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

Mr. KOHL. Mr. President, as passions rise higher and higher here in the Senate, I come to the floor today to urge that cooler heads prevail; to urge that the majority not take the fateful step they are contemplating; to urge that we step back from the cliff we are approaching, before it is too late.

We have all heard the arguments for and against a rule change that has been dubbed ''the nuclear option.'' I will not reiterate those arguments here. But as someone who came to the Senate to get things done for real people, I have some experience trying to reach compromise on difficult issues. The heart of compromise is well known: one side cannot have all that they want. Yet the essence of the so called ''nuclear option'' is just that—one side wins, one party wins, one majority wins full power over who will sit on the Federal bench. The other side—the other party, the minority—is left powerless, silenced by a new rule that strips the minority of all power over judges. We all know that such an outcome is the opposite of moderation, the opposite of compromise, the opposite of bipartisanship. In short, the opposite of how to get things done in a way that encourages participation on both sides of the aisle.

There is no need to go down this troubled partisan path on judicial nominations and my own State of Wisconsin has shown us a smoother road for more than a quarter century. In all those years, Wisconsin has used a bipartisan nominating commission to force all sides to act in bipartisan cooperation when selecting judges. During the administrations of Democrats and Republicans, and during the tenure of Republican as well as Democratic Senators, we have used the Commission and succeeded in selecting well-qualified nominees who have been easily confirmed by the Senate in every case. Using this process, both political parties have been represented—the minority does not get to choose the nominee, but they can affect the choice and have their views count.

If we move forward with the proposed rule change—a change designed to bring about one-party rule whenever the Senate considers judges—we will silence a minority of the Senate and a majority of Americans. You see, the Democratic Senators in this body were elected by a majority of Americans. How will a majority of Americans speak up about judges who will sit in their districts, on the Seventh Circuit, on the Supreme Court, making decisions about their lives for generations to come if this rule change is made?

People all across our country—whether in the majority or the minority—deserve better. They deserve to have some say over who will sit in judgment over them. And they deserve more than that, they deserve a Senate that is working to solve the challenges they face every day, challenges like the skyrocketing cost of health care which leaves too many without coverage and even more struggling to pay for the coverage they have, challenges like factories closing and jobs that pay too little to support a family, challenges like the need to save for retirement in an age of disappearing pensions and job insecurity. These are among the problems we should be dealing with today.

So for the sake of those who need healthcare, for the sake of those working for too little, for the sake of those nearing retirement with fear and worry, I urge my colleagues to stop. Stop and listen. I hope you will hear what I hear, Americans asking for what they have always asked of the Senate—that it be a place where debate continues, passions cool, and compromise prevails for the good of all.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator will note the business at hand is the Priscilla Owen nomination, and the minority controls the time until 5:30.

Mr. LEAHY. I thank the distinguished Presiding Officer. I will take some of my time.

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

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

Mr. LEAHY. Mr. President, the Senate is on a path toward a divisive and actually unnecessary showdown. I have been here long enough to know that if the vote on the Republican leader's nuclear option were by a secret ballot it would fail overwhelmingly. There are too many Senators who will tell you privately that on a secret ballot they would never vote for it. We know this because, as these Senators know, it is harmful to this institution and it is wrong for this country—wrong in terms of protecting the rights of the American people, wrong in terms of undercutting our fundamental system of checks and balances, wrong in terms of defending the independence of and public support for an independent Federal judiciary. But especially it is wrong in unilaterally destroying minority protections in the Senate in order to promote one-party rule, something this Senate has never known and has never wanted.

I have served in the Senate for almost 31 years. During that time, several times the Democrats were in charge of the Senate—in the majority. Several times the Republicans were. The hallmark of every leader, Republican or Democratic, was that the special minority protections of the Senate would remain. No matter who was in the majority, they believed they had as their obligation protecting the rights of the minority because that is what the Senate is all about. Every Senate majority leader took as his trust to make sure that when he left, the Senate had at least the strengths it had when he took over.

Today, Democratic Senators alone will not be able to rescue the Senate and our system of checks and balances from the breaking of the Senate rules the Republican leadership seem so insistent on demanding. It will take at least six Republicans standing up for fairness and for checks and balances. I know a number of Senators on the other side of the aisle know in their hearts that this nuclear option is the wrong way to go.

Senators on both sides of the aisle have called for the vote on the nuclear option to be one of principle rather than one of party loyalty, and for this to be a vote of conscience. I agree. To ensure that it is, I urge both the Republican leader from Tennessee and the Democratic leader from Nevada—both of whom are my friends—to announce publicly, today, in advance of the momentous vote that awaits us at the end of this debate, that every Senator should search his or her heart, his or her conscience, and vote accordingly.

I call on both the Democratic and Republican leaders to announce that there will be no retribution or punishment visited upon any Senator for his or her vote.

I remember in the aftermath of another vote, one I called at that time a profile in courage, when our friend, the senior Senator from Oregon, Mark Hatfield, cast the deciding vote against a proposed constitutional amendment. Ten years ago some of the newer Republican Senators at the time reportedly wanted to strip him of the chairmanship of the Appropriations Committee. The press at the time provided counsel to those newer Senators, some having recently arrived from the other Chamber, and who were accustomed to the way the Republican Party in that body operates, where everything is all or nothing.

At the time, some of those Members urged that Senator Hatfield be penalized for his vote of conscience, a vote they did not like. They thought conscience should be set aside, he should have toed the party line. I remember the unfair pressures brought to bear on Senator Hatfield. I do not want to see that befall other Senators, Republican or Democrat, whichever way they choose to vote on the nuclear option.

The Senate has its own carefully calibrated role in our system of Government. The Senate was not intended to function like the House. The Great Compromise of the Constitutional Convention more than 200 years ago was to create in the Senate a different legislative body from the House of Representatives. Those fundamental differences

include equal representation for each State in accordance with article I, section 3. Thus, Vermont has equal numbers of Senators to New York or Idaho or California. The Founders intended this as a vital check. Representation in the Senate is not a function of population or based on the size of a State or its wealth.

Another key difference is the right to debate in the Senate. The filibuster is quintessentially a Senate practice. James Madison wrote in Federalist No. 63 that the Senate was intended to provide ''interference of some temperate and respectable body of citizens'' against ''illicit advantage'' and the ''artful misrepresentations of interested men.'' It was designed and intended as a check, a balancing device, as a mechanism to promote consensus and to forge compromise.

The House of Representatives has a different and equally crucial function in our system. I respect the House and its traditions just as I respect and honor the Senate tradition. It is the Senate and only the Senate that has a special role in our legislative system to protect the rights of a minority from the divisive or intemperate acts of a headstrong majority.

As the Republican leader agreed in debate with Senator BYRD last week, there is no language in the Constitution that creates a right to a vote or a nomination or a bill. If there were such a right, if there were a right in the Constitution to require a vote, then Republicans violated that more than 60 times by 60 times refusing to have a vote on President Clinton's judicial nominees, by 60 pocket filibusters of Clinton judicial nominations and about 200 other executive nominations.

According to the Congressional Research Service, more than 500 judicial nominations for circuit and district court did not receive final Senate votes between 1945 and 2004. That is more than 500. It amounts to 18 percent of all overall nominations. By contrast, this President has seen more than 95 percent of his judicial nominations confirmed, 208 to date.

What the Republican leadership is seeking to do is to change the Senate rules in accordance with them but by breaking them. It is wrong that the Senators who refused to have votes on more than 60 of President Clinton's judicial nominees, and hundreds of his executive branch nominees, have only one Republican agenda now—to contend the votes and nominations are constitutionally required.

The Constitution hasn't changed from the time of the Clinton Presidency to Bush's Presidency, nor have the Senate rules been changed. That is why I like to keep the Senate autonomous and secure in a ''nuclear free'' zone.

The partisan power play now underway by Republicans will undermine the checks and balances established by the Founders of the Constitution. It is a giant leap toward one-party rule with an unfettered executive controlling all three branches of the Federal Government. It not only would demean the Senate and destroy the comity on which it depends, but it would undermine the strong, independent Federal judiciary protecting rights of liberties of all Americans against the overreaching of political branches.

It is saying, no matter whether you are Republican or Democrat or Independent in this country, only Republicans need apply because they will control the executive branch, the House of Representatives, the Senate, and now the independent Federal judiciary. That is what it comes down to. There will be no checks and balances on who goes on a Federal bench for a lifetime job, lifetime position. There will be no checks and balance. It will be, if you are a Republican, you can be on the Federal bench and help shape it; otherwise, forget about it.

This is not a country of one-party rule. I hope this country is never one of one-party rule. No democracy law exists if it is there by one-party rule.

Our Senate Parliamentarian, who is nonpartisan, our Congressional Research Service, which is there to serve both Republicans and Democrats, have said the so-called nuclear option would go against Senate precedent. In other words, to change the rule, you would have to break the rule. In other words, to say we are going to talk about how judges should judge, we will break our own laws to do it. What an example to a great and good country like ours. What an example to say we are somehow above the law.

What it is saying to the American people, you 280 million Americans, you follow the law, but 100 Senators are better than that. We don't have to follow the law. We stand above the law. In fact, if we don't like the law, we will break the law and make a new one.

Do our friends on the other side of the aisle want to so blatantly break the rules for short-term political gain? Do they desire to turn the Senate into a place where the parliamentary equivalent of brute force is whatever can be rammed through by partisan ramrodding and arm twisting?

We are not playing king of the hill. We are protecting the Constitution. We are protecting the best checks and balance of our Nation, the Senate, and we are doing it so we can remove the checks and balance of the Federal judiciary. What enormous stakes.

That is why I say if this were a secret ballot, the nuclear option would never pass. There are too many Senators who state privately in the cloakrooms, the dining room, and the Senate gym, they know this is wrong but they have to follow party discipline.

We did not come to this crossroad overnight. No Democratic Senator wanted to filibuster. Not one of us came to those votes easily. We hope we are never forced by an overaggressive executive and compliant majority into another filibuster over a judicial nomination. Filibusters, like the confrontation the Senate is being forced into over the last several days, are the direct result of a deliberate attack by the current administration and its supporters in the Senate against not only the traditions of the Senate but the rules: We are willing to break the rules that serve our purpose for the moment.

The nuclear option is the grand culmination of their efforts. It is intended to clear the way for this President to appoint a more extreme and more divisive choice—not only in the circuit courts of appeals but should a vacancy arise on the Supreme Court. That is not how the Senate has worked or should work.

I have been here with six Presidents. It has been the threat of a filibuster that has encouraged a President to moderate his choice and work with Senators on both sides of the aisle, both Republican and Democratic Senators. Of the six Presidents I have served with, five of them actually looked at the advice and consent clause and worked with Senators from both parties for both advice and consent of the judges. But this has been politicized and the Senate Republicans have systematically eliminated every other traditional protection for the minority. Now their target is a Senate filibuster, the only route that is left to allow a significant Senate minority to be heard.

Under pressure from the White House over the last 2 years prior to this year, the former Republican chairman of the Judiciary Committee led Senate Republicans in breaking the longstanding precedent and Senate tradition with respect to handling lifetime appointments to the Federal bench. Senate Republicans have had one set of practices to delay and defeat 61 of a Democratic President's moderate, qualified judge nominations. But then they suddenly switch gears and switch the rules to rubberstamp a Republican President's choices to lifetime judicial positions, including many who were very controversial.

The list of broken rules and precedents is long, including in the way the home State Senators were treated, the way hearings were scheduled, in the way the committee questionnaire was unilaterally altered, to the way the Judiciary Committee historic protection of the minority by committee rule IV was repeatedly violated. In the last Congress they destroyed virtually every custom and courtesy used throughout history to enforce cooperation and civility in the confirmation process.

For years, Democratic Senators have been warning that the deterioration of Senate rules and practices, if done away with, would also do away with the protection of minority rights.

So that is where we are. I have been proud to serve here both in the majority and the minority. I remember all the times when I was here as a member of the majority party, it was constantly drummed into us at our party

caucuses, at party meetings, we have to maintain the Senate rules to protect the rights of the then minority, the Republicans.

It is amazing to me the Senate, the place that is supposed to be the conscience of our Nation, would allow a President, any President, to convince them to turn their back on precedent, on history, but also on their own rules.

We have always been a check and balance on Presidents. Now we have Senators who will tell you, quietly outside the Chamber, they are frustrated by taking orders from the White House and yet will not stand up and say no, we don't work for the White House. We are not appointed by the White House. We are elected by the people of our State. We swear on the oath to protect the Constitution. We are not protecting it when we break our own rules. We are not protecting the people of this country when we throw away the ability to have checks and balances. This is a serious mistake, and we will rue this day.

So at this ninth hour, I say to Senators: Vote your conscience. As I said earlier, if this was a secret ballot, the nuclear option would never pass. But vote your conscience. And again, I would urge both the Republican leader and the Democratic leader to announce on the floor of the Senate that nobody will be punished if they vote their conscience because, after all, why would anybody want to serve, why would anybody want to be 1 of 100 to represent 280 million Americans? Why would you want to serve in the Senate if you felt you could not vote your conscience? I will vote mine on this issue. I will vote to protect the rights of the minority—all minorities throughout this country. I will vote to uphold the law. I will vote to uphold the rules of the Senate. And I will vote to uphold that which causes us to have a check and balance where instead of rushing off the cliff following one person on either the right or the left, we seek the compromises that are best for this country.

I see the distinguished Senator from New York on the floor. I am perfectly willing to yield the remainder of my time to her.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I thank my friend from Vermont who has been a stalwart defender of the Constitution his entire public life. And as a member of the Judiciary Committee, as chair and ranking member, and all of his activities on behalf of this issue, he has demonstrated the highest level of leadership.

Mr. President, I started my day today in Newburg, NY, at the military headquarters of GEN George Washington. Many of the most important battles of the Revolutionary War were fought in New York, up and down the Hudson River Valley, the Champlain Valley, the Mohawk Valley, down into New York City, out on Long Island. Today, we were announcing legislation that I had sponsored here in the Senate with my friend and colleague, the senior Senator from Virginia, Mr. WARNER, to commemorate the Revolutionary War.

We were reminded at this event today of something called the Newburg Conspiracy. What was that? That was an effort by a small group of people to persuade George Washington to begin to assume the mantle of absolute power, to, in effect, become more like a king than what had been envisioned for this new Republic, a President and a system of government with checks and balances.

In one of his greatest speeches, then General Washington repudiated the Newburg Conspiracy and memorably said that we should all stand against any effort to consolidate power. We must stand for our Republic. And that Republic, which is unique in human history, has this unusual system of checks and balances that pit different parts of the Government against one another that, from the very beginning, recognized the importance of minority rights because, after all, that is what the Senate is, a guarantor of minority rights.

I represent 19 million people. Yet my vote is no more important than the Presiding Officer's or any of my other colleagues who may represent States with far fewer citizens because we have always understood that majority rule too easily can become abusive, that those in the majority and particularly those who lead that majority always believe that what they want is right by definition. It is what they fight for. It is what they care about. But we have understood, thanks to the genius of our Founders—great leaders such as George Washington—that human nature being what it is, we have to restrain ourselves, not only in the conduct of our day-to-day relations with one another but in the conduct of our government.

So we have created this rather cumbersome process of government. Sometimes people in a parliamentary system look at it and say: What is this about? You have a House of Representatives where you have majority rule, and then you have this Senate over here where people can slow things down, where they can debate, where they have something called the filibuster. It seems as if it is a little less than efficient.

Well, that is right. It is, and deliberately designed to be so, with the acute psychological understanding that every single one of us needs to be checked in the exercise of power, that despite what we may believe about our intentions and our views, not one of us has access to the absolute truth about any issue confronting us. So one of the ways we have protected the special quality of the Senate over all of these years is through unlimited debate, through the creation of rules that would make it possible for a minority to be heard, and more than that, create a supermajority for certain actions that the Constitution entrusts to the Senate, and, in particularly, the appointment of judges for lifetime tenure.

Now, why would you have a supermajority for judges? Again, I think it shows the genius of our Founders in their understanding of human nature. This is a position of such great importance, such overwhelming power and authority, that anyone who comes before this body should be able to obtain the support of 60 of our fellow Senators. It has worked well.

There have been people going back in American history, and not just back to the beginning but back just a few years into the Clinton administration, who I believe should have been confirmed as judges. The Senate decided not to. The President has sent us his nominees, and we have confirmed more than 95 percent of them. I voted against a number of them, but the vast majority were acceptable to more than 60 Members of this body.

What is happening now with this assault on the idea of the Senate, on the creation of this unique deliberative body that serves as a check and a balance to Presidential power, to the passions of the House, which has exercised the opportunity to create consensus with respect to judicial nominees, is that we have a President who is not satisfied with the way every other President has executed his authority when it comes to judicial nominees.

Many Presidents have not liked what the Senate has done to their judicial nominees. We can go back to Thomas Jefferson. Thomas Jefferson, one of our greatest Presidents, was really upset because John Adams appointed people Thomas Jefferson did not think should be on the Federal bench. He did not agree with their philosophy. He had personal problems with some of them and the relationships between them. So he tried to undue what his predecessor had done. And the Senate, recognizing what General Washington had understood back during the Revolutionary War, what the writers of the Constitution had understood in Philadelphia, said: No. Wait a minute, Mr. President. We are not substituting one king for another. We are trying something entirely different. You may get a little frustrated, but Presidential authority is not absolute, so we are going to expect you to abide by the rules.

Every President has faced these frustrations. Franklin Roosevelt, at the height of his power, with an overwhelmingly Democratic Congress, faced all kinds of setbacks from the judiciary, and he wanted to change them. He wanted to pack the courts, and the Democrats in the Senate, who put the Senate first, who put the Constitution first, said: No. Wait a minute. We admire you. You are saving our country. You are doing great things. But, no, we cannot let you go this far.

Well, today, we are here because another President is frustrated. He has gotten 95 percent of his judges. He

wants 100 percent. I can understand that. That is the way a lot of people get when they have power. They want it all. If you are against him, then he thinks you are against everything he stands for as opposed to having legitimate disagreements.

So this President has come to the majority in the Senate and basically said: Change the rules. Do it the way I want it done. And I guess there were not very many voices on the other side of the aisle that acted the way previous generations of Senators have acted and said: Mr. President, we are with you. We support you. But that is a bridge too far. We cannot go there. You have to restrain yourself, Mr. President. We have confirmed 95 percent of your nominees. And if you cannot get 60 votes for a nominee, maybe you should think about who you are sending to us to be confirmed because for a lifetime appointment, 60 votes, bringing together a consensus of Senators from all regions of the country, who look at the same record and draw the same conclusion, means that perhaps that nominee should not be on the Federal bench.

But, no, apparently that is not the advice that has been given to the President. Instead, it looks as though we are about to have a showdown where the Senate is being asked to turn itself inside out, to ignore the precedent, to ignore the way our system has worked—the delicate balance we have obtained that has kept this constitutional system going—for immediate gratification of the present President.

When I was standing on the banks of the Hudson River this morning, looking at General Washington's headquarters, thinking about the sacrifice that he and so many others made, many giving the ultimate sacrifice of their life, for this Republic—if we can keep it, as Benjamin Franklin said—I felt as though I was in a parallel universe because I knew I was going to be getting on an airplane and coming back to Washington. And I knew the Republican majority was intent upon this showdown. I knew the President had chimed in today and said he wants up-or-down votes on his nominees. And I just had to hope that maybe between now and the time we have this vote there would be enough Senators who will say: Mr. President, no. We are sorry, we cannot go there. We are going to remember our Founders. We are going to remember what made this country great. We are going to maintain the integrity of the U.S. Senate.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I understand we have 1 minute left.

The PRESIDING OFFICER. The Senator has 1 minute 40 seconds, to be exact.

Mr. LEAHY. I thank the distinguished Presiding Officer, and I thank the Senator from New York for her comments.

Mr. President, I would simply reiterate what I said before. If the vote on the nuclear option was cast in secret, from everything I have been told by my fellow Senators, it would go down to crashing defeat. As Senators know, we have to break the rules to change the rules.

Again, I would just urge that both leaders, both the Republican and Democratic leaders, make it clear to their Members that nobody is going to be punished for a vote on conscience. I hope Senators will stand up and be a profile in courage, vote their conscience, and vote the right way.

Mr. President, the hour of 5:30 has arrived, so I yield the floor.

QUORUM CALL

Mr. President, I see the Republican leader is not on the floor yet, so I will suggest the absence of a quorum to accommodate him. 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 and the following Senators entered the Chamber and answered to their names:

[Quorum No. 3 Ex.]

Baucus	Frist	Nelson, Nebraska
Bingaman	Gregg	Pryor
Burr	Inouye	Reid
Cantwell	Kennedy	Salazar
Cochran	Leahy	Schumer
Cornyn	Lincoln	Stabenow
Dayton	Lott	
Durbin	Murkowski	

The PRESIDING OFFICER. A quorum is not present.

Mr. FRIST. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Mississippi (Mr. COCHRAN), the Senator from New Hampshire (Mr. GREGG), the Senator from Texas (Mr. CORNYN), the Senator from Mississippi (Mr. LOTT), and the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted: ''yea.''

Mr. DURBIN. I announce that the Senator from Minnesota (Mr. DAYTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Arkansas (Mrs. LINCOLN), are necessarily absent.

The PRESIDING OFFICER (Mr. THUNE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 1, as follows:

[Rollcall Vote No. 126 Ex.]

YEAS—90

Akaka	Dole	McConnell
Alexander	Domenici	Mikulski
Allard	Dorgan	Murray
Baucus	Durbin	Nelson (FL)
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Obama
Biden	Feingold	Pryor
Bingaman	Feinstein	Reed
Bond	Frist	Reid
Boxer	Graham	Roberts
Brownback	Grassley	Rockefeller
Bunning	Hagel	Salazar
Burns	Harkin	Santorum
Burr	Hatch	Sarbanes
Byrd	Hutchison	Schumer
Cantwell	Inhofe	Sessions
Carper	Isakson	Shelby
Chafee	Jeffords	Smith
Chambliss	Johnson	Snowe
Clinton	Kerry	Specter
Coburn	Kohl	Stabenow
Coleman	Kyl	Stevens
Collins	Landrieu	Sununu
Conrad	Lautenberg	Talent
Corzine	Leahy	Thomas
Craig	Levin	Thune
Crapo	Lieberman	Vitter
DeMint	Lugar	Voinovich
DeWine	Martinez	Warner
Dodd	McCain	Wyden

NAYS—1

Allen

NOT VOTING—9

Cochran	Gregg	Lincoln
Cornyn	Inouye	Lott
Dayton	Kennedy	Murkowski

The motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

The majority leader.

Mr. FRIST. Mr. President, for the information of our colleagues, we will be voting around noon tomorrow on the cloture motion with respect to Priscilla Owen. We will be in session through the night, and time is roughly equally divided.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 6:04 p.m., recessed subject to the call of the Chair and reassembled at 6:13 p.m., when called to order by the Presiding Officer (Mr. THUNE).

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

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the previous order, with respect to the division of time, be modified to extend until 10 a.m.

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

Mr. MCCONNELL. I ask the Chair, what is the pending business?

The PRESIDING OFFICER. The pending business is the nomination of Judge Priscilla Owen to be U.S. circuit court judge.