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 and kills himself.

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 it is 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.

CLOSURE 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:

CLOSURE 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 any further 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 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 motion for cloture 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 afternoon; 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 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 by 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 unbearable.

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 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 this Republican 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 their delaying 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, a widely-respected 15-year veteran of the Federal bench nominated to the Seventh Circuit was an example. As majority leader, 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 Díaz of North Carolina to the Fourth Circuit for more than two years. Senator Díaz was an outstanding judge of the Consumer Protection Court and a respected and admired judge and member of the Fourth Circuit. 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 over a year. They delayed confirmation of Judge Donald E. Willett 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 the Ninth Circuit for five months. They delayed confirmation of Judge Adalberto Jordan of Florida to the Eleventh Circuit, Judge Beverley 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 Doney 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 MacKinnon of California to the Third Circuit, and Judge Kathleen O’Malley of Ohio to the Federal Circuit for three months.

As a current report from the non-partisan 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. 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 filibustered 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 court nominees confirmed was 1992, when the year was 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. The last two years 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 the final term. Not surpris-ingly, 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; 20 in 2004 at the end of President George W. Bush’s first term; and, after May 31 in 2008 at the end of Presi-dent Bush’s second term. So far this year only 7 judicial nominees have been allowed to be confirmed.

It did not take long before the 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, and the Thurmond Rule was in his view “plain bunk.” He said: “The reality is that the Senate has never stopped con-firming judicial nominees during the last few months of a president’s term.” We did not stop confirming 22 nominees over the second half of that year. That Senate Repub-lians have objected to voting on the nomination of Judge Shipp is a distor-tion 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 nomi-nees like Judge Shipp and more than a dozen other consensus judicial nomi-nees that have been approved by both home state Senators. Other-cies in Iowa, California, Utah, Con-necticut, Maryland, Florida, Okla-homa, Michigan, New York and Penn-sylvania. 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 Fed-eral 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 Com-mittee on the Federal Judiciary, the highest level rating. These judges are not 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 bipar-tisan support. This is a new and dam-aging application of the Thurmond rule. The fact that Republican stalling tactics have meant that circuit court nominees that should have been con-firmed 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 enti-tled “William Kayatta and the Need-less Destruction of the Thurmond Rule,” Andrew Cohen of the Atlantic states:

“In a more prudent and practical era in Sen-ate history, nominees like Kayatta would have been confirmed in days . . . Now even controversial nominees like Shwatta linger in the wings waiting for Senate “consent” long after the body already has definitively “ad-vised” 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 deploy-ment 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 nomi-nees who the support of both Republic-an home State senators. Yet, we cannot vote on these nominees because Senate Republicans want to place poli-tics over the needs of the American people.

The Los Angeles Times recently pub-lished 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 been a strong supporter of the Federal Judiciary. If you look back to the last two presidential election years for nominees with bipar-tisanship, the American people is what matters. What the American people and the courts needs is a court that is dependable. Federal Judges are qualified judges to administer justice in our Federal courts, not the perpetuation of extended, numerous vacan-cies.

The judicial vacancy rate remains al-most 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 shut-down confirmations for consensus
and qualified judicial nominees is not helping the overburdened courts who cannot administer justice in an expeditious fashion. It is not helping owners of small businesses.

Last week, after his nomination was reported and confirmed, judges Shipp and McNulty were able to return to the District of New Jersey and the District of Columbia, respectively. 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 nominees, Senate Republicans could 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. So the practice of Democrats who were in the Senate 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 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 in December, only one-third 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 2001 made 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 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 longer the time to consider any motion 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.
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 earning, capable judges-in-waiting. Kayatta was born 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 Maine’s two Republican senators, and scheduled 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 litanies 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 selfless in its motives as its name sake.

The Thurmond Rule is typically invoked by the opposition party in a presidential election year to stall substantive action 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 world legal 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 urge my colleagues on both sides of the aisle to give Bill the direct vote by the full Senate that he deserves. I urge the Senate to approve his nomination as soon as possible.

Kayatta lingered in the wings all summer, awaiting the Thurmond Rule long after the body already had definitively advised the executive branch of how great he thinks the nominee would be. I 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.

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 two minutes before it endorsed him. Byron “Whizzer” White then served the next 31 years as an associate justice of the United States Supreme Court. Kayatta’s wholly explainable delay today—even with lower federal court nominees.

Now even slam-dunk candidates like Kayatta linger in the wings awaiting the Thurmond Rule. Kayatta’s “consent” long after the body already has definitively advised the executive branch of how great it thinks the nominee would be. In my imagination the uproar if the Senate ever used its filibuster power to block the deployment of troops already endorsed by the Armed Services Committee?

Call this unacceptable on every level. When we talk about “false equivalence” in modern political parlance, 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 legal language 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, even under Republican control. Just because Strom Thurmond was willing to jump the Senate off the bridge doesn’t mean his successors in the Republican Party have to follow.

America has trouble enough today without an empty Senate rule that blocks highly skilled, highly competent public servants from joining government. The nation’s litigants in federal courts are burdened by judicial vacancies, already waiting long enough to have their corporate disputes decided. This isn’t gridlock. This is destruction.

I think it’s incumbent on both 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 NOMINATIONS—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. Thurmond also lent his name to the so-called Thurmond Rule, according to which Senate action on judicial confirmations is supposed to be held to a strict time schedule for several months before a presidential election.

The rule—actually a custom that some historians have been honored in the breach—dates 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 federal courts. Yet Senate Majority 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 that if 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 Thurmond Rule is the latest in a long line of Republican moves to block good judges from taking their seats. When Republicans agreed to timely votes on 11 nominations, the president, Barack Obama is a lame-duck president, but even lame-ducks are entitled to expedient consideration of their nominations. And the administration of Justice Department is 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 I have some that I won today and we thank the chairman.

SHOOTING IN AURORA, CO.

Mr. President, I do plan on talking about a confirmation vote coming up
on the floor, but one can’t address the public at-large on this day, so soon after a tragedy of enormous proportion, without taking just a few moments to discuss the events that took place in Aurora, CO, last Friday. The question arises: What do we do, besides feel sad and see a gloom hanging over our country? What do we do about this? What do we want to do to prevent it in the future? That will be the test of the general character of this body and our government.

So many promising young lives were lost, changed forever. We see pictures of those who lost a loved one in our newspapers. It is heartbreaking just to look at those pictures. What I sense from my visits around New Jersey today and over the weekend is a certain kinship one feels with the people who are mourning the loss of a child—an 8-year-old—or a daughter or son, husband or wife. One feels a certain kinship. One can feel the sadness and it is depressing, and it is not the kind of characterization we would like to see for the United States and the young lives lost forever.

But our duty in this body is not simply to mourn and offer our condolences. We want to do that. We want those families who lost someone to understand that we, in some strange way, join them in their mourning, but the best way to prove our sadness, the best way to prove we care, is to take action to protect young, innocent lives. On that score, we don’t rank very high. I remember so clearly the time in 1999 the pictures of young people at a high school, hanging out the window, imploring for help, imploring to be saved, heartbroken at what they were seeing and what they were feeling. So we have to do something more.

The gun laws on the books are outdated, and we even have let key protections lapse. In the coming days, I am sure, some of my colleagues and I will be discussing specific measures, commonsense measures, because when it comes to our gun laws, we need to act before another outburst of gun violence overtakes us with the terrible consequences that brings.

Around here we have opportunities to do great things, and I have one of those, I believe, today—an opportunity that I take with great pleasure—to come to the floor to strongly endorse Judge Michael Shipp for a position on the U.S. District Court for the District of New Jersey.

Judge Shipp brings an impressive background to the bench. To start, he was born in Paterson, NJ, as was I. It is a city of significant poverty and difficulty, but he rose from humble beginnings in Paterson to graduate from Rutgers University and Seton Hall Law School, two of New Jersey’s fine educational institutions.

Judge Shipp dedicated his career to our justice system, and he spent much of it in public service. I learned so much about him in my meeting with him. Not only does he bring a sincerity about wanting to do what is right, but he has the knowledge and the sensitivity that will make him a terrific district court judge.

He began his career as a law clerk to a New Jersey Superior Court justice, James H. Coleman, Jr. He then served in the office of New Jersey’s attorney general, where he developed not only a thorough legal expertise but also real leadership acumen. As counsel to the attorney general, he oversaw 10,000 employees, including 800 attorneys. For more than a decade, Judge Shipp has taught our State’s students as an adjunct law professor at Seton Hall University.

Since 2007, he has served our city and our Nation as a U.S. magistrate judge in the district court. In this capacity, he has conducted proceedings in both civil and criminal cases and has included rulings on motions, issuing recommendations to district court judges, and performing district court judge duties in cases with magistrate jurisdiction. With this experience, Judge Shipp is going to be well prepared to serve on the district court.

The law, our constitution, are the greatest democrats of our democracy, and the judges are the faithful stewards to protect these precious guidelines of our society. That is why, as a Senator, I consider it a sacred duty, given by the Constitution, to carefully select judicial nominees and to provide the President with advice and consent.

Our faith in the legal system depends on the just application of the law as it is soundly written law. Judge Shipp has served New Jersey extraordinarily well, he is eminently qualified, and his broad experience will prepare him well for his new role. I have no doubt he will continue his excellence as a judge on the U.S. district court.

The health of our democracy depends on all our citizens receiving equal and just representation before the law. As leaders in our judicial system, judges hold that equality and justice in their hands. It means they must be fair-minded, honorable, and humble. I am confident Judge Shipp is going to make a terrific judge. He is highly qualified to meet this challenge, and I urge my colleagues to support this confirmation.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

MR. MENENDEZ. Mr. President, I ask unanimous consent that I be recognized for 4 minutes; that following my remarks, the Chair be recognized for a period not to exceed 6 minutes.

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

MR. MENENDEZ. Mr. President, I rise to strongly support the nomination of Judge Michael Shipp for the U.S. District Court for the District of New Jersey.

All of us in New Jersey, everyone who has dealt with him, everyone who knows him is very familiar with Judge Shipp’s strong qualifications and reputation for excellence. He is an exceptional candidate for the Federal bench—an accomplished jurist with impeccable credentials.

I recommended Judge Shipp to President Obama, and I urge all my colleagues in the Senate to support his nomination, as the Judiciary Committee did.

Judge Shipp has almost 5 years’ experience as a Federal magistrate judge for the District of New Jersey, he is well prepared to assume a seat as a Federal district judge. As a magistrate, he has successfully managed significant and complex cases. On occasion, he has served as the district court judge in cases with magistrate jurisdiction.

The first 8 years of his distinguished legal career were spent in the litigation department at the law firm of Skadden, Arps, Slate, Meagher & Flom. In 2003, he turned to public service to give something back to the community as an assistant attorney general for consumer protection in the Office of the Attorney General of New Jersey, where he honed his skills as a consumer fraud, insurance fraud, and securities fraud cases.

Judge Shipp clearly excelled. He was twice promoted within the office, first as a liaison to the attorney general and then as counsel to the attorney general. As counsel, he was in charge, in essence, of day-to-day operations of the Department of Law and Public Safety, a department with over 10,000 employees and 800 attorneys.

An accomplished jurist, an experienced prosecutor, a dedicated public servant, and an effective administrator and manager as well, that is Michael Shipp. It is what all of us in New Jersey have known him to be.

Judge Shipp has not played on the sidelines. Even with a full plate, he has been deeply involved in the legal community in helping address the profession’s needs and concerns. He held a leadership role with the New Jersey State Bar Association and is actively involved with the Garden State Bar Association, which is the association of African-American lawyers.

As a faculty member of Seton Hall University’s School of Law’s Summer Program for Prosecutors, he helped disadvantaged students develop their interest in the law, and he served on the faculty of the New Jersey Attorney General’s Advocacy Institute, which ensures that attorneys representing the State of New Jersey maintain the highest possible levels of professionalism.

Judge Shipp is also a very proud New Jerseyan—part of the community—with deep roots in the State. A native of Paterson, he grew up and has lived in New Jersey all his life. He earned his degrees from Rutgers, the State University, and Seton Hall University School of Law. After graduating, he
went on to clerk for the Honorable James Coleman, a former justice on the New Jersey Supreme Court.

To put it simply, Michael Shipp will be an extraordinary district court judge for the District of New Jersey. He is a man of honor, principle, and he possesses an independent and temperament, has extraordinary legal experience, and a deep and abiding commitment to the rule of law.

I have full confidence he will serve the people of New Jersey and the country with all the dignity, fairness, and honor he has shown throughout his extraordinary career. We are lucky to have a nominee of his caliber, and I wholeheartedly urge the full Senate to vote to confirm Judge Shipp to the District of New Jersey.

I am thrilled we are actually going to do a confirmation vote and not a cloture vote and I appreciate those who made that possible.

With that I yield to my distinguished colleague from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

RECOGNIZING TAYLOR MORRIS

Mr. GRASSLEY. Mr. President, when my colleagues come over to vote, I hope they will take note of a constituent of mine and wish him well.

Taylor Morris, a Navy wounded person from Afghanistan, who is an explosives expert, lost parts of four limbs. He is one of the escalator as you go to the subway. He is one of our wounded heroes, and I would like to have my colleagues recognize him.

AURORA, COLORADO SHOOTINGS

Mr. GRASSLEY. Mr. President, it was a very sad weekend and will be for a long period of time in Aurora, CO. I heard the remarks of the majority and minority leaders today expressing condolence for the victims and their families. I wish to associate myself with those remarks and offer my condolences to all the people of Aurora but particularly to those who have deceased family members and those who are hospitalized because of this tragic event that happened there.

Mr. President, I support the nomination of Michael A. Shipp to be U.S. district judge for the District of New Jersey, currently serving as a U.S. magistrate and coming out of committee on voice vote. I am not aware of any controversy regarding this nominee, and I expect he will be confirmed with an overwhelming vote.

There has been a bit of discussion regarding whether the cloture vote that had been scheduled on today's nominee was some sort of escalation of Presidential election politics or an indication of a partisan fight over judicial confirmations. Those are raised as speculation or misreading what is happening in the Senate. The fact is that the cloture vote, which is now vitiated, had nothing to do with the judicial confirmation process in general or this nominee in particular.

There is, unfortunately, an element of partisan gridlock that is affecting this nomination, but it is not because of a Republican desire to block this nominee or to shut down the Senate floor. Republicans, in fact, have been demanding more access to the Senate floor. That gridlock is the majority leader's tactics to block amendments on the Senate floor.

Time after time the majority uses parliamentary procedure to prohibit amendments, block votes, and deny or limit debate. For example, last Thursday the Republican leader asked the majority leader if the anticipated business coming before the Senate, the Stabenow-Obama campaign tax bill, would be open for amendment. The majority leader responded that would be "very doubtful." These actions, although they may be permitted by Senate rules, are contrary to the spirit of the Senate.

Certainly we are far from being the world's greatest deliberative body at this time. So when a Senator who seeks a vote on his amendment is stymied time after time, it is not surprising that the Senator would use Senator rules and procedures to bring pressure to the majority leader for a vote—and in other words, to do exactly what the Senate Constitution requires. There is a bit of sad irony that Senators who are facing obstructionism are the ones who are labeled obstructionist when they are persistent in trying to bring a matter to a vote, which is customary in the Senate.

Unfortunately, we are now seeing this obstructionism strategy creep into committee activity as well. Again, last Thursday the Judiciary Committee marked up an important national security bill. The bill was open to amendment but apparently only amendments the chairman agreed with. In the Judiciary Committee, we have a long-standing practice of voting up or down amendments generally, whether--whether or not--whether the chair agreed with it. What happened last week undermined the responsibility of the committee to debate and address important issues—in this case, national security. The Judiciary Committee is a forum for these debates.

The bill that was on the agenda is one of the few vehicles that will likely be passed before the end of the year, so it was an important and appropriate vehicle for addressing such issues once the chairman makes an amendment process by adopting his own substitute amendment. Instead, the partisan gridlock, driven by the majority leader's tactics to block amendments on the Senate floor, has now spread to the committee level with made-up manner rules and tableling motions forced on amendments, some of which had received bipartisan support from members of the Judiciary Committee in the past. The only conclusion that can be drawn is that the Senate majority leadership wants to protect its members at every step of the legislative process from having to make difficult votes, and the majority leader's ship will employ any procedure it can to duck debates and to govern.

Even as we turn to the 154th nominee of this President to be confirmed to the district or circuit courts, we continue to hear unsubstantiated charges of obstructionism. The record shows confirmed over 78 percent of President Obama's district nominees. At this point in his Presidency, 75 percent of President Bush's nominees had been confirmed. President Obama, in other words, is running ahead of President Bush on district confirmations as a percentage.

I continue to hear some of my colleagues repeatedly ask the question: What is different about this President that he is to be treated differently than all of these other Presidents? I won't speculate as to any inference that might be intended by that question, but I can tell you that this President is not being treated differently than previous Presidents. By any objective measure, this President has been treated fairly and consistently with past Senate practices.

As I stated, as a percentage of nominations, this President is running ahead of the previous President with the number of nominations. Let me put that in perspective for my colleagues with an apples-to-apples comparison. As I mentioned, we have confirmed 153 district and circuit nominees of this President. We have confirmed 153 district and circuit nominees. Everyone understands that the Supreme Court nominations take a great deal of committee time. The last time the Senate confirmed two Supreme Court nominees was during President Bush's second term, and during that term the Senate confirmed a total of 119 district and circuit court nominees. With Judge Shipp's confirmation today—which I support and which I think will be confirmed almost unanimously—we will have confirmed 35 more district and circuit court nominees for President Obama than we did for President Bush in similar circumstances.

During the last Presidential election, 2008, the Senate confirmed a total of 28 judges—24 district and 4 circuit. This Presidential election year we have already exceeded those numbers. We have confirmed 5 circuit nominees, and this will be the 27th district judge confirmed.

Judge Shipp received his B.S. from Rutgers University in 1987 and his J.D. from the Seton Hall University School of Law in 1994. Upon graduation, he clerked for the Honorable James H. Colman, Jr., a justice on the Supreme Court of New Jersey. After his clerkship, Judge Shipp joined Skadden, Arps, Slate, Meagher & Flom LLP as a litigation associate. There, he worked in general litigation matters, handling labor and employment work. He also developed expertise in mass tort law and products liability litigation.

In 2003, Judge Shipp became an assistant attorney general in charge of
Larry has served on many boards in the Laurel County area such as the American Red Cross, the United Way, SCORE, the London-Corbin Airport, Saint Joseph-London, and the executive board of the Chamber of Commerce. His contribution to the London-Corbin Chamber of Commerce stemmed from a desire to grow the community economically. Through the Chamber of Commerce, Larry was able to bring economic leadership and steadfast service to Laurel County make him a valuable asset to the London community.

Born and raised in Clay County, KY, upon his graduation from high school in 1958, Larry attended Sue Bennett College and Eastern Kentucky University. After graduating from EKU in 1965, he joined the U.S. Air Force and became an officer. While in his first years of service, Larry married his wife, Lois. Throughout his 20-year military career, the couple traveled around the country with their two children, Chris and Gienah. In 1989, he retired from the Air Force as a lieutenant colonel and settled in London, KY.

In 1990, Larry opened an American Speedy Printing franchise in the London Shopping Center. After acquiring Durham Printing in 1998, the name of the company changed to Allegra Print and Imaging. In 2008, Larry left the business, entrusting his son, Chris, with running the day-to-day business operations, and became manager of the London-Corbin Airport. Both his economic leadership and steadfast service to Laurel County make him a valuable asset to the London community.

Mr. MCCONNELL. Madam President, I come before the Senate to recognize the entrepreneurial spirit of Mr. Larry Corum of London, KY. After serving in the United States military for over 20 years, in 1990 he opened a printing business and now is the manager of the London-Corbin Airport. Both his economic leadership and steadfast service to Laurel County make him a valuable asset to the London community....