

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 1 p.m.

Thereupon, the Senate, at 11:39 a.m., recessed until 1 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

EXECUTIVE SESSION

NOMINATION OF BYRON TODD JONES TO BE DIRECTOR OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The bill clerk read as follows:

Nomination of Byron Todd Jones, of Minnesota, to be Director of the Bureau of Tobacco, Alcohol, Firearms, and Explosives.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate on the nomination equally divided in the usual form. If no one yields time, time will be charged equally to both sides.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. HOEVEN. Madam President, I ask unanimous consent to speak as if in morning business.

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

(The remarks of Mr. HOEVEN pertaining to the submission of S. Con. Res. 21 are printed in today's RECORD under "Submitted Resolutions.")

Mr. HOEVEN. With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

NASA AUTHORIZATION

Mr. NELSON of Florida. Madam President, we passed the NASA authorization bill out of the Commerce Committee yesterday. Sadly, I must report that it is the first time the NASA bill has been a partisan vote that I can ever remember. NASA—this little program that is such a can-do agency—has always been not only bipartisan, but it has been nonpartisan.

There was actually no real disagreement with the content, the policies set in the NASA authorization bill. It is very similar to what the Appropriations Committee indeed has already passed out of the full Appropriations Committee. But, sadly, there is an insistence that this artificial budget limitation, which is like a meat cleaver cutting across the board—some would describe it as a guillotine coming down across programs willy-nilly—cutting

programs such as the National Institutes of Health and all of the medical research that is going on and, indeed, a broadly embraced bipartisan program such as our space program.

So the vote was 13 to 12—specifically along partisan lines—not because of the content, not because of the policy, but because of the funding level. In the bill that passed, we had the NASA authorization for appropriations at the level provided in the budget resolution that passed the Senate—\$18.1 billion. That is about level funding for NASA, this little agency that is trying to do so much. However, our Republican friends wanted it cut to \$16.8 billion, and some spoke favorably toward the House bill that has it cut back to \$16.6 billion.

If we cut \$1.5 billion out of this little agency, it can't do what it is attempting to do to get us ready to go to Mars in the decade of the 2030s and in the meantime to get our human-rated rockets in the commercial sector so we can send our astronauts to and from the international space station where six human beings are doing research right now. The multiplicity of science projects, the planetary exploration that is going on, and the aeronautics research that is going on—all of that is within this little agency.

My hope is that as we get further along in the fiscal year, we are going to hit some grand design, some grand bargain, some great bipartisan agreement on funding that maybe will include tax reform but that will then allow us to operate with common sense instead of some artificial budgetary mechanism called sequester.

Yesterday it was stated that indeed the NASA authorization bill violated the Budget Control Act of 2011. I tried to explain in the committee that it did not. As a matter of fact, the Budget Control Act is an overall level on compressing appropriations. It has no effect on the authorization for appropriations. That is where we set policy, and then we leave it up to the Appropriations Committee to set the actual funding.

So I am happy to say that we made the step that we needed to make. We have the bill proceeding now out of the committee. I am sad to say that for the first time ever this broadly based, wildly popular, not only bipartisan but nonpartisan program, called America's space program, has come out of the committee with a partisan vote.

Let's turn this around, and let's not have this excessive partisanship and this ideological rigidity that is gripping this country's politics. Let's not have that infect our Nation's space program.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak for up to 15 minutes on the Todd nomination.

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

Mr. GRASSLEY. Madam President, I come to the floor to ask my colleagues to vote against cloture on the nomination, and here are my reasons for asking that of my colleagues.

Earlier this week I outlined my general objection to the Senate proceeding to a final vote on the confirmation of Mr. B. Todd Jones, the nominee to be Director of the Bureau of Alcohol, Tobacco, and Firearms. As I explained, the Senate should not be voting on a nomination when there is an open investigation.

In this case the Office of Special Counsel is investigating Mr. Jones in a complaint that he retaliated against a whistleblower in the U.S. Attorney's Office for the District of Minnesota.

Because of the way this nomination was handled in committee, I was able to conduct only a limited investigation. But what I found should give all of us pause—real pause—on this nomination because it gives me concern about Mr. Jones's leadership ability and raises doubts about whether he should be promoted to head this office.

According to both the whistleblowing assistant U.S. attorney and the former head of the FBI in Minnesota, relationships with Federal, State, and local authorities deteriorated significantly under Jones's leadership. The problems primarily involved agencies that worked drug cases and violent crime.

Mr. Jones addressed the issue in a meeting with criminal prosecutors in his office. According to the whistleblower, following that meeting, Mr. Jones came to the whistleblower's office and asked for his candid opinion of what could be done about the problem.

The whistleblower gave Jones his candid opinion, and a few weeks later he put it in writing what he had told Jones during this meeting. His e-mail to Jones included allegations of mismanagement by one of his supervisors, the head of the Narcotics and Violent Crime Unit.

The very next day, that supervisor called that whistleblower on the carpet and, according to the whistleblower, interrogated him about his work in search of a pretext to discipline him.

Failing to find a substantive reason to discipline him, his supervisors then suspended him for 5 days for his demeanor during the meeting. Now, based on what we know at this point, it certainly looks like retaliation, and it helps explain why the Office of Special Counsel believed these allegations merited further investigation. Remember, only about 10 percent, 1 in 10 of these types of allegations is selected for investigation by the Special Counsel.

To be fair, we do not know the full story. The Office of Special Counsel has not finished its investigation into the matter. But this fact remains: There is an open investigation of serious allegations of whistleblower retaliation, and because that investigation remains open, this body—the Senate of the United States—should have the full information about the nominee, and it

does not have it, and it should have it before voting on that nomination.

These are serious charges. The public interest demands resolution of these issues. Members of the Senate are entitled to know if these charges have merit. Members of the Senate are entitled to the complete record.

So everyone should ask, Why then are we voting on a nomination on which there is an open investigation and on a nominee where we do not have the complete information? To me, the answer is obvious: We should not be conducting this vote until this matter is resolved.

I would like to highlight a few comments contained in a recent letter from the National Whistleblowers Center. That organization, since 1988, has been supporting whistleblowers.

The center opposes a vote on this nomination "until there is a complete and thorough investigation into his treatment of employee-whistleblowers." This is exactly what I am requesting today: a "no" vote to give the time to complete this investigation.

The National Whistleblowers Center notes that the Office of Special Counsel's investigation remains open. Again, I agree with their contention; namely, "that office should be able to complete its inquiry in due course, without any pressure triggered by the nomination process."

I am surprised to hear rumblings about my opposition to this nominee based on this particular matter. It seems some are asking the question, What does this whistleblower retaliation have to do with the ATF? Why is this investigation even relevant?

I sincerely hope my colleagues have not forgotten about the disaster of Operation Fast and Furious—an absolute failure by the former leadership of the ATF. In that case, the former ATF leadership and the ex-U.S. attorney retaliated against the brave whistleblowers who alerted authorities about this botched operation of Fast and Furious. A U.S. attorney in Arizona had to resign because of his retaliatory conduct against whistleblowers.

Based in part on that history, I am extremely hesitant to place at the head of that agency this individual who has been accused of retaliation against a whistleblower and, as Acting Director of ATF, Mr. Jones sends a very chilling message to all the employees of that organization.

Mr. Jones was caught on video, so we know exactly what he said. He was caught on video making very disturbing statements specifically targeted at discouraging ATF agents from blowing the whistle.

Let me remind you, whistleblowers are patriotic Americans who think the law ought to be followed and the government do what the law says.

He told these whistleblowers:

[I]f you don't respect the chain of command, if you don't find the appropriate way to raise your concerns to your leadership, there will be consequences.

Wouldn't that scare anybody who worked in that organization?

Of course, blowing the whistle requires going outside the chain of command to report wrongdoing. If you do not get the benefit of people listening to you within, then it is your constitutional responsibility to go outside and report violation of law. So telling employees there will be consequences for going outside the chain of command is the same thing as telling them there will be consequences for whistleblowing.

This video was seen by several employees in the U.S. Attorney's Office of Minnesota, also headed by Mr. Jones in his other capacity. These employees wrote to the Office of Special Counsel referencing the video, stating that they had "felt for the employees of ATF as we too have had the same types of statements made to us."

They then said Mr. Jones "ha[d] instituted a climate of fear, ha[d] pushed employees out of the office, dismissed employees wrongly, violated the hiring practices of the EEOC, and put in place an Orwellian style of management that continues to polarize the office."

As I mentioned, the former head of the FBI in Minnesota also wrote to the committee about Mr. Jones. In that letter, he wrote:

As a retired FBI senior executive, I am one of the few voices able to publicly express our complete discontent with Mr. Jones' ineffective leadership and poor service provided to the federal law enforcement community without fear of retaliation or retribution from him.

Meaning from Mr. Jones.

Those are chilling words, as I have said twice. They corroborate what members of his staff have said and are consistent with the whistleblower retaliation complaint.

The former FBI Special Agent in Charge continued with this report:

[Mr. Jones] was, and still remains, a significant impediment for federal law enforcement to effectively protect the citizens of Minnesota. . . .

As the Minneapolis Star Tribune reported on December 31, 2012:

Criminal prosecutions have dropped dramatically at the U.S. Attorney's office in Minneapolis under the leadership of B. Todd Jones, rankling some in law enforcement.

But then the article continued:

Several federal and state law enforcement sources said that the U.S. Attorney's office refused to prosecute drug and violent crime cases that would have been snapped up by Jones' predecessors. None agreed to be quoted, saying they must maintain a relationship with the U.S. Attorney's Office.

My investigation revealed that during Mr. Jones's tenure as U.S. attorney, several people allege that relationships with other Federal law enforcement agencies deteriorated also. Now, why would we want to confirm as Director of the ATF someone who has a poor track record working with Federal law enforcement?

Since the majority insisted on moving forward without waiting for the Office of Special Counsel to complete its

work, on July 2 I wrote to the FBI, the DEA, and ICE seeking information about the deteriorating relationship between Federal law enforcement and the U.S. Attorney's Office under Mr. Jones's leadership. I have received no replies to that request.

In addition to his record as U.S. attorney for the District of Minnesota, what about Mr. Jones's record as Acting Director of the Bureau of Alcohol, Tobacco, and Firearms? It is no secret that there have been a number of controversial events that Mr. Jones has been involved in to one degree or another. I have sent numerous letters to the department requesting information from and about Mr. Jones. In many cases, I have received no response or an incomplete response. Here is a sampling:

On Fast and Furious—on October 12, 2011, the House Oversight and Government Reform Committee subpoenaed records of the Attorney General's advisory committee relating to Operation Fast and Furious during a period Jones was committee chair. I reiterated that request on April 10, 2013.

No. 2, ATF's accountability for Fast and Furious. On October 19, 2012, and January 15, 2013, I requested information on which ATF employees would be disciplined for their role in Fast and Furious.

No. 3, Fast and Furious interview request. From October 7, 2011, through January 2012, I requested a staff interview with Jones regarding Fast and Furious. I reiterated that request to Mr. Jones on April 10, 2013.

No. 4, interview request on Reno, NV, ATF office. My April 10, 2013, letter also indicated that Mr. Jones's failure to act on Reno management issues was another area of questions to be covered in a staff interview.

No. 5, interview request on Operation Fearless. My April 10, 2013, letter indicated that the botched Operation Fearless in Milwaukee was another area of questions to be covered in a staff interview.

No. 6, document request on Operation Fearless. On May 10 of this year, I sent Mr. Jones a letter requesting a copy of the Office of Professional Responsibility and Security Operations report on the botched Milwaukee storefront operation.

No. 7, on the St. Paul and quid pro quo matter, I was able to have a staff interview with Mr. Jones. Just to remind my colleagues about the issue I will tell you, briefly, on February 3, 2012, the Department of Justice and the City of St. Paul struck a deal. The terms of the quid pro quo were as follows: The Department declined to intervene in two False Claims Act cases that were pending against St. Paul, and St. Paul withdrew its petition before the U.S. Supreme Court on the *Magner* case, a case that observers believed would invalidate the use of disparate impact theory under the Fair Housing Act.

But this was no ordinary settlement. Instead of furthering the ends of justice, this settlement prevented the courts from reviewing potentially meritorious claims and the recovery of hundreds of millions of dollars for the U.S. Treasury.

The U.S. attorney in Minnesota at the time of the quid pro quo, Mr. Jones, was serving both as U.S. attorney and Acting Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives. Mr. Jones was interviewed by the committee staff as part of the investigation on March 8, 2013. However, before agreeing to the interview, the department demanded that staff not be permitted to ask Mr. Jones any further questions other than those involving quid pro quo.

Questions remain about whether he was effectively managing both jobs as the U.S. attorney and Acting Director. For example, when asked by committee staff about his failure to attend a seminal meeting between the department's civil division and representatives from the City of St. Paul, which occurred in December 2011, he stated that he did not attend because he had an event at ATF that precluded his attendance. When pressed further, Mr. Jones indicated the important event at ATF was a holiday party called "sweet treats."

He felt it was more important that he attend that event than it was to attend his crucial meeting—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRASSLEY. I ask unanimous consent for 3 additional minutes.

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

Mr. GRASSLEY. It was more important that he go to sweet treats than worry about collecting \$200 million under False Claims Act cases pending. I raised many of these issues with Mr. Jones at his hearing and in written questions for the record. But in too many instances Mr. Jones was unable or unwilling to provide an adequate response. Unfortunately, I have a lingering concern about his candor during his testimony. With this record before us, it should be apparent to all of my colleagues that the Senate should not move forward with Mr. Jones' nomination.

First, the Senate has yet to learn the results from the investigations of Office of Special Counsel; two, the Senate has not had an opportunity to hear Mr. Jones address those allegations himself. Point blank he told the committee he could not speak about them because of the open investigation; third, the Senate should recognize a troubling pattern indicating the nominee's inability to work with Federal law enforcement and whistleblowers; four, his involvement in a number of botched operations showing unacceptable management style or capability.

Elevating an individual with such a record is not how you rehabilitate the reputation, image, and culture of Fed-

eral law enforcement agencies still recovering from the disastrous scandal of Fast and Furious. I do not believe we should simply rubberstamp this nomination and sweep the alarming allegations under the rug.

I would hope that further action on the nomination pause until these matters are resolved. Before I close, I wish to address one additional matter. I have heard it argued from the majority that there is an urgency to get this nomination confirmed because ATF has not had a confirmed Director for 7 years. President Bush made a nomination in March 2007. That nomination was held up in the Senate based on concerns regarding ATF's hostility to small gun dealers and the nominee's apparent indifference to their concerns.

President Obama did not nominate a Director until November 17, 2010. That is 2 years into his first term. That individual's nomination stalled because neither the White House nor the nominee responded to our requests for additional information. Rather than respond to our requests so that nomination might move forward or withdraw that nomination and send up another, the White House did nothing for 2 years.

The nomination of Mr. Jones was not sent up to the Senate until the beginning of this year. So for the past 4½ years, the vacancy is the responsibility of the White House. I do not think that supports their contention that there is a crisis because of a lack of a Senate-confirmed nominee.

In any event, the prudent course for the Senate, and what I support, is to wait a short while, until the open complaint is resolved. I urge my colleagues to vote against cloture.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

POWER NOMINATION

Mr. COONS. Madam President, this week the Senate will consider the nomination of Samantha Power to serve as our next Ambassador to the United Nations. In fact, I hope we will take it up later today. This is a critical position to our President's national and foreign policy team, and I believe Ms. Power's experience, values, and wise approach to foreign policy will make her a terrific Ambassador.

Throughout her career, she has displayed a passion for human rights and worked tirelessly to prevent atrocities abroad. From her early days as a journalist, to her work in the White House, she has shown a pragmatic idealism and a deep and nuanced understanding of the foreign policy and security challenges facing this country around the globe.

I met with Ms. Power a few weeks ago. I came away confident that she is the right choice to represent our country at the U.N. She understands the critical importance of democratic values and human rights to global stability. Ours is a complex time and a

complex world. The fabric of global stability is woven with many threads of democracy, good governance, economic development, health, education, national security and, of course, diplomacy.

The global challenges of our generation require leaders, leaders capable of seeing each of these threads and appreciating how they connect and how we can weave them together to make a stronger more vibrant world.

As chair of the Senate Foreign Relations Subcommittee on African Affairs, I am excited to work with Ambassador Power to strengthen our friendship and strategic partnerships on that vital continent. On Israel, it is clear she believes in our Nation's unbreakable bond with the Jewish State. She has shown us, in her words and actions, especially when she played an underreported and underappreciated role defending Israel at the U.N. during the Palestinian statehood vote.

In closing, it is clear that in Samantha Power we have a nominee with a keen intellect and a grasp of the complex foreign policy challenges we face in the world. She combines a dedication to American values and principles with the pragmatism that will serve us well at the U.N. I am proud to vote for her confirmation and urge my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I rise in support of the nomination of Todd Jones to be Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives. I wish to first thank Senator COONS for his remarks about Samantha Power. I am also looking forward to the vote on her confirmation. I am looking forward to her service.

This is a very important job. As the Presiding Officer knows, the ATF has an incredibly important role in investigating crimes and terrorist incidents such as the Boston Marathon. They recently investigated the explosion in Texas that took so many innocent lives. This must be a top priority for the United States of America.

Yet this is a position where there are 2,400 agents—2,400 ATF agents—and they have gone without a permanent Director for 7 years, ever since this became a confirmable position. This happened under President Bush. There was not a confirmed Director. It is happening now up until today under President Obama. It is time to change that. It is simply time to change it.

I know Todd Jones. For 2 years he has served as the U.S. attorney of Minnesota at the same time he is serving as the ATF Director. That is not an easy job. He has five children. He is a former marine. He was willing to take on the ATF job after the Fast and Furious debacle. He was willing to come in after that and help to clean up that agency and make some very tough decisions. He took on that job while still