United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 109th CONGRESS, FIRST SESSION

Vol. 151 WASHINGTON, THURSDAY, MAY 19, 2005 No. 67

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of grace and glory, open our eyes to the power You provide for all of our challenges. Give us a glimpse of Your ability to do what seems impossible, to exceed what we can request or imagine. Encourage us again with Your promise to never forsake us and to render ineffectual the weapons we face.

Strengthen the Members of this body in their efforts to do good, knowing that in due season You will bring a bountiful harvest. Sustain them during today's challenging labors. Give them more than human wisdom to solve the problems of these momentous times. Provide them with the insight to know what is right and the courage to do it. We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

EXECUTIVE SESSION

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

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session for the consideration of calendar No. 71, which the clerk will report.

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

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will resume executive session to consider Priscilla Owen to be a U.S. circuit court judge for the Fifth Circuit. We will continue the debate, as we did yesterday, by rotating back and forth between the aisle every 60 minutes. I think this orderly flow of debate will be helpful in terms of scheduling Members' speaking times. It worked well yesterday, and I would expect it to be orderly today as well. I know there is a large number of Senators who have indicated their desire to speak, and we will remain on the nomination to give everyone a chance to fully voice their concerns and their discussion on this very qualified nominee.

I am hopeful that at some point we will be able to schedule a vote on the nomination, and I will update Members later today on the upcoming schedule as it relates to the nomination of Priscilla Owen.

Mr. President, I will have a brief statement—the Democratic leader and I were just discussing our plans—and then he will have a statement, and then at that juncture I believe we will proceed as we set out the time schedule yesterday, alternating back and forth.

Mr. President, we did, yesterday, have a vibrant and spirited debate on the Senate floor. We have been debating a very simple principle—one based on fairness and one grounded in the Constitution. The principle is that judicial nominees, with the support of a majority of Senators, deserve a fair up-or-down vote on the floor of the Senate.

Yesterday, 21 Senators—evenly divided, I believe 11 Republicans and 10 Democrats—debated for over 10 hours on the nomination of Priscilla Owen. We will continue that debate—10 hours yesterday—maybe 20 hours, maybe 30 hours, and we will take as long as it takes for Senators to express their views on this qualified nominee.

But at some point that debate should end and there should be a vote. It makes sense: up or down, ''yes'' or ''no,'' confirm or reject; and then we move on in regular order.

Senators can vote to confirm or reject a nominee. But we should fulfill our constitutional responsibility to give advice and consent by voting up or down.

The nominee before us is Priscilla Owen, a Texas Supreme Court justice nominated to serve on the Fifth Circuit Court of Appeals. I have studied her record. I have had the opportunity to meet with her personally. I believe she would serve our Nation well as a circuit court judge.

Her academic and professional qualifications are outstanding. She graduated near the top of her class in law school, and she once achieved the highest score in the State of Texas on the bar exam. The American Bar Association unanimously rated her ''well qualified,'' its highest possible rating.

Her opponents suggest she is a judicial activist who is out of the mainstream. Her record simply shows that is not true. She was reelected by 84 percent of Texans. Are 84 percent of Texans really out of the mainstream? She is supported by Republicans and Democrats on the Texas Supreme Court. She has been endorsed by every major newspaper in her home State.

That is a mainstream record.

In her judicial decisions, some on the floor over the last day, and actually last week as well, have criticized her as a judicial activist in cases, and the focus has always been on these cases involving a parental notification law.

Printed on recycled paper.