

nominees who are outside the mainstream. We have a duty to the Constitution and a duty to the American people not simply to rubberstamp the President's picks. Mark my words, we are going to fulfill those duties as long as we have to. That is our constitutional obligation.

But there is not a single Senator on our side of the aisle who wants these fights. There is not a single Senator on our side of the aisle who wants to oppose even one of the President's nominees. We would be a lot happier if we could all come together. We have done that on the district courts in New York. They are all filled. I consulted with the White House, with the Governor, and we came to agreements. We can do it. If the White House and I can come to an agreement, so can the Senate and the White House on who should be judges.

But there is an important point here. How did we solve the problems in New York? The President and the White House consulted with the Senators and with the Senate. As the compromise of 2005 sets out, President Bush must consult with the Senate in advance of nominating appellate judges to the bench. "Advise and consent." To get the consent, you need the "advise."

So I again call on the President, once and for all, to tell him we can solve this problem by coming together, by him consulting. I really believe we can solve this problem. But we are not going to find common ground when we keep seeking nominees who will be activists on the Federal bench. We are not going to solve this problem if the President stands like Zeus on Mt. Olympus and hurtles judicial thunderbolts down to the Senate. He has to consult. He has to ask us, as President Clinton did.

Why did President Clinton's Supreme Court nominees have no trouble in the Senate? I would argue because the President proposed a number of names to ORRIN HATCH, hardly his ideological soulmate, and ORRIN HATCH said this one won't work and that one won't work, but this one will and this one will. President Clinton heeded Senator HATCH's advice. As a result, Justice Breyer and Justice Ginsburg didn't have much of a fight. Some people may have voted against them, but it didn't get to the temperature that impertuned my colleagues to filibuster—which they did on some other judges, although unsuccessfully: Judge Paez, Judge Berson, et cetera.

Mr. President, this is a plea to you. Let us take an example from the group of 14. Please, consult with us. You don't have to do what we say, but at least seek our judgment. If we say this judge would be acceptable and that judge will not—take our views into consideration. What will happen is it will decrease the temperature on an awfully hot issue. But second, and more importantly, it will bring us together so we can choose someone if the Supreme Court should have a vacancy,

and we can continue to choose people when the courts of appeal have vacancies, without a real fight.

It can work. It has worked in New York between this White House and this Senator. It has worked at the national level, at the Supreme Court level, when President Clinton consulted with Republicans in the Senate, who were in the majority. It can work now. The ball is in President Bush's court. If he continues to choose to make these judgments completely on his own, if he continues to stand like Zeus on Mt. Olympus and just throw thunderbolts at the Senate, we will not have the comity for which the 14 asked.

A very important part of their agreement was for the President to start paying attention to the advise, in the "advise and consent."

Again, the ball is in his court. If the President starts doing that, I am confident this rancor on judges will decline, the public will see us doing the people's business, and the generally low view that the public has had of this body because of the partisan rancor will be greatly ameliorated.

Mr. President, again, you can change the way we have done these things, but only you can. Please, consult the Senate. Bring down hot temperatures that now exist.

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 (Mr. GRAHAM). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

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

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session to consider the following nomination, which the clerk will report.

The bill clerk read the nomination of Priscilla Richman Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit.

Mr. REID. Mr. President, we are going to move forward with a vote on Priscilla Owen. It is well that the Senate is moving. There are other judges who are waiting and have waited a long time. We have three judges from Michigan. There is no reason we can't move those four very quickly. They were

held up as a result of an intractable procedural matter. That is no longer. We can do those judges in a very short timeframe.

We also have a person Senator HATCH has been wanting to have for some time now, way into last year, a man by the name of Griffith. We are willing to move him. There were some problems. Some Senators will vote against him. There is no question about that. Senator LEAHY, the ranking member of the Judiciary Committee, has made a number of negative speeches about Griffith. We will agree to a very short timeframe on his nomination and move it on. That would be four appellate court judges very quickly. I hope we can do it in the immediate future. We could clear four judges today or tomorrow.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both Senators SPECTER and LEAHY.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORZINE. 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. CORZINE. Mr. President, I come to the floor to speak briefly about the compromise agreement reached on judicial nominees and about the pending circuit court nominees.

Let me begin by saying that I am pleased that, through the agreement reached this week, we were able to protect the rights of the minority in this body to have our voices heard. That is consistent with the best traditions of the Senate. I certainly believe it is consistent with the constitutional principle that gave each State two Senators, regardless of their number of citizens. So, for example, California has 36 million people and Wyoming has a little more than 500,000 citizens. But our forefathers saw to it, in an effort to protect the rights of the minority, that each State would have two Senators to represent their interests.

I also believe that the agreement, at least at this time and place, preserves our constitutional system of checks and balances. So I compliment my 14 colleagues who reached this agreement and, in so doing, protected two of the most essential principles of American government—the rights of the minority and our system of checks and balances.

Let me also say that I am particularly proud of Senator REID's leadership in pushing towards this compromise.

That said, my enthusiasm for this compromise is tempered by the reality that I see before us. For while I am cautiously optimistic about the immediate outcome, I am aware that, like in so many things, the devil is in the details. Time will test the meaning of the term, "extraordinary circumstances",