

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
September 23, 2010

Opening Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Committee On The Judiciary,  
Executive Business Meeting  
September 23, 2010

Today, the Committee will consider eight judicial nominations held over from last week. Three of these nominees had their hearing nearly eight weeks ago, before the August recess. I thank Senator Whitehouse for chairing that hearing. They include Judge Kathleen O'Malley, a widely-respected and widely-praised nominee to the Federal Circuit. Senator Hatch and I, along with the other members of this Committee, are familiar with the important work of the Federal Circuit, including its jurisdiction over intellectual property matters. Two of Senator Hatch's former staffers serve as judges on that circuit court. Judge Randy Rader is now the Chief Justice. Judge Sharon Prost has also been a member of that court since, as chairman, I worked to ensure her consideration during the summer of 2001. There are currently three vacancies among that court's 12 authorized judgeships.

The two other nominees from that July hearing will fill vacancies on the District Court for the District of Columbia. One is well known to the Senators of this Committee, as she was Committee counsel for 10 years. She was a highly-decorated former Federal prosecutor who Senator Sessions will remember from her work on many criminal justice and national security issues. Senator Hatch will no doubt remember her work on our Digital Millennium Copyright Act, our Anti-Cybersquatting Consumer Protection Act, and our No Electronic Theft Act. Senator Kyl and Senator Grassley will recall for her work on our National Information Infrastructure Protection Act and our Computer Fraud and Abuse statute, and important oversight matters including our bipartisan hearings on Ruby Ridge that led to improvements at the FBI. Senator Cornyn will recall her work on Electronic Freedom of Information initiatives.

Beryl Howell grew up in a proud military family. She was awarded her undergraduate degree with honors in Philosophy from Bryn Mawr College in Pennsylvania, and earned her law degree at Columbia University School of Law, where she was a Harlan Fiske Stone Scholar. She clerked for Judge Dickinson Debevoise on the United States District Court for the District of New Jersey. She joined the U.S. Attorney's Office for the Eastern District of New York in 1987. As an Assistant U.S. Attorney, she worked there almost six years and rose to be the Deputy Chief of the Narcotics Section. Her grand jury investigations and prosecutions included complex public corruption, narcotics and money laundering cases involving the leadership of the Chinatown Flying Dragons gang, the Cali drug cartel and others.

Descriptions of her cases read like crime novels. She successfully prosecuted the leadership of a Chinatown gang, called the Flying Dragons, for heroin trafficking, and extradited the head of the gang after he fled to Hong Kong. She successfully prosecuted a group of Colombian drug dealers and arrested the gang members just as they were packing almost \$20 million in cash from narcotics proceeds into a hidden compartment of a truck to smuggle it out of the country. Then, some of these defendants attempted a prison escape by bribing officials, and she successfully prosecuted the perpetrators of the escape plan. She also handled the successful investigation and prosecution of over 20 corrupt New York City building inspectors engaged in extortion.

She was twice awarded the U.S. Attorney Special Achievement Award for Sustained Superior Performance, has received commendations from the FBI, DEA, and the New York City Department of Investigation, and received the prestigious Attorney General's Director's Award for Superior Performance.

She left us in 2003 to help establish the Washington, D.C., office of a consulting and technical services firm specializing in digital forensics, computer fraud and abuse investigations. While in the private sector, she received the FBI Director's Award for her work assisting in a Government cyber-extortion investigation.

She was a member of the Commission on Cyber Security of the Center for Strategic and International Studies, has taught legal ethics as an adjunct professor at the American University Washington College of Law. She has twice been confirmed by the Senate to serve as a member of the bipartisan U.S. Sentencing Commission, to which she was appointed by President Bush.

We rarely have before us nominees to the bench with the breadth of experience that she brings. She has spent more than 23 years in public service. In addition to her experiences in the Legislative, Executive, and Judicial branches of the Federal Government, she has also been a law professor, a lawyer in private practice, and a principal and in-house general counsel at a business that she helped to grow internationally.

I have every confidence that she will serve as a fair and impartial Federal judge. There are currently four vacancies on the District Court here in D.C. and I hope that we will vote today to begin filling them before the October recess.

We also have before us the nomination of Robert Wilkins for another of those Federal District Court vacancies here in D.C.

The other five judicial nominees are well known to us. They have each been previously considered and voted on by this Committee and reported favorably to the Senate. I do not expect any votes will be changed by anything we say here today about those nominations, so I hope we can proceed to complete action on them, as well, without unnecessarily expanded debate.

We also have a legislative agenda. Senator Whitehouse has patiently and persistently worked to create the broadest consensus possible for his small business-related bill. I trust that today we will be able to take action on a long overdue measure to provide criminal sanctions for knowingly placing unsafe food products in commerce. Senator Cardin would like to see action on his law clinics bill.

I now turn to our ranking Republican for his brief opening statement.

#####

Statement of Chairman Patrick Leahy (D-Vt.)  
On S. 3767, the Food Safety Accountability Act,  
Senate Judiciary Committee, Executive Business Meeting  
September 23, 2010

Today, the Committee considers the Food Safety Accountability Act, which I introduced with Senator Senators Klobuchar and Senator Franken. I also thank Senator Durbin and Senator Feinstein for their support of the bill, and for being leaders on food safety issues.

This commonsense bill will hold criminals who poison our food supply accountable for their crimes. It introduces a new criminal provision and increases the sentences that prosecutors can seek for people who knowingly violate our food safety laws. If it is passed, those who knowingly contaminate our food supply and endanger Americans could receive up to 10 years in jail.

This summer, a salmonella outbreak causing hundreds of people to fall ill triggered a national egg recall. The cause of the outbreak is still under investigation, but salmonella poisoning is all too common and sometimes results from inexcusable knowing conduct.

Just last year, a mother from Vermont, Gabrielle Meunier, testified before the Senate Agriculture Committee about her seven-year-old son, Christopher, who became severely ill and was hospitalized for six days after he developed salmonella poisoning from peanut crackers. Thankfully, Christopher recovered, and but Mrs. Meunier's story highlighted improvements that are needed in our food safety system. No parent should have to go through what Mrs. Meunier experienced. The American people should be confident that the food they buy for their families is safe.

Current statutes do not provide sufficient criminal sanctions for those who knowingly violate our food safety laws. Knowingly distributing adulterated food is already illegal, but it is merely a misdemeanor right now, and the Sentencing Commission has found that it generally does not result in jail time. The fines and recalls that usually result from criminal violations under current law fall short in protecting the public from harmful products. Too often, those who are willing to endanger our children in pursuit of profits view such fines or recalls as merely the cost of doing business.

Indeed, the company responsible for the eggs at the root of the current salmonella crisis has a long history of environmental, immigration, labor, and food safety violations. It is clear that fines are not enough to protect the public and effectively deter this unacceptable conduct. We need to make sure that those who knowingly poison the food supply will go to jail. This bill will help to do that.

After hearing Mrs. Meunier's account last year, I called on the Department of Justice to conduct a criminal investigation into the outbreak of salmonella that made Christopher and many others so sick. In that case, the outbreak was traced to the Peanut Corporation of America. The president of

that company, Stewart Parnell, came before Congress and invoked his right against self-incrimination, refusing to answer questions about his role in distributing contaminated peanut products. These products were linked to the deaths of nine people and have sickened more than 600 others.

It appears that Mr. Parnell knew that peanut products from his company had tested positive for deadly salmonella, but rather than immediately disposing of the products, he sought ways to sell them anyway. The evidence suggests that he knowingly put profit above the public's safety. Our laws must be strengthened to ensure this does not happen again. This bill significantly increases the chances that those who commit food safety crimes will face jail time, rather than a slap on the wrist, for their criminal conduct.

I hope all Senators will support this bill. On behalf of the hundreds of individuals sickened by this summer's and last year's salmonella outbreaks, we must repair our broken food safety system. The Justice Department must be given the tools it needs to investigate, prosecute, and truly deter crime involving food safety. Passing this bill will be an important step toward making our food supply safer.

#####