

Oklahoma City bombing and add my voice to the others who have remembered the loss of life we suffered on that terrible day. I also extend my sympathy to the survivors and to the families of the lost.

It is impossible for most of us to understand how someone could commit such a terrible act. It is impossible for most of us to appreciate the pain of losing a loved one to such a violent, senseless act. But we can try to console them and we can work tirelessly to prevent other terrorist acts against other innocent men and women, both here and abroad.

So on this solemn anniversary, we resolve once again to fight terrorism wherever we find it and to never forget the people who have suffered from it. We will never forget Oklahoma City or the people who lost their lives on that day.

FINANCIAL REGULATORY REFORM

Mr. President, turning my attention to the financial services bill, as we know, it came out of the Banking Committee on a party-line vote, without any Republican support. So where are we? The debate over financial regulatory reform continues this week, so let me recap where we are, the progress we are making, as well as some of the more unhelpful things we have seen.

Over the past year or so, Democrats and Republicans alike worked long and hard to construct a bill aimed at preventing the kind of financial crisis we saw in the fall of 2008, and, just as crucially, to prevent any future bailouts of the biggest Wall Street firms. That was the goal.

Progress was made. But then, in a rush to get the bill to the floor, these talks stopped. So last week, I came to the floor to point out the flaws that resulted from this partisan approach.

One of the biggest of these was the creation of a \$50 billion bailout fund. It seemed to me and many others that the very existence of this fund would perpetuate the same kind of risky behavior that led to the last crisis.

On this point, there seemed to be fairly broad consensus, from Senate Republicans to Secretary Geithner himself.

So the reaction I got was somewhat amusing.

Some of our friends on the other side raised voices of protest because I had spoken up about flaws in the bill. Others ginned up the press with some inside-Washington line about talking points and pollsters. And over at the White House, the President criticized me in his weekly radio address even as his deputies worked to strip the very provision I had called into question a few days before.

Well, they cannot have it both ways.

So my advice at the beginning of this week is that we focus not on personal attacks or questioning each other's motives but on fixing the problems in this bill, and that means doing everything we can to make sure the final product doesn't allow for future Wall Street bailouts.

Both parties agree on this point: no bailouts. In my view, that is a pretty good start. So let us come together and direct our energies toward making sure we achieve that goal and leave aside all the name-calling and the second-guessing.

What last week showed me is that we have two options as this debate moves forward: either we let the people who know this legislation best get back to the negotiating table and work out a solution that is acceptable to both parties and to the American people, or, I can come down to the floor, identify some of the other flaws in this bill, watch as people come down to scream and yell about my suggestions and my motives, and then wait for the White House to agree with me at the end of the week.

I am perfectly happy to do the latter if it means we get a better bill in the end. But it seems to me that a far more efficient way of proceeding is to just skip the character attacks on anyone who dares to point out flaws with the bill, be they provisions that expose taxpayers to Wall Street bailouts or those that would further worsen the jobs situation, and work out these problems now. Forget the theatrics, and get to work.

Again, I am happy to come down and identify additional problems. I could mention, for instance, my worry that the current bill could dry up credit even more for small businesses and community banks. The experts know that this and other problems exist in the bill. If the administration wants to continue to pretend that it does not, then you will see me down here every day. But my preference would be to let the experts work through these problems on a bipartisan basis.

So let us go back to the negotiating table and work out these problems, and then come together and have a bipartisan vote that will give the American people confidence that this bill is not just one party's way of solving this problem. These problems are not insurmountable. This bill is not unfixable. We can reform Wall Street without making taxpayers pick up the tab. Let us do that, then give the American people a strong bipartisan bill that an issue like this deserves.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period of morning business until 3 p.m., with Senators permitted to speak therein for up to 10 minutes each.

Mr. MCCONNELL. Mr. President, 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. ALEXANDER. 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.

(The remarks of Mr. ALEXANDER are printed in today's RECORD under "Morning Business.")

Mr. ALEXANDER. 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. UDALL of New Mexico. 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.

Mr. UDALL of New Mexico. I thank the Chair.

(The remarks of Mr. UDALL pertaining to the introduction of S. 3224 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

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

Mr. GRASSLEY. Mr. President, first, I don't know what the order is for the Senate. I was going to speak on one of the nominations that will be before the Senate shortly. I wish to do that, if that is appropriate.

The ACTING PRESIDENT pro tempore. The Senate is in morning business until 3 o'clock.

Mr. GRASSLEY. Yes, it is 3 o'clock now.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, morning business is closed.

EXECUTIVE SESSION

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

The ACTING PRESIDENT pro tempore. The Senate will now proceed to executive session to consider the following nomination, which the clerk will report.

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

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

Mr. DORGAN. If the Senator from Iowa will yield, Mr. President, I ask unanimous consent that I be recognized following the presentation by the Senator from Iowa.

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

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I want to speak on the nomination of the person just announced. In the process, I am going to speak about some other people who have similar issues.

Tax collection is meant to reflect shared benefits and appeal to equality as a fundamental value. However, to paraphrase George Orwell, some people are more equal than others.

More specifically, several recent Presidential nominees have apparently set themselves above the typical American citizen in the lack of importance they place on complying with their tax obligations. This certainly seems to be the case with Dr. Brainard, nominated to be Under Secretary of the Treasury for International Affairs.

As a nominee, Dr. Brainard was treated the same as any other nominee to come through the Finance Committee in the 9 years I have been either chairman or ranking member. For the past 9 years, and likely much longer, the Finance Committee has vetted all Presidential nominees referred to the committee, and that vetting includes a tax review. The tax review of Dr. Brainard uncovered three basic issues. These issues have been described in much detail in a bipartisan Finance Committee memo released November 18, 2009. I also discussed them in a statement that was printed in the CONGRESSIONAL RECORD December 23 of last year.

Those seeking to criticize the Finance Committee's vetting process are quick to mention the length of time Dr. Brainard has been a nominee. She was nominated March 23, 2009, and her hearing was held on November 20, 2009. The reason for the passage of nearly 8 months was that the nominee persisted in being evasive and nonresponsive to very basic questions arising from the routine review of tax returns. There are still questions that were not clearly or consistently answered despite multiple rounds of questions. Other questions necessitated multiple answers as new information came to light.

For example, the committee learned on October 12, 2009, nearly 7 months after the nomination, that the nominee failed to timely pay 2008 property taxes for Rappahannock County, VA, and that the nominee was delinquent while the tax vetting was going on. I have said this before. But the reason the review of Dr. Brainard took several months was that she was not forthcoming in her answers. As the committee memo details, some of her answers contradicted each other.

I ask those who are critical of the committee's treatment of this nominee if there are some things it is okay to be evasive about to the Congress of the United States. Is there a point where Congress should accept vague and unclear statements and decide it is not some sort of big deal?

Supporters of the nominee find themselves in the position of having to dis-

tort the facts in order to make their case. They say Dr. Brainard's tax problems involved small amounts of money and some mistakes, such as late payment of property taxes, and it could happen to anyone. While these statements may be true, they do not deal with the nominee's real problem which, as I have said, is her unwillingness to fully and completely answer questions from the Finance Committee.

The Finance Committee's vetting process has uncovered tax irregularities with many past and current Presidential appointees. What the committee requires is that the nominee acknowledge and fix these irregularities.

Unless these tax issues involve substantial dollar amounts, or there is information suggesting the nominee deliberately avoided fulfilling their tax liabilities, this information is not made public and the nominee is allowed to move forward. The Finance Committee is not trying to embarrass people for making simple mistakes, and neither the committee nor this Senator benefits from a lengthy vetting process.

In the case of nominees where difficulties arise to the point where our committee must release information publicly, the committee completes its review so that all information is released all at once and the nominee is allowed to review information to be released by the committee before the committee ever would release it, so that the nominee would know exactly where we are coming from.

Dr. Brainard was allowed to review the Finance Committee memo before it was released, and if she had withdrawn her nomination, that information would have remained confidential. It would not have been out there for anybody to know anything about. But we are moving forward with this nomination; hence, any sort of information is public.

Dr. Brainard is the third senior Treasury Department nominee either the Finance Committee or this Senator has taken issue with. Secretary Geithner's failure to pay his self-employment taxes as an International Monetary Fund employee is well known.

Just a few weeks ago, Jeffrey Goldstein was recess-appointed to the post of Under Secretary for Domestic Finance. While I do not believe Dr. Goldstein failed to satisfy his tax liabilities, I do have questions regarding off-shore activities a private equity fund engaged in while Dr. Goldstein was a managing director.

I was in the process of asking more questions as to the business purpose of these activities and was prepared to let the nominee advance toward confirmation once these questions were answered. Dr. Goldstein was absolved of the need to respond to my questions by the recess appointment made under law by President Obama. Dr. Brainard and Secretary Geithner both had personal issues the committee released informa-

tion on in a bipartisan way, and I have unresolved questions regarding off-shore activities engaged in by Dr. Goldstein's previous employer.

As concerned as I am with the issues involving this specific nominee, I am even more concerned by the reaction by some to the information released by the Finance Committee on this and other recent nominees.

Dr. Brainard was the fifth nominee of the current administration to run into personal tax issues during the Finance Committee's vetting process. With the exception of one nominee, who voluntarily withdrew his nomination, all of these nominees were confirmed, or will be confirmed, as I expect Dr. Brainard to be confirmed. It is not clear that the Finance Committee vetting of nominees has served a useful purpose and information released by the Finance Committee on problematic issues surrounding nominees doesn't seem to have decreased support for their confirmations.

I am not saying that every nominee who runs into trouble should be automatically rejected. I myself voted for one of the five nominees I just mentioned. However, it does not appear that the information released by the committee on nominees in this current Congress is given much consideration.

The issues involving Dr. Brainard should have no bearing on political parties, issue positions, or who is friends with whom. The only basic issues should be that everyone needs to pay their taxes as required by law, and the nominee should be fully responsive to the Congress. In looking at the first of these issues, the nominee showed that she was deficient in the second. For the reasons I have laid out here and in earlier statements, I will vote against this nominee.

However, I do plan to vote for cloture, and I want to explain that. Despite my own opposition to the nominee, I don't want to prevent other Senators from considering the nominee, and I am not attempting to prevent the nominee from receiving an up-or-down vote.

I hope other Senators consider the information the Finance Committee has released and will consider what I have said and will come to their own decision as to which way to vote.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

Mr. DORGAN. We are in executive session, is that correct?

The ACTING PRESIDENT pro tempore. That is correct.

Mr. DORGAN. Mr. President, I have the Executive Calendar of the Senate in front of me. It is on every desk. It has the pending nominations that have yet to be acted upon by the Senate.

I note that there are a large number of nominations that have been made on which there are holds. There is delay, there is stalling, and you wonder—here is a May 20, 2009 nomination, reported

out of the Homeland Security Committee of Marisa Dameo, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia. That was reported out in May of last year.

Here is one for John Sullivan, of Maryland, to be a member of the Federal Elections Commission, which was reported out last June and is still pending.

Here is one for Stuart Gordon, to be an Associate Judge of the Superior Court of the District of Columbia, which was reported out on July 29 of last year and is still pending.

I am going to read a rather lengthy list in a bit. These are nominations that have been stalled, delayed, held up. There are, I think, nearly 100 of them on the Executive Calendar, which is on everyone's desk.

I specifically want to talk about one, and then I am going to propound a unanimous consent request. The one is about GEN Michael Walsh. I know General Walsh. I have known him for a long time. He is the commander of the Mississippi Valley Division of the Corps of Engineers. He has been to war for his country. He is a one-star general. He served 30 years in uniform for this country.

He has been nominated to receive his second star to be a major general. That request to receive a second star for General Walsh went through the relevant committee, the Armed Services Committee of the Senate, chaired by Senator LEVIN, and the ranking member is Senator MCCAIN. The nomination was unanimously reported out by the committee, by all Republicans and all Democrats. It is a nomination supported by Senator LEVIN and Senator MCCAIN, the chairman and the ranking member. Yet that nomination was sent to the floor of the Senate nearly 6 months ago and has yet to be acted upon because there is a hold on it.

I have spoken on this issue before—last week. We have a Member of the Senate who has said to the Corps of Engineers: I am going to stop this general's promotion to major general until the Corps of Engineers does the following things that I demand from the Corps of Engineers in my home State of Louisiana. This is Senator VITTER from Louisiana.

I did say to Senator VITTER—I would not come and speak of another Senator without first telling him I was going to do that. I told Senator VITTER I was going to be critical on the floor of the Senate of what he was doing to General Walsh—a patriot, someone who has served 30 years for his country in the U.S. Army, someone who has gone to war for his country, someone who has had a unanimous vote in the Armed Services Committee to become major general.

After all of these months, his promotion has not yet moved. Why? Because of one U.S. Senator demanding something this general cannot do. This general executes policy; he does not

make policy. The demands by Senator VITTER in two letters that he has sent to the Corps and the response from the Corps of Engineers are four letters I put in the Senate RECORD last week.

It is unbelievable that the career of a distinguished general in the U.S. Army is handled this way by one Member of the Senate. It is unfair to him. It is unfair to the Army, in my judgment. And it is the last thing in the world we ought to be doing—singling out one person and putting their career and their advancement on hold, prohibiting this one-star general from receiving a second star because one person in the Senate is demanding the agency for which this general works do things that the agency says it cannot do in any event.

I am going to ask unanimous consent, and then I want to say a few more words about it.

UNANIMOUS CONSENT REQUEST—NOMINATION OF
BG MICHAEL J. WALSH

I ask unanimous consent—and I have notified the minority—that the Senate proceed to Executive Calendar No. 526, the nomination of BG Michael J. Walsh to be major general; that the nomination be confirmed and the motion to reconsider be laid upon the table; that no further motions be in order; and that the President be immediately notified of the Senate's action.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. GRASSLEY. Reserving the right to object.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I wish to make very clear that I do not oppose this nominee, and I say to Senator DORGAN that I have no problem with what he is doing. I have been asked on the part of Senator VITTER to object, so I must object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. DORGAN. Mr. President, I understand the Senator from Iowa is acting on behalf of another Senator. I must say I think it is incumbent on the other Senator to be here and make this objection himself. I know the rules do not require that, but I think the rules at this point are derelict in terms of this circumstance.

We have a general in the U.S. Army who has served this country well whose career is now on hold. It is on hold because one person is demanding that the Corps of Engineers do certain projects for New Orleans and the State of Louisiana. In any event, this general cannot do them.

I chair the subcommittee that funds the energy and the water programs. As the chairman of the subcommittee that funds all of the water programs, I can tell the Presiding Officer that billions and billions of dollars have been sent to Louisiana and to New Orleans. I have supported all of that because they were hit with a devastating hurricane called Katrina. It caused dramatic injury to life and limb. No area of the country has been hit harder.

I include myself among all of those who say we have a responsibility and have begun to meet that responsibility in the most significant way that has been done for any State in this Nation at any time. I have been proud to do that. But what the Senator from Louisiana, Mr. VITTER, is demanding from the Corps of Engineers in a number of cases the Corps cannot legally do and in other cases the Corps will not do because the Appropriations Committee has already voted against it in a recorded vote.

To hold up the nomination to major general of a distinguished Army general for all of these months because one Senator is upset is horribly unfair to this general, Michael Walsh. I know him. I like him. He deserves his second star. The Armed Services Committee unanimously has said he deserves a second star. He does not have it. Now many months later, month after month, one Member of this Senate, Senator VITTER, has decided to extract from the career of this officer some penalty because he will not do something he cannot do. It is unbelievable to me.

I say to my colleague, if he wishes to object, I will come tomorrow. I will set a time. I wish he would come to the floor and object to my request and tell us why he believes this general can do that which the general does not have the authority to do. If he finally understands that this general cannot do what Senator VITTER wishes him to do, I hope Senator VITTER will stand aside and decide not to interrupt the fine career of this great military general.

I will not speak more about this, but I will come to the floor tomorrow, and I will notify his office when I am going to be here. I hope perhaps he will not have others come and object for him. Perhaps he would bother to come to the floor and explain to this general, explain to the U.S. Army and the American people why this general, having served 30 years and served in wartime, is not able to get his second star and has had to wait month after month and more. It is unfair, it is wrong, and it needs to be corrected.

Let me again say that I believe 93 to 100—I am not sure of the number today; last week, it was 93; all of these nominations: Winslow Lorenzo Sargeant to be Chief Counsel for Advocacy of the Small Business Administration, reported out of the committee on September 16 last year, not acted on; Brian Hayes, National Labor Relations Board, reported out October 21 last year—the list goes on and on.

I guess it is a strategy—not just on this but virtually on everything—to object. In fact, there was one person on this list who is coincidentally from my State. That person was a nominee for the General Services Administration. Her name was Martha Johnson. Martha Johnson was nominated to be the head of GSA. GSA is the Federal agency that manages more property than any agency in the world. It manages all of

the Federal property. One Senator put a hold on Martha Johnson's nomination. The result was there was not someone to run the General Services Administration for almost a year; I believe it was 10 months. Then, when we finally invoked cloture after great length, the vote on this nomination was 96 to 0. Not even the person who put the hold on for almost a year voted no. Everybody voted yes. The result was a Federal agency that desperately needed leadership did not have leadership for almost a year. Why? Because one Senator said: I am going to put a hold on this nomination because of some building someplace. They were upset about something. The result is that everybody pays. All the American taxpayers pay because we did not have the leadership in an agency that desperately needed the leadership. That is just an example.

It has been so unbelievably disappointing to see what is going on in the Chamber with all of these issues. I am almost inclined to think we should go through one by one and have 93 unanimous consent requests. Perhaps I will do that tomorrow or the next day. I know others will as well.

I guess if you object to everything, including having government work the way it is supposed to work, effectively and efficiently on behalf of the taxpayers in these agencies that need leadership—I do not quite understand why you come to the Senate if you believe the only answer is no. It does not need to be someone who decides the only answer is no in every circumstance.

Mr. President, I ask unanimous consent to speak for 5 minutes in morning business.

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

FINANCIAL REGULATORY REFORM

Mr. DORGAN. Mr. President, this morning I was looking at something I have had on my desk for a long while. I was thinking about words and words that matter because there have been a lot of words recently about the issue of financial reform or Wall Street reform, how it is done, when it is done, whether it is done. I was thinking about the use of words and that words do not mean what they used to mean.

I went back, because I have kept this on my desk for a long time, to something that was sent out widely across the country. It was from something called GOPAC. It was kind of the start or at least the genesis of the collapse of comity and the use of good language and so on. This was sent out widely around the country to several thousand people. It said: We have heard all these candidates across the country say: I wish I could speak like Newt—meaning Newt Gingrich. I wish I could speak like Newt.

Then it said in the language that it sent out to people: You can speak like Newt Gingrich. It said: We have actually done a lot of work developing poll-

ing on contrasting words, and if you would like to speak like Newt Gingrich, here is some help for you.

Here are words. Then they sent this out. It says:

Apply these words to your opponent, to their record, to their proposals, their party.

They have a long list of words: sick, lie, betray, traitors, pathetic, threaten, corruption, punish, corrupt, cheat, steal, abuse of power. Use these words when you describe your opponents.

They said: Here are the positive words you should use when you talk about yourself: pro-flag, pro-children, pro-environment, liberty, principal, pioneer, truth, moral, courage, family. And the list goes on.

I thought when I received this a long while ago how unbelievably pathetic it was that there were merchants of destructive politics marketing this trash around the country. Yet they were and have for a long time. It is the case that they use pollsters to do this, to tell everyone what kinds of words exist that will motivate both negatively and describe your opponents—sick, pathetic, lie, betray—and what words would positively motivate your supporters. I was thinking about that, and I dug that out just because in recent days and weeks we have seen examples of language that matters and instructions by people of how to use language, even though it does not apply, to describe your position.

I was interested in seeing the results of a pollster who described the way to attack financial reform. Again, it was not in the same way of the GOPAC polling to find the most destructive way you could describe something, but it was similar in the sense of, how would you construct something, notwithstanding the facts—how would you construct something to make an impression about something no matter what the facts might be.

This is from some polling work that was done. It says:

Frankly, the single best way to kill any legislation is to link it to the big bank bailout.

The words that would matter are these: No matter what the circumstances are, the single best way to kill any legislation is to link it to the big bank bailout. Words that work: "taxpayer-funded bailouts," "reward bad behavior," "taxpayers should not be held responsible," "if a business is going to fail, no matter how big, let it fail." If these words sound familiar, it is because you have heard them all on the floor of the Senate in recent days and you have heard them on television a lot in recent days. It is the issue of, how do you develop language that motivates people, notwithstanding the set of facts.

"It is not reform"—again quoting from the polling work—"it's the stop big bank bailout bill." That is important. This is not a reform bill; it is to stop the big bank bailout.

What we have here is the battle of polling. How can you describe words

that work, language that works, notwithstanding the set of facts you might be discussing?

Ultimately, if we are going to effectively deal with Wall Street reform, reforming our financial system, it is not going to be with a battle of pollsters; it is not going to be regurgitating what one reads—here is how you motivate someone using these words. It is going to be that we think through what happened and then understand what do we do to make sure this cannot and does not happen again.

We hear a lot of talk about the need for bipartisanship. I would love to see that. I would love to see bipartisanship on specifically the kinds of remedies that have teeth, that are effective, and that are going to prohibit that which has happened to this country from ever happening again. That will not be done, in my judgment, by deciding to step back a ways and use a light touch. I am for the right touch; I am not for a light touch. I have seen the light touch for a decade now, or at least a substantial portion of the last decade.

We have had agencies, the SEC, and others in a deep Rip Van Winkle sleep. In fact, we had people come to the SEC who noticed what some folks were doing to bilk taxpayers and investors and nobody did anything. I was here when new regulators came to town and said: You know what. We are going to be willfully blind for a while. It is a new day.

The fact is, regulation is not a four-letter word. The free market system works, but it works when there is a referee. The referees with the striped shirts and whistles are needed to call the fouls because there are fouls from time to time in the free market system. That is why we have regulatory capability and authority.

So the question of what kind of financial reform or Wall Street reform is developed is not going to be about the language of financial reform—which is what this is about, a document that has been distributed and that I heard quoted many times now in recent days. It is not going to be about the language but about the specific set of policies that will prevent what happened to this country from ever happening again.

I will come and talk about some of that, but I did want to say I was thinking about the issue of the use of words, and I find it pretty interesting to listen to the use of specific words and to listen to the menu of the language of financial reform that comes from the pollsters and then comes straight out of the mouths of others very quickly.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. CORKER. Mr. President, I ask unanimous consent to speak as in morning business.

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