felt a deep and abiding love for his country, enlisting in the Army in June 2005. Daniel graduated from Army basic training in Fort Benning, GA, and joined the 10th Mountain Division out of Fort Drum, NY. He was excited to have the opportunity to protect his country and family and succeeded in doing so throughout his service until he was honorably discharged in July 2008. The American people will forever be grateful to Daniel for his willingness to serve.

Daniel was a true patriot whose service to his country and family will endure in our memories. No words can lessen the pain of losing this young hero and brave New Hampshire son. It is now up to us to honor him by continuing to improve the support we provide to our veterans and their families and ensuring America's continued security.

Daniel is survived by his parents, Harold "Duffy" E. Duefield III and Ruth E. Duefield of Grafton, NH; his fiancé, Alicia Vasquez of Grafton, NH; his grandfather, Harold E. Duefield, Jr., and extended family. This young patriot will be dearly missed.

I ask my colleagues and all Americans to join me in honoring the life of Daniel Edward Duefield.

#### JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, this morning, both the New York Times and the Washington Post published strong editorials condemning the delays in Senate consideration of the President's nominees. The Washington Post wrote about the extraordinary and damaging treatment of Jim Cole, who is nominated to serve as the No. 2 official at the Justice Department, a position with extensive responsibilities for national security and law enforcement. The New York Times wrote about the across-the-board objections to Senate consideration of judicial nominees, including dozens who have been reported without opposition by all Republicans and Democrats on the Judiciary Committee.

Two weeks ago, I came to the floor and asked unanimous consent that the Senate consider the long-pending nomination of Jim Cole to be the Deputy Attorney General, and that the Senate schedule for debate and a vote without further delay. Senator SESSIONS objected to my request and we continue to be prevented from acting on this critical national security nomination.

I will ask consent to have printed in the RECORD at the conclusion of my statement today's editorial from the Washington Post entitled, "An Unacceptable Delay." The editorial notes:

James M. Cole appeared well on his way in July to filling the important No. 2 slot at the Justice Department after earning a favorable vote from the Senate Judiciary Committee.

But the full Senate has yet to vote on Mr. Cole's nomination to what is essentially the post of chief operating officer of the mammoth department. The five months between committee and floor vote appear to be the longest delay endured by any deputy attorney general nominee.

The slow crawl comes courtesy of some Senate Republicans who question Mr. Cole's approach to terrorism cases and his role as an independent monitor for struggling financial giant American International Group (AIG). These concerns should not derail Mr. Cole's confirmation—and they certainly should not be used to block a vote.

Mr. Cole's nomination has been pending on the Senate's Executive Calendar since it was reported favorably by the Judiciary Committee in July. Those continuing to block this nomination from debate and a vote are wrong. As the editorial observes: "There is no suggestion that Mr. Cole suffers from the kind of ethical or legal problems that would disqualify a nominee." If Senators disagree, they are free to vote against the nomination. But it is long past the time to end the stalling.

I noted 2 weeks ago that the letter from eight former Deputy Attorneys General of the United States who served in the administrations of President Reagan, President George H.W. Bush, President Clinton, President George W. Bush, as well as the current administration, correctly observed that "the Deputy is also a key member of the president's national security team, a function that has grown in importance and complexity in the years since the terror attacks of September 11." They are right. This is a dangerous game that partisans are playing in stalling this important nomination in what is really an unprecedented way.

Mr. Cole's nomination has been pending five times longer than the longest-pending Deputy Attorney General nomination in the last 20 years. All four of the Deputy Attorneys General who served under President Bush were confirmed by the Senate by voice vote an average of 21 days after they were reported by the Judiciary Committee. In fact, we confirmed President Bush's first nomination to be Deputy Attorney General the day it was reported by the committee. We treated those nominations of President Bush with the "enormous deference in executive branch appointments" that the Post editorial today states that every President deserves.

Jim Cole served as a career prosecutor at the Justice Department for a dozen years, and has a well-deserved reputation for fairness, integrity and toughness. As he demonstrated during his confirmation hearing months ago, he understands the issues of crime and national security that are at the center of the Deputy Attorney General's job. Nothing suggests that he will be anything other than a steadfast defender of America's safety and security. His critics are wrong about Jim Cole's approach to terrorism. He has testified strongly that the President should use every power and weapon and tool he possesses in this fight.

His critics are also wrong to try to blame him for the actions of AIG. His role was limited to a monitor of other corporate functions and there is no showing he did not perform his assignment well. In fact, former Republican Senator Jack Danforth introduced him to the committee and gave him a strong endorsement. Let us hold those responsible at AIG accountable. Those who disagree are free to vote against the nomination of this good man if they choose, but they should end the holds and the stalling and let the Senate decide whether to consent to this nomination. As today's editorial concludes, "have the decency to hold a floor vote and give him a thumbs down." I am confident that when allowed a vote, he will be confirmed. He should be confirmed with bipartisan support and that vote should have been taken months ago. The months of delay of this nomination have been unnecessary, debilitating and wrong.

I urge those Senators who are objecting to debate and a vote to turn away from their destructive approach so that we can consider and confirm Jim Cole immediately and he can finally begin his important work to help protect the American people.

For over a year now, I have been urging all Senators, Democrats and Republicans, to join together to take action to end the crisis of skyrocketing judicial vacancies now threatening the ability of Federal courts throughout the country to administer justice for the American people. That has not happened. I have asked that we return to longstanding practices that the Senate used to follow when considering nominations from Presidents of both parties. This has not happened. As a result, 38 judicial nominations that have been favorably reported by the Judiciary Committee continue to be stalled without final Senate action on the Senate's Executive Calendar.

I will ask consent to have printed in the RECORD at the end of my statement today's editorial from The New York Times entitled "Advise and Obstruct." It rightly calls for an end to the across-the-board obstruction of President Obama's judicial nominations. The editorial notes that the Senate has been blocked from considering a single judicial nomination since September 13. In fact, the Senate has only considered five Federal circuit and district court nominations since the Fourth of July recess. Of the 80 judicial nominations reported by the Judiciary Committee and sent to the Senate for final action in order to fill Federal circuit and district court vacancies, only 41 have been considered. That is a historically low number and percentage. Meanwhile, dozens of judicial nominees with well-established qualifications and the support of their home state Senators from both parties have been ready and kept waiting for Senate consideration all year.

The editorial also points to the high costs of obstruction "at a time when

an uncommonly high number of judicial vacancies is threatening the sound functioning of the nation's courts." The editorial is right. The vacancies on the Federal courts around the country have doubled over the last 2 years and now are at the historically high level of 111. Fifty-two of these vacancies are deemed judicial emergency vacancies by the nonpartisan Administrative Office of the U.S. Courts. The Senate has received letters from courts around the country calling for help to address their crushing caseloads, including letters from the Chief Judges of the Ninth Circuit Court of Appeals and the U.S. District Courts in California, Colorado, Illinois and the District of Columbia. They have pleaded with us to end the blockade and confirm judges to fill vacancies in their courts.

The Times editorial accurately portrays a grim picture of where we are in considering these nominations and also points the way forward:

At this point, the Senate has approved 41—barely half—of President Obama's federal and district court nominees reported by the Judiciary Committee. Compare that with the first two years of the George W. Bush administration when the Senate approved all 100 of the judicial nominations approved by the committee. The final days of the lame-duck session are a chance to significantly improve on this dismal record and to lift the judicial confirmation process out of the partisan muck.

The editorial calls for a vote on all 38 judicial nominations awaiting final action by the Senate. I agree and have been calling for votes on all of these nominations. We should do as we did during President Bush's first 2 years in office and consider every judicial nomination favorably reported by the Senate. During those two years the Judiciary Committee favorably reported 100 judicial nominations and the Senate confirmed every one of them, including controversial circuit court nominations reported during the lameduck session in 2002. In contrast, we have during President Obama's first 2 years favorably reported 80 circuit and district court nominations, but considered only 41, barely half.

I have been trying to end this obstruction, yet it continues. Agreements to debate and consider nominations have been sought repeatedly, but the Republican leadership has objected time and time again.

Of the 38 judicial nominations currently stalled on the Executive Calendar, 29 of them were reported unanimously, without a single negative vote from the 19 Republican and Democratic members of the committee. Another three were reported with strong bipartisan support and only a small number of no votes. Of these 32 bipartisan, consensus nominees, 17 of them were nominated to fill judicial emergency vacancies. They should all have been confirmed within days of being reported, not obstructed with weeks and months of delay. It will be a travesty if they are not all confirmed before the 111th Congress adjourns.

These consensus nominees include six unanimously reported circuit court nominees, and another circuit court nominee supported by 17 of the 19 Senators on the Judiciary Committee. The nomination of Judge Albert Diaz of North Carolina, a respected and experienced jurist who served in the Armed Forces, for a judicial emergency vacancy on the Fourth Circuit has been stalled for 11 months despite the support of his home state Senators from both parties. Judge Ray Lohier of New York would fill one of the four current vacancies on the U.S. Court of Appeals for the Second Circuit. He is another former prosecutor with support from both sides of the aisle. His confirmation has been stalled for no good reason for more than seven months. Scott Matheson is a nominee from Utah supported by Senator HATCH; he was reported without opposition over 6 months ago. Mary Murguia, a nominee from Arizona supported by Senator KYL, was reported without opposition over 4 months ago. Judge Kathleen O'Malley of Ohio is nominated to the Federal Circuit and was reported without opposition nearly 3 months ago. Justice James Graves of Mississippi, whose nomination has the strong support of his home State Republican Senators, was reported unanimously to serve on the Fifth Circuit. Also pending is a seventh consensus circuit court nomination, Susan Carney of Connecticut, who was reported with strong bipartisan support to fill another judicial emergency vacancy on the Second Circuit.

The nominees currently being blocked from consideration also include 30 district court nominations, some reported as long ago as February. The Republican blockade of these nominations is a dramatic departure from the traditional practice of considering them expeditiously and with deference to the home State Senators. These 30 district court nominees include 23 nominees reported unanimously by the Judiciary Committee. Fifteen of these nominations are for seats designated as judicial emergencies. All of these nominees have well established qualifications and are at the top of the legal community in their home states. All have put their lives and practices on hold in an attempt to serve their country and their community. There is no cause for continuing to block the Senate from considering their nominations and no precedent for extending these delays further.

In addition, I have urged for many months that the Senate debate and a vote on those few nominees that Republican Senators decided to oppose in committee. These nominees include Benita Pearson of Ohio, William Martinez of Colorado, Louis Butler of Wisconsin, Edward Chen of California, John McConnell of Rhode Island, and Goodwin Liu of California. As I have said before, I have reviewed their records and considered their character,

background and qualifications. I have heard the criticisms of the Republican Senators on the Judiciary Committee as they have voted against this handful of nominees. I disagree, and believe the Senate would vote, as I have, to confirm them. Each of these nominees have been reported favorably by the Judiciary Committee, several of them two or three times, and each deserves an up-or-down vote. That they will not be conservative activist judges should not disqualify them from consideration by the Senate or serving on the bench.

All 38 of these judicial nominations should have an up-or-down vote, just as all 100 of President Bush's judicial nominations reported by the committee in his first 2 years had a vote in the Senate. Even if Republican Senators will not follow our example and treat President Obama's nominees as we treated President Bush's, even if they will not abide by the Golden Rule, they should at least listen to their own statements from just a few years ago. They said that every judicial nomination reported by the Senate Judiciary Committee was entitled to an up-or-down vote. They spoke then about the constitutional duty of the Senate to consider every judicial nomination. The Constitution has not changed; it has not been amended. The change from the days in which they made those statements is that the American people elected a new President and he is making the nominations. In fact, President Obama has reached out and worked with Senators from both sides of the aisle. We have not sought to proceed on one of his judicial nominees without the support of both home State Senators.

Time is running out in this Congress to turn away from the disastrous strategy of blocking nominations across the board. It is time to return to the Senate's longstanding traditions and reject this obstruction. The Federal courts and the American people who depend on the courts for justice are suffering.

Today, December 15, is the anniversary of the ratification of the Bill of Rights, the first 10 amendments to the Constitution of the United States. Let us renew our commitment to the Constitution, to our Bill of Rights, and to our liberty by turning away from the destructive partisanship that has delayed Senate consideration of these nominations. Let us act in the spirit of the Founders, in the spirit of the season, and move forward together to consider and vote on these important nominations of a Deputy Attorney General and U.S. judges.

Mr. President, I ask unanimous consent to have printed in the RECORD the articles to which I referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 15, 2010]

#### AN UNACCEPTABLE DELAY

James M. Cole appeared well on his way in July to filling the important No. 2 slot at the Justice Department after earning a fa-

vorable vote from the Senate Judiciary Committee.

But the full Senate has yet to vote on Mr. Cole's nomination to what is essentially the post of chief operating officer of the mammoth department. The five months between committee and floor vote appear to be the longest delay endured by any deputy attorney general nominee.

The slow crawl comes courtesy of some Senate Republicans who question Mr. Cole's approach to terrorism cases and his role as an independent monitor for struggling financial giant American International Group (AIG). These concerns should not derail Mr. Cole's confirmation—and they certainly should not be used to block a vote.

Mr. Cole, who is in private practice and spent some 13 years in the Justice Department, criticized the Bush administration in a 2002 opinion piece in *Legal Times* for some of its post-Sept. 11, 2001, tactics, including the use of "military tribunals to try noncitizens for terrorist crimes." Sen. Jeff Sessions (R-Ala.), ranking member on the Senate Judiciary Committee, condemned Mr. Cole for labeling the attack a crime rather than an act of war; he also questioned the wisdom of embracing "a law enforcement approach."

"You capture enemies. You arrest criminals," Mr. Sessions said during the confirmation hearings. Mr. Cole said he believes that recently reconstituted military commissions are a legitimate option, but he rightly refused to rule out federal court prosecutions for some suspects—an approach that mirrors that of the president and the attorney general.

Some Republicans also are troubled by Mr. Cole's work, starting in 2006, as a special monitor for AIG. Mr. Cole made several suggestions about needed improvements in AIG's business practices, but he appears not to have addressed the risky and unregulated credit default swaps that led to AIG's collapse and subsequent government bailout because they were not part of his portfolio.

The president deserves enormous deference in executive branch appointments. There is no suggestion that Mr. Cole suffers from the kind of ethical or legal problems that would disqualify a nominee. If Republicans nevertheless find Mr. Cole unacceptable, they should have the decency to hold a floor vote and give him a thumbs down.

[From the New York Times, Dec. 14, 2010]

#### ADVISE AND OBSTRUCT

The Senate's power to advise and consent on federal judicial nominations was intended as a check against sorely deficient presidential choices. It is not a license to exercise partisan influence over these vital jobs by blocking confirmation of entire slates of well-qualified nominees offered by a president of the opposite party.

Nevertheless, at a time when an uncommonly high number of judicial vacancies is threatening the sound functioning of the nation's courts, Senate Republicans are persisting in playing an obstructionist game. (These, by the way, are the same Senate Republicans who threatened to ban filibusters if they did not get an up-or-down vote on every one of President George W. Bush's nominees, including some highly problematic ones.)

Because of Republican delaying tactics, qualified Obama nominees who have been reported out of the Judiciary Committee have been consigned to spend needless weeks and months in limbo, waiting for a vote from the full Senate.

Senate Republicans seek to pin blame for the abysmal pace of filling judicial vacancies on President Obama's slowness in making nominations. And, no question, Mr. Obama's

laggard performance in this sphere is a contributing factor. Currently, there are 50 circuit and district court vacancies for which Obama has made no nomination. But that hardly explains away the Republicans' pattern of delay over the past two years on existing nominees, or the fact that Senate Republicans have consented to a vote on only a single judicial nomination since Congress returned from its August recess.

At this point, the Senate has approved 41—barely half—of President Obama's federal and district court nominees reported by the Judiciary Committee. Compare that with the first two years of the George W. Bush administration when the Senate approved all 100 of the judicial nominations approved by the committee. The final days of the lame-duck session are a chance to significantly improve on this dismal record and to lift the judicial confirmation process out of the partisan muck.

Of the 38 well-qualified judicial nominees awaiting action by the full Senate, nearly all cleared the Judiciary Committee either unanimously or with just one or two dissenting votes. Some nominees have been waiting for Senate action for nearly a year. Senator Mitch McConnell, the minority leader, should allow confirmation of all 34 nominees considered noncontroversial, including the 15 nominees cleared by the committee since the November election.

There are four other nominees who were approved by the committee over party-line Republican opposition. They, too, deserve a prompt vote rather than requiring President Obama to start the process over again by re-nominating them when the next Congress begins. That short list of controversial nominees includes Goodwin Liu, an exceptionally well-qualified law professor and legal scholar who would be the only Asian-American serving as an active judge on the United States Court of Appeals for the Ninth Circuit. His potential to fill a future Supreme Court vacancy seems to be the main thing fueling Republican opposition to his nomination.

Mr. McConnell is said to be negotiating a deal with Senator Harry Reid, the majority leader, that allows for confirmation of 19 nominees approved by the committee before the election but denies consideration by the full Senate to the others. That would be a disservice to the judicial system, to Mr. Obama's nominees and to the idea that bipartisanism should exist, at last, in the advice-and-consent process for federal judges.

#### NATIONAL HOME CARE AND HOSPICE MONTH

Ms. COLLINS. Mr. President, November is National Home Care and Hospice Month, which gives us the opportunity to honor the home health and hospice caregivers and volunteers who make such a remarkable difference in the lives of their patients and their families. The highly skilled and compassionate care that home health and hospice agencies provide has helped to keep families together and enabled millions of our most frail and vulnerable individuals to avoid hospitals and nursing homes and stay just where they want to be in the comfort and security of their own homes.

Home health and hospice have consistently proven to be compassionate and cost-effective alternatives to institutional care. In fact, a recent survey conducted for the Maine chapter of