we can go forward on this nominations package, but not having received that yet, Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Mr. President, I am disappointed that my friend objected, but I want the record to be spread with this:

We have done a good job on nominations the last couple of months. Actually, in the last 3 months, we have accomplished quite a bit. But I am kind of reminded of my days of being a younger man and running a foot race. I wasn't fast enough for the short races, so I ran long races. But unless I started fast, it was really hard to catch up. That is my concern about these nominations. We have started so slowly, I am not sure we can catch up. I hope we can.

Mr. MCCONNELL. Mr. President, I will say that there will be nominations we will be able to work our way through, but as I indicated, the particular package the majority leader just proffered as it is currently constituted will not be able to go forward because of our inability to receive from the administration the assurances that have been routinely given at this point with regard to recess appointments.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. As in executive session, I ask unanimous consent that the nominations received by the Senate during the 112th Congress, 1st session, remain as status quo notwithstanding rule XXXI, paragraph 6 of the Standing Rules of the Senate, with the following exceptions: Calendar Nos. 43, 67, 112, 185, 413, Presidential nominee 2, Presidential nominee 14, Presidential nominee 95, Presidential nominee 96, Presidential nominee 158, Presidential nominee 317, and Presidential nominee 653.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that on Monday, January 23, 2012, at 4:00 p.m., the Senate proceed to executive session to consider Calendar No. 438; that there be 90 minutes for debate—60 minutes divided in the usual form and 30 minutes under the control of Senator SESSIONS; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on Calendar No. 438; that the motion to reconsider be considered made and laid on the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that President Obama be immediately notified of the Senate's action and the Senate then resume legislative session.

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

Mr. REID. For everyone's knowledge, Mr. President, that is John Gerrard to be a district judge for the District of Nebraska.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. REID. I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendar Nos. 421, 503, 529, 530, 531, 532, 533, 534, 535, with the exception of COL Bradley D. Spacy; then 536, 537, 538, 539, 540, and all nominations placed on the Secretary's desk; that the nominations be confirmed en bloc; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to any of the nominations; that any related statements be printed in the Record; that President Obama be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Joyce A. Barr, of Washington, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Assistant Secretary of State (Administration).

Michael Anthony McFaul, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russian Federation.

DEPARTMENT OF DEFENSE

Brad Carson, of Oklahoma, to be General Counsel of the Department of the Army.

Michael A. Sheehan, of New Jersey, to be an Assistant Secretary of Defense.

IN THE AIR FORCE

The following named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Merle D. Hart

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Frank Gorenc

The following named officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Brian E. Dominguez

The following Air National Guard of the United States officer for appointment in the Reserve of the Air Force to the grade indicated under title 10, U.S.C., section 12203 and 12212:

To be brigadier general

Col. John P. Currenti

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel John D. Bansemer
Colonel David B. Been
Colonel Michael T. Brewer
Colonel Thomas A. Bussiere
Colonel Clinton E. Crosier
Colonel Albert M. Elton, II
Colonel Michael A. Fantini
Colonel Timothy G. Fay
Colonel Edward A. Fienga
Colonel Steven D. Garland
Colonel Thomas W. Geary
Colonel Cedric D. George
Colonel Blaine D. Holt
Colonel Scott A. Howell
Colonel Ronald L. Huntley
Colonel Allen J. Jamerson
Colonel James C. Johnson
Colonel Mark D. Kelly
Colonel Scott A. Kindsvater
Colonel Donald E. Kirkland
Colonel Bruce H. McClintock
Colonel Martha A. Meeker
Colonel John E. Michel
Colonel Charles L. Moore, Jr.
Colonel Gregory S. Otey
Colonel John T. Quintas
Colonel Michael D. Rothstein
Colonel Kevin B. Schneider
Colonel Scott F. Smith
Colonel Ferdinand B. Stoss
Colonel Jacqueline D. Van Ovost
Colonel James C. Vechery
Colonel Christoher P. Weggeman
Colonel Kevin B. Wooton
Colonel Sarah E. Zabel

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Michael J. Lally, III

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Colonel John W. Baker
Colonel Margaret W. Burcham
Colonel Richard D. Clarke, Jr.
Colonel Roger L. Cloutier, Jr.
Colonel Timothy R. Coffin
Colonel Peggy C. Combs
Colonel Bruce T. Crawford
Colonel Jason T. Evans
Colonel Stephen E. Farmen
Colonel John G. Ferrari
Colonel Kimberly Field
Colonel Duane A. Gamble
Colonel Ryan F. Gonsalves
Colonel Wayne W. Grigsby, Jr.
Colonel Steven R. Grove
Colonel William B. Hickman
Colonel Christoher P. Hughes
Colonel Daniel P. Hughes
Colonel Daniel L. Karbler
Colonel Ronald F. Lewis
Colonel James B. Linder
Colonel Michael D. Lundy
Colonel David K. MacEwen
Colonel Todd B. McCaffrey
Colonel Paul M. Nakasone
Colonel Paul A. Ostrowski
Colonel Laura J. Richardson
Colonel Steven A. Shapiro
Colonel James E. Simpson
Colonel Mark R. Stammer

Colonel Michael C. Wehr
Colonel Eric P. Wendt

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Lynn A. Collyar

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Mary A. Legere

The following named officer for appointment to the grade indicated in the Army Nurse Corps under title 10, U.S.C., sections 3064 and 3069(b):

To be major general

Col. Jimmie O. Keenan

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1093 AIR FORCE nominations (14) beginning CHRISTINE L. BLICEBAUM, and ending ABNER PERRY V. VALENZUELA, which nominations were received by the Senate and appeared in the Congressional Record of November 1, 2011.

PN1097 AIR FORCE nominations (16) beginning JOEL O. ALMOSARA, and ending ANNETTE J. WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of November 1, 2011.

PN1145 AIR FORCE nominations (99) beginning KEITH ALLEN ALLBRITTEN, and ending GREGORY S. WOODROW, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1146 AIR FORCE nominations (4) beginning CHRISTON MICHAEL GIBB, and ending THAD M. REDDICK, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

IN THE ARMY

PN1147 ARMY nominations (4) beginning MICHAEL S. FUNK, and ending JOHN W. RUEGER, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1148 ARMY nominations (2) beginning JARROD W. HUDSON, and ending CHARLES B. WAGENBLAST, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1149 ARMY nomination of Kari L. Crawford, which was received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1150 ARMY nominations (3) beginning HENRY H. BEAULIEU, and ending ERIC K. LITTLE, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1151 ARMY nominations (246) beginning DONALD B. ABSHER, and ending IRENE M. ZOPPI, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1152 ARMY nominations (61) beginning JAMES S. ARANYI, and ending MARK A. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1153 ARMY nominations (166) beginning MITCHELL J. ABEL, and ending THOMAS M. ZUBIK, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1154 ARMY nominations (2) beginning NANCY L. DAVIS, and ending SHEILA VILLINES, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1155 ARMY nomination of Genevieve L. Costello, which was received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1156 ARMY nominations (2) beginning ROBERT J. NEWSOM, and ending RICHARD Y. YOON, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1157 ARMY nominations (2) beginning RICHARD A. DANIELS, and ending STEPHEN M. LANGLOIS, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1158 ARMY nominations (2) beginning ARTHUR E. RABENHORST, and ending STEVEN J. SVABEK, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1159 ARMY nomination of Harvey D. Hudson, which was received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1160 ARMY nomination of William H. Carothers, which was received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1178 ARMY nominations (95) beginning TODD S. ALBRIGHT, and ending D001765, which nominations were received by the Senate and appeared in the Congressional Record of December 5, 2011.

PN1179 ARMY nominations (21) beginning LARRINGTON R. CONNELL, and ending RICARDO J. VENDRELL, which nominations were received by the Senate and appeared in the Congressional Record of December 5, 2011.

FOREIGN SERVICE

PN969 FOREIGN SERVICE nominations (151) beginning John Ross Beyrle, and ending Daniel J. Weber, which nominations were received by the Senate and appeared in the Congressional Record of September 15, 2011.

PN1005 FOREIGN SERVICE nominations (201) beginning Timothy M. Bashor, and ending Rafaela Zuidema, which nominations were received by the Senate and appeared in the Congressional Record of October 3, 2011.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PN1176 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION nominations (16) beginning Benjamin M. Lacour, and ending Brian D. Prestcott, which nominations were received by the Senate and appeared in the Congressional Record of December 5, 2011.

IN THE NAVY

PN916 NAVY nomination of Andrew K. Ledford, which was received by the Senate and appeared in the Congressional Record of September 6, 2011.

PN1161 NAVY nomination of Matthew R. Loe, which was received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1162 NAVY nomination of Thomas P. English, which was received by the Senate and appeared in the Congressional Record of November 30, 2011.

PN1163 NAVY nominations (46) beginning RICHARD A. ACKERMAN, and ending ADAM I. ZAKER, which nominations were received by the Senate and appeared in the Congressional Record of November 30, 2011.

PUBLIC HEALTH SERVICE

PN1112 PUBLIC HEALTH SERVICE nominations (178) beginning Jose G. Bal, and ending Kendra J. Vieira, which nominations were received by the Senate and appeared in the Congressional Record of November 8, 2011.

Mr. LEAHY. Mr. President, with the conclusion of the first session of the 112th Congress, the Senate Republican leadership has cost us the opportunity to take long overdue steps to address the serious vacancies crisis on Federal courts throughout the country. With one out of every ten Federal judgeships vacant we can and should be doing all that we can to consider and confirm judicial nominations without unnecessary delays. Regrettably, Senate Republicans have chosen instead to continue their tactics of unexplained delay and obstruction and to repeat their damaging decision at the end of last year to refuse to consent to votes on even consensus judicial nominations. Such delaying tactics are a disservice to the American people. The Senate should fulfill its constitutional duty and ensure the ability of our Federal courts to provide justice to Americans around the country.

There are 21 judicial nominees awaiting final Senate action, all but two of them reported with significant bipartisan support, 16 of them unanimously. That means nearly every judicial nomination can and should be confirmed before the Senate adjourns. Yet, the Senate's Republican leadership is repeating the terrible practice at the end of last year in which 19 judicial nominees were blocked by Republicans and stalled at the end of the year. It then took until June to take action on 17 of those nominees.

The recent filibuster of the D.C. Circuit nomination of Caitlin Halligan, a highly-regarded appellate advocate with the kind of impeccable credentials in both public service and private practice that make her unquestionably qualified to serve on the D.C. Circuit, set a new and damaging standard. By refusing to consent to votes on consensus nominees before the end of the session, Senate Republicans are setting another damaging standard that will make it difficult for future Presidents of either party to fill judicial vacancies.

I am speaking about the kinds of qualified, consensus nominees who in past years would have been considered and confirmed by the Senate within days of being reported with the support of every Democrat and every Republican on the Judiciary Committee. Yet, due to Republican refusal to give consent, it will take many months for the Senate to confirm them to start serving on the Federal bench. Meanwhile, millions of Americans who are served by the Federal courts in those districts and circuits are left with overburdened courts and unneceesary delays in having their cases determined.

All of these consensus nominees have been through an extensive evaluation process before being reported to the Senate for final approval. Senator GRASSLEY and I have ensured all of these nominees were fully considered by the Judiciary Committee after a

thorough, fair process, including completing our extensive questionnaire and questioning at a hearing. Before each of these nominees was selected by the President, the White House worked with the nominees' home state Senators who support them, the FBI completed an extensive background review, and each nominee was reviewed by the American Bar Association's Standing Committee on the Federal Judiciary. When the nominations have been approved by the Judiciary Committee after this thorough process, there is no reason for the Senate failing to vote on them before the end of the session.

It is wrong to dismiss the delays resulting from the Senate Republicans' obstruction as merely political tit for tat. This is a new and damaging tactic Senate Republicans have devised. They are stalling action on noncontroversial nominees. Meanwhile, millions of Americans across the country who are harmed by delays in overburdened courts bear the cost of this obstruction. Nearly half of all Americans live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans just agreed to vote on the nominations now pending on the Senate Executive Calendar. It is wrong to delay votes on these qualified, consensus judicial nominees. The Senate should be helping to fill these multiple, extended judicial vacancies before adjourning.

Our courts need qualified Federal judges, not vacancies, if they are to reduce the excessive wait times that burden litigants seeking their day in court. It is unacceptable for hardworking Americans who are seeking their day in court to suffer unnecessary delays. When an injured plaintiff sues to help cover the cost of his or her medical expenses, that plaintiff should not have to wait for three years before a judge hears the case. When two small business owners disagree over a contract, they should not have to wait years for a court to resolve their dispute.

With almost one in nine Federal judgeships currently vacant, the Senate should have come together to address the serious judicial vacancies crisis on Federal courts around the country. Bill Robinson, the president of the American Bar Association, warned recently in a letter to Senate leaders that excessive vacancies and high caseloads ''deprive . . . our federal courts of the capacity to deliver timely justice in civil matters and has real consequences for the financial well-being of businesses and for individual litigants whose lives are put on hold pending resolution of their disputes.'' Justice Scalia, Justice Kennedy and Chief Justice Roberts have also warned of the serious problems created by persistent judicial vacancies. This is an issue affecting hardworking Americans who are denied justice when their cases are delayed by overburdened courts.

If caseloads were really a concern of Republican Senators, as they contended when they filibustered the nomination last week of Caitlin Halligan to the D.C. Circuit, they would not have blocked us from voting to confirm consensus nominees to fill judicial emergency vacancies. They would have consented to consider the nomination of Judge Adalberto Jordan of Florida which was reported unanimously on October to fill a judicial emergency vacancy on the Eleventh Circuit. He is a well-respected Federal judge and his nomination is strongly supported by Florida's Republican Senator, Mr. RUBIO. Yet, despite the judicial emergency Republicans continue to delay consideration of that nomination. If they were really concerned with caseloads, they would have consented to move forward to confirm Judge Jacqueline Nguyen of California, a well-qualified nominee to fill a judicial emergency vacancy on the Ninth Circuit, the busiest Federal appeals court in the country, with judges called upon to handle double the caseload of the other Federal circuit courts. Her nomination was reported unanimously by the Judiciary Committee and needs only a final vote by the Senate. Judge Nguyen is nominated to fill the judicial emergency vacancy that remains after the Republican filibuster of Goodwin Liu.

If they cared about caseloads, they should also have consented to votes on the nominations of David Nuffer to the District of Utah, Michael Fitzgerald to the Central District of California, Gregg Costa to the Southern District of Texas, and David Guaderrama to the Western District of Texas, all nominations to fill judicial emergency vacancies. Instead, those vacancies will not be filled for several more months.

If Republican Senators were concerned about ensuring that our courts have the judges they need to administer justice for the American people, they would not have refused consent for the Senate to consider these consensus judicial nominees. The secret holds and obstructive blocks remind me of the Republican pocket filibusters that blocked more than 60 of President Clinton's judicial nominations from Senate consideration. When I became Chairman in 2001 and made the Committee blue slip process public for the first time and worked to confirm 100 judicial nominees of a conservative Republican President in 17 months, I hoped we had gotten past these partisan tactics. I am disappointed after working for more than a decade to restore transparency and fairness to the process of considering judicial nominations that we see the Senate Republicans again using anonymous holds to block progress at filling judicial vacancies.

The actions of the Senate Republican leadership today to block action on 18 qualified, consensus judicial nominations mirrors their action last year when they stalled consideration of 19 judicial nominations that had been reported by the Judiciary Committee and were ready for final Senate action at the end of last year. That was an abusive exercise in unnecessary delay that I believe was without precedent with respect to such consensus nominees. In contrast, Democratic Senators proceeded to up or down votes on all 100 of President Bush's judicial nominations reported by the Judiciary Committee during his first two years in office, and all 100 were confirmed before the end of the 107th Congress.

I had hoped and urged that such damaging obstruction not be repeated. I had urged that before we adjourned the Senate at least consider the 18 judicial nominees voted on by the Judiciary Committee who are by any measure consensus nominees. With vacancies continuing at harmfully high levels, the American people and our Federal courts cannot afford these unnecessary and damaging delays. It took until June of this year, halfway into 2011, to consider and confirm 17 of the nominations that could and should have been considered before the end of 2010. Yet Senate Republicans are employing the same destructive tactics.

For the second year in a row, Republicans have rejected the Senate's traditional longstanding practice of considering all of the consensus nominations before the end of the Senate session, setting a standard that before they did it last year was without precedent. We consented to consider all of the consensus nominations at the end of President Reagan's third year in office and President George H.W. Bush's third year in office, when no judicial nominations were left pending on the Senate Calendar. That is what we did at the end of the 1995 session, President Clinton's third year in office, when only a single nomination was left pending on the Senate calendar.

That is also what we did at the end of President George W. Bush's third year. Although some judicial nominations were left pending, they were among the most controversial, extreme and ideological of President Bush's nominees. They had previously been debated extensively by the Senate. The standard then was that noncontroversial judicial nominees reported by the Judiciary Committee were confirmed by the Senate before the end of the year. That is the standard we should have followed this year. Had we done so, another 18 judges would have been confirmed.

The Senate remains far behind where we should be in considering President Obama's judicial nominations. Nearly 3 years into his first term, the Senate has confirmed a lower percentage of President Obama's judicial nominees than those of any President in the last 35 years. The Senate has confirmed just over 70 percent of President Obama's circuit and district nominees, with more than one in four not confirmed. In stark contrast, the Senate confirmed nearly 87 percent of President George W. Bush's nominees, nearly 9 out of every 10 nominees he sent to the Senate over two terms. That was a

higher percentage of judicial nominees confirmed than President Clinton achieved and is far higher than President Obama's nominees.

Despite Senate Democrats joining Senate Republicans in confirming a high percentage of President Bush's judicial nominees, Republican Senators continue to point to the handful of President Bush's nominees who were not confirmed to justify their across the board delays and obstruction of President Obama's nominees. During their filibuster last week of Caitlin Halligan, President Obama's first nominee to fill the 9th seat on the D.C. Circuit, we heard several Republicans seek to justify the misguided filibuster by pointing to the fact that Peter Keisler was not confirmed to fill the 11th seat on that same court. Their selective recollection omits that the Senate did confirm four of President Bush's D.C. Circuit nominees, twice filling the 10th seat and once the 11th.

In her recent column on the New York Times website, Linda Greenhouse wrote about how low the judicial confirmation process has sunk with the Caitlin Halligan filibuster and the disparate treatment of President Obama's nominees. She wrote:

But it seems to me that this tit-for-tat goes only so far. President Bush succeeded in putting four decidedly conservative nominees on the D.C. Circuit. Three remain there today: Janice Rogers Brown, Thomas B. Griffith, and Brett M. Kavanaugh. The fourth was John G. Roberts Jr. It was his seat, which Chief Justice Roberts vacated on Sept. 29, 2005, to which Ms. Halligan was nominated. True, the Republicans didn't get everything they wanted. But they seem determined to make sure that President Obama gets nothing.

I ask unanimous consent that a copy of Ms. Greenhouse's column be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LEAHY. Mr. President, we remain well behind the pace set by the Senate during President Bush's first term. By the end of his first term, the Senate had confirmed 205 district and circuit nominees, had already confirmed 168 by this point in his third year, and had lowered judicial vacancies to 46. In contrast, the Senate has confirmed only 124 of President Obama's district and circuit nominees, leaving judicial vacancies at more than 80. The vacancy rate remains nearly double what it had been reduced to by this point in the Bush administration. Senate action on the 18 consensus judicial nominations pending before the Senate as it ends it session would have gone a long way to helping resolve the longstanding judicial vacancies that are delaying justice for so many Americans in our Federal courts across the country.

When the Senate returns in January, I hope that Senate Republicans will abandon these destructive practices and join with us to confirm the qualified, consensus judicial nominations they have stalled. This cycle of unnecessary delays must end.

EXHIBIT 1

[From the New York Times, Dec. 14, 2011]

ROCK BOTTOM

(By Linda Greenhouse)

Now that another highly qualified judicial nominee has been left as road kill, the question is how much lower can the confirmation process sink.

I'm referring to the defeat, by filibuster, last week of Caitlin J. Halligan, President Obama's nominee to the United States Court of Appeals for the District of Columbia Circuit. I last wrote about Ms. Halligan back in April, at which point her nomination had been pending for more than six months. Now it's dead, on a nearly party-line vote, the Democratic leadership having fallen six votes short of the 60 needed to invoke cloture.

The only Republican to break ranks was Senator Lisa Murkowski of Alaska, who won reelection as a write-in candidate and so owes nothing to her Republican bosses. No such independence was shown by the two Republican senators from Maine, Olympia J. Snowe and Susan Collins, so-called moderates whose efforts to explain their votes against permitting Ms. Caitlin's nomination to come to a vote (a simple majority would have approved it) were so contorted as to be barely comprehensible. (Senator Collins mumbled something about needing to shrink the appeals court, failing to note that the Republicans invoked no such workload-related compunctions when they filled not only the ninth seat, to which Ms. Halligan was nominated, but the tenth as well. There are now three vacancies on the 11-member court.)

Back in May, Senator Murkowski was also the only Republican to vote to end the filibuster against Goodwin Liu, whom President Obama had nominated to the United States Court of Appeals for the Ninth Circuit, in San Francisco. (Now Justice Liu, the former Berkeley law professor may have the last laugh; Gov. Jerry Brown promptly named him to the California Supreme Court.) At 41, Mr. Liu, a Rhodes scholar and former Supreme Court law clerk, is a leading progressive legal scholar of his generation. Although the Republicans came up with other rationales for opposing him, including his Senate Judiciary Committee testimony six years ago against the Supreme Court confirmation of Samuel A. Alito Jr., the actual reason was that they couldn't stand the thought of a young, super smart, energetic liberal sitting on the appeals court, in the launch position to become the first Asian-American on the Supreme Court.

Mr. Liu is a friend of mine. I applauded his nomination and was distressed at its fate. But since I don't believe that judges are simply umpires who call balls and strikes, I get the role of ideology in evaluating judicial nominees. What I don't get is what happened to Ms.Halligan, whom I've met only once or twice. She has no ideological markings other than those that identify her with the mainstream of the New York legal establishment, within which, following a clerkship with Justice Stephen G. Breyer, she has made a spectacularly successful career in both the public and private sectors. She was solicitor general of New York State; head of the appellate practice at a major law firm; and is now general counsel to the Manhattan district attorney. She has argued before the Supreme Court five times. Her 45th birthday was Dec. 14.

This was not a fight over ideology. It was an effort to keep the president from filling a seat on what is not just another appeals court. The D.C. Circuit is not just a federal court but a national one, with jurisdiction over federal regulatory initiatives and habeas corpus appeals by Guantanamo detainees. Next month, it will hear a potential landmark case on the constitutionality of the Voting Rights Act. Its caseload may not be huge, but its cases tend to be dense, tough and vitally important.

When pressed on their treatment of Ms. Halligan, Republicans typically invoke President George W. Bush's two nominees whom the Democrats blocked from the D.C. Circuit, Peter D. Keisler and Miguel A. Estrada, both highly qualified and both prominent conservatives. (The classy Mr. Estrada wrote to the Judiciary Committee in support of Ms. Halligan, as did two dozen other members of leading law firms.)

But it seems to me that this tit-for-tat goes only so far. President Bush succeeded in putting four decidedly conservative nominees on the D.C. Circuit. Three remain there today: Janice Rogers Brown, Thomas B. Griffith, and Brett M. Kavanaugh. the fourth was John G. Roberts Jr. It was his seat, which Chief Justice Roberts vacated on Sept. 29, 2005, to which Ms. Halligan was nominated. True, the Republicans didn't get everything they wanted. But they seem determined to make sure that President Obama gets nothing.

Across the federal judiciary, confirmation has been proceeding at a slow crawl. This week, the Judiciary Committee held a scheduled confirmation hearing that could have accommodated five nominees. But because Republican senators claimed not to be finished reading the F.B.I. files of four of the nominees, only one, Paul J. Watford, nominated for the Ninth Circuit, was able to appear for his hearing. Nominees who clear the committee without opposition have to wait months for a floor vote because the Republicans won't agree to a speedier schedule. Of 21 nominees now awaiting floor votes, 18 had no committee opposition, but only a handful, at most, will get a vote before the Senate recesses for the year.

Just when news on the judicial front could not get more discouraging, I came across something truly bizarre, a position paper by the new front-runner among Republican presidential candidates, Newt Gingrich. Under the title ''Bringing the Courts Back Under the Constitution,'' Mr. Gingrich launches a 28–page attack on ''lawless judges'' who need to be reined in ''if we are going to retain American freedoms and American identity.''

The document, he writes, ''serves as political notice to the public and to the legislative and judicial branches that a Gingrich administration will reject the theory of judicial supremacy and will reject passivity as a response to Supreme Court rulings that ignore executive and legislative concerns and which seek to institute policy changes that more properly rest with Congress.'' By rejecting passivity, Mr. Gingrich means impeaching judges for ''unconstitutional'' rulings or, failing to muster the two-thirds majority necessary for impeachment, simply abolishing their positions.

Much of the document is a grab bag of long familiar right-wing talking points (Judges who acknowledge foreign law? A threat to ''American sovereignty!'') It is also just plain sloppy, misspelling Justice Ruth Bader Ginsburg's name throughout. But truly headspinning is the tenuous hold that this screed, from a onetime history professor, has on American history.

Mr. Gingrich writes that the contemporary ''power grab by the Supreme Court'' is a ''modern phenomenon and a dramatic break from all previous American history.'' (Anyone remember the court's response to the

New Deal?) Rebuking the court for substituting its will for that of Congress is downright strange, given that it is the Republicans who have run to the federal courts, imploring judges to strike down the Congressionally enacted Affordable Care Act.

Perhaps strangest of all is Mr. Gingrich's attack on Cooper v. Aaron, the court's celebrated response to the Little Rock school crisis of 1958. The unanimous opinion, signed individually by all nine justices for emphasis, held that Arkansas and all other states were bound by the court's interpretation of the equal protection guarantee four years earlier in Brown v. Board of Education. Cooper v. Aaron was, as Justice Breyer writes in his recent book, ''Making Our Democracy Work,'' essential in its time and part of the ''hard-earned victory for the rule of law'' that the Little Rock story became. Newt Gingrich is unmoved. Cooper v. Aaron's assertion of the Supreme Court's authority, he writes, was ''factually and historically false.''

Thinking back to Ms. Halligan's failed nomination, I actually don't disagree with everything in Mr. Gingrich's manifesto. Four words in boldface type on page 20 caught my attention: ''Electing the right Senators.''

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

IRAQ WAR AND BELARUSIAN ELECTION CRACKDOWN

Mr. DURBIN. Mr. President, I rise to comment on the U.S. war in Iraq, which thankfully is coming to an end this month. Secretary of Defense Leon Panetta made this historic declaration on Thursday at a formal ceremony in Baghdad.

This means many things to many people, but I am certain that it can't mean more than to the families of the brave men and women who will be coming home for the holidays—home from Iraq for good. To those men and women I would like to say: We are proud of what you have accomplished—you deposed a dictator and gave the people of Iraq a singular opportunity to chart their own future.

And to the families of these brave servicemembers, thank you for the loneliness and longing that you endured while your loved ones were away. And to those whose loved ones did not return, one can hardly imagine your loss.

The United States has been at war in Iraq for almost 9 years. President Obama made a promise to bring this war to a close—and I am proud to say he delivered on that promise.

Tens of thousands of troops have handed over security responsibilities to their Iraqi counterparts. The U.S. Embassy in Baghdad will take the leading role, continuing our engagement through diplomatic channels. Our remaining 4,000 troops will be home by the end of the year.

Whether you voted for or against the initial authorization for war—and I was one of the 23 to vote against it—we can all agree that its toll has been higher than many could have imagined.

The disproportionate strain this war placed on our servicemembers and their families has been enormous—at times almost unbearable—in back-to-back deployments, in post-traumatic stress, lost loved ones, and debilitating injuries.

Many are living with life-changing injuries.

Nearly 4,500 American service men and women have paid the ultimate price for their country, including 116 brave men and women from Illinois. Another 1,100 Illinoisans have been wounded physically—just some of the tens of thousands nationwide. Untold numbers still suffer from post-traumatic stress and traumatic brain injuries.

And many brave civilians in our Foreign Service and NGO and contractor communities also suffered death and injury.

Incredibly, more than 1.5 million Americans served in Iraq. It has cost the country almost $1 trillion—considerably more when we factor in the long-term costs related to the war.

But even as we bring our military deployment in Iraq to a close, it is important to remember that two critical commitments remain.

The first is the commitment to our men and women in uniform. They have sacrificed so much for the Nation they love—sometimes everything—and we will not retreat from the sacred pledge we make to each and every servicemember to provide for their needs and for the needs of their loved ones.

As President Obama said this week:

In America, our commitment to those who fight for our freedom and our ideals doesn't end when our troops take off the uniform.

The second is the enduring political commitment that the United States continues to make to Iraq as a partner and ally and to the Iraqi people. Iraq has also paid a high price—over 10,000 Iraqi soldiers and police lost their lives in the war, and over 100,000 civilians. And Iraq still faces significant leadership and governance challenges on the path to a stable and peaceful future.

Yet, ultimately much of this future will depend on Iraqis and their political leadership. We have given them a unique—a historic—opportunity to govern themselves with tolerance, openness, and freedom.

We have done that with the precious blood and treasure of our Nation.

We hope that in the end Iraq will follow this path—that it will be an ally to the United States and a responsible democratic voice in the region.

Through Foreign Service Officers at our Embassy, USAID projects around the country, or U.S. foreign assistance—America will continue to stand with our Iraqi allies in the years ahead.

Mr. President, amid this hopeful news that the Iraq war is over, I want to also mention the 1-year anniversary of a brutal election crackdown last December 19 in Belarus.

I, Senator LIEBERMAN, and others have come to the floor a number of times this year to talk about the tragic events of that day—the barbaric crackdown that ensued and that continues today.

Last December, after decades of misrule by Belarusian strongman Alexander Lukashenko, there was a glimmer of hope that perhaps this last dictator of Europe would ease his authoritarian regime and finally allow the Belarusian people to freely choose their own President in an honest and open election.

Tragically, those hopes were quickly dashed when Lukashenko claimed another term as President amid elections described by international monitors as seriously flawed.

Lukashenko ordered his police force—incredibly still called the KGB—to brutally suppress opposition candidates, activists, and supporters who gathered in protest on election night in Independence Square in downtown Minsk.

Most of the political opponents who ran against him, along with hundreds of their followers, were arrested. Those with suspected ties to democratic parties and groups, human rights organizations, and what remains of the independent media in Belarus were targeted by the KGB for months afterward.

I visited Belarus just weeks following the so-called elections. I met with many of the family members of the jailed activists. Their stories were heartbreaking. Missing fathers, mothers, sons, and brothers—locked away in a Belarusian jail for the crime of running for public office or peaceably protesting a rigged election.

Too often those detained were tortured and denied basic legal rights.

But that wasn't enough for Lukashenko.

Families of the detained were also harassed and Lukashenko even had the temerity to try to seize the 3-year-old son of two activists he had imprisoned on bogus charges.

Listening to these heart-wrenching stories, I couldn't believe that such Soviet-era tactics were still being used in Europe today.

Lukashenko's actions this past year have pulled the country into isolation and made it the subject of international scorn.

Our Nation has joined efforts with the European Union to toughen sanctions on Belarus, including freezing the travel and assets of Lukashenko and his enablers and henchmen.

I worked with Senators LIEBERMAN, CARDIN, MCCAIN, KIRK, and others earlier this year to introduce S. Res. 105, which passed unanimously, condemning the sham elections and calling on the Belarusian regime to release all political prisoners.

The resolution also called for new elections in Belarus that meet international standards, supported the tightening of sanctions against the Belarusian state-owned oil and petrochemical company, and urged the