worry about paying bills or providing health care for her children, largely because of the benefits the union negotiated for its members.

Collective bargaining for TSA employees will not endanger national security. It will make us more safe. I urge colleagues to support collective bargaining for TSA employees. It will improve our ability to recruit and retain the best employees, like Donnie McIntyre and the countless other American heroes who work every day to protect us and keep us safe under collective bargaining agreements. Moreover, smart collective bargaining for TSA employees will increase stability and professionalism in the workplace and will dramatically reduce attrition rates, job dissatisfaction, and increased costs, which will enhance transportation security.

I urge my colleagues to swiftly confirm John S. Pistole to be the TSA Director and to understand the importance of protecting all of our workers, particularly those who put their lives on the line for us, by giving them basic collective bargaining rights.

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

The PRESIDING OFFICER. The Senator from Iowa is recognized.

(The remarks of Mr. GRASSLEY pertaining to the submission of S. Res. 562 are printed in today's RECORD under ''Submitted Resolutions.'')

Mr. GRASSLEY. Mr. President, I yield the floor.

Since I do not see any other Members present to speak, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER FOR RECESS

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate stand in recess from 1:00 to 2:30 p.m. today.

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

Mr. CONRAD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.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 (Mrs. HAGAN). Without objection, it is so ordered.

UNEMPLOYMENT AND COBRA BENEFITS

Mr. BURRIS. Madam President, near the end of May, we learned that the unemployment rate in my home State of Illinois had fallen to about 10.8 percent, down from 11.2 percent in March. That is the first time the unemployment rate has gone down since 2006, when it stood at only 4.4 percent.

I am the first to celebrate the creation of even a single well-paying job. I am happy for each and every Illinoisan we can put back to work because one job will help someone put food on the table, and it will help one family stand just a little taller. It will give people the opportunity to participate in the economy again, buying the goods and services they need.

That, in turn, means more jobs. One by one, these folks will turn our economy around from the bottom up. So I do not dismiss this recent jobs report. This is a step in the right direction. It is welcome news. But it is only a drop in the bucket. For every person we have put back to work, many others are still hurting—and hurting badly.

Our landmark stimulus law, which we enacted more than a year ago, has done a great deal to stop the economy from collapsing and set Americans back on the road to recovery. The economy is growing again. Many key indicators have turned around. I am proud to say the American Recovery and Reinvestment Act has been instrumental in preventing a second Great Depression.

But job creation continues to lag behind. We have made progress in some areas, but we still have a long way to go. That is why I urge my colleagues to come together and support job creation measures so we can keep putting people back to work.

At the same time, I urge them to support further extensions of unemployment and COBRA benefits so we can help people keep their heads above water until the recovery is complete.

These are difficult times. Through no fault of their own, millions of people have suddenly found themselves without a job. These folks are the victims of reckless behavior on Wall Street, but they, rather than Wall Street, have been forced to pay the price.

More Americans are classified as ''long-term unemployed'' and ''disadvantaged workers'' than ever before. Many have exhausted their unemployment benefits or they are dangerously close to doing so.

I believe we must pass this extenders package and restore stability by helping States cover the rising cost of unemployment insurance.

We need to increase access to COBRA so that people can remain on their old health insurance for a period of time after they lose their jobs.

We need to extend these benefits to more hard-working Americans who are struggling to find work during this time of uncertainty.

Just last month, after a long partisan battle, we passed a temporary extension of these programs. But that extension expired on June 2, almost a month ago. So it is time to take up a new measure that will carry unemployment benefits and COBRA through at least another 6 months—I would love to see more time—as our friends in the House of Representatives have discussed. This proposal would make more Americans eligible for existing benefits. It would not increase the current 99-week limit on these programs, but it would offer a helping hand to those who have lost their jobs recently and make sure they have access to the same resources.

This extension would not be a comprehensive fix, but it would help ease the situation and the strain on the victims of this financial crisis until the full effects of our stimulus law have taken hold and the unemployment rate begins to decline at a steady rate.

This extenders package will provide needed relief to those who need it most. That is why I am deeply disappointed that some of my colleagues have proposed cuts to this legislation. Some say we should cut $25 a week in extra unemployment compensation.

Relative to the overall legislation, these cuts would be minimal. But to a family who has been hit hard by this crisis, $25 a week could make a tremendous difference. Some will say we cannot afford to provide these benefits in light of our continued recovery. But what do I say? I say we cannot afford not to.

We cannot afford to nickel and dime these people who are barely scraping by as it is. We need to give them the support they deserve. Let's dispense with this hollow rhetoric about fiscal responsibility from those who have lost their credibility on this issue.

Over the last decade, Republicans squandered our surplus by spending wildly on massive tax breaks for the wealthy and the special interests, a war not paid for, and a medical program not paid for. During the years when they were in control, Senate Republicans voted seven times to increase the debt limit. They refused to pay for major initiatives, they cut revenue, and they increased spending.

It doesn't take a financial expert to recognize that this is just plain irresponsible. It is easy to say their record simply does not match their rhetoric.

Let's be honest with the American people. Let's work together to solve this problem rather than hiding behind the same irresponsible policies that got us here in the first place.

I recognize that job creation must remain our top priority, and I am confident that Democrats and Republicans can agree we need to help people get back to work. In the meantime, let's pass this extension so that folks can get food on the table and get access to the medical care they need. Let's stand up for those who have been hit hardest by this crisis and send them a message loud and clear: We haven't forgotten you and, hopefully, help is on the way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I ask unanimous consent that I may speak for up to 20 minutes.

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

NOMINATION OF ELENA KAGAN

Mr. SPECTER. Madam President, I have sought recognition to comment on the range of questions for Solicitor General Kagan on her forthcoming hearings before the Senate Judiciary Committee.

Solicitor General Kagan has issued a fairly broad invitation, in effect, on questioning. In an article that she published in the Chicago Law Review back in 1995, her comment at that time was, in part, as follows:

> When the Senate ceases to engage nominees in meaningful discussion of legal issues, the confirmation process takes on an air of vacuity . . . and the Senate becomes incapable of either properly evaluating nominees or appropriately educating the public. For nominees, the safest and surest route to the prize lay in alternating platitudinous statements and judicial silence. Who would have done anything different in the absence of pressure from Members of Congress?

That is a fair-sized invitation for a little pressure from Members of the Senate. I think she is right in her pronouncements, and it is something we ought to do. She goes on to write in the law review article:

> Chairman Biden and Senator Specter, in particular, expressed impatience with the game as played. Specter warned that the Judiciary Committee one day would ''rear up on its hind legs'' and reject a nominee who refused to answer questions. Senators do not insist that any nominee reveal what kind of a Justice she would make by disclosing her views on important legal issues. Senators have not done so since the hearings on the nomination of Judge Bork.

Solicitor General Kagan goes on to write:

> A nominee lacking a public record would have an advantage over a highly prolific author.

There has been some questioning as to whether this nominee has such a small paper trail that it will be doubly difficult, or significantly more difficult, to find out her views. But in her law review article, noting the difference with that kind of a paper trail is, again, another invitation.

The author of the law review article, Solicitor General Kagan, goes on to write:

> The Senators' consideration of a nominee, and particularly the Senate's confirmation hearing, ought to focus on substantive issues.

Well, that, then, raises the question about how do you get answers on substantive issues, and what is the value of the substantive issues when the nominee, after being confirmed, is on the bench?

Earlier this week, I made an extensive statement reviewing the records of Chief Justice Roberts and Justice Alito in their confirmation hearings. Although both professed to give great deference to Congress on findings of the facts of the record, when it came to making a decision—for example, in Citizens United—their judicial views were much different.

Both Chief Justice Roberts and Justice Alito talked at length about how it was the legislative function to have hearings, compile the record and find the facts; that it was not a judicial function, and that when judges engaged in that, they were engaging in legislation. But when it came to the case of Citizens United, overturning a century of a prohibition on corporations engaging in paying for political advertising, both Chief Justice Roberts and Justice Alito found the 100,000-page record insufficient. Both of them talked about stare decisis and the value of precedent and the factors that led to the strengthening of stare decisis. Chief Justice Roberts spoke emphatically about not giving the legal system a ''jolt.'' Well, that is hardly what has happened during their tenure on the bench.

So the question which we will put to Solicitor General Kagan, among others, is, How does Congress get those promises translated into actual practice? And in making the comments about Chief Justice Roberts and Justice Alito, I do so without challenging their good faith. There is a big difference between answering questions in a Judiciary Committee hearing and deciding a case in controversy. But the question remains as to how we handle that.

As expressed in my statement earlier this week, I am very much concerned about the fact that there has been a denigration of the strong constitutional doctrine of separation of power and that we have moved to a concentration of power. That has happened by the Supreme Court taking on the proportionality and congruence test, which, as Justice Scalia noted in a dissent, is a ''flabby'' test designed for judicial legislation.

The Court has also ceded enormous powers to the executive by refusing to decide cases where there are conflicts between the executive and legislative branches. I spoke at length earlier this week about the failure of the Supreme Court to deal with the conflict between Congress's Article I powers in enacting the Foreign Intelligence Surveillance Act versus the President's authority as Commander in Chief. I did that in the context of noting that the Supreme Court has time for deciding many more cases.

These are, I think, impressive statistics. In 1886, the Supreme Court had 1,396 cases on its docket and decided 451 cases. In 1987, a century later, the Supreme Court issued 146 opinions. By 2006, the Supreme Court heard argument on 78 cases, wrote opinions in 68. In 2007, they heard argument in 75 cases, wrote opinions in 67 cases. In 2008, they heard arguments in 78 cases, wrote opinions in 75 cases.

In addition to not deciding cases such as the terrorist surveillance program and the sovereign immunities case, which I talked about extensively earlier this week, the Supreme Court has allowed many circuit splits to remain unchecked. There is an informative article in the July/August 2006 edition of the Atlantic entitled ''Of Clerks and Perks,'' written by Stuart Taylor, Jr. and Benjamin Wittes. In that article, the authors point out about how much time the Supreme Court Justices have, noting that one Justice produced four popular books on legal themes while on the bench, another is working on a $1.5 million memoir, and another Justice took 28 trips in 2004 alone and published books in 2002, 2003, and 2005.

Madam President, I ask unanimous consent to have printed in the RECORD the full article to which I just referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Atlantic, July/August 2006]

OF CLERKS AND PERKS

WHY SUPREME COURT JUSTICES HAVE MORE FREE TIME THAN EVER—AND WHY IT SHOULD BE TAKEN AWAY

(By Stuart Taylor Jr. and Benjamin Wittes)

There are few jobs as powerful as that of Supreme Court justice—and few jobs as cushy. Many powerful people don't have time for extracurricular traveling, speaking, and writing, let alone for three-month summer recesses. Yet the late Chief Justice William Rehnquist produced four popular books on legal themes while serving on the bench. Clarence Thomas has been working on a $1.5 million memoir. And Sandra Day O'Connor, who retired to general adulation, took twenty-eight paid trips in 2004 alone, and published books in 2002, 2003, and 2005.

All this freelancing time breeds high-handedness. Ruth Bader Ginsburg tars those who disagree with her enthusiasm for foreign law with the taint of apartheid and Dred Scott; Antonin Scalia calls believers in an evolving Constitution ''idiots,'' and carries on a public feud with a newspaper over whether a dismissive gesture he made after Sunday Mass—flicking fingers out from under his chin—was obscene. Meanwhile, on the bench the justices behave like a continuing constitutional convention, second-guessing elected officials on issues from school discipline to the outcome of the 2000 election, while leaving unresolved important, if dust-dry, legal questions that are largely invisible to the public.

Many lawmakers are keen to push back against a self-regarding Supreme Court, but all of the obvious levers at their disposal involve serious assaults on judicial independence—a cure that's worse than the disease of judicial unaccountability. The Senate has already politicized the confirmation process beyond redemption, and attacking the federal courts' jurisdiction, impeaching judges, and squeezing judicial budgets are all bludgeons that legislators have historically avoided, and for good reason.

So what's an exasperated Congress to do? We have a modest proposal: let's fire their clerks.

Eliminating the law clerks would force the justices to focus more on legal analysis and, we can hope, less on their own policy agendas. It would leave them little time for silly speeches. It would make them more ''independent'' than they really want to be, by ending their debilitating reliance on twentysomething law-school graduates. Perhaps best of all, it would effectively shorten their tenure by forcing them to do their own work, making their jobs harder and inducing them to retire before power corrupts absolutely or decrepitude sets in.