head, and protected my whole body with his, and saved me.'' John Larimer was a brave man who died a hero. He was 27 years old.

His commanding officer, Commander Jeffrey Jakuboski, said the following of Larimer:

He was an outstanding shipmate. A valued member of our Navy team, he will be missed by all who knew him.

Over the weekend, John Larimer was remembered by friends and family for his intelligence, his good nature, his compassion, and his dedication to his family, his community and his country.

Family members spoke of his ''incredible mind'' and ''quiet gentleness.'' John's English teacher at Crystal Lake South High School remembered a good student who was ''incredibly bright and firm in his ideals.'' He said John ''was a good, strong human being . . . and I know he would have done incredible things for our country.'' To his high school principal, John Larimer was ''just a great kid to be around.''

Whether it was giving a big tip to a neighborhood kid who sold him a lemonade, or sending letters to the local newspaper calling for tolerance and respect for the views of others, John Larimer inspired those around him through the way he lived his life. And now he has inspired us with the way he died, literally sacrificing his life to save another.

His passing is a heartbreaking loss to the community of Crystal Lake, to Illinois, and to our country. I offer my condolences to John's parents, his brother and his three sisters. All of us will keep John, his family and his loved ones in our thoughts and prayers.

A night out at the movies is supposed to be a joyful event. That it could end in such a horrific scene reminds us how precious and fragile life is.

In the days and weeks to come, we will learn more about what happened in Aurora and whether there was any point at which this disturbed gunman could have been identified and stopped.

There will inevitably be discussions about whether we need to change any of our laws or policies. We owe it to the victims and their loved ones to see that those debates are guided by an honest assessment of the facts, what it will take to keep us safe in America, safe from the gunman who walks into a classroom at Northern Illinois University in DeKalb or the gunman who walks into a crowded theater in Aurora CO.

I came out of church yesterday, and a woman came up to me and said: They are talking about putting metal detectors in movie theaters now. What is next?

I said, sadly: I am not sure. I don't know where we will turn next to keep America safe from people who misuse firearms, assault rifles, a 100-round clip of ammunition.

All of these things are raising questions in the minds of everyone about where is it safe anymore.

I said to this woman outside our church: There was a big crowd sitting in that church today, too. Just as in that movie theater, we all thought we were safe until this happened.

For today we pause, not to enter into a debate about these important issues, which we must face, but to remember and honor those who died, to offer our condolences to those who were left behind, and to pray for the recovery of all those who were wounded and those who have suffered. We wish them comfort in this difficult time.

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. REID. 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. REID. Mr. President, are we now on the motion to proceed to S. 3412?

The PRESIDING OFFICER. We are.

CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk I wish to have reported.

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

The assistant bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to calendar No. 467, S. 3412, a bill to amend the Internal Revenue Code of 1986 to provide tax relief to middle class families.

Harry Reid, Max Baucus, Tom Udall, Debbie Stabenow, Mark Begich, Sheldon Whitehouse, Carl Levin, Robert P. Casey, Jr., Tom Harkin, Tom Carper, Christopher A. Coons, Barbara A. Mikulski, Jeff Merkley, Kirsten E. Gillibrand, Daniel K. Inouye, Richard Blumenthal, Mark R. Warner.

Mr. REID. I ask unanimous consent that the mandatory quorum required under rule XXII be waived.

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

Mr. REID. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant 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.

EXECUTIVE SESSION

NOMINATION OF MICHAEL A. SHIPP TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NEW JERSEY

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

The assistant bill clerk read the nomination of Michael A. Shipp, of New Jersey, to be United States District Judge for the District of New Jersey.

Mr. LEAHY. Mr. President, I ask unanimous consent that the cloture motion be withdrawn and that the time be equally divided between now and the hour of 5:30 in the usual form; that upon the use or yielding back of time the Senate proceed to vote without intervening action or debate on the nomination; that the motion to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order; that any related statements be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

Mr. LEAHY. Mr. President, I thank the distinguished Presiding Officer, distinguished by his service here in the Senate but also as Governor of one of the most beautiful States in the Union.

AURORA, COLORADO SHOOTINGS

Before we begin—and so many others have said this—it would be impossible to state the amount of horror and sadness felt by my wife Marcelle and me at the news of what happened in Colorado, and I was reminded again today as I saw the flags lowered to half staff on this Capitol Building. We think of the Capitol as being a bastion of democracy or the light that sort of shines for the rest of the world on what democracy is. Unfortunately, so much of the world has seen the acts of a madman. It is safe to say this is one thing that united every Senator of both parties here. Our hearts go out not only to those who have been injured, obviously to the families of those who have died, and to the people in that wonderful community, because it is impossible for any one of us here to know how long or how hard that will hold in their heart, the number of people who say, as we all do: We just went to a movie. Any one of us has done that. Our children go to movies, our grandchildren go to movies. You expect them to go, have a good time, and come back, and enjoy it. The thought of what they saw there is horrible.

We have before us a Federal trial court nomination, that of Michael Shipp. This is a nomination that was voted on by the Senate Judiciary Committee more than three months ago and supported nearly unanimously by both Republican and Democratic Senators who have reviewed it. The only objection came as a protest vote from Senator LEE.

Judge Michael Shipp has served as a U.S. Magistrate Judge in the District of New Jersey since 2007 and has presided over civil and criminal matters and issued over 100 opinions. He is the

first African-American United States Magistrate Judge in that district. Prior to his appointment to the Federal bench, he worked for the Office of the Attorney General of New Jersey for five years, where he was Assistant Attorney General in charge of Consumer Protection from 2003 to 2007 and Counsel to the Attorney General in 2007. From 1995 to 2003, Judge Shipp was an associate in the Newark office of the law firm Skadden, Arps. Upon graduation from law school, Judge Shipp clerked for Judge James Coleman on the New Jersey Supreme Court.

Despite his outstanding qualifications and bipartisan support, Senate Republicans have delayed his confirmation vote for more than three months. Despite the fact that the Senate has finally been allowed to consider his nomination and that he will be confirmed overwhelmingly, Senate Republicans have again demonstrated their obstruction of judicial nominees. This is not a nominee on whom cloture should have been filed.

They refused until today to agree to a vote on this nomination. That meant that the Majority Leader was required to file a cloture petition to put an end to their obstruction and partisan filibuster. While I am pleased we are holding a confirmation vote today, it should not have required that the Majority Leader file for cloture.

This was the 29th time the Majority Leader had been forced to file for cloture to end a Republican filibuster and get an up-or-down vote for one of President Obama's judicial nominees. By comparison, during the entire eight years that President Bush was in office, cloture was filed in connection with 18 of his judicial nominees, most of whom were opposed on their merits as extreme ideologues.

Senate Republicans used to insist that filibustering of judicial nominations was unconstitutional. The Constitution has not changed but as soon as President Obama was elected they reversed course and filibustered President Obama's very first judicial nomination. Judge David Hamilton of Indiana was a widely-respected 15-year veteran of the Federal bench nominated to the Seventh Circuit and was supported by Senator Dick Lugar, the longest-serving Republican in the Senate. They delayed his confirmation for five months. Senate Republicans then proceeded to obstruct and delay just about every circuit court nominee of this President, filibustering nine of them. They delayed confirmation of Judge Albert Diaz of North Carolina to the Fourth Circuit for 11 months. They delayed confirmation of Judge Jane Stranch of Tennessee to the Sixth Circuit for 10 months. They delayed confirmation of Judge Ray Lohier of New York to the Second Circuit for seven months. They delayed confirmation of Judge Scott Matheson of Utah to the Tenth Circuit and Judge James Wynn, Jr. of North Carolina to the Fourth Circuit for six months. They delayed confirmation of Judge Andre Davis of Maryland to the Fourth Circuit, Judge Henry Floyd of South Carolina to the Fourth Circuit, Judge Stephanie Thacker of West Virginia to the Fourth Circuit, and Judge Jacqueline Nguyen of California to the Ninth Circuit for five months. They delayed confirmation of Judge Adalberto Jordan of Florida to the Eleventh Circuit, Judge Beverly Martin of Georgia to the Eleventh Circuit, Judge Mary Murguia of Arizona to the Ninth Circuit, Judge Bernice Donald of Tennessee to the Sixth Circuit, Judge Barbara Keenan of Virginia to the Fourth Circuit, Judge Thomas Vanaskie of Pennsylvania to the Third Circuit, Judge Joseph Greenaway of New Jersey to the Third Circuit, Judge Denny Chin of New York to the Second Circuit, and Judge Chris Droney of Connecticut to the Second Circuit for four months. They delayed confirmation of Judge Paul Watford of California to the Ninth Circuit, Judge Andrew Hurwitz of Arizona to the Ninth Circuit, Judge Morgan Christen of Alaska to the Ninth Circuit, Judge Stephen Higginson of Louisiana to the Fifth Circuit, Judge Gerard Lynch of New York to the Second Circuit, Judge Susan Carney of Connecticut to the Second Circuit, and Judge Kathleen O'Malley of Ohio to the Federal Circuit for three months.

As a current report from the nonpartisan Congressional Research Service confirms, the median time circuit nominees have had to wait before a Senate vote has skyrocketed from 18 days for President Bush's nominees to 132 days for President Obama's. This is the result of Republican foot dragging and obstruction. In most cases, Senate Republicans are delaying and stalling for no good reason. How else do you explain the filibuster of the nomination of Judge Barbara Keenan of Virginia to the Fourth Circuit who was ultimately confirmed 99–0? And how else do you explain the needless stalling and obstruction of Judge Denny Chin of New York to the Second Circuit, who was filibustered for four months before he was confirmed 98–0?

Three of the five circuit court judges finally confirmed this year after months of unnecessary delays and a filibuster should have been confirmed last year. The other two circuit court nominees confirmed this year were both subjected to stalling and a partisan filibuster by Senate Republicans. This was the case even though these circuit nominees had strong bipartisan support. We needed to overcome a filibuster to confirm Justice Andrew Hurwitz of Arizona to the Ninth Circuit despite the strong support of his home state Senators, Republicans JON KYL and JOHN MCCAIN. The Majority Leader had to file cloture to secure an up-or-down vote on Paul Watford of California to the Ninth Circuit despite his sterling credentials and bipartisan support. The year started with the Majority Leader having to file cloture to get an up-or-down vote on Judge Adalberto Jordan of Florida to the Eleventh Circuit even though he was strongly supported by his Republican home state Senator. Every single one of these nominees for whom the Majority Leader was forced to file cloture was rated unanimously well qualified by the nonpartisan ABA Standing Committee on the Federal Judiciary, the highest possible rating. And every one of them was nominated to fill a judicial emergency vacancy.

In June, Senate Republicans confirmed that they shut down the confirmation process for qualified and consensus circuit court nominees. They are now filibustering Judge Patty Shwartz of New Jersey who is nominated to the Third Circuit and Richard Taranto who is nominated to the Federal Circuit. In addition, they are filibustering two circuit court nominees who have the support of both their home state Republican Senators: William Kayatta of Maine to the First Circuit and Judge Robert Bacharach of Oklahoma to the Tenth Circuit. This is almost unprecedented.

During the past five presidential election years, Senate Democrats have never denied an up-or-down vote to any circuit court nominee of a Republican President who received bipartisan support in the Judiciary Committee. In fact, during the last 20 years, only four circuit nominees reported with bipartisan support have been denied an up-or-down vote by the Senate and all four were nominated by President Clinton and blocked by Senate Republicans. While Senate Democrats have been willing to work with Republican presidents to confirm circuit court nominees with bipartisan support, Senate Republicans have repeatedly obstructed the nominees of Democratic presidents. In the previous five presidential election years, a total of 13 circuit court nominees have been confirmed after June 1. Not surprisingly, 12 of the 13 were Republican nominees. Clearly, this is not tit-for-tat as some contend but, rather, a one-way street in favor of Republican presidents' nominees.

This entire year, the Senate has yet to vote on a single circuit court nominee who was nominated by President Obama this year. Since 1980, the only presidential election year in which there were no circuit nominees confirmed who was nominated that year was in 1996, when Senate Republicans shut down the process against President Clinton's circuit nominees.

The nonpartisan Congressional Research Service has confirmed in its reports that judicial nominees continue to be confirmed in presidential election years—except it seems when there is a Democratic President. In five of the last eight presidential election years, the Senate has confirmed at least 22 circuit and district court nominees after May 31. The notable exceptions were during the last years of President Clinton's two terms in 1996 and 2000 when Senate Republicans would not

allow confirmations to continue. The third exception was in 1988, at the end of President Reagan's presidency, but that was because vacancies were at 28. In comparison, vacancies at the end of the Clinton years stood at 75 at the end of 1996 and 67 at the end of 2000. Otherwise, it has been the rule rather than the exception. So, for example, according to CRS the Senate confirmed 32 nominees in 1980; 28 in 1984; 31 in 1992; 28 in 2004 at the end of President George W. Bush's first term; and 22 after May 31 in 2008 at the end of President Bush's second term. So far this year only 7 judicial nominees have been allowed to be confirmed.

It is ironic that certain Senate Republicans are now arguing in support of a distorted version of the Thurmond Rule, as if it had the force of law. After all, it is Senate Republicans who have repeatedly asserted that the Thurmond Rule does not exist. For example, on July 14, 2008, the Senate Republican caucus held a hearing solely dedicated to arguing that the Thurmond Rule does not exist. At that hearing, the senior Senator from Kentucky stated: ''I think it's clear that there is no Thurmond Rule. And I think the facts demonstrate that.'' Similarly, the Senator from Iowa, my friend who is now serving as Ranking Member of the Judiciary Committee, stated that the Thurmond Rule was in his view ''plain bunk.'' He said: ''The reality is that the Senate has never stopped confirming judicial nominees during the last few months of a president's term.'' We did not in 2008 when we proceeded to confirm 22 nominees over the second half of that year. That Senate Republicans have objected to voting on the nomination of Judge Shipp is a distortion of the Thurmond rule and shows the depths to which they have gone.

There is no good reason that the Senate should not vote on consensus nominees like Judge Shipp and more than a dozen other consensus judicial nominees to fill Federal trial court vacancies in Iowa, California, Utah, Connecticut, Maryland, Florida, Oklahoma, Michigan, New York and Pennsylvania. There is no good reason the Senate should not vote on the nominations of William Kayatta of Maine to the First Circuit, Judge Robert Bacharach of Oklahoma to the Tenth Circuit, Richard Taranto to the Federal Circuit and for that matter Judge Patty Shwartz of New Jersey to the Third Circuit, who is supported by New Jersey's Republican Governor. Each of these circuit court nominees has been rated unanimously well qualified by the nonpartisan ABA Standing Committee on the Federal Judiciary, the highest possible rating. These should not be controversial nominees. They are qualified and should be considered as consensus nominees and confirmed.

Senate Republicans are blocking consent to vote on superbly qualified circuit court nominees with strong bipartisan support. This is a new and damaging application of the Thurmond rule.

The fact that Republican stalling tactics have meant that circuit court nominees that should have been confirmed in the spring—like Bill Kayatta, Richard Taranto and Patty Shwartz—are still awaiting a vote is no excuse for not moving forward this month to confirm these circuit nominees.

In an article dated July 16, 2012 entitled ''William Kayatta and the Needless Destruction of the Thurmond Rule,'' Andrew Cohen of the Atlantic states:

> In a more prudent and practical era in Senate history, nominees like Kayatta would have been confirmed in days . . . Now even slam-dunk candidates like Kayatta linger in the wings waiting for Senate ''consent'' long after the body already has definitively ''advised'' the executive branch of how great it thinks the nominee would be as a judge. Can you imagine the uproar if the Senate ever used its filibuster power to block the deployment of troops already endorsed by the Armed Services Committee? Now please tell me the material difference here. Surely, the judiciary needs judges as much as the army needs soldiers.

I agree. We have outstanding nominees with the support of both Republican home State senators. Yet, we cannot vote on these nominees because Senate Republicans want to place politics over the needs of the American people.

The Los Angeles Times recently published an editorial entitled ''Reject the 'Thurmond Rule' '' which concluded ''the administration of justice shouldn't be held hostage to partisan politics even in an election year.''

I ask unanimous consent that copies of the July 12 and 16 articles be printed in the RECORD at the conclusion of my statement.

The PRESIDING OFFICER. Without objection, it is ordered.

(See exhibit 1.)

Mr. LEAHY. As both Chairman and Ranking Member of the Judiciary Committee during the last several years, I have worked with Senate Republicans to consider judicial nominees well into presidential election years, I have made earnest efforts to make the confirmation process more transparent and fair, I have ensured that the President consults with home state Senators before submitting a nominee, and I have opened up the blue slip process to prevent abuses while continuing to respect it.

In the last two presidential election years, we were able to bring the number of judicial vacancies down to the lowest levels in the past 20 years. In 2004 at end of President Bush's first term, vacancies were reduced to 28 not the 77 we have today. In 2008, in the last year of President Bush's second term, we again worked to fill vacancies and got them down to 34, less than half of what they are today. In 2004, 25 nominees were confirmed between June and the presidential election, and in 2008, 22 nominees were confirmed between June and the presidential election.

In 2004, a Presidential election year, the Senate confirmed five circuit court nominees of a Republican President that had been reported by the Committee that year. This year we have confirmed only two circuit court nominees that have been reported by the Committee this year, and both were filibustered. By this date in 2004 the Senate had already confirmed 32 of President Bush's circuit court nominees, and we confirmed another three that year for a total of 35 circuit court nominees in his first term. So far, the Senate has only been allowed to consider and confirm 30 of President Obama's circuit court nominees five fewer, 17 percent fewer while higher numbers of vacancies remain, and yet the Senate Republican leadership wants to artificially shut down nominations for no good reason.

As Chairman of this Committee, I have also assiduously protected the rights of the minority in the judicial nomination process. I have only proceeded with judicial nominations supported by both home state Senators. That has meant that we are not able to proceed on current nominees from Arizona, Georgia, Nevada and Louisiana. I even stopped proceedings on a circuit court nominee from Kansas when the Kansas Republican Senators reversed themselves and withdrew their support for the nominee. Nor did I accede to the Majority Leader's request to push a Nevada nominee through Committee who did not have the blue slip of the state's Republican Senator. In stark contrast, it was Senate Republicans and the Republican chairman who blatantly disregarded Senate Judiciary procedure by proceeding with nominations despite the objection of both home state Senators. And I have been consistent. I hold hearings at the same pace and under the same procedures whether the President nominating is a Democrat or a Republican. Others cannot say that. So those have been my rules respect for minority rights, transparency, deference to home state Senators, consistent application of policies and practices, and allowing for confirmations well into presidential election years for nominees with bipartisan support.

Personal attacks on me do nothing to help the American people who are seeking justice in our Federal courts. I am willing to defend my record but that is beside the point. The harm to the American people is what matters. What the American people and the overburdened Federal courts need are qualified judges to administer justice in our Federal courts, not the perpetuation of extended, numerous vacancies.

The judicial vacancy rate remains almost twice what it was at this point in the first term of President Bush. I wish Senate Republicans would think more about our responsibilities to the American people than some warped sense of partisan score settling. Vacancies have been near or above 80 for three years. Nearly one out of every 11 Federal courts is currently vacant. Their shutting down confirmations for consensus

and qualified judicial nominees is not helping the overburdened courts who cannot administer justice in an expedient fashion. It is not helping owners of small businesses.

Last week, after his nomination was reported with near unanimous voice vote by the Judiciary Committee approximately three months ago, the Senate was finally able to confirm Judge Kevin McNulty to the District of New Jersey. Despite vacancies still remaining near or above 80, Senate Republicans continue to obstruct and stall nominees on the Senate floor for no good reason. We could easily have confirmed both Judges Shipp and McNulty together three months ago. It is this type of across-the-board obstruction of judicial nominees by Senate Republicans that has contributed to the judicial vacancy crisis in our Federal courts.

Last week, I spoke about the novel excuses that some Senate Republicans have concocted for refusing to allow for votes on nominees. One excuse was that having confirmed two Supreme Court justices, the Senate cannot be expected to reach the 205 number of confirmations in President Bush's first term. Work on two Supreme Court nominations did not stop the Senate from working to confirm 200 of President Clinton's circuit and district nominees in his first term. Similarly, there were two Supreme Court confirmations in President George H.W. Bush's term, and that did not prevent Senate Democrats who were in the Senate majority from confirming 192 of his circuit and district nominees, including 66 in the election year of 1992 alone.

Last week we heard another self-serving misconception of more recent history from the Republican side of the aisle. They claimed that Democrats were responsible for growing judicial vacancies in 2008. The charge was as follows: ''[A]t the beginning of 2008 there were 43 vacancies. So the practice for Democrats who controlled the Senate during that last year of President Bush's term was to allow vacancies to increase by more than 37 percent.'' In fact, what we did in 2008 was to reduce vacancies back down to 34 in October 2008 when the Senate recessed for the year. The increase in vacancies after October and through the remainder of 2008 was not because Senate Democrats were obstructing Senate votes on qualified judicial nominees with bipartisan support as Senate Republicans are today. In November and December 2008 the Senate met on a few days only to address the financial crisis. There were no nominations pending on the Calendar after the election in 2008. Their charge is fallacious. Judicial vacancies have not been as low as 34 or 43 or even the 55 that they stood at when President Obama took office for years. Due to Republican obstruction, President Obama will be the first President in 20 years to complete his first term with more judicial vacancies than when he took office.

Last week Senate Republicans also contended that they have no responsibility for the lack of progress in 2009. In fact, that year ended with 10 judicial confirmations stalled by Senate Republicans. The obstructionist tactics they employed from the outset of the Obama administration had led to the lowest number of judicial confirmations in more than 50 years. Only 12 of President Obama's judicial nominations to Federal circuit and district courts were confirmed that whole year. The 12 were less than half of what we achieved during President Bush's first tumultuous year. In the second half of 2001, a Democratic Senate majority proceeded to confirm 28 judges. Despite the fact that President Obama began nominating judicial nominees two months earlier than President Bush, Senate Republicans delayed and obstructed them to yield an historic low in confirmations. Republicans refused to agree to the consideration of qualified, noncontroversial nominees for weeks and months. And as the Senate recessed in December, only three of the available 13 judicial nominations on the Senate Executive Calendar were allowed to be considered.

By contrast, in December 2001, the first year of President Bush's administration, Senate Democrats proceeded to confirm 10 of his judicial nominees. At the end of the Senate's 2001 session, only four judicial nominations were left on the Senate Executive Calendar, all of which were confirmed soon after the Senate returned in 2002. By contrast, it took until May 2011, a year and a half later, to complete action on the judicial nominees who should have been confirmed in December 2009 but had to be renominated. Although noncontroversial, several were further delayed by filibusters before being confirmed unanimously. The lack of Senate action on those 10 judicial nominees in 2009 was attributable to Senate Republicans and no one else. Despite the fact that President Obama reached across the aisle to consult with Republican Senators, he was rewarded with obstruction from the outset of his administration. While President Obama moved beyond the judicial nominations battles of the past and reached out to work with Republicans and make mainstream nominations, Senate Republicans continued their tactics of delay.

For Senate Republicans to claim that ''only 13 [sic] judges were confirmed during President Obama's first year'' because of ''decisions made by the Senate Democratic leadership'' and that it was ''the choice of Democrats'' and ''not because of anything the Republican minority could do'' is ludicrous. Senate Democrats had cleared for confirmation the other 10 judicial nominees stalled by Republicans in 2009. Their assertion ignores the facts and the truth. Just as they cannot escape responsibility for their unwillingness to move forward with the 21 judicial nominees ready for a final up-or down vote now before the end of this year, they cannot escape responsibility for what they did in 2009.

Senate Republicans choose to offer weak excuses and blame everyone but themselves for the delays and obstruction in which they have excelled. Their sense of being justified by some view of tit-for-tat is distorted and should be beside the point while vacancies remain so high that the American people and our courts are overburdened. The way Senate Democrats helped reduce vacancies was not by limiting confirmations to one nominee per week, as Senate Republicans have. In September 2008, with Democrats in the majority, the Senate confirmed 10 of President Bush's nominees in a single day, all by voice vote. There were 10 consensus nominees pending on the Senate floor, and we confirmed all of them in minutes. Likewise, in 2002, Senate Democrats joined in confirming 18 of President Bush's nominees in a single day, again by voice vote. I wish Senate Republicans would duplicate that precedent and help clear the logjam of judicial nominees dating back to March who are still awaiting up-or-down votes.

While I am pleased that we will confirm Judge Shipp today, I wish that Senate Republicans would help us confirm the 20 additional judicial nominees who can be confirmed right now. Then we could make real progress in giving our courts the judges they need to provide justice for the American people, just as we did in 1992, 2004 and 2008.

After today's vote, I hope Senate Republicans will reconsider their ill-conceived partisan strategy and work with us to meet the needs of the American people. With more than 75 judicial vacancies still burdening the American people and our Federal courts, there is no justification for not proceeding to confirm the judicial nominees reported with bipartisan support by the Judiciary Committee this year.

Each day that Senate Republicans refuse because of their political agenda to confirm these qualified judicial nominees who have been reviewed and voted on by the Judiciary Committee is another day that a judge could have been working to administer justice. Every week lost is another in which injured plaintiffs are having to wait to recover the costs of medical expenses, lost wages, or other damages from wrongdoing. Every month is another drag on the economy as small business owners have to wait to have their contract disputes resolved. Hardworking and hard-pressed Americans should not have to wait years to have their cases decided. Just as it is with the economy and with jobs, the American people do not want to hear excuses about why Republicans in Congress will not help them. So let us do more to help the American people.

EXHIBIT 1

[From theatlantic.com, July 16, 2012]

WILLIAM KAYATTA AND THE NEEDLESS DESTRUCTION OF THE THURMOND RULE

(By Andrew Cohen)

WHY DO REPUBLICAN LEADERS STILL PLAY ALONG WITH AN INFORMAL SENATE RULE THAT PREVENTS UP-OR-DOWN VOTES ON EVEN THOSE JUDGES WHO HAVE STRONG REPUBLICAN SUPPORT?

Meet William Kayatta, another one of America's earnest, capable judges-in-waiting. Widely respected in his home state of Maine, nominated by President Obama in January to fill a vacancy on the 1st U.S. Circuit Court of Appeals, eagerly endorsed by both of Maine's Republican senators, passed for confirmation to the Senate floor by an easy voice vote in the Senate Judiciary Committee, Kayatta's nomination instead has become yet another victim of the Senate GOP's suicidal tendencies.

The litigants of the 1st Circuit need Kayatta. There are no serious arguments against him. Yet the Republican leadership in the Senate has blocked a vote on the merits of his nomination in obedience to the so-called ''Thurmond Rule,'' an informal practice as self-destructive as was its namesake. The Thurmond Rule is typically invoked by the opposition party in a presidential election year to preclude substantive votes on federal judicial appointments within six months of Election Day. It is the Senate's version of a sit-down strike.

In April, just after the Judiciary Committee favorably passed along Kayatta's nomination to the Senate floor for confirmation, Maine's junior senator, Susan Collins, had wonderful things to say about the nominee:

Bill is an attorney of exceptional intelligence, extensive experience, and demonstrated integrity, who is very highly respected in the Maine legal community. Bill's impressive background makes him eminently qualified for a seat on the First Circuit. His thirty-plus years of real world litigation experience would bring a much-needed perspective to the court. Maine has a long proud history of supplying superb jurists to the federal bench. I know that, if confirmed, Mr. Kayatta will continue in that tradition. I urge the full Senate to approve his nomination as soon as possible.

And how did her fellow Republicans respond to her request? They blew her off. There has been no vote on Kayatta's nomination and none is scheduled. Instead, last month, Sen. Mitch McConnell, the Senate Minority Leader, invoked the ''Thurmond rule'' to block floor consideration of appointment—as well as up-or-down votes on the rest of President Obama's federal appellate nominees (This in turn, initially prompted Sen. Collins to blame the Obama Administration for going too slow in nominating Kayatta in the first place.)

In theory, the Thurmond Rule is something official Washington defends as the price of divided government. In reality, it's another outrageous example of how the Senate has re-written the Constitution by filibuster. In practice, in the Kayatta case and many more, the Thurmond rule is the antithesis of good governance. Your Senate today perpetuates a frivolous rule which, for the most cynical political reasons, blocks qualified people from serving their nation. It's not misfeasance. It's malfeasance.

Just because Strom Thurmond was willing to jump the Senate off the bridge doesn't mean that today's Senate Republican leaders had to do likewise.

In a more prudent and practical era in Senate history, nominees like Kayatta would have been confirmed in days. Fifty years ago, for example, when another bright Democratic appointee with strong Republican support came to the Senate seeking a judgeship, the Judiciary Committee took all of 11 minutes before it endorsed him. Byron ''Whizzer'' White then served the next 31 years as an associate justice of the United States Supreme Court. That's wholly unthinkable today—even with lower federal court nominees.

Now even slam-dunk candidates like Kayatta linger in the wings waiting for Senate ''consent'' long after the body already has definitively ''advised'' the executive branch of how great it thinks the nominee would be as a judge. Can you imagine the uproar if the Senate ever used its filibuster power to block the deployment of troops already endorsed by the Armed Services Committee? Now please tell me the material difference here. Surely, the judiciary needs judges as much as the army needs soldiers.

There are currently 76 judicial vacancies around the country. There are 31 districts and circuits designated as ''judicial emergencies'' because vacancies there have lingered so long. In the 10th Circuit, what's happening to Kayatta is happening to Robert Bacharach, who has the support of Oklahoma's two Republican senators. The Senate also is blocking Richard Taranto from a Federal Circuit spot even though he breezed through the Judiciary Committee and has been endorsed by Robert Bork and Paul Clement. The same goes for Patty Shwartz in the 3rd Circuit.

This is unacceptable on every level. When we talk about ''false equivalence'' in modern politics the business of these judges should be the lede. These nominations require no great policy choices on the part of Congress. They don't come with thousands of pages of ambiguous legalese disguised as the language of a federal statute. There is no room for spin. These nominees are either qualified, or they aren't, and when they sail out of the Judiciary Committee with voice votes no one can plausibly say they aren't qualified.

And yet here we are. It would be convenient to blame Strom Thurmond, one of the most divisive politicians of the 20th century, for one of the Senate's most divisive rules. But Thurmond is long gone. And there was never anything about his rule that demanded it be followed, session after session, under both Democratic and Republican control. Just because Strom Thurmond was willing to jump the Senate off the bridge, in other words, doesn't mean that today's Senate Republican leaders had to do likewise. But they have.

America has trouble enough today without a senseless Senate rule that blocks highly skilled, highly competent public servants from joining government. The nation's litigants in federal court, burdened by judicial vacancies, already are waiting long enough to have their corporate disputes decided. This isn't gridlock. This is destruction. ''I think it's stupid'' to block good judges from confirmation, Sen. Tom Coburn said earlier this year. For once, he is right. And Sen. Collins? Even she's come around. ''I have urged my colleagues on both sides of the aisle to give Bill the direct vote by the full Senate that he deserves,'' she said late last month. Amen to that.

[From the Los Angeles Times, July 12, 2012]

REJECT THE ''THURMOND RULE''

SENATE MINORITY LEADER MITCH MCCONNELL INVOKES THE LEGACY OF STROM THURMOND TO HOLD UP JUDICIAL CONFIRMATIONS—IT'S BAD FOR JUDGES AND BAD FOR JUSTICE

The late Strom Thurmond is best known for his 48 years in the U.S. Senate representing South Carolina, his segregationist candidacy for the presidency in 1948 and the fact that even though he was a longtime opponent of racial equality, he fathered a child with a black teenage housekeeper. But Thurmond also lent his name to the so-called Thurmond Rule, according to which Senate action on judicial confirmations is supposed to stop several months before a presidential election.

The rule—actually a custom that sometimes has been honored in the breach—goes back to 1968, when Thurmond and other Republicans held up action on President Johnson's nomination of Abe Fortas to be chief justice of the United States. Fortas withdrew in the face of a filibuster, and President Nixon, the Republican victor in the 1968 election, was able to choose a successor to the retiring Earl Warren. In subsequent years, senators of both parties have cited the Thurmond/Fortas episode as a precedent for not acting on judicial nominations close to an election.

Even in the case of a Supreme Court appointment, the Thurmond Rule violates the spirit of the Constitution, which doesn't distinguish between nominations made earlier or later in a president's term. It is less defensible still in connection with nominations to lower courts. Yet Senate Minority Leader Mitch McConnell (R–Ky.) told colleagues last month that he was immediately invoking the rule to end nominations to the U.S. Court of Appeals, and would block confirmation votes on nominees to federal district courts after September.

Such delays are a disservice to the nominees and to an overburdened federal judiciary. At present there are 12 vacancies on federal appeals courts, 63 on district courts and two on the U.S. Court of International Trade. The Obama administration, although it has been slow to fill vacancies, currently is proposing seven candidates for the appeals court and 28 for the district courts. The Senate should hold up-or-down votes on these nominations and any others put forward in the near future.

Apart from the Thurmond Rule, the timely confirmation of judicial nominees has long been frustrated by petty partisanship. Democrats and Republicans share the blame. The most recent logjam was broken in March when Republicans agreed to timely votes on 14 nominations.

Obviously Republicans hope that Barack Obama is a lame-duck president, but even lame-ducks are entitled to expeditious consideration of their nominations. And the administration of justice shouldn't be held hostage to partisan politics even in an election year.

Mr. President, I see the distinguished senior Senator from New Jersey on the floor. If he seeks the floor, I will yield to him; otherwise, I 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. LAUTENBERG. 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. LAUTENBERG. Mr. President, I thank the chairman of the Judiciary Committee who always has things of relevance to talk to us about and he has done that again today and we thank the chairman.

SHOOTING IN AURORA, CO

Mr. President, I do plan on talking about a confirmation vote coming up