home to 590,000 people and is very close to the North Korean border, putting the Russians smack in the middle of the crisis that we need to resolve.

In addition to all this, Russia holds a seat on the Security Council of the United Nations, which could consider Iranian and North Korean issues in the very near future.

Developing bilateral and multilateral strategies that deal with Russia's role in these growing crises will be extremely important, both in terms of resolving these crises, advancing our non-proliferation goals within the former Soviet Union, and our long-term relationship with Russia.

I realize that, at this time, none of us have all the answers to these extraordinarily difficult questions. But if we hope to successfully fight terror and avoid disaster before it arrives at our shores, we have to start finding these answers. We have a lot of work to do.

I believe it is worth putting in place a process, one that involves senior administration officials, a bipartisan group of Members of Congress, as well as retired senior military officers and diplomats, in an effort to dramatically improve progress on these issues.

I am interested in hearing from the President about his trip. I am also interested in hearing if he believes that an idea similar to the one I put forward is worth considering.

Delay is not an option. We need to start making more progress on this issue today. I urge my colleagues to act.

Despite all the distractions we have had with the so-called nuclear option and judicial nominations, this is literally a matter of life and death. I hope we start paying more attention to it in this Senate Chamber and in the debates that are going to be coming in the coming months.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, let me thank my colleague and friend from Illinois for his incisive comments on a very important topic.

I am here to discuss the vote we will take at noon on the nomination of Priscilla Owen to the U.S. court of appeals. We all know a lot has changed in the last 48 hours. The Senate has stepped back from the precipice of a constitutional crisis. Our robust system of checks and balances has been saved from an unprecedented attack. Fourteen moderates came together and said we are not going to tolerate a nuclear option and that we are asking the President to come and talk to us before he makes a nomination.

While the compromise reached by 14 Senators has dramatically changed the outlook for the Senate, one thing has not changed, the record of Justice Priscilla Owen. I want to spend some time talking about that record, though it speaks for itself.

There is no question that Justice Owen attended fine schools and clearly is a very bright woman. But there is also no question that she is immoderate, she is a judicial activist, and she puts her own views ahead of the law's views. In case after case, Justice Owen comes to conclusions that are simply not justified by the facts or by the law. These decisions consistently come down against consumers, against workers, against women seeking to exercise their constitutional rights.

In choosing judges, in voting for judges, I have one standard and one standard alone. It is not a litmus test on any one issue. It is simply this: Will judges interpret law or not? Will judges do what the Founding Fathers said they should do—because, after all, they are not elected—and interpret what the legislature and the President have wanted and the Constitution requires, not put their own views above the people's views?

If there was ever a judge who would substitute her own views for the law, it is Justice Owen. Her record is a paper trail of case after case where she knows better than 100 years of legal tradition. It does not matter how brilliant a nominee is, or what a great education or career she has had; if she puts her own views above the law's views, she does not belong on the bench. It is as simple as that. In case after case, that is just what Justice Owen has done.

She thinks she knows better than the 100 years of established law tradition. She thinks she knows better than what the people have wanted, as enunciated by their legislators. Her own views take precedence over all other views. That is why she does not belong on the bench.

Let me go over a few cases, a few of many, where she has done this. In one case, In re Jane Doe, Judge Owen's dissent came under fire from her colleagues of the Texas supreme court. They referred to her legal approach as an effort to ''usurp legislative function.''

Even more troubling, Attorney General Alberto Gonzales, who sat on the same court as Judge Owen at the time, wrote a separate opinion. He went out of his way to write a separate opinion to chastise the dissenting judges, including Justice Owen, for attempting to make law, not interpret law from the bench.

Here is what Judge Gonzales said. He said that to construe the law as the dissent—that is what Priscilla Owen did—would be ''an unconscionable act of judicial activism.'' How ironic. The very same conservatives who rail against judicial activism are putting at the top of their pantheon a judge who, by Alberto Gonzales's own testimony, is an activist, somebody who thinks, ''I know better.''

Activism does not mean left or right. Activism means putting your own views above the law. That is not what the Founding Fathers wanted.

Let's look not at my words but at those of Judge Gonzales. They are words of a man who served for 4 years as President Bush's White House counsel. He is now the Attorney General. He is a distinguished conservative. Some of my colleagues have tried to suggest that Mr. Gonzales was not referring to Justice Owen by his caustic comment. Who are we kidding? It was brought up at her hearing originally. He didn't say a peep. Only now that she is controversial, people said: Well, explain yourself. I am sure he was pressured.

I direct my colleagues to a New York Times article by Neil Lewis last week which reported that Attorney General Gonzales specifically admitted he was referring to Justice Owen's dissent, among others, in his written opinion.

Let's take another case, Montgomery Independent School District v. Davis. There the majority, also including Judge Gonzales, ruled in favor of a teacher who had wrongly been dismissed by her employer. Justice Owen dissented, deciding against the employee. That is what she typically does.

The majority, which included Judge Gonzales, ruled in favor of a teacher who had been wrongly dismissed by her employer. Justice Owen dissented, siding against the employee. The majority, including Judge Gonzales once again, wrote that:

> Nothing in the statute requires what the dissenters claim.

They went on to say:

> The dissenting opinion's misconception stems from its disregard of the rules that the legislature established. . . .

And that:

> The dissenting opinion not only disregards procedural limitations in the statute but takes a position even more extreme than argued by the employer.

There is Justice Owen. She looks very nice. But here is another case where she not only put her own view on the table, but she went further even than the defendant employer did. That is why she does not belong on the bench. She always does that, time and time again.

A third case, Texas Department of Transportation v. Able, again Justice Gonzales took Owen to task for her activism.

I am not going to get into all these cases but they are clear. Justice Owen, yes, she has a good education; yes, she has had a distinguished, long career; and, yes, she just does not belong on the bench because she thinks her views are better, more important, and superseding the views of the law, the views of the legislature, the views of the people.

I want to speak for the few more minutes I have left about the agreement and where we go from there. It is one thing to put on the bench mainstream conservatives, who do not adhere to an extreme agenda. I have voted for many, many of the judges we have confirmed so far. Many of them have views on choice or other things quite different from my own. Where we have a duty is to stand up and oppose

nominees who are outside the mainstream. We have a duty to the Constitution and a duty to the American people not simply to rubberstamp the President's picks. Mark my words, we are going to fulfill those duties as long as we have to. That is our constitutional obligation.

But there is not a single Senator on our side of the aisle who wants these fights. There is not a single Senator on our side of the aisle who wants to oppose even one of the President's nominees. We would be a lot happier if we could all come together. We have done that on the district courts in New York. They are all filled. I consulted with the White House, with the Governor, and we came to agreements. We can do it. If the White House and I can come to an agreement, so can the Senate and the White House on who should be judges.

But there is an important point here. How did we solve the problems in New York? The President and the White House consulted with the Senators and with the Senate. As the compromise of 2005 sets out, President Bush must consult with the Senate in advance of nominating appellate judges to the bench. ''Advise and consent.'' To get the consent, you need the ''advise.''

So I again call on the President, once and for all, to tell him we can solve this problem by coming together, by him consulting. I really believe we can solve this problem. But we are not going to find common ground when we keep seeking nominees who will be activists on the Federal bench. We are not going to solve this problem if the President stands like Zeus on Mt. Olympus and hurtles judicial thunderbolts down to the Senate. He has to consult. He has to ask us, as President Clinton did.

Why did President Clinton's Supreme Court nominees have no trouble in the Senate? I would argue because the President proposed a number of names to ORRIN HATCH, hardly his ideological soulmate, and ORRIN HATCH said this one won't work and that one won't work, but this one will and this one will. President Clinton heeded Senator HATCH's advice. As a result, Justice Breyer and Justice Ginsburg didn't have much of a fight. Some people may have voted against them, but it didn't get to the temperature that importuned my colleagues to filibuster—which they did on some other judges, although unsuccessfully: Judge Paez, Judge Berson, et cetera.

Mr. President, this is a plea to you. Let us take an example from the group of 14. Please, consult with us. You don't have to do what we say, but at least seek our judgment. If we say this judge would be acceptable and that judge will not—take our views into consideration. What will happen is it will decrease the temperature on an awfully hot issue. But second, and more importantly, it will bring us together so we can choose someone if the Supreme Court should have a vacancy, and we can continue to choose people when the courts of appeal have vacancies, without a real fight.

It can work. It has worked in New York between this White House and this Senator. It has worked at the national level, at the Supreme Court level, when President Clinton consulted with Republicans in the Senate, who were in the majority. It can work now. The ball is in President Bush's court. If he continues to choose to make these judgments completely on his own, if he continues to stand like Zeus on Mt. Olympus and just throw thunderbolts at the Senate, we will not have the comity for which the 14 asked.

A very important part of their agreement was for the President to start paying attention to the advise, in the ''advise and consent.''

Again, the ball is in his court. If the President starts doing that, I am confident this rancor on judges will decline, the public will see us doing the people's business, and the generally low view that the public has had of this body because of the partisan rancor will be greatly ameliorated.

Mr. President, again, you can change the way we have done these things, but only you can. Please, consult the Senate. Bring down hot temperatures that now exist.

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

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

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

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session to consider the following nomination, which the clerk will report.

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

Mr. REID. Mr. President, we are going to move forward with a vote on Priscilla Owen. It is well that the Senate is moving. There are other judges who are waiting and have waited a long time. We have three judges from Michigan. There is no reason we can't move those four very quickly. They were held up as a result of an intractable procedural matter. That is no longer. We can do those judges in a very short timeframe.

We also have a person Senator HATCH has been wanting to have for some time now, way into last year, a man by the name of Griffith. We are willing to move him. There were some problems. Some Senators will vote against him. There is no question about that. Senator LEAHY, the ranking member of the Judiciary Committee, has made a number of negative speeches about Griffith. We will agree to a very short timeframe on his nomination and move it on. That would be four appellate court judges very quickly. I hope we can do it in the immediate future. We could clear four judges today or tomorrow.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both Senators SPECTER and LEAHY.

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

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CORZINE. 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. CORZINE. Mr. President, I come to the floor to speak briefly about the compromise agreement reached on judicial nominees and about the pending circuit court nominees.

Let me begin by saying that I am pleased that, through the agreement reached this week, we were able to protect the rights of the minority in this body to have our voices heard. That is consistent with the best traditions of the Senate. I certainly believe it is consistent with the constitutional principle that gave each State two Senators, regardless of their number of citizens. So, for example, California has 36 million people and Wyoming has a little more than 500,000 citizens. But our forefathers saw to it, in an effort to protect the rights of the minority, that each State would have two Senators to represent their interests.

I also believe that the agreement, at least at this time and place, preserves our constitutional system of checks and balances. So I compliment my 14 colleagues who reached this agreement and, in so doing, protected two of the most essential principles of American government—the rights of the minority and our system of checks and balances.

Let me also say that I am particularly proud of Senator REID's leadership in pushing towards this compromise.

That said, my enthusiasm for this compromise is tempered by the reality that I see before us. For while I am cautiously optimistic about the immediate outcome, I am aware that, like in so many things, the devil is in the details. Time will test the meaning of the term, ''extraordinary circumstances'',