

I want to thank, in particular, the Democratic members of the Judiciary Committee for their hard work in this regard. These achievements have not been easy. The Senate is making some progress. More has been achieved than Republicans are willing to acknowledge.

So, as we repeat our vote on this nomination today and Republicans continue their drumbeat of unfair political recriminations, we should all acknowledge how far we have come from the 110 vacancies that Democrats inherited from the Republican majority in the summer of 2001. In addition to more confirmations and fewer vacancies, we have more Federal judges serving than ever before.

Under a Republican majority, circuit vacancies more than doubled and overall vacancies increased dramatically. Despite the fact that close to 90 additional vacancies have arisen since the summer of 2001, we have worked hard and cut those vacancies from 110 to less than 60. Earlier this year, until new judgeships were authorized, the vacancy rate on the Federal courts was at the lowest number in 13 years. Even with the 15 new judgeships effective this month, the vacancy rate is now well-below where Senator HATCH inherited it, and well-below the rate Senator HATCH called "full-employment." There are more full-time Federal judges on the bench today than at any time in U.S. history, in the last 214 years. And, if you add in the senior judges, there are more than 1,000 Federal judges sitting on the Federal courts.

With a modicum of cooperation from the other end of Pennsylvania Avenue and the other side of the aisle we could achieve so much more. As it is, we have worked hard to repair the damage to the confirmation process and achieved significant results. Republicans seem intent on inflicting more damage, to the process, to the Senate, and to the independence of the Federal courts.

Unfortunately, the nomination of Justice Owen is a nomination that should never have been remade. It was rejected by the Judiciary Committee last year after a fair hearing and extensive and thoughtful substantive consideration. The White House would rather play politics with judicial nominations than solve problems. This unprecedented renomination of a person voted down by the Senate Judiciary Committee is proof of that. That Senate Republicans are continuing to press this matter knowing the outcome of this vote shows what a charade this has become.

This nomination is extreme. This nominee has shown herself to be a judicial activist and an extremist even on the very conservative Texas Supreme Court where her conservative colleagues have criticized her judging as activist again and again.

The nomination process starts with the President. It is high time for the White House to stop the partisanship

and campaign rhetoric and work with us to ensure the independence and impartiality of the Federal judiciary so that the American people, all of the American people, can go into every Federal courtroom across the country and know that they will receive a fair hearing and justice under the law. It is time for Senate Republicans to stand up for the Senate's role as a check on the unfettered power of the President to pack the courts and for fairness.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion.

The clerk will report the motion to invoke cloture.

The assistant 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. 86, the nomination of Priscilla R. Owen of Texas to be United States Circuit Judge for the Fifth Circuit.

Bill Frist, Orrin Hatch, John Cornyn, Michael B. Enzi, Jim Talent, Judd Gregg, Jeff Sessions, Ben Nighthorse Campbell, Craig Thomas, Chuck Grassley, Chuck Hagel, Thad Cochran, Richard Shelby, Wayne Allard, Elizabeth Dole, Conrad Burns, and Larry E. Craig.

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 Richmond Owen, of Texas, to be United States Circuit Judge for the Fifth Circuit shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM) the Senator from Massachusetts (Mr. KERRY), and the Senator from Connecticut (Mr. LIEBERMAN) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "nay."

The yeas and nays resulted—yeas 53, nays 43, as follows:

[Rollcall Vote No. 308 Ex.]

YEAS—53

Alexander	Crapo	Lott
Allard	DeWine	Lugar
Allen	Dole	McCain
Bennett	Domenici	McConnell
Bond	Ensign	Miller
Brownback	Enzi	Murkowski
Bunning	Fitzgerald	Nelson (NE)
Burns	Frist	Nickles
Campbell	Graham (SC)	Roberts
Chafee	Grassley	Santorum
Chambliss	Gregg	Sessions
Cochran	Hagel	Shelby
Coleman	Hatch	Smith
Collins	Hutchison	Snowe
Cornyn	Inhofe	Strom
Craig	Kyl	Specter

Stevens	Talent	Voivovich
Sununu	Thomas	Warner

NAYS—43

Akaka	Dodd	Levin
Baucus	Dorgan	Lincoln
Bayh	Durbin	Mikulski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Boxer	Harkin	Pryor
Breaux	Hollings	Reed
Byrd	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Conrad	Kohl	Stabenow
Corzine	Landrieu	Wyden
Daschle	Lautenberg	
Dayton	Leahy	

NOT VOTING—4

Edwards	Kerry
Graham (FL)	Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

RECESS

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

Thereupon, the Senate, at 12:52 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOIVOVICH).

ENERGY POLICY ACT OF 2003—
Continued

Mr. CRAIG. 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. FEINGOLD. 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. FEINGOLD. Mr. President, I ask unanimous consent to speak as if in morning business.

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

The Senator from Wisconsin is recognized.

Mr. FEINGOLD. I thank the Chair.

(The remarks of Mr. FEINGOLD pertaining to the introduction of S. 1480 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. FEINGOLD. 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. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

Mr. REID. Mr. President, there is an order floating around here on the floor that sets forth about 7 hours of debate on these two trade agreements, the