

willing to take administrative action if the House refuses to pass comprehensive immigration reform. I am on the floor of the Senate today to lay out my principles of what that action should look like and what I will urge the President to do if the worst happens and Republicans in the House do nothing.

First of all, the administration should make changes to ensure that while we are being tough on those who are a threat to our public safety or our national security, we are also enforcing our immigration laws in a smart, humane way for the millions of undocumented immigrants who are American in all but name. Frankly, that means changing our priorities. It means focusing our immigration enforcement efforts, including deportations, on actual criminals who are a danger to our communities, not innocent people such as Ben who randomly cross paths with an immigration official and not undocumented immigrants who live in our communities, attend church alongside us, and whose crime is seeking a better life in the United States of America.

It also means we should stop relying on detention centers to lock away undocumented immigrants who pose no public safety risk, are already in our country, and are contributing members of their community. Rather than simply locking them up under terrible conditions and then sending them away, we should take advantage of more humane, more cost-effective methods of enforcement, such as weekly check-ins with our immigration officials.

Secondly, we need to reestablish in our immigration system the most basic of American principles: due process of law. For example, if you are in our country, absolutely no one should be deported or turned away from the United States without a hearing before an immigration judge. Part of making that a reality is providing the funding for immigration judges and access to legal information for undocumented immigrants.

The policies at every single Federal agency that deals with undocumented immigrants, including ICE, Border Patrol, and any other agency, should be reformed so they are consistent, transparent, and fair. For far too long the rules have been different from one Federal agency to another and the policies have been so convoluted and illogical that innocent families are being torn apart.

We should also discontinue the use of unconstitutional ICE detainees when there is no probable cause, as many counties have bravely done in the Pacific Northwest, because not only is holding someone without probable cause a violation of our constitutional rights, it is expensive to local sheriffs and diverts precious law enforcement resources away from policing and protecting communities.

We should reduce the 100-mile enforcement radius for Border Patrol agents and make sure there is not 1

inch of land in this country that can be called a Constitution-free zone.

Finally, we must expand prosecutorial discretion and decide that before we deport someone such as Ben Nunez-Marquez out of this country, we should take a second to use our common sense first. We should build on the great success the administration has had with DACA—the deferred action for childhood arrivals policy—and ensure that Federal agencies are focusing their efforts on actual criminals, not families trying to make a life in the United States.

None of these actions can solve the underlying problem of a broken immigration system. Only legislation from Congress can do that. If the inaction of the House Republicans continues—and I hope it doesn't—we could be left without a choice.

Since that historic vote 1 year ago, we have all watched as more and more of our friends and neighbors fall victim to immigration laws that were designed for criminals, not families or our economy. We have seen Members of the House of Representatives choose politics over good policy and completely ignore a full-blown crisis that we have the power to change.

I look forward to working with President Obama, along with Republicans and Democrats alike in Congress, to make sure our immigration system works. I know so many people here and around the country join me in hoping the House Republicans step up and do the job the American people expect them to do.

I thank the Presiding Officer.

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.

The PRESIDING OFFICER. The Republican leader.

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

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

SUPREME COURT DECISION

Mr. MCCONNELL. Mr. President, I welcome the Supreme Court's decision in the Noel Canning case. It represents a clear rebuke to the President's brazen power grab—a power grab I was proud to lead the effort against. Today's decision was clear, and it was a unanimous—unanimous—rebuttal of the President of the United States.

As my Republican colleagues and I have said all along, President Obama's so-called recess appointments to the NLRB in 2012 were a wholly unprecedented act of lawlessness. The President defied the Senate's determination that it was meeting regularly, and the Supreme Court unanimously—unanimously—agreed with us.

Today's ruling is a victory for the Senate, for the American people, and for our Constitution.

The Court reaffirmed the Senate's clear and constitutional authority to prescribe its own rules, including the right to determine for itself when it is in session. And the Supreme Court unanimously rejected the President's completely unprecedented assertion of a unilateral appointment power—a power the Framers deliberately withheld from his office.

Our counsel, Miguel Estrada, did an outstanding job defending the Senate and its uniquely important place in our constitutional system. By contrast, our Democratic colleagues shirked their institutional duty to defend the Senate. They failed, yet again, to stand up to the President. Although they failed to defend the Senate when it mattered most, they, their successors, and their constituents will benefit from today's ruling.

The principle at stake in this case should extend well beyond narrow partisanship. It should be about more than just one President or one political party.

In closing, the administration's tendency to abide only by the laws it likes represents a disturbing and dangerous threat to the rule of law. That is true whether we are talking about recess appointments or ObamaCare.

So I hope the Obama administration will take away the appropriate lessons because the Court's decision today is a clear rebuke of this behavior.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF CHERYL ANN KRAUSE 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 bill clerk reported the nomination of Cheryl Ann Krause, of New Jersey, to be United States Circuit Judge for the Third Circuit.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The 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 nomination of Cheryl Ann Krause, of New Jersey, to be United States Circuit Judge for the Third Circuit.

Harry Reid, Patrick J. Leahy, Richard J. Durbin, Patty Murray, Jack Reed, Sheldon Whitehouse, Christopher A. Coons, Jeff Merkley, Sherrod Brown, Tom Harkin, Richard Blumenthal, Benjamin L. Cardin, Angus S. King, Jr., Thomas R. Carper, Debbie Stabenow, Elizabeth Warren, Amy Klobuchar.

Mr. LEAHY. Mr. President, today, we will vote to defeat the filibuster against the nomination of Cheryl Krause to serve on the U.S. Court of Appeals for the Third Circuit. Her nomination has the strong bipartisan support of Pennsylvania Senators, Senator BOB CASEY and Senator PATRICK TOOMEY. The American Bar Association has unanimously given her their highest rating of "well qualified." The Senate Judiciary Committee reported her unanimously by voice vote to the full Senate this past April, nearly 3 months ago.

Ms. Krause should already have been confirmed and be at work for the American people. Instead, Senate Republicans continue to filibuster qualified, uncontroversial nominees who in previous years would have been confirmed without any delay. This is deeply unfair to all Americans seeking access to justice and to the judicial nominees who, like Cheryl Krause, have had distinguished careers in the law. Of the 54 judicial nominees filibustered this year, 30 have been confirmed unanimously, without a single vote against them. These filibusters are undeserved, and should stop.

Ms. Krause has worked in private practice for over a decade, including as a partner at Dechert LLP and a shareholder at Hangley, Aronchick Segal, & Pudlin. Her work has focused on complex criminal defense matters in securities fraud, antitrust, and the Foreign Corrupt Practices Act. She has also taught courses on appellate advocacy, cyber crime, and judicial decision-making at University of Pennsylvania Law School and Stanford Law School. Professors from both universities have written in strong support for her nomination, and I ask consent that these letters be included in the RECORD.

From 1997 to 2002, Ms. Krause served as an assistant U.S. attorney in the Southern District of New York, where she distinguished herself as the lead prosecutor in the Organized Crime Drug Enforcement Task Force. Before becoming a prosecutor, she worked as an associate at the prestigious firm of Davis, Polk, & Wardwell and as a law clerk at Heller, Ehrman, White & McAuliffe LLP. After graduating with honors from Stanford Law School, she served as a law clerk to Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit from 1993 to 1994 and to Justice Anthony Kennedy of the U.S. Supreme Court from 1994 to 1995.

Her commitment both to the practice of law and to her community in Philadelphia has been admirable. In 2011, as part of partnership between Dechert LLP and the Public Interest Law Center of Philadelphia, Ms. Krause brought a class action lawsuit in the Eastern District of Pennsylvania on behalf of over 1,000 autistic students within the school district of Pennsylvania challenging the school district's transfer of these students from school to school without adequate notice to parents. After 2 years of litigation, Ms. Krause was successful, and the district court required the school district to redevelop its policy. Ms. Krause has also helped to launch the Philadelphia Project, a program that provides legal services to families of children with disabilities in the school district of Philadelphia.

She is well qualified to serve on the U.S. Court of Appeals for the Third Circuit. Her record of accomplishments is unquestionable, as is her dedication to the rule of law and the Constitution. I urge my colleagues to vote to defeat the filibuster against this excellent nominee.

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

STANFORD LAW SCHOOL,
Stanford, CA, March 10, 2014.

Subject: Nomination of Cheryl A. Krause to the U.S. Court of Appeals for the Third Circuit

Hon. PATRICK LEAHY,
Chair, Committee on the Judiciary,
U.S. Senate, Washington, DC.

Hon. CHARLES GRASSLEY,
Ranking Member, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: We write as the three former deans and the current dean of Stanford Law School to express our enthusiastic support for Cheryl A. Krause, who has been nominated for the U.S. Court of Appeals for the Ninth Circuit.

Cheryl Krause graduated at the top of her class at Stanford Law School in 1993. She was first in her class after her first year of law school, and she and her partner were the champions of the school-wide Kirkwood Moot Court Competition. Ms. Krause herself was selected as the best oral advocate in that final round. Following her graduation from law school, she clerked for Judge Kozinski, now the Chief Judge of the U.S. Court of Appeals for the Ninth Circuit, and for U.S. Supreme Court Justice Anthony Kennedy. Following her clerkships, she has pursued a wonderfully varied career—as a law teacher, law firm lawyer and partner, and an Assistant United States attorney. She has been repeatedly recognized as one of the finest lawyers in the United States. Along the way, she has somehow found time to perform an enormous amount of pro bono legal representation and has been repeatedly recognized for those contributions as well.

We write to tell you about Ms. Krause's reputation at Stanford. That reputation can only be captured through a series of adjectives that faculty use to describe their impression of her: exceptional, stellar, admirable, brilliant, incomparable. She is remembered as an academic stand-out in and out of the classroom, a student leader, a superb young lawyer, and a student who, faculty predicted, would always combine a chal-

lenging legal practice with pro bono and public service throughout her career.

Faculty members describe her as "brilliant," "among the small handful of top students I have ever taught" "the best student oral advocate I have ever seen," "truly possessing a judicial temperament," and "ideally qualified temperamentally and intellectually suited" to be a judge. Ms. Krause's career after law school has fulfilled these impressions and predictions and more. She has forged a remarkable path as a lawyer, and it is one that has prepared her well for a career on the bench.

We hope that you will give her your most serious consideration. We are optimistic that you will find her record as impressive as that of her former teachers and mentors at Stanford Law School.

Sincerely,

PAUL BREST,
Professor Emeritus
and former Dean,
Stanford Law
School.

KATHLEEN M. SULLIVAN,
Partner, Quinn Emanuel
Urquhart & Sullivan,
(former Dean,
Stanford Law
School).

LARRY KRAMER,
President, William and
Flora Hewlett Founda-
tion,
(former
Dean, Stanford Law
School).

M. ELIZABETH MAGILL,
Dean and Richard E.
Lang Professor of
Law, Stanford Law
School.

UNIVERSITY OF PENNSYLVANIA
LAW SCHOOL,
Philadelphia, PA, March 7, 2014.

Re Cheryl Ann Krause.

Hon. PATRICK LEAHY,
Chairman, Committee on the Judiciary, U.S.
Senate, Washington, DC.

Hon. CHARLES GRASSLEY,
Ranking Member, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN LEAHY AND RANKING MEMBER GRASSLEY: As faculty members at the University of Pennsylvania Law School who have had the privilege of working with Cheryl Ann Krause, we write to express our enthusiastic support of her nomination to the U. S. Court of Appeals for the Third Circuit.

Since she was first appointed a Lecturer in Law in 2003, Cheryl has taught Penn Law courses in cybercrime, evidence, and appellate advocacy, and has guest-lectured in three courses taught by other faculty. As a partner at the Dechert firm, Cheryl has been the lead person teaching our Federal Appellate Litigation Externship, in which Penn Law students are assigned to litigation teams at Dechert working on pro bono cases pending before the Third Circuit. In the early 2000s, Cheryl was a Barrister member of the University of Pennsylvania Law School American Inn of Court (an organization that seeks to promote ethics and professionalism by bringing together law students, practitioners, and judges for periodic discussions on legal issues), and she participated in presenting three Inn of Court programs on different topics.

In her teaching and mentoring at the Law School, Cheryl has demonstrated the talents that will make her a first-rate judge. Not

only does Cheryl bring to her tasks a powerful analytical capacity, but also she has consistently displayed fair-mindedness and intellectual curiosity. Her knack for providing students and young lawyers with rigorous yet constructive feedback signals that she would show respect to the lawyers who appear before the Court while subjecting their contentions to penetrating scrutiny. Cheryl possesses excellent judgment and high integrity, and her interpersonal skills would make her a valued and collegial member of the Court.

In sum, we believe that Cheryl's legal acumen, temperament, and experience make her a superb candidate for a seat on the U.S. Court of Appeals for the Third Circuit and we heartily support her nomination.

Sincerely,

Stephanos Bibas, Professor of Law and Criminology, Director, Supreme Court Clinic; Jill E. Fisch, Perry Golkin Professor of Law, Co-Director, Institute for Law and Economics; Paul M. George, Associate Dean for Curriculum, Development and Biddle Law Library; Kermit Roosevelt, Professor of Law; Theodore Ruger, Professor of Law, Deputy Dean; Catherine T. Struve, Professor of Law; Christopher S. Yoo, John H. Chestnut Professor of Law, Communication, and Computer & Information Science, Director, Center for Technology, Innovation & Competition; Stephen B. Burbank, David Berger Professor for the Administration of Justice; Michael A. Fitts, Dean and Bernard G. Segal Professor of Law; Seth F. Kreimer, Kenneth W. Gemmill Professor of Law; David Rudovsky, Senior Fellow; Louis S. Rulli, Practice Professor of Law and Clinical Director; Amy L. Wax, Robert Mundheim Professor of Law.

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

The question is, Is it the sense of the Senate that debate on the nomination of Cheryl Ann Krause, of New Jersey, to be United States Circuit Judge for the Third Circuit shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH) and the Senator from Colorado (Mr. UDALL) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Oklahoma (Mr. COBURN) and the Senator from Mississippi (Mr. COCHRAN).

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

The yeas and nays resulted—yeas 57, nays 39, as follows:

[Rollcall Vote No. 215 Ex.]

YEAS—57

Ayotte	Collins	Hirono
Baldwin	Coons	Johnson (SD)
Bennet	Donnelly	Kaine
Blumenthal	Durbin	King
Booker	Feinstein	Klobuchar
Boxer	Franken	Landrieu
Brown	Gillibrand	Leahy
Cantwell	Hagan	Levin
Cardin	Harkin	Manchin
Carper	Heinrich	Markey
Casey	Heitkamp	McCaskill

Menendez
Merkley
Mikulski
Murkowski
Murphy
Murray
Nelson
Pryor

Reed
Reid
Rockefeller
Sanders
Schatz
Schumer
Shaheen
Stabenow

Tester
Toomey
Udall (NM)
Walsh
Warner
Warren
Whitehouse
Wyden

NAYS—39

Alexander
Barrasso
Blunt
Boozman
Burr
Chambliss
Coats
Corker
Cornyn
Crapo
Cruz
Enzi
Fischer

Flake
Graham
Grassley
Hatch
Heller
Hoeven
Inhofe
Isakson
Johanns
Johnson (WI)
Kirk
Lee
McCain

McConnell
Moran
Paul
Portman
Risch
Roberts
Rubio
Scott
Sessions
Shelby
Thune
Vitter
Wicker

NOT VOTING—4

Begich
Coburn

Cochran
Udall (CO)

The PRESIDING OFFICER. On this vote the yeas are 57, the nays are 39. The motion is agreed to.

The Republican whip.

IMMIGRATION

Mr. CORNYN. Madam President, I wish to spend a few moments this morning talking about realistic solutions to the ongoing crisis along American's southern border.

Obviously, I come from a border State where we have 1,200 miles of common border with the nation of Mexico—which, of course, has been the gateway now to this humanitarian wave of unaccompanied children coming from Central America into the United States. I will talk more about that in detail, but I first want to comment on something the majority leader said this morning in his opening remarks.

With what has now become his trademark hyperbole and frequent disregard for the facts, the majority leader suggested that the Republican platform was: Deport first, find solutions later—or never.

I find that offensive, and it is certainly not true. I can just assume that the majority leader has had other things that have taken his attention and he has ignored completely the concrete solutions I and others have been promoting, some of which I will talk about here in a moment.

The last thing I would say specifically to this offensive and untrue comment of the majority leader this morning is: If you are truly concerned about this issue, Senator REID, you might want to focus on Members of your own party. After all, no less than Vice President JOE BIDEN has said of the unaccompanied minors flooding across from the U.S.-Mexican border:

It is necessary to put them back in the hands of a parent in the country from which they came.

He went on to say:

Once an individual's case is fully heard, and if he or she does not qualify for asylum, he or she will be removed from the United States and returned home.

That is Vice President BIDEN. Perhaps the majority leader should talk to

him or he could talk to our former Senate colleague Hillary Clinton, former Secretary of State, who said this about these unaccompanied children:

[They] should be sent back as soon as it can be determined who the responsible adults in their families are.

That is former Secretary of State Hillary Clinton, and, in all likelihood, the Democratic Party's nominee for the President of the United States in 2016. Perhaps the majority leader should talk to her or he could talk to the Secretary of Homeland Security under whose purview this issue falls most directly, who said that:

Under current U.S. laws and policies, anyone who is apprehended crossing our border illegally is a priority for deportation, regardless of age.

Perhaps the majority leader should pick up the phone and talk to him.

So rather than make offensive, politically motivated allegations, perhaps the majority leader should get his facts straight, talk to leaders of his own political party, and then work with us on this side of the aisle to try to find some realistic solutions.

As the insurgency rages in Iraq and the border between Syria and Iraq has collapsed and attention here in Washington has turned to other parts of the globe, I can say, without a doubt, the attention of my constituents in Texas is still very much focused on what is happening on our southwestern border and this surge of unaccompanied minor children who are making a dangerous and treacherous journey from Central America through Mexico and ending up on our doorstep.

First of all, though, when the facts began to unfold the administration said that human smuggling operations are responsible for creating a misinformation campaign, and that is why we are seeing this surge of unaccompanied minors.

There may actually be an element of truth to that if we think about it, because if the human smuggling operations—the drug cartels, organizations such as the Zetas and the associated gangs that work with them—make money on each and every migrant who passes through these corridors of human trafficking and human smuggling, then they probably are making money—more money the more people who come. They probably make more money with children and women and other migrants whom they kidnap and hold for ransom. So there is some element of that.

But then we have been told by the administration that the surge is entirely the result of gang violence and poverty in Central America, and that it has nothing to do with President Obama's policies or his perceived commitment to our immigration laws, including the enforcement that only the executive branch can do.

A few days ago, however, Secretary of Homeland Security Johnson published what he called "an open letter to the parents of children crossing our