FBI did its job. Our courts did their job. The Department of Justice prosecutors did their job. Abdulmutallab pled guilty. He pled guilty because the evidence was overwhelmingly against him. He was convicted openly in the courts of America, which is an important message to send to the rest of the world, and he will pay a heavy price—a life sentence—for his terrible attempt to down an aircraft in the United States. That prosecution and that confession were obtained in our court system.

To argue that military commissions are the only way to go and that using the FBI and Department of Justice and our article III courts as a venue for terrorism is wrong is not proven by the facts, the evidence, or the most recent information coming forward. I would hope some of my colleagues who are now holding up the Defense authorization bill on this issue will at least be hesitant to argue their case now that the Abdulmutallab prosecution has been successfully completed. Over 200 terrorists have been successfully prosecuted in America's courts.

My message to them and I think the message of America to every President is, you use the court, you use the agency you think will be most effective in protecting America. Congress should not tie the hands of any President when it comes to this important prosecution. This success that we have seen in Detroit is evidence that if we give to a President—whether it is a Republican or Democratic President—the tools to prosecute those accused of terrorism, the President can use them wisely, sometimes in military commissions but more often in our court system, an open system that says to the world we can bring the suspected terrorist to justice and do it in a fashion consistent with American values.

I hope all of my colleagues, Democrats and Republicans, will join me in commending the Justice Department and FBI for their success in bringing Abdulmutallab to justice, and I sincerely hope this case will cause some Members of the body to reconsider their opposition to handling terrorism in the criminal justice system.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent the order for the quorum call be rescinded.

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

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

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

THE ECONOMY

Mr. DURBIN. Mr. President, the events of this week are an indication that much needs to be done in Washington to deal with the state of our economy. With 14 million Americans out of work, it is high time that both political parties find a way to develop a plan to move this country forward and to create jobs.

When the President spoke to Congress a little over 4 years ago, he laid out at least the foundation of a plan and later provided the details. But time and again, President Obama has said to the Republican leadership: I am open to your ideas. Bring them forward. Let's put them in a combined effort to make America a stronger nation and to find our way out of this recession.

Unfortunately, we have not heard suggestions from the other side. We had an important vote Tuesday night. Sadly, the Republican filibuster prevailed. Republicans, because they did not want to move the President's bill to consideration on the floor of the Senate, voted—every single one of them—against President Obama's efforts to put America back to work. I do not think that is going to be a position which is easily defended back home. Whether one agrees or disagrees with President Obama, the American people expect Democrats and Republicans to enter a dialog to help this country. We have to give on the Democratic side, and they should be prepared to give on the Republican side, and let's try to find some common ground. There are too many instances where we fight to a face-off and then leave.

The suggestion that yesterday's efforts to pass three free-trade agreements with South Korea, Panama, and Colombia are going to turn the economy around, I am not sure of being close to accurate. I supported two of those trade agreements, and I think they will help create jobs and business opportunities in America in the longer run but in the near term not likely so.

What we need to do is to work on what has been proven to be successful to move this economy forward. Let's start with the basics. Working families struggle from paycheck to paycheck. Many families do not have enough money to get by. They are using food pantries and other help to survive in this very tough economy. So President Obama said the first thing we need to do is to give a payroll tax cut to working families so they have more money to meet their needs. What it boils down to in Illinois, where the average income is about $53,000 a year, is the equivalent of about $1,600 a year in tax cuts for working families. That is about $130 a month, which many Senators may not notice but people who are struggling to fill the gas tank and put the kids in school can use $130 a month.

The President thinks that is an important part of getting America back on its feet and back to work, and I support it. That was one of the elements that was stopped by the Republican filibuster on Tuesday night.

The second proposal of the President is that we give tax breaks to businesses, particularly small businesses, to create an incentive for them to hire the unemployed, starting with our returning veterans. It is an embarrassment to think these men and women went overseas and risked their lives fighting an enemy and now have to come home and fight for a job. We ought to be standing by them, helping them to get to work, and that is one of the elements in the President's bill that was also defeated by the Republican filibuster on Tuesday night.

The President went on to say we ought to be investing our money in America. If we put people to work, let's build something that has long-term value. One of those he suggested was school modernization. I visited some schools around my State, and I am sure in the State of Colorado and other places there are plenty of school districts struggling because the tax base has been eroded by declining real estate values and these districts need a helping hand. When I went to Martin Grove and visited a middle school there, I found great teachers doing the best they could in classrooms where the tiles were falling from the ceiling and where the boiler room should be labeled an antique shop because it was a 50- or 60-year-old operation that was kept together with $150,000 of repairs each year. We ought to buy new equipment and install it in American schools so they can serve us for many years to come.

The same holds true in investing in our infrastructure, whether it is highways, bridges or airports. Make no mistake, our competitors around the world are building their infrastructure to beat the United States, and those who want us to retreat in this battle are going to be saddened by the consequences if they have their way. President Obama said invest this money in putting Americans to work to build our infrastructure, rebuild our schools, build our neighborhoods in a way that serves us for years to come.

The President is also sensitive to the fact that in many parts of America, including Illinois, there are school districts and towns that have had to lay off teachers and firefighters and policemen. It doesn't make us any safer, and it doesn't make our schools any more effective. Part of the President's jobs package is to make sure, for those teachers as well as policemen and firefighters, at least some of their jobs will be saved. In Illinois, over 14,000 of those jobs will be saved by the President's bill.

What really brings this bill to a screeching halt in the debate is the fact the President said we should pay for this. Let's come up with the money that is going to pay for the things I just described. And his proposal is a simple one. It says those who make over $1 million a year will pay a surtax of 5.6 percent—over $1 million a year in income. That is over $20,000 a week in income. These folks would pay a 5.6-percent surtax, and that surtax would pay for the jobs bill.

If the jobs bill works, and I believe it will, I guarantee a thriving American economy will be to the benefit of those same wealthy people. So asking them to sacrifice a little in this surtax is not too much to ask.

Unfortunately, although some 59 percent of Republicans support this millionaires' surtax, not one of them serves in the Senate. We need to have a bipartisan effort to make sure this is paid for in a reasonable way. The alternative we have heard from the other side that mounted this filibuster against President Obama's jobs bill is, we ought to return to the old way of doing things: tax cuts for wealthy people—not new burdens but tax cuts for wealthy people.

They argue the people who make over $1 million a year are the job creators. That is a phrase they use, ''job creators.'' A survey came out yesterday from the Government Accountability Office, and what it said was 1 percent of those making over $1 million a year actually own small businesses. Most of them are investors. Although there is, I am sure, a worthy calling in being an investor, they are not the job creators they are described to be.

So I say to my friends on the other side of the aisle, this notion of protecting those making over $1 million a year at the expense of a jobs program to move America forward is backwards. We have to come together, and I hope we can start as early as next week. We have to find provisions in this jobs bill we can agree on.

I hope the Republicans would agree we should modernize our schools and build our infrastructure in this country. I hope they agree we should not shortchange our schools and our communities when they need teachers and policemen and firefighters. I hope they would agree that it is a national priority to put our returning veterans to work. I certainly think that should be a bipartisan issue.

But the filibuster this week that stopped the President's jobs bill has stopped the discussion. The trade bills yesterday will not make up the difference. We have to focus on putting Americans to work with good-paying jobs right here in our Nation, creating new consumer demand for goods and services which will help businesses at every single level. The President has put his proposal forward and has challenged our friends on the other side of the aisle to step up and put their proposals forward.

My suspicion is that most people in America would be delighted to see a breakthrough in Washington, DC, where Democrats and Republicans actually sat down at the same table and tried to work out a plan to put America back to work. We can do this. In order to do it we have to give on both sides. We have to forget about the election that is going to occur in November 2012 and focus on the state of America's economy right now in October 2011. If we put aside the campaign considerations and focus on the economy, I think we can get a lot done. I trust that there are some on the other side of the aisle who feel the same way. I hope they will break from their leadership on their filibuster and join us in this effort.

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

The PRESIDING OFFICER (Mr. BLUMENTHAL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SESSIONS. Mr. President, I wish to speak for a few moments on the nomination of Alison Nathan to be the United States District Court Judge for the Southern District of New York. This is a highly important position. It is one of the more prestigious courts in the country that handles the Nation's most complex cases. It is my observation, having practiced for over 15 years full time trying cases before Federal judges, that this position is of extreme importance and you need good judgment, good experience, good integrity, proven stability before you give a person a lifetime appointment to such a position. It is an important matter.

I overwhelmingly vote for the nominees of the President. I believe in giving the President deference in those nominations. However, I do believe we need to hold Presidents accountable and to scrutinize the nominations in a fair way and not hesitate to push back and say no if a nominee does not meet those requirements that are necessary to be a good judge.

I believe Ms. Nathan is one of a number of President Obama's nominees who believes that American judges should look to foreign law in deciding cases. She has other indications that suggest she is not committed in a deep and understanding way to the oath Federal judges take. That oath is that you serve under the Constitution and under the laws of the United States. That is so simple and so basic that it goes almost without saying, but it is a part of the historic oath judges take. I believe that oath and commitment to serving under the U.S. Constitution, under the U.S. laws, is critical to the entire foundation of the American rule of law. It is so magnificent. We have the greatest legal system in the world. By and large our Federal judges are excellent and it is a strength both for liberty and civil rights and economic prosperity that we maintain a judiciary at a high level.

One of the things that causes me concern—there are several, but this one I will mention—is her belief that American judges should look to foreign law in deciding cases. This is not a little bitty matter. It is a matter of real national import. It offends people. Some people, nonlawyers, get offended. They think they should not do that. They are right, but just because people are upset about it and get angry about it doesn't mean it is not a deep, legitimate concern and can be a disqualifying factor as to whether a person should be on the bench. What law do they follow? The U.S. law or foreign law?

In a book chapter published less than 2 years ago, Ms. Nathan suggested that the cases leading up to the Supreme Court case of Roper v. Simmons, which was a death penalty case, showed legal progress. In Roper the Court held it is unconstitutional to impose a death penalty even for the most heinous crime if the defendant is under the age of 18 years.

As a matter of policy, I am not sure we should be executing people under 18, although a lot of people think that certain crimes are so bad they ought to be executed. We can disagree. That is a political decision. The question is, does the Constitution prohibit that? I suggest it does not. But if it does, it ought to be interpreted in light of its own words and the laws of the United States, its own import of the Constitution of the United States. Ms. Nathan seemed to commend the decision, however, on a different basis in her chapter. She commended it for ''elaborating upon relevant international and foreign law sources and defending the relevance of the Court's consideration of those sources.''

When describing Justice Kennedy's change of opinion on the issue—he reversed himself—she said it was ''a change that can be attributed to the international human rights advocacy and scholarship that had taken place outside the courtroom walls.''

She also praised the Roper attorneys for their ''strategic and savvy reference to international norms in litigating the case.''

She asserted that the strategy's ''effectiveness holds promise and lessons for future advancement of international law.''

She went further and suggested the reason the Supreme Court does not look to foreign law more often is because the Justices simply do not understand international law arguments—she has been practicing law about 10 years, or 9 at the time she wrote this, so she knows more about the issues related to international law than the Justices who have been on the bench for decades, many of them constitutional professors—rather than demonstrating a knowledge that the judge must serve under the U.S. Constitution and U.S. law and recognizing that foreign law has no place in deciding what our Constitution means.

She stated:

> As these trends [in international law] continue, surely the Court will increase its understanding and 'internationalization' of international human rights law arguments.

She then concluded:

> The presence of the Chinese judicial delegation at the Supreme Court on the day of

the Roper arguments wonderfully symbolized the rich dialogue between international and constitutional norms.

So what she is calling for there is a dialog, presumably between international law and constitutional norms—pretty plain in her writing—not just an off-the-cuff comment but in a serious book expressing her philosophy and approach to law.

I am troubled by that. I believe judges have to be bound by the law and the Constitution. They are not free to impose their view. Justice Scalia and others have criticized—devastated—this international law argument. In my view, the debate that has gone forward in circles including the academy and law schools has clearly been a victory for the people who understand it is our Constitution that governs. We didn't adopt the laws of China, if they were ever enforced, which they are not except by the government when it suits them. We didn't adopt laws in France. We didn't adopt laws in Italy or Brazil or Yugoslavia. That is not what binds us. That is not what judges serve under. They serve under our law.

I think it is a dangerous philosophy. It strikes at the heart of what the Anglo-American rule of law is all about—that law is adopted by the people of the United States and that is the law judges must enforce—laws passed by the people of the United States.

Reliance on foreign law, I believe, has been shown to be nothing more than a tool that activist judges who seek to reach outcomes they desire utilize. It is a way to get out from under the meaning of U.S. law. Why else would one cite it? If they cannot find a basis for their decisions in American law and legal tradition, they look to the laws and norms of foreign countries to justify their decisions. As Justice Scalia aptly described it—and he has hammered this theory—courts employing foreign law, including his own court—the U.S. Supreme Court—are merely ''look[ing] over the heads of the crowd and pick[ing] out its friends.''

What did he mean by that? He means the law, the foundation principles of deciding cases. If they don't like what they find in the United States, they look out over their heads and they find somebody in Italy or Spain or China or wherever, and they say: We need to interpret our law in light of what they do in Germany. How bogus is that as an intellectual legal argument?

Judges who engage in this type of activism violate their judicial oath, I believe. The oath is to serve under our Constitution, our laws. It requires judges to evaluate cases in that fashion—not the laws of other countries. Other countries don't have the same legal heritage we have. They don't value the same liberties and the same fundamental freedoms that are enshrined in our Constitution. The decisions of foreign courts have absolutely no bearing on a decision of a judge in a U.S. court, and nominees who disagree with that fundamentally can disqualify themselves from the bench.

It is very hard for me to believe I should vote to confirm a nominee who is not committed to following our law, who believes they have a right to scrutinize the world, find some law in some other country and bring it home and use that law so they can achieve a result they wanted in the case.

There are a number of other concerns I have with Ms. Nathan's record, not the least of which are her views on an individual's right to bear arms. We have a constitutional amendment on the right to keep and bear arms. The right to keep and bear arms should not be abridged. That is an odd thing, compared to France or Germany or Red China. But it is our law and we expect judges to follow it whether they like it or not. That is what our Constitution says.

Suffice it to say, I believe her record evidences an activist viewpoint. Perhaps if she had more legal experience, she would have a better understanding of the role of a judge. She only just became a lawyer in 2000—11 years ago—and has had limited time in a courtroom.

Evidently, the American Bar Association recognizes this. The ABA gives ratings to judges, and a minority of the members of that committee—not the majority but a minority—rate her ''not qualified.'' Frankly, they are a pretty liberal group, so I don't know if it is so much her views on some of these issues, but probably an actual evaluation of the kind of experience and background she brings and whether she would be qualified to sit on an important Federal district court—the Southern District of New York, one of the premier trial benches in the world, and even in America—and I think it is a matter we should consider.

This is a very serious shortcoming for a number of reasons. Litigating in court is valuable experience. It provides insights to someone who would be a judge. It helps make them a better judge if they have had that experience. It gives them a strong understanding that words have meaning and consequences. When we see people get prosecuted for perjury or we see million-dollar contracts decided this way or that way based on the plain meaning of words, we learn to respect words.

Some of these people out of law schools, with their activist philosophy, seem to think a judge has a right to allow their empathy and their feelings to intervene and decide cases based on something other than the words of the contract or the words of the Constitution. It is a threat to American law. Indeed, it is what President Obama has said a number of times. He believes judges should allow their empathy to help them decide cases.

What is empathy? It is their personal views. Whom do we have empathy for? It depends on whom one likes before they come on the bench. So they are deciding cases based on factors other than the objective facts of the case. I believe the practice of law is a real legal testing ground, in which people can prove their judgment integrity over time. It also provides a maturing experience, where a person learns the import of decisions in how cases turn out and how it impacts their clients.

Let me just say that seasoned lawyers develop reputations. When we have seen them in court many times and they have had experience there, people know if they have good judgment. People know if they are solid. We know they are men and women of integrity. They have that opportunity to establish a reputation. Both the short period of time that Ms. Nathan has spent actually practicing law and some of the troubling positions she has taken over the years justifiably raise serious questions about her understanding of the role of a judge in our system.

Finally, I would note that Concerned Women For America, the Family Research Council, and the Judicial Action Group oppose this nomination. In a letter sent to all Senators today, Concerned Women For America noted that Ms. Nathan's:

> . . . biases are so ingrained and so much the main thrust of her career that it is not rational to believe that she will suddenly change once confirmed as a judge. Rather it is reasonable to conclude she would use her position to implement her own political ideology.

I have reached the view that the facts as I have noted—her open defense of the idea that judges can use sources other than our law to decide cases and her lack of experience and proven record of good judgment and legal skill, the fact that a minority of the ABA Standing Committee on the Federal Judiciary found her not qualified to serve on the bench, justifies a vote in opposition to this nomination. I will not block the nomination. We will have an up-or-down vote. But I do think in my best judgment—and that is all I have, my best judgment—after reviewing her resume, looking at how thin her experience is, and her positions on a number of issues, indicates to me that she has the real potential to be an activist judge, not faithful to the law. For that reason, I will vote no.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BOOZMAN. Mr. President, I agree with the Senator from Alabama. In Arkansas, it is so important that we get good judges nominated and confirmed, and that is why I rise in support of Susan Hickey's nomination as U.S. district judge for the Western District of Arkansas.

Judge Hickey's distinguished career interests reflect her pursuit to serve the interests of justice. As an attorney and now as a circuit judge in my home State of Arkansas, she has earned the respect of the Arkansas legal community and proven she is devoted to fulfilling this important role in our judicial system.

I am confident Judge Hickey's extensive experience with the legal system will serve her well on the Federal bench. Her confirmation will fill the seat of retired Judge Harry Barnes, whom she clerked for before her appointment as circuit judge in the Thirteenth Judicial District. She also worked in a private law firm following her graduation from the University of Arkansas School of Law and also served as an in-house counsel for Murphy Oil.

Judge Hickey has strong bipartisan support for good reason: She has established herself as a dedicated public servant who possesses a strong work ethic and commitment to a fair and impartial legal system. Her experience and impartial demeanor and reputation amongst her peers give me faith that Judge Hickey will do a great job as the U.S. district judge for the Western District of Arkansas. When she was nominated for this position, Arkansans from all across the State expressed their support for her confirmation.

I am honored to recommend that the Senate confirm Judge Susan Hickey as a U.S. district judge for the Western District of Arkansas. I am confident her experience and judicial temperament make her the right person to serve Arkansas as a district judge.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I wish to thank my colleague for being here today and expressing his support for Susan Hickey to be a new Federal district court judge in the Western District of Arkansas. She has a strong record in our State. She is exactly what we need in a Federal judge. The fact that we have both home State Senators, one Democrat and one Republican, supportive of the nomination begins to speak volumes about the kind of person and the kind of reputation Susan Hickey has.

She has been in both the public sector and private sector. She has worked inhouse with an oil company, as Senator BOOZMAN said. But she has also law-clerked for a very solid and well-respected Federal judge.

She is now a State court judge in Arkansas at the State trial court level. She has handled 313 felony criminal cases since she has been on the bench. She brings a lot of experience, and she is exactly the kind of person we need to be on the Federal bench.

When I look at a judge candidate, a judge nominee, I always have three sets of criteria: One, are they qualified? Certainly, she is. She brings very strong qualifications and experience to this position.

Second, can she be fair and impartial? I think that is something that comes up with Susan Hickey over and over and over. From her local bar down in south Arkansas, from the people in the community, the folks who have dealt with her, they all say she is an extremely fair person, and they have no doubt she will be impartial as she puts on that Federal district court robe.

Then, my third criterion, does she have the proper judicial temperament? That, obviously, is subjective because that comes down to their personality and their style. But we want a Federal judge who has great demeanor, who is very good with the law, but also very good with lawyers because, obviously, in a trial court they have a lot of type A personalities in the court, and they have to give the proper appearance to the jury. That is critically important for a district court judge. So I would say, absolutely, yes, she has the right judicial temperament.

So I would strongly encourage all of my colleagues to vote favorably for Susan Hickey. Like I said, she has handled 1,690 total matters in the Federal courts since she has been a law clerk there.

Mr. President, 313 total felony cases have been disposed of in her trial court in south Arkansas down in El Dorado. She has a lot of very solid legal experience. The bottom line is, she is just a good person, and people like her and respect her and they trust her.

I think when our Founding Fathers put together the Federal judiciary, this was the kind of person they wanted. She reflects the values and the attitudes of that part of the State. She is smart. She is hard working. She is going to be fair. Really, we could not ask a whole lot more for any Federal judge in any district, and, certainly, she is going to do a great job down there.

So I am proud to be joined by my friend and colleague from Arkansas to support this nomination. If we support her, and if we confirm her today, we will be joining thousands and thousands of people in south Arkansas who have supported her. We have had hundreds, I know, express support for her in my office. I am certain Senator BOOZMAN has had many support her in his office as well.

I encourage my colleagues to give her very strong consideration. She has been rated unanimously ''qualified'' by the American Bar Association.

There, again, in that both home State Senators support her, the American Bar Association supports her, the Arkansas bar—not the association because they do not do those types of endorsements—but every lawyer I have talked to who knows Susan Hickey thinks she will do an outstanding job, I would like to ask my colleagues to vote for her nomination and I appreciate their consideration.

With that, 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.

Mr. SCHUMER. 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. SCHUMER. Mr. President, I rise to speak today in support of two excellent nominees for the bench from the Southern District of New York. These two women, Alison Nathan and Katherine Forrest, have different backgrounds, but each in her own way represents the best the New York bar has to offer.

Katherine Forrest is a young lawyer but an extraordinarily accomplished lawyer whose practice has been particularly well suited to the needs of litigants in the Southern District. She was born in New York City, received her BA from Wesleyan University, and her law degree from NYU Law School, one of the best in the country. She has spent the majority of her career in private practice at the prestigious, top-line firm of Cravath, Swaine & Moore, where she was on the National A List of Practitioners. She was named one of the American Lawyer's ''Top 50 Litigators Under 45.'' She currently serves as a Deputy Assistant Attorney General in the Antitrust Division of the Department of Justice, where I know she is very well regarded and has served with great distinction. I look forward to Ms. Forrest's transition from position of service to our country to the other.

I also rise in support of Alison Nathan. I would like to counter some of the arguments that have been made against her on the floor here today.

First, Alison Nathan has tremendous legal experience, albeit that she is young. She is a gifted young lawyer whom New Yorkers would be fortunate to have on the bench, hopefully for a long time. Although she is a native of Philadelphia, she has called New York City her home for some time. She graduated at the top of her class from both Cornell University and Cornell Law School, where she was editor-in-chief of the Cornell Law Review. She worked as a litigator for 4 years at the preeminent firm of WilmerHale and has also served in two of the three branches of government. Ms. Nathan clerked for Ninth Circuit Court of Appeals Judge Betty Fletcher and then for Supreme Court Justice John Paul Stevens. Recently, she served with distinction as a Special Assistant to President Obama and an Associate White House Counsel. She is currently special counsel to the solicitor general of New York. Now, that is a world of experience. It is hard to find better experience from somebody being nominated to the bench.

Some of my colleagues have said: Well, her rating from the ABA was not as good and that was based on experience. That is what the ABA does. They claim, these colleagues, that Ms. Nathan lacks the experience to be confirmed as a judge because only a majority of the ABA rated her qualified, while a minority rated her not qualified.

However, Ms. Nathan has the same qualification ratings as Bush administration judges whom this body confirmed. Specifically, the Senate confirmed 33 of President Bush's nominees with ratings equal to Ms. Nathan, including Mark Fuller and Keith Watkins of Alabama, Virginia Hopkins of the Northern District of Alabama, Paul Cassell of Utah, Frederick Martone of Arizona, and David Bury of Arizona. Are we going to have a different standard for Ali Nathan than for other judges? I sure hope not.

Then some have brought up only recently—actually, very recently—the thought that Ms. Nathan would apply foreign law to our own laws. It is patently false to say that Ms. Nathan has suggested or that she believes it is appropriate for U.S. judges to rely on foreign law or that she herself would ever consider doing so. To the contrary. In response to written questions from Senator GRASSLEY, she said explicitly:

If I were confirmed as a United States District Court Judge, foreign law would have no relevance to my interpretation of the U.S. Constitution.

Let's go through that quote again. This is in reference to a question from Senator GRASSLEY:

If I were confirmed as a United States District Court Judge, foreign law would have no relevance—

''No relevance,'' my emphasis—

to my interpretation of the U.S. Constitution.

My colleagues are also wrong in their suggestion that Ms. Nathan has in the past either relied on foreign law herself or suggested that courts should do so. In the Baze vs. Rees case, she merely described the fact that others, including a law school clinic and Human Rights Watch, had argued in their own briefs that international law could be considered when dealing with questions of pain and suffering. Similarly, in her analysis of the Roper case, Ms. Nathan made an observation about what the Supreme Court had done—specifically, that the Supreme Court had cited foreign law as nondispositive support for their conclusion about the national consensus in the United States about the death penalty. That my colleagues jumped from these two instances in which Ms. Nathan described other peoples' opinions to conclusions about Ms. Nathan's own belief leads me to ask, are judicial candidates not allowed to describe the arguments that others have made? That would be rather absurd. I cannot imagine it is the outcome my colleagues would want, but it is the one to which their arguments naturally lead.

Finally, on national security, where again some from the outside who have criticized Ms. Nathan have brought up national security, here is what she has said:

I think it is important for a Federal district judge to follow the Supreme Court. It is important to our national security for there to be judges who follow the law in this area—

National security—

to the extent questions come before them and that Congress acts as it has in this area.

That is good reason that she is supported by all of the law clerks she served with, including those of Justices Thomas, Scalia, Kennedy, and O'Connor. And obviously those Justices are not Justices who agree with some of the other Justices on the Court, but their law clerks uniformly supported Ali Nathan.

So I would urge my colleagues to support Ali Nathan. She will be an outstanding addition to the bench in the Southern District of New York, as well as Katherine Forrest, who will also be an outstanding addition.

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

The PRESIDING OFFICER (Mr. SANDERS.) The clerk will call the roll.

The bill clerk 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, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is, Will the Senate advise and consent to the nomination of Alison J. Nathan, of New York, to be United States District Judge for the Southern District of New York?

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from North Carolina (Mrs. HAGAN), the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from West Virginia (Mr. MANCHIN), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Indiana (Mr. LUGAR), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 48, nays 44, as follows:

[Rollcall Vote No. 164 Ex.]

YEAS—48

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

NAYS—44

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

NOT VOTING—8

Coburn	Lieberman	Stabenow
Hagan	Lugar	Vitter
Harkin	Manchin	

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Susan Owens Hickey, of Arkansas, to be United States District Judge for the Western District of Arkansas?

The Senator from Vermont.

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 legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mrs. HAGAN), the Senator from Iowa (Mr. HARKIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from West Virginia (Mr. MANCHIN), and the Senator from Michigan (Ms. STABENOW) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN), the Senator from Indiana (Mr. LUGAR), and the Senator from Louisiana (Mr. VITTER).

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

The result was announced—yeas 83, nays 8, as follows:

[Rollcall Vote No. 165 Ex.]

YEAS—83

Akaka	Feinstein	Murkowski
Alexander	Franken	Murray
Ayotte	Gillibrand	Nelson (NE)
Barrasso	Graham	Nelson (FL)
Baucus	Hatch	Portman
Begich	Heller	Pryor
Bennet	Hoeven	Reed
Bingaman	Hutchison	Reid
Blumenthal	Inhofe	Risch
Blunt	Inouye	Roberts
Boozman	Isakson	Rockefeller
Brown (MA)	Johanns	Rubio
Brown (OH)	Johnson (SD)	Sanders
Cantwell	Johnson (WI)	Schumer
Cardin	Kerry	Sessions
Carper	Kirk	Shaheen
Casey	Klobuchar	Snowe
Chambliss	Kohl	Tester
Coats	Landrieu	Thune
Cochran	Lautenberg	Toomey
Collins	Leahy	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	McCaskill	Warner
Corker	McConnell	Webb
Cornyn	Menendez	Whitehouse
Crapo	Merkley	Wicker
Durbin	Mikulski	Wyden
Enzi	Moran	

NAYS—8

Burr	Kyl	Paul
DeMint	Lee	Shelby
Grassley	McCain	

NOT VOTING—9

Boxer	Harkin	Manchin
Coburn	Lieberman	Stabenow
Hagan	Lugar	Vitter

The nomination was confirmed.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Katherine B. Forrest, 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 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. Under the previous order, the Senate will resume legislative session.

The majority leader is recognized.

MORNING BUSINESS

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

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

The Senator from Illinois.

IRAN SANCTIONS

Mr. KIRK. With regard to our policy toward Iran and the recent revelation of a potential attack involving not just foreign embassies and ambassadors but Americans, potentially Senators, being killed by a plot hatched by the Iranian Revolutionary Guard and Quds Force, there should be consequences, not just concerns expressed from the administration. We have witnessed a growing aggressiveness by the Iranian regime toward the United States and toward their own people.

For example, recently, an Iranian actress who appeared uncovered in an Australian film was then sentenced to 90 lashes for her so-called crime. With regard to the 330,000 Baha'is, a religious minority in Iran, first they were excluded from all public contracting, then they were told all their children had to leave Iranian universities, and then all their home addresses were registered in secret by the Iranian Interior Ministry.

I would suggest we have seen this movie before in a different decade wearing different uniforms. But this is the bureaucracy necessary to carry out a Kristallnacht in Farsi.

We have seen, for example, the Persian world's first blogger, Hossein Ronaghi, who was thrown into jail simply for expressing tolerance toward other peoples and other religions. Probably most emblematic, we saw the jailing of Nasrin Sotoudeh, a young mother and a lawyer, whose sole crime was to represent Shirin Ebadi, a Noble Prize winner, in the courts of Iran.

We hear and have watched unclassified reports of an acceleration of uranium enrichment in Iran. We even have the irony, according to the International Monetary Fund, that despite comprehensive U.N. and U.S. sanctions—according to the IMF—Iran had greater economic growth last year than the United States and the Iranian indebtedness is only a fraction of U.S. indebtedness. According to the IMF, the United States owes about 70 percent of its GDP in debt held by the public. For Iran, it is only 5.5 percent.

Now the United States has enacted a new round of sanctions against Iran. President Obama signed it into law last year. There were 410 votes in the House, and it was unanimous in the Senate. I worked for many years on a predecessor to that legislation when I was a Member of the House. The record of the administration, and especially our very able Under Secretary of the Treasury David Cohen, has been very good at implementing that bill. He has been very successful in reducing formal banking contacts between American, European and Asian banks and Iran. It is very important, when we look at the situation of how to deal with Iran, that we not see it from Washington's view, looking toward Iran, in which we see an awful lot of banks and an awful lot of transactions shut down, but look at it from Tehran's view, looking back from the United States, and we will see a quickly growing Iranian economy, a growing record of brazen oppression, actresses sentenced to 90 lashes, Noble Prize-winning attorneys thrown in jail, an accelerating nuclear program, and then a decision by the head of the Iranian Revolutionary Guard Corps, Quds Force, to attack the United States.

Long ago, I thought it was a mistake to have the Drug Enforcement Agency left outside of the U.S. intelligence community. Luckily, we reversed that decision and we brought DEA back into the intelligence community. It was a lucky strike that the person who was contacted by the Quds Force to carry out an attack on the United States actually contacted a confidential informant working for the DEA. It was on that lucky break that we had the ability to break this plot. But if we read Attorney General Holder's complaint against the defendant involved, we will see—I believe it is on page 12—a rendition of how, if they could not kill the Ambassador outside the restaurant, it was perfectly OK with the Quds Force operator that a bomb go off involving dozens—if not over 100—of Americans killed. The bonus, he thought, maybe a large number of Senators would be involved. If that was necessary to kill this Ambassador, all the better.

The Treasury Department has designated, finally, the head of the Quds Force under our law. But it is ironic that when we look at the comprehensive record of designations, the Europeans, who actually are not known for their strong-willed backbone on many international questions, have a more far-reaching effect on calling it the way they see it in Iran. Both Europe and America now have a regime to bring forward sanctions and designations against Iranians who are ''comprehensive abusers of human rights.''

Currently, our government has only designated 11 Iranians, where the European Union has designated over 60. One of the people missed by our administration is the President of Iran, Mahmud Ahmadinejad, who often talks about ending the state of Israel. Probably the only head of state of a member of the United Nations who regularly talks about erasing another member of the United Nations from the planet. We also have not designated President Ahmadinejad's chief of staff. We have not designated dozens of people that even the European Union has designated as comprehensive abusers of human rights.

So what should we do when we have uncovered a plot to attack the United States in which the highest levels of the Iranian Revolutionary Guard Quds Force was involved? Thank goodness for the DEA and the rest of the law enforcement and intelligence community of the United States, the plot was foiled, and so no attack was carried out. In my mind, we should take the toughest action possible, short of military action. Is there consensus in the Congress behind what that action should be? I would argue yes.

Senator SCHUMER and I, this summer, put forward what we feel is one of the real, most crippling sanctions the United States could deliver against Iran; that is, to ensure that any financial institution that has any contact with the Central Bank of Iran be excluded from the U.S. market. Because the United States is the largest economy on Earth, we believe nearly every financial institution on the planet will cut its ties to the Central Bank of Iran. That, most likely, would cripple Iran's currency and cause chaos within their economy. You know what. Iran might actually suffer a recession, which it currently is not in, and I think that would be an appropriate price to pay.

When Senator SCHUMER and I reached out to the Senate to ask for support, I was very surprised at the answer because all but eight Senators signed our letter. There were 92 Republicans and Democrats who signed the letter stating it should be the policy of the United States to collapse the Central Bank of Iran, to cripple its currency. After what we learned this week of a plot to kill Americans and to carry out terrorist attacks on the Capital City of the United States, I think that represents appropriate consequences, not just concerns.

We heard from the administration this morning—and while I was encouraged by the diligent work, especially of the Treasury Department, I was concerned about another thing. There are press reports that the administration