

nominees. What they do is they make the nominees list all the major cases they have handled, list the judges who tried those cases, list the names of the lawyers on the other side of the cases, and who their clients were. These ABA people—and I like what they do—go out and talk to a lawyer on the other side of the case. They talk to the judge: How did these lawyers handle themselves? Did they conduct themselves with integrity? Were they skilled in argument? Did they understand and make common-sense arguments? Are they hard to deal with? Irritable? Duplicious and sneaky? That is what they do. They came out and gave her the highest possible rating after doing all of that. That is the reason why I would ask how a person with her background, her skill, her experience, with that kind of rating of the ABA—why they would pick her to try to block? I hope it is not so, really. I hope we do not have a filibuster on this case like we do, in fact, have with Miguel Estrada. Maybe we will and maybe we will not.

I just cannot believe it, frankly. I cannot believe it is possible that Members of this body would conduct a filibuster against a candidate for the court of appeals as qualified, as superbly qualified as Priscilla Owen. It is just beyond my comprehension that that could ever occur here.

There is not one hint she has anything other than the highest integrity. There is no doubt she is brilliant. There is no doubt she has given her life to the law and knows it and that is what she has done throughout her career. She loves the law. She respects it and she cares about it. She cares about it deeply enough to enforce the law as written, whether or not she agrees with it. She will follow Supreme Court rulings even if she were to disagree with them, like she repeatedly pledged to do, because she is a lawyer and a judge who believes in the rule of law.

I think we will be facing a very sad event here in the next day or so if we end up with further objections—objections to bringing her up for a vote, in effect having a filibuster. It is just beyond my comprehension.

In the history of this country, we have never had a filibuster of a court of appeals judge or a district judge. The Constitution says by advice and consent the Senate, in effect, will confirm or reject a President's nominee. The clear meaning of that statute and the way it is written leaves no doubt that it means a majority vote. Yet through the utilization of the filibuster rule, some in this body are using a rule that has never before been used for a court of appeals judge or district court judge in the history of this country. The effect has been to ratchet that up to a 60-percent vote—you have to have 60 votes here.

You know from Miguel Estrada, he has already received 54 or 55 votes for confirmation, which is a clear majority. But because he does not have a 60-

vote margin, he is not able to come up for an up-or-down vote.

I hope we are not going to see that in the case of Priscilla Owen. She is entitled to an up-or-down vote. She is entitled to be confirmed as a Justice on the Fifth Circuit Court of Appeals. President Bush knew her, he knew her reputation. He picked one of the finest people who could be picked for any court of appeals position anywhere in this country, right in his home State of Texas. Is that why they are objecting to her, because it is his State? I don't know. But it cannot be on the merits.

I have looked at this matter. I have seen the arguments. I attended her hearing. I saw how well she handled herself. I believe and I hope and pray this body will not descend into a pattern of filibuster of nominees for the courts of appeals of this country, or for the district courts, or even for the Supreme Court of the United States. That would be a terrible alteration of our traditions, maybe even be in violation of the Constitution, which says a majority vote is what it takes to advise and consent on Presidential nominees. It is something we ought to think very seriously about.

I hope my colleagues will not take that route and will give her an up-or-down vote. If they do, I have no doubt she will be confirmed.

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

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

#### EMERGENCY WARTIME SUPPLEMENTAL APPROPRIATIONS ACT, 2003

The PRESIDING OFFICER. Under the order of the Senate of April 3, 2003, the Senate having received H.R. 1559, all after the enacting clause is stricken and the text of S. 762 is inserted in lieu thereof; H.R. 1559 is read the third time and passed. The Senate insists on its amendment, requests a conference with the House, and the Chair appoints Mr. STEVENS, Mr. COCHRAN, Mr. SPECTER, Mr. DOMENICI, Mr. BOND, Mr. MCCONNELL, Mr. BURNS, Mr. SHELBY, Mr. GREGG, Mr. BENNETT, Mr. CAMPBELL, Mr. CRAIG, Mrs. HUTCHISON, Mr. DEWINE, Mr. BROWNBACK, Mr. BYRD, Mr. INOUE, Mr. HOLLINGS, Mr. LEAHY, Mr. HARKIN, Ms. MIKULSKI, Mr. REID, Mr. KOHL, Mrs. MURRAY, Mr. DORGAN, Mrs. FEINSTEIN, Mr. DURBIN, Mr. JOHNSON, and Ms. LANDRIEU conferees on the part of the Senate.

Under the previous order, the passage of S. 762 is vitiated and the bill is placed back on the calendar.

The Senator from Alabama.

(The remarks of Mr. SESSIONS pertaining to the introduction of S. 807 are

printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### RENAMING THE GUAM SOUTH ELEMENTARY/MIDDLE SCHOOL OF THE DEPARTMENT OF DEFENSE DOMESTIC DEPENDENTS ELEMENTARY AND SECONDARY SCHOOLS SYSTEM

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of H.R. 672, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 672) to rename the Guam South Elementary/Middle School of the Department of Defense Domestic Dependents Elementary and Secondary Schools System in honor of Navy Commander William "Willie" McCool, who was the pilot of the Space Shuttle Columbia when it was tragically lost on February 1, 2003.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read three times, passed, and the motion to reconsider be laid upon the table; that any statements relating thereto be printed in the RECORD, without intervening action or debate.

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

The bill (H.R. 672) was read the third time and passed.

#### APPOINTMENT

The PRESIDING OFFICER. The Chair announces, on behalf of the Secretary of the Senate, pursuant to Public Law 101-509, the appointment of Paul Gherman, of Tennessee, to the Advisory Committee on the Records of Congress.

#### ORDERS FOR TUESDAY, APRIL 8, 2003

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m., Tuesday, April 8. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period of morning business until 10:30 a.m., with the time equally divided between Senator HUTCHISON and the minority leader or his designee; provided that at 10:30 a.m., the Senate return to executive session and resume consideration of the nomination of Priscilla Owen to be a circuit judge for the Fifth Circuit.

I further ask unanimous consent that the Senate recess from 12:30 to 2:15 p.m.

tomorrow for the weekly party luncheons.

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

### PROGRAM

Mr. SESSIONS. For the information of all Senators, on behalf of Senator FRIST, the majority leader, the Senate will be in a period of morning business tomorrow until 10:30 a.m. Following morning business, the Senate will resume debate on the nomination of Priscilla Owen. A number of Senators have indicated that they are prepared to speak on her nomination, and I hope they will do so during tomorrow's session.

Also as a reminder, it is my expectation that the Senate will take up the CARE Act tomorrow afternoon under the agreement reached last week.

As mentioned this morning, there are a number of issues that may be addressed this week prior to the Easter recess therefore, Senators should expect recess votes each day of the session.

### ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. SESSIONS. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:06 p.m., adjourned until April 8, 2003, at 10 a.m.

### NOMINATIONS

Executive nominations received by the Senate April 7, 2003:

#### DEPARTMENT OF JUSTICE

RICHARD JAMES O'CONNELL, OF ARKANSAS, TO BE UNITED STATES MARSHAL FOR THE WESTERN DISTRICT OF ARKANSAS FOR THE TERM OF FOUR YEARS, VICE KENNETH RAY MCFERRAN.

ROBERT D. MCCALLUM, JR., OF GEORGIA, TO BE ASSOCIATE ATTORNEY GENERAL, VICE JAY B. STEPHENS, RESIGNED.

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

STEVEN B. NESMITH, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MELODY H. FENNEL.

#### NATIONAL INSTITUTE OF BUILDING SCIENCES

PAUL PATE, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2003, VICE H. TERRY RASCO, TERM EXPIRED.

PAUL PATE, OF IOWA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2006. (REAPPOINTMENT).

LANE CARSON, OF LOUISIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2004, VICE CHRISTINE M. WARNKE, TERM EXPIRED.

JAMES BROADDUS, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2004, VICE JOHN H. MILLER, TERM EXPIRED.

JOSE TERAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL INSTITUTE OF BUILDING SCIENCES FOR A TERM EXPIRING SEPTEMBER 7, 2005, VICE CHARLES A. GUELLI, TERM EXPIRED.

#### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

#### To be lieutenant general

MAJ. GEN. JOHN W. ROSA JR., 0000

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

#### To be major general

BRIGADIER GENERAL JOHN B. HANDY, 0000  
BRIGADIER GENERAL MARVIN S. MAYES, 0000  
BRIGADIER GENERAL DOUGLAS R. MOORE, 0000  
BRIGADIER GENERAL RICHARD L. TESTA, 0000

#### To be brigadier general

COLONEL JOSEPH G. BALSUS, 0000  
COLONEL BOBBY L. BRITAIN, 0000  
COLONEL THOMAS J. DEARDORFF, 0000  
COLONEL MICHAEL P. HICKEY, 0000  
COLONEL CHARLES V. ICKES II, 0000  
COLONEL WILLIAM B. JERNIGAN, 0000  
COLONEL HENRY C. MORROW, 0000  
COLONEL DONALD J. QUENNEVILLE, 0000  
COLONEL DANIEL R. SCACE, 0000  
COLONEL TIMOTHY W. SCOTT, 0000  
COLONEL EUGENE A. SEVI, 0000  
COLONEL DARRYLL D. M. WONG, 0000

THE FOLLOWING OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be brigadier general

COL. THOMAS F. DEPPE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be brigadier general

COL. GUY K. DAHLBECK, 0000

#### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

#### To be brigadier general

COL. DOUGLAS M. STONE, 0000

#### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

#### To be rear admiral

REAR ADM. (LH) ROBERT RYLAND PERCY III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be rear admiral (lower half)

CAPT. THOMAS K. BURKHARD, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

#### To be rear admiral (lower half)

CAPT. RICHARD E. CELLON, 0000

#### IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

#### To be colonel

WILLIAM T. BOYD, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

#### To be colonel

RICHARD D. DANIELS, 0000  
KYLE J. DAY, 0000  
MARK W. HUNT, 0000  
CRAIG V. MORGAN, 0000  
GEORGE G. PERRY III, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

#### To be colonel

GARY L. HAMMETT, 0000  
WILLIAM P. MCGINNIS, 0000  
DAVID B. RIANO, 0000  
RONNIE N. SHELL, 0000  
DAVID L. SMITH, 0000

#### IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

#### To be colonel

JEFFREY ACOSTA, 0000

ARTHUR E ADAMS, 0000  
DANA P ALBERT, 0000  
GEORGE C AUCCOIN JR., 0000  
MICHAEL D BRENNEMAN, 0000  
DAVID G BROWN, 0000  
RALPH N BROWN, 0000  
RAYMOND N BRUNEAU, 0000  
CHRISTOPHER R BUESCHER, 0000  
PAUL J BURKE, 0000  
DAVID H CAHN, 0000  
SANDRA J CAMPBELL, 0000  
JAMES M CHAMBERLIN, 0000  
CATHERINE D CHASE, 0000  
JOHN D CODDOU, 0000  
JEFFREY D COLE, 0000  
STEVEN A COLLINS, 0000  
JEFFREY L COOPER, 0000  
ROBERT P DADAY JR., 0000  
PETER N DESALVA, 0000  
MILES V DIAMOND, 0000  
JOHN T DURKIN, 0000  
WILLIAM O DWIGGINS, 0000  
CARRIE L DYER, 0000  
MARK L ECONY, 0000  
FLORA M EMERSON, 0000  
JOSEPH L FALVEY JR., 0000  
ALLAN M FAXON JR., 0000  
GREGORY M FERKETISH, 0000  
JOSEPH P FIGUEROA III, 0000  
LAURENCE D FOY, 0000  
TIMOTHY E FRANK, 0000  
MICHAEL L GALLAGHER, 0000  
DAVID N GILL, 0000  
JOHN GIORGIO JR., 0000  
MARK GOLDNER, 0000  
REED H GRABOWSKI, 0000  
MICHAEL D GREER, 0000  
DONALD C HALES, 0000  
ROBERT M HANSON, 0000  
PAUL G HASTINGS JR., 0000  
KATHLEEN G HENDERSON, 0000  
JAMES D HERRINGTON, 0000  
MARK C HESSLER, 0000  
LYNN M HICKS, 0000  
GEORGE N HIMARAS, 0000  
JENNY M HOLBERT, 0000  
CHARLES G IKINS, 0000  
ROBERT D ING JR., 0000  
KEVIN E JOHNS, 0000  
DARCY R KAUER, 0000  
MICHAEL J KEEGAN, 0000  
RALPH S KEELY, 0000  
ROBERT W KELLY JR., 0000  
THOMAS R KELLY JR., 0000  
JOHN M LACROSSE, 0000  
GARY E LAMBERT, 0000  
JOHN D LESINSKI, 0000  
CHRISTOPHER J LEWIS, 0000  
PETER D LLOYD, 0000  
MARK C LOSACK, 0000  
MICHAEL D MALONE, 0000  
RODNEY C MANN, 0000  
DOMAN O MCARTHUR, 0000  
THOMAS F MCFARLAND, 0000  
JAMES D MCGINLEY, 0000  
ERNEST J MILLER, 0000  
JONATHAN S MILLER, 0000  
BARBARA J MORONEY, 0000  
JOSEPH C MUNCH, 0000  
DAVID R MUSGRAVE, 0000  
DAVID L NEELY, 0000  
WAYNE J PAYNE, 0000  
JOSEPH N PULTRO, 0000  
KENNETH J PUNTER, 0000  
JAMES T REYNOLDS, 0000  
HOON RHEE, 0000  
CHARLES E RICE, 0000  
LARRY J RICHARDS, 0000  
PATRICK E RILEY, 0000  
LAWRENCE B ROBSON, 0000  
CHRISTOPHER A ROOSA, 0000  
BRADLEY P SALMON, 0000  
KEVIN C SAWYER, 0000  
THOMAS G SCULLY, 0000  
JOHN S SHARPE, 0000  
TERRY M SHEPHERD, 0000  
HARLEY T SKIDMORE III, 0000  
JUDY G SMITH, 0000  
JOHN J SULLIVAN JR., 0000  
SEAN T SULLIVAN, 0000  
DAVID W THATCHER JR., 0000  
MICHAEL A THORSBY, 0000  
ROBERT E TOBIN, 0000  
BRIAN J TUCKER, 0000  
ROBERT H WAGNER JR., 0000  
PAUL J WAPENSKY, 0000  
KEVIN W WEBER, 0000  
JOHN G WEMETT, 0000

### CONFIRMATION

Executive nomination confirmed by the Senate April 7, 2003:

#### THE JUDICIARY

CORMAC J. CARNEY, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.