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.

The majority acknowledges that there are factual inconsistencies between what Ms. Smith said before the HELP Committee and official documents from the State of New York. The suggestion that the rationale for these inconsistencies lies in the fact that Ms. Smith was busy running a large agency and cannot really be held accountable for this small program is simply not supported by the facts. Official documents show the following: Ms. Smith named the program. She personally met with the union organizer and community organizing advocates developing it with her subordinates in November 2008. She personally met with the five trade associations concerned about the program. She personally promoted the program in speeches, internally to her staff and to the media.

Ms. Smith was involved in close to 100 communications about the program, either being referenced or as a sender or recipient. Moreover, she admits her program was the topic of numerous personal discussions she had with the New York Governor's Office:

Beginning in the late fall of 2008, I also discussed the pilot on numerous occasions with Jeff Mans, the Deputy Secretary to the Governor for Labor and Financial Regulation. I have no written notes from the conversations and can not tell you on what days the discussions took place as I speak with Mr. Mans at least three times a week and there was never a conversation specifically devoted to the pilot. The purpose of the conversations was to apprise him of the Labor Department's ideas for the pilot and to get the approval of the Governor's office. . . . I had a telephone conversation with the Assistant Counsel David Weinstein of the Governor's counsel's office, and Deputy Secretary Mans, on February 4th. I answered questions about how the program operated.

I have heard the suggestion from the other side of the aisle that because the program does not appear illegal or immoral, Ms. Smith should get a pass for her factual inconsistencies. However, the question of whether Wage and Hour Watch was ethical or legal is irrelevant to whether Ms. Smith's testimony was inaccurate or misleading.

The majority also argues there was a possible breakdown between Ms. Smith and her deputy that caused the misleading testimony. Ms. Smith, however, has worked with her deputy for more than five years. Moreover, if confirmed, Ms. Smith would be in charge of legal compliance for a Department whose budget projects spending ten times what she oversees in New York—$104.5 billion in 2010. Leaving aside the extensive documentation showing she was heavily involved in this program, I ask my colleagues: why would we consider expanding her responsibility tenfold when she has been unable to oversee her subordinates effectively in New York?

In August, I noted my concerns to President Obama, and offered my assistance in ensuring a qualified replacement would be confirmed quickly. I also joined nine Republican HELP Committee members in urging Chairman HARKIN to refrain from approving this nominee in committee and made the same offer of assistance in ensuring a qualified replacement is given a swift review and confirmation. I was forced to insist on a full debate on her nomination, which advanced on a party-line vote this past Monday.

It is clear that Ms. Smith's statements misled the committee. It is also apparent that each inconsistent statement in effect downplayed concerns held by Republican members. Most disturbing, however, is that her written committee responses suggest Ms. Smith knew her testimony was misleading as early as July 2009 but did not correct the problem until contacted by a. majority staff in September—more than 2 months later.

I strongly believe that confirming someone as a head legal officer for a Cabinet agency under these circumstances sends the wrong message to the American people and the career staff she will oversee. I am also particularly disappointed that such a controversial nominee is being forced through before newly elected Senator SCOTT BROWN is sworn in. These sorts of actions may be part of the reason public confidence in Congress and the government is so low.

I urge my colleagues to oppose this nomination.

I yield the floor and reserve the remainder of my time.

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

Mr. HARKIN. Madam President, I have listened again to my friend, and he is my friend. We worked together on a lot of issues, and we will continue to work together on issues. I have listened to Senator ENZI's comments, and I was thinking, is there anything new here? We have heard all this before, on and on and again. No matter how many times you repeat it, it just doesn't seem to hold much water.

I grant Ms. Smith made two mistakes in her testimony, two mistakes when she appeared before the committee—which she corrected. One of those had to do with the origins of the program. When she was asked about this, she thought at that time that the program really had kind of originated among her staff. What she found out was that some of her staff had been talking to outside groups about this. The idea seemed to come from just a meeting of different people, but both within her agency and outside, so Ms. Smith corrected that. That is hardly a cause for her not assuming this position. Again, why would she want to mislead the committee on that when there was nothing wrong with it? So the idea came from an outside group—so what? It doesn't make any difference. She was just trying to answer honestly where she thought the idea had originated within her agency. So, again, she corrected that, as we let people do.

The second one had to do with the expansion of the program. I read the testimony, I read the record more than once on that. She has answered that in writing back. It was a question by Senator BURR about whether she had plans for expansion, something like that. She said no to that.

What she meant to say—and when she reread it, she answered in writing—she had not authorized an expansion of the program. Yes, she had discussions with her staff and maybe others about, if the pilot program actually worked and was successful, yes, they would plan to expand it. But they had to get the pilot program through first to see what went wrong, what went right, does it need to be changed, does it need to be modified before there can be an expansion. So, again, she corrected the record on that, saying she had not authorized an expansion of the program at that point.

Again, there were two minor mistakes corrected in writing. That is hardly a cause for denying her this position. As I pointed out yesterday, we correct the RECORD all the time around here when we speak on the Senate floor because maybe I made a mistake in what I really wanted to say, I didn't say it correctly. I probably should not say this, but sometimes reporters don't kind of get the nuance of what we wanted to say, perhaps, and how we wanted say it. So we correct the RECORD all the time. It is done all the time around here between what you say and what you read in the CONGRESSIONAL RECORD because human beings make mistakes. So, again, hardly a cause for denying Patricia Smith this position.

Again, I daresay I have not heard anyone question her qualifications. She is eminently well qualified for this position. As I said the day before yesterday—and I put in the RECORD a number of letters from business groups in New York supporting her, saying she was fair and judicious, worked with them. She has run the department of labor in New York—I think an $11 billion agency with about 4,000 employees. No one has ever questioned her ability to run that agency.

We have heard: Well, if she didn't know what was going on with this little $4,000 pilot project, then she can't run an agency. You know, again, we always delegate to staff—especially if you have large stuff and you are running big things—about little things like that that they can do.

Again, I heard my friend say she knew about this program. Of course she knew about the program, she knew about the pilot program. Frankly, I think she was kind of excited about the program to see whether it would work and if it was a legitimate, good program that would work to help inform people of their rights under the law. Surely, my friend is not saying that is something that should not be done—help people, inform them of their rights, or to report violations of the law. Surely, no one is saying no one, if they see a violation of the law, should

not report it. But that is what this Wage Watch was supposed to do.

She made it clear in her statement of January 2009—in her statement, not staff's statement but her statement and her e-mail to her subordinates—that this was not an investigative arm, they were not replacing staff, this was merely an informational group, and also to see if there were any violations of law, to report it. Surely, no one can say that is not a legitimate function of volunteer groups.

Again, we are here to vote on final passage of the nomination of Patricia Smith for Solicitor of the Department of Labor. I am glad we can finally bring this to a close. It has gone on too long. We have been considering it on the floor since Monday, postcloture. In all that time, there has been very little by way of debate. We have only had two Republican Members come to this floor to speak and explain why they oppose this critical nomination.

There is nothing new about Patricia Smith that we have learned since Monday. Indeed, nothing has emerged that we didn't know when we voted her out of committee back in September. We know she is well qualified, extremely. Everyone acknowledges this. She has an impressive record of accomplishments at the New York Department of Labor. She is strongly supported by local leaders and even the local business community. Again, this, too, is undisputed. And as I said, she corrected in writing these two errors she made when she testified before the HELP Committee last year.

In the 4 months that have passed since the Republicans first threatened to filibuster her nomination, we have not learned one new piece of information that can change anyone's mind about whether she is a qualified candidate to serve as Solicitor of Labor. All the last 4 months of delay has achieved is to keep her out her job and hamper the Department of Labor's ability to perform its important function.

That is not what this process is supposed to be about. This government cannot function if we, as Senators entrusted with the important power to advise and consent on Presidential nominations, abuse that power—I repeat, abuse that power by using extraordinary procedural tactics to block the nominations of qualified people. The filibuster, as I understand it, was supposed to be reserved for extreme cases when there are critical public policy issues at stake, where the country may be divided on them. It is not supposed to be a routine delay tactic for every nominee the minority party disagrees with or that one person—not the entire group but one person—disagrees with.

The American people are getting fed up, and they should be. We cannot even get routine business conducted around here anymore. American families are sitting around the kitchen table worried about a lot of things—about their health care, about their kids' education, and more than anything, about their jobs—if they don't have one, about when they are going to get one, and if they have one, can they keep it. How they are going to pay their bills if they become unemployed? We can't help them, we can't help the families of America by spending day after day of time here in quorum calls, with the lights on, the electricity running, people here, and we do nothing, we just sit here because the Republican side has engaged in a filibuster. Playing these procedural games does not advance our country one bit.

We can, however, help our families by attacking the jobs problem with every weapon in our arsenal, and that includes a fully staffed and strong Department of Labor. While I am sorry it has come to this, this long filibuster and all these days wasted, I am glad this process has come to an end. It is time to vote so we can let Patricia Smith get to work, so we can get back to the business here of helping our families across America.

I yield the floor.

Mr. ENZI. Madam President, what is the time situation?

The ACTING PRESIDENT pro tempore. The Senator from Wyoming has 2 minutes 40 seconds. The Senator from Iowa has 34 seconds.

Mr. ENZI. Madam President, this argument about using the filibuster—I have to say that both sides have used the same cloture techniques. I think if you check with the Bush nominees, we usually withdrew those and put someone else in. Of course, that had something to do with the relative size of the majorities.

But the problem here is with how the program was run. We keep talking about whether it was legal. It probably was legal, but there are some things done there that I don't think the average person wants done to them. The Wage and Hour program was to recruit and train union organizers and public interest groups to go into businesses with compliance literature and interview employees to discover violations of the wage and hour law. It was expanded to include OSHA.

The State of New York gives participants materials to disseminate and official cards identifying them and their group as part of a program for when they enter businesses and speak with the employers and employees. As part of this process, union and community organizers were directed to gather personal telephone numbers, vehicle license plates and home addresses of business owners, as well as details about the employees working there. Labor organizers and community activists were allowed to use this information for their own organizing activities. State identification cards were provided to the individuals, but the State conducted no background check on those they trained and provided identification cards. Is that the kind of program we would expect Ms. Smith to federalize if she became a Solicitor?

A deep concern to me is how Ms. Smith described the decision not to conduct vetting or background checks for the Wage and Hour Watch participants who could collect this personal information. When questioned about it, she explained there is no formal vetting process for the New York State Department of Labor to partner with an entity. They did not consider the possibility of background checks on the groups, but ultimately rejected the idea after inquiring as to why the Neighborhood Watch groups were subjected to background checks. The department was informed that the groups participating in this more sensitive crime prevention partnership are not subject to a check. But there is a major difference in the way they work. The National Sheriff's Association Neighborhood Watch Program, unlike the Wage and Hour, is purely an observe and report program. Calling the police about suspicious activity in a public area is different than investigating the wages and hours of individual employees and recording their personal contact information.

So for these reasons, and the ones I have given on previous occasions, and that Senator ISAKSON has given and members of the committee have expressed, I urge my colleagues to oppose the nomination.

I yield the floor and the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. HARKIN. Let me put one thing to rest here. No one on Wage Watch was authorized to enter any business unless the business owner agreed to that. The only exception is if the public was allowed. Sure, they could go into a department store or a restaurant or someplace such as that where the general public went. But they could not go into any business without the business owner's permission, and they could do nothing other than what the general public can do right now.

We need more people doing what these volunteers were doing and making sure that people's rights are respected.

Mr. LEAHY. Madam President, today, the Senate will finally have an up-or-down vote on the nomination of Patricia Smith to be Solicitor General for the Department of Labor. Earlier this week the Senate voted to invoke cloture and end the 15th filibuster of President Obama's nominations to fill important posts in the executive branch and the judiciary. That number does not include the many others who have been denied up or down votes in the Senate by the anonymous obstruction of Republicans refusing to agree to time agreements to consider even noncontroversial nominees.

Every single Republican Senator who voted on Monday voted against cloture and to keep filibustering this well-qualified nominee. Every single Republican voted to obstruct the Senate from doing the business of the American

people. Wasn't it just a few years ago that Republicans were demanding up or down votes for nominees, and contending that filibusters of nominations were unconstitutional? Not a single Republican voted for cloture and to stop the filibuster of this nomination.

The obstruction and delay does not stop there. Since 60 Members of the Senate voted to invoke cloture and bring the debate to a close, Republican Senators have insisted on delaying the vote for several additional days. This afternoon, that up-or-down vote finally takes place.

After the Senate is finally able to consider the Smith nomination, we will then have the opportunity to end the filibuster of another nomination, that of Martha Johnson to head the General Services Administration, GSA. Her nomination has been stalled on the Senate Executive Calendar since June 8 due to the opposition of a single Republican Senator over a dispute with GSA about plans for a Federal building in his home State. The will of the Senate and the needs of the American people are held hostage by a single Senator.

Overall, as of this morning, there were more than 75 judicial and executive nominees pending on the Senate Executive calendar, many being held up for purely political purposes.

Yesterday, at the Democratic Policy Committee's issue retreat, I asked President Obama if he will continue to work hard to send names to the Senate as quickly as possible and to commit to work with us, both Republicans and Democrats, to get these nominees confirmed. So far since taking office, the President has reached across the aisle working with Republicans and Democrats to identify well-qualified nominations. Yet even these nominations are delayed or obstructed. The President responded by stating:

Well, this is going to be a priority. Look, it's not just judges, unfortunately, Pat, it's also all our federal appointees. We've got a huge backlog of folks who are unanimously viewed as well qualified; nobody has a specific objection to them, but end up having a hold on them because of some completely unrelated piece of business.

On the judges front, we had a judge for the—coming out of Indiana, Judge Hamilton, who everybody said was outstanding—Evan Bayh, Democrat; Dick Lugar, Republican; all recommended. How long did it take us? Six months, six, seven months for somebody who was supported by the Democratic and Republican senator from that state. And you can multiply that across the board. So we have to start highlighting the fact that this is not how we should be doing business.

* * * * *

Let's have a fight about real stuff. Don't hold this woman hostage. If you have an objection about my health care policies, then let's debate the health care policies. But don't suddenly end up having a GSA administrator who is stuck in limbo somewhere because you don't like something else that we're doing, because that doesn't serve the American people.

I could not agree more with President Obama. This should not be the way the Senate acts. Unfortunately, we have seen the repeated use of filibusters, and delay and obstruction have become the new norm for the Republicans in the Senate. We have seen unprecedented obstruction by Senate Republicans on issue after issue—over 100 filibusters last year alone, which has affected 70 percent of all Senate action. Instead of time agreements and the will of the majority, the Senate is faced with a requirement to find 60 Senators to overcome a filibuster on issue after issue. Those who just a short time ago said that a majority vote is all that should be needed to confirm a nomination, and that filibusters of nominations are unconstitutional, have reversed themselves and now employ any delaying tactic they can.

The Republican practice of making supermajorities the new standard to proceed to consider many noncontroversial and well-qualified nominations for important posts in the executive branch, and to fill vacancies on the Federal courts, is having a debilitating effect. Despite the fact that President Obama began sending judicial nominees to the Senate 2 months earlier than President Bush, last year's total was the fewest judicial nominees confirmed in the first year of a Presidency since 1953, a year in which President Eisenhower only made nine nominations all year, all of which were confirmed. The number of confirmations was even below the 17 the Senate Republican majority allowed to be confirmed in the 1996 session. The Senate could have considered and confirmed another 10 judicial nominees that had all been reported by the Senate Judiciary Committee. Only 12 of President Obama's judicial nominations to Federal circuit and district courts were confirmed all last year, less than half of what we achieved during the second half of President Bush's first tumultuous year.

We have confirmed only two more judicial nominees so far this year. Republicans have objected to consideration of the nomination of Joseph Greenaway of New Jersey to the Third Circuit, a nomination reported unanimously from the Senate Judiciary Committee last October. His would be the next judicial nomination to consider and confirm, but Senate Republicans object.

Even after years of Republican pocket filibusters that blocked more than 60 of President Clinton's judicial nominees, Democrats did not practice this kind of obstruction and delay in considering President Bush's nominations. We worked hard to reverse the Republican obstructionism. In the second half of 2001, the Democratic majority in the Senate proceeded to confirm 28 judges. By this date during President Bush's first term, the Senate had confirmed 31 circuit and district court nominations compared to only 14 during President Obama's first two years. In the second year of President Bush's first term, the Democratic majority proceeded to confirm 72 judicial nominations, and helped reduce the vacancies left by Republican obstructionism from over 110 to 59 by the end of 2002. Overall, in the 17 months that I chaired the Senate Judiciary Committee during President Bush's first term, the Senate confirmed 100 of his judicial nominees.

We continued to be fair and continued working to reduce judicial vacancies even during President Bush's last year in office. With Democrats again in the majority, we reduced judicial vacancies to as low as 34, even though it was a Presidential election year. When President Bush left office, we had reduced vacancies in nine of the 13 Federal circuits.

The Republican Senate minority has resumed its strategy to put partisan politics ahead of the needs of the American people for courts that can provide justice. Last year was worse than the 1996 session when they allowed confirmation of only 17 judicial nominees. The years of demands from Republican Senators for up-or-down votes for every nominee apparently only applied to those nominated by a Republican president.

As matters stand today, judicial vacancies have spiked again as they did due to Republican obstruction in the 1990s, and are again being left unfilled. We started 2010 with the highest number of vacancies on article III courts since 1994, when the vacancies created by the last comprehensive judgeship bill were still being filled. While it has been nearly 20 years since we enacted a Federal judgeship bill, judicial vacancies are nearing record levels, with 102 current vacancies and another 21 already announced. If we had proceeded on the judgeship bill recommended by the Judicial Conference to address the growing burden on our Federal judiciary, as we did in 1984 and 1990, in order to provide the resources the courts need, current vacancies would stand over 160 today. That is the true measure of how far behind we have fallen. Justice should not be delayed or denied to any American because of overburdened courts and the lack of Federal judges. The rule of law demands more. The American people deserve better.

Among the nominees ready for Senate approval are nine Federal judicial nominees reported by the Senate Judiciary Committee. Two would fill vacancies on the Third Circuit, three would fill vacancies on the Fourth Circuit, and there are nominees to fill vacancies on the First, Second and Sixth Circuits, as well as a district court nominee to Wisconsin. The delay in considering them is also part of this effort to delay and obstruct. Judge Greenaway, about whom Senators LAUTENBERG and MENENDEZ spoke again this week, was reported by unanimous consent back in October, four months ago. Nobody has come forward to explain why his nomination is being stalled. He is a good judge. Senator SESSIONS praised him at his confirmation hearing. Judge Greenaway is one

of the many outstanding judicial nominations reported by the Senate Judiciary Committee that remain stalled on the Senate Executive Calendar. They should have been confirmed last year and would have but for Republican objection. When considered, they will be confirmed but not before being needlessly delayed for months.

They insisted on debate on the nomination of Judge Gerard Lynch, who was confirmed with more than 90 votes. Republicans insisted on hours of debate for the nomination of Judge Andre Davis, who was confirmed with more than 70 votes. Senate Republicans unsuccessfully filibustered the nomination of Judge David Hamilton last November, having delayed its consideration for months. For at least 2 additional months, Judge Beverly Martin's nomination was stalled because Republicans would not agree to consider it before January 20. Judge Martin had the strong support of both of her home State Republican Senators, Senator CHAMBLISS and Senator ISAKSON, and the highest possible rating from the American Bar Association's Standing Committee on the Federal Judiciary. Still, Republicans delayed her consideration.

None of the nine Federal circuit and district court nominations pending as of this morning on the Senate Executive Calendar should be controversial. Six were reported by the Senate Judiciary Committee without a single dissenting vote. One had 1 negative vote, one had 3 negatives votes and the nominee from Tennessee supported by Senator ALEXANDER had 4 negatives votes but 15 in favor, including three Republicans. We have wasted weeks and months having to seek time agreements in order to consider nominations that were reported by the Senate Judiciary Committee unanimously and who are then confirmed unanimously by the Senate once they were finally allowed to be considered. That obstruction and delay continues.

The American people deserve better. The cost will be felt by ordinary Americans seeking justice in our overburdened Federal courts. President Obama has reached across the aisle and worked with Republican Senators, including Senators LUGAR, MARTINEZ, SHELBY, SESSIONS, THUNE, ALEXANDER, BURR, CHAMBLISS and ISAKSON. I wish Senator Republicans and the Senate Republican leadership would reconsider their tactics of obstruction and delay and work with us and with the President.

The Republican minority must believe that this partisan playbook of obstruction will reap political benefit for them and damage to the President. But the people who pay the price for this political calculation are the American people who depend on the government being able to do its job. I hope that Republican Senators will rethink their political strategy and return to the Senate's tradition of promptly considering noncontroversial nominations so that we can work together to regain the trust of the American people.

The ACTING PRESIDENT pro tempore. Under the previous order, the question is, Will the Senate advise and consent to the nomination of M. Patricia Smith, of New York, to be Solicitor for the Department of Labor?

Mr. HARKIN. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There appears to be.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. KYL. The following Senators are necessarily absent: the Senator from Ohio (Mr. VOINOVICH), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Utah (Mr. BENNETT).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 18 Ex.]

YEAS—60

Akaka	Franken	Mikulski
Baucus	Gillibrand	Murray
Bayh	Hagan	Nelson (NE)
Begich	Harkin	Nelson (FL)
Bennet	Inouye	Pryor
Bingaman	Johnson	Reed
Boxer	Kaufman	Reid
Brown	Kerry	Rockefeller
Burris	Kirk	Sanders
Byrd	Klobuchar	Schumer
Cantwell	Kohl	Shaheen
Cardin	Landrieu	Specter
Carper	Lautenberg	Stabenow
Casey	Leahy	Tester
Conrad	Levin	Udall (CO)
Dodd	Lieberman	Udall (NM)
Dorgan	Lincoln	Warner
Durbin	McCaskill	Webb
Feingold	Menendez	Whitehouse
Feinstein	Merkley	Wyden

NAYS—37

Alexander	DeMint	McCain
Barrasso	Ensign	McConnell
Bond	Enzi	Murkowski
Brownback	Graham	Risch
Bunning	Grassley	Roberts
Burr	Gregg	Sessions
Chambliss	Hatch	Shelby
Coburn	Inhofe	Snowe
Cochran	Isakson	Thune
Collins	Johanns	Vitter
Corker	Kyl	Wicker
Cornyn	LeMieux	
Crapo	Lugar	

NOT VOTING—3

Bennett	Hutchison	Voinovich

The nomination was confirmed.

The ACTING PRESIDENT pro tempore. Under the previous order, the motion to reconsider is considered made and laid upon the table.

The President will be immediately notified of the Senate's action.

NOMINATION OF MARTHA N. JOHNSON TO BE ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 2 hours of debate prior to a vote on the motion to invoke cloture on the Johnson nomination, with the time equally divided and controlled between the leaders or their designees.

The clerk will report the nomination.

The legislative clerk read the nomination of Martha N. Johnson, of Maryland, to be Administrator, General Services Administration.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I rise to urge my colleagues in the strongest terms to vote for cloture on the nomination of Martha Johnson to be Administrator of the General Services Administration. The point of cloture is to allow this critical agency to finally have a permanent leader. It would be the first time in nearly 2 years and could potentially save America's taxpayers billions of dollars in the bargain.

Let me give a few examples of what is at stake, which is to say what the General Services Administration can do for us. Last year, Federal agencies bought $53 billion worth of goods and services, and they did so through contracts negotiated by the General Services Administration, the GSA. Having GSA negotiate these procurements lets the individual agencies focus on their core missions, doing what we or previous Congresses created them to do. It also allows the Federal Government to leverage our buying power because if the buying is occurring from one central agency, we can get, in conventional terms, volume discounts, leading to lower costs and, therefore, savings to the taxpayers.

We need strong leadership at GSA to ensure these savings are a reality. For example, in 2007, GSA awarded the NETWORX contracts to provide telephone network and information technology services to all Federal agencies. That is a program estimated to be valued at, at least, $68 billion in the course of its 10-year lifetime. These contracts will allow agencies to take full advantage of the new technologies their colleagues in the private sector use every day to increase efficiency and lower costs. But without a permanent Administrator at GSA, agencies have been slow to move to the NETWORX services, costing taxpayers more than $150 million to date and an additional $18 million every month.

Given GSA's wide responsibilities in providing information technology and telecommunications services, I am concerned that we lack a confirmed Administrator at a time when we are also trying, of course, to strengthen our cyber-defenses. Government Web sites, such as private Web sites, are constantly under attack. GSA needs to play and can play a very important role in ensuring that our Federal IT systems are resistant to those cyber-attacks. Furthermore, because of the government's buying power, GSA's purchases will have a natural positive spillover effect in the private sector.

In other words, GSA, by its own requirements associated with purchases, can drive technologies that then become more available to the general public, and I am thinking here specifically of technologies that can defend