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Ugly filibuster unfairly abuses Bush judicial nominees

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JOHN CORNYN
Guest column

WASHINGTON — Two judicial nominees, one from Texas and one with deep roots in the state, figured prominently in Wednesday night's historic all-night debate in the U.S. Senate: my former colleague on the Texas Supreme Court, Justice Priscilla Owen, and California Supreme Court Justice, and former Texan, Janice Rogers Brown.

Senate Republican's all-night action was a necessary response to unprecedented filibusters and unconscionable character assassinations against several of President Bush's judicial nominees.

Owen and Brown are distinguished jurists and exceptional human beings. They worked hard to reach the top of their profession. Owen graduated at the top of her class from Baylor Law School during a time when few women entered the legal profession. She practiced law for 17 years before winning a seat on the Texas Supreme Court.

Brown grew up in segregated Alabama, born the daughter of sharecroppers. After moving to Texas and then California, she worked her way through college and law school as a single mother. Brown held several prestigious positions in all three branches of state government before becoming the first African-American female on the California Supreme Court.

Both have received hard-earned and well-deserved nominations by President Bush to serve on two prestigious federal courts of appeals. Both deserve respect.

Yet both are being badly mistreated by a partisan minority of senators and the special interest groups that drive them. These opponents defend their record by pointing out that they have tolerated the confirmation of 168 nominees, and filibustered only four. They repeat their record like a mantra: "168-4."

By reciting their "168-4" mantra, this partisan band of obstructionists hopes to numb the American people into believing this is just "politics as usual." But what we are seeing today isn't politics as usual. It is politics at its worst. The judicial confirmation process is now plagued by a cruel combination of obstruction and destruction never seen before.

Owen

First, the obstruction. The current filibusters are unprecedented. The Senate has never before defeated a judicial nominee by filibuster — and for good reason. Until now, senators of both parties agreed that it is wrong to mistreat people, encroach upon presidential prerogatives, and politicize the judiciary through the use of the filibuster.

Justice Owen is a distinguished jurist who has amply demonstrated her commitment to the rule of law. As a judge, she has consistently placed the law above her personal views. But her detractors have distorted her record to depict a caricature that bears no resemblance to the woman I served with. The American Bar Association, in a rare unanimous decision, gave her its highest rating.

Justice Brown overcame racism throughout her childhood. Yet a senator called her views "despicable," and a liberal publication labeled her "a Jim Crow-era judge, in natural blackface."

A partisan minority of senators wants to deny this president the opportunity to put exceptional women and minorities on the federal bench.

If a partisan minority of senators can't persuade the bipartisan majority to change their minds on a nominee, the losing side should play fair, follow tradition, restrain itself, and allow the majority to vote.

John Cornyn, a Republican, is U.S. senator from Texas.