

I have a very short story. I had a brother who was 10 years older than I. One day he came down from the drugstore to the junkyard where I worked. He said: Arlen, I was just at Russell Drug. Down there they were saying you weren't fit to eat with the pigs. But my brother said: I stuck up for you, Arlen. I said you were. So when I see Alfonse D'Amato on the Senate floor, I remember those good times.

Now I yield to the distinguished majority leader, whose time I hope I have not unduly encroached upon. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, in a few moments, we will vote to conclude debate on the nomination of Judge Priscilla Owen to the Fifth Circuit Court of Appeals. It has been over 4 years since the Senate began consideration of Justice Owen for this position, and the Senate over that time has thoroughly and exhaustively investigated, looked at, examined, and debated Judge Owen's nomination.

She has endured 9 hours of committee hearings, more than 500 questions, and 22 days—it is interesting, 22 days. That is more than all sitting Supreme Court Justices combined have had on the floor of the Senate—all sitting Supreme Court Justices combined. We have had Priscilla Owen's nomination debated on this floor for more days. There has been more than 100 hours of floor debate. Now finally, after more than 4 years of waiting, Judge Owen will receive a fair up-or-down vote on the floor of the Senate.

As her critics now appear to be concede, Judge Owen is a mainstream candidate, who is thoughtful, who is dignified, and imminently qualified. Her academic and professional qualifications are outstanding. The American Bar Association unanimously—unanimously—rated her as well qualified, its highest possible rating. She was re-elected to the Texas Supreme Court with 84 percent of the vote. She is supported by Republicans and Democrats on the Texas Supreme Court. She has been endorsed by every major newspaper in her State of Texas.

Moreover, in the face of continuous, sometimes vicious, attacks and distortions of her record in the nominations process, Judge Owen has shown extraordinary patience with this body. Despite 4 years of attacks on her integrity, Priscilla Owen has quietly, has patiently, has gracefully waited for an up-or-down vote.

Priscilla Owen has worked hard, played by the rules, faithfully interpreted the law and gained the respect of her colleagues and constituents. We cannot ask for more from a judicial nominee. It is time to close our debate. It is time to give Justice Owen an up-or-down vote on the floor of the Senate.

Today's vote will allow that up-or-down vote. It will affirm each Senator's right to weigh the facts and vote

his or her conscience up or down, yes or no, confirmed or rejected. It is as simple as that. It is about principle. It is about fairness. It is about our constitutional duty to give advice and consent.

Mr. President, I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 12 o'clock having arrived, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative 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, do hereby move to bring to a close debate on Executive Calendar No. 71, the nomination of Priscilla Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Arlen Specter, Trent Lott, Lamar Alexander, Jon Kyl, Jim Talent, Wayne Allard, Richard G. Lugar, John Ensign, C.S. Bond, Norm Coleman, Saxby Chambliss, James Inhofe, Mel Martinez, Jim DeMint, George Allen, Kay Bailey Hutchison, John Cornyn.

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 Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit Court of Appeals, shall be brought to a close? Under the rule, the yeas and nays are mandatory. The clerk will call the roll.

Mr. LEVIN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Under the rules and precedents of the Senate, how many votes are required to invoke cloture and end debate on the pending nomination?

The PRESIDING OFFICER. Three-fifths of the Senators duly chosen and sworn.

The clerk will call the roll.

Mr. LEVIN. Is there an answer to my parliamentary inquiry?

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURKIN. I announce that the Senator from Hawaii (Mr. INOUE) is necessarily absent.

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

The yeas and nays resulted—yeas 81, nays 18, as follows:

[Rollcall Vote No. 127 Ex.]

YEAS—81

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Brownback
Bunning

Burns
Burr
Byrd
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins

Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Durbine
Ensign
Enzi

Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kohl
Kyl
Landriau
Leahy

Lieberman
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reid
Roberts
Rockefeller
Salazar

Santorum
Schumer
Sessions
Shelby
Smith (OR)
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—18

Biden
Boxer
Cantwell
Corzine
Dayton
Dodd

Dorgan
Feingold
Jeffords
Kennedy
Kerry
Lautenberg

Levin
Lincoln
Murray
Reed
Sarbanes
Stabenow

NOT VOTING—1

Inouye

The PRESIDING OFFICER. On this vote, the yeas are 81, the nays are 18. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. The Senator from Colorado.

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

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

NOMINATION OF PRISCILLA RICHMAN OWEN TO BE UNITED STATES CIRCUIT JUDGE FOR THE FIFTH CIRCUIT—Continued

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I read from the King James version of the Holy Bible, from the 22nd chapter of Proverbs, the 28th verse:

Remove not the ancient landmark, which thy fathers have set.

Mr. President, in his second inaugural address, Abraham Lincoln observed that:

With malice toward none; with charity for all; with firmness in the right, as God give us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds. . . .

Mr. President, I have always believed that the Senate, by its nature, attracts and probably also creates men and