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## Senate

The Senate met at 12 noon and was called to order by the Honorable KAY R. HAGAN, a Senator from the State of North Carolina.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty and everlasting God, in whom we live and move and have our being, we invoke Your divine presence among us. Draw our Senators nearer to You and to one another as You give them the gift of Your peace that is beyond all human understanding. Lord, give them also courage, fortitude, and stability that will keep them firm and steadfast in the face of difficulties. May they serve with fidelity the cause of our Nation and of our common humanity. Help them to build alliances with others who seek to bring sense and system to our disordered world. We pray in Your holy Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable KAY R. HAGAN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, February 4, 2010.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KAY R. HAGAN, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mrs. HAGAN thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Madam President, following leader remarks, there will be 20 minutes for debate prior to a vote on confirmation of the nomination of Patricia Smith to be Solicitor for the Department of Labor.

Upon disposition of that nomination, there will be 2 hours for debate prior to a vote on invoking cloture on the nomination of Marcia Johnson to be Administrator of General Services. Under a previous order, if cloture is invoked, all postcloture debate time will be yielded back and the Senate will proceed to a vote on her confirmation.

For the information of Senators, Senator KIRK will give his farewell speech at 3:45 p.m. or thereabouts today. Senator-elect BROWN will be sworn in at 5 p.m. today.

I say publicly for Senator KIRK that I am not sure I will be able to be here. The President has called something at the White House and I have to be there. I will do my utmost to be back by 5 for the swearing in of Senator BROWN.

### CONFIRMATION OF PRESIDENTIAL NOMINEES

Mr. REID. Madam President, since I last asked unanimous consent to have confirmed three important nominations—one, the top intelligence official at the Department of Homeland Security, the other a top intelligence official at the State Department, and the third the highest ranking member of the entire Pentagon—I said three and there are actually four I asked unanimous consent on, and the fourth is an individual who would be the U.S. Rep-

resentative to the Conference on Disarmament. All these positions are dealing with these programs the United States should be involved in, but we had an objection from the Republicans.

There are people out there, evil people, trying to do damage to our country every day, every week, every month, every hour. It is hard for me to comprehend that people with impeccable records, such as Philip Goldberg, an appointee of President Bush to be Ambassador to Bolivia, who has an outstanding record of doing things for our country, is being objected to as being the person assigned by the White House and Secretary Clinton to be in charge of intelligence at the State Department.

Caryn Wagner, who is eminently qualified, I have never heard anything suggested that there is anything wrong with her background or qualifications. Yet there is objection to her being the person who deals with the safety of our homeland.

Laura Kennedy is the woman nominated to be the U.S. Representative to the Conference on Disarmament. We are a nuclear power, and the United States doesn't have anybody at these conferences.

Finally, GEN Clifford Stanley to be Under Secretary of Defense. This man would be the third highest ranking person at the Pentagon. One of the things he is responsible for is making sure all our troops around the world have everything they need. He is responsible for making sure the 30,000 people who are headed for Afghanistan can go to Afghanistan when deemed ready to go by the Pentagon. That is his job. There is no one to do that. I can't imagine anybody objecting to that, but they have done so.

There isn't enough time in the world—the Senate world, at least—to move cloture on every one of these. We have spent all this week on two people.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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Today is Thursday. I know we were interrupted yesterday because of the retreat, but we have spent all day on Monday, Tuesday, and now Thursday on two nominees, one to be the Solicitor at the Department of Labor—that is the lawyer for the entire Department of Labor—and the one we are working on today is to have someone run the General Services Administration. The Federal Government is the largest real estate holder in the world, and the General Services Administration manages that. Yet we have no one to run that.

So we have had to file cloture. Everyone within the sound of my voice understands it takes a long time to do that. We have to lay it down, file cloture, 2 days, 30 hours. It is not right, and I hope we can get more cooperation.

I have been someone who has tried hard not to have the President do recess appointments, but what alternative do we have? What alternative do we have? We have on the calendar dozens of people who are being held up—dozens—and I have only picked out a few; these very sensitive people, dealing with the safety and security of our country. I think it is without explanation why this is happening.

Again, I ask unanimous consent that the Senate consider the following nominations, en bloc, and we proceed to executive session, Calendar No. 561, GEN Clifford Stanley to be Under Secretary of Defense; Calendar No. 603, Laura Kennedy to be U.S. Representative to the Conference on Disarmament; Calendar No. 614, Philip Goldberg to be Assistant Secretary of State for Intelligence and Research; Calendar No. 615, Caryn Wagner to be Under Secretary for Intelligence and Analysis at the Department of Homeland Security; that the nominees be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, any statements relating to the nominations appearing at the appropriate place in the RECORD as if read, and the President be immediately notified of the Senate's action.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. MCCONNELL. Madam President, reserving the right to object, and I am going to have to do that, I wish to indicate Senator SHELBY has been in discussions with the administration over an issue with which I am not terribly familiar, and I believe that is the genesis of his objection. He is not able to be here at the moment to state his position. Maybe in discussions with him, we can make some progress on these, sooner rather than later, but for the moment I am constrained to object on his behalf.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. REID. Madam President, I understand the objection of the Senator, the Republican leader, but I don't know what my friend, Senator SHELBY—and I say that because he is my friend—I don't know what problems he has.

Whatever it is, I would almost bet a lot it is nothing that would be comparable to holding up these extremely sensitive positions keeping our country safe. I think it is outlandish, and I can't imagine this is the right thing to do.

#### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

#### WELCOMING SENATOR BROWN OF MASSACHUSETTS

Mr. MCCONNELL. Madam President, a little earlier today the Massachusetts Secretary of State formally certified the election of SCOTT BROWN as the new Senator and the newest Member of this body. He will come to Washington and be sworn in on the Senate floor, as is customary, later today. We all look forward to welcoming him. The people of Massachusetts are eager to have Senator BROWN working on their behalf, and Republicans look forward to having him join our conference. This was certainly a high-profile election, but now it is time to get to work.

I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### EXECUTIVE SESSION

#### NOMINATION OF M. PATRICIA SMITH TO BE SOLICITOR FOR THE DEPARTMENT OF LABOR

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The legislative clerk read the nomination of M. Patricia Smith, of New York, to be Solicitor for the Department of Labor.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 20 minutes of debate, equally divided and controlled between the Senator from Iowa, Mr. HARKIN, and the Senator from Wyoming, Mr. ENZI, or their designees.

Who yields time?

The Senator from Wyoming.

Mr. ENZI. Madam President, I rise, again, in opposition to the nomination of Patricia Smith to serve as the Solicitor of the Labor Department. As I noted on Monday, the Framers crafted a system of checks and balances to ensure that each government branch has a means to review the actions of other branches. In the Senate, one of those checks is our constitutional duty to provide advice and consent on executive branch nominations.

The leader earlier talked about the amount of time it takes for cloture on people. It does take quite a while, but it is part of the process. I can tell you, when there is a hearing on a person, if there are 270 questions to start with and the other people in a similar position have a couple dozen questions, you know there is a little bit of a problem that could develop with that one person, depending on how they answer or don't answer the questions.

This isn't something new. This isn't something that happened just this year. I was chairman of the HELP Committee for 2 years and then ranking member for 2 years. During that time, President Bush had an appointment as the FDA Commissioner that was stopped. We never even got him to the floor. We had an MSHA Director—I think it was the first MSHA Director—who worked in a mine. That was the mining safety person. We had a Surgeon General and others. Then the schedule was set up so there were no recesses so there couldn't be recess appointments. So this is an ongoing matter and both sides should take note of that and ask the person making the nominations to come up with reasonable nominations, not people who have an agenda already set out that will result in the kind of conflicts we have had on some of these nominations.

This advice and consent is a responsibility I take seriously. Nominees before the Senate must be qualified and present their credentials to us completely and honestly. Senators have an obligation to confirm nominees who possess the strength of character and experience required for a position of public trust. I rarely oppose Presidential nominees and to date have supported over 50 nominees reviewed in the HELP Committee since the President was inaugurated. I believe the President is ultimately responsible for the conduct of his administration, so he has a right to select his team, up to a point.

New York commissioner of labor Patricia Smith's long record of public service—which my colleagues in the majority have discussed in detail—would ordinarily have made her a bipartisan choice to lead one of the most important offices in the U.S. Labor Department. Unfortunately, her misleading testimony to the HELP Committee has caused me to lose confidence in her nomination.

I spoke on Monday about the specific factual inconsistencies, and on Tuesday I discussed a number of other concerns about Ms. Smith's agency and a program she created and implemented in New York. I have also posted a 41-page report detailing my concerns with Ms. Smith's nomination on the HELP Committee Web site.

The report found that Ms. Smith misled the HELP Committee over the course of several months.

That report may be found at [http://help.senate.gov/imo/media/doc/2010\\_02\\_011.pdf](http://help.senate.gov/imo/media/doc/2010_02_011.pdf).