The PRESIDING OFFICER. Under the previous order, all postcloture time is expired.

The question is, Will the Senate advise and consent to the Wheeler nomination?

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

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Arizona (Ms. SINEMA) is necessarily absent.

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 33 Ex.]

YEAS—52

Alexander	Gardner	Portman
Barrasso	Graham	Risch
Blackburn	Grassley	Roberts
Blunt	Hawley	Romney
Boozman	Hoeven	Rounds
Braun	Hyde-Smith	Rubio
Burr	Inhofe	Sasse
Capito	Isakson	Scott (FL)
Cassidy	Johnson	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sullivan
Cramer	Lee	Thune
Crapo	McConnell	Tillis
Cruz	McSally	Toomey
Daines	Moran	Wicker
Enzi	Murkowski	Young
Ernst	Paul	
Fischer	Perdue	

NAYS—47

Baldwin	Harris	Reed
Bennet	Hassan	Rosen
Blumenthal	Heinrich	Sanders
Booker	Hirono	Schatz
Brown	Jones	Schumer
Cantwell	Kaine	Shaheen
Cardin	King	Smith
Carper	Klobuchar	Stabenow
Casey	Leahy	Tester
Collins	Manchin	Udall
Coons	Markey	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warren
Durbin	Murphy	Whitehouse
Feinstein	Murray	Wyden
Gillibrand	Peters	

NOT VOTING—1

Sinema

The nomination was confirmed.

The PRESIDING OFFICER (Mr. YOUNG). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the following nomination, which the clerk will report.

The bill clerk read the nomination of John L. Ryder, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2021.

The PRESIDING OFFICER. The Senator from Iowa.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 617 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, in a few minutes, we will be voting on the President's nomination of John Ryder, of Memphis, to be a member of the Board of the Tennessee Valley Authority.

To those of us in the seven State region that the TVA serves, it is a very important institution. Its job is to provide large amounts of reliable, low-cost electricity, which is the basis for how we live and how we work. It has a lot to do with our ability to attract jobs. Its job is to provide that energy in a clean way so we can see our mountains and so we meet the emissions standards in our metropolitan areas that allow us to attract and grow more jobs.

The TVA is fulfilling its mission very well. It is heading toward a position in which it will be about 40-percent nuclear in its production of electricity, about 20 percent in natural gas, and about 20 percent in coal or a little less than that. It will have pollution control equipment on all of its coal plants. Most of the rest is hydroelectric power, and a little bit is renewable. In short, it has one of the cleanest portfolios in the country, and it is continuing to do that and is producing a lot of low-cost, reliable electricity.

We are very fortunate to be in a region in which, as we look down the road 5, 10, or 15 years, we will be able to say to people who are thinking of moving themselves to Tennessee or moving their businesses to Tennessee or growing them there that they will be able to get a lot of reliable, low-cost electricity—all that they need. In addition to that, they will be able to see the Smoky Mountains because the air is a lot cleaner now that they have such a clean portfolio.

So John Ryder's appointment is a very important appointment, and he is a well-qualified man for that position. He is one of Tennessee's best known lawyers and has been for a long time. Since the late 1980s, he has been listed as one of Tennessee's best lawyers. He is well respected by everyone who knows him.

Senator Corker and I recommended him to President Trump, and we know him well. Senator BLACKBURN, who is Senator Corker's successor, has a high regard for John Ryder. All of us appreciate his willingness to serve, and we look forward to the voice vote we are going to have in a few minutes that will place him on TVA's Board. The Board has just selected a new chief executive officer. TVA is the largest public utility in the United States, perhaps in the world. It is an important assignment, and it is one I am delighted to recommend him for.

There is one other thing, but I will not dwell on this because I spoke on this Monday night. Unfortunately, Mr. Ryder has been on the Senate's calendar for 9 months. He was nominated by President Trump a year ago. The problem has not been with Mr. Ryder because, as I said, President Trump nominated him after he was thoroughly vetted by the FBI. The Senate's Environment and Public Works Committee considered him, had a hearing, and reported him unanimously to the floor. Yet, for 9 months, he waited there.

One reason is, the Democrats have consistently obstructed the ability of Senator MCCONNELL and the Republican majority to help President Trump form his government. The Democrats have required 128 times that Senator MCCONNELL, the majority leader, file cloture motions to cut off debate to advance a nomination like Mr. Ryder's.

Now, this is not a Cabinet position. This is not a lifetime judge. This is the part-time Board of an important institution. He is one of 1,200 Presidential nominees that any President has who is subject to confirmation by advice and consent. It is the kind of nomination by which, if a committee unanimously reports it to the Senate, we will normally approve it by voice vote. Yet, on this vote, Senator MCCONNELL was forced to file cloture a week ago. Then we had to wait an intervening day. Only then could we come to this vote.

This is not the way the Senate is supposed to work, and this obstruction has to stop. Senator BLUNT and Senator LANKFORD have introduced a resolution, which has been reported to the Senate by the rules committee, that would cause us to adopt a rule very much like the one we adopted in 2013, when I worked with a large number of Democrats and Republicans for the sole purpose of making it easier for President Obama—and his successors—to promptly confirm the men and women whom he chose to form a government.

It received 78 votes. What we did at that time was simply say: You still keep the cloture motion, and you still wait an intervening day if you need it, but we reduce the postcloture time—not for Supreme Court Justices, not for circuit judges—simply for sub-Cabinet members and for district judges. We would reduce sub-Cabinet members to 8 hours and district judges to 2 hours.

On Monday night, I invited my Democratic friends to work with me in 2019 the way I worked with them in 2013. In a bipartisan way, let's make sure the Senate can do what it has historically done—to have promptly considered and voted up or down, with 51 votes, the nominees of any President of the United States for the 1,200 positions that form the government.

There have been some conversations. I hope Senator BLUNT and Senator LANKFORD will continue to have those conversations with the Democratic Members, but there are nine Democratic Senators, by my count, who are seeking to be the next President of the United States. I hope they can look 20 months down the road and realize that

just one Republican Senator could do to them, if one of them were to become President, what the Democrats have done to President Trump. It would be very difficult for the next Democratic President, if there were to be one, to form a government. We don't want that to happen. That diminishes the advice and consent role of the Senate. It fills up the government with appointees who are acting and whom we don't know, and they are not really accountable to us. That is not the way this place is supposed to work.

So I renew my invitation to my Democratic friends to work with me the way a number of us worked with them in 2011, in 2012, and in 2013. Let's change the rules in the right way. Let's basically adopt virtually the same rule we adopted in 2013 and allow this President and any President to get prompt consideration and up-or-down votes of their nominees.

I congratulate Mr. Ryder on his confirmation. I am grateful for his willingness to serve, and I am sorry he had to wait so long for the opportunity. The people of Tennessee and the seven State region will be much better off for his service within this important institution.

Mr. President, I ask unanimous consent that the confirmation of John Ryder, as a member of the Board of Directors of the Tennessee Valley Authority, occur at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the Ryder nomination?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The Senator from Tennessee.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate proceed to legislative session for a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

The Senator from Tennessee.

DECLARATION OF NATIONAL EMERGENCY

Mr. ALEXANDER. Mr. President, President Trump has been in Vietnam this week, meeting with the North Korean leader, Kim Jong Un. I applaud the President for his efforts to improve the U.S. relationship with North Korea.

There is not a more difficult relationship anywhere in the world at this time than that relationship. But I am glad he chose not to seek a deal just for the sake of a deal.

As he returns from his summit with the North Korean leader and turns his attention back home, I want to make a respectful suggestion, and that is this: that President Trump ask his lawyers to take a second look at existing funding authorities that the President has to consider construction of the 234 miles of border wall that do not require a formal declaration of a national emergency.

I support what the President wants to do on border security, but I do not support the way he has been advised to do it. It is unnecessary and unwise to turn a border crisis into a constitutional crisis about separation of powers when the President already has congressional funding authority to build the 234 miles of border wall that he requested in his January 6 letter to the Senate.

Mr. President, I ask unanimous consent to include in the RECORD following my remarks the text of the President's January 6 letter to the Senate Appropriations Committee.

Mr. President, there has never been an instance in which a President of the United States has asked for funding, Congress has refused it, and the President has then used the National Emergency Act to justify spending the money anyway.

If President Trump can build a wall when Congress has refused to provide the funding, then the next President can declare a national emergency and tear the wall down or declare climate change an emergency and stop oil exports and offshore drilling. There is no limit to the imagination of what the next leftwing President could do to harm our country with this precedent.

After an American revolution against a King, our Founders chose not to create a Chief Executive who could tax the people and spend their money any way he chose. The Constitution gave that responsibility exclusively to a Congress elected by the people, and every one of us U.S. Senators has taken an oath to support that Constitution.

Separation of powers is a crucial constitutional imperative that goes to the very heart of our freedom.

I don't know how the late Justice Antonin Scalia would have decided a case on this matter, but I do know what he said about separation of powers, and this was what Justice Scalia said:

> Every tin horn dictator in the world today . . . has a Bill of Rights. That's not what makes us free. . . . What has made us free is our Constitution. . . . The word ''constitution'' . . . means structure. That's why . . . the framers debated not the Bill of Rights . . . but rather the structure of the federal government. The genius of the American constitutional system is the dispersal of power. Once power is centralized in one person, or one part [of our government], a Bill of Rights is just words on paper.

That was Justice Scalia.

The President can avoid this dangerous precedent completely. He can use the congressional funding authority he already has to build the 234 miles of wall that he asked Congress to approve in the January 6 letter that I submitted for the RECORD.

Here is how this would work. On January 6 of this year—last month—in his letter to the Senate Appropriations Committee, the President requested $5.7 billion to build 234 miles of new physical barrier on the southern border.

Then, on February 14, a couple of weeks ago, Congress passed the Homeland Security appropriations bill, which provided $1.375 billion to build 55 miles that the President had asked for.

On February 15, the day he signed the Homeland Security appropriations bill, President Trump announced that he would use two additional sources of funds that had already been approved by Congress, which could be used to fund the border wall.

The first was $601 million from the Treasury Forfeiture Fund. The second was up to $2.5 billion from the Department of Defense accounts to support counterdrug activities and to block drug-smuggling corridors across international boundaries.

The President is authorized to do this because of a provision in law that allows him to transfer up to $4 billion among the accounts of the Department of Defense. That is $4 billion in a Department of Defense budget of about $600 billion.

These three sources of funding that I just mentioned add up to about $4.5 billion or $1.2 billion less than the $5.7 billion that the President requested in his January 6 letter.

So where does he get the rest of the money? He can get it by transferring $3.7 billion instead of $2.5 billion from the Department of Defense accounts to support counterdrug activities. Then the President would be able to build the 234 miles of wall he requested on January 6, and he would not need to declare a national emergency.

To be specific, this means the President would use $1.375 billion from the Homeland Security appropriations bill plus $601 million from the Treasury Forfeiture Fund plus $3.7 billion from the Department of Defense accounts to support counterdrug activities, which would add up to equal his full $5.7 billion request to build 234 miles of border wall.

If my analysis is incorrect, I hope that the President's lawyers will tell me.

Using funds already approved by Congress avoids the constitutional crisis of separation of powers. Using funds already approved by Congress avoids establishing a dangerous precedent, which could be misused by subsequent Presidents. Using funds already approved by Congress avoids taking money from military construction projects specifically approved by Congress for such activities as military