Gregg	Lieberman	Sessions
Hagel	Lincoln	Shelby
Harkin	Lott	Smith (NH)
Hatch	Lugar	Smith (OR)
Hollings	McCain	Snowe
Hutchinson	McConnell	Specter
Hutchison	Mikulski	Stabenow
Inhofe	Miller	Stevens
Inouye	Murray	Thomas
Jeffords	Nelson (FL)	Thompson
Johnson	Nelson (NE)	Thurmond
Kennedy	Nickles	Torricelli
Kerry	Reed	Voinovich
Kohl	Reid	Warner
Kyl	Roberts	Wellstone
Landrieu	Rockefeller	Wyden
Leahy	Sarbanes	
Levin	Schumer	

NOT VOTING—6

Akaka	Gramm	Murkowski
Biden	Helms	Santorum

The motion was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOMELAND SECURITY ACT OF 2002

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 5005) to establish the Department of Homeland Security, and for other purposes.

The PRESIDING OFFICER (Mrs. CANTWELL). The Senator from Nevada.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent the Senate now proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

THE NOMINATION OF JUSTICE PRISCILLA OWEN OF TEXAS TO THE U.S. COURT OF APPEALS FOR THE FIFTH CIRCUIT

Mr. HATCH. Madam President, I would like to make some brief remarks about the nomination of Justice Priscilla Owen of Texas who has been scheduled for a vote in the Judiciary Committee as early as this Thursday. I cannot say strongly enough how important this vote is for the future of the Judiciary and this Senate.

With the attempt by some to introduce ideology and base politics into the confirmations process, today a sword of Damocles hangs over the future of nominations and our constitutional role and no vote will hint the future more than this upcoming vote on Justice Owen.

Justice Owen has been attacked with orchestrated deceptions, distortions and demagoguery, yet she has the American Bar Association's unanimous rating of well qualified.''

In preparing for Justice Owen's vote, I again commend to my colleagues the words of Senator BIDEN when he said some years ago that:

[Judicial confirmation] is not about pro-life or pro-choice, conservative or liberal, it is not about Democrat or Republican. It is about intellectual and professional competence to serve as a member of the third co-equal branch of the Government.

Allow me to make just some brief remarks on the allegations made against Justice Owen which she clarified both in the hearing and in answers to written questions since then.

First, and most outrageously, it was said that she delayed in issuing an opinion in a car accident case involving a boy who subsequently died and that he died while waiting for her decision. And that she raised an issue, court venue, not previously raised by the lawyers.

The truth is that Justice Owen wrote an opinion for the majority in that case just 5 days after the majority reached a decision. The boy died 3 years later. And venue is automatically at issue when the petition is for a new trial and it was both briefed and argued by the lawyers, as was the case. That's the truth.

There is no use in holding hearings and asking written questions if we ignore the answers.

Second, she has been accused of being a '' judicial activist'' who pursues an outcome-based result.

The truth is that she is a judicious judge who never digresses from the rules of precedent and legal construction. She always grounds her decision in binding authority or judicial rules of decision. The charge that she is a judicial activist is a cynical trick of words from Washington lobbyists who have made their careers defending court decisions of real judicial activists who never let the words of the Constitution stand between them and their social engineering.

Another falsehood is that she is anti-abortion and is out to defeat abortion rights.

The truth is that Owen has never stated her personal views and has ruled in one case for Planned Parenthood and against Operation Rescue pro-life protestors. In the parental involvement cases, Owen repeatedly applied Roe v Wade and the Supreme Court cases and used them to interpret the legislature's choice of words in the statute.

It is said that in her parental notice cases, Owen sought to limit abortion rights.

The truth is that no abortion right is affected by giving mere notice to parents. And over 600 bypasses of notice have been granted by the courts under the standards Owen and her court established. The Texas Supreme Court merely debated the guidelines for lower courts to apply on a brand new law. The Court sought to effect the legislature's intent: to protect parental involvement rights, the right of parents to guide their children and protect them from harm was at stake, not abortion.

Justice Owen has been called an ideologue who is out of the mainstream.

The truth is that Owen was twice elected in Texas, the last time with 83 percent of the vote. She is a quiet, modest person, who leads her Church choir, and had to be convinced to leave a lucrative law practice to become a judge. She was unanimously rated well-qualified, the highest rating of the ABA, despite the ABA's pro-abortion stance.

It was noted that Justice Owen dissents too often and rules in favor of corporations and big money.

The truth is that she has dissented fewer than 10 percent of the time, that's half the average for any current U.S. Supreme Court justice. She is an umpire who calls the balls and the strikes as they are. It is silly to suggest that she is pro-bat or pro-ball, pro-batter or pro-pitcher.

Let's speak truth to power.

The main reason Justice Owen is being opposed, is not that personal views are being falsely ascribed to her, they are, but rather because she is a woman in public life who is believed to have personal views that some maintain are unacceptable for a woman in public life to have.

Such penalization is a matter of the greatest concern to me because it represents a new glass ceiling for women jurists just as they approach the tables of our high courts after long-struggling careers. Such treatment will have a chilling effect on women jurists that will keep them from weighing in on exactly the sorts of cases that most invite their participation and their perspectives as women.

On abortion, the truth is that, rather than being an activist foe of Roe, Justice Owen repeatedly cites and follows Roe and its progeny as authority.

Moreover, her opponents portray her as a pro-life activist, when all she has ever done is rule on a parental involvement law, popular with over 80 percent of the American people. The bottom line is that they are blinded to anyone who will not abide by abortion on demand even for little girls, without parents ever knowing.

I hope my colleagues will treat Justice Owen fairly when the vote comes. As they say back home in Utah, I hope they will choose the right.

But I warn them, the American people will hear of the result, and I warn them also, a sword of Damocles will hang over the Senate and the future of the Judiciary Committee when that vote comes.

THE HONORABLE JESSE BROWN

Mr. CONRAD. Mr. President, I was deeply saddened to learn of the untimely death of Jesse Brown on August 15, 2002. I was aware of Jesse's struggle with Lou Gehrig's disease, and know that friends, veterans and government officials across the Nation had Jesse and his family in their thoughts and prayers.

Jesse was an individual for whom I had the highest regard. He was truly a