

position of the minority is the same as it was prior to the break. We don't think there will be any time that would be agreeable on the Owen nomination. That being the case, is it the expectation of the majority leader that he would file cloture on the Priscilla Owen nomination sometime today or tomorrow?

Mr. FRIST. Mr. President, let me get back with the leadership on the other side of the aisle. We, of course, would very much like an up-or-down vote on Priscilla Owen. If not and it is necessary for us to file cloture, it will be done either sometime this week or next week. The final decision has not been made. We would like to discuss this with you, and we will let you know once that decision is made.

Mr. REID. Finally, Mr. President, we are willing to work with the majority on judges. We have a number of circuit judges on which we think we can move very quickly. The leadership should know that.

Mr. FRIST. Mr. President, in response, I recognize that. We are making slow but consistent and steady progress. We have the vote today. We have made reasonable progress up until today. I think as judges are put forward, we will continue to consider them in an orderly way in the Senate. That being said, I am very hopeful that we can ultimately have an up-or-down vote on Miguel Estrada, someone whom we believe is the embodiment of the American dream. We will work in that regard. I hope we will be able to have an up-or-down vote on Priscilla Owen as well.

RESERVATION OF LEADERSHIP TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

NOMINATION OF JEFFREY S. SUTTON, OF OHIO, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 32, which the clerk will report.

The assistant legislative clerk read the nomination of Jeffrey S. Sutton, of Ohio, to be United States Circuit Judge for the Sixth Circuit.

The PRESIDING OFFICER. Under the previous order, the time until 12 noon shall be equally divided between the chairman of the Judiciary committee and the Senator from Iowa, Mr. HARKIN.

The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that Senator DURBIN be recognized on the Democrats' time first for 20 minutes. Our next speaker

would be Senator SCHUMER for 15 minutes. There will be a Republican in between, I am sure, if that is the wish. But I ask unanimous consent that our first two speakers be lined up accordingly.

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

The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that I immediately proceed after Senator DURBIN for 15 minutes—that I follow him.

Mr. REID. The Senator from New York understands—

Mr. STEVENS. I reserve the right to object.

Mr. REID. There will be a Republican in between him and Senator DURBIN.

Mr. SCHUMER. Yes.

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

The Senator from Illinois.

Mr. DURBIN. Mr. President, this week appears to be "Judge Week" in the Senate. We are going to focus on judicial nominations.

It is interesting, as I traveled across Illinois over the last 2 weeks, not a soul raised a question about Federal judges—the debate here in the Senate. It does not seem to be on the radar screen of average Americans. It is certainly an important issue; it is one that we focus on as political parties, and it is one that I think is timely when we consider the nominees who are before us.

For the average American, it may not mean much, it may not mean much until that day comes that a decision is handed down by a court that has an impact on families across America, and businesses and individuals, because Federal judges have extraordinary power. The men and women we are considering in the Senate are being given lifetime appointments to the Federal bench. If they are good, they will be good for a lifetime; if they are bad, they will be bad for a lifetime. Most of us in the Senate will come and go, and they will still be sitting on the bench with gavel in hand, in their black robes, meting out justice according to their own values. So it is important that we ask questions and make inquiries as to what those values might be.

The judge before us today is Jeffrey Sutton. If you read about Jeffrey Sutton, you find a man of extraordinary intellect. He is a partner in a large Columbus, OH, law firm, and served as State solicitor in Ohio. He is a professor at Ohio State University Law School. He has been a law clerk for Supreme Court Justices Scalia and Powell, and he has done a number of other things which suggest that this is a thoughtful man.

There is no question as to whether he is up to the job intellectually. The question is whether he brings to the job the values that are in the mainstream of America. I would suggest that he does not.

As a result of that, I will oppose his nomination. I would like to spell out

exactly why. In the cases he has taken, and the legal arguments he has advanced, Jeffrey Sutton has shown a consistent pattern of insensitivity to civil rights, human rights, and the rights of minorities, women, and the disabled in America.

Time and again, he has asked the Federal courts to remove the authority of Congress to create laws involving individual rights and liberties and to give compensation to those who have been wronged. That is the hallmark of his legal career. That is who Jeffrey Sutton is. That is what he believes.

Given a lifetime appointment to this bench in the Sixth Circuit Court of Appeals, we can predict, with some degree of certainty, he will continue in his quest to try to deny those coming before the court the right for a day in court if they happen to be disabled, victims of age discrimination, victims of civil rights discrimination, and the like.

His hearing was held on January 29, with two other controversial nominees: Deborah Cook, also a nominee for the Sixth Circuit, and John Roberts, for the DC Circuit. It was the first time since 1990 that the Judiciary Committee held a hearing on one day for three circuit court nominees. It is unfortunate. We had some time to ask Professor Sutton questions, but not as much time as we needed. I sent some written questions to him and have those responses.

But if you look at the interest in his nomination, you will find an extraordinary lineup of organizations that oppose Jeffrey Sutton. It is hard to believe, but true, that 70 national and nearly 400 local organizations oppose Jeffrey Sutton for confirmation to the Circuit Court of Appeals. Twenty-three of them are based in Illinois. The disability community is particularly alarmed. And you will understand that as I talk about some of the cases he has taken.

In our history, seldom do people stand and announce publicly they are prejudiced. That is not something you hear very often. There are a lot of things people say. Usually the shield, the explanation, and the rationale for prejudice in America is to say: I am standing up for States rights. Boy, that has been the clarion call from those who oppose universal concepts and principles of human rights and civil rights, I guess dating back to our debates in the Senate and the House about slavery, which led to the Civil War. You remember that, of course.

The States argued that the Federal Government could not impose on them a standard relative to slavery; it would be a matter of States rights. It reached such a high peak of anger and frustration that it led to the secession of States, a civil war, and the bloodiest moment in the history of the United States.

The end of that war did not end the debate. Those who continue to oppose civil rights and human rights—whether