to raise taxes on people below $250 million—many of us, people below $1 million. But when oil companies get big giveaways, when corporate jets get huge deductions, a greater deduction than Delta gets when it buys a plane for commercial use, that should be on the table. We should ask Senator MCCONNELL and the press should ask Senator MCCONNELL: When you say no taxes, do you mean some of our largest corporations should pay no taxes? When you say no taxes, should no taxes be on the table? Are you saying we should not close corporate loopholes? Are you saying people who are making $1 billion should not sacrifice and all the sacrifice should be the middle class? Because that is what Senator MCCONNELL is saying.

Again, we do not wish to tax and will not tax average middle-class people. That is the President's pledge and that is our pledge. The question is: When you tell an average teacher or cop or firefighter you have to sacrifice, are you going to tell the millionaire they have to sacrifice too? Not because we dislike them, but because it should be shared across the board, and Senator MCCONNELL has said: No, the millionaires should not sacrifice. Because the only way they are going to sacrifice is closing loopholes in the Tax Code. They don't need loans to help their kids get to college.

One other thing: Senator MCCONNELL says we should take anything about corporate loopholes, about taxing wealthy people off the table. His ''my way or the highway'' approach is what is standing in the way of getting an agreement. The person standing in the way right now is Senator MCCONNELL. You have not heard such strident language from the other leaders. He says: Take everything we want and nothing you want or we will not get an agreement. That is what he is saying.

The bottom line is very simple. Senator MCCONNELL, cutting Medicare benefits will not make us stronger; Firing teachers will not make us stronger; rolling back investments in innovation and research and high-tech jobs of the future will not make us stronger, but ending wasteful tax subsidies that do nothing but contribute to the deficit for oil companies and corporate jet owners will make us stronger. Meet us part of the way here. Don't say my way or no way because that is too risky, and that is telling the world we will not fulfill our obligations the way every family in America has to fulfill theirs.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll.

Mr. KIRK. Madam 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. KIRK. I ask unanimous consent to speak as in morning business.

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

STEALTH SURVEY

Mr. KIRK. Madam President, I rise with great concern regarding a program just revealed in the Sunday New York Times—outstanding work by Robert Pear—''U.S. Plans Stealth Survey on Access to Doctors.'' I am asking my colleagues to join me in sending a letter to Secretary Sebelius, sharing our concerns with the legality, standards, and repercussions of this program.

I have deep concerns regarding the Department's recent plans for this so-called stealth survey, its legality, the notification to Congress, the lack of standards for any misconduct or bad reporting by the staff hired to carry out this work in looking clandestinely at American doctors and their practice of medicine. The cost and proposed clandestine method of collecting information about physicians' offices is questionable. Therefore, I will be requesting details on how this survey will be conducted and how investigators will be punished for misconduct or extortion they may carry out in their duties and how patient and physician confidentiality will be maintained.

In our letter, we are outlining 12 key questions.

No. 1. Since there are already a number of surveys answering this question, does this expenditure of taxpayer money add anything? We are asking for the Department to provide detailed records of their literature review on the current research that has already been published on the subject before launching this taxpayer-funded expense. We are also asking for the total cost of this program to be revealed.

No. 2. We are asking for records on how the National Opinion Research Center of Chicago, IL, won a Federal competitive bid to carry out this work.

No. 3. In concluding the results of this survey, how will the NORC decide what qualifies as an acceptable response or best practices from physicians they have targeted?

No. 4. How will patient and doctor confidentiality be maintained? If researchers report bad information or use this survey for extortion, bribery or other acts, how will they be disciplined?

No. 5. Once concluded, who has access to this information—the Department, the White House, the Congress, the press?

No. 6. By what criteria will individual physicians be targeted for participation? Will age, average incomes, surrounding office locations or political affiliation be excluded from factors considered when targeting physicians?

No. 7. Will Federal employees carry out this work or will it be conducted by a contracted call center for data collection? Also, who is qualified to conduct this survey and how will they be chosen?

No. 8. If the staff improperly releases patient or physician data, how will they be disciplined?

No. 9. I would like their description of the fiscal year 2011 Appropriations Committee program or account under which this was funded.

No. 10. I am also requesting a description of the statutory authorization used to carry out this work and the congressional notifications informing the committees of jurisdiction of their intent to obligate funds for this purpose.

No. 11. I am also asking for specific sections identified in the President's budget under which the funding for this work was requested.

No. 12. If a physician wishes to correct data collected by the NORC, what legal redress does he or she have?

There have been a number of very reliable studies which confirm that many patients on Medicaid and Medicare cannot find a doctor to see them. Previous studies also confirm that we do not have enough doctors, particularly primary care doctors. We all know government programs often provide poor service and suffer from funding failures or corruption.

In this time of serious fiscal constraint, I urge us to focus our limited Federal resources on ways we can actually address these problems rather than launch another taxpayer-funded spending program to clandestinely review the work of our physicians.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Madam 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. KYL. Madam President, I ask unanimous consent that I be allowed to speak as in morning business for up to 7 minutes.

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

THE DEFICIT

Mr. KYL. Madam President, I just wish to bring to my colleagues' attention a very well-written but disturbing op-ed in today's Wall Street Journal by one of our country's foremost economists, a person whose calculations and prognostications we should not lightly lay aside, Larry Lindsey.

In this piece, entitled ''The Deficit Is Worse Than We Think,'' he posits three reasons why we need to get serious about deficit reduction. I will just mention the three reasons, put this op-ed in the RECORD, and make a comment or two about it.

First, he says, if interest rates in this country go back to their historic levels, we would have annual interest expenses on our debt roughly $420 billion higher in 2014 and $700 billion higher in

2020, and the 10-year rise in interest rates would be about $4.9 trillion higher than under the current cost of borrowing. That would obviously wipe out any savings, and then some, that we are trying to achieve in our deficit reduction discussions.

The second problem is, the official forecasts for growth are probably far too rosy considering the current circumstances. If we were to grow at a rate that he believes is much more realistic than those projected by the President's budget, we will miss the President's budget number by a cumulative 5.2 percentage points and incur an additional debt of $4 trillion, which is the equivalent to all the 10-year savings in the budget that passed the House of Representatives.

Third, the cost estimates for what we call ObamaCare are going to be well off the mark, unfortunately, on the low end, that the prognostications by people who have surveyed the businesses that will either keep their insurance or turn that cost over to the government will result in an extra bill for the taxpayers of roughly $74 billion in 2014, rising to $85 billion in 2019 because of the subsidies that the government will have to pay into that.

His conclusion is:

> Only serious long-term spending reduction in the entitlement area can begin to address the nation's deficit and debt problems.

Because that is where the bulk of the money we spend goes. I think he is absolutely correct. But if he is correct about these projections, then we are not even close to achieving the savings we need to have in order to avoid a cataclysmic future for our country.

Also, as noted today in an article from the Arizona Republic, the growth rate for the first quarter of this year was 1.9 percent. The Associated Press is forecasting that for the next quarter it will be 2.3 percent. That is way lower than any of us would like. It is too anemic to even keep up with our population in terms of job growth. This article notes:

> The economy has to grow 3 percent a year just to hold the unemployment rate steady and keep up with population growth. And it has to average about 5 percent growth for a year to lower the unemployment rate by a full percentage point. It is 9.1 percent today.

So we can see we are growing at less than half the rate needed to begin to make a dent in unemployment. This bodes very badly for our future.

Finally, in a National Review Online piece today by Andrew Stiles, there is this reference to a Harvard economist, Alberto Alesina. I will quote from this article.

> Alberto Alesina, a Harvard economist who has analyzed the ways in which various countries responded to large fiscal crises, concludes that spending cuts are ''much more effective'' than tax increases in stabilizing the debt without harming the economy. ''In fact, in several episodes, spending cuts adopted to reduce deficits have been associated with economic expansions rather than recessions,'' Alesina writes. These findings were echoed in a report from Goldman Sachs analysts Ben Broadbent and Kevin Day, which examined ''every major fiscal correction in the OECD since 1975.''

The point of all these things is the projections about economic growth, about increases in interest rates and expenditures by the Federal Government all point to the need for us to reduce our expenses at the Federal Government level and that spending cuts are a much more effective way to stabilize the debt and not hurt the economy than tax increases.

I say all this because, as everyone by now knows, the negotiations that were being conducted under the auspices of Vice President BIDEN have broken down over the issue of whether tax cuts have to be a part of the resolution of the issue. The point is—the point we have been making is—tax increases in times such as these, when we are trying to come out of a recession and we need economic growth, would be the wrong medicine for this ailing economy, that the better way to do it is by spending reductions. It is obvious from Larry Lindsey's piece that the spending reductions we have been talking about, far from being Draconian, are actually not nearly enough in order to achieve the result we have to have to avoid the kind of interest rate increases and increased costs at the Federal Government level that he predicts.

I hope my colleagues will think again as to the sort of ideological commitment they have to raising taxes. In the context of today's issue, that should not be part of our discussion. That will only hurt the economy, inhibit job creation and economic growth, and delay the day when we begin to recover from this economic downturn. Instead, we need to focus on the kind of spending reductions that were embodied in the budget that the House of Representatives passed and that those of us on this side of the aisle have been trying to put forward as a condition for increasing the debt ceiling.

Madam President, I ask unanimous consent to have printed in the RECORD the Wall Street Journal op-ed by Lawrence Lindsey.

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

[From the Wall Street Journal, June 27, 2011]

THE DEFICIT IS WORSE THAN WE THINK—NORMAL INTEREST RATES WOULD RAISE DEBT-SERVICE COSTS BY $4.9 TRILLION OVER 10 YEARS, DWARFING THE SAVINGS FROM ANY CURRENTLY CONTEMPLATED BUDGET DEAL

(By Lawrence B. Lindsey)

Washington is struggling to make a deal that will couple an increase in the debt ceiling with a long-term reduction in spending. There is no reason for the players to make their task seem even more Herculean than it already is. But we should be prepared for upward revisions in official deficit projections in the years ahead—even if a deal is struck. There are at least three major reasons for concern.

First, a normalization of interest rates would upend any budgetary deal if and when one should occur. At present, the average cost of Treasury borrowing is 2.5%. The average over the last two decades was 5.7%. Should we ramp up to the higher number, annual interest expenses would be roughly $420 billion higher in 2014 and $700 billion higher in 2020.

The 10-year rise in interest expense would be $4.9 trillion higher under ''normalized'' rates than under the current cost of borrowing. Compare that to the $2 trillion estimate of what the current talks about long-term deficit reduction may produce, and it becomes obvious that the gains from the current deficit-reduction efforts could be wiped out by normalization in the bond market.

To some extent this is a controllable risk. The Federal Reserve could act aggressively by purchasing even more bonds, or targeting rates further out on the yield curve, to slow any rise in the cost of Treasury borrowing. Of course, this carries its own set of risks, not the least among them an adverse reaction by our lenders. Suffice it to say, though, that given all that is at stake, Fed interest-rate policy will increasingly have to factor in the effects of any rate hike on the fiscal position of the Treasury.

The second reason for concern is that official growth forecasts are much higher than what the academic consensus believes we should expect after a financial crisis. That consensus holds that economies tend to return to trend growth of about 2.5%, without ever recapturing what was lost in the downturn.

But the president's budget of February 2011 projects economic growth of 4% in 2012, 4.5% in 2013, and 4.2% in 2014. That budget also estimates that the 10-year budget cost of missing the growth estimate by just one point for one year is $750 billion. So, if we just grow at trend those three years, we will miss the president's forecast by a cumulative 5.2 percentage points and—using the numbers provided in his budget—incur additional debt of $4 trillion. That is the equivalent of all of the 10-year savings in Congressman Paul Ryan's budget, passed by the House in April, or in the Bowles-Simpson budget plan.

Third, it is increasingly clear that the long-run cost estimates of ObamaCare were well short of the mark because of the incentive that employers will have under that plan to end private coverage and put employees on the public system. Health and Human Services Secretary Kathleen Sebelius has already issued 1,400 waivers from the act's regulations for employers as large as McDonald's to stop them from dumping their employees' coverage.

But a recent McKinsey survey, for example, found that 30% of employers with plans will likely take advantage of the system, with half of the more knowledgeable ones planning to do so. If this survey proves correct, the extra bill for taxpayers would be roughly $74 billion in 2014 rising to $85 billion in 2019, thanks to the subsidies provided to individuals and families purchasing coverage in the government's insurance exchanges.

Underestimating the long-term budget situation is an old game in Washington. But never have the numbers been this large.

There is no way to raise taxes enough to cover these problems. The tax-the-rich proposals of the Obama administration raise about $700 billion, less than a fifth of the budgetary consequences of the excess economic growth projected in their forecast. The whole $700 billion collected over 10 years would not even cover the difference in interest costs in any one year at the end of the decade between current rates and the average cost of Treasury borrowing over the last 20 years.

Only serious long-term spending reduction in the entitlement area can begin to address the nation's deficit and debt problems. It should no longer be credible for our elected

officials to hide the need for entitlement reforms behind rosy economic and budgetary assumptions. And while we should all hope for a deal that cuts spending and raises the debt ceiling to avoid a possible default, bondholders should be under no illusions.

Under current government policies and economic projections, they should be far more concerned about a return of their principal in 10 years than about any short-term delay in a coupon payment in August.

Mr. KYL. Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Madam 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. GRASSLEY. Madam President, I assume that we are now on the Cole nomination?

The ACTING PRESIDENT pro tempore. We are on the nomination.

Mr. GRASSLEY. Madam President, earlier this year the Senate expressed its opposition to proceeding to Mr. Cole's nomination when it failed to invoke cloture. I was a strong advocate against the Senate invoking cloture on Mr. Cole's nomination because the Justice Department had failed to respond to a legitimate oversight request that both Senator CHAMBLISS and I made relating to two separate topics.

The Justice Department was withholding vital documents related to my inquiry of the Bureau of Alcohol, Tobacco and Firearm's Operation Fast and Furious and to an inquiry by Senator CHAMBLISS in his capacity as vice chairman of the Select Committee on Intelligence.

As ranking member of the Judiciary Committee, I have been seeking and still seek documents, information, and access to witness interviews to determine who approved Operation Fast and Furious. This was an operation that you have heard me talk about often where ATF agents were ordered to knowingly allow straw buyers to obtain weapons on behalf of criminals and traffickers intent on smuggling those weapons into Mexico.

The courageous agents who blew the whistle and testified about their efforts to warn supervisors about the dangers referred to this practice as ''walking guns.'' Of the more than 1,800 weapons allowed to ''walk,'' hundreds have been recovered in connection with crimes in the United States and Mexico, including two such weapons in connection with the murder of Border Patrol agent Brian Terry.

After seeking information from the Justice Department, I was repeatedly told that the ATF did not knowingly allow these sales. Working with Congressman ISSA, who is chairman of the House Government Oversight Committee, we released information that showed that the initial denials were false. This risky policy was, in fact, implemented at ATF and the Justice Department.

Despite the seriousness of the whistleblowers' allegations and my repeated inquiries, the Justice Department continued to deny me access to the documents. As a result, I urged my colleagues to oppose cloture on James Cole to be Deputy Attorney General. Well, that cloture opposition worked. We have since reached an agreement with the Justice Department and Senator LEAHY that will guarantee my access to vital document information and witnesses regarding this ATF operation.

I also understand that Senator CHAMBLISS has reached an agreement on obtaining the information he has sought on behalf of the Intelligence Committee. Accordingly, I now lift my opposition to the Senate holding a vote on Mr. Cole's nomination. However, I want to explain that I am going to vote against his nomination for many reasons.

I oppose the nomination of James Cole to be Deputy Attorney General at the Department of Justice because I have serious concerns regarding Mr. Cole's qualifications. In addition, I am troubled by President Obama's recess appointment of Mr. Cole to this position. I have been consistent in my opposition to recess appointments over the years on committees where I have been chairman or ranking member. Whenever the President bypasses the Senate; in other words, bypasses our confirmation of a person, by making a recess appointment, such nominees will not receive my support where I have been lead on my side responsible for reviewing such nominees.

We have a process in place for nominations, and if the President is not willing to work with Senators to clear nominations, the nominee should not get a second bite at the apple. The Deputy Attorney General is second in command at the Justice Department and is responsible for overseeing the day-to-day operations of the Department.

Managing this vast bureaucracy is a difficult task that requires a serious commitment to protecting our national security, enforcing our criminal laws, and safeguarding taxpayer dollars. We need a qualified leader who has the smarts, the capability, and the willingness to manage Department programs and root out inefficiencies and abuse in those programs.

After reviewing all of his responses and his hearing testimony, I concluded that I could not support Mr. Cole's nomination to be Deputy Attorney General. In particular, I am seriously concerned about Mr. Cole's views on national security and on terrorism. Back in 2002, Mr. Cole was author of an opinion piece in the Legal Times. In that piece he stated:

For all the rhetoric about war, the September 11 attacks were criminal acts of terrorism against a civilian population, much like terrorist acts of Timothy McVeigh in blowing up the federal building in Oklahoma City, or of Omar Abdel-Rahman in the first effort to blow up the World Trade Center. The criminals responsible for those horrible acts were successfully tried and convicted under our criminal justice system without the need for procedures that altered traditional due process rights.

But I want to quote further.

The acts of September 11th were horrible, but so are . . . other things.

The other things he referred to were the drug trade, organized crime, rape, child abuse and murder. Mr. Cole's opinion piece argued that notwithstanding the involvement of foreign organizations such as al-Qaida, we have never treated criminal acts influenced by foreign nationals or governments as a basis for ''ignoring the core constitutional protections engrained in our criminal justice system.''

Mr. Cole concluded his opinion piece by arguing that in addition to stopping future terrorist attacks, the Attorney General is a criminal prosecutor and that he has a special duty to apply constitutional protections ingrained in our criminal justice system to even including terrorists captured on foreign battlefields.

Mr. Cole wrote this opinion piece 2 days short of the first anniversary of the September 11 attacks. Given the close proximity in time to the September 11 attacks, we must accept this opinion piece as Mr. Cole's true beliefs about the application of the civilian criminal justice system to terrorism cases, including those who masterminded the 9/11 attacks.

From the opinion piece and his responses to our inquiry, it appears that if given a choice of prosecuting high-ranking terrorists in civilian courts or military commissions, Mr. Cole would likely favor civilian courts based upon his longstanding belief in the role that the Attorney General plays in protecting the principles of the criminal justice system.

Absent a clear statement from Mr. Cole about what factors would warrant selecting a civilian or a military forum, it is hard to look at his entire record of past opinion, his testimony and responses to our questions, and reach any different conclusion.

In fact, my concerns about the individuals at the Justice Department supporting prosecution of terrorists in civilian criminal court have been validated by recent events surrounding the arrest of two Iraqi nationals at Bowling Green, KY. These Iraqi nationals have admitted targeting American troops in Iraq, plotting to equip foreign fighters in Iraq with weapons such as grenades and missile launchers. They made their way to our country and somehow got past the Department of Homeland Security.

After they were identified, the Justice Department is seeking to try them in civilian court even though their activities regarded terrorist activities and took a very military approach.

Attorney General Holder has been steadfast in supporting their prosecution in civilian court. It appears to me

that no one in the Justice Department, including Mr. Cole, has objected to prosecuting these individuals in civilian court. This is despite the clear nexus to the battlefield in Iraq. So it now appears the Justice Department, where Mr. Cole currently serves as a recess-appointed Deputy Attorney General, rewards terrorists who are smart enough to evade Homeland Security's determination on whether they can come to this country, and at the same time make their way from the battlefield with the same rights and privileges as American citizens. All of this occurred on Mr. Cole's watch as Deputy Attorney General.

Military tribunals have many advantages to civilian criminal courts and are better equipped to deal with dangerous terrorists and classified evidence while preserving due process. I am troubled that Mr. Cole does not appear to share this belief. Because of his responses and testimony, I have serious concerns about his support for civilian trials for terrorists captured on a foreign battlefield. This is of particular concern, given that the Deputy Attorney General oversees the National Security Division at the Justice Department.

Now for a second reason. I have concerns about Mr. Cole's abilities relative to oversight of government programs. We asked about oversight of the Department of Justice's grant programs. When he was asked, Mr. Cole failed to commit to a top-to-bottom review of the programs, nor has he undertaken such a review since he was recess appointed. Given the enormous Federal deficits and enough examples of the tremendous inefficiencies, duplications, and waste in these programs, one would assume the Deputy Attorney General would be looking for cost savings in the Department. I am disappointed Mr. Cole has failed to recognize that there is a need for a comprehensive review of Justice's grant programs—not only for the sake of saving taxpayer dollars at a time when we face skyrocketing fiscal deficits but also to ensure that grant objectives are being met in the most efficient and effective manner possible.

A third reason. I have concerns about Mr. Cole's abilities based on his performance as an independent consultant tasked with overseeing the insurance firm AIG. By way of background, the Justice Department provided copies of the reports Mr. Cole issued when he was overseeing AIG, but they were labeled ''Committee Confidential.'' As a result of their being labeled ''Committee Confidential,'' I cannot discuss with specificity the contents of those documents publicly. Nevertheless, when taken into context with the public responses provided by Mr. Cole to my questions, a troubling picture develops about Mr. Cole's performance in his role as independent consultant. The responses and reports do not dispel the serious questions raised about Mr. Cole's independence or his completeness. Further, they reveal what appears to be a level of deference to AIG management one would not expect to see from someone tasked with the responsibility of being an ''independent'' monitor.

In order to clarify a number of questions on this matter, Senator COBURN and I sent a followup letter seeking additional answers from Mr. Cole. Mr. Cole's reply clarified that the Department of Justice, the Securities and Exchange Commission, and the New York Attorney General's Office were aware of his practice of seeking input from AIG and making modifications to the reports. He indicated that the changes AIG made were often factual changes, such as AIG employee names, dates of materials, and events. He also indicated that some of the changes requested by AIG were included in a section of the report entitled ''AIG Response.'' However, he added that ''on a few occasions'' AIG would ''suggest a stylistic change of phrasing in the analytical section of the report.'' He stated that while he included the edits made by AIG, he ''did not believe that a detailed presentation of this factual review process was necessary to an understanding of each party's position.''

As a result, the reports did not necessarily show which edits AIG made that were incorporated. Instead, he said those changes were available in working papers that were ''available to the SEC, the DOJ, and the New York Attorney General's Office.'' Unfortunately, he added, ''the agencies—which were aware of this practice—did not request such documents.''

While I appreciate Mr. Cole's responses to these clarifying questions, they raise concerns about how independent his monitoring was, what changes were ultimately requested by AIG, what changes were included, and how much the SEC and the Department of Justice knew about edits AIG was making to the ''independent'' reports.

In addition, I have serious concerns about Mr. Cole's decision to suspend compliance review at AIG's financial products division following the government bailout of AIG. In his testimony, Mr. Cole acknowledged that subsequent to the government bailout of AIG, he scaled back his efforts until the future of AIG as a corporation was determined. After Mr. Cole suspended his monitoring, AIG restructured its compliance office and terminated a number of staff overseeing the company's compliance with SEC regulations. Mr. Cole said after it was determined that AIG's financial products division would not be dissolved, the compliance and monitoring were ''revived and are being reviewed and implemented where applicable.''

Under Mr. Cole's watch, AIG not only got $182 billion of taxpayer dollars for a bailout, but was able to talk the independent consultant—Mr. Cole—out of monitoring what the company was doing.

I am concerned about Mr. Cole's ability to perform the duties required of a Deputy Attorney General. In that role, he would be in a position to potentially influence future compliance monitors appointed under settlements with the Justice Department, the Securities and Exchange Commission, and other corporations that have violated the law. Independent monitors need to be truly independent and, of course, completely transparent. They are selected and appointed to ensure the interests of the American people are protected.

For these reasons, I cannot support the nomination of Mr. Cole to be Deputy Attorney General, and I urge my colleagues to do the same.

Madam President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Mr. CARDIN. Madam President, I am very pleased that soon we will be voting on Jim Cole to be the Deputy Attorney General of the United States. This is a person who puts principle over politics, a person who is very important in our war against terror and who will use all lawful tools to keep our Nation safe. So I am proud to take a few moments to urge my colleagues to vote for his confirmation. I think that is in our national security interests, and I know he will be and already is an incredible asset to this country in keeping us safe and doing so in the best traditions of the U.S. Attorney General's Office.

I would like to talk for a moment on a personal basis because I got to know Jim Cole when I was serving in the House of Representatives. I was on the Ethics Committee. The Ethics Committee is not a committee, as you know, on which a Member asks to serve; it is something we must do.

We had a very sensitive investigation in the House of Representatives concerning the Speaker of the House, Newt Gingrich, and the six of us who served on the Ethics Committee needed to come to a fair, nonpartisan conclusion to this very challenging investigation. To say we thought this would be impossible was an understatement of where we first thought we would be in regard to the investigation. But then we reached out and agreed to bring in an independent counsel to help us in our deliberations. That person was Jim Cole.

Jim Cole worked with all of us to look at the facts and do what was in the best interests of the House of Representatives, the best interests of our country, and to leave our politics aside so that we could come out with a result that was fair and would restore confidence in the legislative process. In fact, we did that. We were able to reach a totally unanimous judgment, one that was agreed to on the floor of the House of Representatives and I think spoke volumes about our ability to get our work done in the best interests of our Nation.

I thought Jim Cole did a fabulous job, a great job in helping us. That was also the view of Porter Goss, who was the Republican leader on the Ethics Committee and chairman of the committee at the time. He said he felt Jim Cole brought professionalism at the highest level to our investigation and allowed us to come forward with a fair nonpartisan conclusion. That is the exact person we need in the Department of Justice. It is the person we need to be Deputy Attorney General of the United States.

The Attorney General and the Deputy Attorney General are our Nation's lawyers. They don't represent one party; they represent our country. We need leadership in the Department of Justice who will work in a nonpartisan way, a way that will bring nonpartisan leadership to the Department of Justice. Jim Cole is that type of person. He has the experience, he has the character, and he has the commitment to fill this very important position in our Nation, with 13 years in the Department of Justice and experience in public interest law. His career has been devoted to the public interest in community service.

I was listening to my colleague and friend Senator GRASSLEY talk about his concerns about some of the private law practice of Jim Cole. Here is a person who has devoted his life basically to community and his career in public interest law. He has been a prosecutor. He has been a person who has dealt with white-collar criminals. And, yes, he is an effective attorney. As those of us who are lawyers know, we will represent our clients aggressively, but we don't lose sight of our system. That has been Jim Cole throughout his career. He will bring the expertise he has had in his previous experience to represent our Nation well. These are tough times. We are dealing with threats around the world where we need an Attorney General and a Deputy Attorney General who will use all lawful tools in order to protect our country.

It is interesting that Jim Cole enjoys endorsement from both sides of the aisle. When we look at high-ranking Department of Justice former officials, both Democrats and Republicans have endorsed Jim Cole's confirmation to be the Deputy Attorney General.

Let me quote from one Republican source that I think is typical of the endorsements we have received encouraging the confirmation of Jim Cole. We received a letter from Fred Fielding. I think most of you know Fred Fielding. He was White House Counsel for former President George W. Bush. I think most of us had close dealings with and respected him greatly in the service to the Bush administration. This is what Fred Fielding said about Jim Cole:

> Mr. Cole combines all the qualities you would want in a citizen public servant. He understands both sides of the street and is smart and tenacious, and is a person of unquestioned honor and integrity.

Well, I agree with Fred Fielding. This is the type of person we need to be Deputy Attorney General of the United States.

I am pleased we are going to have this vote later on today. I encourage my colleagues to vote for his confirmation. It is important that we have individuals in these key positions who enjoy the full confirmation from the Senate, and I hope my colleagues will join me in supporting this nominee.

Mrs. FEINSTEIN. Madam President, I rise in strong support of the nomination of Lisa O. Monaco to be the Assistant Attorney General for National Security that is before the Senate.

The Assistant Attorney General for National Security is a fairly new position but a very important one, especially in a time of rapidly evolving threats to our nation and increasingly challenging legal questions about how to prepare for and combat those threats.

As the Assistant Attorney General for National Security, Ms. Monaco would represent the government in Foreign Intelligence Surveillance Act, FISA, proceedings and sign off on applications to allow the government to move quickly to track down terrorists and spies operating against the United States. She will be the principal official in the Department of Justice for engaging with the intelligence community as agencies determine the authorities and limitations under the law.

Ms. Monaco's confirmation is long overdue. She was approved unanimously by both the Senate Judiciary and Intelligence Committees last month after the May 1 strike against Osama bin Laden.

Importantly for the Assistant Attorney General for National Security position, that operation netted a large cache of al-Qaida documents, communications, and videos that will, no doubt, lead to new counterterrorism leads.

On May 8 National Security Adviser Tom Donilon was on ''Meet the Press,'' and he said, ''This is the largest cache of intelligence derived from the scene of any single terrorist. It's about the size, the CIA tells us, of a small college library.''

In the past 2 months, intelligence and law enforcement professionals have been scouring that information for new threats, leads, and insights into al-Qaida and global terrorism. As the intelligence gained is turned into counterterrorism actions, Lisa Monaco will oversee those activities.

The bottom line is that at this time of heightened potential threat of terrorism, the Attorney General, the intelligence community, and the entire administration need to have their team in place.

Ms. Monaco was approved by the Senate Judiciary Committee on May 9 and by the Senate Intelligence Committee on May 24, in both cases by unanimous vote. Both committees held nomination hearings for Ms. Monaco and for both committees, she completed prehearing and post-hearing questions. I know Ms. Monaco also had a chance to meet with members of both committees and it is clear she is impressive and well-qualified.

There is no doubt that Ms. Monaco has the experience to be an effective Assistant Attorney General for National Security. Let me describe her background in more detail.

Since February 2010, Lisa Monaco has served as the Principal Associate Deputy Attorney General or acted in that capacity, and she served as Associate Deputy Attorney General from January 2009 through February 2010.

She also has considerable experience with the Federal Bureau of Investigation, having served as chief of staff to Director Robert Mueller, September 2007–January 2009.

Ms. Monaco spent 6 years as an assistant U.S. attorney for the District of Columbia when she received the Attorney General's Award for Exceptional Service, the Department of Justice's highest award. She also received Department of Justice Awards for Special Achievement on three occasions, in 2002, 2003, and 2005.

She received her law degree from the University of Chicago Law School, 1997, and her B.A. from Harvard University, 1990.

Ms. Monaco's nomination has received support from a range of former senior officials of the FBI and Department of Justice, including former Attorney General Michael B. Mukasey and former Assistant Attorney General for National Security Kenneth L. Wainstein.

So we see that Ms. Monaco's background and qualifications are impeccable. I strongly urge the Senate to approve her nomination to be the Assistant Attorney General and wish her success in this position.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. GILLIBRAND). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the quorum call be rescinded.

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

The Senator from Vermont.

Mr. LEAHY. After extensive and unnecessary delays, the Senate will finally vote today on three important nominations to fill high-level posts at the Department of Justice. Two of these positions have national security responsibilities. I have been here since the Ford administration, and I cannot recall a time when the Justice Department and the country were deprived of such critical appointees. Whether we had a Republican or Democratic President, we always quickly filled these kinds of national security positions. So it is hard to understand why we have not been able to vote on nominees for positions with significant national security responsibilities such as the Deputy Attorney General and the Assistant Attorney General for the National

Security Division—especially when we are 2½ months away from the 10th anniversary of September 11.

The nominations of Jim Cole to be Deputy Attorney General, Lisa Monaco to be Assistant Attorney General for National Security, and Virginia Seitz to be Assistant Attorney General for the Office of Legal Counsel have been blocked for months by Republican obstruction over matters not related to the qualifications of the nominees and in abject disregard of the needs of the Justice Department and the country. So I am glad that today we are finally going to vote and, I trust, confirm these superbly qualified nominees.

The unprecedented filibuster of the nomination of the Deputy Attorney General has been especially egregious. The Deputy Attorney General is the No. 2 position at the Justice Department, and it is a position with key national security responsibilities. Despite significant bipartisan support and unquestionable qualifications, Jim Cole's nomination has been blocked for nearly a year. He was reported favorably by the Senate Judiciary Committee in July of last year—11 months ago—but the Republicans prevented a vote. He was renominated and reported favorably a second time in the middle of March, but Republicans stalled and filibustered consideration of the nomination last month. During my time in the Senate, I have seen the nominations of many Deputy Attorneys General. Every time they have been voted on favorably by the Senate Judiciary Committee—whether under Republican or Democratic control—their nomination has been voted on within a matter of days on the Senate floor. This is the first time in the Nation's history that a President's nominee to serve as Deputy Attorney General was filibustered, and it was wrong.

Jim Cole's nomination should not have been controversial. It is a nomination supported by former Republican Senator Jack Danforth, who was nominated by President Bush to be our Ambassador to the United Nations. Senator Danforth worked with Jim Cole for more than 15 years. When he introduced him at his confirmation hearing, Senator Danforth described Mr. Cole as someone without an ideological or political agenda. He also wrote to the committee:

> Jim is a ''lawyer's lawyer.'' He is exceedingly knowledgeable, especially on matters relating to legal and business ethics, public integrity and compliance with government regulations. He is highly regarded . . . as a skillful litigator. As his resume demonstrates, he has long and deep experience in the Department of Justice.

I agree. Jim Cole served as a career prosecutor at the Justice Department for a dozen years and has a well-deserved reputation for fairness, integrity and toughness. He has demonstrated that he understands the issues of crime and national security that are at the center of the Deputy Attorney General's job. Nothing suggests that he is anything other than a steadfast defender of American safety.

We have received numerous letters of support for Mr. Cole's nomination, including letters from many former Republican public officials. I put several of those letters in the RECORD last month. The Senate should have heeded those recommendations as well as the advice of former Deputy Attorneys General of the United States who served in both Republican and Democratic administrations. They wrote to us last December to urge the Senate to consider Mr. Cole's nomination without delay—last December—pointing out that the Deputy Attorney General is ''the chief operating officer of the Department of Justice, supervising its day-to-day operations'' and that ''the Deputy is also a key member of the president's national security team, a function that has grown in importance and complexity in the years since the terror attacks of September 11.'' They were right. The Senate was wrong to filibuster this nomination. The Senate has the opportunity today to finally confirm this good man and public servant. I trust this institution will take that opportunity.

Incredibly, the nomination of the Deputy Attorney General was subjected to a partisan filibuster for over three more months while the country faces concerns about terrorism in the aftermath of the President's successful operation against al-Qaida and Osama bin Laden. It is hard for me to understand how, at a time when experts are concerned that al-Qaida will seek reprisals, some in the Senate have delayed action to ensure that President Obama has his full national security team in place. No matter who is President, we should want that President to have their national security team in place for the good of all Americans.

In the aftermath of 9/11, Senate Democrats expedited law enforcement and national security nominations, confirming an additional 58 officials to posts at the Justice Department before the end of 2001. The Senate should have done the same with the nomination of Jim Cole. Senate Republicans should have treated Mr. Cole's nomination with the same urgency and seriousness with which Senate Democrats treated all four of the Deputy Attorneys General who served under President Bush. All four were confirmed by the Senate by voice vote an average of 21 days after they were reported by the Judiciary Committee. No Deputy Attorney General nomination had ever been subjected to a filibuster before. That is what Senator Republicans did this year. It was wrong.

In addition, Senate Republicans have blocked votes on the nomination of Lisa Monaco to head the National Security Division at the Justice Department, another key national security position. Her nomination has been blocked even though it was considered at hearings and reported unanimously, not only by the Judiciary Committee but also by the Senate Select Committee on Intelligence. She was reported unanimously by all Democrats and all Republicans in two key committees. Senator GRASSLEY, Senator CHAMBLISS and all the Republican members of the Senate Judiciary Committee and the Senate Select Committee on Intelligence voted for her. To have an almost 2-month delay has been incredible—she should have been confirmed right after her nomination was reported by the Intelligence and Judiciary Committees.

Lisa Monaco's nomination has long been supported by former Justice Department officials, including former Attorney General Mukasey, who served during President George W. Bush's administration. He wrote:

> Based on my meetings and conversations with Ms. Monaco, I believe that she has both sound judgment and a keen understanding of national security law. Which is to say, she understands both the stakes and the rules.

The Monaco nomination to head the National Security Division at the Justice Department should have been confirmed before the Memorial Day recess. I have little doubt that she will be confirmed overwhelmingly. But the almost two-month delay is not excused by voting for her confirmation now. The National Security Division has been without her leadership. The national security team has been without another key member.

Virginia Seitz is another superbly qualified nominee with bipartisan support who should have been confirmed before the Memorial Day recess, but whose nomination has been blocked from consideration by Senate Republicans. A Rhodes Scholar and former Supreme Court clerk, Ms. Seitz has received support for her nomination from some of the most preeminent lawyers in the country, including many who have served in Republican administrations. This nomination was also reported unanimously by the Judiciary Committee. All Republican members and all Democratic members voted for her. Then Senate Republicans turned around and blocked her confirmation.

I have seen the crocodile tears of some over the last few days as they lament the lack of an Office of Legal Counsel opinion on how the War Powers Act applied to the NATO-led operation in Libya. It is Senate Republicans who are responsible for having delayed and blocked the Office of Legal Counsel from having its Assistant Attorney General in place. Today, after 7 weeks of obstruction, the Senate will finally consider the nomination of Virginia Seitz.

The treatment of these nominees is now carrying over to other nominations and important legislative initiatives, as well. Just last week we witnessed for the first time since the infamous partisan vote on the nomination of Ronnie White of Missouri, the spectacle of Republican Senators who had voted in favor of a nomination in committee switching to vote against the

nomination when considered by the Senate. We have seen Republican Senators, who in consultation with the White House and Judiciary Committee approved a judicial nominee, flipping to oppose the nominee.

The Senate Judiciary Committee has considered two national security bills during the last 2 weeks. Both times Republican Senators professed to support the legislation as they voted against it. The most critical and time sensitive is the bill before the Senate to authorize a limited extension of the term of service of FBI Director Robert Mueller, as the President has requested. The President made his request more than 6 weeks ago in light of ''the ongoing threats facing the United States, as well as the leadership transitions at other agencies.'' He asked us ''to join together in extending [Director Mueller's] leadership for the sake of our nation's safety and security.''

Rather than join together as Senate Democrats did with the President following 9/11, 7 of the 8 Republican members of the Senate Judiciary Committee opposed the bill. We have to consider and pass that bill without delay. Both the House and Senate have to pass it before the August recess. With the tenth anniversary of the September 11, 2001, attacks approaching, and in the face of continuing threats in the wake of the President's recent, successful operation against Osama bin Laden, we need the continuity and stability of having FBI Director Mueller in place. Without enactment of this legislation, he will not be. He will be forced from that critical post on August 3.

I urge all Senators, Democrats, Republicans and Independents, to join together for the good of the country to take quick action to pass the FBI extension, S. 1103. We cannot afford a repeat of the unnecessary delays that have held up these nominations finally considered today.

I thank today's nominees for their dedication and look forward to working with them as they faithfully execute their important responsibilities at the Justice Department. I also thank their families for their patience and for the support they give these outstanding public servants. In my 37 years in the Senate I have never seen a time when so many good nominees are held up, even though eventually so many then go through unanimously. I wish Senators would stop and think for a moment: This is awfully hard on their spouses and their children. It is awfully hard among their friends who wonder, Is there something we don't know about? Why were they held up so long?

We can all take our political positions—and should. We all vote—and should. But let's not take it out on the good Americans who want to serve their country, oftentimes at great sacrifice. Remember, we also take it out on their families.

Madam President, I reserve the remainder of my time and 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. RUBIO. Madam President, I ask unanimous consent that the order for the quorum call be rescinded and to speak as in morning business.

Mr. LEAHY. Madam President, reserving the right to object, I will not object. But insofar as many had planned to be here for the 12 o'clock scheduled votes, could the Senator from Florida tell me how long he wishes to take?

Mr. RUBIO. Five minutes.

Mr. LEAHY. I will not object, Madam President.

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

LIBYA

Mr. RUBIO. Madam President, over the last 2 weeks, we have seen a deepening divide between the White House and Congress over Libya. It is a clash that was completely avoidable but also counterproductive.

First, for the life of me, I do not understand why this administration did not bring this issue to the Congress from the outset. In the early days of the Libyan rebellion, the President should have come to the Congress, informed us that an armed rebellion had arisen against Libya's anti-American, criminal dictator; that the rebels were asking for our assistance in establishing a no-fly zone over Libyan air space so they could take care of the dictator themselves; and that with our support, he intended to work with our allies to establish such a no-fly zone.

If this President had done this, I believe he would have found support here and Qadhafi would have been gone a long time ago.

But instead, this administration waited. While it did, Qadhafi reestablished momentum and began to carry out a new level of atrocities unprecedented even by his murderous standards. And then, only with the Qadhafi mercenaries on the outskirts of Benghazi threatening to massacre thousands of innocent civilians, did the United States finally agree to participate.

But even that was botched. First, we ceded most of the operation over to our NATO allies. God bless them for trying, but they do not have the military capability to finish the job.

Second, the President never consulted Congress, again ignoring a coequal branch of government unnecessarily.

And then, when finally he was pressed under the War Powers Act, he claims the United States is not involved in hostilities in Libya.

Why we have reached this point is something history will have to explain. Suffice it to say, it didn't have to be this way. And the reason why it is is 100 percent the result of the President's failure to lead.

Now, all that being said, we need to decide what to do next. This is not about hawks versus doves or interventionists versus isolationists or any of the other labels being thrown around here.

And this cannot be about how upset any of us are at the President for botching the handling of this matter.

What we do next should be decided based on what is in the best interest of our country.

And here is the reality: Whether you agree with it or not, the United States is now engaged in a fight, and it is a fight that only has two possible endings.

It can end with the fall of a brutal, criminal, anti-American dictator or it could end in that dictator's victory over our allies and us.

I would suggest, given these two choices, the best choice for America is the first one, the fall of the anti-American dictator.

Going forward, how do we do this? First, we should officially recognize the Transitional National Council.

Second, we should provide additional resources to support the council, including access to Libyan funds frozen here in the United States. And by the way, we should also make sure the frozen funds are also used to reimburse us, the United States, for the cost of this operation.

Third, we should intensify strike operations to target the Qadhafi regime and get rid of this guy once and for all, and as soon as possible.

Then, fourth, we should go home and allow the Libyan people to build a new nation and a new future for themselves.

I understand that, rightfully so, many here in the Congress and across America are weary of more war and more overseas engagement during a time of severe budget constraints at home.

But the fact remains, whether you agree with it or not, we are already involved. We are already involved in Libya. We have already spent a considerable amount of money there. Are we going to let all that go to waste? Are we prepared to walk away and get stuck with a lose-lose proposition? We spent all this money on Libya, and Qadhafi is still around?

It is in our national interest to get this over with already.

This afternoon, the Foreign Relations Committee will meet to consider a resolution on this matter. I am concerned that rather than push the President to do what is necessary to bring this conflict to a successful conclusion, some are pushing to restrict our campaign.

No matter how you may feel about the original decision, we must now deal with the situation as it now stands. And the bottom line here is that if we withdraw from our air war over Libya, it will lengthen the conflict, increase the cost to American taxpayers, and raise doubts about United States leadership among friends and foes alike.

Here is what withdrawal will mean in real terms:

The coalition would quickly unravel. Qadhafi would emerge victorious, even more dangerous and determined to seek his revenge through terrorism against the countries in NATO and the Arab League that tried and failed to overthrow him.

We would see a bloodbath inside Libya. This killer, Qadhafi, will unleash unspeakable horrors against the Libyan people. And the ripple effects will be felt across the Middle East. For example, the prodemocracy movements in places like Iran and Syria would conclude that they too might be abandoned and the dictators they oppose would be emboldened.

Our disengagement would irreparably harm the NATO alliance.

I fully understand the frustration at the way the President has handled this situation, but the answer to any problem is not to make it worse.

Some may think what we do here this afternoon on the resolution is largely symbolic, simply intended to send a message to the White House.

Yes, it will send a message to the President, but it will also send a message to Qadhafi and those around him.

And here is the message that I fear we may send: That the coalition is breaking and the Qadhafi regime might yet win. I know that is not anyone's intention, but that is the very real risk we run.

There is a better, more pragmatic way forward.

Let's pass a resolution backing these activities.

For those frustrated with the President's failure to adequately make the case for our involvement, our job in Congress is to push the administration to do a better job explaining our effort in Libya.

Here is the good news: The tide in Libya appears to be turning against Qadhafi. The opposition in Benghazi has succeeded in expanding the territory under its control, breaking the siege laid by regime forces on Misrata, the country's third largest city.

At the same time, the Qadhafi regime has been shaken by further defections and collapsing international support.

Libya is at a critical juncture. And for the United States, there is only one acceptable outcome—the removal of the Qadhafi regime and, with it, the opportunity for the Libyan people to build a free and democratic society.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I yield back all remaining time.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of James Michael Cole, of the District of Columbia, to be Deputy Attorney General?

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Wisconsin (Mr. KOHL), the Senator from West Virginia (Mr. MANCHIN), and the Senator from New Mexico (Mr. UDALL) are necessarily absent.

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

The result was announced—yeas 55, nays 42, as follows:

[Rollcall Vote No. 97 Ex.]

YEAS—55

Akaka	Franken	Murray
Baucus	Gillibrand	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Inouye	Reed
Blumenthal	Johnson (SD)	Reid
Blunt	Kerry	Rockefeller
Boxer	Klobuchar	Sanders
Brown (MA)	Kyl	Schumer
Brown (OH)	Landrieu	Shaheen
Cantwell	Lautenberg	Stabenow
Cardin	Leahy	Tester
Carper	Levin	Udall (CO)
Casey	Lieberman	Warner
Collins	Lugar	Webb
Conrad	McCaskill	Whitehouse
Coons	Menendez	Wyden
Durbin	Merkley	
Feinstein	Mikulski	

NAYS—42

Alexander	Graham	Moran
Ayotte	Grassley	Murkowski
Barrasso	Hatch	Paul
Boozman	Heller	Portman
Burr	Hoeven	Risch
Chambliss	Hutchison	Roberts
Coats	Inhofe	Rubio
Coburn	Isakson	Sessions
Cochran	Johanns	Shelby
Corker	Johnson (WI)	Snowe
Cornyn	Kirk	Thune
Crapo	Lee	Toomey
DeMint	McCain	Vitter
Enzi	McConnell	Wicker

NOT VOTING—3

Kohl	Manchin	Udall (NM)

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Virginia A. Seitz, of the District of Columbia, to be an Assistant Attorney General?

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Lisa O. Monaco, of the District of Columbia, to be an Assistant Attorney General?

The nomination was confirmed.

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

Mr. RUBIO. Madam President, today, the Senate considered the nomination of James Cole to be deputy Attorney General of the United States. I voted against his nomination and want to explain my vote.

Mr. Cole has been a vocal critic of the use of military commissions to try terrorists. Based upon my review of his record, it is apparent that he is an ardent supporter of the use of article III courts to try terrorists. He has advocated a criminal law approach to prosecuting terrorists. By way of example Mr. Cole has stated:

For all the rhetoric about war, the September 11 attacks were criminal acts of terrorism against a civilian population.

Testifying before the Judiciary Committee, he refused to say whether he favored a civilian or military trial for Osama bin Laden, should he be captured alive.

I believe that such decisions should be made on a case-by-case basis, based on all the relevant factors and circumstances available at the time of the suspect's capture.

Additionally, under Mr. Cole's watch, the Justice Department has announced that it would try two Iraqi nationals who were arrested in Kentucky on charges related to attacking and killing U.S. troops in Iraq, in civilian courts.

While Mr. Cole has the academic and legal background necessary to fill this position, his actions as Deputy Attorney General and history supporting civilian trials for terrorists clearly establishes that he will pursue an agenda that seeks to ensure that terrorists are tried in article III courts. These issues are of paramount concern and I cannot support a nominee who subscribes to these views. Accordingly, I had no choice but to oppose this nomination.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate shall resume legislative session.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:41 p.m., recessed until 2:16 p.m. and reassembled when called to order by the Presiding Officer (Ms. KLOBUCHAR).

PRESIDENTIAL APPOINTMENT EFFICIENCY AND STREAMLINING ACT OF 2011

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 679, which the clerk will report by title.

The legislative clerk read as follows:

A bill (S. 679) to reduce the number of executive positions subject to Senate confirmation.

Pending:

DeMint amendment No. 501, to repeal the authority to provide certain loans to the International Monetary Fund, the increase in the United States quota to the Fund, and certain other related authorities, and rescind related appropriated amounts.

DeMint amendment No. 511, to enhance accountability and transparency among various Executive agencies.

Portman amendment No. 509, to provide that the provisions relating to the Assistant Secretary (Comptroller) of the Navy, the Assistant Secretary (Comptroller) of the Army, and the Assistant Secretary (Comptroller) of the Air Force, the chief financial officer positions, and the Controller of the Office of Management and Budget shall not take effect.