

and grow the economy, then Republicans are ready to work with you because the time for pretending America's challenges can be solved with more of the same is over—over. The time has come to summon the political courage to move beyond the status quo, to put the tax hikes and the poll-tested gimmicks aside, and to do finally what must be done.

I yield the floor.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

Under the previous order, the time until 11:30 a.m. will be equally divided and controlled between the two leaders or their designees, with Senators permitted to speak for up to 10 minutes each, with the majority controlling the first 30 minutes and the Republicans controlling the second 30 minutes.

Mr. MCCONNELL. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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 PATTY SHWARTZ TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT

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 legislative clerk read the nomination of Patty Shwartz, of New Jersey, to be United States Circuit Judge for the Third Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate equally divided in the usual form.

Mr. LEAHY. Mr. President, last month Senate Republicans filibustered the nomination of Caitlin Halligan to fill a vacancy on the D.C. Circuit that arose when Chief Justice Roberts left the D.C. Circuit to join the Supreme Court 8 years ago. Caitlin Halligan is a woman who is extraordinarily well-qualified and amongst the most qualified judicial nominees I have seen from any administration. It is a shame that narrow special interests hold such influence that Senate Republicans blocked an up-or-down vote on her confirmation with multiple filibusters of her nomination and procedural objections that required her to be nominated five times over the last 3 years.

Had she received an up-or-down vote, I am certain she would have been confirmed and been an outstanding judge on the United States Court of Appeals for the District of Columbia. Instead,

all Senate Republicans but one supported the filibuster and refused to vote up or down on this highly-qualified woman to fill a needed judgeship on the D.C. Circuit. Senate Republicans attacked her for legal advocacy on behalf of her client, the State of New York. It is wrong to attribute the legal positions a lawyer takes when advocating for a client with what that person would do as an impartial judge. That is not the American tradition. That is not what Republicans insisted was the standard for nominees of Republican Presidents but that is what they did to derail the nomination of Caitlin Halligan.

Also disconcerting were the comments by Republicans after their filibuster in which they gloated about payback. That, too, is wrong. It does our Nation and our Federal judiciary no good when they place their desire to engage in partisan tit-for-tat over the needs of the American people. I rejected that approach while moving to confirm 100 of President Bush's judicial nominees in just 17 months in 2001 and 2002.

The filibuster of the nomination of Miguel Estrada was different. It was to obtain access to information about his work and whether he acted ideologically as his supervisor at the Office of Solicitor General had alleged. Had we gotten access to those materials, there would have been a vote on the Estrada nomination. Republican Senators now demand access to all sorts of materials while filibustering for the first time in our history the Secretary of Defense and the Deputy Attorney General of the United States, as well as the nominee to head the CIA and judicial nominees. They cannot do that and still complain about the Estrada nomination.

Now that Senate Republicans have during the last 4 years filibustered more of President Obama's moderate judicial nominees than were filibustered during President Bush's entire 8 years—67 percent more, in fact—I urge them to abandon their misjudged efforts that sacrifice outstanding judges for purposes of partisan payback.

Today the Senate will finally consider another circuit court nomination that has been delayed for no good reason. The nomination of Judge Patty Shwartz of New Jersey to the Third Circuit has been needlessly stalled for 13 months since being favorably reported by the Judiciary Committee. This is another of the many judicial nominees who could have been confirmed last year. She is another qualified nominee who is supported by her home state Senators and by the Republican Governor of New Jersey. After this prolonged and unnecessary delay, I am pleased that she will finally be allowed to join the Third Circuit to serve the people of New Jersey, Pennsylvania, Delaware, and the Virgin Islands.

In 10 years as a United States Magistrate Judge in the District of New

Jersey, Judge Shwartz has handled more than 4,000 civil and criminal cases and presided over 14 cases that have gone to verdict or final judgment, including 11 jury trials. Before becoming a judge, Judge Shwartz spent 14 years as an assistant U.S. attorney in the District of New Jersey, where she ultimately rose to become chief of the Criminal Division. During her time as an assistant U.S. attorney, Judge Shwartz tried more than 15 jury cases to verdict, all as sole or chief counsel. It was while serving in the U.S. attorneys Office that Chris Christie, then U.S. attorney and current Governor of New Jersey, became acquainted with her and her work.

Governor Christie has written to the committee in support of Judge Shwartz's nomination. He said that she "was an impressive Criminal Chief; hard working, bright, articulate, great with people and conversant with the law." He added: "As a Magistrate Judge, she also performed admirably and garnered the respect of the entire legal community. Again, her hard work, amiable personality, patience, intelligence, and knowledge of the law were lauded by all who appeared before her." I ask unanimous consent that his full letter be printed in the RECORD at the conclusion of my statement.

The American Bar Association Standing Committee on the Federal Judiciary has rated Judge Shwartz unanimously well qualified, the highest possible rating from its nonpartisan peer review. She has the support of Senator LAUTENBERG and Senator MENENDEZ.

By any objective measure, Judge Shwartz is a nominee with solid legal credentials and qualifications. Rather than evaluating her on her record, some have tried to claim there is an issue because Senator MENENDEZ met with her before supporting her. They infer, despite denials by the nominee and Senator MENENDEZ, that she must have made him some untoward commitment on how she would rule on some matter. There is no basis for that claim.

It is past time for the Senate to consider her nomination on the merits of her record and to confirm her. Her nomination has been stalled on the Senate floor for 13 months. This is just one example of the unnecessary delays that prompted a New York Times editorial about the delays in filling judicial vacancies. I ask unanimous consent that a copy of that editorial be printed in the RECORD at the conclusion of my statement.

Judged on her qualifications and her record, Judge Patty Shwartz should be confirmed by an overwhelming bipartisan vote. She should not have been delayed for more than a year. Sadly, this is not an isolated case but one in a steady pattern of obstruction. This is especially harmful at a time when judicial vacancies remain above 80. Filibusters and delays based on fictions do not help Americans seeking justice in our

Federal courts. Instead, they cause delays, overcrowded dockets, overburdened courts and have gone on too long.

When confirmed, Judge Shwartz will be one of just three women serving as active judges on the Third Circuit. It is time to move forward in a bipartisan fashion to vote to confirm this qualified nominee so that she may better serve the American people as a member of the United States Court of Appeals for the Third Circuit.

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

STATE OF NEW JERSEY,  
OFFICE OF THE GOVERNOR,  
Trenton, NJ, February 11, 2013.

Senator CHUCK GRASSLEY,  
Hart Senate Office Building,  
Washington, DC.  
Senator Patrick Leahy,  
Russell Senate Building,  
Washington, DC.

DEAR SENATORS: I write in support of Magistrate Judge Patty Shwartz' nomination to be a Judge on the Third Circuit Court of Appeals. When I became the United States Attorney in the District of New Jersey in 2001, Judge Shwartz was the Chief of the Criminal Division, a very important and taxing job in a large prosecuting office. Judge Shwartz was an impressive Criminal Chief; hard working, bright, articulate, great with people and conversant with the law. She remained my Criminal Chief until she became a Magistrate Judge.

As a Magistrate Judge, she also performed admirably and garnered the respect of the entire legal community. Again, her hard work, amiable personality, patience, intelligence and knowledge of the law were lauded by all who appeared before her. I am sure that if she were elevated to sit on the Third Circuit Court of Appeals she would prove an excellent judge for all of the same reasons she was an excellent prosecutor and Magistrate Judge. She has my full support for the position for which I believe she is well suited.

If you have any questions, please feel free to contact me.

Very truly yours,

CHRIS CHRISTIE,  
Governor.

[From the New York Times]  
COURTS WITHOUT JUDGES  
(By the Editorial Board)

The number of vacancies on the nation's federal courts has reached an astonishingly high level, creating a serious shortage of judges and undermining the ability of the nation's court system to bestow justice.

Of 856 federal district and circuit court seats, 85 are unfilled—a 10 percent vacancy rate and nearly double the rate at this point in the presidency of George W. Bush. More than a third of the vacancies have been declared “judicial emergencies” based on court workloads and the length of time the seats have been empty. By far the most important cause of this unfortunate state of affairs is the determination of Senate Republicans, for reasons of politics, ideology and spite, to confirm as few of President Obama's judicial choices as possible.

Numbers compiled by the Senate Judiciary Committee tell the story. Mr. Obama's nominees for seats on federal courts of appeal, the system's top tier below the Supreme Court, have waited an average of 148 days for their confirmation vote following the committee's approval, more than four times longer than

Mr. Bush's nominees. For Mr. Obama's nominees to federal district courts, the average wait time has been 102 days, compared with 35 days for Mr. Bush's district court choices.

The prestigious and important United States Court of Appeals for the District of Columbia Circuit offers a particularly striking example of Republican obstructionism. The 11-seat court rules on most appeals from federal regulatory agencies and has exclusive jurisdiction over national security matters. It has four vacancies; the last time the Senate confirmed someone to the court was 2006.

Mr. Bush appointed four judges to the court, a feeder to the Supreme Court, but whether the Senate will allow Mr. Obama to appoint any remains to be seen. Mr. Obama's first nominee for the court, Caitlin Halligan, withdrew from consideration last month after Senate Republicans filibustered for a second time. Those critics echoed the National Rifle Association's ridiculous portrayal of her as a legal activist outside the mainstream because she had filed a brief in opposition to the gun industry when she was New York State's solicitor general.

The real reason, as everyone knows, was to prevent Mr. Obama from adding balance to a generally conservative court. He may fare better with his latest nominee, Sri Srinivasan, a lawyer whose background working in the United States solicitor general's office under both President Bush and President Obama should help his chances.

Nominees for other important government posts have also been held up for partisan reasons. Some Republicans say this is simply payback for the Democrats' filibustering of Bush nominees. But while neither party should be in the business of obstructing judicial nominees, unless they are unqualified or unacceptably extreme, a retaliatory response based on politics hurts all who rely on courts to protect their rights and uphold the law.

It is also worth noting that Mr. Obama has not been putting forth candidates with strong ideological profiles. His nominees are decidedly moderate, which was not always true of the Bush judicial choices that the Democrats felt compelled to filibuster.

Mr. Obama could help reduce the problem by speeding up his nominations. The White House appears to have sharpened its focus since the election, but currently, 62 district and circuit court vacancies have no nominees.

The Halligan filibuster got some Democratic senators talking about a bolder strategy, including revisiting filibuster reform and making it harder for senators to torpedo or delay nominations to judicial vacancies in their home states. Another proposal is to have Mr. Obama make simultaneous nominations to fill the four vacancies on the District of Columbia Circuit, which would force Republicans to come up with plausible reasons to oppose each of them. In the face of political paralysis, these ideas are worth embracing.

MR. LEAHY. Mr. President, I see the distinguished Senator from Iowa, and I yield the floor.

THE PRESIDING OFFICER. The Senator from Iowa.

MR. GRASSLEY. Mr. President, today the Senate will consider the 10th judicial nomination this year. With today's expected action, we will have confirmed four circuit and six district nominees. At this point in 2005—and that was the beginning of President Bush's second term, comparable to what we are talking about for President Obama—the Senate had confirmed zero judicial nominees. Let me repeat

that. At this point in 2005, the Senate had confirmed not 10, not 4, not even 1 judicial nominee, so that comes out to be zero.

The quick pace of this year comes on top of a very productive 112th Congress in which 111 judges were confirmed. In the last Congress, we confirmed more judges than any other Congress—going back 20 years to the 103rd Congress.

Despite this progress and our continued cooperation with the President and Senate Democrats, we continue to hear unfounded criticism.

For example, last week the White House spokesperson criticized the Senate for what he characterized as arbitrary and unique delays in getting nominees confirmed. In a previous post on its website, the White House complained about unprecedented delays in the Senate confirmation process.

While acknowledging the Senate had confirmed nine judicial nominees this year, the White House noted that “these nine judges waited 144 days for a floor vote, compared to President Bush's nominees who waited an average of 34 days for a vote at this point in President Bush's presidency.”

As I stated, at the same point in 2005, none of President Bush's nominees had been confirmed—not one.

The purported statistic of the “average of 34 days” is without foundation. It took until June for President Bush to reach 10 judicial confirmations. President Bush wouldn't have another lower court nomination until October of that year.

But that delay in confirmations wasn't because there weren't nominees. By the beginning of April 2005, 21 judicial nominations had been submitted to the Senate.

President Bush's first four confirmations came in April 2005. The first two of those nominees were nominated in September 2004 and confirmed about 6 months later.

The other two nominees waited much longer. Robert Conrad was first nominated April 28, 2003 to the Western District of North Carolina.

He was confirmed a full 2 years later on April 28, 2005—not 34 days, as the White House implies.

His colleague, James C. Dever III, nominated for the Eastern District of North Carolina, waited even longer. He was first nominated in May 2002 and waited nearly 3 years before being confirmed on April 28, 2005.

So this notion of unprecedented, unique and arbitrary delays simply ignores the facts and, in the process, distorts history.

In addition to the White House, we hear Senate Democrats grumbling about nominations and calls for changing the rules of the Senate. Of course, the majority would have to break the rules to change the rules.

Such intemperate comments utterly fail to recognize the work the Senate has already accomplished in approving judges.

The purported justification is the number of judges on the calendar—

presently at 15. Where was their similar concern in April 2004, when the number of nominees on the Executive Calendar was nearly double what it is today?

A second prong of this debate concerns the vacancy rate in the Federal judiciary. Blaming judicial vacancies on the Senate confirmation process is unfounded and a distortion of the process. The vacancy rate is due to the failure in the White House to send nominations to the Senate.

Presently, 62 of the 87 vacancies—71 percent—have no nominee. For the 35 vacancies categorized as “judicial emergencies,” only 9 have a nominee—74 percent have no nominee.

I would like to say a few words about today’s nominee. I do have concerns about this nomination which have not been satisfied.

Unfortunately, I am unable to support the nomination, although I expect Judge Schwartz will be approved as a United States Circuit Judge for the Third Circuit. I congratulate her on her confirmation and hope that she performs her duties in a skilled manner, demonstrating judicial temperament, with respect for the law and Constitution.

This nomination started out troubled. Not because of Republican opposition, but because of concerns expressed by her home State Democratic Senator.

Originally, Judge Schwartz’s home State Senator questioned her intellectual fitness for the court stating she “did not adequately demonstrate the breadth of knowledge of constitutional law and pivotal Supreme Court decisions.”

Concerns were also expressed that she “misapplied the application of strict scrutiny versus rational basis review” and “did not express substantive knowledge as to the scope of the rights of corporations under the Constitution or jurisprudence on the constitutional limits of Executive Branch powers.” According to press reports, she specifically misapplied the law after speaking about *Citizens United*.

These are pretty serious issues. So, Judge Schwartz was asked about them during her hearing, specifically the discussion on *Citizens United*. But she denied it happened, testifying instead that she did not discuss any specific cases, only general principles.

However, in follow-up written questions for the record, Judge Schwartz changed her story and said that she and her home State Senator had discussed two specific cases: *Citizens United* and *Roe v. Wade*.

I find this after-the-fact disclosure troubling. Not only was it inconsistent with her hearing testimony, but it prevented me and other Senators from following up regarding what discussions she apparently had regarding *Citizens United* and *Roe v. Wade*.

Because of the ambiguity surrounding these interviews and Judge Schwartz’s inconsistent testimony,

questions remain as to what understandings were reached or what assurances Judge Schwartz may have given to gain support from her home State Senators.

Unfortunately, her Committee hearing failed to remove the doubts that were initially raised. Again, these were raised by her home State Senator.

Furthermore, because of her lack of candor at her hearing, I was unable to come to a determination that she is prepared to be a Circuit Judge. I share the doubts raised regarding her limited knowledge of constitutional law; misapplication of standards of review; and inadequate understanding of substantive areas of laws.

Accordingly, I cannot support this nomination. I ask unanimous consent to have printed in the RECORD her biographical information.

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

Patty Schwartz is nominated to be United States Circuit Judge for the Third Circuit. Judge Schwartz received a B.A. from Rutgers in 1983 and a J.D. from the University of Pennsylvania Law School in 1986. Upon graduation, Judge Schwartz worked for a year as an associate with the law firm of Pepper, Hamilton & Scheetz. In 1987, Judge Schwartz began a two-year clerkship with Judge Harold A. Ackerman of the U.S. District Court of the District of New Jersey.

Immediately after her clerkship, she began a fourteen-year career as a criminal prosecutor with the U.S. Attorney’s Office for the District of New Jersey. During her time as an Assistant U.S. Attorney, she prosecuted individuals for violent crime, drug trafficking, and white collar cases. After several years, she was assigned to the Special Prosecutions Division, handling public corruption cases. A short time later, Judge Schwartz was promoted to Deputy Chief of the Criminal Division where she supervised dozens of line prosecutors. In February of 1999, she was promoted to Chief of the Criminal Division, which she held until 2001.

In 2001, she began a brief stint as Executive Assistant U.S. Attorney, supervising the Criminal, Civil, and Fraud Divisions. In 2002, she returned to serve as Chief of the Criminal Division, overseeing the expansion and reorganization of the division. According to her questionnaire, Judge Schwartz has tried more than fifteen criminal cases to verdict.

In 2003, Judge Schwartz was appointed to be U.S. Magistrate Judge for the District of New Jersey. As Magistrate Judge, she has managed all aspects of the pre-trial process in over 4,000 cases. She is responsible for convening scheduling conferences, resolving discovery disputes, ruling on nondispositive motions, holding settlement conferences, and presiding over final pretrial conferences.

As Magistrate, Judge Schwartz has presided over “in whole or in part” more than 70 civil cases by consent of the parties. She has presided over eleven jury trials (ten civil cases and one criminal case) and twenty-two bench trials (three civil cases and nineteen criminal cases) from start to finish.

The American Bar Association’s Standing Committee on the Federal Judiciary gave her a unanimous “Well Qualified” rating.

Mr. GRASSLEY. I yield the floor.

Mr. MENENDEZ. Mr. President, I ask unanimous consent to speak for up to 6 minutes.

The PRESIDING OFFICER. Without objection. The Senator from New Jersey is recognized.

Mr. MENENDEZ. Mr. President, I am pleased to rise in support of the confirmation of Judge Patty Schwartz to the Third Circuit Court of Appeals, a nomination which has finally come to the floor, and the time has come to confirm Judge Schwartz. I express my full support and urge my colleagues to do the same. I am happy we were able to work out the vote on this nominee without a cloture vote, which is incredibly important.

I want to refer to my distinguished colleague, the ranking member of the Judiciary Committee, who mentioned a home State Senator—who happens to be me—and to clarify some issues.

I have always taken the role of advice and consent for judicial nominations very seriously, as I am sure we all do. Appointments to the Federal bench are lifetime appointments, and the circuit court is often the last stop before the U.S. Supreme Court. That makes that responsibility even greater. Very few Americans, if they appeal, get past the circuit court to Supreme Court consideration.

We know the process can be long and difficult; sometimes overly partisan on both sides based on legitimate concerns and personal beliefs. In the end we always look to confirm the best and most qualified individuals. We conduct a thorough review of the nominees, their understanding of the law, their intellect, their analytical thinking and reasoning, and we make our decisions—and I have made mine—about the nominee.

I had the opportunity on more than one occasion to discuss with the judge issues that I believe reflect the high standards to which a nominee should always be held. There is no understanding between this nominee and me as to how she would rule in any given set of circumstances. There was a suggestion about what the law is today in both those instances. I am sure the judge simply did not recall the specifics of that at the time of the hearing but was forthright in coming back and saying: Yes, there were two cases. The simple discussion of what is a Supreme Court decision is, in my mind, not only appropriate, but at a circuit court level is more than desirable.

In the totality of our discussions Judge Schwartz indicated to me the type of intellectual rigor, the knowledge that in fact guarantees to me that she deserves the lifetime appointment to which I expect the Senate will confirm her. The fact that I come to the floor today in full support of her confirmation speaks not only to her qualifications but to her character and to her judicial temperament and suitability to serve on the Third Circuit Court of Appeals.

Aristotle said: “Character may be called the most effective means of persuasion.”

I can say that, having spent time meeting with Judge Schwartz, I am absolutely persuaded that she is a person of character and meets the highest standards for any nominee.

I urge my colleagues to unanimously confirm this highly qualified woman who, I know, will serve honorably and serve well.

Judge Patty Shwartz is a proud New Jerseyan. She has been a magistrate judge for the District of New Jersey since 2003.

Originally from Paterson, she graduated from Rutgers as a Henry Rutgers Scholar with the highest honors.

After college, Judge Shwartz went to the University of Pennsylvania Law School, edited the law review, and was named Outstanding Woman Law Graduate.

She has been an associate in Philadelphia at Pepper, Hamilton & Scheetz, clerked for the Honorable Harold A. Ackerman of the District Court for the District of New Jersey, and, in 1989 joined the U.S. Attorney's Office for the District of New Jersey.

She rose to the position of deputy chief of the criminal division and then to chief of the criminal division serving as the Executive Assistant United States Attorney.

She has handled over 4,000 civil and criminal cases, and, since 2009, she has been an adjunct professor at Fordham University School of Law.

She is on the advisory board for the Association of the Federal Bar of the State of New Jersey, the Board of Advisors for the Historical Society of the U.S. District Court for the District of New Jersey, and the Board of Directors of the Federal Magistrate Judges Association, where she represents the Third Circuit.

She is clearly highly qualified—a woman of distinction who deserves confirmation.

If experience, character, and temperament are the most persuasive weapons in a judicial nominee's arsenal, then Judge Shwartz comes before this chamber very well-armed.

Let me say to my colleagues who may not have had the opportunity to look as closely at this nominee's record as I have, in making my judgment I have had the benefit of invaluable advice and counsel from many members of the Federal bar whose opinions I sought. They are both Democrats and Republicans, and they affirmed what I subsequently discovered for myself in discussions with her; that there is not a single reason to vote no on this nomination.

I urge my colleagues to send a message that although the process can be long and fraught with conflicting opinions, in the end it bends toward the best and brightest, and Judge Patty Shwartz is proof of it.

She has strong bipartisan support not only from both the Senators from New Jersey but also our Governor Chris Christie. I urge my colleagues to join me in voting to confirm Judge Patty Shwartz to the Third Circuit Court of Appeals.

I yield the floor.

Mr. LAUTENBERG. Mr. President, it is my great honor to once again ex-

press my strong support for the Senate confirmation of Magistrate Judge Patty Shwartz to the United States Third Circuit Court of Appeals.

It has been a long road, but it's great to finally reach this day. I began the process of recommending Judge Shwartz to President Obama almost 2 years ago, and since her first nomination by the President 18 months ago I have had the privilege of shepherding her candidacy through the Senate. During that time, I have worked with colleagues on both sides of the aisle to ensure she has bipartisan support. And earlier this year, I personally communicated with a number of my Republican colleagues to assure them of her qualifications for the position and sterling reputation in the legal community.

It hasn't been an easy or quick process by any means, but because her candidacy is so strong, and because so many people believe in her, we have reached this proud moment where we can confirm her, and without a filibuster.

Her confirmation is well-deserved, because putting Judge Patty Shwartz on the Federal bench will be a great service to our nation and our justice system. She brings 25 years of public service to the bench—years she spent as a teacher, an attorney, and a judge.

Judge Shwartz graduated from Rutgers University with the highest honors and received her law degree from the University of Pennsylvania Law School, where she was an editor of the Law Review and was named her class's Outstanding Woman Law Graduate.

Since 2003, Judge Shwartz has served as a U.S. Magistrate Judge in the District of New Jersey, where she has handled more than 4,000 civil and criminal cases. And within the New Jersey legal community, she has earned a solid reputation for dispensing justice fairly and wisely.

She will make an excellent addition to the Third Circuit Court of Appeals.

The opportunity to nominate Federal judges is a sacred duty. I have felt lucky to recommend many eminently qualified, impressive, and accomplished individuals.

Yet rarely have I seen such an outpouring of support for a single judicial candidate as I have with Judge Shwartz.

John Lacey, past President of the Association of the New Jersey Federal Bar, said Judge Shwartz is, "thoughtful, intelligent, and has an extraordinarily high level of common sense."

Thomas Curtin, the chairman of the lawyers' advisory committee for the U.S. District Court of New Jersey, said, "Every lawyer in the world will tell you that she's extraordinarily qualified, a decent person, and an excellent judge."

And seldom has someone had such a distinguished career working for—and earning the respect of—people on both sides of the aisle.

From 1989 to 2003, Judge Shwartz served in the U.S. Attorney's Office for

the District of New Jersey. In this role, she supervised hundreds of criminal cases, including cases concerning civil rights, violent crimes, drug trafficking, and fraud.

And in the U.S. Attorney's Office, she served under three Republican U.S. Attorneys: current Supreme Court Justice Samuel Alito; former Secretary of Homeland Security under George W. Bush, Michael Chertoff; and New Jersey's current Governor, Chris Christie.

Governor Christie has been especially outspoken in his praise of Judge Shwartz. He has said, "Judge Patty Shwartz has committed her entire professional life to public service, and New Jersey is the better for it."

That is his statement. Now, if Governor Christie and I agree on something so adamantly, you know it's right.

Judge Shwartz's roots in New Jersey run deep. Like me, she is a native of Paterson, NJ, where she learned the value of hard work from her parents, who owned and operated a store for more than 50 years.

And as anyone who has met or worked with Judge Shwartz can attest, she inherited every ounce of her parents' strong work ethic—and then some.

After years of hard work, today is a great and triumphant day. I look forward now to seeing Judge Patty Shwartz take her place on the Federal bench. I can say with certainty that our justice system—and the country—will be better for it.

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

The PRESIDING OFFICER (Ms. HEITKAMP). Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Patty Shwartz, of New Jersey, to be United States Circuit Judge for the Third Circuit?

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. LAUTENBERG) is necessarily absent.

Mr. CORNYN. The following Senator is necessarily absent: the Senator from Florida (Mr. RUBIO).

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

The result was announced—yeas 64, nays 34, as follows:

[Rollcall Vote No. 93 Ex.]

YEAS—64

Alexander	Bennet	Cardin
Ayotte	Blumenthal	Carper
Baldwin	Boxer	Casey
Baucus	Brown	Collins
Beigich	Cantwell	Coons

Cowan	King	Reed
Donnelly	Klobuchar	Reid
Durbin	Landrieu	Rockefeller
Feinstein	Leahy	Sanders
Fischer	Levin	Schatz
Franken	Manchin	Schumer
Gillibrand	McCain	Shaheen
Graham	McCaskill	Stabenow
Hagan	Menendez	Tester
Harkin	Merkley	Udall (CO)
Heinrich	Mikulski	Udall (NM)
Heitkamp	Murkowski	Warner
Hirono	Murphy	Warren
Isakson	Murray	Whitehouse
Johanns	Nelson	Wyden
Johnson (SD)	Portman	
Kaine	Pryor	

## NAYS—34

Barrasso	Enzi	Paul
Blunt	Flake	Risch
Boozman	Grassley	Roberts
Burr	Hatch	Scott
Chambliss	Heller	Sessions
Coats	Hoeven	Shelby
Coburn	Inhofe	Thune
Cochran	Johnson (WI)	Toomey
Corker	Kirk	Vitter
Cornyn	Lee	Wicker
Crapo	McConnell	
Cruz	Moran	

## NOT VOTING—2

Lautenberg	Rubio
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The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is 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.

## RECESS

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

Thereupon, the Senate, at 12:33 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

## SAFE COMMUNITIES, SAFE SCHOOLS ACT OF 2013—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Illinois.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERTS. I ask unanimous consent to proceed as in morning business for 15 minutes.

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

The Senator from Kansas is recognized.

(The remarks of Mr. ROBERTS pertaining to the introduction of S. 677 are

located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROBERTS. I yield the floor.

The PRESIDING OFFICER. The Republican whip.

## STABBING AT LONE STAR COLLEGE

Mr. CORNYN. Madam President, I have a couple matters I wish to discuss, but before I get to that, we have been advised—through the news media—that there have been multiple victims who have been injured during a stabbing attack at the Lone Star College CyFair campus in Texas. One person has been taken into custody.

Unfortunately, this is the second time, in a short period of time, that the Lone Star College campus has been struck with acts of senseless violence, and I think it is appropriate to say here and now that our thoughts and prayers are with the victims and their families. We hope law enforcement does its typically good job and finds those responsible to make sure those who are responsible are prosecuted to the fullest extent of the law.

## BORDER SECURITY

Madam President, I wish to remind my colleagues that if they don't know where they are going, then they will probably never know when they get there. Stated another way: If you don't measure the size of a problem, you will never know how close or how far you are away from solving it. It seems like common sense. But since 2010, the Department of Homeland Security has used the metric or the measuring stick of operational control to determine how successful it is about detaining those who cross our southwestern border illegally. This is a matter of basic public safety since we know drug cartels, human traffickers, and other criminals regularly exploit this porous southwestern border in order to do their dastardly deeds.

For some reason, the Department of Homeland Security has dropped this metric or measuring stick of operational control altogether, and so far they have yet to replace it with some other measuring stick or some other way to determine how successful or unsuccessful they have been. It has literally been 3 years since the Department of Homeland Security has had a functional measurement of border security.

Again, this is about public safety. This is about deterring and stopping criminals and others who come across the border to deal in drugs or in human lives. During this same time period, the Government Accountability Office has reported that the Department of Homeland Security had achieved operational control—this was about 3 years ago—of less than 45 percent of the southwestern border.

The Los Angeles Times wrote a story recently that showed between October 2012 and January of 2013, the Department of Homeland Security failed to apprehend at least 50 percent of the people who attempted to cross the bor-

der without proper paperwork; in other words, illegal border crossers.

I think, by any measure, whether one is a Democrat or Republican, Independent, no matter what your political stripes, this is unacceptable, and we need to do better.

Earlier today, I introduced legislation that would require the Department of Homeland Security officials to verify how much operational security we actually have along our borders. The Border Security Results Act of 2013 would also require the Department of Homeland Security to develop a comprehensive strategy—something we have been missing for a long time—for achieving operational control of every single border sector.

My State has 1,200 miles of common border with Mexico. We know that much of the illegal activity does not even start in Mexico but comes up through Central America. People around the world know that if they can get to Central America and pay the human smugglers enough, they can make their way into the United States. Even though we have beefed up the Border Patrol, the Department of Homeland Security, and applied new detection techniques so our border is more secure than it was, last year alone 360,000 people were detained by coming across the southern border. If we believe the Los Angeles Times story, which I think rings true, at least twice that many people actually tried—half were detained, half made it across.

This bill would define operational control as a threshold in which U.S. authorities in a given sector are apprehending at least 90 percent of the people who are coming across, and it would require the Department of Homeland Security to gain full situational awareness through technology, boots on the ground, and results-based metrics.

Metrics is just a fancy word. It is a measuring stick. It is a yardstick. Not only do we need to talk about the numbers, we need to talk about the very human tragedy associated with these numbers and inadequate border security.

As I said, a porous United States-Mexican border also encourages drug and sex traffickers, including all sorts of criminals who prey on children, the weak, and the vulnerable. By gaining operational control of our borders, we can save lives and protect innocent human life.

We can also safeguard the basic property rights and civil rights of people who live along the border while we respect those who play by the rules and who are now trying to pursue their American dream as legal immigrants to the United States. This is not designed to deter people who want to play by the rules and who want to enter this country to work and provide for their family according to the law of the land and seek to achieve their American dream.