

# Republican Senator Statements Against Judicial Nominee Filibusters

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## Senator Lisa Murkowski's statement on today's cloture vote regarding the nomination of Goodwin Liu for the 9th Circuit, U.S. Court of Appeals:

(Republican - Alaska) 05/19/11

"I stated during the Bush Administration that judicial nominations deserved an up or down vote, except in "extraordinary circumstances" and my position has not changed simply because there is a different President making the nominations."

## Sen. McCain: criticisms of Jack McConnell did not rise to the level of "extraordinary"

(Republican - Arizona) 05/09/11

Sen. John McCain (R-Ariz.), who was one of the Gang of 14, said in an interview [with National Law Journal] that he listened to the criticisms of John McConnell, including his work on mass torts against the tobacco and paint industries, but didn't think those rose to the level of "extraordinary." "I hope that, by a number of us on our side of the aisle voting the way we did, is a signal that it still holds — this definition that we came up with in the Gang of 14," McCain said.

## Sen. Isakson: "every president deserves an up-or-down vote on their judicial nominees ... the way to comply with the Constitution is to have an up-or-down vote on these nominees."

(Republican - Georgia) 05/05/11

"I voted against the confirmation of John McConnell to be a U.S. District judge. I voted in favor of invoking cloture on his nomination only to allow the Senate to proceed to a final up-or-down vote on his confirmation," Isakson told CNSNews.com in a statement. Isakson, and other Republicans, said they did not want to duplicate the tactics of Senate Democrats who blocked numerous of President George W. Bush judicial nominees by refusing to support a cloture vote that would allow their nominations to come up for a final vote on the Senate floor. "As I said repeatedly during the years President Bush was in office, I believe every president deserves an up-or-down vote on their judicial nominees," Isakson said. "In addition, the U.S. Constitution says it is the Senate's responsibility to give 'advice and consent' to the president's judicial nominees, and the way to comply with the Constitution is to have an up-or-down vote on these nominees."

## Sen. Chambliss on his Cloture vote v. Filibuster of Jack McConnell Judicial Nomination

(Republican - Georgia) 05/05/11

Chambliss agrees that lower court nominees should get a straight vote, his spokesman Bronwyn Lance Chester said. "Sen. Chambliss has been consistent in allowing district court judicial nominees an up-or-down vote if they come out of the Judiciary Committee," Lance Chester told CNSNews.com.

### **Sen. Collins on Her Vote to End Filibuster of Jack McConnell Judicial Nomination**

(Republican - Maine) 05/05/11

“Sen. Collins voted against the confirmation of Mr. McConnell,” Collins spokesman Kevin Kelley told CNSNews.com. “She, along with ten of her Republican colleagues, voted for cloture because she believes that he deserved an up-or-down vote in the Senate. Senator Collins was a member of the so-called ‘Gang of 14’ that, in 2005, successfully averted a showdown in the U.S. Senate over the use of filibusters to block judicial nominations. The precedent is not to filibuster district court judges.”

### **Sen. McCain on Cloture Vote v. Filibuster of Jack McConnell Judicial Nomination**

(Republican - Arizona) 05/04/11

“We don’t want to establish precedents that will be repeated,” McCain said as he was deciding how to vote. “Quite often we establish precedents and you find out when you get back in the majority it wasn’t that good of an idea.” “Find me one person in the Republican Party who now believes it was a great idea to push for 51 votes for a confirmation of a judge,” McCain said, referencing the 2005 “nuclear option” debate over Democratic filibustering of judicial nominees [quoted by CQ]

### **STATEMENT BY SENATOR JOHN McCAIN BY NOMINATION OF JOHN “JACK” MCCONNELL**

(Republican - Arizona) 05/04/11

"during my 24 years in the United States Senate I have not once voted against cloture for a nominee to the district court, and I will not do so today. As a member of the ‘Gang of 14’ in 2005, I agreed that ‘Nominees should be filibustered only under extraordinary circumstances.’ The nomination of Mr. McConnell does not rise to a level of ‘extraordinary circumstances.’"

### **[Sen. Lamar] Alexander Statement on John McConnell: Votes to End Senate Debate on McConnell; Will Vote Against Confirmation**

(Republican - ) 05/03/11

". One important precedent is that never in Senate history has a President’s district court nomination reported by the Judiciary Committee been defeated because of a filibuster, that is, because of a cloture vote. Once a nominee for federal district judge has gotten to the floor, the majority of senators have made the decision in an up-or-down vote. “Therefore, I will vote today for cloture in order to allow an up-or-down vote on the President’s nomination of John McConnell.... “I am comfortable with the ‘Gang of 14’ precedent in the case of circuit judges and Supreme Court Justices and will continue to reserve the right to vote against allowing an up-or-down vote in an extraordinary case."

### **Cornyn fires back**

(Republican - Texas) 04/25/11

Sen. Cornyn Letter to the Editor: "I argued then, and still believe today, that filibusters of judicial nominees are not what the Founders intended. Yet, the Founders did not foresee the systematic partisan obstruction of judges nominated by our former president.... My colleagues won those battles, but in so doing they set a precedent. If 60 votes were required to confirm some judicial nominations by President Bush, then in rare cases 60 votes should be required to confirm judicial nominations by President Obama. That's not a flip-flop, that's basic fairness."

### **[In Judiciary Committee Vote on Liu, Coburn Toes the Party Line — with Reservations](#)**

(Republican - Oklahoma) 04/07/11

"I find him to be extremely bright. Actually, I really like the guy," said Sen. Tom Coburn just before the vote. "My heart says vote for Goodwin Liu, but my brain tells me something very different." He added: I ultimately will not vote for him at the committee, and am not sure that I'm right. And I will honestly say that. I think ultimately he'll probably get confirmed and my hope would be that he'll prove my heart right and my mind wrong. Coburn faulted Liu for his criticism of Justice Samuel Alito before his confirmation, acknowledging that Liu has since expressed regret for the severity of some of his comments, but concluding "we all make mistakes in life, but it doesn't change the fact that there's consequences to what we've done."

### **[Sen. Thune website Statement on Judges \[visited 03/29/2011\]](#)**

(Republican - South Dakota) 03/29/11

"Judicial nominations should be treated the same regardless of which party controls the White House or the U.S. Senate. I look forward to reviewing the backgrounds and qualifications of all of the judicial nominees sent to the U.S. Senate for consideration. I believe that these nominees should abide by and apply the rule of law, instead of becoming activist judges who try and create law. I take very seriously the role that the U.S. Senate has when it comes to the Constitutional responsibility of "advise and consent" concerning judicial nominees. After reviewing their records, I believe that well-qualified judicial nominees should receive a vote on the floor of the United States Senate."

### **[Sen. Sessions says Edward Chen should get a Floor vote](#)**

(Republican - Alabama) 03/17/11

"I did not oppose him having a vote as you and I have talked, but as part of the wrangle in the leadership that nominee never came up. And I'm of the view that if he's moved out of committee again he should get a vote at some point as we go forward."

### **[Sen. Shelby Website Issue Statement on Judiciary \(Accessed 01/11/2011\)](#)**

(Republican - Alabama) 01/11/11

"As a U.S. Senator, I believe that the review of judicial nominations is one of the most important responsibilities of the Senate, and I firmly believe that each of the President's nominees should be afforded a straight up-or-down vote. I do not think that any of us want to operate in an environment where federal judicial nominees must receive 60 votes in order to be confirmed. To that end I firmly support changing the Senate rules to require that a simple majority be necessary to confirm all judicial nominees, thus ending the continuous filibuster of them. Federal judges are invested with extensive power and are given lifetime tenure. Therefore, I pay particularly close attention to the records, backgrounds, and philosophical views of all judicial nominees prior to voting. Given the tremendous shortage of federal judges, it is my hope that the Senate will move quickly to confirm judicial appointments."

### **[GOP Senator-Elect \[Mike Lee \(R-UT\)\] Calls For Filibuster Reform On Judicial Nominees](#)**

(Republican - Utah) 12/28/10

Mike Lee: " we can make a strong argument that the filibuster ought not apply with respect to judicial nominees. And so perhaps out of this discussion will come a rule clarifying that point. If so, I'll be happy."

### **GOP Senator-Elect Dan Coats Endorses Filibuster Reform**

(Republican - Indiana) 11/05/10

Dan Coats: "I think what we need is the opportunity to debate and have an up-or-down vote on every issue. Filibustering the motion to proceed -that is, we can't even go forward and talk about an issue without overcoming or without gaining a 60-vote majority for it – I would support removing that provision. I think the American people deserve to have the issues debated regardless of which side they're on, so that they are fully aware of what their representatives and senators are voting for and voting against."

### **Sen. Alexander Floor Statement in Support of Jane Stranch Sixth Circuit Nomination**

(Republican - Tennessee) 09/13/10

"I think we should look to the future and recognize that Presidents are entitled to respect. They are elected by the people. The Constitution gives them the power to nominate and gives us the power to say yes or no. We should say yes or no in a reasonable period of time and reserve to ourselves the right to say no, as I do, to a nomination, or even to filibuster a nomination in an exceptional case—but only in an exceptional case."

### **FOX News: Transcript Sens. Lieberman, Alexander on 'FNS'**

(Republican - Tennessee) 04/11/10

"I said at the time that as long as the president nominated well-qualified people who'd be impartial that they should have an up-or-down vote and that I would vote to confirm them. That's still my view. I voted for Justice Sotomayor. If the president picks someone from the fringe instead of from the middle, or if he picks someone who will apply their feelings instead of applying the law, then that might be an extraordinary case when I can't vote for that nominee. WALLACE: But back in 2005, Senator Alexander, when the Democrats were in the minority — and as you point out, they were blocking Bush judicial nominees — you took a very different view. Let's put it on the screen. "I have said I will never filibuster a president's judicial nominee." Senator Alexander, what's changed? ALEXANDER: Well, what's changed — the Senate is a body of precedence. I said that then. Then I worked with the Gang of 14 ... that except in cases of judicial extraordinary cases, we're going to allow up-or-down vote. I still believe in that. That's my view."

### **SEN. HATCH FLOOR STATEMENT EXPLAINING CLOTURE VOTE ON JUDGE DAVID HAMILTON**

(Republican - Utah) 11/27/09

"I voted for cloture today because I continue to believe that the Constitution's assignment of roles in the judicial selection process counsels against using the filibuster to defeat majority-supported nominees. ... Yet, for now at least, I still believe that the Senate fulfills its advice and consent role best by voting up or down on nominees that have been reported to the floor. That is why I voted for cloture on this nomination."

### **Sen. Lugar floor statement on Judge David Hamilton**

(Republican - Indiana) 11/16/09

Sen. Lugar offers detailed support for Judge David Hamilton's 7th Circuit nomination and concludes "I am hopeful that my colleagues will vote tomorrow to end debate on this important nomination."

### **Sen. Grassley on Filibusters of Judicial Nominations**

(Republican - Iowa) 05/05/09

“Prior to 2001-2002 there were little to no filibusters on judges. At that time, the Democrats set a 60-vote precedent that I did not agree with. I still don’t like filibustering judicial nominees, but a new and higher standard was set and we are now abiding by that standard.”

### **Sen. Hatch Floor Statement on Judicial Confirmation Process**

(Republican - Utah) 04/01/08

"The Senate gives the President advice about whether to appoint his judicial nominees by giving or withholding our consent. We are supposed to do so through up -or -down votes. That is what the Constitution assigns us to do and what the American people expect us to do. That is what we are failing to do. ... I have strongly opposed all filibusters against judicial nominees, both Democrats and Republicans. ... Lacking nominees for vacancies X, Y, and Z is no excuse for failing to hold hearings and votes on nominees to vacancies A, B, and C."

### **Sen. Cornyn: Confirming President’s Nominees Matter of Fairness, Senate Duty**

(Republican - Texas) 02/07/08

Far too many judicial and executive nominees have been delayed by the majority party of the Senate. An up-or-down vote is a matter of fundamental fairness, and it is the Senate’s constitutional duty to act on each nomination. It is also critically important to our judicial system and the proper functioning of our federal government to fill these positions. “Senators have a right to vote for or against any nominee—but blocking votes on nominations is unacceptable.”

### **Sen. Hatch Floor Statement**

(Republican - Utah) 10/24/07

"Under the Constitution, the President has the primary appointment authority. We check that authority, but we may not hijack it. We may not use our role of advise and consent to undermine the President’s authority to appoint judges. That is why, as I have argued on this floor many times, it is wrong to use the filibuster to defeat judicial nominees who have majority support, who would be confirmed if only we could vote up or down. That is why I have never voted against cloture on a judicial nomination. That is why I argued against filibusters of even President Clinton’s most controversial judicial nominees."

### **Sen. Mitch McConnell on up-or-down votes on judicial nominees**

(Republican - Kentucky) 11/17/06

If the “Democrats want our cooperation, they’ll give the president’s judicial nominees an up-or-down vote,” McConnell said.

### **Sen. Hatch Floor Statement on Filibusters and Votes for Judicial Nominees**

(Republican - Utah) 12/14/05

" Senators may, of course, vote for or against a judicial nominee for any reason, or no reason at all. Our constitutional role of advice and consent, however, requires that after vigorous floor debate, we must vote. . . . When it comes to judicial nominations, therefore, debate should be a means to an end. The end of the judicial confirmation process must be an up -or -down vote for nominations reaching the Senate floor. The Senate can vote to withhold consent to a judicial nomination, and we have done so in the past. But refusing to vote at all, especially when a

judicial nomination clearly has majority support, goes beyond exercising our advice and consent role and attempts to hijack the President's appointment power altogether."

#### **Sen. Thune Floor Statement on Judicial Nominations**

(Republican - South Dakota) 09/28/05

"According to the Constitution, the President is entitled to nominate the individuals he desires to have on the courts, and we in the Senate must determine whether the nominee is fit and qualified. There should be no ideological litmus test for nominees. If a nominee is fit and qualified, he or she should be confirmed."

#### **Sen. Lindsey Graham: ideological differences will not justify a filibuster**

(Republican - South Carolina) 07/04/05

Sen. Lindsey O. Graham (R-S.C.), one of the 14 signers, noted that the accord allowed the confirmation of three Bush appellate court nominees so conservative that Democrats had successfully filibustered them for years: Janice Rogers Brown, William H. Pryor Jr. and Priscilla R. Owen. Because Democrats accepted them under the deal, Graham said on the Fox program, it is clear that ideological differences will not justify a filibuster of a Supreme Court nominee. "Based on what we've done in the past with Brown, Pryor and Owen," Graham said, "ideological attacks are not an 'extraordinary circumstance.' To me, it would have to be a character problem, an ethics problem, some allegation about the qualifications of the person, not an ideological bent."

#### **CRAIG, CRAPO REACT TO JUDICIAL NOMINEES DEAL: Call for a fair up-or-down vote for all nominees**

(Republican - Idaho) 05/25/05

"We are pleased that three of the President's judicial nominees will receive fair up-or-down votes – it is about time. However, we continue to stress that the Constitution requires the Senate to hold up-or-down votes on all nominees. We will continue to work to ensure that is the case."

#### **Sens. Isakson & Chambliss: Filibusters obstruct the Senate's duty**

(Republican - Georgia) 05/24/05

"Not only does the Constitution require an up-or-down vote, denial of an up-or-down vote goes against basic principles of fairness; it also is unprecedented in Senate history....The Constitution specifies those few times when the Senate must have a two-thirds vote, such as to ratify treaties or override a presidential veto. But when it comes to confirming the president's judicial nominees, the Constitution does not require a two-thirds vote for confirmation. The Constitution clearly states it is the Senate's responsibility to give advice and consent.... All 100 senators should be afforded the opportunity to fulfill their constitutional obligation to cast an up-or-down vote on all nominees."

#### **Sen. Cornyn May 24, 2005 Floor Speech**

(Republican - Texas) 05/24/05

"I believe, about the process of reestablishing the precedent of majority rule that had prevailed for 214 years in the Senate, that would say any President's nominees, whether they be Republican or Democrat, if they have the support of a majority of the Senate, will get an up-or-

down vote in the Senate. Senators who believe these nominees should be confirmed can vote for them and those who believe they should not be confirmed can vote against them."

### **SEN. INHOFE STATEMENT ON SENATE JUDICIAL NOMINEE COMPROMISE**

(Republican - Oklahoma) 05/24/05

"Last night's travesty of a compromise will have disastrous effects on our future generations. For the first time we have now legitimized a leadership-led filibuster against a judicial nominee. The damage from this compromise will be felt by the next generation because of a huge loophole in the compromise language, stating that the filibuster is still on the table for "extraordinary circumstances." Well my question would be, 'What exactly have we gained by allowing the democrats to continue to unconstitutionally filibuster any judge they do not like?' "

### **Sen. Sessions Floor Statement on Judicial Nominations**

(Republican - Alabama) 05/23/05

"When has 60 votes been the cut? The vote, historically, since the founding of this Republic, is a majority vote. Lets look at that. The Constitution says that the Congress shall advise and consent on treaties, provided two-thirds agree, and shall advise and consent on judges and other nominees. Since the founding of the Republic, we have understood that there was a two-thirds supermajority for ratification and advice and consent on treaties and a majority vote for judges. That is what we have done. That is what we have always done. ... I think, the constitutional intent. I think the Constitution is clear that a majority is what we were looking for "

### **Sen. Grassley Floor Statement**

(Republican - Iowa) 05/23/05

"We need to restore tradition and the law of judicial process. We need to give these nominees the up-or-down vote the Constitution requires. We need to stop a systematic denial of our advice and consent responsibilities which have been shuttered by the use of the filibuster....It is high time to make sure all judges receive fair up-or-down votes on the Senate floor, up-or-down votes for judicial nominees of both Republican and Democratic Presidents alike in the tradition of the Senate for 214 years,"

### **Senate Memorandum of Understanding- 14 Senators on Filibuster**

(Democrat, Republican - Arizona, Arkansas, Colorado, Louisiana, Maine, Ohio, Rhode Island, Virginia, West Virginia) 05/23/05

### **Senator Thune statement on judicial nominee compromise**

(Republican - South Dakota) 05/23/05

I still believe that all judicial nominees with majority support deserve the fairness of an up or down vote on the Senate floor."

### **Sen. Alexander Floor Statement**

(Republican - Tennessee) 05/20/05

"I have pledged and I still pledge to give up my right to filibuster any President's nominee for the appellate courts, including the Supreme Court of the United States."

### **Sen. Kay Bailey Hutchison Floor Statement on Filibusters of Judicial Nominations**

(Republican - Texas) 05/19/05

"Senator Reid is correct that nominees have received cloture votes, in an attempt to override filibusters. But requiring a 60-vote threshold to proceed to confirmation is not the Senate's practice.... The Senate Republicans have asked the minority to allow the Senate to vote, but they have refused and continue to vote no on cloture, thereby changing the Constitution without going through the process of a constitutional amendment. When the Constitution requires a supermajority, it is explicit. Just before the advise and consent part of the Constitution, it does have a standard of a two-thirds vote, but that was not put in the article on confirmation of judges. The clear constitutional interpretation is that if a supermajority is required, it is stated in the Constitution."

### **Sen. Vitter on judicial nominees**

(Republican - Louisiana) 05/19/05

"As U.S. Senators, it is our constitutional duty to give advice and consent when a president nominates individuals to the bench. I think that every nominee deserves a vote. It's a matter of fairness," said Vitter.

### **Sen. Cornyn Floor Statement on Floor Votes for Judicial Nominees**

(Republican - Texas) 05/19/05

"The most fundamental principle of all is fairness. Fairness means that the same rules apply regardless of who is President. ... Yes, we need a fair process for selecting fair judges, after full investigation, full questioning, full debate, and then a vote. Throughout our Nation's more than 200-year history, constitutional rule and Senate tradition for confirming judges has always been a majority vote. And that tradition--broken 4 years ago after this nominee and others were proposed by the President--must be restored."

### **Sen. Kyl Floor Statement on Filibusters of Judicial Nominations**

(Republican - Arizona) 05/19/05

"We took the steps to ensure those judicial nominees who reach the Senate floor received the fair up -or -down votes to which they were entitled.... My friends argue that Republicans may want to filibuster a future Democratic President's nominees. To that I say, I do not think so. And even if true, I am willing to give up that tool. It was never a power we thought we had in the past, and it is not one likely to be used in the future, unless that longstanding tradition is abdicated. I know some insist we will someday want to block judges by filibuster, but I know my colleagues. I have heard them speak passionately, publicly and privately, about the injustice done to filibustered nominees. I think it highly unlikely that they will shift their views simply because the political worm has turned, again, if we sustain the tradition of the Senate. So I say to my friends what you say that we Republicans are losing is in fact no loss at all."

### **Sen. Isakson Floor Statement on Filibusters of Judicial Nominations**

(Republican - Georgia) 05/19/05

"I rise to repeat that I will vote to support a vote, up or down, on every nominee. Understanding that, were I in the minority party and the issues reversed, I would take exactly the same position because this document, our Constitution, does not equivocate. It designates that responsibility to the Senate. I repeat, we are not breaking an old rule, we are addressing an issue that was raised in

the last Congress as to where the filibuster would apply. ... I hope when this debate ends, whether through negotiations or a vote , the men and women nominated to the Federal bench of the United States of America will know, not that they are guaranteed a judgeship, but they are guaranteed to know how the Members of the Senate voted on whether or not they would be confirmed."

#### **Sen. Burr Statement on Senate Floor**

(Republican - North Carolina) 05/19/05

"There is no doubt in my mind that I was sent here to do what the people of North Carolina heard me say that I would do, and that was to work hard and to accomplish solutions to real problems. There is no doubt in my mind the task includes ensuring that the Senate provides judicial nominees on up-or-down votes....This debate is about principle. It is about allowing judicial nominees an up-ordown vote on the Senate floor. And I believe it is an issue of fairness.... denying judicial nominees of both parties, who seek to serve their country, an up-or-down vote, simply is not fair. It was certainly not the intention of our Founding Fathers when they designed and created this very institution."

#### **Sen. Chambliss Floor Statement on Judicial Nominations**

(Republican - Georgia) 05/18/05

"Americans have a right to know where their Senators stand. Americans have a right to hold their Senators accountable. If a Senator opposes any nominees, he or she should vote against them, but they should vote . They should not hide behind Senate rules and parliamentary loopholes to block a vote . Our Nation's legal system is more important than, and should be above, petty partisan politics. There is never any reason under any circumstances that either political party should stall the courts from doing their necessary work just for political gain. ... The confirmation of judges should not be about ideology or partisanship. We need to adhere to a consistent process of investigation and decisionmaking that upholds the independent nature of our judicial system. Nominees should be judged by their qualifications, nothing less and nothing more. Once the investigation is done, nominees deserve an up -or -down vote . Just as the Senate has been granted by the Constitution the right of advice and consent, the Constitution has also bestowed on them the responsibility to decide yes or no. If the nominee is found wanting, a ``no" vote should be cast. But the permanent indecision and passing the buck serves no one.

#### **Sen. Ensign Floor Statement on Judicial Nominations**

(Republican - Nevada) 05/18/05

"When President Clinton was President, some of his nominees were likewise mistreated. The committee process was used to delay hearings or to bottle up nominees. In most cases though, those nominees were eventually given an up or down vote. We have heard the other side complain about the delays that President Clinton's nominees experienced. I believe that the Senate ought to fix that. I think it is damaging to our system of government to deny any nominee an up or down vote. The Senate should, whether someone is nominated to serve as a judge or in the administration at an agency or department, provide each nominee with an up or down vote. The Senate should reject this delaying tactic which denies a nominee a timely up-or-down vote in committee and on the Senate floor. We ought to fix the whole process. Unfortunately, both Republicans and Democrats have been escalating the fight over nominees for years.. . . Whether it is a Republican President or a Democrat President and whether Republicans or Democrats are

in control of the Senate, regardless of which party is in charge, good people should have an up-or-down vote in a timely fashion in committee as well as on the floor of the Senate. . . . I don't think it should matter whether it is a Republican President or Democrat President sending nominees up here. It is OK to vote against them, but I don't believe that only 40 Senators of one party should be able to choose who is on the bench."

#### **Sen. Coburn Floor Statement on Floor Votes for Judicial Nominations**

(Republican - Oklahoma) 05/18/05

"A President should have his nominees voted on. If they come to the committee and they do not have a recommendation, they should still come to the floor, or if they have a recommendation they not be approved, they should still come to the floor, or if they have a recommendation they be approved, they should still come to the floor. But it is fair for a President to have a vote on their nominations. "

#### **Sen. DeMint Floor Statement on Filibusters for Judicial Nominees**

(Republican - South Carolina) 05/12/05

"How can I perform my constitutionally mandated duties to advise and consent without the ability to vote on the nominees sent to us by the President?... 41 Senators are preventing a bipartisan majority from carrying out the duty we were elected to fulfill.... The President of the United States is given the authority, under the Constitution, to choose his own nominees. We have an obligation to vote on those nominees. Forty-one Senators are trying to thwart the will of the American people and the Constitution.... One of my goals as a Senator is to confirm highly qualified judges by ensuring timely up-or-down votes for all nominees no matter who is President, no matter which party is in the majority. That is my commitment, . . . In my own campaign, I spoke frequently about the need to give every nominee a fair up-or-down vote. It was consistently the main issue voters brought up with me one-on-one."

#### **Sen. Crapo Floor Statement on Floor Votes for Judicial Nominees**

(Republican - Idaho) 05/11/05

"I believe the Constitution contemplated that by a majority vote the Senate would give its advice and consent. I believe the best way to operate this Senate is to utilize the principle of advice and consent as one in which we should give the President an up -or -down vote on those nominees who are able to get sufficient support to get out of the Judiciary Committee to the floor of the Senate."

#### **Sen. Coburn: President Bush's Nominees Deserve a Vote**

(Republican - Oklahoma) 05/11/05

"I will continue to insist that the judicial nominations from any president – Republican or Democrat – receive the courtesy of an up-or-down vote."

#### **Sen. Ensign Floor Statement on Filibuster of Judicial Nominees**

(Republican - Nevada) 05/11/05

"Filibustering of judicial nominations is an unprecedented intrusion into the longstanding practice of the Senate's approval of judges. ... I believe that anyone who has been nominated by the President and is willing to put his or her name forward and be subjected to the rigorous

confirmation process deserves a straight up-or-down vote on his or her nomination in both committee and on the floor of the Senate."

### **My Turn: Judicial filibusters: Squishy or thoughtful?**

(Republican - Alaska) 05/09/05

Sen. Lisa Murkowski Op-Ed in Juneau Empire: "Let me make it clear that I support an up-or-down vote on all nominations brought to the Senate floor, regardless of the president nominating them or which party controls the Senate. These nominees deserve to be considered based on their merits. Under the "advice and consent" process, every senator has the right to vote against a nominee if he/she does not believe the nominee is qualified for the position, but it is not fair to the nominees to have their lives placed on hold, sometimes in excess of two years. Nor is it right to perpetuate the many vacancies in our courts, particularly when we are seeing the caseload exceed the capacity of the sitting judges....I remain committed to a constructive solution and have encouraged Senate leaders on both sides of the aisle to find another way, to allow for an up-or-down vote on judicial nominees while respecting the traditions of the Senate."

### **Sen. Lisa Murkowski Speech**

(Republican - Alaska) 05/01/05

"Let me make it clear that I support an up-or-down vote on all nominations brought to the Senate floor, regardless of the President nominating them or which party controls the Senate. These nominees deserve to be considered based on their merits. Under the "advice and consent" process, every Senator has the right to vote against a nominee if he/she does not believe the nominee is qualified for the position, but it is not fair to the nominees to have their lives placed on hold - sometimes in excess of two years while the process drags on. Nor is it right to perpetuate the many vacancies in our courts, particularly when we are seeing the caseload exceed the capacity of the sitting judges."

### **Sen. Isakson Floor Statement on Judicial Nominations; Filibusters and Votes**

(Republican - Georgia) 04/28/05

"In the end, we should peel back the arguments and look back to the foundation under which all of us operate, and that is our Constitution. The question is simple and our responsibility is clear, and every judge nominated by this President, or any President, deserves an up -or -down vote one way or another. It is the responsibility of the Senate. It is the direction of the Constitution."

### **Sen. Hatch Floor Statement on Judicial Nominations**

(Republican - Utah) 04/27/05

"The first principle is every judicial nomination reaching the Senate deserves an up-or-down vote. This principle has constitutional roots, historical precedent, and citizen support. ... Giving judicial nominations reaching the floor an up-or-down vote, that is, exercising our role of advice and consent through voting on nominations, helps us resist the temptation of turning our check on the President's power into a force that can destroy the President's power and upset the Constitution's balance. Historically, we have followed this standard of everybody who reaches the floor getting an up-or-down vote.... This principle that every judicial nomination reaching the Senate floor deserves an up-or-down vote not only has constitutional roots and historical precedent, it also has citizen support. ... Every judicial nomination reaching the Senate floor deserves an up-or-down vote. I argued that during the Clinton years, and I prevailed as chairman

of the Judiciary Committee. That principle has constitutional roots, historical precedent, and citizen support."

### **Sen. Hutchison Floor Speech**

(Republican - Texas) 04/27/05

Being "standard of 60 votes instead of 51. That is changing the Constitution of the United States."

### **Sen. Thune Floor Statement on Filibusters and Votes on Judicial Nominations**

(Republican - South Dakota) 04/21/05

"As Senators, we have sworn to support and defend the Constitution, and on the issue of judicial nominations the Constitution is straightforward. It states that the President nominates judges and the Senate has the duty to give its advice and consent on those nominations. For over 200 years, that is exactly how it worked, regardless of which party was in power. Over the past 2 years, the Democrat minority has attempted to change the rules and stand 200 years of Senate tradition on its head. The Democrat minority now thinks that 41 Senators should be able to dictate to the President which judges he can nominate. The minority also thinks that it should be able to prevent the rest of the Senate from fulfilling its constitutional duty of voting up or down on judicial nominees. The Democrats' position is contrary to our Constitution, our Senate traditions, and the will of the American people as expressed at the ballot box this past November. It must stop. It is wrong to deny them what the Constitution says they deserve and for us to ignore our constitutional responsibility to see that they have an up -or -down vote in this body. ... There is nothing in the Constitution about requiring a super-majority to confirm judges. If the Founders had wanted judges to get a super-majority vote , they would have put that in there. They did it for treaties, for constitutional amendments, and for overriding a Presidential veto. Clearly, that was not the case with judges. It was the Founders' intention that the Senate dispose of them with a simple majority vote . ... The American people see this as an issue of fundamental fairness . They understand that this body's constitutional obligation, responsibility, and duty is to provide advice and consent, and that means an up -or -down vote in the Senate. "

### **Sen. Burr Floor Statement on Judicial Vacancies, Emergencies, Nominations, Filibusters and Votes**

(Republican - North Carolina) 04/20/05

"Several judicial vacancies have been lingering in our courts for years, causing many jurisdictions, including one in my home State of North Carolina, to be declared "judicial emergencies." It is our responsibility as Senators to respond to these judicial emergencies with action and determination. ...Several judicial vacancies have been lingering in our courts for years, causing many jurisdictions, including one in my home State of North Carolina, to be declared "judicial emergencies." It is our responsibility as Senators to respond to these judicial emergencies with action and determination. ... Let me be clear. I believe if one of my colleagues objects to a particular judicial nominee, it is certainly appropriate and fair for my colleague to vote against that nominee on the Senate floor. But denying these patriotic Americans, of both parties, who seek to serve this country an up -or -down vote is simply not fair, and it certainly was not the intention of our Founding Fathers when they designed and created this very institution."

### **DeMint, Freshman GOP Call for End to Judicial Filibusters**

(Republican - South Carolina) 04/20/05

“My goal is to confirm highly qualified judges by ensuring timely up-or-down votes for all nominees,” said Senator DeMint....“Every nominee, no matter if the President is Democrat or Republican, deserves an up-or-down vote,” said DeMint. “The Constitution mandates we advise and consent, not grandstand and obstruct.”

### **Sen. Chambliss Floor Statement**

(Republican - Georgia) 04/13/05

"The Senate can say no in regard to any particular nominee, but to do so we need an up-or-down vote to decide what advice we give the President. Failing to answer the question is shirking our constitutional role in the separation of powers scheme. The Constitution spells out in certain areas, such as passage of constitutional amendments and ratification of treaties, where more than a simple majority of Senators is required. Confirmation of judges is not one of these areas. ... we have, unfortunately, come to a point in time where the filibuster is being abused to hold up judicial nominees on which we are required to act; that is, to say yes or no. I believe it is in violation of the Constitution."

### **Sen. Alexander Floor Statement on Filibusters of Judicial Nominees**

(Republican - Tennessee) 04/12/05

"I said 2 years ago that I would give up my right to filibuster a President's nominee for an appellate judgeship even if it were President KERRY or President Clinton or President REID or any other Democrat. I might vote against that nominee, but I would never filibuster as long as I were a Senator. ... The right thing to do is to have an up -or -down vote on any of the President's Federal appellate judicial nominees."

### **Sen. Grassley on Filibusters of Presidential Nominations**

(Republican - Iowa) 03/07/05

“Filibusters are designed so that the minority can bring about compromise on legislation. You can always change the words of a bill or the dollars involved. But you can’t compromise a Presidential nomination. It’s yes or no. So filibusters on nominations are an abuse of our function under the Constitution to advise and consent.”

### **Sen. Hatch on Filibusters of Judicial Nominations**

(Republican - Utah) 03/07/05

“The Founding Fathers knew how to create a supermajority requirement when they wanted to.”  
“They did it with amending the Constitution, they did it with ratifying treaties, which both require two-thirds of the Senate. And just a few lines below that they said ‘advice and consent’ on judges—no supermajority requirement. By using filibusters on the judges, the Democrats have essentially imposed a supermajority requirement, and we are entitled to stop them. This would not affect filibusters on legislation, which could still take place.”

### **Sen. Hatch Op-Ed: Crisis Mode: A fair and constitutional option to beat the filibuster game**

(Republican - Utah) 01/12/05

"Hope is fading that the shrinking Democratic minority will abandon its destructive course of

using filibusters to defeat majority supported judicial nominations. ... These filibusters are unprecedented, unfair, dangerous, partisan, and unconstitutional. . . . Focusing on President Clinton's judicial nominations in 1999, I described what has been the Senate's historical standard for judicial nominations: "Let's make our case if we have disagreement, and then vote." Democrats' new filibusters abandons this tradition and is unfair to senators who must provide the "advice and consent" the Constitution requires of them through a final up or down vote. It is also unfair to nominees who have agreed, often at personal and financial sacrifice, to judicial service only to face scurrilous attacks, trumped up charges, character assassination, and smear campaigns. They should not also be held in permanent filibuster limbo. Senators can vote for or against any judicial nominee for any reason, but senators should vote. . . . I have never voted against cloture on a judicial nomination. I opposed filibusters of Carter and Clinton judicial nominees, Reagan and Bush judicial nominees, all judicial nominees. Along with then-Majority Leader Trent Lott, I repeatedly warned that filibustering Clinton judicial nominees would be a "travesty" and helped make sure that every Clinton judicial nomination reaching the full Senate received a final confirmation decision. That should be the permanent standard, no matter which party controls the Senate or occupies the White House."

#### **Sen. Cornyn Floor Statement on the Constitution and Votes on Judicial Nominations**

(Republican - Texas) 11/18/04

"Unfortunately, here in the Senate over the last couple of years, we have gone through an experience that not only reeks of injustice but also of unfairness and, indeed, rises to the level of unconstitutionality when it comes to the filibuster used against President Bush's judicial nominees. ... [M]y hope is ... that we will provide the up -or -down vote the U.S. Constitution demands when it comes to the confirmation of the President's judicial nominees. ... no one, no Senator has the right, no group of Senators has the right, no minority has the right to tyrannize the majority of the Senate when we stand ready in a bipartisan fashion to cast a vote , up or down , for a judicial nominee."

#### **Sen. Hatch Floor Statement re: Votes on Judicial Nominations**

(Republican - Utah) 05/10/04

"The Senate needs to consider the judges on the calendar and give each one an up -or -down vote , as the Constitution requires. ... In my view, the Constitution requires the Senate provide its advice and consent regarding the judicial nominees. ... Vote up or down , but just vote . Every judicial nominee who reaches the Senate floor is entitled to an up -or -down vote. ... At some point, the Senate must do its sworn duty and vote up or down on judicial nominations. That is just right. It is the right thing to do. To do otherwise is unfair to this institution, unfair to the nominees, unfair to the President, and, most importantly, unfair to the American public who entrusted us with the responsibility to conduct the public business."

#### **Sen. Cornyn Article: OUR BROKEN JUDICIAL CONFIRMATION PROCESS AND THE NEED FOR FILIBUSTER REFORM**

(Republican - Texas) 01/24/04

"delays should not be used to prevent a majority of Senators from ever voting to confirm a nominee. That is why the filibusters of judicial nominations have never been a part of Senate tradition before, and why its current usage is such an abomination: Simply put, filibusters are the most virulent form of unnecessary delay one can imagine in the Senate's exercise of the judicial

confirmation power.... The indefinite, needless, and wasteful delay caused by filibusters of judicial nominations distracts the Senate from other important business. And it hurts Americans. It leaves not only would-be judges in limbo, but also thousands of litigants. ... The current filibusters of judicial nominations are not only unprecedented and wrong, they are also offensive to our nation's constitutional design. ... Wasteful and unnecessary delay in the process of selecting judges hurts our justice system and harms all Americans. It is intolerable no matter who occupies the White House and no matter which party is the majority party in the Senate. Unnecessary delay has for too long plagued the Senate's judicial confirmation process. And filibusters are by far the most virulent form of delay imaginable."

### **HATCH CONTINUES TO PRESS FOR UP OR DOWN VOTES FOR HOSTAGE JUDICIAL NOMINEES**

(Republican - Utah) 11/13/03

"Every judicial nominee who reaches the Senate floor deserves an up or down vote. That's fair and what the Constitution requires."

### **Sen. Shelby Floor Statement**

(Republican - Alabama) 11/12/03

"I rise tonight to speak on behalf of the President's right to select qualified judges of his choosing and the Senate's duty to provide advice and consent on these judicial nominees by means of an up-or-down vote on their confirmation.... A review of over 200 years of the Senate's history and practice makes it clear that the Senate's role in Presidential nominations is either to confirm or deny their appointment by means of an up-or-down vote on the floor—nothing more and nothing less.... unfilled vacancies impose a heavy burden on our judiciary. The ability of these appellate courts to manage their caseloads and to effectively interpret and apply the law is dependent on a full complement of judges available to consider and rule on pending cases. We all know the saying "justice delayed is justice denied,"... Do we really want to operate in an environment where judicial confirmations require 60 votes?... It is the role of the Senate to provide the President with advice and consent on his judicial nominations. We can only fulfill this duty by allowing each of these nominees an up-or-down vote by the full Senate. The proper function and balance of the executive, judicial and legislative branches depends upon it.... Let the majority vote. Let the majority count. If we get the majority vote, they will be confirmed, but they should not be obstructed. They should not be filibustered."

### **Sen. Enzi Floor Statement on the Constitution and Floor Votes on Judicial Nominees**

(Republican - Wyoming) 11/12/03

"Therefore, the only way to avoid having these candidates confirmed is to deny them their constitutional right to an up or down vote. ... There is a saying "Justice delayed is justice denied." We make people with very real needs and very real issues wait while we try to score a few points in the game of politics. We drag out their court costs, their attorney's fees, and delay their restitution and damage payments all because we want to get one up on the other party. ... allow the Senate to conduct its constitutional duty and hold an up or down vote on these judges. If you don't agree with them, or feel they are not qualified, then vote against them. That is your prerogative and duty as a Senator. But do not continue to deny justice for the nominees or the courts any longer."

### **Sen. Hatch Floor Statement**

(Republican - Utah) 11/12/03

"What is involved here is whether or not we are going to abide by the Constitution because the Constitution is pretty clear on this subject of advice and consent.... The Founding Fathers knew what a supermajority vote was. They put that requirement in here, where it was necessary for treaties. It is very clear to anybody who reads it, and I think any constitutional scholar, that advice and consent means a vote up or down, a majority vote up or down.... Now, there were a few on our side who wanted to filibuster some of those judges because they were so liberal, but I personally stood up in our conference and in our caucuses, as did Senator LOTT, who was then the majority leader, and said that is not going to happen because that is constitutionally unsound. Plus, it is not right."

### **Sen. Grassley Floor Statement on the Constitution, Judicial Nominations, Filibusters and Votes**

(Republican - Iowa) 11/12/03

"The reality is that the Constitution of the United States gives the President the power to appoint individuals to seats on the Federal judiciary. The Constitution gives the Senate the responsibility to advise the President in this process. And the Constitution requires the Senate, by a simple majority vote, to give its consent to the President's choices for Federal judgeships, or to withhold that consent. But through an unjust abuse of the filibuster, a minority of Senators is preventing the majority of the Senate from taking an up or down vote on President Bush's judicial nominee. That is not right.... once the Senate Judiciary Committee has had the opportunity to review these candidates and to approve them, these individuals should get an up or down vote by the full Senate. This is the right process. This is a fair process. During my tenure with the United States Senate, I haven't always agreed with a sitting President's choices for the Federal bench. I have voted against a number of judicial nominees because I didn't believe they were qualified to be a judge, or because I didn't believe that a seat needed to be filled. But I have never filibustered a judicial nominee."

### **Sen. Kay Bailey Hutchison Floor Statement on the Constitution and Judicial Nominations**

(Republican - Texas) 11/12/03

"We need to adhere to the Constitution 100 percent of the time. The Constitution has always said, from its beginning, that we would have a majority required to confirm the judicial nominees of the President. Now, this is by implication, because when the Constitution meant to have a supermajority, it so stated."

### **Sen. Ensign Floor Statement on Filibusters fo Judicial Nominations**

(Republican - Nevada) 11/06/03

"There is no place in the judicial nomination process for filibustering."

### **Sen. Crapo Floor Statement v. filibusters of judicial nominees**

(Republican - Idaho) 11/02/03

"the fact we are now seeing a filibuster sustained against nominees of the President turns the Constitution on its head and begins a very dangerous precedent with regard to how the nominees for the judicial branch are treated by this Senate." [

### **Sen. Sessions Floor Statement: HISTORY OF JUDICIAL NOMINATIONS**

(Republican - Alabama) 07/25/03

"Of the many reasons why we shouldn't have a filibuster, an important one is the Article I of the Constitution. It says the Senate shall advise and consent on treaties by a two-thirds vote , and simply ``shall advise and consent" on nominations. Historically, we have understood that provision to mean--and I think there is no doubt the Founders understood that to mean--that a treaty confirmation requires a two-thirds vote , but confirmation of a judicial nomination requires only a simple majority vote . That is why we have never had a filibuster. People on both sides of the aisle have understood it to be wrong. They have understood it to be in violation of the Constitution. ... these nominees are entitled to an up-and-down vote . If a Member does not like them, he or she can vote against them. ... That is what the Constitution and Senate tradition demand of us."

### **Sen. Kay Bailey Hutchison Floor Statement on the Constitution, Filibusters, Votes and Judicial Nominees**

(Republican - Texas) 05/07/03

"They have both received a majority vote of the Senate, but neither of them is confirmed because we are now being asked to have a 60-vote threshold for these qualified nominees. It is not right, and I think it goes against the Constitution and affects the balance of powers. ... We should give the President's nominees an up-or-down vote when they get out of the committee. The committee is there to have hearings, to question these nominees. If a person gets out of committee, that person deserves a vote on the floor. ... By clear omission, the Constitution does not require a supermajority for judicial nominees as it does for treaties. Congress has no right--it has no power, as outlined by the Constitution --to assume a different role in the nomination and confirmation of judges. A filibuster requiring 60 votes on a judicial nominee is beyond the intent of the Constitution."

### **Sen. Hatch Floor Statement on the Constitution and Votes on Judicial Nominees**

(Republican - Utah) 04/02/03

"I think the Senator is correct to say that opponents have a right to feel the way they do, but they do not have a right constitutionally to filibuster a judicial nominee, in my opinion."

### **Sen. Kay Bailey Hutchison Floor Statement on Filibusters and Judicial Nominations**

(Republican - Texas) 03/11/03

"Mr. President, when the Founding Fathers wrote our Constitution, they said that judicial nominees would be confirmed by the advice and consent of the Senate. Clearly that has always been a majority vote. They specified in the Constitution when a larger vote was necessary, such as treaties, which require two-thirds. ... So to say that a judge should require a supermajority is to amend the Constitution without going through the process.... We can't amend the Constitution through a filibuster . We cannot take away the power of the President's appointments that are given in the Constitution with a filibuster . This is different from any other filibuster . A filibuster on an issue is a legitimate tool. But a filibuster on a judicial nominee takes the balance of power and skews it in favor of the legislature over the President's right to have his people appointed to the Federal bench. The Senate needs to look carefully at the precedent being set. It is not right in a judicial nomination to hold a 60-vote threshold when the Constitution clearly says 51."

### **Sen. Roberts Fox news Interview Transcript**

(Republican - Kansas) 03/03/03

"If this sticks, if the filibuster sticks, it will mean that you will have to have 60 votes for any nominee. We are really changing the constitutional design of what it takes to basically nominate and approve any judge.... I'm not normally a partisan person, but this, you know, this really, this really disturbs me in regards to changing the way that any future judge will be approved. This is a constitutional issue"

### **Sen. Grassley Floor Statement on Up-or-Down Votes for Judicial Nominees**

(Republican - Iowa) 02/27/03

"This nominee, like all nominees, deserves an up-or-down vote. Anything less is absolutely unfair."

### **Sen. Kay Bailey Hutchison Floor Statement v. Filibusters of Judicial Nominees**

(Republican - Texas) 02/25/03

"Our Founding Fathers understood the need to have three separate and equal branches of government so there would be checks and balances throughout our system. They gave to the President the right to appoint a Federal judiciary, a Federal judiciary that has lifelong appointments. They gave to the Senate the right of confirmation--advise and consent as it is called in the Constitution--that has always meant a majority vote. If a two-thirds vote has ever been required by the Constitution, it is specified. So we are talking a simple majority , a simple majority to confirm the nominees of the President. That is the check and the balance in the system. What we see today is an amendment to the Constitution, but it has not gone through the process required under the Constitution where an amendment would get a two-thirds vote of both Houses of Congress and then it would go to the States to be passed. That is the requirement to change the Constitution of this country. ... This just is not right. It is time we call this what it is. It is a filibuster. It is a change of the constitutional requirement for advice and consent from the Senate. It is a change of the Constitution without any procedure that is required to amend our Constitution. ... The Constitution says advise and consent. The Constitution says a majority --not 60 votes out of 100 but a simple majority . It is what has always been required for the President's nominees. That is the check and balance in our system."

### **Sen. Hatch Floor Statement on Judicial Nominations and Filibusters**

(Republican - Utah) 02/25/03

"As I said last week, when a minority of Senators prevent a majority from voting on a judicial nomination, it is nothing but tyranny of the minority. It is unfair, and it has no place in the process we use to confirm judges.

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