

going to be next year or the year after that we are out of this recession. We have the worst unemployment we have had since we have been keeping records in Florida, 12.2 percent. I don't know that we can wait, especially when we hear the Chairman of the Federal Reserve say we must act now.

Recently, we were in a situation where bonds went out to issue, and the Wall Street Journal reported that the yield rate the Federal Government had to offer on those bonds, the interest rate was more than Warren Buffett had to offer. Warren Buffett was a better investment than the United States. Why is that? It is because the world is beginning to believe the United States can't manage its debt. Places such as Brazil have had their stock market increase 100 percent in the last year because they are now seen as a better investment than this country.

We can't wait. We can't wait for 6 months or a year from now. Perhaps the time has already gone too far.

I raise a point of order pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LEMIEUX. I raise a point of order against the emergency designation in the pending substitute amendment and note this is not a budget point of order. It doesn't kill this provision. It only requires that it be paid for by the end of the year. Everybody is for extending unemployment compensation. Everyone is for paying for COBRA. The point is, pay for it.

The PRESIDING OFFICER. Does the Senator wish to raise a point of order?

Mr. LEMIEUX. I have raised a point of order. I repeat, pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010, I raise a point of order against the emergency designation provision in the pending substitute amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Pursuant to section 904 of the Congressional Budget Act and section 4(g)(3) of the Statutory Pay-As-You-Go Act, I move to waive all applicable provision of those acts and applicable budget resolutions for consideration of the pending amendment, No. 3721, as modified, and the underlying bill, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.  
The yeas and nays were ordered.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The question is on agreeing to the motion.

The yeas and nays have been previously ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Vermont (Mr. LEAHY) is necessarily absent.

Mr. KYL. The following Senator is necessarily absent: the Senator from Utah (Mr. BENNETT).

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 58, nays 40, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—58

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

NAYS—40

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

NOT VOTING—2

Bennett	Leahy
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The PRESIDING OFFICER. On this vote, the yeas are 58, the nays are 40.

Three-fifths of Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

The emergency designation is stricken.

Mr. REID. Madam President, I enter a motion to reconsider.

The PRESIDING OFFICER. The motion is entered.

Mr. REID. Madam President, with the consent of the minority, I suggest we go into a period of morning business for 1 hour, and at 2 o'clock we go back on this bill. As soon as Senator COBURN comes—Chairman BAUCUS will be here around 2:15 and he will be ready to offer his first amendment. If there are any procedural issues, which there shouldn't be because this point of order was not well taken—so if there is anything we need to do, staff will be working on that so that procedurally we can get to him.

We all know that at 2:15 we will be back on the bill, and Senator COBURN will be offering his first amendment.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that we go into a period of morning business until 2 p.m., and at that time we go back on the bill, and that Senator COBURN be recognized to offer an amendment at 2:15.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Madam President, I ask unanimous consent that during the time of morning business, Senator WARNER and his colleagues be allowed to enter into a colloquy.

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

The Senator from Virginia.

JUDICIAL NOMINEES

Mr. WARNER. Madam President, I appreciate the opportunity to get back into morning business. A number of my freshman and sophomore colleagues and I have come to the floor to discuss an important issue. We also came to the floor during the final throes of the health care debate. We are here to raise the issue that, while we are enormously proud to be Members of the Senate and respect the traditions of the Senate, something seems a little strange when 15 months into this President's administration, we still have approaching 100 nominees who have not been voted up or down so that they can serve in these most important positions to make sure we get our country back on the right path.

We are going to reiterate these issues, and we will come back to try to urge Senators who have concerns about nominees to come to the floor and make their case against the nominees. They ought to be voted up or down, and if they are not approved, the administration can move on to someone else. But 15 months is a long time. As a former CEO in business and a former Governor, I think this President ought to have his team in place.

First, this is an issue that a number of us have raised over a period of time. We all have previous experience before coming on this body. I call on my colleague, the Senator from Minnesota, Senator KLOBUCHAR, to make a few comments.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Madam President, I thank the Senator from Virginia.

As a member of the Judiciary Committee, I have seen what is going on here. We get these nominations through our committee, and then they vanish into thin air. You can look at the numbers with what is going on here. You have a situation where President Bush had 100 circuit and district court confirmations during the first 2 years of his Presidency. To date, President Obama has only 18. There are literally dozens of nominees waiting.

Why does this matter? We can spend the whole morning spouting numbers

and talking about the times and differences between the months. Why does it matter? This is about a drug dealer who doesn't get prosecuted, someone who is running a drug ring, because there is not a judge to bring the case in front of. I was a prosecutor running an office of 400 people, and I saw what would happen if we didn't have judges. It is also about a felon in possession of a gun, and they can't bring up his case because they have a heavy docket of criminal, civil, and corporate cases, and because of this you cannot get criminals off the street. Or this is about complicated white-collar crimes such as the one with Bernie Madoff. In a recent case in Minnesota, there was a lengthy trial involving a guy who got a 50-year sentence. If we don't have the judges to handle these things, criminals will be out there committing crimes. That is what this is about.

I will say this before I turn it over to my colleague, the Senator from New Hampshire. President Bush had 100 circuit and district court confirmations during the first 2 years of his Presidency. Today, President Obama has 18. If we are going to hit this hundred number and get 82 more judges confirmed, we are going to have to do nearly 3 per week.

The new Members of the Senate are here to say let's get this done because justice delayed is justice denied.

I turn this over to Senator SHAHEEN. The PRESIDING OFFICER. The Senator from New Hampshire.

Mrs. SHAHEEN. Madam President, I am here to join my colleagues to raise our concerns about what is undoubtedly a deliberate attempt to keep President Obama's nominees from getting through the Senate and taking over their jobs, regardless of whether it is a court justice or whether it is the Director of the Office of Violence Against Women. I was on the floor a couple months ago because the Director of the Office of Violence Against Women, from New Hampshire, had been held up 2 months after unanimously being approved in the committee. She was held up not because it had anything to do with her qualifications but because somebody objected to something else—who knows what. The person who objected never had to tell why they were objecting.

That is the situation we are in now. We have 94 nominees being held up by the other side of the aisle, and they are not telling us why they are holding up these nominees. They have to come forward and allow a vote. It is time for us to move forward on the judiciary nominees—on all of those 94 nominees—and get a vote and keep government moving.

Mr. WARNER. Madam President, I thank the Senator. She realizes the importance of getting a team in place, whether it is judicial or administrative.

Somebody who feels very passionate about this and a lot of other issues is the Senator from Vermont. He wishes to speak.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. SANDERS. Madam President, I think most Americans understand that in the Senate, and in government in general, honest people will have honest differences of opinion. They debate issues, represent constituencies, and vote. Sometimes you win and sometimes you lose. I think there is a growing anger and frustration when a lot of what takes place on the floor has nothing to do with an honest debate on the issues but simply obstructionism, obstructionism, obstructionism.

The American people have a hard time understanding when you have well-qualified nominees for the judicial positions, when some of these nominees have gotten out of committee with unanimous or almost support, it takes months and months to get these nominees approved so they can do their job.

As the Senator from Minnesota said a moment ago, the issue is that justice delayed is justice denied. We have some dangerous people out there who should be tried and found guilty and sent to jail. We have ordinary citizens who have claims before courts and they want their day in court. Right now, they cannot get that day because the courts are backed up because we don't have enough judges. So I hope very much that we can get moving and do what has to be done, and that is to appoint these judges. I hope we can get an up-or-down vote on them.

I yield the floor.

Mr. WARNER. Madam President, again, there are judicial nominees and there are administrative nominees. I ask my friend, the newest Member of the Senate, who comes from a different business than I—I came from the telecom business and he comes from a different business.

Mr. FRANKEN. I kind of came from telecom.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. FRANKEN. Madam President, I am going to tie together judicial nominees and administrative nominees. You heard from my colleague, Senator KLOBUCHAR from Minnesota. She talked about how President Bush had, during his first two years in office, about 100 judicial nominees confirmed, and it is 18 judges so far for President Obama. The district court nominees who have been reported out of committee are waiting almost twice as long to be confirmed as during the Bush administration, and circuit court nominees are waiting five times longer. I have heard my colleagues from the other side say, well, the President isn't nominating judges as fast as President Bush did. First, you would think if that were the case, they would have to wait less time because there are fewer of them. The reason he has been nominating fewer is because they are holding up Christopher Schroeder, from the Office of Legal Policy at DOJ. He is the guy who vets nominees for judgeships. He was reported out of the Judiciary

Committee in July of 2009. We could not get him a vote on the floor. Then he wasn't carried over. The Republicans objected, so now he has been re-nominated earlier this year and reported out again. We cannot get a vote on him. He is the guy who helps the President vet the people for the judgeships.

I don't want to hear complaints from my friends on the other side about the pace of the judgeships being nominated, when they are holding up the guy who helps the President vet the judgeships.

This is a perversion of the filibuster. The whole point of the filibuster was that our Founders said the Senate was the saucer to cool the passions of the House of Representatives, right? We wanted to prevent the tyranny of the majority. This isn't about that—not when you are holding somebody up, and then when you have the vote, it is 99 to 0. That has nothing to do with what the purpose of the filibuster is. Do you know what this is? This is running out the clock. This is used to stop business before the Senate.

The American people ought to be incensed about this, because what this is doing is slowing down anything from getting done on jobs, on Wall Street reform, and on energy. That is what this is about. This is about not letting this President and this Congress achieve anything. This is about obstructionism.

I yield back to the Senator from Virginia.

Mr. WARNER. I thank my colleague from Minnesota. In his case in point, we had a judicial nominee endorsed by a Republican Governor, reported out unanimously, filibustered, and then she was confirmed 99 to 0.

I respect the traditions of the Senate, but something is broken. I now ask the Senator from Colorado to speak. He is actively talking with the people of Colorado who hired him for this position. He hears the frustration they express about why can't you get things done.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BENNET. Madam President, there is not a person in this Chamber, I guarantee you, who does not go home at the end of the week and hear from people of their State—Democrats, Republicans, or unaffiliated voters—“what in the world are you guys doing back there? What's with all the political games being played? Why can't people act in a bipartisan way?”

I think it is important to say that we are talking about a bunch of nominations that actually have broad bipartisan support. Most of them passed out of committee by voice vote—certainly on a bipartisan basis.

As the Senator from Virginia was saying, there is instance after instance where there has been delay, delay, delay, only to see somebody pass 97 to 0 or 98 to 0. That is not about partisanship or about Republican versus Democrat. To me, that is about Washington

being completely out of touch with the real world. The real world doesn't act this way. They don't use rules to make excuses for not getting their work done. The real world doesn't say we are frightened to debate these issues. The real world doesn't take people who are qualified for their jobs and prepared to serve this country at an enormously difficult time in our history and say: Let's put it off until next week or the week after that or the week after that. Nobody here is saying we should not have a vote. Nobody here is saying we should not have a debate. We are saying that the American people deserve better than that. By the way, people may not know this. In this institution, it is actually possible to put a hold on somebody and not say who you are.

I say to the Senator from Virginia, as the Governor of the Commonwealth of Virginia, how could you ever have gotten anything done if that were the case?

It is possible to put a hold on somebody in this institution and never explain why you did it. You do not know what the issue is. That is why we need to have this debate and move forward.

Everybody in this Chamber has an obligation, whether they are Democrat or Republican, to look at the merits of the nominees and to vote their conscience on those nominees. But the American people are enormously frustrated with the current state of affairs. They want an open and sensible conversation about the policy choices we face as a country, and I think they want an end to the political games.

It is important we are all here today. I hope there are others who will join us in the days ahead. I thank the Senator from Virginia for organizing this discussion.

Mr. WARNER. Madam President, again, this should not fall on partisan lines. We welcome those Senators on the other side of the aisle who are frustrated by this process and want to bring, while respecting the traditions of the Senate, rationality back to the process.

My good friend from Delaware, while he is a freshman Senator, has served in this institution longer than most of us and has watched the transformation of this institution. I would love to have Senator KAUFMAN's comments on this issue.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. KAUFMAN. Madam President, some things have changed. I came here in 1973 working for now-Vice President BIDEN. Back then, if you asked the American people what they most disliked about Washington, they would say partisan bickering, the back-and-forth. That is what they really do not like about what goes on.

My basic reaction is, and I have said to people that today what looks like a lot of partisanship—basically, Senators like each other. This is not about people not liking each other. There is not a Senator on the Republican side of the

aisle whom I do not have a positive relationship with and feel good about. You can say that about the issues. What I say is there is a difference on the issues. Basically, we disagree about the issues. But I do have a hard time, when it comes to judicial nominations especially, on the rationale for the argument because it is not a matter of issues.

We have differences about some judges, but the vast majority of judges still being held are judges we all agree are competent judges. So why is it they are not being confirmed, especially when we talk about the two areas about which most Americans are so concerned? One is crime, that we deal with crime and deal with it in a quick manner; that people are given a fair trial, but then if they are guilty, they are put in jail. All Americans agree to that. To do that, one of the key chokepoints for us is the judges. We need the judges to be confirmed in order to deal with crime.

The other area, as I know my friend from Virginia is so aware, is the business side. If you are a businessperson, you need certainty. You need the ability to know, if you have a dispute, that you can get it handled in a court and that you get prompt action. That is what everyone wants. With many of these things, it isn't as important that you win as it is that you get an answer. When we have vacancies in district and circuit courts, that holds up everything.

The final point is, there were always differences of opinion, but starting about the 1980s, the judges became a football. They just became a football. When I hear about the old wars—it is like the Hatfields and McCoys. Who was the first Senator to hold up the most number of judges and when did it happen? Our judge did this. You did this. We did that. It really sounds like the Hatfields and McCoys on the floor sometimes.

I am saying it is time to put that behind us. It is time to put that behind us, especially when it comes to these judges whom we know are competent; where there is agreement, there is no disagreement. I defend the right of the minority to hold up judges they think are not competent. We had three judges in a row who were confirmed by unanimous votes of the Senate.

What I am saying is it is time to put that behind us. The American people are looking to us to behave in a bipartisan manner. Again, we are going to have partisan differences on some judges, but when we have judges where there is bipartisan agreement, the American people are stymied to understand why in Washington we are behaving this way. I call on my colleagues to work together and see if we cannot get these judges confirmed.

I thank the distinguished Senator.

Mr. WARNER. I thank the Senator from Delaware for his comments and perspective.

Again, while many of my colleagues talk about this related to judges, we

have, as the Senator from Minnesota said, members of the DOJ who are held up. We have a very qualified and talented individual up for Treasury Under Secretary for International Affairs. They are enormously important positions.

I know my friend and colleague, the Senator from Maryland, wishes to speak on this subject matter.

The PRESIDING OFFICER (Mr. UDALL of Colorado). The Senator from Maryland.

Mr. CARDIN. Mr. President, I thank Senator WARNER for taking this time to bring to the attention of our colleagues a very serious problem.

One of the most fundamental responsibilities for a Member of the Senate is to advise and consent on the President's nominations. There are literally hundreds of appointments that are going to require our confirmation—more than that; thousands, actually, that we have to confirm. Our responsibility is to take the appointments the President has given us, to evaluate them, and then to act, either to confirm or not confirm.

The American people depend on these individuals being in office to perform the services they need, whether it is services that come forward in the Department of the Treasury in dealing with the economic issues of this Nation, the regulatory functions that are important to protect consumers in America, to be able to give those who have been wronged an opportunity in our judicial system to have courts that can handle their dockets in a timely way. All that is dependent upon the Senate carrying out its responsibility to advise and consent to take up the nominations of the President.

Look at what has happened in this Congress. Let me point out the district court judges. District court judges are the judges who hear the overwhelming number of cases. If you have a problem and you go to Federal court, you go to district courts. That is where 99 percent of the cases are going to be heard.

In 2002, when George Bush became President, 35 of his district court appointments were confirmed. They waited on average 13 days after being reported by the Judiciary Committee for confirmation votes on the floor of the Senate. On this date, there were no further pending district court appointments that required the confirmation of the Senate. We had acted on every one of them.

Now let's take a look at the current situation. This Senate has only confirmed 11 of President Obama's district court nominations, and they waited on average 43 days. There are 17 district court nominations that have been reported out by the Judiciary Committee. Most have been reported by voice vote, by unanimous vote, no controversy at all with most of these nominations, and they have been pending on average 46 days.

This is an intentional action by the Republicans to block the ability of

President Obama to place his appointees either in the courts or in his administration. That is just wrong. If you have a disagreement, let's debate it. If there is a legitimate concern, let's talk about it. But that is not what is happening here.

The people of Maryland, the people around this Nation are being denied essential services because of a partisan strategy to block this body from timely considering the appointments by the President. That is just wrong. It is time we bring an end to it. It is time the Democrats and Republicans work together in the best interests of the American people.

I yield my time to the Senator from Virginia.

Mr. WARNER. Mr. President, I thank the Senator from Maryland for his comments. Again, we want to be respectful of Senate traditions, but it just seems at this moment in time, with so many issues our country is confronting, we need a rational process. We need to be able to explain, as the Senator from Colorado said, to the American folks why we are not getting business done. Part of the reason we are not getting business done is the President does not have his team in place, judges are not in place, and a lot of time is wasted on the Senate floor with needless filibusters.

There is another freshman Senator with whom I have had a number of conversations, my good friend from North Carolina. This is a little different from the way she operated as State senator in Raleigh, NC. I would love to hear her comments.

Mrs. HAGAN. Mr. President, I thank the Senator from Virginia for helping us come together to talk about this issue because it is of critical importance.

In North Carolina, we have two justices for the Fourth Circuit Court coming before this body. They were heard in the Judiciary Committee back in January. They are ready to go. However, once again, the individual who is to vet justices has not been heard, Chris Schroeder. We need to bring him up. Although both of these individuals, Judge Wynn and Judge Diaz, have come out of the Judiciary Committee, they are waiting to come up for a vote. They are behind in the queue from all the other district court judges who have not come forward. I will say that my colleague, Republican Senator BURR, is in total agreement with both of these nominees. We need to bring them forward for a vote. The interesting fact is that one of these positions has been open since 1994. Talk about justice delayed is justice denied. It is high time this body had an opportunity to vote to put forward Judge Diaz and Judge Wynn to represent our State on the Fourth Circuit Court of Appeals.

Mr. WARNER. Mr. President, I thank the Senator for her comments, again recognizing that some of the judges she is talking about have had bipartisan

support. If this was a question of qualifications, it ought to be legitimately questioned and debated.

I know there are other colleagues showing a little bit of the radical transformation we are making. Having freshmen Senators speak is part of that.

I now call on my good friend from Pennsylvania to add his comments. I believe the Senator from Pennsylvania has judges in Pennsylvania and other appointees who have been pending.

Mr. CASEY. I thank the Senator from Virginia for getting us together to talk about something that is fundamental. Basically, we are talking about our system of justice. We heard the number of days, when we compare this administration to the prior administration, it takes to confirm a judge on the appellate court or on the district court.

It is important for people to realize that we are not talking about saying they on the other side should be voting for all of our judges or they should be endorsing them, even though when they come to the Judiciary Committee we have had tremendous bipartisan votes on a lot of these judges.

Here is a lot of what the American people do not understand. They can understand that when Senators are making their minds up about how to vote on a particular nominee to be on a district court or on an appeals court, we might have a difference of opinion as it relates to judicial philosophy, for example, or the experience of this particular individual or their character, their ability to serve with integrity. All of those basic considerations we have to weigh and I think by extension the American people weigh when they are deciding whether or not someone is fit to serve on a district court or appellate court. All of those considerations are considerations Democrats and Republicans will weigh, but we cannot do that unless we can get a vote, unless we can put a nominee in front of the Senate for an up-or-down vote based upon their record, based upon their views and philosophy. But this idea of obstructing purely for political reasons, sometimes to slow down the President's agenda for no good reason, sometimes to bottle up things in the Senate, makes no sense as all. Why don't our colleagues want these nominees for various positions in our system of justice to go before the Senate to have an up-or-down vote, and then we can have a debate as part of that about their qualifications or about their educational background or their ability. We can certainly do that. This idea of obstructing for political and partisan reasons makes no sense to us, and I am sure it makes no sense to the American people.

I yield the floor.

Mr. WARNER. What we have heard in the case of Pennsylvania, as we heard from all of us, is frustration. As the Senator from Colorado said, folks who have legitimate complaints about an individual, whether they are a judge or

a Presidential appointee, ought to bring them to the floor and debate them. While we want to be respectful of Senate traditions, I think allowing the process to go along without using the existing rules to try to force us to confront these issues does not make any sense when our country faces many enormous challenges.

I call on my good friend from Colorado who, while he served in the other body, has obviously had a longtime family tradition of public service. I am sure the folks in Colorado are scratching their heads about the rules under which we operate.

The PRESIDING OFFICER (Mrs. HAGAN). The Senator from Colorado.

Mr. UDALL of Colorado. Madam President, I thank Senator WARNER.

I did want to touch on the concerns of the people of Colorado with respect to the discussion we are having today. I want to start by saying that one of the fundamental roles of the Senate is to advise and consent the President of the United States. We do not even have a chance to advise the President, much less consent, because of the anonymous holds and the slowdown tactics that have been utilized when it comes to all these important nominees.

We ought to have a chance to debate on the floor of the Senate, which is the advisory role, and we may find some judges do not pass muster, but they deserve an up-or-down vote on the floor of the greatest deliberative body in the world, the U.S. Senate. That is not happening.

I note that some of my colleagues pointed out two cases where Judge Thompson from Rhode Island for months was stalled on the Executive Calendar. There was no reason given. When she was finally brought to the floor, there was a 98-to-0 vote, a unanimous vote. What was the problem? Why couldn't she be confirmed earlier?

With Judge Keene from the State of the Senator from Virginia, we had to have a cloture vote to bring her to the floor—4 months. She was approved 99 to 0. There was no objection expressed to her sitting on the circuit court. This is senseless. This is absurd.

In Colorado, we have had two vacancies on our district court for many months, going on years now. That bench is undermanned right now. Those judges are appealing to Senator BENNET and me to get two more judges for reinforcements so that docket can be reconsidered. Those district court judges are not being moved on the floor of the Senate so that we can advise and then, hopefully, consent.

We have a Federal attorney whom we need to see confirmed. There has been no movement there as well. So for me, the Senate is not keeping faith with the people of our respective States and not keeping faith with the people of the United States.

I know we can do better. I know the American people, when they look here to Washington right now, wonder why we are behaving like children. Children

have an excuse, don't they, Senator? They are children. We are not. We have greater responsibilities. I hope we can set aside our differences, bring these nominees to the floor, across the board, and have an up-or-down vote.

I would suggest that perhaps we ought to bring a block of nominees to the floor under a unanimous consent request. They have all been vetted. The President needs to have a full complement of people in his administration to do the work of the American people.

Again, I thank Senator WARNER. We will continue to beat these drums until these nominees have had a chance to be voted upon. This is crucial to me and to the challenges our country faces here today.

Mr. WARNER. I thank the Senator from Colorado for his comments and his great perspective on this issue, and again, part of what he is raising is that we want to consider the rules and traditions. Today, we have all these freshmen and sophomore Members coming to the floor and saying the process seems to be broken. We want to urge our colleagues on the other side to allow the process to move forward and to suggest that we are not going to let business as usual continue to go on. We want to give them appropriate notice. There is no attempt to ambush on process here, but we are saying enough is enough. We owe it to this body and we owe it to the folks across the country.

Madam President, someone who comes to this floor regularly to talk about health care and a series of other issues has these same issues facing him in his great State of Ohio, and he wishes to make some comments on this as well.

Mr. BROWN of Ohio. I appreciate the work Senator WARNER is doing, along with Senator HAGAN and Senator UDALL. I came to the Senate 3½ years ago. I am personally not a lawyer, and I have, obviously, never sat as a judge, but I understand the custom here is that, typically, if there is a Senator from a State with the same party affiliation as the President, that Senator makes a recommendation to the President for a Federal judgeship or a district Federal judgeship, and normally the President will accept that. My senior Senator, my colleague from Ohio, is a Republican. So rather than block him out of the appointment process, the confirmation process, I asked him to join with me and we put together a committee for the northern district in Ohio for a judge vacancy. Actually, there were two, one in the northern district and we did one in the southern district. We had a panel of, I believe 17 people. The northern district panel was actually majority Republican. I am a Democrat; the President is obviously a Democrat. The southern district was a majority Democrat, barely. The panel did lengthy interviews of about 20 potential judges each—Federal judges—for the one vacancy in the northern district and the one in the southern

district. In these interviews were people who were active in their communities, who donated their time and spent 2 or 3 full days.

The panel then submitted to me the top three candidates in both the northern and southern districts, and I interviewed each of the three and chose who I thought would be the best Federal district judges. I then spoke with Senator VOINOVICH and he signed off on them. Both of these candidates were then submitted to the President, who in turn submitted them to the Senate and the Judiciary Committee. The Judiciary Committee voted overwhelmingly for each of them. Yet they still haven't come to a vote on the Senate floor.

I couldn't have done this in a more bipartisan and fair way to make it happen, and I know Senator VOINOVICH wishes to move on these judges. He signed off on them, and on the day we announced them we put out a joint statement where we said these were important judgeships and that we had selected the right people.

As Senator CARDIN said, this is wrong. There are backlogs in these courts and, as Senator HAGAN of North Carolina said, we need to fill these positions. As has been said, justice delayed is justice denied. There are backlogs both in the northern and southern district and we have these two ready to be voted on. We could do it today. It could be done by unanimous consent request, as Senator UDALL of Colorado suggested. We could do that.

There are now two new vacancies in Ohio, and so we will start that process. But it doesn't make sense that President Obama's district court nominees have waited twice as long after being favorably reported by the Judiciary Committee to be voted upon. So in addition to the other judges who have been vetted by a whole process—from the State senator to the FBI, to the President, to the Senate Judiciary Committee—it is time now for a vote. And most of these will be unanimous or close to it.

I think there will be overwhelming support for Judge Pearson in the northern district and Judge Black in the southern district. They have proven they are ready to go and they would be good judges. Both are U.S. magistrates now, so they have gone through other vetting processes for those jobs. I hope my colleagues will decide to accept these and move on, because we have so many other things to do. This delay and obstructionism on judges is wrong and we need to move on.

Madam President, I thank Senator WARNER for his leadership on this issue.

Mr. WARNER. I thank the Senator from Ohio. A lot of my colleagues and I talk about judges, but this goes way beyond judges. As a matter of fact, a Senator who has been a leader on this issue, my friend, the Senator from Montana, has come to this floor on other occasions by himself to talk

about certain other nominees the President has put forward, and my understanding is that some of these nominees were held up because of totally unrelated issues.

I don't know about the folks in Montana, but the folks in Virginia are scratching their head and saying: What do Canadian tobacco laws have to do with a Presidential nominee for a totally different type of job that has nothing to do with Canada or tobacco? So I would like my good friend, Senator TESTER, to speak to these issues.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Madam President, I thank my colleague for the recognition and for his leadership and his ability to see through the fog that has been created here in the Senate.

You know I am a farmer. Most folks in this body know I am a farmer and I have been my entire life. One of the things farmers can't deal with is idle hands. When there is work to be done, you roll up your sleeves and you get out there and you get the work done. In Montana, right now it is planting season, and the folks there who are in agriculture—as with small businesses and working families, but in agriculture particularly—are looking at either getting their fields ready or they are in the field putting seeds in the ground because the work is there and it has to be done. You have an opportunity to do it, and you do it.

Well, it is planting season in the Senate all the time. Whether it is creating jobs or turning the economy around or fixing health care or whatever it may be, we have important work to do. The folks on the other side of the aisle, I guess, are watching the clouds roll by, because the fact is, it is time to go to work. Obstructionism is not something that takes a lot of skill, but getting things done requires hard work, and it is time to get things done.

These judicial appointments we have to do right now in the Senate are critically important. They are critically important for this country and for the process to work, and yet they are being held up for literally no reason whatsoever or just because they can be held up.

Let me give a quick statistic, because we always compare what goes on in past administrations. I can tell you that in the first 2 years of the Bush Presidency he had 100 circuit and district court nominations confirmed. To date, President Obama has had 18 over 2 years in. This is idle work. Idle hands get nothing done. It is time to go to work in the Senate, it is time to do away with the obstructionism, and it is time to put the Senate back on the side of the people.

Mr. WARNER. I thank the Senator for those comments, and in the interest of full disclosure, I might try to use that line about idle hands—as a matter of fact, in a speech later this afternoon.

I know we have been joined by one more of our freshman colleagues who

may not have grown up as a farmer but who understands equally as well the importance of this body getting its work done, and that is my friend, the Senator from Illinois, Senator BURRIS.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BURRIS. I thank my colleague from Virginia, Senator WARNER, who has taken a leadership role on this important and crucial issue in the Senate.

At a time when we are looking at trying to move all this major legislation and solve problems for the people of America, we find ourselves stymied with regard to our third branch of government. The upcoming vacancy on the Supreme Court has already started a lot of talk across the Nation, despite the fact that we don't even have a nominee as yet. But let's forget about that. We must still focus on a number of immediate judicial nominations.

My Republican friends continue to delay and obstruct, and for what reason, I have no idea. Take, for example, my home State of Illinois. There are currently five judicial vacancies, two in the central part of the State and three in the northern part, which is, of course, where we have Chicago. The caseload is tremendous on those current judges and so there are all these delays. If you want to know why it takes so long to bring someone to trial, that is because the judges there are overworked and the numbers there need to be brought up to par with what the requirements call for.

Illinois is not alone. This is happening all over the country. So the numbers are such that we have all of these nominees who have been nominated, and some have been cleared by the committee unanimously. On some of the other judges, whom we did get confirmed, we had to go through cloture. They cleared the committees, they were blocked, but then, when we got to vote on them, the result was 99 to 0. That is uncalled for. So we must do what we can in order to make sure that the judicial process is not being delayed. That is, after all, our third branch of government. That is where justice is rendered for individuals who have violated any of the Federal laws.

My Republican friends are holding these up. They are blocking these important nominations and stopping the Senate from performing its constitutional duty to advise and consent. We cannot consent because of the delay tactics they are using. As a former attorney general of my State, I have a deep understanding of how this obstructionism brings our justice system to a standstill, and justice delayed, of course, is justice denied. It is simply inexcusable.

I urge my Republican colleagues to stop blocking these qualified nominees, stop playing political games at the expense of our court system—the third branch of our government—and let's bring all of those nominees to a vote.

I thank the Senator, and I yield to him.

Mr. WARNER. I thank the Senator from Illinois.

Madam President, I think we have had more than a dozen Senators speak this afternoon. I appreciate all of them coming out on relatively short notice.

We raised these issues before we went on recess, because we want to be respectful not only of traditions but to our colleagues on the other side. We recognize, as the Senator from Colorado has said, that there are rules that allow us to ask unanimous consent to bring these folks up, and in future days and weeks we will use those rules to try to urge a full-fledged debate, and not just on judicial nominees. As the former CEO of a business, and the former CEO of a State, I know there are a whole host of administrative nominees which are part of the administration that this President needs to get in place.

I thank the Presiding Officer for the time we have had to share our concerns about this process. Again, I encourage my colleagues and friends on the other side to allow us to get this fixed, to get back to the substantive debates that are so important—financial reregulation, energy, and jobs—and that the American people deserve and demand.

With that, Madam President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### CENSUS 2010

Mr. BURRIS. Madam President, in 1790, Secretary of State Thomas Jefferson became the first government official to perform the essential duties laid out in Article One Section Two of the U.S. Constitution.

He oversaw a team of marshals, who fanned out across all 13 United States to conduct the very first U.S. census.

In those days, it took quite a long time to gather an accurate count and certify the results.

But, in many ways, that first census laid the cornerstone of our democracy.

It codified the principle that our system of government depends upon accurate representation of the people.

And, even today, that's exactly what the census is all about.

It determines the size of the House of Representatives, and ensures that congressional districts and electoral votes are distributed accurately.

It helps target Federal funding for schools, hospitals, community centers, infrastructure projects, and a whole host of other programs.

In short, it helps our government work the way it is intended in each community, so everyone's voice can be heard.

It is about nothing less than who we are as a country.

It is about enfranchisement, and civic duty, and ensuring the success of the American system of self-government.

That is why our Constitution mandates that the census take place every 10 years.

And that is why, 220 years after Thomas Jefferson started this tradition, we are once again asking all Americans to stand up and be counted.

Our country has grown by leaps and bounds since Jefferson's time. Making sure we get an accurate count can be a complicated process, but it has never been more important, especially for low-income and minority communities, which are in the greatest need for the resources that will be allocated based on this census.

The problem is that many of these communities also have low participation rates—so they are often undercounted, and receive less funding than they deserve.

That is why we need make a special effort to reach out to these communities.

We need to let everyone know how important it is to participate, so we can get a clear, accurate snapshot.

Fortunately, unlike in Jefferson's day, the 2010 census will not take several months to complete—it will take about 10 minutes.

This year's form is one of the shortest in history—and it bears a close resemblance to the original questionnaire that was used in 1790.

Filling it out will be quick and easy—but it will make a world of difference.

I ask my fellow Americans to join me in doing their civic duty, as required by the Constitution. Take 10 minutes to fill out and return this census form. It could be the most productive 10 minutes of the decade. It will make your vote count for more on election day. It will make sure hospitals, fire departments, and police departments are up to the task of serving your community. It will secure adequate funding for roads, bridges, rail lines, and other important infrastructure. And it will help us reaffirm the unwavering commitment shared by all Americans—to a representative government—a government of the people, by the people, and for the people; a government that serves not only the best interests of this great country but of the world.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BROWN of Ohio. Mr. President, I ask unanimous consent to speak as in