and broad coalition, from State and local highway authorities to national safety advocates. It was last month that a very similar bill overwhelmingly passed the House of Representatives by a vote of 417 to 9. It is time to get this bill done.

This is what America sees, I know: While we engage in this endless negotiation inside the beltway, outside the beltway people are listening to that as they are sitting in traffic jams which are getting worse and worse by the day. At the same time we are debating, roads and bridges continue to deteriorate, and preventable traffic accidents take the lives of tens of thousands of Americans each year. I will come back to that, because these lives do not have to be lost. The action we take on the floor of the Senate will cause those lives not to be lost.

Car crashes, in fact, are the No. 1 cause of death for every age from 3 years of age to 33 years of age; crashes are their No. 1 cause of death. According to national statistics reported just last week, 43,000 people died in car accidents just last year alone. More than 2.7 million people were injured.

I believe the key point is that one-third of all these traffic-related deaths can be attributed to unsafe roads. One out of every three deaths can be attributed to unsafe roads. In my home State of Tennessee, over 1,000 Tennesseans lost their lives in traffic accidents in 2003. Treasury Secretary Norm Mineta rightly says:

> If this many people were to die from any one disease in a single year, Americans would demand a vaccine.

We do have a medicine of sorts. In fact, we have a cure of sorts. Passing the highway bill will save 4,000 lives each year simply by making those roads safe, by improving those roads, as well as educating the public about road safety. In Tennessee, where seatbelt usage is among the lowest in the country, our State highway department is taking action, but, like transportation departments all across the country, it needs our help. The highway bill will provide Tennessee with more than $3.8 billion over the next 5 years to invest in our State's highway infrastructure.

Safety is a top priority of this legislation. Another serious goal is to get America's highways back on track economically. America is interlaced by nearly 4 million miles of roads and highways. Our transportation infrastructure is worth about $1.75 trillion. Every $1 billion we invest in transportation infrastructure generates twice that much—$2 billion—in economic activity and creates over 47,500 jobs. The interstate highway system has often been called the greatest public works project in history, and for good reason.

Our roads, ports, and railroads are vital to America's economic success. We know that well in Tennessee, where we are home to companies such as Federal Express, U.S. Express, Averitt Express. Unfortunately, America's transportation infrastructure is deteriorating badly and becoming painfully overcrowded. Our roads and highways are not keeping up with demand. Just ask any American commuter—bumper to bumper traffic all day long. Indeed, in our Nation's urban areas, traffic delays have more than tripled over the last 20 years, and not just in the big cities but all over the country. In Raleigh Durham, for instance, commuting time has gone up 25 percent in 10 years. In Charlotte, traffic congestion has added 39 additional commuting hours per year. That is nearly an entire work week that has been added, sitting in traffic. In Tennessee, traffic congestion has increased in all of our major metropolitan areas. In Nashville, my hometown, commuters drive an average of 32 miles per person per day. Metropolitan planning organizations are struggling to meet demand.

Americans suffer the loss of more than 3.6 billion hours in those traffic delays, and that translates down to 5.7 billion gallons per year of fuel being wasted. These transportation delays ripple through our Nation's economic sector and ultimately result in lost wages and lost jobs and lost productivity.

Traffic congestion also generates more pollution. Cars that are caught up in stop-and-go traffic emit far more pollution than they do on a road that is smoothly flowing. The American Highway Users Alliance estimates that if we could free up America's worst bottlenecks, in 20 years carbon dioxide emissions would drop by over three-fourths, and Americans would save 40 billion gallons of fuel.

Time, money, and quality of life are being burned up in traffic jams. The highway bill goes a long way to alleviating many if not most of these problems. The key to that effort is the improvements it will make in our mass transit system. The highway bill provides generous provisions to improve our bus and rail systems that make our urban centers thrive. In Tennessee, it will provide more than $240 million over the next 5 years to improve our transit for our rural and urban commuters. Taking the train or the bus will be more convenient and less time consuming and more comfortable.

As we consider this legislation, keep in mind that oil prices are climbing to historic highs, and the summer driving season is just around the corner. For the sake of every family right now planning their vacation for this summer, every commuter who parks and rides, every minute we spend in a traffic jam, I do urge my colleagues to work quickly to pass this bill.

One final note, and it is a note of caution: We need to stay within our budget limits. We have a rising deficit. We have a President who has clearly laid out his spending parameters, several of which will be spelled out in the budget we will bring to the floor tomorrow. But I am confident by working together we can get this done, and we can demonstrate reasonable fiscal restraint.

Our vast and interconnecting highways are emblematic of our American spirit. They represent what being American is all about. They represent that spirit and love of adventure, our drive for the unknown. Our highways, bridges, roads, trains, and ports are the physical, tangible expression of the United States. I do urge my colleagues in the great American tradition, in every sense of the phrase, to keep America moving forward.

Mr. President, I yield the floor.

## RESERVATION OF LEADER TIME

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

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business up to 120 minutes, the first 30 minutes under the control of the majority leader or his designee, the next 60 minutes under the control of Mr. BIDEN or his designee, and the final 30 minutes under the control of the majority leader or his designee.

The Senator from the great State of Missouri.

Mr. TALENT. My understanding is we are going first in morning business on this side of the aisle.

The PRESIDING OFFICER (Mr. VITTER). The Senator is correct.

### JUDICIAL NOMINATIONS

Mr. TALENT. Mr. President, I will claim 20 minutes of the time. I will appreciate it if the Presiding Officer notifies me when 15 minutes are up because Senator HUTCHISON wants to use 10 minutes. I want to make certain everyone knows I do not intend to filibuster this morning. There will be a limit to my remarks.

I appreciated what the leader said about the highway bill. We do need to pass it. We need to pass a robust highway bill for all the reasons he stated. We are all very strongly for reducing the deficit, but spending on infrastructure is dynamic in nature, as I happen to believe tax cuts are dynamic in nature in the sense they produce economic growth. When we reduce the deficit, make this country competitive, help people get to work, Americans will get rid of the deficit if they can get to work in the morning. We need to have that debate in the Senate. Everyone needs to vote their conscience and vote out a robust highway and transportation bill.

That is not what I am here to talk about this morning. I am here to talk about judicial nominations. We have spent altogether too much time on judicial nominations the last 2 years, 150 hours on judicial nominations—not even Supreme Court nominations but court of appeals nominations. We have

been told over and over again how important they are. And they are important. They are the second highest court in the country. There are only three levels of courts in the country so the second highest court is also the second lowest court. They do the day-to-day appellate business of the Federal courts. It certainly is very important, but it is not worth filibustering the Senate and obstructing it to death and preventing the vote on these nominees. That is basically my message today.

For the first 214 years of this Senate, no nominee for the Federal court of appeals was ever successfully filibustered in the Senate. There were runt groups of Senators who in recent years tried filibusters, embryonic filibusters, that were cut off and defeated because the leadership of both parties, majority and minority leadership, opposed those filibusters on the grounds it was a mistake for this Senate to get in the business of filibustering judicial nominees. That was, until a couple years ago, the uniform point of view.

Senator BOXER said—and I am not picking out Senators in any particular area; I guess they are alphabetic:

According to the U.S. Constitution, the Senate nominates, and the Senate shall provide advice and consent. It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

Senator Daschle, former Democratic leader:

I find it simply baffling that a Senator would vote against even voting on a judicial nomination . . . We have a constitutional outlet for antipathy against a judicial nominee—vote against the nominee.

And, I add, let them have a vote.

Senator FEINSTEIN:

A nominee is entitled to a vote. Vote them up; vote them down . . .

But vote on them.

Senator FEINSTEIN again:

Our institutional integrity requires an up-or-down vote.

I couldn't agree with that more. I will get to that a little bit later if I do not have so many digressions that I use up my 20 minutes.

Senator KENNEDY:

We owe it to Americans across the country to give these nominees a vote. If our Republican colleagues do not like them, vote against them. But give them a vote.

Senator LEAHY, now the ranking member on the Judiciary Committee, former chairman of that committee:

I cannot recall a judicial nomination being successfully filibustered. I do recall earlier this year when the Republican chairman of the Judiciary Committee and I noted how improper it would be to filibuster a judicial nomination.

Yes, he is right.

Senator LEAHY again:

I . . . do not want to see the Senate go down a path where a minority of the Senate is determining a judge's fate on votes of 41 . . .

With 41 Senators out of 100, if we allow the filibuster in these cases, you can stop a nominee from ever coming to a vote. So nominees with bipartisan majority support in the Senate do not even get a vote if we allow filibusters in these cases. That has been the case with all these nominees.

I could go on and on with quotes. I will not do it.

For 214 years we never had one successful filibuster of a court of appeals nominee, not one supported by the leaders of either party. In the last 2 years we have had 10 successful filibusters and 6 other threatened ones.

What has happened? Is there something extraordinarily wrong with these nominees? No. I will go to two nominees before the Senate.

Justice Priscilla Owen from Texas. I do not know Justice Owen. I did not insist she come in and speak to me before I voted on her nomination. Here is her history.

Before joining the Texas Supreme Court, Justice Owen was a partner with the well-respected Texas law firm of Andrews and Kurth. She made partner. I never did. She practiced commercial litigation for 17 years. She earned a B.A. cum laude from Baylor University and graduated cum laude from Baylor Law School in 1977. After graduating from law school, Justice Owen earned the highest score in the State on the December 1977 Texas bar exam. Lawyers within the sound of my voice know the difficulty of earning the highest score on the bar exam. I am not certain how I ever staggered through the Missouri bar, but I am certain I did not get the highest score.

Justice Owen served on the Supreme Court in Texas since 1995. This person who could not even get a vote for 10 years has been a supreme court judge in Texas. She was reelected to her second term by 84 percent of the vote. Every major newspaper in Texas endorsed her. She cannot get a vote. She has significant bipartisan support, including from three former Democratic judges on the Texas Supreme Court. I will read some of that in a minute.

Justice Janice Rogers Brown from California is the daughter of sharecroppers, born in Greenville, AL, in 1949. She attended segregated schools in the era of Jim Crow. She moved to Sacramento, CA. Her family did. She got a B.A. in economics from California State in 1974 and her law degree from the UCLA Law School. She has received honorary law degrees from Pepperdine University, Catholic University of America Law School, and Southwestern University School of Law—three more honorary degrees than I have. She currently serves and is an associate justice—another justice on the State Supreme Court who cannot get a vote. She has held that position since 1996. Before that, she was on the intermediate State appellate court. She got on the State court of appeals. She cannot get a vote to get on the Federal court of appeals. She is the first African-American woman to serve on California's highest court and was retained with 76 percent of the vote in the last election.

I can go on and on with honorary degrees. She spent 24 years in public life in various legal capacities. She is experienced in judicial matters, in other governmental matters as a lawyer. She cannot get a vote. She is being filibustered.

Some of my colleagues say these and the other eight are too extreme; they are not in the mainstream. I wish every Federal judge on the bench today had the qualifications of these people and the bipartisan support of these people. The people who know them best from their own States do not think they are too extreme.

Raul Gonzalez, former Democratic Justice on the Supreme Court of Texas said of Justice Owen:

I found her to be apolitical, extremely bright, diligent in her work and of the highest integrity. I recommend her for confirmation without reservation.

I guess he would support a vote since he says we ought to confirm her.

Here is another former Democratic Chief Justice:

After years of closely observing Justice Owen's work, I can assert with confidence that her approach to judicial decision-making is restrained, her opinions are fair and well reasoned, her integrity is beyond reproach . . . I know personally how impeccable her credentials are.

This is from a Democrat in Texas, one of her colleagues.

Jack Hightower, a former Democratic Justice on the Supreme Court of Texas:

I am a Democrat and my political philosophy is Democratic, but I have tried very hard not to let preconceived philosophy influence my decision on matters before the court. I believe that Justice Owen has done the same.

A bipartisan group of 15 former presidents of the State Bar of Texas:

Although we profess different party affiliations and span the spectrum of views of legal and policy issues, we stand united in affirming that Justice Owen is a truly unique and outstanding candidate for appointment to the Fifth Circuit . . . The status of our profession in Texas has been significantly enhanced by Justice Owen's advocacy of pro bono service and leadership for the membership of the State bar of Texas.

They go on and on. These are 15 bipartisan former presidents of the State bar of Texas about Justice Priscilla Owen. She cannot get a vote. The 215-year tradition of not filibustering court of appeals nominees is broken to keep people such as her from not getting a vote.

The same things can be said of Justice Janice Rogers Brown who appears to be an extraordinary person. A bipartisan group of 12 of her current and former judicial colleagues says:

Much has been written about Justice Brown's humble beginnings, and the story of her rise to the California Supreme Court is truly compelling. But that alone would not be enough to gain our endorsement for a seat on the federal bench. We believe she is qualified because she is a superb judge. We who have worked with her on a daily basis know

her to be extremely intelligent, keenly analytical, and very hard working. We know that she is a jurist who applies the law without favor, without bias and with an even hand.

And she can't get a vote. This 214-year tradition of not filibustering court of appeals judges, we are breaking to keep people such as this woman from getting on the Federal bench and even getting a vote because she is not in the mainstream.

Here is the truth: There is not any one judicial mainstream, as there is no one mainstream of political philosophy in the Senate. Judges disagree about issues as Senators disagree about issues. The point is to disagree without being disagreeable. Disagree while recognizing the other person has a valid point of view. The fact that you do not agree with them does not make them automatically unfit even for a vote to serve on the Federal judiciary.

President Clinton appointed a lot of judges during his time in office who were a lot more liberal than I would have liked. I probably wouldn't have appointed very many of them. I cannot say they are out of the mainstream. They represent the views of tens of millions of people in the country. When you say somebody who disagrees with you is out of the mainstream, you are slandering everyone who supports their views. It is not the right thing to do. It is extremely divisive.

When we hear Members in the Senate say somebody else is not in the mainstream, what they mean is that other person disagrees with me. A confrontational person follows this logic: You say, They do not agree with me; therefore, they are not in the mainstream, and then when you add the filibuster on top of that, you say, therefore, I am not only not going to vote for them—which to me is the first mistake—but I am not even going to let them have a vote. What you are saying is they, and everyone such as them in the whole country and the Senate, do not even deserve a vote on whether they are qualified for public office.

Then we wonder why this place gets divisive and why it is hard to operate because we are not showing respect to many who may disagree with us.

My wife says, when she wants to bring me down to earth when I am on my high horse, JIM, wouldn't the world work wonderfully if everyone would only agree with you all the time about everything? We do not all agree with each other about everything. We have a vote and we go on. And then we try and concentrate on the areas where we do agree, such as the highway bill.

The worst thing about this—and there are a lot of bad things about what is happening with regard to the filibustering of nominations, the breaking of this 214-year tradition—the worst thing about it is the slandering of the credentials and the careers of these qualified people.

There is an old idiom, an old saying: People will forgive you the wrong you do them, but they will never forgive you the wrong they do you. Once, for whatever reason, they have done something that is wrong to you, then they may decide, you know what, I have to make that person out to be a bad person to justify the wrong I did to them in the first place.

A filibuster of these people, breaking the tradition to do that, to not even let them have a vote, these people who have bipartisan majority support on the floor, to justify that, you have to say things about their records. That completely disserves their histories of public service and qualifications, as the people who know them best have said.

The second worst thing about this whole issue is the fact that there are now large parts of the political community in this country, and even here, that, in order to support this effort and to win this battle that is going on, are treating the filibuster like it is a great thing. My heavens, there are groups that have made a mascot out of the filibuster. Filibuster is an extraordinary, obstructive tactic that is not even permitted in most legislative bodies. Even the advocates of it say it should be used sparingly.

The case is actually being made on the floor of this Senate that the filibuster is part of our deliberative process, that it promotes calmness and coolness, compromise, moderation. Is this calmness? Holding these votes up for years, is this coolness? Is this compromise? We have used the filibuster for the first time in 214 years, taking yet another step with the device, making it more common, a device that even the advocates of it say should be used very sparingly.

Do you want to know why? I will explain why. It has to do with the dynamics of a legislative body. If you care passionately about an issue before the Senate—and we should care passionately about these issues—and you know that issue is going to come up for a vote, what are you going to do? If you know it is going to come up for a vote, and a majority is going to win, what are you going to do? You are going to appeal to the middle, aren't you? You are going to seek arguments and amendments and methods that get the middle with you. That encourages compromise. If you do not have the middle with you, and you know it is going to be voted on, and you know a majority is going to win, what is going to happen to your position? Even Senators can figure out that math. You are going to lose.

The majoritarian process promotes compromise and discussion because it empowers the middle. Filibusters empower the extreme, and not just the extreme philosophically; they empower the confrontational people. I have nothing against people who take that point of view. And you need some of them in a legislative body, but you have to be careful how much you empower them. The people who say: Look, if it isn't the way I want it, it is not going to happen at all. It has to be my way or the highway—that is what filibusters empower. I am not saying we should not have it on the legislative calendar. But we have to remember there is a cost to it.

Do you want to know why we don't have an energy bill? Because of the filibuster. There are a lot of other examples of legislation the country has wanted and needed that have been held up with the filibuster. It is a tactic with a cost. It should be used sparingly. It should not be extended in areas where it has not been used in the past with a bipartisan consensus. That is the reason all these distinguished Democratic Senators said, for years on the floor of this body: We are not going to filibuster judicial nominations. It is because they knew what would happen.

We can be certain of one thing: The same standard is going to be applied in this body from President to President. I do not want the filibuster standard applied. I do not want a situation where because I disagree with a judicial nominee of a Democratic President, I am expected, as a matter of course—because that is the protocol and the precedent in this Senate—not to permit a vote. I believe—and it was the tradition here for years—that even if you disagree with a nominee, if they are competent and have integrity, you vote to confirm them out of respect for the process that elected that President and respect for the people and the party that person represents, even if you disagree. If they are a good person, you vote to confirm them. That is what I want to do in this Senate year by year.

The PRESIDING OFFICER. The Senator has consumed 20 minutes.

Mr. TALENT. One more minute, and I will really be done, if the Senator does not mind.

At the very least, we have to allow a vote. Let's keep the tradition of 214 years in the Senate. Let us allow a vote on these people, all of whom have bipartisan, majority support on the floor of the Senate. Let's not continue doing an injustice to the reputation of these fine Americans. Let's preserve the traditions of the Senate, have this vote, and then move on to other issues.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I rise today in support of Priscilla Owen to serve on the Fifth Circuit Court of Appeals. I want to comment on the constitutional right of Senators to advise and consent to judicial nominations by the President, a right that is now being denied by tactics employed by the minority in the Senate.

Priscilla Owen was nominated to the Fifth Circuit Court of Appeals 4 years ago—4 years ago! She has been serving on the Supreme Court of Texas for 4 years, while awaiting her confirmation by the Senate. Yet she has actually had the votes to confirm her in the

Senate four times. Four times the Senate has voted on her nomination, and four times she has received a majority. On May 1, 2003, a cloture vote: 52 to 45 in her favor; May 8, 2003, 52 to 45; July 29, 2003, 53 to 43; November 14, 2003, 53 to 42.

In all these cases, she had a majority of votes in the Senate for confirmation, but she is not on the Fifth Circuit Court of Appeals today. Why? Because her nomination is being filibustered by Democrats, and she has been held to a standard of 60 votes instead of 51. That is changing the Constitution of the United States.

I know Priscilla Owen. I have watched her through this process. If anything confirmed my admiration for her, it is the incredible calm and measured response she has displayed in response to unfair attacks which have sometimes been personal, unfair, and have had political overtones. Yet she has remained totally professional. She has gone through two hearings with the committee. She has answered every question members asked. Some people have said she is the best witness that has ever come before the Judiciary Committee. It is because she knows what she is doing. She knows the law. And she is very bright.

She earned both her undergraduate and law degrees from Baylor University. She earned the highest score—the No. 1 score—on the Texas bar exam, when she took it. She has had a distinguished career in the private sector for 17 years. And since 1995, she has served on the Supreme Court of Texas.

The American Bar Association unanimously voted for her to have the ''well qualified'' recognition and rating. That is the highest rating they award, as they review judicial candidates—''well qualified.''

I would ask those who are holding up her nomination by putting a 60-vote threshold on it, in a completely partisan vote, what is it that caused her to have the entire Democratic conference come out against her? She has received bipartisan support nationwide.

When she was reelected to the Texas Supreme Court in 2000, she received 84 percent of the vote. Every major newspaper in Texas endorsed her.

Some of her detractors, I have to say, opposed her before they had ever heard one word about her. There were outside groups that decided she should not be a circuit court judge.

Three former Democratic judges, who sat on the Texas Supreme Court, have announced their public support for her. A bipartisan group of 15 past presidents of the Texas Bar Association have come out in open support of Priscilla Owen. I have to come away with the view that this is really not a debate about Priscilla Owen. This is not a debate about this woman who has an impeccable record and an impeccable academic background. No, I do not think it is about Priscilla Owen. I think it is about the Constitution and the requirement of advice and consent.

The minority has changed the Constitution by filibustering judicial nominees, for the first time in the history of the Senate. For the first time in the history of the Senate—over 200 years—we saw, in the last session of Congress, a filibuster of almost one-third of President Bush's circuit court nominees. No President has ever received fewer of his circuit court nominees than President George W. Bush. Almost a third were filibustered to death.

Before the 108th Congress, there were only 17 cloture votes on judicial nominations. But there was never a judge who had the support of the majority who failed to get confirmed. That is the key. For 70 percent of the last century, the same party controlled the Senate and the White House, but there was no use of a partisan filibuster on nominees to prevent an up-or-down vote.

It is not the rule that is being changed in this debate. It is the precedent of the Senate, for 200 years, that was changed in the 108th Congress, by requiring 60 votes for the confirmation of judges. And we are now looking to reaffirm the will of the Senate to do exactly what the Constitution envisions; and that is, a 51-vote majority for judges.

Two hundred years of Senate precedent is being torn apart. Through Democrat majority control and Republican majority control over the years—the filibuster was not used as it was in the last session of Congress.

As recently as March of 2000, more than 80 Senators were on record opposing the filibuster of judicial nominations because the filibuster was never intended to be used this way.

The Senate's original cloture rule, in 1917, did not even apply to nominations because no Senator had ever used a filibuster for nominations. When the cloture rule was rewritten in 1949 to cover all matters, it was used most often for scheduling purposes. History demonstrates that there was no real precedent for the use of the filibuster to permanently block the confirmation of judicial nominations. And there has never been a cloture vote where the person received majority support and still was not confirmed. However, we are not trying to do away with the filibuster on legislative matters. This is a part of our tradition in the Constitution that everyone, I believe, wants to uphold; that is, the right of a minority to filibuster and require three-fifths of the people present and voting in the Senate to overturn it. It is a vital legislative tool. But when it comes to judges, the Constitution never envisioned a super-majority. In fact, where the Constitution has required a super-majority, it has specifically said so. A majority vote ensures the balance of power between the President's right to nominate and the Senate's role to give advice and consent.

We are not only changing the tradition of the Senate with the filibuster of judicial nominations, we are changing the balance of power that was clearly set out in the Constitution and which has been one of the strengths of our democracy. The separation of powers and the balance of powers given to the legislative, executive, and judicial branches of our Government was the genius of the Founding Fathers.

We value three independent branches in our Government and work to prohibit one branch from overruling another, beyond repair. These are the stakes in this debate. That balance of power is going to be disrupted if we allow a super-majority requirement for Presidential nominees or judgeships to be confirmed. It says a minority of 41 Senators, who are not in the majority in the Senate, will have the ability to dictate to the President who is acceptable as a nominee.

That was not envisioned in the Constitution, and it was part of the careful balance between the right of the President to appoint the judiciary and the Senate's right to overturn that appointment by 51 votes, if necessary. But if the nominee gets the majority of 51, that person is confirmed.

We are trying to uphold that constitutional balance. The rules of the Senate can be changed by the Senate. The Supreme Court has been clear. In the United States v. Ballin, the Supreme Court held that only a majority of the lawful quorum is all that is necessary to change the House or Senate rules, practices, and procedures. Moreover, the Supreme Court held that the right to change rules, practices, and procedures is a ''continuous power'' that may be exercised at any time.

Clearly, the Senate has the right to change its rules and practices by the majority. I want the tradition of the Senate, for 200 years, to be upheld without any need for a rule change. For 200 years, Democrats and Republicans had agreed on this principle. It was not until the last session of Congress, when President George W. Bush lost almost one-third of his judicial nominees for the circuit court benches that we saw sudden changes to the traditions of the Senate, with the effort to impose a 60-vote super-majority for nominations by the Democrats.

I am here to talk about someone I know well, someone I have come to admire totally, even more than I did before she took this awesome responsibility to become a nominee of the President. She has withstood the slings and arrows. Her strength and sound judicial temperament has been consistent. Priscilla Owen has had the necessary 51 votes to be confirmed by the Senate four times. But still, we wait and have been waiting for four years. She deserves an up-or-down vote that will allow her to sit on the Fifth Circuit Court of Appeals bench.

I hope we will not let 200 years of tradition go. But if it is the will of the minority to continue to thwart 200 years of tradition and the Constitution of the United States, it is my hope we reinstate the long-standing practice on

nominations in the Senate and adhere to the Constitution. Our Founding Fathers knew what they were doing. We should not change the Constitution without going through the appropriate amending process, which has not been done.

We have unanimous consent for two more speakers, which we intend to continue to hold.

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.

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

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

## JUDICIAL NOMINATIONS

Mrs. MURRAY. Mr. President, I come to the floor to talk about the Senate's deliberations on some of the administration's judicial nominees. It is clear this is a debate about basic American values. In drafting the Constitution, the Framers wanted the Senate to provide advice and consent on nominees who came before it to ensure that these very rights and values were protected. I believe, as a Senator, I have a responsibility to stand up for those values on behalf of my constituents in Washington State.

Many activists today are complaining that certain Senators are attacking religious or conservative values. I must argue that it is others—not Democratic Senators exercising their rights—who are pursuing a nomination strategy that attacks basic values outlined in the Constitution.

Our democracy values debate and dissension. Our democracy values the importance of checks and balances. Our democracy values an independent judiciary. But with the nuclear option and the rhetorical assault being launched at Democratic Senators by activists around the country, among others, we see those values under attack.

The nuclear option is an assault on the American people and many of the things we hold dear. It is an attempt to impose on the country, through lifetime appointments, the extreme values held by a few at the cost of the many. It is the tyranny of the majority personified. Confirming these nominees by becoming a rubber stamp for the administration would be an affront to the 200-year-old system of checks and balances, and at the same time it would be an affront to the values I promised to defend when I came to the Senate.

Building and maintaining a democracy is not easy, but our system and the rights and values it holds dear are the envy of the world. In fact, the entire world looks at us as the model for government. It is our values they want to look to. We must protect them not only for us but for those fledgling democracies.

I just returned from a bipartisan trip to Israel, Iraq, Georgia, and the Ukraine, where we saw leaders who were trying to write constitutions, trying to write laws, trying to write policies. They were all working very hard to assure even those who did not vote in the majority that they would have a voice. The challenges were varied in each country. They faced everything from protecting against terrorists to charging people for the first time for electricity, to reforming wholly corrupt institutions. Making sure that democracy survives means having debates, bringing people to the table, and making tough decisions.

In each case, the importance of not disenfranchising any group of people also rings true. So how we in this country accomplish the goal of sustaining a strong democracy and ensuring the participation of all people is very important.

Elections are the foundation of our democracy. They determine the direction of our country. But an election loss does not mean you lose your voice or you lose your place at the table. That is what we must do to keep our democracy strong. That is why we are fighting so hard to keep our voice.

Recently, we have heard a lot from the other side about attacks on faith and on values. In fact, some are trying to say our motive in this debate is somehow antifaith. I argue the opposite is true. We have faith in our values, in American values. We have faith that these values can and must be upheld. It is not an ideological battle between Republicans and Democrats. It is about keeping faith with the values and the ideals our country stands for. Having values and having faith in those values requires that we make sure those without a voice are represented. Speaking up for those in poverty to make sure they are fed is a faith-based value. Making sure there is equal opportunity and justice for the least among us is a faith-based value. Fighting for human rights and taking care of the environment are faith-based values. To now say those of us who stick up for minority rights are antifaith is frightening and it is wrong.

I hope those who have decided to make this into a faith-antifaith debate will reconsider. This should be about democracy. It should be about the protection of an independent judiciary, and it should be about the rights of minorities.

Mr. President, our system of government, of checks and balances, and our values are under attack by this transparent grab for power. They are, with their words and potential actions, attempting to dismantle this system despite the clear intent of the Framers and the weight of history and precedent. They think they know better. I think not.

Mr. President, there is even news this morning that our friends on the other side are unwilling to come to the table to compromise to avoid this crisis. I want to take a second to praise our leader, Senator REID, for his effort to find a reasonable conclusion before the nuclear bomb is dropped.

Unfortunately for him, for all of us on this side of the aisle, and for this institution, that plea has been rejected.

First, yesterday we saw that Karl Rove, one of the President's top advisers, said there would be no deal. Now, in this morning's papers, we read the leadership on the other side of the aisle is falling into line and saying, ''No deal.''

By rejecting the deal, Republicans are now saying that three nominees—three total nominees—are so important that they must break with the more than 200 years of tradition and 200 years of precedent. We have heard day after day on the floor—even a few moments ago—that this is the most important issue facing this body today.

Well, we have record-high gas prices and deficits, we have 45 million uninsured Americans, and we have far too many veterans without the health care they need and deserve. All the other side is talking about is doing away with the checks and balances so they can get radicals on the bench.

If the other side wants to continue on this destructive course and ignore those real needs of the American people, they can. But this Senator and my colleagues will continue to fight this abuse of power and do the work the people sent us here to do.

It is a sad day when one side refuses to come to the table to negotiate a way out of this impasse. It is even sadder that they refuse to accept our excellent confirmation record in blind pursuit of confirming the most radical of their choices.

Although we have been able to confirm 205 nominees that President Bush sent forward, there are a few that are far outside some basic values.

Let's start close to home with President Bush's nominee to the Ninth Circuit Court. To that court, which overseas appeals from my home State of Washington and five other States, President Bush has nominated William Myers. Mr. Myers is a lifelong lobbyist and anti-environmental activist. He is opposed by over 175 environmental, labor, civil, and women's disability rights organizations. He even drew opposition from Native American organizations and from the National Wildlife Federation. This is a man who has never tried a jury case, who has an anti-environmental record stretching back to his days as a Bush Interior Department official and industry lobbyist. He even received the lowest possible rating from the ABA.

Mr. President, in the Pacific Northwest and in regions around this great country, we hold our environmental values dear. I am not willing to hand a lifetime appointment to such a vehement advocate against the people's interests. This is the perfect example of the check our Framers had in mind when they drafted our Constitution. We can, and we must, use it.