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All -- Regarding Justice Owen, attached are (1) a copy of the text of yesterday's Chicago Tribune endorsement in PDF format, and (2) copies of the text of other recent endorsements in PDF format. Please let me know if you have any difficulty opening these documents.

Thank you very much for your continued assistance, Steve.

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Chicago Tribune

August 20, 2002

Ideologues vs. Justice Owen

At least since the 1987 battle over Robert Bork's nomination to the Supreme Court, judicial appointments have been a major arena for conflict in Washington. It doesn't matter if the White House is in Republican hands and the Senate under Democratic control, or the other way around: Whenever a nominee can be tarred as extreme, unethical or incompetent, ideologues paint the most appalling picture in the hope of killing the appointment.

It's not a good way to find the truth or to select good judges. Instead, it fosters irresponsible distortion and discourages strong-minded individuals from accepting judicial posts, while rewarding lawyers whose chief talent is never doing anything, good or bad, to make enemies. The latest fight is over Priscilla Owen, a Texas Supreme Court justice chosen by President Bush for the 5th Circuit Court of Appeals. She got the highest rating from the American Bar Association. To get that endorsement, says the ABA, a nominee "must be at the top of the legal profession in his

or her legal community, have outstanding legal ability, breadth of experience, the highest reputation for integrity and either have demonstrated, or exhibited the capacity for, judicial temperament."

You'd never guess any of these qualities from the attacks on Owen. Senate Democrats and liberal activists have denounced her as a right-wing ideologue and a lap dog for big corporations, particularly Enron. Their favorite evidence is a quotation from fellow Justice Alberto Gonzales, now White House counsel, accusing her of "an unconscionable act of judicial activism" in voting to deny a minor permission to get an abortion without her parents' knowledge.

But judges accuse each other of judicial activism all the time. It's safe to assume that if Gonzales distrusted Owen's instincts, he would have lobbied his boss not to choose her. Today, he says, "She will exercise judicial restraint and understands the limited role of the judiciary."

In the abortion case they disagreed about the application of a Texas law that generally re-

quires parents to be notified. Owen, dissenting from the court's decision to grant permission, made a perfectly rational case that the majority was reading the law too liberally.

As for her views about corporations, it's not surprising that a candidate picked by a conservative president has not been hostile to private business. It's true that, in running for the office, she got campaign contributions from Enron employees and then sat on cases involving the company. But people associated with Enron gave to lots of political candidates, and Owen didn't violate any ethics rules.

Owen is just one of many Bush nominees who have been inexcusably blocked from filling vacant seats on the bench—something that also happened, with equal lack of justification, to many of President Clinton's appointees.

But the only real argument against her is that she's not the sort of choice a Democratic president would make. That's no reason Bush shouldn't have picked her, or that the Senate shouldn't confirm her.



July 29, 2002, A8

OWEN IS QUALIFIED FOR FEDERAL BENCH

Feingold and Kohl should stop their Senate Colleagues from "borking" Priscilla Owen. Why should Wisconsin care about Texas Supreme Court Justice Priscilla Owen, nominated by President Bush to the 5th U.S. Circuit Court of Appeals?

* Because "borking" - judging a judicial nominee on political and ideological grounds rather than qualifications - is ugly no matter which party is doing it and must be stopped.

* Because Wisconsin's two senators, Herb Kohl and Russ Feingold, sit on the Senate Judiciary Committee, where the "borking" of Owen is under way. If these two Democrats take the high road and approve Owen even though (horrors!) she is a conservative, their courage could persuade their Senate colleagues to give up this nasty practice. The charge against Owen is being led by the extremist wing of the abortion-on-demand crowd, who are incensed that Owen voted several times to uphold a Texas law that allows teens to get abortions without notifying their parents only in extreme circumstances.

Polls show that a majority of Americans support parental notification laws, and the U.S. Supreme Court has ruled that such laws do not violate the terms

established by Roe vs. Wade. Nonetheless, National Abortion Rights Action League President Kate Michelman called Owen "someone who exemplifies the most extreme hostility to reproductive rights of any of the nominees that President Bush has named." My, my.

Other groups complain that Owen's rulings show her to be anti-consumer, anti-worker and pro-business. They say she too often voted to overturn huge jury verdicts in malpractice and product-liability cases. Considering that Texas juries' propensity for handing down outrageous verdicts makes the state a favorite filing-ground for trial attorneys pursuing dubious liability cases, Owen should be applauded for attempting to apply the brakes.

They say she is a "judicial activist" who will try to legislate from the bench. But when U.S. Sen. Dianne Feinstein, D-California, asked her about that charge, Owen responded "If I am confirmed, I will do my utmost to apply the statutes you have written as you have written them, not as I would have written them or others might want me to interpret them."

But none of this should matter much to the Senate Judiciary Committee, which is supposed to examine a nominee's qualifications, fitness for office, and temperament. No one has questioned

(yet) her temperament; her qualifications include graduating cum laude from Baylor Law School, getting the top score on the Texas Bar Exam, practicing commercial litigation for 17 years before winning election to the Texas Supreme Court, and getting a unanimous "well qualified" rating from the American Bar Association's Committee on the Federal Judiciary.

Every president has the right to nominate whomever he wants to the federal judiciary. The Senate has the right to grill the nominees over their qualifications, temperament, and fitness for office. Presumably it's that latter term that some senators believe justifies "borking" Owen on abortion rights, etc.

But it's still wrong.

Feingold knows it. That's why he made his courageous vote to confirm John Ashcroft as U.S. attorney general. Feingold didn't like Ashcroft's right-wing politics, but he believed in a president's right to choose his own nominees. Feingold was right.

Feingold and Kohl should both vote to confirm Owen, and should try to convince their colleagues to do likewise. She is well qualified, and that's all that should count.

A New Borking Excuse

Having sharpened their knives on Charles Pickering and D. Brooks Smith, Democrats on the Senate Judiciary Committee turn tomorrow to Priscilla Owen, President Bush's nominee for the Fifth Circuit Court of Appeals. The accomplished judge had better wear her battle armor.

Borking Svengali Ralph Neas is playing the gentleman this time and letting the ladies do the mugging. This is dirty work, but the gals at the National Abortion Rights Action League (NARAL), the National Abortion Federation and the National Organization for Women are more than up to the job. And when it comes to borking, Chairman Pat Leahy is an equal-opportunity interest-group mouthpiece.

The feminists have put their wiles to work and come up with a new excuse to disqualify Judge Owens: abortion on demand for teenagers. Judge Owen must be defeated, they charge, because her rulings on the Supreme Court of Texas prove she believes a parent usually ought to be informed if his or her daughter wants an abortion.

Judge Owen "is an opponent of abortion rights for minors without their parents' permission," explains NARAL president Kate Michelman, by which she means that the judge is "someone who exemplifies the most extreme hostility to reproductive rights of any of the nominees that President Bush has named."

By this definition, two-thirds of all Americans are dangerous, right-wing extremists. Every poll on abortion shows that most Americans—pro-life and pro-choice—think it's reasonable to let mothers and fathers have a role in such a momentous decision for a minor child. The U.S. Supreme Court has also ruled that parental consent does not violate *Roe v. Wade*.

Judge Owen's rulings on teen abortion have nothing to do with her personal opinion but are consistent with Texas law, which is very precise about the conditions under which a court

*This time the feminist groups
are doing the dirty work.*



Judge Priscilla
Owen

may let a girl have an abortion without notifying a parent. She voted with the majority in nine of the 12 teen-abortion decisions to come before her court. And a teen-abortion case doesn't even get to the Texas Supreme Court unless two lower-court judges—a trial judge and an appeals judge—have rejected a girl's request not to notify her parents.

The pro-abortion groups are working hand in glove with Senator Leahy to defeat Judge Owen. When the Chairman rescheduled her hearing last week, that news was up on Planned Parenthood's Web site before it was even communicated to the Republicans on the committee or the Justice Department. Talk about teamwork.

In the 14 months Judge Owen has been waiting for a hearing, the opposition has had ample time to script other Senatorial attack lines: She's anti-consumer, pro-business and wants to make it easier for anti-abortion radicals to harass women at abortion clinics. Judges are elected in Texas (something Judge Owen has opposed) and it'll be worth the price of admission Thursday to see if any Democrat dares to mention the \$8,800 she legally accepted from Enron during her 1994 campaign. That sum, less than 1% of her total contributions, pales in comparison with what Enron gave such Members of Congress as Judiciary Democrat Charles Schumer.

It's no disrespect to nominees who have already run the Judiciary gantlet to say that Judge Owen's fate matters more. At 47 years old, she is widely considered one of the best conservative legal minds of her generation. If she can't get confirmed, it bodes ill for other nominee-luminaries waiting for a hearing, such as Miguel Estrada, Jeff Sutton, John Roberts and Michael McConnell. These are the kind of intellects whose judicial influence would be large on the appeals courts—if they ever get there—and could be potential Supreme Court candidates.

But that, of course, is precisely why Democrats are out to bork every one of them. Of Mr. Bush's 32 appeals-court nominees, 17 haven't yet received a Senate hearing. Like Judge Owen, they'll get that privilege only after all the interest groups are lined up to maul them.

The Washington Post

AN INDEPENDENT NEWSPAPER

The Owen Nomination

THE NOMINATION of Priscilla Owen to the 5th Circuit Court of Appeals creates understandable anxiety among many liberal activists and senators. The Texas Supreme Court justice, who had a hearing yesterday before the Senate Judiciary Committee, is part of the right flank of the conservative court on which she serves. Her opinions have a certain ideological consistency that might cause some senators to vote against her on those grounds. But our own sense is that the case against her is not strong enough to warrant her rejection by the Senate. Justice Owen's nomination may be a close call, but she should be confirmed.

Justice Owen is indisputably well qualified, having served on a state supreme court for seven years and, prior to her election, having had a well-regarded law practice. So rather than attacking her qualifications, opponents have sought to portray her as a conservative judicial activist—that is, to accuse her of substituting her own views for those of policymakers and legislators. In support of this charge, they cite cases in which other Texas justices, including then-Justice Alberto Gonzales—now President Bush's White House Counsel—appear to suggest as much. But the cases they cite, by and large, posed legitimately difficult questions. While some of Justice Owen's opinions—particularly on matters related to abortion—seem rather aggressive,

none seems to us beyond the range of reasonable judicial disagreement. And Mr. Gonzales, whatever disagreements they might have had, supports her nomination enthusiastically. Liberals will no doubt disagree with some opinions she would write on the 5th Circuit, but this is not the standard by which a president's lower-court nominees should be judged.

Nor is it reasonable to reject her because of campaign contributions she accepted, including those from people associated with Enron Corp. Texas has a particularly ugly system of judicial elections that taints all who participate in it. State rules permit judges to sit on cases in which parties or lawyers have also been donors—as Justice Owen did with Enron. Judicial elections are a bad idea, and letting judges hear cases from people who have given them money is wrong. But Justice Owen didn't write the rules and has supported a more reasonable system.

Justice Owen was one of President Bush's initial crop of 11 appeals court nominees, sent to the Senate in May of last year. Of these, only three have been confirmed so far, and six have not even had the courtesy of a hearing. The fact that President Clinton's nominees were subjected to similar mistreatment does not excuse it. In Justice Owen's case, the long wait has produced no great surprise. She is still a conservative. And that is still not a good reason to vote her down.

The Dallas Morning News

July 25, 2002, 18A

Owen Nomination; Critics Are Distorting Texan's Record

After hearing U.S. Court of Appeals candidate Priscilla Owen vilified in recent weeks - called everything from racist to anti-abortion to (gasp!) pro-business - the members of the Senate Judiciary Committee got the chance Tuesday to see for themselves what all the fuss is about. And, after a year in the deep freeze, the 47-year-old Texas Supreme Court justice finally got the chance to defend herself against liberal critics who have distorted her record and character in a bare-knuckled attempt to keep her off the 5th Circuit Court of Appeals.

One of the biggest distortions is that Justice Owen is a "judicial activist" intent on bending and twisting statutes to fit a rigid political agenda. That is the view of Sen. Richard Durbin, a Democrat from Illinois, who tore into Justice Owen for what he said was a tendency to "expand and embellish" in her written opinions. Democratic Sen. Dianne Feinstein of California was more polite but just as direct when she asked Justice Owen point-blank if she was, in fact, a "judicial activist." Justice Owen's response suggests that the Baylor Law School graduate is absolutely clear on what position she is applying for. She has no desire to legislate from the bench, she told Sen. Feinstein. If

confirmed, she said, she would do only what the job calls for: interpret the law as written.

Justice Owen can be trusted to do exactly that, say those in Texas legal circles who know her best. Her supporters include Republicans and Democrats alike, and their vote of confidence should count for something - especially when weighed against the smear campaign engaged by the lobbies of the left.

As for Justice Owen's personal views on abortion, or on any issue, they remain totally irrelevant. By all accounts, she has spent the last eight years on the Texas high court doing precisely what she this week promised the Judiciary Committee she would continue to do at the federal level.

Those who oppose a judicial nominee have every right to challenge the nominee. But they do not have the right to - in legal terms - "assume facts not in evidence." For all their political games, grandstanding and name-calling, the assembled critics of Priscilla Owen have presented nothing to discredit her.

The committee should do its best to rectify this situation by scheduling a vote without further delay and approving Justice Owen's nomination. -----

The Dallas Morning News

14 A

Thursday, July 11, 2002

EDITORIALS

Justices Denied

Attacks on Judge Owen are unwarranted

There's a great saying about how everyone is entitled to one's own opinion, but not to one's own facts. Those intent on undermining President Bush's nominees to the federal judiciary need to remember that. In this free country, they are entitled to voice their concerns. And if they do so in a mature and constructive way, the nomination process and the country will be better off for it. Unfortunately, these days, that rarely happens.

It is not so surprising that the Senate confirmation process has, in the last two decades, gotten so destructive, hyper-partisan and downright nasty. It is terribly disconcerting.

Some say this whole trend started back in 1986 when Democrats savaged Robert Bork, President Reagan's nominee to the Supreme Court. Soon after, the word "Borking" made its way into the political lexicon. The shorthand definition: to do personal damage to the other guy's nominee for political gain. Both parties do it. Slander passing for political dissent.

It has to end, and now seems a good time to do it. After all, we have a popular chief executive halfway through his first four-year term and still the Democratic Senate continues to play childish games and hold up consideration of many of President Bush's nominees to the federal bench. They won't even give many a hearing, but their stalling tactics have served to give the left just enough time to devise the vile

and shameful smear campaigns.

The latest target is Texas' Supreme Court Justice Priscilla Owen. A nominee to the 5th Circuit Court of Appeals, Ms. Owen is a well-liked and highly respected jurist. Her legal colleagues, in both parties, call her fair, reasonable and "smart as a whip."

A coalition of liberal groups reportedly planning a caravan to Washington say she is a judicial activist who is — in their words — anti-consumer, pro-business and hostile to civil rights. If any of that were true, one suspects Texans might have caught wind of it during Ms. Owen's eight years on the Texas Supreme Court. Those who know her record best say she is being unfairly subjected to partisan mudslinging and misinformation.

A typical example of distortion: Critics claim her opinion as a state high court justice in favor of Enron showed bias because of a campaign contribution from the Houston company. In truth, the ruling involved a technicality and the entire Texas Supreme Court concurred. The contribution had been made years before when she was a district judge.

For all this abuse, Ms. Owen has not even been given the courtesy of having a hearing date set. That is unacceptable. She should get a hearing at once. And her critics should hold their tongues until the president's nominee gets a chance to be heard.



July 25, 2002, B-6

Holding Up Judiciary

Priscilla Owen is far from a household name in Colorado, but residents of the state have reason enough to be interested in her nomination to the Louisiana-based 5th Circuit Court of Appeals. if it appears opponents need additional time to torpedo the nomination.

Owen, who was nominated to the court more than a year ago, finally got a hearing before the Senate Judiciary Committee on Tuesday. She thus had her first opportunity to defend herself against criticism circulated by special-interest organizations, including the National Organization for Women. Owen told the committee her record on the Texas Supreme Court had been inaccurately portrayed, especially in regard to her positions on abortion and corporate matters.

No surprise there. Hearings on judicial nominations have come to be characterized by a well-established formula. A nomination is made, which, in turn, is a signal to opponents to get busy building a case against the nominee. Hearings are delayed long enough for the opponents to complete their work. Further delays are then ordered

Both major parties have been guilty of using these ugly techniques.

The willingness of the Senate to engage in search-and-destroy politics carries a heavy price. In addition to debasing the constitutional process, it has left an inordinate number of vacancies in the federal courts. It also has worked a injustice on a number of nominees who continue to wait for the 'honor' of being the butt of one of these hearings.

Tim Tymkovich, a former Colorado solicitor general, was nominated well over a year ago for a spot on the 10th Circuit Court of Appeals and is among those who have yet to even be given a date for a hearing. The Senate has a serious constitutional role to play in judicial appointments. We in no way suggest that it should be a rubber stamp for every nomination. We do suggest, however, that it forfeits its right to public respect when it virtually invites the partisan spectacles that have now become routine in the Senate Judiciary Committee

The Post and Courier

(Charleston, South Carolina)

July 27, 2002, 14A

Let Senate decide on Owen

Texas Supreme Court Justice Priscilla Owen finally had a hearing – a hostile one – on her nomination to the U.S. 5th Circuit Court of Appeals Tuesday, 14 months after her name was sent to the Senate by President Bush.

By that narrow standard, she is one of the luckier Bush judicial nominees. Of his 30 circuit court nominations, 17 have not even reached the hearing stage, and only 10 have gotten the nod from the Democratic-controlled Judiciary Committee.

Senate Democrats are asserting payback time for the period when a GOP-controlled Senate rebuffed some of President Clinton's choices for the bench. This game playing reflects badly on the Senate. The nation's courts, and the rights of citizens to justice, are frustrated by the politicization of the nomination process, which ought to be confined to examining the qualifications of candidates. Judge Owen is ranked "well qualified" by the American Bar Association.

Even when the Democrats grant a hearing, it becomes a platform for personal attacks by special interest groups trying to paint the nominee as some sort of dangerous person. Liberal lobby groups determined to block "conservative" judicial nominees distorted the record of District Judge Charles Pickering beyond recognition in a successful effort to defeat his nomination to the circuit bench.

In Justice Owen's case, the lightning rods have been Enron and abortion. News reports have repeated an accusation that she granted Enron a \$15

million tax break after accepting an Enron contribution to her campaign for election to the Texas Supreme Court. And the National Abortion Rights Action League has accused Justice Owen of "the most extreme hostility to reproductive rights."

The Enron case in question, which dealt with an interpretation of the Texas constitution, was decided by a unanimous court. The judgment saved Enron a whopping \$225,000 in taxes, not the \$15 million widely reported (and later retracted) in a study by a non-profit group that tracks campaign financing in Texas. And Justice Owen -- who has sought reform of the Texas law governing election of judges -- was not the only, or the largest, beneficiary of corporate contributions -- a fact of political life on the Texas court.

Criticism of Justice Owen's views on abortion focuses on her opinions regarding the application of a provision of a Texas law requiring parental notification before an abortion can be obtained by a minor.

At her hearing Tuesday, according to an Associated Press report, Justice Owen affirmed her respect for *Roe vs. Wade* as the controlling law on abortion rights, declared she would, as judge, "do my utmost to apply the statutes you [Congress] have written as you have written them," and complained that "the picture that some special interest groups have painted of me is wrong."

At the least the Judiciary Committee should agree to allow a full Senate vote on whether Justice Owen should sit on the federal bench, an opportunity that was refused Judge Pickering.

The Beacon Journal

(Akron, Ohio)

July 28, 2002, B2

Judicial caricatures; Senate Democrats resort to their own litmus test

Sen. Orrin Hatch knows "deceptions, distortions and demagoguery," words the Utah Republican used last week to describe Democratic efforts to torpedo the nomination of Priscilla Owen to the 5th U.S. Circuit Court of Appeals in New Orleans. Hatch launched his own missiles at the nominees of Bill Clinton. In this instance, the senator is right. Democrats strained to make their case that Owen, a justice on the Texas Supreme Court since 1994, represents a wayward judicial activist. Sen. Dianne Feinstein of California and other Democrats disagree with Owen rulings. They highlighted the abortion issue (surely to the approving nods of interest groups). A simple difference of opinion isn't grounds for failing to confirm a nominee.

Owen is a conservative. You

would expect as much from a nominee tapped by George W. Bush with the help of two Republican senators from Texas. She also carries impressive credentials, including a unanimous rating of "well-qualified" from an American Bar Association that Democrats have saluted in the past for its assessment of judicial nominees.

The federal bench has far too many vacancies, especially on the 6th Circuit Court of Appeals, which serves Ohio, Michigan, Tennessee and Kentucky. The country is ill-served when senators become bogged down in squabbles over what are essentially litmus tests. Yes, Republicans did the same. That doesn't justify the caricaturing of nominees. The real Priscilla Owen deserves confirmation.



July 25, 2002

Rank Partisanship: Another Judicial Nominee is Savaged

WHEN President Bush retreats to Texas next month for some time away from Washington, he might think about how to deal with rank partisanship in the Senate, which is stiff-arming him on judicial appointments and hurting the country in the process.

Statistics tell the story: So far just 52 percent of Bush's judicial nominees have been confirmed by the Democratic-controlled Senate. According to figures released by the White House, at this point in their presidencies Bush's three most recent predecessors had seen 93.7 percent of their nominees confirmed. It's even worse for Bush's nominees at the appeals court level.

Of his 32 nominees, only 11 have been confirmed, a success rate of 34 percent. At this same juncture in time the three previous presidents had seen 92.3 percent of their nominees confirmed.

What's up with that? Partisan politics, which is why Bush might consider using the power of recess appointment - done while the Senate's in recess and temporary in nature - to get deserving people onto the federal bench.

The pending nomination of Texas Supreme Court Justice Priscilla Owen to the 5th U.S. Circuit Court of Appeals shows

what's happening to Bush's nominees. Despite an exemplary legal record and a "well-qualified" rating from the American Bar Association - its highest recommendation - Owen this week was savaged in her Senate Judiciary Committee hearing. Democrats insisted her rulings on abortion, with which they disagree, show she is a judicial activist, and a conservative one at that.

It's a shame. Even the Washington Post's liberal editorial page said that Owen's conservatism is no reason to block her nomination, which will be voted on by the panel in September. "While some of Justice Owen's opinions - particularly on matters related to abortion - seem rather aggressive, none seems to us beyond the range of reasonable judicial disagreement," the Post said.

We wonder how Democrats can look themselves in a mirror as they punish well-qualified individuals like Owen. Judiciary Chairman Patrick Leahy of Vermont called her "outside the mainstream."

Outside the Vermont mainstream, perhaps, but we wouldn't consider that a disqualification.

To the country's detriment, it's the narrow way Leahy and his allies define mainstream that counts. - The Editors.

THE TAMPA TRIBUNE

July 25, 2002, 18A

Owen's Judicial Nomination Is Revealing Replay in Senate

Eight years ago, Florida Supreme Court Chief Justice Rosemary Barkett endured a tough six months after President Clinton nominated her to a seat on the 11th Circuit Court of Appeals.

Barkett was well-known as one of the more liberal members of the Florida court, and conservatives fumed at the thought of her sitting on a federal court one step below the Supreme Court of the United States.

Opponents distorted Barkett's record, accusing her of being sympathetic to criminals and pornographers. Although she had followed state law and imposed the death penalty on many occasions, she personally opposed capital punishment. "I think critics are using selective cases to say that I'm not in the mainstream," Barkett told members of the Senate Judiciary Committee. "It's not true," she said.

Nor was it fair.

On Tuesday this familiar and increasingly nasty song and dance continued as committee members began the confirmation hearing of Texas Supreme Court Justice Priscilla Owen, nominated by President Bush a year ago to a seat on the 5th Cir-

cuit Court of Appeals in New Orleans.

Unlike Barkett, Owen is a conservative and, like Barkett, is said by supporters to have one of the best judicial minds in the country. It is her conservatism and intellect that strike fear in the hearts of liberal Democrats and have led to her opposition by the same liberal interest groups that helped defeat Judge Charles Pickering a few months ago.

Like Barkett, Owen is seeing her record distorted. She is opposed basically for two reasons: her opinion that parents should be informed when their daughter seeks an abortion and her acceptance of campaign contributions from Enron during her run for the Texas Supreme Court.

Abortion is the key issue, with pro-abortion groups chanting that Owen is "a threat to the reproductive rights of women." But her support of parental consent laws under most circumstances does not prove conclusively that she opposes *Roe vs. Wade*. It suggests that she, like the U.S. Supreme Court and most Americans, believes that states have the power to limit abortion on demand.

As for the money from Enron, Texas, like other states that elect judges, permits judicial

candidates to accept contributions. That does not make her pro-business or pro-crook. She has, in fact, been a vocal advocate for judicial reform in the Lone Star State.

Like Barkett in 1994, Owen enjoys the support of both senators from her home state. But the judiciary committee she faces is not controlled by the president's party.

The Balance Provided By Differences

So she faces an uphill and undoubtedly long fight for confirmation. We hope that somewhere within the ranks of the brutally partisan Democrats on the committee there sits a Connie Mack, a senator who can look beyond his or her party and differences in judicial philosophy to recognize that the strength of the American judiciary is the balance provided by those differences.

In 1994 Mack backed Barkett, remarking, "The question I ask myself is whether the nominee is capable, a person of integrity, and falls within reasonable philosophical bounds."

Representatives of both political parties in Texas say that for Justice Owen, the answer is yes.



(Jacksonville, Florida)

July 26, 2000, B-6

A Fine Choice

Using legitimate criteria – judicial expertise, temperament and reputation – there is no finer candidate for a spot on a federal appeals court than Priscilla Owen, whose nomination was the subject of committee hearings this week.

Owen, an honors graduate who earned the highest grade on the bar exam, has served with distinction on the Texas Supreme Court since 1994 – and is so respected that every major newspaper in Texas endorsed her successful campaign for reelection in 2000.

After she was nominated for the 5th Circuit Court of Appeals, the American Bar Association unanimously gave her the highest possible rating for the job – no small matter since the Senate Judiciary Committee chairman said previously that the ABA's rating is 'the gold standard by which judicial candidates are judged.' A bipartisan group of 15 past Texas Bar presidents endorsed her nomination, as have Democratic former justices.

Still, her nomination is in trouble because she is deemed

insufficiently liberal by a few fringe special-interest groups that have considerable influence with the Senate's Democratic leadership.

The main complaint revolves around cases in which young girls wanted to have an abortion without either parent's knowledge.

Under Texas law, a parent must be told unless a judge rules a girl is sufficiently mature and informed to make the decision alone.

Owen contended some youngsters were not informed sufficiently.

That, extremist pro-abortion groups say, proves Owen is a 'judicial activist' who makes rulings based on ideology instead of what the law actually says. Never mind that they have enthusiastically supported judicial activism in the past and that *Roe vs. Wade*, the decision legalizing abortion, was in itself a blatant act of judicial activism.

Owen is under fire not because she is a judicial activist but because she is perceived as a conservative activist.

The facts are, however, that Owen based her opinion on U.S.

Supreme Court guidelines – and the author of the law said she had interpreted it the way the Legislature intended.

Parental notification laws are designed not just to protect children but also to keep pedophiles from coercing their young victims into destroying the evidence before they can be arrested, tried and locked up. They are not something that the courts should routinely circumvent, except under rather limited conditions prescribed by law.

Critics complain, less vociferously, about other Owen opinions – that a person shouldn't collect insurance benefits on a house a spouse destroyed by arson, for example. That, critics insist, proves she is too pro-business. But why should an arsonist be allowed to profit from his own crime?

The appointment is being scandalously politicized. Owen deserves better. More importantly, the American people deserve better.

The Detroit News

July 25, 2002

Judges Deserve Better than Senate Tactics

Justice Priscilla Owen of the Texas Supreme Court is the latest federal appellate court nominee to have her record distorted by Democratic Party interest groups. However, she at least received a hearing this week. More than half of President George W. Bush's nominees to the federal appellate bench have not been given that courtesy. Justice Owen's treatment illustrates the Democrats' stretching to deny the president the right to name judges to the federal appellate courts - a right vested in him by the Constitution. Justice Owen received top grades from the American Bar Association - which Senate Democrats had earlier declared would be crucial to their consideration of Bush nominees. Since she was deemed "well qualified" by the bar, opponents had to look for other issues.

So they began picking at her record on the Texas Supreme Court. She was declared "out of the mainstream" of the Texas high court by Senate Judiciary Chairman Patrick Leahy, D-Vt. But in fact, as she noted to the senators, she dissented in only 86 of the nearly 900 cases that have come before her, less than 10 percent.

Her opponents have fastened on one case involving parental notification in a teen abortion

case in which she dissented and disagreed with her colleague Alberto Gonzales, who was in the court's majority and is now the president's White House counsel.

Addressing part of a dissenter's argument, Gonzales called it "judicial activism."

This disagreement has been seized upon by Justice Owen's detractors. But as columnist Terry Eastland pointed out in the Dallas Morning News, Gonzales was referring to another one of the dissenters, not Justice Owen, in that part of his opinion.

And it is hardly unusual for justices, even those who often think alike, to disagree on the interpretation of statutes and state constitutions. The cases that state supreme courts receive are often difficult, tangled and open to differing views. Just last month,

Justices Clifford Taylor and Robert Young of the Michigan Supreme Court differed with Chief Justice Maura Corrigan and Justice Stephen Markman on a breaking and entering case. Banter was exchanged in their opinions. So what? There is little doubt they would support each other in their candidacies - as Gonzales is supporting the nomination of Owen.

What this fly-specking is really about is dragging out the nomination and hearing process

for GOP-nominated judicial candidates and tarring them with the labels "controversial" and "out of the mainstream." There still may not be a vote on Justice Owen's nomination.

The three judges from Michigan nominated last November for the Sixth Circuit Court of Appeals in Cincinnati still haven't received a hearing on the orders of Michigan's U.S. Senators Carl Levin and Debbie Stabenow. The fourth Michigan nominee, named last month, can surely expect a long wait as well.

This is an illegitimate tactic. Yes, GOP senators did it to President Bill Clinton's nominees in the last half of his second term. That doesn't excuse it when Democrats do it - especially in the first half of this president's term.

It evades the senators' constitutional obligation to give the nominees a hearing and a vote. And in putting off votes, it allows the senators to escape accountability for what they are doing. It is unworthy of U.S. senators - particularly those from Michigan.