

So, naturally, the Commerce Committee wanted to make sure the administration, given some of the uncertainties of the actual funding levels, is on point to follow the NASA authorization law. We received those assurances yesterday.

It is our hope that as we now come to decide how we are going to fund the rest of the government for the rest of the fiscal year—we are already into the fiscal year, October and November and going into the third month of the fiscal year; a fiscal year that started October 1—we are hoping that, at the very least, we can take the existing appropriations from last year, the fiscal year 2010, and carry that forward, at the very least, for NASA. What that would mean is instead of having funding at \$19 billion for 2011, the funding would be at last year's level of \$18.724 billion. That would be \$276 million less than the authorized level. NASA can live with that. The exceptional goals that are set in this NASA bill can be achieved with that cut, which is less than 1.6 percent of the total NASA authorized level—clearly, it can be done under these very austere times.

So I am hopeful, on the basis of what we saw yesterday and heard in the Commerce Committee, we will be able to go forth. A third shuttle flight will be added that will fly next summer. As we transition into the new commercial rockets, as we transition into the development of the new heavy-lift rocket, along with its spacecraft known as a capsule, as we transition into the extension of the International Space Station, the modernization of our space facilities, particularly at the Kennedy Space Center—as we transition into all that, we will have less of a disruption of the employment in the space community than otherwise would have been the case with employment dropping precipitously off a cliff because of the shutdown of the space shuttle program.

I am encouraged, I am optimistic, I am grateful, and I was happy to hear the unequivocal statements by the administration yesterday in support of the NASA bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. HAGAN). Without objection, it is so ordered.

#### UNANIMOUS-CONSENT REQUEST— EXECUTIVE CALENDAR

Mr. LEAHY. Madam President, in a letter sent yesterday to Senate leaders, former Deputy Attorneys General of the United States who served in both Republican and Democratic adminis-

trations urged the Senate to consider the nomination of James Cole to be the Deputy Attorney General without further delay.

The Deputy Attorney General is the No. 2 position at the Department of Justice. It is a critical national security and Federal law enforcement position. These former officials who served with distinction in that post write that the deputy is “the chief operating officer of the Department of Justice, supervising its day-to-day operations” and 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.” These former Deputy Attorneys General are right. I thank them for speaking out to urge the Senate to complete consideration of this important nomination.

I ask unanimous consent that their letter be printed in the RECORD at the end of my statement.

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

(See exhibit 1.)

Mr. LEAHY. Incidentally, the Deputy Attorneys General who served in both Republican and Democratic administrations who signed this letter were Donald Ayer, Carol Dinkins, Mark Filip, Jamie Gorelick, Philip Heymann, Paul McNulty, David Ogden, and Larry Thompson.

Mr. Cole’s nomination has been pending on the Executive Calendar for 4½ months, since it was reported favorably by the Judiciary Committee in July. I have a hard time remembering any time, in either a Democratic or Republican administration, that the Deputy Attorney General has been held up like this.

Those Republican Senators who continue to block us from considering this well-qualified nominee should come forward and explain why they feel it is justified to continue to leave America without a crucial resource we need to combat terrorism and to keep the country safe. Instead of doing this anonymously, the Senators ought to step forward and say why we cannot confirm this Deputy Attorney General, the No. 2 law enforcement position for the whole United States of America.

Today, I will seek unanimous consent for a time agreement to debate this nomination and finally have a vote in the full Senate. I have alerted the distinguished ranking member of the Judiciary Committee of this request. Those who oppose the nomination are free to say why and they can vote no, but let’s end the stalling.

You have Senators say that they don’t want to vote yes and that they don’t want to vote no, but that they want to vote maybe. This is what is happening now with the nomination for the No. 2 law enforcement official of the country.

Madam President, we were all elected for 6-year terms, with the responsibility to vote yes or no in the best in-

terests of the United States. Voting maybe does not serve those interests.

President Obama nominated Jim Cole to be Deputy Attorney General on May 24. That was 6½ months ago. I thank the Judiciary Committee ranking member, Senator SESSIONS, for working with me to schedule a hearing on the Cole nomination while the committee was preparing for Justice Kagan’s confirmation hearing.

The problem was not with the Senator from Alabama. He helped me move forward with that hearing in the committee, and I wish we could have proceeded in the same spirit in the Senate. As the former Deputy Attorneys General wrote, “Because of the responsibilities of the position of Deputy Attorney General, votes on nominations to fill this position usually proceed quickly.” They also note that of the 11 nominations to fill this position over the last 20 years, from both Democratic and Republican Presidents, “none remained pending for longer than 32 days.” Indeed, all four of the Deputy Attorneys General who served under President Bush, three of whom signed the letter we received yesterday, 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 nominee to be Deputy Attorney General the very same day it was reported by the committee.

We should treat the nomination of Jim Cole with the same urgency and seriousness with which we treated President Bush’s nominations of Larry Thompson, James Comey, Paul McNulty, and Mark Filip. We should reject the strategy of some Senate Republicans of elevating their partisan goal to weaken the Obama administration over taking actions to keep us safe.

In November, over 4 months after Mr. Cole responded to written questions following his confirmation hearing, only two Senators sent him additional followup questions on a topic covered extensively during the earlier questioning. Two weeks ago, Mr. Cole promptly answered even these additional questions. There is no reason for Republicans to continue blocking the Senate’s consideration of this nomination.

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. He served under both Republican and Democratic Presidents. He clearly demonstrated during his confirmation hearing months ago that he understands the issues of crime and national security that are at the center of the Deputy Attorney General’s job.

The nomination received strong endorsement from Republican and Democratic public officials, and from high-ranking veterans of the Justice Department, including the letter to the Senate leaders yesterday from eight former Deputy Attorneys General 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. Former Republican Senator Jack Danforth, who worked with Jim Cole for more than 15 years, described Mr. Cole to the committee as someone without an ideological or political agenda.

The months of delay of this nomination have been unnecessary, debilitating and wrong.

EXHIBIT 1

DECEMBER 1, 2010.

Hon. HARRY REID,  
*Senate Majority Leader,*  
*Washington, DC.*

Hon. ADDISON MITCHELL MCCONNELL,  
*Senate Minority Leader,*  
*Washington, DC.*

DEAR LEADERS REID AND MCCONNELL: We are a bipartisan group of former Deputy Attorneys General of the United States. We write to urge the expeditious consideration by the Senate of the nomination of James Cole to be Deputy Attorney General.

The Cole nomination was received by the Senate on May 24, 2010, and reported favorably from the Judiciary Committee on July 20, 2010, so the nomination has been pending before the Senate for more than one hundred and twenty days. Because of the responsibilities of the position of Deputy Attorney General, votes on nominations for this position usually proceed quickly. Over the past twenty years, presidents of both parties nominated eleven individuals to serve as Deputy Attorney General. Their nominations were pending on the Senate calendar for an average of twelve days, and none remained pending for longer than thirty-two days. Nine of the eleven nominees were confirmed by voice vote or unanimous consent.

The position of Deputy Attorney General is an important position in the federal government. The Deputy Attorney General functions as the chief operating officer of the Department of Justice, supervising its day-to-day operations. As such, the Deputy plays a central role in ensuring effective enforcement of federal laws, including laws against mortgage fraud, health care fraud, organized crime and child exploitation. 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. He or she supervises the work of the Department's National Security Division, and is called upon to make crucial, time sensitive decisions to protect the American people.

There is a capable individual currently serving as Acting Deputy Attorney General, but it is important to the proper functioning of the Department that there be a confirmed official in this position. Only a Deputy appointed by the President may formally and automatically assume all of the duties of the Attorney General when that Cabinet official is unavailable for one reason or another. And there is at least one critical statutory responsibility that an Acting Deputy cannot perform—signing applications to the Foreign Intelligence Surveillance Court.

We strongly urge that the Senate vote on the nomination of James Cole as soon as possible.

Sincerely,

DONALD B. AYER,  
CAROL E. DINKINS,  
MARK R. FILIP,  
JAMIE S. GORELICK,  
PHILIP B. HEYMANN,  
PAUL J. McNULTY,  
DAVID W. OGDEN,  
LARRY D. THOMPSON.

Mr. LEAHY. At this time—and I note that my colleague from Alabama is in the Chamber—I propound the following unanimous-consent request:

I ask unanimous consent, as if in executive session, that at a time to be determined by the majority leader, following consultation with the Republican leader, that the Senate proceed to executive session to consider Calendar No. 1002, the nomination of James Michael Cole to be Deputy Attorney General; that there be 2 hours of debate with respect to the nomination, with the time equally divided and controlled between the chairman and ranking member of the Judiciary Committee; that upon the use or yielding back of such time, the Senate proceed to vote on confirmation of the nomination; that upon confirmation, the motion to reconsider be considered made and laid upon the table; and that the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Madam President, reserving the right to object—and I will object—I would first thank my colleague, Senator LEAHY, for the courtesy as he has moved forward with this. He is a relentless chairman pushing for these nominees. I respect his responsibility and his belief that this nominee needs to move forward, and, frankly, it is about time—we need to fish or cut bait on it. I do not think an indefinite delay is good for the country.

This nomination does have controversy. Most of the nominations the President has submitted did clear unanimously in our committee, but this nomination resulted in all the Republicans on the committee voting against it. But I now understand that our two leaders, Senators REID and MCCONNELL, are working at this moment to try to figure which nominees should move before we recess—and hopefully before too many days—and perhaps this nominee will be in that group. But until those talks are complete, I would object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Vermont.

Mr. LEAHY. Madam President, I am disappointed. The Republicans are saying there is a double standard. All of the Deputy Attorneys General nominated by Republican presidents have been confirmed, most by voice vote, within a month. This one has waited on the floor for over 4 months and we still cannot even get a vote. As Senators, we should all at least have the courage to vote yes or to vote no. Eventually, we have to stop voting maybe. It allows everybody to go home and say: I may be here on an issue or I may be there. We are Senators and we must have the courage to vote yes or to vote no. We cannot continue to vote maybe, especially on the No. 2 law enforcement officer of the United States. President Bush's first deputy, was confirmed

within 24 hours of being reported from Committee, while James Cole has waited 6 months for a vote. Voting maybe is not a profile in courage in the Senate.

I yield to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, I ask unanimous consent that the recess start 2 minutes from now.

The PRESIDING OFFICER. Is there objection?

The Senator from Alabama.

Mr. SESSIONS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. Did you say recess in 2 minutes?

Mr. CARDIN. I would be glad to make that longer. We have an order, as I understand it, to recess at 12:34. I wanted to make a brief comment. If the Senator would like some time, I have no objection.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I would ask that the unanimous-consent request allow me to have 5 minutes when the Senator finishes.

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

Mr. LEAHY. I certainly have no objection. That is a fair request.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Madam President, I wanted to follow up for a moment because we are talking about the No. 2 person in the Department of Justice, and one of our responsibilities is to make sure executive agencies perform their function. The Judiciary Committee has the responsibility to make sure the Department of Justice is doing its work. But we, the Judiciary Committee, recommended the confirmation of the Deputy Attorney General 6 months ago. How can we expect the Attorney General to get the work done if we do not give him the help in the confirmation process?

I agree completely with the chairman of the Judiciary Committee—we should have the courage to vote up or down a Deputy Attorney General—but I really took this time because I find it amazing that Jim Cole has not been confirmed. See, I happen to know Jim Cole. I have had experiences of working with Jim Cole in my official capacity as a Member of Congress. He was selected to be our Special Counsel in an extremely complicated and difficult matter in the Ethics Committee in the House of Representatives. He wasn't selected by me. At the time, Porter Goss, a Republican from Florida, was the chairman of our committee, and he worked with six of us in a very difficult investigation, and he brought the six of us together because of the professional manner in which Jim Cole attacks any of the problems with which he is confronted. He is not a partisan; he is a professional. He is a professional who

understands what it is in the Department of Justice and public service. He has worked for both Democratic and Republican administrations. He has been recommended by both Democrats and Republicans. He is not at all a partisan. He is the person whom you would want to have in the Department of Justice. And that is why Porter Goss said he found Jim Cole to be "a brilliant prosecutor and extraordinarily talented"—quoting from the Republican from Florida, who, along with the Democrats, was very proud of the professional work Jim Cole brought to a very partisan battle in the House of Representatives.

We should confirm this nominee. We should at least vote on this nominee. But to use this somewhat backward approach to deny a vote on the No. 2 person in the Department of Justice is just wrong.

I understand Senator SESSIONS is saying there will hopefully be an agreement before the end of this Congress. But, quite frankly, this nominee came out in July. It is not as if he came out of the committee last week. He came out in July. This is an important position, and I think we have a responsibility to vote up or down this important part of the ability of the Department of Justice to carry out its important mission. So I am disappointed that we had an objection heard on this nominee. I would urge everyone to make sure this nominee is voted on prior to when we leave for this holiday recess.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, the President and the Attorney General need a Deputy Attorney General who can function, who has the confidence of the Congress and the American people and will do an excellent, first-rate job.

There are questions about this nominee. Every nominee who has been nominated for the Deputy Attorney General or other positions in the Department of Justice by President Bush was not rubber stamped within a day or two. Tim Flanigan, a highly competent nominee, was opposed by Democratic lawmakers aggressively after 9/11. The President withdrew him from consideration and then nominated someone who was promptly confirmed. He did not try to ram it down our throats.

Frankly, we have a problem of confidence in the Department of Justice. The Attorney General himself, perhaps following the lead of the President, has indicated on a number of different occasions a lack of commitment to vigorous action to prosecute terrorists who have attacked the country, and he has taken other steps.

I would have liked to have seen a Deputy Attorney General nominee who was not in that mold but who was more of a career prosecutor who would have helped bring some balance and input from a more traditional view of the

role of the Attorney General as someone who prosecutes criminals, protects the United States, defends law-abiding Americans from terrorists and criminals who attack them. That was the approach I took when I was attorney general. I hired people who were proven prosecutors. But Mr. Cole, for example, right after 9/11, indicated his belief that these attacks were not acts of war but instead were criminal acts; he wrote this in an article:

For all of the rhetoric about war, the September 11th attacks were criminal acts of terrorism against the civilian population.

I do not agree with that. The American people do not agree with that. Why does the President want to appoint somebody who thinks 9/11 was a criminal act and not an act of war? I think it is a big deal, so that is one of the reasons we have raised it. Is he going to bring some balance to Attorney General Holder or are they going to move even further left in their approach to these issues?

I would also note he was given a highly paid position as an independent monitor of AIG. This is the big insurance company whose credit default swaps and insurance dealings really triggered this entire collapse of the economic system. He was in the company at the time as a government monitor, and he did not blow the whistle on what was going on throughout this period of time.

It is argued that he wasn't precisely there to monitor. Sue Reisinger of Corporate Counsel wrote this about his handling of that matter:

It is as though Cole were spackling cracks in the compliance walls and never noticed that AIG's financial foundation was crumbling beneath his feet.

Mr. LEAHY. Madam President, would the Senator yield?

Mr. SESSIONS. One more point.

Beatrice Edwards of the Government Accountability Project criticized Cole for failing to "detect an atmosphere of . . . laissez-faire compliance of the company." So he has been criticized for a big, important role he had.

Those were just some of the concerns held in committee. And I wish the President had nominated somebody like Larry Thompson, who was Department Attorney General under President Bush, and whom everybody respected and would have been confirmed like a knife through hot butter.

Mr. LEAHY. Madam President, in a way, the Senator is making my point. If he has questions about Mr. Cole, let him argue them, debate them, set a time, and then vote yes or vote no. Particular issues come up in the Senate, such as nominees, and Republicans hold them up so they never come to a vote. Then the Senators can take any position they want to back home.

All I am saying is that we must vote yes or no and not maybe. We have too many issues in the Senate, whether it is tax matters, don't ask, don't tell, or nomination, where we continue to delay a vote.

I know the distinguished Senator from Alabama has never hesitated to vote yes or no in committee, and I commend him on that. Many times we agree, and a number of times we disagree, but he states his position as a yes or no. He and I have voted on this issue in committee and stated a position. I just hope everybody else can as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I thank the chairman of our committee. He is doing what I would do if I were in his place, in saying: Let's give this nominee an up-or-down vote and let's have a debate on it. Our leaders are working on that, and perhaps that can be accomplished. But it must be noted that this is a nominee who has some controversy.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 3:30 p.m.

Thereupon, the Senate, at 12:44 p.m., recessed until 3:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. FRANKEN).

The PRESIDING OFFICER. The Senator from Maryland.

#### EXTENSION OF UNEMPLOYMENT BENEFITS

Mr. CARDIN. Mr. President, the 111th Congress is drawing to a close and families across the Nation are preparing for the holiday season. In the Senate, we still have many items on our agenda, bills we need to complete before we adjourn. Many of these bills represent the priorities of various Senators addressing issues that some have worked on for this entire Congress, some for several Congresses. Other bills are necessary to prevent certain longstanding policies from expiring, such as tax relief for working families, and still others are needed to avert cuts in key programs such as Medicare payments to doctors and protecting rehabilitative services for seniors.

In addition to marking the start of the holiday season, this week also brings a devastating reminder of the economic disaster facing many families. On Monday, action to extend unemployment benefits to millions of people was blocked in the Senate by Republicans. Yesterday, those benefits expired. The Republicans are telling us we cannot consider any legislation until we take up tax breaks for millionaires. On December 1, more than 800,000 Americans were left without benefits and up to 2 million more will soon follow by the end of the year, including 48,000 Marylanders. There are some in this body who may not recognize the peril facing families whose benefits are being cut off. Every day I hear from Marylanders who are asking