

The motion to lay on the table was agreed to.

RECESS

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

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

EXECUTIVE SESSION

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

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

The bill clerk read as follows:

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

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from North Dakota.

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

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

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

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

The PRESIDING OFFICER. The Senator from Florida.

NASA AUTHORIZATION

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

He told these whistleblowers:

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

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

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

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

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

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

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

Meaning from Mr. Jones.

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

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

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

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

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

But then the article continued:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

POWER NOMINATION

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

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

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

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

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

remaining the U.S. attorney in Minnesota.

I would note he served as the U.S. attorney of Minnesota under President Clinton and again was appointed to serve under President Obama. Then, 2 years ago, he was asked to be the Acting Director of ATF, never knowing if this day would ever come when actually there would be a vote on his confirmation.

He literally has never turned down a tough assignment. Todd Jones has an impressive background that makes him well prepared to lead the ATF. After law school at the University of Minnesota, he entered the U.S. Marine Corps, as I noted, where he served on Active Duty as a judge advocate and infantry officer from 1983 until 1989. Two years later, he was called back to Active Duty during the first Iraq war.

In addition to his military career and having the rare distinction of serving as U.S. attorney under two different Presidents, Todd Jones also has a strong record as a line prosecutor in the Minnesota U.S. Attorney's Office. When Jones was U.S. attorney in Minnesota from 1998 to 2001, the violent crime rate decreased by 15 percent. So far during his second tenure as the U.S. attorney, the violent crime rate in Minnesota has already decreased by 9 percent.

We all know there are a lot of factors that go into that, including the great work of our local police officers, including work of our police chiefs, including the work of community groups, including the economy. There are a number of things at hand. But when I hear attacks against Mr. Jones, I believe it is important to set the record straight.

One other thing—I did want to set the record straight on one other thing. I so appreciate the leadership Senator GRASSLEY has shown when it comes to whistleblowers. But everyone should know, regarding this complaint within the office, an internal complaint within the U.S. Attorney's Office in Minnesota, it was investigated by the Judiciary Committee. In this place, to set the record straight, the complainant voluntarily agreed to mediate his concerns. The Office of Special Counsel is no longer investigating. I wish to make that straight for all of my colleagues so they understand the outcome of that and that there is a mediation going on. It is not being investigated.

As an assistant U.S. attorney, Todd Jones was the lead prosecutor in a number of cases involving drug conspiracies, money laundering, financial fraud, and violent crime in the early 1990s. In the private sector, he became a partner at two very well regarded Minnesota law firms, Robins Kaplan and Greene Espel. He has led a number of very important prosecutions in his capacity as U.S. attorney: Operation Rhino, which involved the criminal prosecution of Omer Abdi Mohamed, who recruited young Somali Americans to fight for terrorist groups in Soma-

lia. To date, this investigation has resulted in charges filed against 22 other individuals and Operation Brother's Keeper, a major RICO case, the second biggest Ponzi scheme in the history of America, second only to the Bernie Madoff Ponzi scheme, prosecuted by the U.S. Attorney's Office, by a fine prosecutor named Joe Dixon and many others under Todd Jones's leadership.

This gives us a sense—and I would end with this as I see Senator LEAHY, our great chairman is here. Jones's confirmation is supported by the Fraternal Order of Police, the International Chiefs of Police, 81 U.S. attorneys, the National District Attorneys Association, Minnesota's former FBI Special Agent in Charge, Ralph Boelter, the former U.S. attorney Tom Hefflefinger, who served under both George H. W. Bush and George W. Bush in Minnesota, and dozens of others who have worked with Mr. Jones over his many years of public service.

I would end with this: The ATF has people on the frontlines every day. They do not ask if the work they have done is ordered by a Republican or a Democrat. When they go to investigate a bombing, they do not ask the police officers what their political affiliation is or who the FBI is. They do not care. They just do their job. Now it is time for the Senate to do its job and confirm an ATF Director for the first time in 7 years. I thank the chairman for his leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, when the 113th Congress convened following the terrible tragedy in Newtown, CT, the Judiciary Committee focused its attention on commonsense gun violence prevention legislation. The American people made their voices heard in favor of effective reforms, and many Senators went to work to find common ground.

Although the Senate Judiciary Committee approved four pieces of legislation to address gun violence, two of which were reported on bipartisan votes, the Senate was unable to pass any of these measures. Like many Americans, I was disappointed at the Senate's inability to come together to make sensible changes to our laws to reduce gun violence.

Today we have another chance to make progress in our efforts to reduce gun violence with the confirmation of B. Todd Jones to lead the Bureau of Alcohol, Tobacco, Firearms, and Explosives. Todd Jones has served as the Acting Director since September 2011. Under his leadership, the ATF has been called on to analyze the bombs left near the finish line at the Boston Marathon, to sift through burned debris in the West, TX, explosion and to trace the weapons used by the shooters in the Newtown and Aurora massacres. The ATF has played a major role in investigating some of our Nation's worst tragedies.

In addition to the ATF's enforcement responsibilities, the agency is central to firearms commerce. The ATF issues permits for companies that import firearms and provide firearms to law enforcement agencies. Without a confirmed Director, the ATF's job of supporting and regulating Americans who make their living in the business of firearms is much more difficult. Yet we continue to hamper the ATF's ability to do its job. No nominee to lead the ATF has been confirmed since that position was made subject to the Senate's consent.

I hope the Senate will vote to change this unfortunate pattern of obstruction. Mr. Jones is a dedicated public servant and law enforcement official. He volunteered for the U.S. Marine Corps in 1983, serving on Active Duty as a Judge Advocate and Infantry officer until 1989. In 1991, he was recalled to Active Duty to command the 4th Marine Division's Military Police Company in Iraq. He also served as commanding officer of the Twin Cities Marine Reserve Unit. When Todd Jones was confirmed by this body in 1998, he became the first African-American U.S. attorney in Minnesota's history. Todd Jones has served this country honorably as a marine, a U.S. attorney, and the ATF's Acting Director.

Unfortunately, there is opposition to Mr. Jones's confirmation. But in my view this opposition has little to do with his ability to lead this important Federal agency. Every nominee to lead the ATF has been met with unreasonable opposition. And the consistent opposition all nominees to this post have faced is less about those nominees' qualifications than about weakening a Federal law enforcement agency that some disfavor.

Some Senate Republicans would prefer not to have anyone leading the ATF, no matter who the nominee is. They would not allow President Bush to have a confirmed Director, and they do not want President Obama to have one either.

Opposition to confirming an ATF Director is just another piece of the overall effort by some in Congress to make it more difficult for the ATF to carry out its important mission. For example, when the ATF proposed and implemented a rule intended to provide investigative leads on straw purchasing rings in the Southwest that were fueling drug cartel violence by trafficking firearms across the border, some Members of Congress immediately objected, and the agency was sued to block implementation of the rule. The rule, which has now been upheld unanimously by two Federal Circuit Courts of Appeal, including the Fifth Circuit, was simple—it required federally licensed firearms dealers to report sales of multiple semiautomatic rifles to the ATF, just as all licensed dealers are required to report multiple sales of handguns. Yet some spent significant energy and resources to block the agency's action.

And in recent years, some Members of Congress spent months and untold public resources investigating misguided investigative tactics in the ATF's Phoenix field office associated with an ATF criminal investigation called Fast and Furious. The Fast and Furious investigation concerned a significant firearms trafficking organization in Arizona. This trafficking organization was systematically purchasing hundreds of firearms using straw buyers and transferring them to members of Mexican drug cartels. They operated with ease and virtual impunity as the result of weak Federal laws concerning straw purchasing and firearms trafficking. Investigators and prosecutors were hobbled by weak laws. Some took unacceptable risks to combat a very serious problem on both sides of our border with Mexico.

When the investigative tactics at issue came to light, they were widely criticized, and Attorney General Holder acted swiftly to put an end to them. The Attorney General also directed the Department of Justice inspector general to conduct a thorough investigation. As a result of the inspector general's investigation, those responsible for these tactics were disciplined. And the ATF's procedures were revised to set out clear guidelines for firearms trafficking investigations.

While some Members of Congress were content to merely heap blame on the Attorney General and other dedicated law enforcement officials following the Fast and Furious investigation, I and other Senators chose a different path and worked with law enforcement experts and advocates on both sides of the firearms policy debate to come up with an effective, sensible approach to put an end to the straw purchasing and firearms trafficking.

Unfortunately, the same Senators who were so critical of the ATF's investigative tactics in Arizona and its approach to dealing with a very serious law enforcement issue declined to support the bipartisan legislation Senator COLLINS and I developed to give law enforcement the tools they need to fight gun trafficking.

I hope the same Senators that were so critical of the ATF and the Department of Justice for the breakdown in leadership and management at the agency will not obstruct this nominee and the opportunity to give the agency the solid footing it needs. If the Fast and Furious investigation revealed anything, it was that the ATF faces very significant law enforcement challenges, and that our current laws are inadequate to provide the tools investigators and prosecutors need to confront these problems. Let us not compound these difficulties with continued obstruction of this nominee.

Todd Jones was nominated in January. It is now the last day of July. For months, I accommodated the ranking member on requests for further information and delay on the nomination of Todd Jones. He insisted on the produc-

tion of documents from the Department of Justice that his staff had already had access to for months. He insisted that his staff be able to interview Todd Jones in his capacity as U.S. attorney for the District of Minnesota, as well as two other Justice Department officials, in order to try to build a case against another nomination, that of Tom Perez to be Labor Secretary.

Senator GRASSLEY requested additional background information from the administration not usually required by the committee for an executive nomination and he was provided that information. When he sought information about an ATF operation in Milwaukee, I arranged a bipartisan briefing from the agency.

Then a member of the ranking member's staff disclosed a private Office of Special Counsel, OSC, complaint against Todd Jones to the press. I thought it unfair that the nominee could not publicly defend his reputation.

An employee complained of "gross mismanagement and abuse of authority" but the OSC closed the file based on lack of evidence. The other allegation involved alleged retaliation for making the mismanagement claim, and that subsidiary claim has been referred to mediation. In deference to the complaining party and at the request of the investigating agency that the complaint not be made public, it has not been. I wish it were. It is not substantial or directly related to Todd Jones. It is certainly not a reason to oppose his confirmation.

I know Senator GRASSLEY has the right to raise concerns, but he has made it very clear he does not approve of Todd Jones under any circumstances. I had asked his staff to work with us to get a clearer understanding of the retaliation complaint. But when we talked to the complainant, he was willing only to repeat his own allegations, allegations that are not aimed directly at Mr. Jones but at somebody else, a mid-level manager.

We asked the complainant to provide the committee access to the contemporaneous files so we could determine whether this instance was retaliation or one in a series of disciplinary actions against an employee spanning several years. We offered to take the information in confidence, not for the Justice Department but just for members of our committee. The complainant refused and his lawyer refused to provide that to us, so I would ask all members to read the complaint themselves. We have bent over backwards to allow the complainant to come forward, and he has chosen not to do so.

I would also note for all Senators that we have moved forward on nominees in the past when there have been pending complaints. For example, last year a civil suit was filed against a judicial nominee from Iowa alleging age discrimination and retaliation for raising management issues against the

nominee in her capacity as the U.S. attorney for the Northern District of Iowa. We conducted a bipartisan staff investigation into the claims. I listened to the Senators from Iowa, and we determined we could move forward despite the civil suit that was pending against the nominee. The nominee was overwhelmingly confirmed to the U.S. District Court for the Southern District of Iowa.

Earlier this year, when a defense counsel filed a motion against the U.S. attorney for the District of New Mexico making allegations of improper activity, we independently examined the matter. The committee proceeded with that nomination instead of delaying it.

Todd Jones is the ATF's fifth Acting Director since 2006. During that time 80,000 Americans have been killed with guns. The ATF helps protect our communities from dangerous criminals, gun violence, and acts of terror. It is a central piece of our Federal law enforcement strategy. For too long the position of Director at the ATF has been held hostage to partisan politics at the expense of public safety. It is time to make real progress in our efforts to reduce gun violence and protect the citizens of this great Nation. Today, I encourage all Senators to take the opportunity to move toward that goal together with the confirmation of B. Todd Jones to lead the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the nomination of Byron Todd Jones, of Minnesota, to be Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Harry Reid, Patrick J. Leahy, Mark Begich, Christopher A. Coons, Thomas R. Carper, Patty Murray, Martin Heinrich, Bernard Sanders, Jeanne Shaheen, Benjamin L. Cardin, Al Franken, Sherrod Brown, Tom Harkin, Jack Reed, Sheldon Whitehouse, Bill Nelson, Charles E. Schumer.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Byron Todd Jones of Minnesota to be Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 60, nays 40, as follows:

[Rollcall Vote No. 196 Ex.]

YEAS—60

| | | |
|------------|--------------|-------------|
| Ayotte | Hagan | Murkowski |
| Baldwin | Harkin | Murphy |
| Baucus | Heinrich | Murray |
| Begich | Heitkamp | Nelson |
| Bennet | Hirono | Pryor |
| Blumenthal | Johnson (SD) | Reed |
| Boxer | Kaine | Reid |
| Brown | King | Rockefeller |
| Cantwell | Kirk | Sanders |
| Cardin | Klobuchar | Schatz |
| Carper | Landrieu | Schumer |
| Casey | Leahy | Shaheen |
| Collins | Levin | Stabenow |
| Coons | Manchin | Tester |
| Donnelly | Markey | Udall (CO) |
| Durbin | McCain | Udall (NM) |
| Feinstein | McCaskill | Warner |
| Franken | Menendez | Warren |
| Gillibrand | Merkley | Whitehouse |
| Graham | Mikulski | Wyden |

NAYS—40

| | | |
|-----------|--------------|----------|
| Alexander | Enzi | Paul |
| Barrasso | Fischer | Portman |
| Blunt | Flake | Risch |
| Boozman | Grassley | Roberts |
| Burr | Hatch | Rubio |
| Chambliss | Heller | Scott |
| Chiesa | Hoeven | Sessions |
| Coats | Inhofe | Shelby |
| Coburn | Isakson | Thune |
| Cochran | Johanns | Toomey |
| Corker | Johnson (WI) | Vitter |
| Cornyn | Lee | Wicker |
| Crapo | McConnell | |
| Cruz | Moran | |

The PRESIDING OFFICER (Mr. HEINRICH). On this vote, the yeas are 60, the nays are 40. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Under the previous order, all postcloture time is expired.

The question is, Will the Senate advise and consent to the nomination of Byron Todd Jones, of Minnesota, to be Director, Bureau of Alcohol, Tobacco, Firearms and Explosives?

Mr. LEAHY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN) and the Senator from Louisiana (Ms. LANDRIEU) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Missouri (Mr. BLUNT), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Arizona (Mr. MCCAIN).

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

The result was announced—yeas 53, nays 42, as follows:

[Rollcall Vote No. 197 Ex.]

YEAS—53

| | | |
|------------|------------|--------------|
| Baldwin | Carper | Heinrich |
| Baucus | Casey | Heitkamp |
| Begich | Coons | Hirono |
| Bennet | Donnelly | Johnson (SD) |
| Blumenthal | Durbin | Kaine |
| Boxer | Feinstein | King |
| Brown | Franken | Kirk |
| Cantwell | Gillibrand | Klobuchar |
| Cardin | Hagan | Leahy |

| | | |
|-----------|-------------|------------|
| Levin | Nelson | Stabenow |
| Manchin | Pryor | Tester |
| Markey | Reed | Udall (CO) |
| McCaskill | Reid | Udall (NM) |
| Menendez | Rockefeller | Warner |
| Merkley | Sanders | Warren |
| Mikulski | Schatz | Whitehouse |
| Murphy | Schumer | Wyden |
| Murray | Shaheen | |

NAYS—42

| | | |
|-----------|--------------|-----------|
| Alexander | Cruz | Moran |
| Ayotte | Enzi | Murkowski |
| Barrasso | Fischer | Paul |
| Boozman | Flake | Portman |
| Burr | Graham | Risch |
| Chambliss | Grassley | Roberts |
| Chiesa | Hatch | Rubio |
| Coats | Heller | Scott |
| Coburn | Hoeven | Sessions |
| Cochran | Isakson | Shelby |
| Collins | Johanns | Thune |
| Corker | Johnson (WI) | Toomey |
| Cornyn | Lee | Vitter |
| Crapo | McConnell | Wicker |

NOT VOTING—5

| | | |
|--------|----------|--------|
| Blunt | Inhofe | McCain |
| Harkin | Landrieu | |

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate proceed to a period of morning business with Senators allowed to speak therein for up to 10 minutes each.

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

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. REID. Mr. President, I ask unanimous consent that at 11 a.m., Thursday, August 1, the Senate proceed to executive session to consider the following nomination: Calendar No. 96; that there be 60 minutes for debate equally divided in the usual form; that following the use or yielding back of time, the Senate proceed to vote with no intervening action or debate on the nomination; the motion to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

Mr. REID. I ask unanimous consent that on Thursday, August 1, 2013, at 2 p.m. the Senate consider Executive Calendar No. 220, the Samantha Power nomination under the previous order.

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

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that on Thursday, August 1, upon disposition of the Chen nomination and the resumption of legislative session, the Senate proceed to vote on the motion to invoke cloture on S. 1243, the THUD appropriations bill; further, that following the cloture vote, the Senate recess until 2 p.m. for the bipartisan caucus meeting we are having tomorrow.

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

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I ask unanimous consent that I be permitted to speak for 12 minutes as in morning business.

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

FIXING AMERICA'S WELCOME MAT

Mr. GRASSLEY. Mr. President they say history has a way of repeating itself. That certainly came true in June when the Senate approved a sweeping reform bill to revamp the nation's immigration laws. Unfortunately, the U.S. Senate failed to learn from the mistakes created by the 1986 overhaul.

In the 1980s, about 3 million people who were living in the country illegally were granted legal status. Today, 27 years later, the U.S. estimates 11 million undocumented immigrants are living here.

What should that tell us? It says that the 1986 law failed to stem the flow of illegal immigration. It sent the wrong signal by granting legal status to millions while ignoring the need to secure the border.

I do not need a crystal ball to tell me what would happen on the road ahead if we repeat the mistakes of the past. I saw how legalizing before securing our borders turned out. It turned America's time-honored welcome mat into a timeworn doormat.

America's immigration system is broken. It is time to fix it so that a legal flow of immigration can help the economy and bolster areas of the workforce that are short of workers, from low-skilled to high-tech workers.

But immigration laws should not come at the expense of American workers or cause them to be disadvantaged, displaced or underpaid. Rooting out fraud and abuse from many of our visa programs should be a priority.

Unfortunately, the bill passed by the U.S. Senate would not fix what is broken and is chock-full of loopholes that make the legalization system far from ideal.

Thankfully our system of self-government protects representation of, by and for the people with a bicameral Congress. Now the U.S. House of Representatives has a chance to get it right.

The House is moving on a number of bills. They are having very thoughtful