

Senate Confirms Brown, Pryor To Appeals Courts

by J.R. Pegg

(ENS) WASHINGTON -- The Senate's Republican majority on Wednesday confirmed conservative California judge Janice Rogers Brown to the U.S. Circuit Court of Appeals for the District of Columbia.

Brown is the second of three controversial Bush judicial nominees confirmed as part of a bipartisan deal aimed at cooling the dispute over how the Senate considers appointments to the federal bench.

Criticized by Democrats as an extreme ideologue with a conservative agenda, Brown was confirmed by a vote of 56-43.

The California Supreme Court Justice will become the second African-American woman to serve on the D.C. Circuit Court of Appeals.

In a statement released after the vote, President George W. Bush called the California judge a "brilliant and fair-minded jurist who is committed to the rule of law."

Critics -- including environmental groups, civil rights organizations and the Congressional Black Caucus -- are far from convinced.

They contend Brown's legal opinions and statements show a lack of respect for legal precedent and a penchant for radical interpretation of existing statutes.

"Janice Brown has repeatedly assailed protections for the elderly, for workers, for the environment, for victims of racial discrimination," said Senate Minority Leader Harry Reid, a Nevada Democrat. "She is the epitome of an activist judge."

Reid said appointing Brown to the D.C. Circuit Court of Appeals, which hears challenges to federal regulations, is "like putting the fox to guard the henhouse."

Only one Democrat -- Nebraska Senator Ben Nelson joined the Senate's 55 Republicans in approving Brown's nomination.

Nelson is one of seven Democrats and seven Republicans who forged a deal to allow votes on three nominees -- including Brown -- in exchange for a pledge not to change Senate

rules to eliminate the use of the filibuster.

Confirmation of judicial nominees requires a simple majority -- 60 votes are needed to break a filibuster and force a vote.

The first of the three nominees covered by the deal, Texas Supreme Court Justice Priscilla Owen, was confirmed last month to the 5th Circuit Court of Appeals.

Democrats had used the filibuster to block Brown's nomination for two years -- she was renominated, along with Pryor, Owen and seven other previously rejected nominees in February.

Senate Majority Leader Bill Frist called Democrats' treatment of Brown "harsh and unfair."

The Tennessee Republican praised Brown for rising from a humble upbringing in Alabama to her position as the first African American woman to serve on the California Supreme Court.

"Her life is an inspiring story of the American dream," said Frist.

But Illinois Democrat Barack Obama -- the lone African American in the U.S. Senate -- took issue with the focus by Frist and other Republicans on Brown's biography.

"I too am an admirer of Judge Brown's rise from modest means," said Obama. "[But] it is outlandish and cynical to think that she should get a pass for her outlandish views simply because she is a black woman."

California Democrat Barbara Boxer noted that Brown has been the lone dissenting opinion 31 times during her eight year tenure on the California Supreme Court, which is comprised of six Republicans and one Democrat.

"There is no question that this nominee is way out of the mainstream," said Boxer.

The heated debate over Brown reflected a long running partisan dispute over tactics used by both parties to block judicial nominees -- not Brown's qualifications, according to Senate Judiciary Committee Chairman Arlen Specter, a Pennsylvania Republican.

"This nomination is all about party payback time," Specter said. "That is what it is."

Specter reminded colleagues that appellate court judges typically make decisions in panels of three and defended Brown's qualifications.

"She stacks up fine against the long litany of circuit court judges who have been confirmed by the U.S. Senate," Specter said. "Her record is exemplary."

The Senate also voted Wednesday to end debate on the third federal appellate court nominee, former Alabama Attorney General William Pryor, who was confirmed 53-45 Thursday.

Two Democrats, Ben Nelson of Nebraska and Ken Salazar of Colorado, voted in favor of Pryor. Three Republicans voted against him -- Olympia Snowe and Susan Collins of Maine and Lincoln Chafee of Rhode Island.

In February 2004 Bush used a recess appointment to put Pryor on the federal bench after Democrats filibustered his nomination. His appointment was set to expire at the end of the year.

Much of the Democratic criticism of Pryor center on his views on abortion, civil rights and the separation of church and state, but environmentalists have rung alarm bells about his record on endangered species, as well as federal clean air and clean water laws.

Pryor has challenged the constitutionality of both the Clean Water Act and the Endangered Species Act and criticized federal efforts to control pollution at coal-fired power plants and oil refineries.

The former Alabama Attorney General also testified before Congress that the U.S. Environmental Protection Agency "invaded the province of the States" by enforcing the Clean Air Act to prevent uncontrolled pollution increases at coal-burning power plants and oil refineries.

"Judicial nominees like William Pryor are phase two of the Bush Administration's assault on federal environmental protections," said Glenn Sugameli, senior legislative counsel at Earthjustice. "When they can't convince Congress to repeal clean air, clean water and other legal safeguards, they threaten to strike down or rewrite those laws from the bench by putting partisan ideologues like Pryor on our independent federal courts."

Pryor's confirmation is supported by the Christian nonprofit group Focus on the Family Action and its chairman James Dobson, who said Thursday that his expectations were met when Pryor and other Republican supported judicial candidates nominated by President George W. Bush were confirmed over the past several weeks.