

EXECUTIVE SESSION

NOMINATION OF EDGARDO RAMOS
TO BE UNITED STATES DISTRICT
JUDGE FOR THE SOUTHERN DIS-
TRICT OF NEW YORK

NOMINATION OF ANDREW L. CAR-
TER, JR., TO BE UNITED STATES
DISTRICT JUDGE FOR THE
SOUTHERN DISTRICT OF NEW
YORK

NOMINATION OF JAMES RODNEY
GILSTRAP TO BE UNITED
STATES DISTRICT JUDGE FOR
THE EASTERN DISTRICT OF
TEXAS

NOMINATION OF DANA L.
CHRISTENSEN TO BE UNITED
STATES DISTRICT JUDGE FOR
THE DISTRICT OF MONTANA

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

The bill clerk read the nominations of Edgardo Ramos, of Connecticut, to be United States District Judge for the Southern District of New York; Andrew L. Carter, Jr., of New York, to be United States District Judge for the Southern District of New York; James Rodney Gilstrap, of Texas, to be United States District Judge for the Eastern District of Texas; and Dana L. Christensen, of Montana, to be United States District Judge for the District of Montana.

The PRESIDING OFFICER. Under the previous order, there will be 1 hour of debate equally divided in the usual form.

The Senator from Vermont.

Mr. LEAHY. Today the Senate will finally consider nominations to fill four vacancies on Federal district courts, all of which were reported by the Judiciary Committee unanimously in September and early October. All four nominees Edgardo Ramos and Andrew Carter, nominated to the Southern District of New York, James Rodney Gilstrap, nominated to fill a judicial emergency vacancy in the Eastern District of Texas, and Dana Christensen, nominated to the District of Montana are superbly qualified nominees with the strong support of their home state Senators. It should not have taken three months or more for the Senate to vote on their nominations.

I thank the Majority Leader for securing a vote on these nominations, but I am disappointed that the Senate Republican leadership would not agree to a vote on the nomination of Jesse Furman to fill a third vacancy on the

Southern District of New York. Like Edgardo Ramos, Andrew Carter and James Gilstrap, his nomination was reported by the Judiciary Committee on September 15 without opposition from a single member of the Committee, Democratic or Republican. Mr. Furman, an experienced Federal prosecutor who served as Counselor to Attorney General Michael Mukasey for two years during the Bush Administration, is a nominee with an impressive background and bipartisan support. There is no reason or explanation for why the Senate could not also consider his nomination today.

There is also no reason or explanation why Republican leadership will not consent to consider the other 20 judicial nominations waiting for final Senate action, all but four of which were reported by the Committee without any opposition, all but two of them with significant bipartisan support. Senator GRASSLEY and I have worked together to ensure that each of the 25 nominations now on the Senate Calendar was fully considered by the Judiciary Committee after a thorough, fair process, including completing our extensive questionnaire and questioning at a hearing. Before each of these nominees was selected by the President, the White House worked with the nominees' home state Senators who support them, the FBI completed an extensive background review, and each nominee was peer reviewed by the American Bar Association's Standing Committee on the Federal Judiciary. When the nominations have been favorably reported by the Judiciary Committee after this extensive and thorough process, there is no reason for months and months of further delay before they can start serving the American people.

It is now December 5, with only weeks left in the Senate's 2011 session. I am concerned that we are not able to move more quickly at a time when we continue to hear from chief judges around the country about the overburdened courts in their districts and circuits. We need to consider at least eight judges every week in order to begin to catch up and erase the backlog that has developed from the delays in the consideration of consensus nominees caused by the Senate Republican leadership.

We should not repeat the mistakes of last year, when the Senate Republican leadership refused to consent to consider 19 judicial nominations reported by the Judiciary Committee, an exercise in unnecessary delay I believe to be without precedent with respect to such consensus nominees. It took us until June of this year, halfway into 2011, to consider and confirm 17 of these nominations that could and should have been considered before the end of 2010. Before we adjourn this year, there is certainly no reason the

Senate cannot at least consider the 17 judicial nominations reported unanimously by the Committee this session, who are by any measure consensus nominees.

I hope that we do not see a repeat of the damaging decision by Senate Republican leadership at the end of last year to refuse to agree to votes on those nominations. That decision stood in stark contrast to the practice followed by the Democratic majority in the Senate during President Bush's first two years. Last year, Senate Republicans refused to use the same standards for considering President Obama's judicial nominees as we did when the Senate gave up or down votes to all 100 of President Bush's judicial nominations reported by the Committee in his first two years. All 100 were confirmed before the end of the 107th Congress, including two controversial circuit court nominations reported and then confirmed during the lame duck session in 2002. The Senate last year should not have been forced to adjourn with 19 judicial nominations still on the Senate calendar.

With vacancies continuing at harmfully high levels, we cannot afford to repeat these unnecessary and damaging delays. There is no reason we cannot make significant progress this month and consider all of the consensus nominations now pending on the Senate calendar. That is what we did at the end of President Reagan's third year in office and President George H.W. Bush's third year in office, when no judicial nominations were left pending on the Senate Calendar. That is what we did at the end of the 1995 session, President Clinton's third year in office, when only a single nomination was left pending on the Senate calendar. That is also what we did at the end of President George W. Bush's third year, when seven of the nine judicial nominations left on the calendar by the Senate's Republican majority were among President Bush's most extreme ideological picks and had previously been debated extensively by the Senate. The standard has been that noncontroversial judicial nominees reported by the Judiciary Committee get Senate action before the end of the year. That is the standard we should follow this year.

We remain well behind the pace set by the Senate during President Bush's first term. By the end of his first term, the Senate had confirmed 205 district and circuit nominees, and had already confirmed 167 by this point in his third year. So far, the Senate has confirmed only 119 of President Obama's district and circuit nominees. Senate action before adjournment on all 25 judicial nominations that are before the Senate today would go a long way to help resolve the longstanding judicial vacancies that are delaying justice for so many Americans in our Federal courts across the country.

The 100 circuit and district court nominations we confirmed in President Bush's first two years leading to a vacancy total of 60 at the beginning of his third year is almost a complete reverse of the 60 the Senate was allowed to confirm in President Obama's first two years, leading to nearly 100 vacancies at the start of 2011. Yet, even following those years of real progress, in 2003 we proceeded to confirm more judicial nominations than there were vacancies at the start of that year, and reduced vacancies even further, down to 5 percent, half of where they stand today.

Chief Justice Roberts, the Attorney General and the White House counsel have all spoken about the serious problems created by persistent judicial vacancies. More than half of all Americans over 167 million live in districts or circuits that have a judicial vacancy that could be filled today if Senate Republicans just agreed to vote on the nominations now pending on the Senate calendar. As many as 23 states are served by Federal courts with vacancies that would be filled by these nominations. Millions of Americans across the country are harmed by delays in overburdened courts. The Republican leadership should consent to vote on the qualified, consensus candidates nominated to fill these extended judicial vacancies before we adjourn for the year and not unnecessarily delay their consideration until next spring.

The four nominees we consider today will all be confirmed, I expect, with significant bipartisan support. Edgardo Ramos is nominated to fill a vacancy on the District Court for the Southern District of New York. Since 2002, Mr. Ramos has been in private practice after serving for ten years as an Assistant U.S. Attorney in the Eastern District of New York, where he was promoted to Deputy Chief of the Narcotics Section. The ABA's Standing Committee on the Federal Judiciary unanimously rated him "well qualified" to serve, its highest possible rating. The nomination of Mr. Ramos has the strong support of both his home state Senators, Senator SCHUMER and Senator GILLIBRAND, and was reported by the Judiciary Committee by voice vote with no dissent on September 15.

The nomination of Judge Andrew Carter to fill a vacancy on the District Court for the Southern District of New York also has the strong support of the New York Senators and was also reported unanimously by voice vote on September 15. Since 2009, Judge Carter has been a Magistrate Judge for the Eastern District of New York. Prior to joining the bench, Judge Carter served for 13 years as a public defender in New York state and Federal and spent two years at the Ford Foundation as a Program Assistant in its Rights and Social Justice Program.

James Rodney Gilstrap is nominated to fill a vacancy on the District Court

for the Eastern District of Texas determined by the Administrative Office of the U.S. Courts to be a judicial emergency vacancy. His nomination has the support of both his Republican home state Senators, Senator CORNYN and Senator HUTCHISON. For 27 years Mr. Gilstrap has been a partner at the law firm of Smith & Gilstrap in Marshall, Texas. He has also served as a part-time County Judge for Harrison County, Texas. His nomination was reported unanimously by the Judiciary Committee by voice vote on September 15.

Dana Christensen is nominated to fill a vacancy on the District Court for the District of Montana. Mr. Christensen has spent his 34-year legal career in private practice and is currently the president of the law firm of Christensen, Moore, Cockrell, Cummings & Axelberg, P.C. in Kalispell, Montana. The ABA Standing Committee on the Federal Judiciary unanimously rated Mr. Christensen "well qualified" to serve, its highest possible rating. His nomination has the support of both his home state Senators, Senator BAUCUS and Senator TESTER, and was reported by the Judiciary Committee by voice vote with no dissent on October 6.

I hope the Senate can build on today's progress to fulfill its constitutional duty and ensure the ability of our Federal courts to provide justice to Americans around the country.

NOMINATION OF CAITLIN HALLIGAN

Tomorrow the Senate should be holding an up-or-down vote on the long-delayed nomination of Caitlin Halligan to fill one of three vacancies on the Court of Appeals for the D.C. Circuit. Instead, for the seventh time since President Obama took office 34 months ago, we are required to overcome a Republican filibuster for the Senate to consider one of President Obama's superbly qualified judicial nominees.

Ms. Halligan, President Obama's first nominee to the important D.C. Circuit, is the former Solicitor General for the State of New York. With an impressive record in private practice and public service, she is widely respected for the quality of her work as an advocate. Indeed, Ms. Halligan's nomination was greeted with bipartisan support and has since garnered endorsements from law enforcement officials and organizations, women's organizations, law school deans and professors, judges and preeminent lawyers from across the political spectrum. The Judiciary Committee favorably reported Ms. Halligan's nomination nearly nine months ago.

By any traditional standard, she is the kind of superbly qualified nominee who should easily have been confirmed by the Senate months ago with the support of both Republicans and Democrats. I am disappointed that yet again instead of seeing bipartisan cooperation we are required to seek cloture.

From the beginning of the Obama administration, we have seen some Senate Republicans shift significantly away from the standards they used to apply to the judicial nominations of a Republican President. During the administration of the last President, a Republican, Republican Senators insisted that filibusters of judicial nominees were unconstitutional. They threatened the "nuclear option" in 2005 to guarantee up-or-down votes for each of President Bush's judicial nominations. Senator MCCONNELL, then the Republican whip, said: "Any President's judicial nominees should receive careful consideration. But after that debate, they deserve a simple up-or-down vote. . . . It's time to move away from advise and obstruct and get back to advise and consent. The stakes are high. . . . The Constitution of the United States is at stake."

Many Republican Senators declared that they would never support the filibuster of a judicial nomination—never. Yet, only a few years later, Senate Republicans reversed course and filibustered President Obama's very first judicial nomination, that of Judge David Hamilton of Indiana.

David Hamilton was a widely respected 15-year veteran of the Federal bench. President Obama nominated Judge Hamilton in March 2009, after consultation with the most senior and longest-serving Republican in the Senate, Senator DICK LUGAR of Indiana, who strongly supported the nomination. Rather than welcome the nomination as an attempt by President Obama to step away from the ideological battles of the past, some Senate Republicans ignored Senator LUGAR's support, caricatured Judge Hamilton's record and filibustered his nomination. After the Senate rejected that filibuster, Judge Hamilton was confirmed.

The partisan delays and opposition to President Obama's judicial nominations have continued since. Senate Republicans have required cloture motions to be filed on judicial nominations that ultimately won unanimous support from the Senate. Earlier this year they filibustered the nomination of Professor Goodwin Liu of California, who was supported by both his home state Senators to fill a judicial emergency vacancy on the Ninth Circuit. That successful filibuster of a brilliant lawyer and a good man prevented the Senate from having an up-or-down vote on his nomination and prevented an outstanding nominee from serving the American people on the Federal bench. They attempted to justify that filibuster on ideological grounds. There is no such justification here, in connection with the nomination of Caitlin Halligan who is a mainstream lawyer and public servant from New York. Senate Republican leadership took the virtually unprecedented step this year of requiring cloture to be filed on a district court nomination. That effort to

ratchet up the judge wars was rejected when 11 Republican Senators joined to ensure an up-or-down vote on the nomination of Jack McConnell to the District of Rhode Island.

With their latest filibuster, the Senate Republican leadership seeks to set yet another new standard, one that threatens to make confirmation of any nominee to the D.C. Circuit virtually impossible for the future. Caitlin Halligan is well-qualified nominee with a mainstream record as a brilliant advocate on behalf of the State of New York and in private practice. I have reviewed her record carefully in the course the Judiciary Committee's thorough process, including her response to our extensive questionnaire and her answers to questions at her hearing and in writing following the hearing. In my view, there is no legitimate reason or justification for filibustering her nomination.

Caitlin Halligan is the kind of nominee who has demonstrated not only legal talent but also a dedication to the rule of law throughout her career. We should encourage nominees with the qualities of Ms. Halligan to engage in public service and we should welcome them on the Federal bench, not denigrate them. Concocted controversies and a blatant misreading of Ms. Halligan's record as an advocate are no reason to obstruct this outstanding nomination.

We must reject these misguided arguments. This filibuster against this qualified woman will set a standard that could not be met by judicial nominees of Presidents of either party. I trust that, as with the nomination of Jack McConnell, sensible Republican Senators will, again, join in preventing such an outcome. It is time to step away from this dangerous precipice.

When Democratic Senators cooperated to confirm John Roberts to the D.C. Circuit in 2003, it broke the stalemate created by the Republicans refusal for years to even consider President Clinton's nominees to that Court. Like John Roberts, Caitlin Halligan is a highly regarded appellate advocate with the kind of impeccable credentials in both public service and private practice that make her unquestionably qualified to serve on the D.C. Circuit. She should be confirmed, not unjustifiably filibustered.

Ms. Halligan served for nearly six years as Solicitor General of New York and has been a leading appellate lawyer in private practice. She is currently General Counsel at the New York County District Attorney's Office, an office that investigates and prosecutes 100,000 criminal cases annually in Manhattan. Ms. Halligan has served as counsel of record in nearly 50 matters before the U.S. Supreme Court, arguing five cases before that court and many cases before Federal and state appellate courts. Just as John Roberts had

served in government and clerked for the Supreme Court, she clerked for Supreme Court Justice Stephen Breyer. She also clerked for Judge Patricia Wald on the D.C. Circuit, the court to which she has been nominated. The American Bar Association's Standing Committee on the Federal Judiciary, which Republican Senators often cite, unanimously rated Ms. Halligan "Well-Qualified" to serve on the D.C. Circuit. That is the highest rating that can be received from its non-partisan peer review.

The letters of support we have received for Ms. Halligan's nomination from a broad range of people and organizations is a testament both to her exceptional qualifications to serve and to the fact that this should be a consensus nomination, not a source of controversy and contention.

Twenty-one prominent appellate advocates from across the political spectrum who have worked with Caitlin Halligan, including Miguel Estrada and Carter Phillips, endorsed her nomination, writing:

"We believe that Caitlin is an outstanding selection for the D.C. Circuit. She is a first-rate lawyer and advocate. She is well respected and highly regarded as a leader of the profession. Caitlin has an ideal judicial temperament. She brings reason, insight and judgment to all matters. Even those of us who have been on the opposite sides of Caitlin in litigation have been greatly impressed with her ability and character. We have no doubt she would serve with distinction and fairness."

When Ms. Halligan was nominated, Carter Phillips, a preeminent Supreme Court advocate who served as Assistant to the Solicitor General during the Reagan administration, described her as "one of those extremely smart, thoughtful, measured and effective advocates" and concluded that she "will be a first-rate judge." Judge Albert Rosenblatt, who was appointed to serve on New York's highest court by former Republican Governor George Pataki, wrote in praise of Ms. Halligan's work as New York's Solicitor General, concluding that "her sense of fairness and balance is among the best—if not the best—that I have ever seen in my 34 years as a judge and a prosecutor." This is not a nomination that should be filibustered. To do so will set a destructive standard that no one will be able to meet. If someone of Caitlin Halligan's outstanding credentials, character and experience cannot be confirmed, no one can be.

The nomination of Ms. Halligan has likewise received significant support from law enforcement officials and organizations. The National District Attorneys Association has called Caitlin Halligan's background "impressive," stating that she "would be an outstanding addition" to the D.C. Circuit. District Attorneys from the State of New York, including Republicans Derek Champagne, Daniel Donovan,

Jr., William Fitzpatrick, James Reams and Scott Burns, support her nomination, as do the New York Association of Chiefs of Police and the New York State Sheriff's Association. New York City Police Commissioner Raymond Kelly has said that Ms. Halligan has the "three qualities important for a nominee: intelligence, a judicial temperament, and personal integrity." Legendary New York County District Attorney Robert Morgenthau, endorsing her nomination in the "strongest of terms," described Ms. Halligan as "qualified in terms of intellect, ability and temperament." This is not someone to be filibustered and blocked from serving as a Federal judge.

More than 20 former United States Supreme Court clerks, including clerks who worked for conservative Justices such as former Chief Justice Rehnquist, Justice Scalia and Justice Kennedy, wrote that they "retain a distinct appreciation of Caitlin's sharp intelligence and her ability to cooperate with others in resolving difficult legal problems." They concluded their letter of support by praising her "reasonableness and collegiality," and calling her a "fair-minded colleague who was a pleasure to work with in a sophisticated and demanding legal setting." This is not a closed minded ideologue. Caitlin Halligan is an outstanding lawyer who will be an outstanding judge.

Ms. Halligan's nomination has received support from numerous women's law enforcement, business, and legal organizations, including the New York Women in Law Enforcement, the National Center for Women and Policing, the National Conference of Women's Bar Associations, and the Women's Bar Association of the District of Columbia. The U.S. Women's Chamber of Commerce asked the Senate to confirm Ms. Halligan, describing her as "exceptionally well-qualified" with "outstanding legal credentials and legal experience that is both broad and deep." The National Conference of Women's Bar Associations, which supports Ms. Halligan because her "broad experience, public service and intellect make her well suited to the federal appellate bench," also notes that "her appointment would add much needed diversity to the federal court, where only three women are among the active judges on the D.C. Circuit." More than 100 women who are deans and professors at top law schools throughout the country strongly support the nomination because "Ms. Halligan has won accolades for her judgment, legal acumen, and expertise in appellate litigation," and because her "legal credentials, experience and accomplishments make her exceptionally well-qualified to serve" on the D.C. Circuit. They also echo the need for bringing gender diversity to this critical court, noting that, "women have been historically under-represented on this court, as only five

of the fifty-seven judges to serve there have been women." This outstanding nominee is a leader and role model whose career should not be short-circuited by petty partisanship.

I ask unanimous consent that some of these letters of support be printed in the RECORD.

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

EXHIBIT 1

MARCH 4, 2011.

Hon. PATRICK J. LEAHY,
*Chairman, Senate Judiciary Committee, Dirksen
Senate Office Building, Washington, DC.*

Hon. CHARLES E. GRASSLEY,
*Ranking Member, Senate Judiciary Committee,
Dirksen Senate Office Building, Wash-
ington, DC.*

DEAR CHAIRMAN LEAHY AND SENATOR GRASSLEY: We write in enthusiastic support of the nomination of Caitlin Halligan to be a judge on the United States Court of Appeals for the District of Columbia Circuit. We are lawyers who have worked with Caitlin in various capacities. We believe that Caitlin is an outstanding selection for the D.C. Circuit. She is a first-rate lawyer and advocate. She is well respected and highly regarded as a leader of the profession. Caitlin also has an ideal judicial temperament. She brings reason, insight and judgment to all matters. Even those of us who have been on opposite sides of Caitlin in litigation have been greatly impressed with her ability and character. We have no doubt that she would serve with distinction and fairness.

Sincerely yours,

Clifford M. Sloan, Skadden, Arps, Slate, Meagher & Flom LLP; Sri Srinivasan, O'Melveny & Myers LLP; Miguel A. Estrada, Gibson, Dunn & Crutcher LLP; Carter G. Phillips, Sidley Austin LLP; Seth P. Waxman, WilmerHale; Walter Dellinger, O'Melveny & Myers LLP; David C. Frederick, Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C.; Andrew J. Levander, Dechert LLP; Richard J. Davis, Weil, Gotshal & Manges LLP; Michele Hirshman, Paul, Weiss, Rifkind, Wharton & Garrison LLP; Dietrich L. Snell, Proskauer Rose LLP; Paul M. Smith, Jenner & Block LLP; Patricia Ann Millett, Akin Gump Strauss Hauer & Feld LLP; Kathleen M. Sullivan, Quinn Emanuel Urquhart & Sullivan, LLP, Stanford Law School; Thomas W. Brunner, Wiley Rein LLP; Meir Feder, Jones Day; Evan M. Tager, Mayer Brown LLP; Philip K. Howard, Covington & Burling LLP; Ira M. Millstein, Weil, Gotshal & Manges LLP; Roy L. Reardon, Simpson Thacher & Bartlett LLP; Michael H. Gottesman, Georgetown University Law Center.

—
MCCABE & MACK LLP,

ATTORNEYS AT LAW,

Poughkeepsie, NY, December 1, 2011.

Hon. PATRICK J. LEAHY,
*Chairman, Senate Judiciary Committee, Dirksen
Senate Office Building, Washington, DC.*

Hon. CHARLES E. GRASSLEY,
*Ranking Member, Senate Judiciary Committee,
Dirksen Senate Office Building, Wash-
ington, DC.*

DEAR CHAIRMAN LEAHY AND SENATOR GRASSLEY: I am a retired member of New York's highest court, the Court of Appeals, a position to which I was appointed by Gov-

ernor George Pataki. Caitlin Halligan appeared frequently before me on behalf of the State of New York in her capacity as Solicitor General. The quality of her work was exemplary and serves as a model of how to deal with important issues. Her sense of fairness and balance is among the best—if not the best—that I have ever seen in my 34 years as a judge and as a prosecutor before that. In her appearances before our court, there is no one who commanded more respect and who had greater credibility. If I had to choose a candidate to serve on a federal appeals court I can think of no one better. I emphasize: No one. I urge the Senate to act expeditiously to confirm her to this position.

Most respectfully I hope the Senate sees fit to act expeditiously to confirm her for service on the U.S. Court of Appeals for the District of Columbia Circuit.

Please feel free to contact me, if you wish, by phone or email. I recall fondly, Senator Leahy, that we met many years ago at a convention when I was an assistant DA in New York and you were a prosecutor in Vermont. Very truly yours,

ALBERT M. ROSENBLATT.

—
NATIONAL DISTRICT
ATTORNEYS ASSOCIATION,
Alexandria, VA, June 2, 2011.

Hon. PATRICK J. LEAHY,
*Chairman, Senate Committee on the Judiciary,
Dirksen Senate Office Building, Wash-
ington, DC.*

Hon. CHARLES E. GRASSLEY,
*Ranking Member, Senate Committee on the Ju-
diciary, Dirksen Senate Office Building
Washington, DC.*

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: On behalf of the National District Attorneys Association, the oldest and largest organization representing over 39,000 of America's state and local prosecutors, we would like to offer our full support for the nomination of Caitlin J. Halligan for the position of United States Circuit Judge for the District of Columbia.

Ms. Halligan has an impressive background which developed her into an extremely impressive and qualified candidate to serve as an U.S. Circuit Judge. Ms. Halligan currently serves as General Counsel of the New York County District Attorney's Office, where she helps to supervise more than 500 lawyers handling a wide range of criminal investigations and prosecutions. Prior to joining the District Attorney's Office in 2010, Ms. Halligan was a partner and head of the appellate practice at Weil, Gotshal & Manges, LLP, a leading New York law firm. From October 2001 until January 2007, Ms. Halligan served as the Solicitor General of New York State, where she represented the State in the federal and state appellate courts and headed an office of 45 appellate attorneys.

The National District Attorneys Association believes that Ms. Halligan would be an outstanding addition to the United States Circuit Court for the District of Columbia. We are happy to offer our full support for Ms. Halligan's nomination and encourage her swift confirmation by the Senate.

Sincerely,

JAMES REAMS,
President.

SCOTT BURNS,
Executive Director.

THE POLICE COMMISSIONER,
New York, NY, May 26, 2011.

Hon. PATRICK J. LEAHY,
*Chairman, Senate Judiciary Committee, Dirksen
Senate Office Building, Washington, DC.*

Hon. CHARLES E. GRASSLEY,
*Ranking Member, Senate Judiciary Committee,
Dirksen Senate Office Building, Wash-
ington, DC.*

DEAR CHAIRMAN LEAHY AND SENATOR GRASSLEY: I am writing in support of the nomination of Caitlin J. Halligan to the United States Court of Appeals for the District of Columbia. I am familiar with the work of Ms. Halligan in her capacity as Counsel to the New York County District At-

torney. Ms. Halligan possesses the three qualities most important for a nominee: intelligence, a judicial temperament, and personal integrity. Ms. Halligan is without question an attorney with a keen legal intellect. Indeed, the rapid successes of her career since graduating from law school in 1995 provide ample evidence of her intelligence and abilities. With regard to her temperament, the interactions between Ms. Halligan and my staff consistently demonstrate an even-handed disposition in navigating potential conflicts between police and prosecutors in New York City. Lastly, Ms. Halligan's personal integrity is simply without question.

In sum, Ms. Halligan possesses all the qualities required for a successful federal appellate judge, and I highly recommend her for such a position.

Sincerely,

RAYMOND W. KELLY,
Police Commissioner.

—
WACHTELL, LIPTON, ROSEN & KATZ,
New York, NY, March 23, 2011.

Hon. PATRICK J. LEAHY,
*Chairman, Senate Judiciary Committee, Dirksen
Senate Office Building, Washington, DC.*

DEAR CHAIRMAN LEAHY AND SENATOR GRASSLEY: I write this letter in support of the nomination of Caitlin Halligan to the United States Court of Appeals for the District of Columbia Circuit. I have known Caitlin personally a short time, but her reputation for even-handedness and excellence as an attorney are well-known in New York's legal community.

I will not belabor her exemplary record as an attorney: Georgetown Law Review, clerk to Justice Patricia Wald of the D.C. Circuit, to Justice Stephen Breyer of the United States Supreme Court, adjunct faculty member of Columbia University Law School and Georgetown University Law Center, Solicitor General of the State of New York, Partner and Head of Appellate Practice Group at the firm Weil, Gotshal & Manges LLP, and most recently, General Counsel to the District Attorney of New York County. Certainly this is a resume and career that is grounded solidly in the law, and I submit that her legal qualifications are beyond question.

More recently, I have worked with Caitlin in her capacity as General Counsel to my former office. She is well-known and well-regarded as a lawyer's lawyer. She follows the law and holds herself to the highest ethical standards. She is as intellectually honest as she is tough—she does not take short cuts and she does not pull her punches; both necessary attributes for her to be effective in her current position.

At the Manhattan District Attorney's Office, she handles some of the toughest issues that a lawyer has to address; issues that go to the core of law enforcement authority;

issues that involve claims of wrongful conviction and the use of prosecutorial discretion. I can speak from experience to tell you that these are weighty issues that can keep any lawyer awake at night. A District Attorney needs counsel who is tough but fair, and counsel who can advise the district attorney on these weighty issues not from a gut feeling or personal agenda, but based solely on the law and the facts. She meets these high standards. I cannot stress enough the difficulties of the issues that Ms. Halligan has to address every day. And, based on both my personal observation and accounts I hear from my former colleagues at the D.A.'s Office—Caitlin handles these pressures with grace and poise, and is a tough proponent of the core mission of the Manhattan D.A.'s Office—to keep the citizenry safe, to enforce the law without fear or favor, and to hold accountable those who break the law. She brings solid law enforcement perspective to her work, and upholds the highest standards of my former office.

In sum, Caitlin Halligan is qualified in terms of intellect, ability and temperament, and I endorse her in the strongest of terms. Sincerely,

ROBERT M. MORGENTHAU.

FEBRUARY 28, 2011.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Hon. CHUCK GRASSLEY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: We write as former clerkship colleagues of Caitlin Halligan in support of her nomination for a seat on the U.S. Court of Appeals for the District of Columbia Circuit. All of us worked alongside Caitlin as law clerks at the U.S. Supreme Court during the 1997–98 Term. Our shared experience left us with an indelible impression of Caitlin's brilliant legal mind, her collegiality and fair-mindedness, and her abiding respect for the rule of law. Even now, almost a decade and a half later, as we have moved on to disparate careers in the government, private sector, and the legal academy, we retain a distinct appreciation of Caitlin's sharp intelligence and her ability to cooperate with others in resolving difficult legal problems.

As you well know, the work of the Supreme Court is intense and eclectic, encompassing a vast array of intricate legal matters, a host of overlapping deadlines, and a variety of formal and informal procedures for internal deliberation and discussion among the Justices and their clerks. Our work on the difficult cases the Court decided during the 1997–98 Term generated among our group an unending discussion of legal issues, both in connection with our specific law clerk tasks and in more freewheeling conversations in the clerks' dining room and related settings. In this milieu Caitlin stood out for her ability to meaningfully discuss and explicate tough legal questions with an open mind and a willingness to consider multiple perspectives on the law. Throughout the year, Caitlin displayed a keen ability to listen to and accommodate the views of others, all the while simultaneously expressing and justifying her own view of the law. Although the Court during the 1997 Term issued an unusually high proportion of unanimous decisions, Caitlin's demeanor as a law clerk exuded reasonableness and collegiality even in those areas where we law clerks—

and the Justices for whom we worked—disagreed.

In sum, we hold Caitlin Halligan in high regard as a talented and fair-minded colleague who was a pleasure to work with in a sophisticated and demanding legal setting. We have no doubt that if she is confirmed by the Senate, her colleagues on the federal bench will soon arrive at a similar conclusion, and we appreciate your attention to her nomination.

Respectfully submitted,

Samuel R. Bagenstos, Professor of Law, University of Michigan Law School, Ann Arbor, MI; J. Scott Ballenger, Partner, Latham & Watkins LLP, Washington, DC; Rachel E. Barkow, Professor of Law, New York University School of Law, New York, NY; Paul Schiff Berman, Dean and Foundation Professor of Law, Sandra Day O'Connor College of Law, Arizona State University, Phoenix, AZ;

Stephanos Bibas, Professor of Law and Criminology, Director, Supreme Court Clinic, University of Pennsylvania Law School, Philadelphia, PA; Elizabeth Cavanagh, Adjunct Professor, American University Washington College of Law, Washington, DC; Thomas Colby, Professor of Law, George Washington University Law School, Washington, DC; Laura A. Dickinson, Foundation Professor of Law, Faculty Director, Center for Law and Global Affairs, Sandra Day O'Connor College of Law, Arizona State University, Phoenix, AZ; David Friedman, Senior Vice President/Special Counsel, Boston Red Sox, Boston, MA; Lisa Kern Griffin, Professor of Law, Duke University School of Law, Durham, NC; Deborah Hamilton, Trial Attorney, Equal Employment Opportunity Commission, Chicago, IL; Rachel A. Harmon, Associate Professor, University of Virginia School of Law, Charlottesville, VA; Sarah O. Jorgensen, King & Spalding, Atlanta, GA; John P. Kelsh, Partner, Sidley & Austin LLP, Chicago, IL; Jeremy Maltby, Partner, O'Melveny & Myers LLP, Washington, DC;

Christopher Meade, Washington, DC; Gillian E. Metzger, Professor of Law, Columbia Law School, New York, NY; Charles Moore, Partner, Trilantic Capital Partners, New York, NY; John B. Owens, Assistant United States Attorney, Chief, Criminal Division, Southern District of California, San Diego, CA; Mary-Rose Papandrea, Associate Professor, Boston College Law School, Boston, MA; Theodore W. Ruger, Professor of Law, University of Pennsylvania Law School, Philadelphia, PA; Sri Srinivasan, Partner, O'Melveny & Myers LLP, Washington, DC; Silvija A. Strikis, Partner, Kellogg, Huber, Hansen, Todd, Evans & Figel, PLLC Washington, DC; Harry P. Susman, Partner, Susman Godfrey LLP, Houston, TX; Christopher S. Yoo, Professor of Law, Director, Center for Technology, Innovation and Competition, University of Pennsylvania Law School, Philadelphia, PA.

U.S. WOMEN'S
CHAMBER OF COMMERCE,
Washington, DC, June 28, 2011.

Hon. PATRICK J. LEAHY,
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Hon. CHUCK GRASSLEY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: On behalf of the U.S. Women's Chamber of Commerce, I write in enthusiastic support of the nomination of Caitlin Halligan to be a judge on the United States Court of Appeals for the District of Columbia Circuit. Ms. Halligan is exceptionally well-qualified, and would be an excellent addition to that court. She would not only bring extraordinary legal talents but also increase the gender diversity of that court, increasing the representation of women on what has been called the second-highest court in the land.

Her résumé speaks for itself. Ms. Halligan has outstanding legal credentials and legal experience that is both broad and deep. Over the course of her career, she has developed significant expertise in appellate litigation, including before the U.S. Supreme Court. She has also generously contributed of her own time to pro bono service.

We ask that the Senate vote to confirm Caitlin Halligan to the United States Court of Appeals for the District of Columbia Circuit.

Sincerely,

MARGOT DORFMAN,
CEO.

NATIONAL CONFERENCE OF
WOMEN'S BAR ASSOCIATIONS,
Portland, OR, June 23, 2011.

Re Nomination of Caitlin J. Halligan to the United States Court of Appeals for the District of Columbia Circuit.

Hon. PATRICK J. LEAHY, *Chair, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.*

Hon. CHARLES GRASSLEY, *Ranking Member, Senate Judiciary Committee, Dirksen Senate Office Building, Washington, DC.*

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: On behalf of the National Conference of Women's Bar Associations, we write to express our enthusiastic support for the nomination of Caitlin J. Halligan to the United States Court of Appeals for the District of Columbia Circuit.

Ms. Halligan's broad experience, public service and intellect make her well suited to the federal appellate bench, and her appointment would add much needed diversity to the federal court, where currently only three women are among the active judges on the D.C. Circuit.

We join with many other organizations such as the National District Attorneys Association, the New York Women in Law Enforcement and the Women's Bar Association of the District of Columbia in urging the speedy confirmation of this outstanding nominee.

Very truly yours,

MARY E. SHARP,
President.

NOVEMBER 15, 2011.

Re Nomination of Caitlin J. Halligan to United States Court of Appeals for the District of Columbia Circuit.

Hon. HARRY REID,
Hart Senate Office Building,
Washington, DC.

Hon. MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR MAJORITY LEADER REID AND MINORITY LEADER MCCONNELL: We, the undersigned law school deans and professors, write in strong support of the nomination of Caitlin Halligan to the United States Court of Appeals for the District of Columbia Circuit. Ms. Halligan's legal credentials, experience, and accomplishments make her exceptionally well-qualified to serve on this court. We also note that women have been historically underrepresented on this court, as only five of the fifty-seven judges to serve there have been women, and only three of the court's eight active judges are women.

Ms. Halligan graduated from Georgetown University Law Center with honors, including Order of the Coif. She clerked for Judge Patricia M. Wald on the D.C. Circuit Court, and for Justice Stephen G. Breyer on the U.S. Supreme Court. Ms. Halligan's career includes public service, private practice, and legal education. She worked for the Attorney General of the State of New York, including as Solicitor General of the State of New York, and currently serves as General Counsel to the New York County District Attorney's office. She was a partner and head of the appellate practice at Weil, Gotshal and Manges, LLP. In addition, she has taught as an adjunct professor at Georgetown University Law Center and Columbia Law School. In all of these capacities, Ms. Halligan has won accolades for her judgment, legal acumen, and expertise in appellate litigation, which includes five arguments before the Supreme Court. Throughout her career, she has also contributed significant pro bono services.

Ms. Halligan received a unanimous "Well-Qualified" rating from the ABA Standing Committee on the Federal Judiciary. She has been endorsed by numerous organizations, including the District Attorneys Association of the State of New York, the National District Attorneys Association, the New York State Association of Chiefs of Police, the New York State Sheriffs Association, the New York Women in Law Enforcement, the Women's Bar Association of the District of Columbia, the National Conference of Women's Bar Associations, the U.S. Women's Chamber of Commerce, and the National Center for Women & Policing.

We likewise offer our strong support of Ms. Halligan, and urge you to support her nomination to the United States Court of Appeals for the District of Columbia Circuit. If you have questions or if we can be of assistance, please contact Columbia Law School Professor Gillian Metzger at (212) 854-2667 or at gillian.metzger@law.columbia.edu.

Sincerely,

(Signed by 107 women law professors).

Mr. LEAHY, I fear that what is behind this misguided filibuster attempt is a continuation of a decades-long attempt by some Senate Republicans to play politics with the Federal court and, in particular, to engage in a rear guard action to preserve the D.C. Circuit as a Republican bastion, despite the fact that the American people elected a Democratic President. A re-

cent Washington Post editorial urging the Senate to confirm Ms. Halligan's confirmation, suggested as much, stating: "GOP senators are grasping at straws to block Ms. Halligan's ascension, perhaps in hopes of preserving the vacancy for a Republican president to fill." Yet again, we see some Senate Republicans shifting the standards they use and the arguments they make based on the party of the President making the nominations. They say one thing when President Clinton is in office, flip when the President is a Republican, and flop when the American people elect President Obama.

When President Clinton nominated qualified moderates to vacancies on the D.C. Circuit, Republicans refused to proceed. The last of three Clinton nominees to the D.C. Circuit was confirmed in 1997, after being nominated in 1995 and stalled through the 1996 session when not a single circuit nominee was confirmed by the Senate Republican majority. When Senate Republicans stalled the nomination of Merrick Garland to the D.C. Circuit beyond the 1996 election, even Senator HATCH became frustrated, and in March 1997 he proclaimed that the way that Republicans were opposing judicial nominees was "playing politics with judges," was "unfair" and that he was "sick of it." He was right. Merrick Garland, like Caitlin Halligan, was superbly qualified, and was only being obstructed for partisan political gain.

But once the blockade against Judge Garland was broken by President Clinton's reelection, Senate Republicans erected an impenetrable wall around the D.C. Circuit. Neither of President Clinton's two other nominees were allowed a Senate vote, or even Judiciary Committee consideration. That escalation in the judge wars was untoward, it was wrong. It hurt the court and was unfair to both Allen Snyder and Elena Kagan, President Clinton's outstanding nominees. Allen Snyder had served as a clerk to Justice Rehnquist and was an experienced and respected litigator. Elena Kagan went on to become Dean of the Harvard Law School and win confirmation to the United States Supreme Court. These were unquestionably qualified nominees. The fact is that for the rest of President Clinton's second term, virtually his entire second four years, given that Judge Garland had actually first been nominated in his first term, Senate Republicans would not consider another nominee to the D.C. Circuit. They just blocked and pocket filibustered outstanding nominees because they could.

Republican Senators pretended to justify their refusal to proceed on President Clinton's D.C. Circuit nominees not by arguing against the nominees, but by arguing that the caseload of the D.C. Circuit did not justify the confirmation of any more judges. They were contending that the 11th and 12th

judgeships on the D.C. Circuit should not be filled. They argued that 10 judges were enough.

But what happened when George W. Bush became President? Republican Senators set aside those arguments when considering the nominations of a Republican President to the same court even as the caseload numbers went down, Senate Republicans abandoned their hollow caseload arguments to press for confirmation of multiple Bush nominees to the D.C. Circuit. Their actions showed that they were not really concerned with a caseload justification. Their reversal now to readopt a caseload argument is not consistency of principle, but relates to the principal who is making the nomination and appears political.

Despite the unwillingness of Senate Republicans to act on President Clinton's nominees to the D.C. Circuit for years, Senate Democrats did proceed to consider President Bush's nominations. The first confirmation, for which I voted, was of now-Chief Justice John Roberts to be a judge on the D.C. Circuit. At the time, John Roberts had been Allen Snyder's junior and his partner at Hogan and Hartson. He was the first judge confirmed to the circuit in six years.

The Senate then confirmed a series of questionable nominees to the D.C. Circuit: Janice Rogers Brown, Thomas Griffith and Brett Kavanaugh. The same Republican Senators who blocked President Clinton's nominations from even being considered by the Judiciary Committee supported every nomination of President Bush's to the D.C. Circuit, as they filled the ninth seat, twice filled the 10th seat on the court and went on to fill the 11th seat that they had said was unnecessary when a Democratic President was doing the nominating. With the change of administration, Republican Senators have now dusted off an old obstructionist argument about the D.C. Circuit's caseload, something they ignored for eight years as President Bush's nominees were confirmed to fill the 10th seat twice and also the 11th judgeship. But they have ratcheted up their partisan opposition and now oppose even filling the ninth judgeship. With three vacancies on the D.C. Circuit, that is the judgeship that Caitlin Halligan would be filling not the 11th that Senate Republicans filled just recently, or the 10th that they voted twice to fill, but the ninth. This is not a basis on which to oppose as qualified a nominee as Caitlin Halligan, who has widespread support from law enforcement and the legal community.

The so-called "caseload" concern is no justification for filibustering this nomination. The D.C. Circuit is now more than one-quarter vacant, with three judicial vacancies. In fact, the

Senate has acted on the so-called caseload argument. We have already eliminated effective in 2008 the 12th judgeship on that court. In so doing, the Senate and the Congress reaffirmed the authorization of 11 judges needed for the important D.C. Circuit. This court is often considered the second most important court in the land because of the complex cases that it handles. The court reviews complicated decisions and rulemaking of many Federal agencies, and in recent years has handled some of the most important terrorism and enemy combatant and detention cases since the attacks of September 11. As noted in the recent Washington Post editorial: “[Caseload numbers do] not take into account the complexity and scope of the cases that land at the court. They include direct appeals involving federal regulatory decisions and national security matters, including cases stemming from the detentions at the U.S. naval base in Guantanamo Bay, Cuba.”

The D.C. Circuit’s cases have only increased in importance and the court’s caseload has not gone down since Republican Senators supported every one of President Bush’s nominations to that court. According to the Administrative Office of U.S. Courts, the caseload per active judge has increased by one third since 2005, when the Senate confirmed President Bush’s nomination of Thomas Griffith to fill the 11th seat on the D.C. Circuit. That is right—the D.C. Circuit’s caseload has actually increased. Judge Griffith’s confirmation resulted in there being approximately 121 pending cases per active D.C. Circuit judge. There are currently 161 pending cases for each active judge on the D.C. Circuit, one-third higher. If Ms. Halligan were confirmed to the ninth seat, there would be approximately 143 pending cases for each active D.C. Circuit judge, still significantly higher than after the Senate confirmed President Bush’s nominee to the 11th seat in 2005. In addition, according to the Administrative Office of the U.S. Courts, written decisions per active judge have risen 20 percent since 2007. By any objective measure the work of the D.C. Circuit has grown and the multiple vacancies should be filled, not preserved and extended for partisan purposes.

Of course, if Republican Senators seeking to use caseload figures to justify their opposition to this nomination were serious, they would not be continuing their refusal to consent to the Senate considering the nominations of Morgan Christen of Alaska to the Ninth Circuit, and Judge Adalberto Jordan of Florida to the Eleventh Circuit, the two circuits with the highest number of cases per active judge. They would not be doing everything they can to delay filling vacancies on the Ninth Circuit, a court burdened by multiple vacancies and the largest caseload in

the Nation, and we would instead take up and confirm the nomination of Jacqueline H. Nguyen who is nominated to fill the judicial emergency vacancy that remains open after the Republican filibuster of Goodwin Liu. I have repeatedly urged the Senate to take up and consider these nominations, which are supported by home state Senators, yet Republicans have refused to consider them for months. In fact, courts throughout the country are in need of more confirmed judges and more judgeships to handle high and increasingly complicated caseloads, yet we currently have 25 judicial nominations favorably reported by the Judiciary Committee awaiting final action by the Senate. Republicans concerned about caseload should join with us to consider these nominations.

The Senate should not filibuster but should be voting to confirm the nomination of Caitlin Halligan to fill a vacancy on a critical court that is one quarter vacant with only eight active judges and higher caseloads than when Republicans voted to confirm President Bush’s nominees fill the ninth, 10th and 11th judgeships on this court just a couple of years ago.

Some have sought to criticize Ms. Halligan for positions she advocated on behalf of the State of New York while serving as its Solicitor General. At her confirmation hearing, Ms. Halligan made clear she filed briefs under the direction of New York’s Attorney General, arguing on behalf of the State of New York, not based on her personal views. Yet some outside groups and even some Senators ignore this and seek to use those advocacy positions as a basis to filibuster her nomination.

These arguments are particularly hard to accept for anybody who understands the role of advocates in our legal system. Our legal system is an adversary one, predicated upon legal advocacy for both sides. Nominees such as Chief Justice John Roberts have said lawyers do not stand in the shoes of their clients. Since when do we impose a litmus test for nominees that they can never have been legal advocates? If we were to do that, we would have no judges. Almost every nominee who had been a practicing lawyer would be disqualified by one side or the other. This is especially hard to understand for any Senators who support the rights of states to defend their interests in courts, the duty Caitlin Halligan owed to New York as its Solicitor General.

Some have pointed to her role as New York’s Solicitor General acting at the direction of New York’s Attorney General in tort lawsuits against gun manufacturers as suggesting that she will not uphold the Second Amendment if confirmed as a judge. As a strong supporter of the Second Amendment, I asked her during her hearing whether as a judge she would faithfully follow

and apply the Supreme Court’s precedent from *District of Columbia v. Heller* and *McDonald v. Chicago*, which held that the Second Amendment protects an individual right to keep and bear arms for self defense. She testified that she would. When asked by Senator GRASSLEY whether the rights conferred under the Second Amendment are fundamental, Ms. Halligan answered: “That is clearly what the Supreme Court held and I would follow that precedent, Senator.”

In her personal capacity, Ms. Halligan has never challenged or otherwise criticized the Protection of Lawful Commerce in Arms Act (PLCAA) or been critical of the Second Amendment. As New York State’s Solicitor General, she prepared an amicus brief at the direction of the New York Attorney General in a case where New York City challenged the PLCAA, seeking to safeguard New York’s police powers. The arguments made in the brief were made on behalf of New York State. In the amicus brief, New York State argued that the PLCAA should be struck down as an unconstitutional exercise of Congress’s legislative power that infringed on states’ rights to exercise the police power within their borders. The amicus brief did not make a single reference to the Second Amendment. Any criticism of the PLCAA in New York State’s brief or in the speech she gave as a surrogate for and on behalf of New York Attorney General Spitzer reflected New York State’s federalism concerns. It is hardly surprising that New York State—like many other states—advocated for a position that supported state powers.

As Solicitor General for the State of New York, Caitlin Halligan vigorously advocated for New York’s interests, in particular the right to govern in traditional state law areas. For example, in the *Grutter v. Bollinger* affirmative action case, New York joined 20 other states in arguing that they “must have the freedom and flexibility” to set their own education policy. I assume that position does not raise concerns for those seeking a basis for opposing her nomination. Nor I assume did her defense as New York’s Solicitor General of the constitutionality of the death penalty.

Indeed, Ms. Halligan’s time as Solicitor General shows all the hallmarks of serious advocacy consistent with the interests of her “client”. When New York municipal attorneys requested advice as to whether clerks could issue marriage licenses to same-sex couples, Ms. Halligan carefully analyzed New York’s statutory law and concluded that the state legislature did not intend to authorize marriage licenses to be given to same-sex couples, even though the statutory language is gender neutral. After observing that this interpretation raised “constitutional questions,” she outlined the current

case law and stated that it was for the courts to resolve the issue. This measured response is no basis on which to caricature her record.

Most disconcerting of all are the attacks from some on the outside suggesting that Ms. Halligan lacked candor in the answers she provided to the Judiciary Committee. I hope that we do not see any Senators repeating these baseless charges to create another false controversy. Ms. Halligan has been honest and forthcoming throughout the confirmation process, providing the Committee with her entire record and giving detailed, accurate, and clear answers to over 150 questions from Judiciary Committee members at her hearing and in written follow-up questions on a wide range of topics, such as judicial philosophy, constitutional interpretation, the Tenth Amendment, the Second Amendment, the Commerce Clause, the Eighth Amendment and the death penalty, military commissions and indefinite detention, tort liability, Federal preemption, and standing. In my view, Ms. Halligan's answers to questions from Committee members were detailed and substantive, and show an impressive depth and breadth of knowledge on complex legal issues. There is no lack of record or failure to respond as there was, unfortunately, when the Bush administration would not make information available to Senators in connection with the nomination of Miguel Estrada. There is no lack of forthrightness, as there was when Brett Kavanaugh was manipulating the confirmation process as a political crony and insider during the Bush administration.

Those concerned with a 2004 report that questioned the indefinite detention of enemy combatants issued by the Association of the Bar of the City of New York's Committee on Federal Courts at a time when she served on the Committee continue to ignore Ms. Halligan's repeated testimony that she had no role in preparing the report, that she was not aware of the report until preparing for her nomination and that report "does not reflect [her] views." At no time during Ms. Halligan's hearing or in the Committee's consideration of her nomination did any Senator question Ms. Halligan's candor or thoroughness in answering questions. I hope that no Senator does so now to attempt to justify this unjustifiable filibuster.

Given Caitlin Halligan's impeccable credentials and widespread support, this should be the kind of consensus nomination supported by Senators of both parties who seek to ensure that the Federal bench continues to attract the best and brightest. Certainly, her nomination should not be subject to a filibuster. Regrettably, however, the Senate's Republican leadership seems intent on continuing with the practices

they began when President Obama first took office, engaging in narrow, partisan attacks on his judicial nominations. They seem intent on setting a new standard that could not be met by the judicial nominees of Presidents of either party.

Republican Senators who just a few years ago protested that the filibuster of any judicial nomination was unconstitutional, Republican Senators who joined in a bipartisan memorandum of understanding to head off the "nuclear option" and agreed that nominees should only be filibustered under "extraordinary circumstances," abandoned all that they said they stood for and joined together in an attempt to prevent an up-or-down vote on President Obama's very first judicial nominee, David Hamilton. There were certainly no "extraordinary circumstances" to justify the Republican filibuster of Judge Hamilton, and several Republican Senators joined together with Democratic Senators in rejecting that filibuster. I trust that they will do so, again, and reject this unjustifiable filibuster of Caitlin Halligan.

By the standard utilized in 2005 to end filibusters and vote on President Bush's controversial nominees, this filibuster should be ended and the Senate should vote on the nomination. Those Senators who claim to subscribe to a standard that prohibits filibusters of judicial nominees except in "extraordinary circumstances" cannot support this filibuster. There are no "extraordinary circumstances" here. The 14 Senators who signed the Memorandum of Understanding in 2005, the then "Gang of 14," wrote about their "responsibilities under the Advice and Consent Clause of the United States Constitution" and that fulfilling their constitutional responsibilities in good faith meant that nominations "should only be filibustered under extraordinary circumstance." Here there are none.

In 2005, Senator GRAHAM, a member of the "Gang of 14" described his view of what comprises the "extraordinary circumstances" justifying a filibuster. He said: "Ideological attacks are not an 'extraordinary circumstance.' To me, it would have to be a character problem, an ethics problem, so allegations about the qualifications of a person, not an ideological bent." Caitlin Halligan has no "character problem," no "ethics problem," and there is no justification for this filibuster. Caitlin Halligan is a superbly qualified nominee whose personal integrity, temperament and abilities have been attested to by lawyers and judges from both sides of the aisle. The many leading lawyers who have worked with Ms. Halligan, law enforcement officials and organizations supporting her nomination have all attested to Ms. Halligan's "temperament," "fairness" and "bal-

ance" in addition to her legal judgment and qualifications for the D.C. Circuit. Hollow contentions about the caseload of the quarter-vacant D.C. Circuit fall well short of any standard of "extraordinary circumstances."

The signers of that 2005 Memorandum of Understanding, and the Senate, demonstrated what they thought that agreement entailed when they proceeded to invoke cloture on a number of controversial nominations. The Senate invoked cloture on the nomination of Janice Rogers Brown to the D.C. Circuit, the circuit to which Caitlin Halligan has been nominated.

As a Justice on the California Supreme Court, Janice Rogers Brown was a nominee with a consistent and extensive record, both on the bench and off, of using her position as a member of the court to put her views above the law. This was not a question of one case or one issue on which Democrats differed with the nominee—I have voted for hundreds of nominees of Republican and Democratic Presidents which whom I differ on many issues. But this was a nominee with views so extreme she was opposed not just by her home state Senators, but also by more than 200 law school professors from around the Nation who wrote to the Committee expressing their opposition.

Her record in numerous decisions as a judge showed that she was willing to put her personal views above the law on issue after issue, including a willingness to roll back the clock 100 years on workers' and consumers' rights, to undermine clean air and clean water protections for Americans and their communities, laws providing affordable housing, zoning laws that protect homeowners, and protections against sexual harassment, race discrimination, employment discrimination, and age discrimination. In fact, while serving on the California Supreme Court, Justice Brown had argued that Social Security is unconstitutional, a position clearly at odds with well established law. She went so far as to say "today's senior citizens blithely cannibalize their grandchildren."

Despite her ideological extremism and willingness to implement her radical personal views as a judge without regard to the existing law, she was confirmed to the D.C. Circuit, her nomination judged not to present "extraordinary circumstances" supporting a filibuster. There is no justification under the standard applied to the nomination of Janice Rogers Brown for a filibuster of the nomination of Caitlin Halligan, a widely respected nominee with a clear devotion to the rule of law and no record of ideological extremism.

Under the Gang of 14's Memorandum of Understanding, the Senate also agreed to invoke cloture on the nomination of Priscilla Owen to the Fifth Circuit, a nominee whose rulings on

the Texas Supreme Court were so extreme they drew the condemnation of other conservative judges on that court. Alberto Gonzales, President Bush's White House counsel and later his Attorney General, went so far as to describe one of her opinions as advocating "an unconscionable act of judicial activism." Her nomination was determined not to present "extraordinary circumstances."

Neither was the nomination of Thomas Griffith to the D.C. Circuit, despite his decision to practice law without a license for a good part of his career, which I felt should be disqualifying. Yet his nomination was not judged to present "extraordinary circumstances" and he was confirmed to fill the 11th seat on the D.C. Circuit. There is no question under the standard Republicans applied to the nomination of Thomas Griffith, Caitlin Halligan should be confirmed to fill the ninth judgeship on that court.

I urge Republican and Democratic Senators to come together and end this misguided filibuster of Caitlin Halligan's nomination to the D.C. Circuit. There is no basis under any standard for blocking her nomination from having an up-or-down vote. To the contrary, Caitlin Halligan's impeccable credentials and record as an accomplished advocate make her nomination worthy of bipartisan support. I look forward to ending this filibuster and voting to confirm Caitlin Halligan to the D.C. Circuit.

Mr. President, I suggest the absence of a quorum but ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, Henry Clay once said:

Of all the properties which belong to honorable men, not one is so highly priced as that of character.

It is my distinct privilege to rise today to speak on a nominee that possesses such character, Dana Christensen. The Senate will soon take up Dana's nomination for U.S. district judge for the District of Montana. To ensure the most ethical and qualified attorney was appointed as district judge, I created an advisory selection panel made up of five Montana lawyers with diverse legal backgrounds from across our State and across party lines.

I said to them: You just get me the best, the four or five best people I can choose from. I do not care if they are Republicans or Democrats or liberals or conservatives, you just get me the very best qualified.

That is what they did. From them I chose Dana Christensen, and the panel unanimously and enthusiastically recommended the nomination of Dana Christensen. I was proud to pass this recommendation on to the President.

Dana is a fourth generation Montanan, raised in Missoula, MT. He graduated from Stanford University in 1973, received his law degree from the University of Montana Law School in 1976. Dana started his legal career at the Billings, MT, law firm of Moulton, Bellingham, Longo & Mather, and then moved to Kalispell in 1981 to join the law firm of Murphy, Robinson, Heckathorn & Phillips. In 1998, Dana and two of his partners formed a new firm in Kalispell, MT, which has become one of the leading firms in Montana for civil defense, business law, real estate, and estate planning. Dana has tried more than 50 trials in State and Federal courts. He has an active mediation and arbitration practice. Outside of the office, Dana has been an active member of his community: a member of the board of directors of his local chamber of commerce, a member of the University of Montana School of Law board of visitors, and a member of the faculty of the University of Montana Advanced Trial Advocacy Program.

Over the past 35 years, Dana has commanded the respect of his colleagues across the State of Montana and elsewhere. Dana has received the highest rankings from peer review organizations, Chambers USA and Super Lawyers. He is also a member of the selective American Board of Trial Advocates and the American College of Trial Lawyers.

Upon his nomination in May, Montana's legal community lent their strong support for Dana's selection. U.S. District Judge Richard Cebull, who was appointed by President George Bush in 2001, said:

I do not think there is a better prospect in the whole State.

U.S. District Judge Sam Haddon, also appointed by President Bush, echoed his colleague. Judge Haddon said:

He's a good lawyer, a good man, and in my opinion, ethically totally qualified. The district will be well served by him.

I have gotten to know Dana over the past several decades. I could not agree more with Judge Sebold and Judge Haddon. Dana embodies those qualities that Montana and America need on the Federal bench: intellect, extensive experience in the courtroom, commitment to public service, integrity, and respect for precedent and the rule of law.

I congratulate Dana, his wife Stephanie, and his wonderful children, Cassidy and Ben, on this extraordinary achievement. I urge my colleagues to join me in supporting his nomination.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, today the Senate is expected to confirm four additional judicial nominees. With these votes, we will have confirmed 61 article III nominees this Congress.

I want to note that in the first session of the 112th Congress we have now confirmed more nominees than during the entire 111th Congress. So I think we can declare real progress. Over 72 percent of President Obama's judicial nominees have been confirmed.

Despite this record of confirmations, we continue to hear complaints about the way this President's nominees are being treated. So I point out that in only six sessions of Congress in the last 30 years have more nominees been confirmed in a single session. Furthermore, given the cooperation we have shown, I am disappointed that the Senate majority wants to turn to a controversial nomination next rather than continue on the path of cooperative confirmations.

The Senate majority leader has scheduled a cloture vote for tomorrow on the nomination of Caitlin Halligan to be U.S. Circuit Judge for the District of Columbia Circuit. I will speak more about the merits of that nomination Tuesday. But I wanted to put that vote in some context.

It seems to me that the scheduling of such a controversial vote in the closing days of a session of Congress is designed to simply heat up the partisanship of judicial nominations. Perhaps that is the objective. The result may well be that such a divisive vote might have a chilling effect on reaching agreement on additional judicial nomination votes. I hope that is not the case. But everyone knows the final weeks of a session are often filled with unpredictable actions and outcomes.

With regard to the vote tomorrow, there will be some who say this nomination has been vacant for too long and that this nominee is being treated unfairly, needlessly waiting on the calendar for too many weeks. Well, such arguments fail to consider the history of this particular seat of the DC Circuit and of the record established by my colleagues on the other side regarding the consideration of nominations for this very same DC Circuit.

This seat has been vacant for over 6 years. It became vacant upon the elevation of John Roberts as Chief Justice. That was back in September 2005. Following Justice Robert's appointment, Peter Keisler was nominated to fill the vacancy in June 2006, with a hearing held August 1, 2006.

With a Republican majority in the 109th Congress, one would wonder why he never made it out of committee. Well, it is not that he did not have the votes in committee. The fact is, the Democratic minority would not allow a vote. This was accomplished by holding him over at his first markup, which the

rules permit and is a legitimate exercise of the right of a minority and a right that this minority on our side exercised quite frequently this very year.

However, for the remaining executive sessions in September of that year, prior to final adjournment they either made sure the committee did not have a quorum so we could not vote or they took the extraordinary step of invoking the 2-hour rule so the committee could not meet. I note that a quorum was present early in one meeting but evaporated when Mr. Keisler's nomination was the pending business. So basically the opponents ran out the clock on this nomination. He did not get a committee vote. He did not get the courtesy of floor consideration, not even a cloture vote like the nominee tomorrow will have.

Mr. Keisler was renominated in June 2007 when the Democrats assumed control of the Senate. But his nomination sat in committee with no action until it was returned to the President in January 2009. He was the recipient of a pocket filibuster. This was despite being rated "unanimously well qualified" by the ABA Standing Committee of the Federal judiciary and possessing outstanding qualifications to fill this position. So complaints about this seat being vacant for too long just ring hollow with this Senator.

Likewise, when one considers the treatment of previous nominees to the DC Circuit, it is evident that the nomination of Ms. Halligan is not being treated in an unfair manner. In fact, her nomination is proceeding far better than many nominated to this court. I would remind my colleagues that previous nominees were subjected to delay or multiple hearings, to extensive delays in committee, and to multiple filibusters on the Senate floor.

These include the nomination of Estrada, a Hispanic immigrant with a compelling personal story and outstanding judicial qualifications, who was subject to seven cloture votes; Janice Brown, an African-American female who had two cloture votes; Brett Kavanaugh; and Thomas Griffin. While all of these individuals were eventually confirmed, the procedural tactics used in their nominations made the confirmations very difficult.

I am not suggesting this is a pattern to follow, but it is relevant to the arguments that Ms. Halligan is being treated quite differently or in an unfair manner than other nominees.

With regard to the nomination before us today, I will say a few words about, first, Mr. Ramos, who is nominated to be U.S. District Judge for the Eastern District of New York. Mr. Ramos earned a BA from Yale in 1982; JD Harvard, 1987. Upon graduation from law school, Mr. Ramos worked as an associate at the law firm of Simpson, Thatcher & Bartlett in New York City.

In 1992, Mr. Ramos joined the Office of the U.S. Attorney for the Eastern

District of New York, where he prosecuted a variety of Federal crimes, including white-collar crime, defense contractor fraud, money laundering, narcotics trafficking, labor racketeering, and violation of the Arms Export Control Act. In June 2000, he was promoted to Deputy Chief of the Narcotics Section, where he supervised assistant U.S. attorneys prosecuting international narcotics trafficking and racketeering cases.

In 2002, the nominee joined the law firm of Day, Berry & Howard LLP, predecessor to the firm Day Pitney LLP, as a partner in the government investigations practice group. Currently, he represents corporations and individuals in connection with criminal and regulatory investigations involving antitrust, bank fraud, public corruption, securities fraud, and government program fraud.

The American Bar Association's Standing Committee on the Federal Judiciary has rated Mr. Ramos with a unanimous "well qualified" rating.

We are also considering the nomination of Judge Andrew L. Carter to be U.S. District judge, Southern District of New York. Judge Carter earned his B.A. from the University of Texas in 1991 and his J.D. from Harvard Law School in 1994.

Judge Carter's legal career began in 1996 as a staff attorney for the criminal defense division, Legal Aid Society, in New York, NY. In 2000, he became staff attorney for the Federal defenders division. The nominee became affiliated with the Federal Defenders of New York in 2005, first as staff attorney and, 1 year later, as a supervising attorney. His Federal practice included drug cases, gun cases, and immigration fraud.

In 2009, Judge Carter was appointed to his current position of U.S. magistrate judge for the Eastern District of New York, where he is primarily responsible for handling civil matters.

The American Bar Association's Standing Committee on the Federal Judiciary has rated Judge Carter with a unanimous "qualified" rating.

The third nominee we are considering is James Rodney Gilstrap to be a district judge for the Eastern District of Texas, a seat deemed to be a judicial emergency. Mr. Gilstrap received his B.A. from Baylor in 1978 and his J.D. from Baylor University School of Law 1981.

Mr. Gilstrap served as an associate attorney for Abney, Baldwin & Searcy from 1981 to 1984. In 1984, he left to begin his own legal practice, Smith & Gilstrap, where he currently practices representing individuals, corporations, and local governments on civil matters.

From 1989 to 2002, Mr. Gilstrap served as a county judge for Harrison County, where he had both administrative and judicial responsibilities.

The ABA Standing Committee on the Federal Judiciary has rated Mr. Gilstrap with a unanimous "qualified" rating.

Then we have the distinguished nominee from Montana, whom Senator BAUCUS just spoke about, Dana L. Christensen, to be U.S. District Judge for the District of Montana.

Mr. Christensen earned his B.A. from Stanford University in 1973 and his J.D. from the University of Montana School of Law in 1976.

Earlier in his legal career, Mr. Christensen practiced natural resources law, representing coal mining and oil and gas companies in litigation in administrative matters. He went on to practice general insurance defense litigation and medical malpractice cases.

In 1996, he founded his own firm and continues to represent these entities and practices in this area. He has also represented defendants in large class-action lawsuits filed in the U.S. District Court for the District of Montana.

In addition to his litigation practices, Mr. Christensen has also represented at least 15 physicians in confidential disciplinary matters before the Montana Board of Medical Examiners. He has also represented health care providers in more than 200 matters before the Montana Medical Legal Panel.

The American Bar Association's Standing Committee on the Federal Judiciary has rated Mr. Christensen with a unanimous "well qualified" rating.

I intend to vote for all these candidates. I urge my colleagues to do the same.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CASEY. Mr. President, I ask unanimous consent to speak as in morning business.

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

(The remarks of Mr. CASEY pertaining to the introduction of S. 1944 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CASEY. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mrs. GILLIBRAND. Mr. President, I am proud to support Caitlin Halligan's nomination to the U.S. Court of Appeals for the DC Circuit.

Caitlin Halligan's impeccable career spans public and private practice, similar to that of John Roberts when he was confirmed unanimously to the DC Circuit. Ms. Halligan served as solicitor general of New York, a leading appellate lawyer at Weil, Gotshal & Manges, and currently as general counsel at the New York County district attorney's office, which investigates and prosecutes 100,000 criminal cases annually.

She clerked for Supreme Court Justice Breyer and Judge Patricia Wald on the DC Circuit. The ABA's Standing Committee on the Federal Judiciary unanimously rated Ms. Halligan "well qualified" to serve on the DC Circuit.

Ms. Halligan has support from across the political spectrum, including Miguel Estrada, Carter Phillips, and officials in Democratic and Republican administrations. Twenty-three former U.S. Supreme Court clerks, the National District Attorneys Association, the National Conference of Women's Bar Associations, and the U.S. Women's Chamber of Commerce are supporting her nomination.

New York City police commissioner Ray Kelly has said Ms. Halligan has three qualities that are important for a nominee—intelligence, judicial temperament, and personal integrity.

Unfortunately, it appears some of my colleagues are determined to criticize Caitlin Halligan regardless of the facts.

One of the criticisms of Ms. Halligan is positions she advocated for while serving as solicitor general. She filed briefs at the direction of New York's attorney general and argued on behalf of the State. That was her job. She was not promoting her personal views.

Ms. Halligan testified she would faithfully follow and apply the Supreme Court's precedent from *Heller* and *McDonald*. When asked whether the rights conferred under the second amendment are fundamental, she answered: "That is clearly what the Supreme Court held, and I would follow that precedent."

Let me also address the workload concerns brought up by some of my fellow Senators. There are currently only eight active judges on the DC Circuit, making it one-quarter vacant. Miss Halligan has been nominated to fill the ninth seat—one of three current vacancies on the court. The Senate confirmed four of President Bush's nominees for the DC Circuit; however, the court's caseload is higher now than it was when President Bush's nominees were confirmed. If Ms. Halligan was confirmed today, it would reduce the caseload from its current level of 161 cases to approximately 143 cases per judge.

Women have been woefully underrepresented by the DC Circuit, often characterized as the second most important court in our entire Nation. Only 5 of the 57 judges serving throughout the history of the DC Circuit have been women. Ninety-one percent of the judges on this court throughout its 41-year history have been men.

If we continue down this road of filibustering nominees simply because their nomination originates across the aisle, we will establish an impossible standard that no nominee could or would ever meet.

Caitlin deserves an up-or-down vote, just as the Republicans advocated for their past judicial nominees. The bottom line is that there is no credible opposition to her nomination or her confirmation. Caitlin Halligan has distinguished herself throughout her career. She has established a commitment to fairness, reasoned intellect, steadfast integrity, and profound respect for the law.

I look forward to supporting Caitlin Halligan's confirmation to the U.S. Court of Appeals for the District of Columbia, and I urge my fellow colleagues to support her nomination.

NOMINATION OF JAMES RODNEY GILSTRAP

• Mrs. HUTCHISON. Mr. President, I am pleased today to support the nomination of Mr. James Rodney Gilstrap to serve as a Federal district judge for the Eastern District of Texas in Marshall, TX.

Mr. Gilstrap attended Baylor University where he graduated magna cum laude with a bachelor of arts degree in religion. Following his graduation, Mr. Gilstrap continued his studies at Baylor University Law School, where he served as associate editor of the *Baylor Law Review* and received his juris doctor in 1981.

Mr. Gilstrap began his professional career in Marshall, TX, where he still resides today. In August of 1989, Mr. Gilstrap was appointed county judge of Harrison County and was then elected to the same position for the next three terms. In 2002, he retired as a county judge and returned to private practice at Smith & Gilstrap, where he still practices today.

Mr. Gilstrap has earned the respect and esteem of the legal community he has served and his professional credentials will continue the strong history of the Federal bench in Texas.

Mr. Gilstrap's impressive career is complemented by his dedication to his community. In addition to serving for years as county judge, Mr. Gilstrap has served on the board for the Harrison County Historical Society, the United Way for Harrison County, and the Trinity Episcopal Day School. He also served for 16 years on the Courthouse Preservation Council to help with the renovation of the Marshall courthouse that was completed in 2009. Mr. Gilstrap's passion for his work and his

community will be a tremendous asset to the Marshall bench.

I join his family in congratulating him on all his outstanding accomplishments: his wife Sherry Sullivan Gilstrap, his daughter Lauren, who is continuing her medical studies at Harvard Medical School, and his son Stephen, who graduated from Yale Law School this year.

I am pleased to recommend his confirmation to my colleagues.●

NOMINATION OF CAITLIN HALLIGAN

Mrs. FEINSTEIN. Mr. President, I rise to speak on the nomination of Caitlin Halligan to be U.S. Circuit Judge for the D.C. Circuit Court of Appeals.

As the first woman to serve on the Senate Judiciary Committee—a committee on which I have served for 18 years—it is my great pleasure to speak in support of Ms. Halligan, who has excelled at every turn during her distinguished legal career.

She graduated cum laude from Princeton University in 1988. She received her law degree, magna cum laude, from Georgetown University Law Center, where she was managing editor of the *Georgetown Law Journal* and inducted into the Order of the Coif.

She began her legal career with a clerkship with Judge Patricia Wald on the U.S. Court of Appeals for the D.C. Circuit—the first woman to serve on that Court.

She then spent a year in private practice at the Washington, DC firm, Wiley, Rein, and Fielding, followed by a clerkship with Supreme Court Justice Stephen Breyer.

After another year in private practice, Ms. Halligan began work in the office of the Attorney General of the State of New York, first as Chief of the Internet Bureau.

She rose to become Solicitor General of the State of New York, the State's top appellate lawyer. She served in that role from 2001 through 2007.

During nearly all of Ms. Halligan's time as Solicitor General, George Pataki—a Republican—was Governor. Her job was to represent the State of New York zealously, and by all accounts she did so with skill and dignity.

Judith Kaye, the former Chief Judge of New York's highest court, writes on behalf of the Court's entire bench that "it was invariably a treat" to have Ms. Halligan argue before the Court.

In fact, the National Association of Attorneys General awarded Ms. Halligan the "Best Brief Award" for five consecutive years, 2001, 2002, 2003, 2004, and 2005.

Ms. Halligan left the Solicitor General post in 2007 to become the head of the appellate practice at the prestigious New York law firm, Weil, Gotshal, and Manges.

She has now returned to public service as the General Counsel of the New

York County District Attorney's Office—one of the largest prosecutor's offices in the country.

Over the course of her distinguished career, Halligan has served as counsel for a party or amicus in the Supreme Court more than 45 times.

She has argued in the Supreme Court herself in five cases, most recently in March of this year. She also has argued or participated in numerous other cases before State and Federal appellate courts, including the New York Court of Appeals and the U.S. Court of Appeals for the Second Circuit.

In short, Ms. Halligan is an accomplished woman whose sterling qualifications for the bench are unassailable.

Ms. Halligan was first nominated more than 14 months ago. She was approved by the Senate Judiciary Committee nearly 9 months ago. She has been waiting for an up-or-down vote on the floor ever since.

It is an unfortunate sign of the times that my colleagues on the other side have held up her confirmation.

I understand that the National Rifle Association is opposed to Ms. Halligan's confirmation.

Behind the NRA's opposition is the fact that, while she was New York's Solicitor General, the State of New York pursued public nuisance litigation against gun manufacturers.

Think about that—any time a person represents a State or local government, or the Federal Government, and takes a controversial position, that may jeopardize a later confirmation vote.

That is not fair. A government lawyer's job is to pursue the government's interest vigorously and to do justice.

Ms. Halligan was appointed by the Attorney General to represent the State of New York, while the State had a Republican Governor, George Pataki. Her job was to advance New York's interest, and she did so with vigor. She should not be penalized for it.

Senator SESSIONS made this point when the Senate was considering Judge Kavanaugh's nomination. He said that "[s]uggesting that service in an elective branch of Government somehow tarnishes a lawyer's reputation would be a terrible message for this body to send to the legal community and to all citizens."

I couldn't agree more.

My Republican colleagues might also say that the D.C. Circuit's caseload does not support another judge, but they have short memories.

There are now three vacancies on the D.C. Circuit. That means that Ms. Halligan would only fill the ninth seat, out of 11 on the Court. Two seats would remain vacant.

However, my colleagues were not so concerned about this issue when President Bush's appointees were before the Senate. In fact, my Republican colleagues supported filling the 10th seat

on the Court twice, and the 11th seat once.

I will conclude by simply saying that Ms. Halligan is a woman with sterling credentials, an exemplary record, and a wealth of experience.

She is President Obama's first and only nominee to the D.C. Circuit. She should be confirmed.

NOMINATIONS OF EDGARDO RAMOS AND ANDREW CARTER, SDNY

Mr. SCHUMER. Mr. President, today I rise to support two outstanding nominees to the federal bench in the Southern District of New York.

Over the years, I have had the great good fortune to support many outstanding candidates to the federal bench.

Rarely, however, have I come across two nominees who are as qualified, in every possible way, to be federal judges as Edgardo Ramos and Judge Andrew Carter.

Ramos is the quintessential example of the American dream—he was born in Puerto Rico and was 1 of 7 children raised by a single mother in Newark, NJ. He excelled in school, earning his bachelor's degree from Yale and his law degree from Harvard.

After graduating, he was an associate at the New York firm Simpson, Thatcher & Bartlett, and then served for 10 years as an Assistant U.S. Attorney in the Eastern District of New York, including as Deputy Chief of the Narcotics Section. Since 2002, he has been a partner in the New York law firm Day Pitney. Ramos has earned an outstanding reputation among his fellow lawyers, prosecutors, and judges and in the Hispanic community. I have complete confidence that he will make an excellent judge.

Magistrate Judge Andrew Carter was born in Albany, GA and he came to New York after graduating from the University of Texas at Austin and Harvard Law School. After law school, he worked for two years at the Ford Foundation and became a public defender in New York courts, both state and federal. He spent nine years at the New York office of the Legal Aid Society, and then four years at the Federal Defenders of New York.

Since 2009, he has served as a United States magistrate judge in the Eastern District of New York, a position for which he was selected by a vote of the sitting district judges. And that is terrific training to be a Federal judge. Judge Carter is widely respected as a fair and mild-mannered magistrate judge who understands the courtroom and the needs of litigants.

Both Ramos and Judge Carter embody the three criteria that I look for in a federal judge—excellence, moderation, and diversity.

Both have consistently risen to the top, academically and professionally.

Both are entirely non-ideological—they are lawyers who are respected by

all of their peers, and who have approached the law with respect and humility.

And, both increase the diversity of a bench that serves one of the most diverse populations in the country. I have always said that, all other things being equal, diversity of backgrounds, experience, and ethnicity is an important consideration for federal judges. So, I am pleased to have recommended two nominees to the federal bench who are outstanding in every way.

The bench of the Southern District of New York has been one of the hardest hit by judicial vacancies—currently, 21 percent of its seats are open. With the addition of Edgardo Ramos and Judge Andrew Carter, this important court will be closer to firing on all cylinders.

I look forward, with all New Yorkers, to their joining the bench.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant editor of the Daily Digest proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, we are soon going to a rollcall vote on Edgardo Ramos, of Connecticut, to be U.S. district judge for the Southern District of New York. We also have three others on here: Andrew L. Carter, Jr., of New York, to be U.S. district judge for the Southern District of New York; James Rodney Gilstrap, of Texas, to be U.S. district judge for the Eastern District of Texas; and Dana L. Christensen, of Montana, to be U.S. district judge for the District of Montana.

I ask unanimous consent that following the rollcall vote for Edgardo Ramos, Andrew L. Carter, Jr., James Rodney Gilstrap, and Dana L. Christensen be considered by voice vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the regular order?

The PRESIDING OFFICER. The Ramos nomination.

The question is, Will the Senate advise and consent to the nomination of Edgardo Ramos, of Connecticut, to be United States District Judge for the Southern District of New York?

Mr. LEAHY. 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 assistant editor of the Daily Digest called the roll.

Mr. DURBIN. I announce that the Senator from Iowa (Mr. HARKIN), the

Senator from Louisiana (Ms. LAN-DRIEU), the Senator from Oregon (Mr. MERKLEY) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from South Carolina (Mr. DEMINT), the Senator from Wyoming (Mr. ENZI), the Senator from Texas (Mrs. HUTCHISON), the Senator from Indiana (Mr. LUGAR), the Senator from Florida (Mr. RUBIO), the Senator from Louisiana (Mr. VITTER) and the Senator from Mississippi (Mr. WICKER).

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

The result was announced—yeas 89, nays 0, as follows:

[Rollcall Vote No. 221 Ex.]

YEAS—89

Akaka	Feinstein	Mikulski
Alexander	Franken	Moran
Ayotte	Gillibrand	Murkowski
Barrasso	Graham	Murray
Baucus	Grassley	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Hatch	Paul
Bingaman	Heller	Portman
Blumenthal	Hoeben	Pryor
Blunt	Inhofe	Reed
Boozman	Inouye	Reid
Boxer	Isakson	Risch
Brown (MA)	Johanns	Roberts
Brown (OH)	Johnson (SD)	Sanders
Burr	Johnson (WI)	Schumer
Cantwell	Kerry	Sessions
Cardin	Kirk	Shaheen
Carper	Klobuchar	Shelby
Casey	Kohl	Snowe
Chambliss	Kyl	Stabenow
Coats	Lautenberg	Tester
Coburn	Leahy	Thune
Cochran	Lee	Toomey
Collins	Levin	Udall (CO)
Conrad	Lieberman	Udall (NM)
Coons	Manchin	Warner
Corker	McCain	Webb
Cornyn	McCaskill	Whitehouse
Crapo	McConnell	Wyden
Durbin	Menendez	

NOT VOTING—11

DeMint	Landrieu	Rubio
Enzi	Lugar	Vitter
Harkin	Merkley	Wicker
Hutchinson	Rockefeller	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Andrew L. Carter, Jr., of New York, to be United States District Judge for the Southern District of New York?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of James Rodney Gilstrap, of Texas, to be United States District Judge for the Eastern District of Texas?

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Dana L. Christensen, of Montana, to be United States District Judge for the District of Montana?

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 will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

MORNING BUSINESS

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

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

TRIBUTE TO PEGGY BULGER

Mr. REID. Mr. President, Dr. Peggy A. Bulger will retire at the end of December after more than 12 years of service to the Library of Congress. As the Director of the Library's American Folklife Center, Dr. Bulger has worked to preserve our Nation's history for future generations.

Dr. Bulger began her service as Director of the American Folklife Center in 1999. She is the second person to hold the position since the Folklife Center was established in 1976. The American Folklife Preservation Act states "that the diversity inherent in American folklife has contributed greatly to the cultural richness of the Nation and has fostered a sense of individuality and identity among the American people." I couldn't agree more. Dr. Bulger has worked to preserve the unique nature of American folklife for future generations.

During her tenure, the center's archive has tripled. With more than 5 million items, it is the largest ethnographic archive in the United States and possibly the largest in the world. The collection is a treasure trove of American creativity that is reflected through music, stories, crafts, dances, foodways, and other forms of traditional expression.

I am particularly proud that under her leadership the Folklife Center developed and expanded the Veterans History Project. The project contains more than 78,000 pieces of war-time memories and experiences from Americans across our country. The Veterans History Project has become the largest oral history project in our Nation's history, and it will all be preserved for generations at the Library of Congress.

The Folklife Center also uses the latest technology to share its holdings via online presentations, as well as through webcasts and social media. As a result, students in Nevada and other States can access the Folklife Center's

collections from their homes, classrooms, and others venues.

It is also important to note that Dr. Bulger and her colleagues have provided advice and support to struggling cultural programs during these difficult economic times. In my home State, for example, the center has served the Western Folklife Center in Elko as well as the Nevada Humanities. The assistance to Nevada's arts and cultural organizations has been invaluable as my State has weathered the economic recession.

I am proud to recognize Peggy Bulger, and I appreciate her important contributions to the American Folklife Center. I know I speak for the Senate when we wish you the best in your future endeavors.

DEFENSE AUTHORIZATION

SECTION 647

Mr. KOHL. Mr. President, I understand there has been some confusion about the application of section 647 of the National Defense Authorization Act for Fiscal Year 2008, which is codified in 10 U.S.C. 12731(f). This law reduces the eligibility age for retired pay for non-regular service, to provide a benefit to Reserve component members called to Active Duty in support of a contingency operation. Mr. President, 10 U.S.C. 101(a)(13)(B) defines contingency operation to include section 688 relating to the ordering of retired members to Active Duty but does not include section 688a, added in response to 9/11 and relating to the ordering to Active Duty of retired members in high-demand, low-density assignments.

I filed an amendment to resolve this inconsistency by including mobilizations under section 688a to qualify for earlier receipt of Reserve retired pay under 10 U.S.C. 12731(f). However, I would withdraw my amendment if we can clarify that the provisions of 10 U.S.C. 12731(f) should include mobilizations under 10 U.S.C. 688a.

I ask the chairman of the Armed Services Committee whether he understands that Reserve retirees recalled to Active Duty in support of a contingency operation should qualify for earlier receipt of reserve retired pay under section 12731(f).

Mr. LEVIN. I agree that the authorities allowing for earlier receipt of Reserve retired pay should apply to members of the retired Reserve called to Active Duty in support of a contingency operation to the same extent it applies to other members of the reserves.

Mr. KOHL. I agree with the chairman.

TRIBUTE TO FREDERICK M. KAISER

Mr. AKAKA. Mr. President, I rise today to recognize Frederick M. Kaiser, who retired from the Congressional