

take a big, deep breath and say: Wait a minute—whether it is a Republican or Democratic President and whether it is a Republican or Democratic Senate—this is taking us down a very wrong and dangerous path.

I believe that in the great tradition of partisan Members of this body, who nevertheless understood that politics was no way to make decisions on judges, good sense will ultimately prevail and the Senate will return to a standard that is appropriate—whether the candidate is well qualified based upon traditional temperament and ethics, and on their ability to apply the law fairly, and understanding and knowledge of the law.

If we don't return to that kind of a standard, then we are on an inevitable decline in the way that our country applies the rule of law; and, since the rule of law underpins everything in the United States—from our guaranteed constitutional rights to our economic free market system, our property rights, and all the rest—it would be the beginning of the end of this country.

I do not exaggerate when I say that nothing less is at stake and that this body needs to address this question very seriously before decisions such as today's become the rule rather than the aberrant exception.

I believe this is a dark day in the history of the Senate, that history will judge the actions of the committee today very harshly. I just hope my colleagues will consider whether in the future we need to return to the tradition that has served Presidents and the Senate and the Nation so well. I hope so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I heard the last part of the remarks of the Senator from Arizona about what happened today in the Judiciary Committee to Supreme Court Justice Priscilla Owen, a member of the Texas Supreme Court, who was voted down on a straight party line vote. I have never seen a case in which a person who is totally qualified, a person who has shown integrity on the bench, and who has the academic credentials to be a great Federal judge would be turned down for, really, I think a litmus test on issues.

In the past administration—the Clinton administration—I voted for a number of judges with whom I disagreed philosophically, judges who I knew would rule differently from what I thought would be the “right vote” on the court. But I tried to see what their qualifications were. I certainly tried to see if they would be strict constructionists to the Constitution, if they would adhere to the law rather than be traditional judicial activists. I voted for people with whom I disagreed many times. Today, I don't think that could be said for members of the Judiciary Committee.

I am told there has never been a nominee who had the unanimous quali-

fied recommendation from the American Bar Association and the support of both home State Senators who has been turned down for a traditional nomination.

I am sad today because I know Priscilla Owen. I know what a fine person she is. Not only did she graduate right at the top of her class in law school, but she had the No. 1 grade on the Texas bar exam when she took it. She has sterling credentials academically. She is very well regarded by the former Democratic attorney general. The chief justice of the Supreme Court of Texas was very supportive of her and came out publicly for her. The other Democratic member of the Supreme Court of Texas with whom she served came out strongly for her.

It is just stunning that someone who never had one smirch on her record of integrity, who was totally well qualified and unanimously certified by the American Bar Association, and who was reelected to the Texas Supreme Court by over 80 percent of the vote would be turned down by the Judiciary Committee. I think this is a sad day.

But I will say this: I talked to Justice Owen today. I said: You lost the battle today, but you could win the war because I am absolutely certain that President Bush will renominate her if there is Republican control of the Senate. If that happens, she will be confirmed, because she deserves to be confirmed.

It is very hard on a personal level to see someone as committed as Priscilla Owen—she is basically a nonpolitical individual. She did not even know when she was asked to submit her name for the Supreme Court of Texas if she had voted in the primary before. This judge is not political.

But George Bush—Governor of Texas at the time—appointed her. She then ran for election after her appointment and was endorsed by every newspaper in Texas and was just thought of by both Republicans and Democrats as the most qualified person who had been put forward for this particular seat on the bench on the Fifth Circuit.

It is a sad day, but I think this is not over.

I do believe that President Bush will reappoint her in the next Congress if the Republicans control the Senate and he believes that she will get a fair hearing. I believe she will win the vote of the Senate, and she will show what a great judge she can be because she will be sitting on the Fifth Circuit bench.

But this is a tough day for her. I think she did not deserve this treatment. I will say that in the parts of the hearing that she had that I saw, she was outstanding and did as good a job as anyone I have ever seen who was a nominee for the Federal bench. She did so well that she won the endorsement of the Washington Post, the Chicago Tribune, and the Wall Street Journal. She had accolades from newspapers across America.

She does not deserve to have the treatment that she got today. But we will have another day, and I believe Priscilla Owen will go down in the records as a great Federal judge, because I believe she will be one eventually.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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, has the bill been reported this afternoon?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. REED). Morning business is closed.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 5005, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

Pending:

Lieberman amendment No. 4471, in the nature of a substitute.

Wellstone Amendment No. 4486 (to amendment No. 4471), to prohibit the Secretary of Homeland Security from contracting with any corporate expatriate.

Reid amendment No. 4490 (to amendment No. 4486), in the nature of a substitute.

Smith (N.H.) amendment No. 4491 (to amendment No. 4471), to amend title 49, United States Code, to improve flight and cabin security on passenger aircraft.

Reid (for Boxer/Smith (N.H.)) amendment No. 4492 (to amendment No. 4491), to amend title 49, United States Code, to improve flight and cabin security on passenger aircraft.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. REID. Mr. President, it is my understanding that Senator WELLSTONE has a modification that will allow us to proceed and finish his amendment. Recognizing that as the case, people still wish to speak in relation to that amendment. I think that can be done after we take that action. So if Senator WELLSTONE is ready, I will ask that he be allowed to modify his amendment, and that will be accepted by voice vote.

Following that, the Senator from Texas will be recognized for 20 minutes to speak in relation to the legislation before the Senate; and the manager of the bill, Senator THOMPSON, wishes to speak, and I ask that he be recognized following the statement of the Senator from Texas.