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# Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, FIRST SESSION

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# Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Dr. George D. McKinney, of Saint Stephens's Church of God in Christ in San Diego, CA.

## PRAYER

The guest Chaplain offered the following prayer:

May we pray together.

Eternal God, Creator of the universe, the Source of life, order, and truth, we bow in reverence in Your presence. We thank You for divine favor and all the values and principles that continue to shape our national character and challenge us to greatness.

We pray for our Nation, our President, his family, Cabinet, and advisors. Grant wisdom and courage to the Senators as they fulfill their responsibility to our great Nation. Empower all who shoulder the responsibility of leadership and servanthood. May our duties become delightful because of Your gifts of joy, faith, and hope.

Lord, we are grateful for the privilege of working together with You for peace and justice for all people. We affirm with our Founding Fathers and Mothers that we are one Nation under God, with a common goal of liberty and justice for all. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader.

## SCHEDULE

Mr. BENNETT. Mr. President, the Senate will spend the day in executive session deliberating, once again, and for the ninth day, the nomination of Miguel Estrada to be a circuit court judge for the DC Circuit. The Senate will recess from 12:15 to 2:30 for the weekly party lunches. Between now and the next recess we have a number of important issues that the majority leader would like to see addressed. Therefore, he hopes we can get passed this delay and let the Senate work its will on this nomination. Senators should be advised, therefore, that rollcall votes are possible during the day.

The PRESIDENT pro tempore. The deputy minority leader.

Mr. REID. Mr. President, I say to my friend—in fact, the two Senators from Utah—that, as I indicated to the majority leader last night, there are three ways we can move off Estrada. The nomination can be pulled. The decision can be made by this administration that he will supply the memos from the Solicitor's Office while he worked there that he wrote and allow more questioning of Estrada. Thirdly, the majority leader can file a motion to invoke cloture to see if there are the 60 votes to move ahead.

If that does not happen, we can stay on Estrada for a long time. If there are other things to do—and I mentioned yesterday I doubt that there are—if there are other things to do, then let's move to those. If not, then we can stay in this procedural quagmire, which is something that has been done in the past.

As I indicated yesterday, there have been, of course, filibusters of Presidential nominations in the past and Presidential nominations of judges. They usually are not as open and notorious as this, the reason being they come at a later time in the session where time is of the essence. Now time is not of the essence. There are other things that the leader has decided are not important enough to be on the floor at this stage.

So I would hope that everyone would understand that we are anxious to move on to other judicial nominations. We are anxious to move on to other legislative matters. But as long as Miguel Estrada refuses to answer the questions or to submit the memos that we have requested, this is going to be the procedural posture of the Senate.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Utah.

Mr. HATCH. Mr. President, I have listened to the distinguished Senator from Nevada, and I have a few things to say.

Mr. President, I rise today to address, once again, the nomination of Miguel Estrada for the United States Court of Appeals for the District of Columbia Circuit.

Are we ready to go?

The PRESIDING OFFICER. Will the Senator suspend for the Senate to lay down the pending orders, please.

## RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

## EXECUTIVE SESSION

### NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar No. 21, which the clerk will report.

The legislative clerk read the nomination of Miguel A. Estrada, of Virginia, to be United States Circuit Judge for the District of Columbia Circuit.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I rise in favor of the nomination of Miguel Estrada for the United States Court of Appeals for the District of Columbia Circuit.

We started the debate on this nomination during the week of February 3. We debated the entire week of February 10. And now here we are again in our third week of debate, all because some of my Democratic colleagues refuse to allow an up-or-down vote on this nomination.

The renowned former Senator from Massachusetts, Henry Cabot Lodge, once said that ''[t]o vote without debating is perilous, but to debate and never vote is imbecile.'' Yet that is precisely what is happening on Mr. Estrada's nomination. We are debating and debating and debating the same points again and again but never actually voting on the nomination. Enough is enough. It is time to vote.

My Republican colleagues and I have tried to get an agreement to vote on Mr. Estrada's nomination no fewer than three separate times. Each time, our Democratic colleagues blocked our efforts. I even suggested that we agree to debate on this nomination for 10 hours, then 20 hours, then up to 50 hours before voting. Fifty hours. That is 10 hours of solid debate every day for the entire week, and 2 ½ times the amount of time that we give for a reconciliation bill around here. But each time, our Democratic friends rejected our entreaties, without hesitation or even good explanation.

We have to ask ourselves why our colleagues across the aisle are so intent on preventing a vote on Mr. Estrada's nomination. I have heard all of their arguments. They allege he did not answer their questions, that he lacks judicial experience, and that he cannot be confirmed before they see confidential and privileged memos he authored at the Solicitor General's Office, just to name a few. And those memos were his recommendations to the Solicitor General with regard to appeal decisions, with regard to certiorari decisions, with regard to amicus curiae decisions—very specific information that, if compromised and forced to be given to the Congress of the United States, could chill any future honest recommendations.

But all of these arguments they have raised are reasons they believe Mr. Estrada should not be confirmed. As misguided and wrong as they are, these are reasons my Democratic friends believe they should vote against Mr. Estrada. None of those arguments justifies the continuation of this filibuster to prevent an up-or-down vote on Mr. Estrada's nomination.

So I say now to my Democratic friends: Vote for him or vote against him. That is what we should do. If you don't like Mr. Estrada, if you don't believe he has the capacity to be a circuit court of appeals judge, vote no. But if you do, as I think a majority does in this body, we would vote aye. Do as your conscience dictates you must, but do not prolong the obstruction of the Senate by denying a vote on this nomination. Do not continue to treat the third branch of our Federal Government—the one branch intended to be insulated from political pressures—with such disregard that we filibuster its nominees. Do not perpetuate this campaign of unfairness. Vote for him or vote against him but just vote.

Now, an editorial that appeared in the Washington Post last week summed it up well. This editorial, aptly entitled, ''Just Vote'' observed—let me read the one part I want to emphasize, though I would not mind reading the whole thing—

The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed [by President Carter] and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee, they claim, by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a thinking conservative [Hispanic] on the court.

That is what it comes down to.

Continuing from the Post:

It's long past time to stop these games and vote.

I will read the editorial from beginning to end because it is the Washington Post. A lot of my friends on the other side love the Washington Post. I have to say that I love it, too, but not for the same reasons. This is what it says:

The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together too prevent the full Senate from acting. The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.

Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.

Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised a substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway—just for good measure. It's long past time to stop these games and vote.

I think the Washington Post has it just right. The fact is there hasn't been one good argument used against Mr. Estrada. They can't point to one reason he should not be confirmed to this circuit court of appeals. They can't give one logical, good, substantive reason to reject him. But I still grant them the right to vote against him if that is the way they feel. If they in their hearts feel that this man will not operate on the court the way he should, then, by gosh, they have a right to do that. Naturally, I do take opposition or issues with the Post's characterization of how we treated the Clinton nominees, but other than that, I think it is dead on.

Let me tell you why I take opposition. If you look at the facts, as I have said before, President Reagan was the all-time confirmation champion. He amazingly got 382 judges confirmed.

But he had 6 years of a Republican Senate, with control of the Judiciary Committee by Republicans, to help him to do that. I have heard so much whining from the other side about how badly President Clinton's nominees were treated. It is repeated in this editorial to a limited degree. But the fact is, President Clinton got virtually the same number as President Reagan. Three hundred seventy-seven Federal judges were confirmed during President Clinton's 8 years, and for 6 of those years the Republicans controlled the Senate and the Senate Judiciary Committee. He was treated very fairly.

If you go back in time, when President Bush was President, Bush 1, when he left his Presidency and the Democrats controlled the committee at that

time, there were 97 vacancies and 54 left holding. In other words, 54 nominees did not get heard. By the way, one of them was John Roberts, who has been sitting here for 11 years, nominated three times by two different Presidents for this circuit court of appeals job. It isn't just 2 years, as the Post said; it is 11 years, going on 12. That is disgraceful. He is considered one of the two greatest appellate lawyers in the country, arguing 39 cases before the Supreme Court. Yet he was blocked last week in committee as well.

The fact is, when President Clinton left office and I was still chairman of the committee, there were 41 left holding. There were 67 vacancies, 30 fewer than when the Democrats last held the committee with a Republican President leaving office. And there were 41 left holding versus the 54 left by the Democrats. We didn't cry about that—at least I didn't. That is part of the process. There are always some left holding because it is a difficult process to get through. Could we have done better? I think we could have done better; I will acknowledge that. The fact is, we didn't cry when they left 54 hanging, and they shouldn't be crying because 41 of theirs were left hanging. By the way, of the 41, at least 9 were put up so late no committee chairman could have gotten them through, so it was really only 32. And if you go back through these, for many there was no consultation with the Republican Senators, an absolute must in order to confirm people.

I happen to know this administration is consulting with Democrat Senators. To the degree that Senators say they are not, that is because they interpret the consultation to mean doing what they want rather than what the President wants. That is not the definition of consulting.

There is a point here that bears repeating because I believe that in the debate over Mr. Estrada's nomination this point has been lost. My Democratic colleagues have articulated every reason under the Sun they believe they should vote against Mr. Estrada, yet they will not allow his nomination to proceed to a vote. Why is this? I will tell you what I think, plainly put, with no window dressing: I think it is because they are afraid Mr. Estrada will be confirmed if there is a vote on his nomination. I predict he will be. They believe a majority of the Members of this body will vote to confirm him.

The only way they can prevent this from happening is to filibuster his nomination. 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.

Last week, I noted that some of my Democratic colleagues were not always so eager to use a filibuster to prevent a vote on judicial nominations.

I think it is important to note again what some of my colleagues had to say about filibustering judicial nominees when there was a Democrat in the White House. The ranking member of the Judiciary Committee, the Senator from Vermont, said in 1999:

I . . . do not want to see the Senate go down a path where a minority of the Senate is determining a judge's fate on votes of 41.

The distinguished Senator from California, who also serves on the Judiciary Committee, likewise said in 1999:

A nominee is entitled to a vote. Vote them up; vote them down.

She continued:

It is our job to confirm these judges. If we don't like them, we can vote against them. That is the honest thing to do. If there are things in their background, in their abilities that don't pass muster, vote no.

My colleague from Massachusetts, a former Judiciary Committee chairman, said in 1998:

Nominees deserve a vote. If our Republican colleagues don't like them, vote against them. But don't just sit on them—that is obstruction of justice.

I wonder why it was obstruction of justice then but it is not today. It does appear to be a double standard, as White House counsel said this week on television. There is a double standard being applied to this Hispanic nominee, without any legitimate, logical, good reason for holding him up.

I think I have made my point. When the shoe was on the other foot—when a Democratic President was the one nominating Federal judges—my Democratic colleagues stood firm against the idea that a judicial nominee should be denied a vote. But now that it is a Republican President nominating Federal judges, things are obviously different to them. They apparently no longer believe it is a problem to go down a path where a minority of the Senate is determining a judge's fate on votes of 41, or requiring a supermajority vote of 60 in order to have a nominee approved and confirmed—even though our obligation is to advise and consent. That means a vote up or down. They no longer believe that voting on a nominee—whether for or against—is the honest thing to do, and they no longer believe that denying nominees a vote is obstruction of justice—which is what they called it when they had the Presidency. And liberals were being nominated and confirmed by us then.

There is no question that we are in the middle of a full-blown filibuster of Mr. Estrada's nomination. The Senator from New York, Mr. SCHUMER, has said they are not filibustering. What the heck is it then? Preventing a vote up or down on the nominee is called a filibuster. They can prevent a vote, as long as they can require us to get 60 votes and as long as they have at least 41 votes against cloture. Never before has an appellate court nominee—or any lower court nominee, for that matter—been defeated through a filibuster.

If this filibuster is successful, if Mr. Estrada's nomination is denied a vote, we are entering into a sad new chapter in the confirmation of judicial nominees. It is a chapter where the will of a minority of the Members of this body can obstruct the confirmation of a lower court nominee. Simply put, it is tyranny of the minority, and it is unfair.

I have to admit there were some on our side during the Clinton years who wanted to filibuster some of his judges. In all honesty, I fought against that and helped to prevent it. We never had a true filibuster against a circuit court of appeals nominee. I thought it was unfair then, and I think it is unfair today.

It is significant that, in addition to the Washington Post, many other fine newspapers across the country, from California to Maine, have taken note of what is going on in the Senate and have spoken out against a filibuster. These are newspapers that generally do not, as a matter of regular practice, comment on the Senate's confirmation of Federal judges. The fact that these newspapers have chosen to speak out against a filibuster of Mr. Estrada—a nominee with no connection to their own State—says quite a lot about the blatant unfairness of what is going on here.

Take, for example, the Riverside, CA, Press-Enterprise. In a February 18 editorial, it said:

The Democrats' tactic employed last week of filibustering the nomination of [Mr. Estrada] . . . is an anything-goes strategy that ought to be abandoned.

This is a newspaper that happens to agree with the Democrats' contention—which I think is absolutely baseless—that Mr. Estrada was not completely open during his testimony before the Judiciary Committee. It is also a newspaper that was pretty harsh on us Republicans in the same editorial—unjustly, in my view, but that is a different story. The point is that its anti-filibuster position is even more credible. The Press-Enterprise is saying that even if you did not like the way Mr. Estrada answered questions before the committee, that is no reason to filibuster his nomination.

As they concluded:

[T]he process has to stop at some point. It's one of advice and consent, not advise and confront.

Let's look at what some of the other newspapers across the country have been saying since this filibuster started 3 weeks ago. Like the Riverside Press-Enterprise, many of these newspapers are quite harsh on us Republicans, too, but they are united on one point: The filibuster of Mr. Estrada's nomination is unfair and it should end.

Another California newspaper, the Redding Record Searchlight, had this to say:

This filibuster comes at a time when there are all sorts of pressing issues before the nation. The tactic has no excuse. . . . If liberals in the Senate think conservatives will spell the end of civilization if they become judges, they can vote against Estrada. Keeping others from voting their consciences on this

particular matter is more than slightly reprehensible.

The Bangor Daily News in Maine wrote that the Democrats:

are mistreating a fellow citizen through the same means they fear an unqualified judge would employ: using their authority to harshly punish someone on ideological grounds. It is unfair no matter which party does it and it is harmful to the working of the Senate.

Well, amen to that.

The Providence Journal-Bulletin in Rhode Island said:

The point about Miguel Estrada is not that he may or may not harbor conservative judicial opinions. The point is that he is an inspiring American success story, a brilliant scholar, a distinguished public servant, and an outstanding lawyer. For Senate Democrats to talk down his nomination is not just embarrassing, but outrageous.

The Grand Forks Herald in North Dakota wrote in an editorial entitled ''Stop the Filibuster'' that Senate Democrats ''should back off and let the Senate vote.''

The Chicago Sun-Times asked:

[W]ho can look at the spectacle of the 108th Congress and not believe that both justice and the basic operation of the Nation is being sacrificed on the altar of ugly, obstructionist, partisan politics?

They continued:

Our legal system cannot and must not be held hostage to political nitpicking.

The Rochester, NY, Democrat and Chronicle opined:

Yet another fight over a judicial nominee should not descend to filibuster.

The Detroit News wrote:

Estrada should have his nomination put up for an ordinary vote, as have all of his predecessors. If he loses, fair enough. But a filibuster would signal an unreasonable posture by Democratic Senators that could have long-term—and damaging—consequences for how business is conducted in the U.S. Senate.

Mr. President, I ask unanimous consent that these and other editorials from newspapers across the Nation condemning the filibuster of Mr. Estrada's nomination be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Press-Enterprise, Feb. 18, 2003]

The process of filling a vacancy in the federal judiciary is a political one. The Founding Fathers placed it into a political area. The president nominates and the Senate confirms—or doesn't—but that doesn't mean anything goes.

The Democrats' tactic employed last week of filibustering the nomination of Miguel A. Estrada to the U.S. Court of Appeals for the District of Columbia Circuit is an anything-goes strategy that ought to be abandoned. However, with 49 Democratic senators, they are likely to be able to muster the 41 votes needed to maintain a filibuster.

What makes the filibuster inappropriate is that it is rarely used to block a judicial nominee, and Mr. Estrada hardly qualifies as a target for such a big gun. Yes, he was not completely open with members of the Judiciary Committee when he appeared, and Democratic senators are frustrated by the White House's refusal to release to them memoranda he wrote as solicitor general.

But in the best of times, such a request would be out of line, and these are closer to the worst than to the best for the nomination process. If the memoranda were to be used as an honest beginning to a discussion of Ms. Estrada's legal views, there might be some justification for releasing the documents that would normally be considered privileged.

One suspects that's not the role the Democrats have in mind for the memoranda. They probably hope to expose Mr. Estrada's conservative views, which no one doubts he holds, in hopes of defeating the nomination or at least scoring some political points.

The two parties have been allowing their political battles over judicial nominees to escalate since Robert H. Bork's nomination to the U.S. Supreme Court in 1987. One suspects that Republicans, if they were in the minority, would have done the same with the Estrada nomination. The parties need to de-escalate.

A first step would be to not filibuster nominations like this one of a well-qualified nominee. He's distinctly an American success story, having immigrated from Honduras, gone to Columbia and Harvard and served as a clerk to a Supreme Court justice.

Democrats, or Republicans when they are in the minority, may fairly make things tough on a nominee in committee or on the Senate floor, in order to fashion nominations more to their liking. But the process has to stop at some point. It's one of advice and consent, not advise and confront.

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[From the Redding Record Searchlight, Feb. 15, 2003]

SENATE LIBERALS SHOULD NOT FEAR VOTE FOR JUDGE

Miguel Estrada is—oh no, oh no, can it be?—a conservative, and if that makes your heart pound with fear, you may very well be a Democrat serving in the Senate. You would then be among those trying to thwart majoritarian decision-making with a filibuster, there being no chance that an honest vote will go your way.

It's irresponsible and an outrage, this hysteria being acted out by the Democrats to keep Estrada from serving on the U.S. Court of Appeals for the District of Columbia. But the Democrats do have their excuses, each more petty and pathetic than the next.

One excuse is that they just don't know enough about this fellow, but there is a life history here, and a rather amazing one: Estrada immigrated to this country from Honduras, graduated with honors at Columbia College, was editor of the Law Review at Harvard Law School, was a clerk to a Supreme Court justice, has argued before the Supreme Court 15 times, has done pro bono work for a down-and-outer and has received the highest possible recommendation of the American Bar Association.

Well, but the administration won't hand over memos he wrote when he was in the solicitor general's office, say the Senate Democrats. It apparently does not matter to them that publicizing them could rob future memos of their candor and that every former solicitor general of either party has said the Democrats seek too much.

But listen, the Democrats continue, Estrada refused to blab his heart out when he appeared before a Senate committee, as if they did not know that its violates widely endorsed principles to indicate beforehand how you as a judge might decide cases that could come before you. Estrada did say he would be an impartial judge loyal to the law. On other topics—his broad political views—he was relatively quiet, which is fine.

This filibuster comes at a time when there are all sorts of pressing issues before the nation. The tactic has no excuse (although there are explanations, such as a Democratic fear that Estrada would be in line for a Supreme Court nomination if he gets this other judgeship first). If liberals in the Senate think conservatives will spell the end of civilization if they become judges, they can vote against Estrada. Keeping others from voting their consciences on this particular matter is more than slightly reprehensible.

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[From the Bangor Daily News, Feb. 19, 2003]

VOTING ON ESTRADA

George Washington took office April 30, 1789, but the Senate waited until Aug. 5 of that year to reject one of his nominees—Banjamin Fishbourn of Georgia, one of 102 appointments submitted by President Washington to become collectors, naval officers and surveyors of seaports. The Senate thus established the use of its authority for advise and consent and simultaneously demonstrated that no appointment is too minor to fret over.

Just before they left for vacation last week, Senate Democrats had begun what they say will be an extended filibuster of the nomination of Miguel Estrada, nominated in May 2001 by President Bush to become U.S. circuit judge for the District of Columbia Circuit. The Democrats say they do not have enough information about the nominee and cannot persuade him to talk sufficiently about his judicial philosophy so cannot allow a vote.

This lack of information, however, has not stopped conservative groups from strongly supporting the nomination and liberal groups from strongly opposing it. They know enough to choose a position, as do the Democrats, who actually mean by insufficient information that they would like to reject a Bush nominee but were hoping to find a larger reason for doing so than the fact that Mr. Estrada apparently supports strong anti-loitering laws, to the detriment of migrant workers.

Democratic Sen. Harry Reid of Nevada a couple of weeks ago quoted comments his Republican colleagues offered during the Clinton administration on the requirement that the Senate ''do what it can to ascertain the jurisprudential views a nominee will bring to the bench,'' to use an example from Republican Sen. Orrin Hatch of Utah. (Sen. Reid also offered numerous precedents in which memoranda of the sort Mr. Estrada wrote while advising the solicitor general have been made public, as they have not with this nomination.) Sen. Reid's point, of course, is that if this behavior was acceptable for Republicans it ought to be acceptable for Democrats. But for the public, it is not acceptable in either case.

The Senate has a long history of rejecting presidential nominations, from Cabinet appointments right down to surveyors of seaports. Democrats, having drawn out this nomination for maximum political effect, now face the questions of backlash for appearing to beat up a nominee. More importantly, they are mistreating a fellow citizen through the same means they fear an unqualified judge would employ: using their authority to harshly punish someone based on ideological grounds. It is unfair no matter which party does it and it is harmful to the working of the Senate.

The Democrats should consider that the information they have in hand is all they will get and allow, even encourage, a vote. If the information is insufficient, they should vote no and see if they can round up enough votes to block the nomination. If it is sufficient and they have no substantial questions about Mr. Estrada's abilities, they should vote yes even if they do not agree with all of

his politics. But the filibuster should end this week with the congressional recess.

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[From the Providence Journal-Bulletin, Feb. 14, 2003]

THE ESTRADA CASE

The decision of Senate Democrats to filibuster the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia is unfortunate, to say the least. Democrats are now in the position not only of turning away a nominee rated ''highly qualified'' by the American Bar Association, but of rejecting a onetime Supreme Court clerk and Honduran immigrant who graduated magna cum laude from Harvard Law School, for political reasons.

The Democratic complaint is that Mr. Estrada is a ''stealth conservative,'' and that his responses in committee hearings were insufficient to reveal his political opinions. To that end, Minority Leader Tom Daschle (D.–S.D.) and his colleagues have demanded not only supplementary detailed responses to political inquiries, but also Mr. Estrada's confidential memoranda written while he was an assistant solicitor general. Every living solicitor general, Democratic and Republican, has gone on record to oppose this unwarranted intrusion into the deliberative process in the Justice Department. And the Bush administration has been correct to resist Democratic demands.

Make no mistake: Senate Democrats are worried that President Bush might nominate conservative lawyers and jurists to the federal bench. But that is no reason to reject a highly qualified nominee. Just as Bill Clinton appointed judicial liberals to the federal bench—including three Supreme Court justices—it stands to reason that Mr. Bush will nominate conservatives.

The process is called democracy. Democrats may not like the results of the 2000 presidential election, but their recourse is to win back the White House in 2004, not to subject distinguished nominees like Miguel Estrada to political torture.

And after all, judicial nominations are for life, and no president can be clairvoyant. When Franklin Roosevelt nominated Felix Frankfurter for the Supreme Court in 1939, he had no idea that Justice Frankfurter would evolve into one of the court's leading conservatives. And when the first George Bush nominated David Souter for the court in 1989, he might have changed his mind if he had known that Justice Souter would become one of the court's reliable liberals.

The point about Miguel Estrada is not that he may or may not harbor conservative judicial opinions. The point is that he is an inspiring American success story, a brilliant scholar, a distinguished public servant and an outstanding lawyer. For Senate Democrats to talk down his nomination is not just embarrassing, but outrageous.

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[From the Grand Forks Herald, Feb. 15, 2003]

EDITORIAL: STOP THE FILIBUSTER

Our View: Senate Democrats should let Miguel Estrada's name come up for a floor vote.

There are two responsible ways for Senate Democrats to keep conservative lawyers off of the federal bench.

The first is for Democrats to regain a majority in the Senate. The second is to convince a few Republicans to vote against those nominees on the floor. Both of those methods use politics' most-respected and time-honored technique: persuasion—persuading voters in the first case, colleagues in the second, of the strength and power of your argument.

In the U.S. Senate, however, there's also a coercive and borderline-irresponsible method for the minority party to have its way. That method is the filibuster. Senate Democrats are staging one now against Miguel Estrada, an appeals court nominee.

They should back off and let the Senate vote.

A filibuster is a delay that can't be broken without a supermajority's consent. Now, at times in a democracy, a ''tyranny of the majority'' may arise that principled senators feel they must resist. This isn't one of those times. Estrada is neither a criminal, nor a spy, nor a hack whose nomination sprang from backroom deals where money changed hands.

Just the opposite: He is, by every account, a living, breathing embodiment of the American dream. An immigrant from Honduras, Estrada spoke little English when he came to the United States at age 17. Yet, he graduated with honors from Harvard Law School, clerked for a Supreme Court justice and built an honorable and exemplary career.

He's also a judicial conservative. And if there's one thing that drives some Democrats berserk, it's a person from an ethnic minority background who strays from the party line.

That's why the Democrats are filibustering. That's why they're holding up matters of real-life war and peace. That's why they're thwarting the majority's will and asserting an anti-democratic veto power on a matter of congressional routine.

And that's why they ought to back off.

Because frankly, those reasons are politics, nor principle. And politics isn't enough.

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[From the Chicago Sun-Times, Feb. 14, 2003]

WHEELS OF JUSTICE CAUGHT IN WASHINGTON GRIDLOCK, AGAIN

''The time has come for the U.S. Senate to stop playing politics with the American judicial system. So bad has the situation become that some Americans wonder whether justice is being hindered . . .'' So began an editorial on this page five years ago, during the now-distant days of the Clinton administration, when Senate Republicans were stonewalling judicial nominees from a Democratic president.

We mention it because the party in power tends to scream about efficient government, while the party out of power complains about failure to follow procedure. To quote Shakespeare, ''A plague on both their houses.'' The only update we'd make in the opening quote is to change ''some Americans'' into ''many Americans'' or even ''most Americans.'' For who can look at the spectacle of the 108th Congress and not believe that both justice and the basic operation of the nation is being sacrificed on the altar of ugly, obstructionist, partisan politics?

After dragging their feet on shifting committee chairmanships and the routine operations of the nation's business, Senate Democrats, though in a minority, are threatening to filibuster over the confirmation of Miguel Estrada, a Washington lawyer who seems eminently qualified for the federal appeals bench in every way except for his alacrity to answer questions about his opinions on legal matters that have not yet been presented to him, such as the issue of abortion.

The entire idea behind disabling the business of the nation is so that the blame for whatever bad situation we find ourselves in come election 2004 can be laid at the feet of the Republicans, since they are in power. But the Democrats forget that, if they manage to torpedo the Republican agenda, then the Republicans are not really fully in power, and whatever problems are certain to come are the fault of both parties. And obstructionism hurt Democrats in last November's voting.

President Bush called the Democratic approach ''shameful politics.'' We are not revealing a bias when we agree—the nation needs good judges, from both parties, of both conservative and liberal outlooks. Our legal system cannot and must not be held hostage to political nitpicking. Estrada deserves to be the first Hispanic on the U.S. Court of Appeals for the District of Columbia, and if his nomination in some way helps to break the political deadlock keeping critical judgeships from being filled, that will be just another accomplishment to add to his record.

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[From the Rochester Democrat and Chronicle, Feb. 7, 2003]

THE ESTRADA NOMINATION

Yet another fight over a judicial nominee should not descend to filibuster.

The oft-heard scuttlebutt around Washington is that Congress is a far less congenial place now than 20 years ago. Partisanship, once a coin of the realm, is today the only currency that matters.

The truth of that troubling assessment shows most tellingly in the drag-out fights over judicial nominees. It used to be that the opposing party, once in power, would get its appointments. No longer.

Led by Sen. Chuck Schumer, Senate Democrats, who narrowly lost a Judiciary Committee vote on U.S. Court of Appeals nominee Miguel Estrada, are threatening a filibuster to prevent a floor vote on the nomination. Estrada's sin? He was unresponsive to the committee's questions regarding past causes and other issues.

It's a smokescreen. The Democrats know Estrada's legal record, and it's a good one.

To suggest tha the needed to answer the questions to establish his credentials is disingenuous. There's more than enough known about Estrada for an up-or-down floor vote.

A filibuster could make partisanship history—never before has the Senate prevented a lower-court confirmation via filibuster. The Democrats have a duty to ask tough questions and to base their votes on the answers, or lack of them. But they also have a duty to live by the final tally—not delay its taking with divisive filibuster.

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[From the Detroit News, Feb. 10, 2003]

U.S. SENATE SHOULD FORGET JUDICIAL CANDIDATE FILIBUSTER

IT'S TIME TO END VENDETTAS AND REVENGE IN JUDICIAL NOMINATIONS

U.S. Senate Democrats' threat to filibuster President George W. Bush's nomination of Miguel Estrada to the U.S. Court of Appeals in Washington, D.C. would further poison an already badly damaged judicial nomination process.

Both parties share the blame for the wrecked process. But Senate Democrats are now engaging in revenge for bad GOP behavior in the second term of former President Clinton, when Republicans stalled votes on a number of his nominees, ultimately derailing them when Bush gained the presidency. Until the GOP regained the Senate last November, they tied up a number of Bush nominations in committee.

Now, the Democrats have a chance to rise above partisan political hackery and end this stupid game. Instead, they are seriously considering making the situation worse.

Miguel Estrada is a well-regarded native of Honduras who served in the office of U.S. solicitor general under both former Presidents Clinton and George H.W. Bush. The solicitor general represents the U.S. government before the Supreme Court.

Estrada has personally argued 15 cases before the nation's highest court. He has been unanimously rated ''well-qualified'' by the

American Bar Association—which Senate Democrats declared would be the ''gold standard'' by which they would assess judicial nominees when they controlled the Senate.

Estrada's nomination was one of those bottled up in committee. With the GOP in control, his nomination has now been voted out to the Senate floor. The nomination is drawing more than the usual interest because Estrada, 42, is considered a strong possibility for eventual nomination to the U.S. Supreme Court by President Bush.

Senate Democrats are deciding just how much they want to obstruct the president's nominees. A filibuster can only be broken by 60 votes—9 votes more than is usually required for a nominee to be approved. Reportedly, a filibuster has never before been used to block an appointment to the U.S. Court of Appeals.

Democrats complained that Estrada, during his committee hearings, declined to tell them his positions on particular issues. It is a violation of the canons of judicial ethics for potential judges to do that.

Democrats also demanded that he produce his memos and recommendations while he was in the solicitor general's office—which had never been done for any other candidate who had been an assistant in that office. The demand was rejected not only by Estrada, but by every former solicitor general still living, including those who served Democratic presidents.

The level of obstruction his nomination has faced has been truly extraordinary. Michigan Sens. Carl Levin and Debbie Stabenow—who are running their own vendetta in blocking four Bush nominees to the Court of Appeals in Cincinnati—shouldn't be a part of it. That would be an insult to their Hispanic constituents.

Estrada should have his nomination put up for an ordinary vote, as have all his predecessors. If he loses, fair enough. But as filibuster would signal an unreasonable posture by Democratic senators that could have long-term—and damaging—consequences for how business is conducted in the U.S. Senate.

Mr. HATCH. I agree with these newspapers that the perpetuation of this filibuster against Mr. Estrada's nomination is extremely unfair. It is unfair to the majority of the Members of the Senate who stand prepared to vote on Mr. Estrada's nomination. It is certainly unfair to Mr. Estrada, whose life is in limbo while the Senate engages in its endless debate. It is unfair to the American people, who have a justified expectation that the Senate will vote on Mr. Estrada's nomination and move on to debate and consider other important business.

The solution is not to protract debate, upon which some of my Democratic colleagues insist. The solution is not to go on a fishing expedition for privileged, confidential memoranda Mr. Estrada once authored on appeal recommendations, certiorari recommendations, and amicus curiae recommendations. The solution is not to demand answers to questions that Mr. Estrada already addressed when the Senate was under Democratic control. The solution is for Senators to vote on Mr. Estrada's nomination. Vote for him or vote against him. Do what your conscience dictates. Just vote—exactly what the Washington Post has called upon us to do.

Mr. President, I have additional remarks, but I notice the distinguished Senator from Georgia is here. I note that he wants to give some remarks and I am happy to interrupt my remarks for that purpose. I know he has an important message he would like to give. I am happy to interrupt my remarks for him.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. Mr. President, I ask unanimous consent to proceed in morning business as in legislative session for 15 minutes.

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

## HILLBILLIES

Mr. MILLER. Mr. President, I rise this morning—and I appreciate the generosity of the Senator from Utah and the Senator from Vermont in giving me this opportunity—to get something off my chest.

CBS Television is currently planning what that great company calls ''a hillbilly reality show.'' I would like to say a few words about that as a Senator who happens to be a hillbilly.

I can call myself that, Mr. President, but please don't you call me that, for ''hillbilly'' is a term of derision that was first coined in April of 1900 when the New York Journal had an article on ''Hill Billies'' with this description:

> A free and untrammeled white citizen who lives in the hills, has no means to speak of, talks as he pleases, drinks whiskey when he gets it and fires off his revolver as his fancy strikes him.

The description has not improved very much over the past 100 years. White minstrel shows depicting these ignorant creatures played to laughing audiences in New York and Chicago in the 1920s and 1930s.

After a man named Al Capp saw one, he dreamed up the comic strip ''Li'l Abner'' who lived in a place called Dogpatch with a mama who smoked a pipe and a girlfriend named Daisy Mae who ran around barefooted and half naked. It was a riot, and it made Al Capp a fortune.

A short time later, Snuffy Smith, a wife abuser with his ever-present jug of moonshine, also appeared in comic strips around the Nation. Then came Ma and Pa Kettle in the movies and the Beverly Hillbillies on television. Even the contemporary poet and author James Dickey has contributed to this false image of mountain people by portraying them as depraved cretins in his popular book and movie ''Deliverance.''

My neighbors and I have lived with this ridicule and overdrawn stereotype all of our lives, as did our parents and their parents before them. My roots run very deep in the Appalachian Mountains of North Georgia where I was born and raised and always have made my home. It is where my children, grandchildren, and great grandchildren live today.

My ancestors were among the very first mountain settlers. They were descendants of the Scotch-Irish who were driven out of Northern Ireland by the Stuart Kings. They landed in Maryland and Virginia and migrated westward as far as the hostile Indians and French would allow, and then moved southward into the heart of a region of rugged mountains and beautiful valleys we now know as Appalachia.

They were accompanied and followed by the Huguenots, Pennsylvania Quakers, Palatine Germans, and various dissatisfied Protestant sects.

These mountain people were the very first Americans to fall back on their own resources as they settled in isolation from the remainder of the Nation and the world.

Their language, customs, character, possessions, knowledge, and tools were isolated with them and suspended in time, an unchanging microcosm of early American thought, culture, and mores.

These mountaineers possessed the qualities that formed the fundamental elements of pioneer American character: love of liberty, personal courage, a capacity to withstand and overcome hardship, unstinted hospitality, intense family loyalty, innate humor, and trust in God.

It could be said that if they had one overriding characteristic, it would have to be independence. They developed as extreme, rugged individualists who never closed their doors, had inherent self-respect, were honest and shrewd, knew no grades of society, and had unconscious and unspoiled dignity. They were utterly without pretension or hypocrisy.

When the Civil War came along, it was this area of the Mountain South that opposed secession, for there were no vast plantations in the mountains of the South and very few slave owners among those poor people. Some even fought on the side of the Union, with families sometimes divided over that terrible conflict.

Later, when the wars of the 20th century came along, it was the families in the mountains of the South who sent a disproportionate share of their young men who volunteered to fight in distant lands, far away from their peaceful valleys.

When this country was threatened to be torn apart over Watergate, it was two great Members of this Senate from opposite parties but the same part of the country who helped keep this Nation on an even keel: Democrat Sam Ervin from the mountains of North Carolina and Republican Howard Baker from the mountains of Tennessee.

I am very pleased and proud that these are my people, and I find that one of the great ironies of history is that while the cowboy, another type of frontiersman, has been glorified, the mountaineer—the first frontiersman—has been ridiculed and caricatured in the image of a Snuffy Smith.

Why am I going into all of this? Because now in the 21st century—the enlightened 21st century—there are plans underway for a new hillbilly minstrel show using the same old stereotype, denigrating, laughing at, and ridiculing this group of people.

CBS calls it a reality show—CBS, the once proud and honorable broadcasting company that brought us Edward R. Murrow and that unforgettable program of his, ''The Harvest of Shame.''

In the sixties, brave and courageous CBS reporters risked their lives to cover the civil rights struggles in the South, and for decades, CBS's ''60 Minutes'' has set the standard for all of television. But today in this money-grubbing world, CBS, it seems, has become just another money-grubber.

It is now part of the giant Viacom. CBS has a CEO named Mr. Les Moonves, the man who is pushing this program-to-be; a man who obviously believes that network television is an ethics-free zone and that it is acceptable for big profits to always come ahead of good taste.

I do not know Mr. Moonves, but from his actions, it seems he is a person who cares little about human dignity and believes television has no social responsibility. I suppose we should not be surprised, for his ilk have been around long before the creators of Li'l Abner and Snuffy Smith. Since the beginning of civilization, there have always been some Homo sapiens who, it seems, had to have someone to look down upon, some group to feel superior to. For this kind of person, it is as basic to their human nature as the drive to reproduce or the urge for food and water. They were there in the time of the Greeks. They were there in the time of the Romans. They can be found all through the Bible. That is what the parable of the Good Samaritan is all about.

Jesus was very concerned about how the rejects of society were looked down upon and warned us about ''a haughty spirit'' and an ''unkind heart.''

Shakespeare wrote about them as did Dickens and Steinbeck and Faulkner. And songwriter Merle Haggard, who knew personally how it felt, wrote that memorable line ''another class of people put us somewhere just below, one more reason for my mama's ''Hungry Eyes.''

This country was not meant to be this way. We are supposed to be better than that. More than two centuries ago, Moses Sexius was the warden of the Hebrew Congregation of Newport, RI.

He wrote hopefully to the President of this new Nation of his delight at the birth of a government ''which to bigotry gives no sanction, to persecution no assistance, but generously affords to all liberty of conscience.''

That new President, George Washington, wrote back.

Here is a copy if the letter affirming that the Government of the United States ''would give to bigotry no sanction, to persecution no assistance.'' That was Washington's dream for this country.

What CBS and CEO Moonves proposed to do with this Cracker Comedy is ''bigotry'' pure and simple. Bigotry for big bucks. They will deny it. They will say it is just harmless humor. But they know better and they feel safe.

They know the only minority left in this country that you can make fun of, demean, humiliate, put down and hardly anyone will speak up in their defense are hillbillies in particular and poor rural people in general. You can ridicule them with impunity.

Can you imagine this kind of program being suggested that would disrespect an African American family or denigrate a Latino family? Years ago, the program Amos and Andy was removed from television—as it should have been—because it was in poor taste and made fun of a minority.

In this wonderful and diverse country today, one of every six Americans speaks some other language other than English in their homes. In my home State of Georgia, their number has more than doubled in the past decade. I believe that may be the largest increase in the Nation.

From the red clay hills of Georgia to the redwood forests of California, all of us are struggling to answer the simple question: Can't we all get along?

And that daunting challenge, can't we live our lives as if we are all created equal? All of us: we eat, we sleep, we have strengths and weaknesses; we have dreams and anxieties. A tear knows no race, no religion, no color. A tear has no accent. We all cry in the same language.

Many years ago, the rabbis were asked why was it that in the beginning God created just one man, Adam, and one woman, Sa-ba, or Eve. Surely, God could have created multitudes.

The rabbis answered that only one man and one woman were created to help us all remember that we all came from the same mother and father. So no one should ever say, ''I'm better than you, ''and no one should ever feel, ''I'm less than you.''

CBS, Viacom, Mr. Moonves: I plead with you to call off your hillbilly hunt. Make your big bucks some other way. Appeal to the best in America not the worst. Give bigotry no sanction.

For no one—not even a rich and powerful network like CBS—should ever use the airwaves of this Nation to say to one group of people in God's image, ''We're better than you.''

And no one, Mr. Moonves, no one should ever be made to feel, ''they're less than you.''

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I thank the Senator from Georgia for his comments.

The Senator from Utah has spoken and will be coming back, and so I am going to speak about the Estrada nomination, the matter at hand. I say what everybody knows, especially those of us like the distinguished Presiding Officer, who have practiced law, becoming a Federal judge for a lifetime is a privilege. It is not a right.

No nominee should be rewarded for stonewalling the Senate and the American people. The Constitution directs Senators to use its judgment in voting on judicial nominees. It does not direct them to rubberstamp. It says ''advise and consent,'' not advise and rubberstamp.

During the 17 months that the Democrats were in control of the Senate, we confirmed a record 100 of President Bush's judicial nominees. Interestingly enough, no judicial nominees of President Bush's had been confirmed up to mid-July when I took over as chairman of the committee. Within 10 minutes of taking over as chairman of the committee, I called the first confirmation hearing, and in 17 months we set a record of moving nominations. We certainly acted faster, and I believe more fairly, than the Republicans did for President Clinton.

President Bush also has proposed several controversial nominees like Miguel Estrada. They divide the American people and the Senate. The President, of course, could easily end this impasse. I hope he will act to give Senators the answers they need to make informed judgments about this nomination. That was suggested by one of the most distinguished and senior Republican Members of this Senate. So far it has been rejected by the White House. I hope they will reconsider. The President can also help by choosing mainstream judicial nominees who can unite instead of divide the American people.

Unfortunately, the White House seems to have this attitude that they should divide and not unite, and I think that is a mistake. One of the unfortunate aspects of the President's determination to pack the Federal courts with extreme conservatives is a division that the nomination of Miguel Estrada has caused among Hispanics. Rather than nominate someone whom all Hispanic Americans would support, the President has chosen to divide rather than unite. The White House's ideological litmus test has motivated the President to select another highly controversial nominee rather than a consensus nominee.

Over the last several days, the division within the Hispanic community has been the subject of a number of news reports. On February 14, the Washington Times ran a front page story quoting a statement for the National Council of La Raza noting that since the Latino community is clearly divided on the Estrada nomination, we find the accusation that one side or another is anti-Latino to be particularly divisive and inappropriate.

The division was likewise noted in the Boston Globe on February 15, in a story by Wayne Washington. And on February 20, the Washington Post

noted the division in a story by Darryl Fears.

I ask unanimous consent that some of the articles on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Feb. 15, 2003]

LATINOS BITTERLY DEBATE ESTRADA NOMINATION

(By Wayne Washington)

WASHINGTON.—President Bush's nomination of Miguel Estrada for a federal judgeship has exposed sharp divisions among Latinos, who are weighing the possibility of having one of their own on a fast track to the US Supreme Court against a fear that the minority group's interests could be harmed if the Senate confirms that the conservative lawyer of Honduran descent.

In the divisive intra-ethnic battle, some Latinos have challenged Estrada's allegiance to the Hispanic community, an accusation that others have sharply criticized. Each side has at times accused the other of being anti-Latino. The debate has gotten so nasty on Spanish-language television and over the Internet that this week the National Council of La Raza, a Latino group that says it is neutral on Estrada's nomination, called for both sides to tone down their language.

''We urge those who are engaging in name-calling and accusatory language to instead focus on the substantive issues and merits of this nomination,'' the group said in its statement. ''Since the Latino community is clearly divided on the Estrada nomination, we find the accusation that one side or another is 'anti-Latino' to be particularly divisive and inappropriate.''

Estrada's nomination to the Court of Appeals for the District of Columbia has been endorsed by the Hispanic Bar Association, US Hispanic Chamber of Commerce, the Latino Coalition, and the League of United Latin American Citizens, which is comparable to the NAACP. Opposed are the Mexican American Legal Defense and Education Fund, the Puerto Rican Legal Defense and Education Fund, and the Congressional Hispanic Caucus, whose members are Democrats.

Bush nominated Estrada in May 2001, but Senate Democrats blocked his approval. This week, they stalled the nomination by threatening a filibuster. Estrada, 42, would be the first Latino on the D.C. Appeals Court, where six of the nine justices currently on the Supreme Court once served. Only 12 of the 154 judges on federal appeals courts are Latinos; one has never served on the nation's highest court.

Some observers have compared the volatile debate to dissension among African-Americans when President George H.W. Bush nominated Clarence Thomas—then a member of the D.C. Court of Appeals—to the Supreme Court.

''There are similar fault lines,'' said Lisa Navarrete, spokeswoman for the National Council of La Raza, a nonprofit Hispanic group that fights poverty and discrimination. ''Some people said Clarence Thomas is African-American and would be the only one on the court. He deserves our support. Others felt that his views would be harmful to the community. That's exactly what's happening here.''

Born in Honduras, Estrada immigrated to the United States with his family as a teenager, graduated magna cum laude from Columbia College, and earned a law degree from Harvard, where he was an editor of the Harvard Law Review. He went on to work as an assistant US attorney in New York and an assistant to the solicitor general during the Clinton administration. Currently, he is a partner in the Washington office of Gibson, Dunn & Crutcher.

His ethnicity and academic and legal record have been enough to win the support of some Latinos, while critics maintain that Estrada, a member of the conservative Federalist Society, has not clearly spelled out his judicial philosophy. He clerked for Justice Anthony M. Kennedy, a member of the conservative majority on the Supreme Court.

''That Miguel Estrada is of the Hispanic culture counts far more than the fact that he is a Republican or a Democrat,'' said Tina Romero-Goodson, a social service official in New Mexico. ''What weighs heavily with me is that he is Hispanic and will have far more in common with me and mine than a Democratic Anglo or African-American candidate.''

Representative Robert Menendez, Democrat of New Jersey, said Estrada ''shares a surname'' with Latinos but has done little to help them.

''Mr. Estrada said he is unfamiliar with cases that are important to our community,'' Menendez said. ''He has said that his being Hispanic would be irrelevant to his role as a judge. I don't want it to be irrelevant, and neither does the community.''

That stark call to ethnic solidarity outrages other Latinos.

''I think it's just shameful,'' said Robert G. de Posada, president of Latino Coalition, a nonprofit Washington-based policy group. ''There is no other way to describe it.''

De Posada said Menendez and other congressional Democrats are trying to portray Estrada as a well-off lawyer ''who never had a problem in his life.''

Of Menendez, de Posada added: ''He's a Cuban-American who looks completely white. I wonder: Has he faced the racism and isolation that other Hispanics have faced? Can you challenge his Hispanic-ness? I would never do that. He's a success story. But so is Miguel Estrada.''

Pierre M. LaRamee, acting president of the Puerto Rican Legal Defense and Education Fund, said Republicans have attempted to portray Estrada as ''a Latino Horatio Alger.'' That portrayal, LaRamee argues, makes it proper to question just how representative he is of Latino communities.

''He didn't come from a poor, disadvantaged background,'' La Ramee said. ''He came from a background of relative privilege. Of course, that's nothing negative about Miguel Estrada. He's been successful. . . . We'd rather have a non-Latino judge who we believe would be a better judge.''

Supporters point out that Estrada did pro bono legal work on antiloitering laws that some Latino community group leaders believe led to the harassment of black and Latino men.

Latinos who are not of Mexican-American descent have said Estrada would get more support from Latinos if he were part of it. Mexican-Americans are the largest subgroup of Latinos in the United States.

''There's a dirty little secret in the Hispanic community,'' said Jennifer Braceras, a member of the U.S. Commission on Civil Rights. ''There's a real intra-Hispanic community rivalry. There's a real feeling in the Mexican-American community that the first Latino Supreme Court nominee should be Mexican-American.''

Not true, said Marisa Demeo, regional counsel for the Mexican American Legal Defense and Education Fund. ''It has nothing to do with his ethnicity,'' she said. ''It has to do with how he would be as a judge.''

Democrats are expected to resume their filibuster of Estrada's confirmation when the Senate returns from a recess on Feb. 24.

[From the Washington Post, Feb. 20, 2003]

FOR HISPANIC GROUPS, A DIVIDE ON ESTRADA

POLITICAL, GEOGRAPHIC FAULT LINES EXPOSED

(By Darryl Fears)

When he spoke in support of federal judicial nominee Miguel Estrada at a recent news conference, Jacob Monty masked his harsh criticism of opponents in Spanish. He said Latinos who are fighting against the Bush administration's choice for a judgeship on the U.S. Court of Appeals for the District of Columbia Circuit ''no tienen vergüenza''—have no shame.

That comment by Monty, a former chairman of the Texas-based Association for the Advancement of Mexican Americans, was just one shot in a bitter war of words that has divided Latino politicians and civil rights organizations in ways rarely seen.

It followed one fired by Rep. Robert Menendez (N.J.), a member of the Democratic Congressional Hispanic Caucus, which opposes the nominee. ''Being Hispanic for us,'' Menendez said, ''means much more than having a surname''—a statement his critics understood to imply that Estrada is not ''Hispanic enough.''

The name-calling has reminded some observers of the bitterness among African Americans during the Senate confirmation hearing for Supreme Court Justice Clarence Thomas—a hearing that Thomas, a conservative black man, likened to a lynching after liberal activists persuaded Anita Hill, a former assistant, to come forward with sexual harassment allegations against him.

Latino activists have differing perceptions of who Estrada is and what kind of judge he would be.

Estrada's supporters say is a Latino success story, immigrating as he did from Honduras at age 17 and going on to graduate from Columbia College at Columbia University and Harvard Law School, and clerking for Supreme Court Justice Anthony M. Kennedy. He is now a partner with the District law firm of Gibson, Dunn & Crutcher and a nominee for a judgeship on what is considered the nation's second most powerful court because it has jurisdiction over all appeals regarding federal regulatory agencies.

Opponents question whether Estrada appreciates the interests of poor people—his family came from the Honduran elite—and say his conservative politics would color his decisions on the bench. They say Estrada has a low regard for hard-won civil rights protections that benefit Latinos.

Ideological wars over federal judicial nominations are nothing new, but the fight among Latinos offers a small window on how what will soon be the nation's largest ethnic minority is divided by ideology and geography.

Of the Latino community's three most influential groups, each has taken a different position on Estrada's nomination. The League of United Latin American Citizens, based in Texas, supports it; the Mexican American Defense and Educational Fund, in California, opposes it, and the National Council of La Raza, in Washington, has remained neutral.

The fuse for the current debate was lit in June, when members of the Congressional Hispanic Caucus met with Estrada in the basement of the Capitol. Rep. Charlie Gonzalez (D–Tex.) said the nominee at first looked uncomfortable as he stared at the faces of 16 Democrats across the long boardroom table.

''We wanted to make sure the nominee . . . appreciates what the court system means for Latinos,'' Gonzalez said recently. Estrada was not available for comment.

''We wanted him to give us some idea of how the role of a judge impacts minority communities, and it just wasn't there.''

Two weeks later, the caucus returned a recommendation opposing Estrada's nomination to the Senate Judiciary Committee, then controlled by Democrats. Latino civil rights groups read the recommendation, then met among themselves.

In October, the League of United Latin American Citizens (LULAC) voted to support Estrada.

''It was just very difficult for us not to support the guy, given his impeccable credentials,'' said Hector Flores, president of the Texas-based group. ''It's the American dream, rising up from Honduras the way he has. The battle isn't whether he's conservative; it's that he represents Latinos, whether we like him or not.''

Flores said the vote to support Estrada was overwhelming, but in recent days the California state delegation of LULAC broke away from the national group in opposing the nominee. In a Feb. 12 statement, a former president of LULAC, Mario Obledo, opposed the nominee because of his ''sparse record'' on civil and constitutional rights issues, and because he declined to answer questions about his record in Senate hearings.

LULAC's overall support was backed by Monty, the former chairman of AAMA. His assertion that Estrada's opponents were shameless was broadcast on C–SPAN and remembered by Flores, who was present. Monty did not return several calls seeking comment.

President Bush tried to keep up the pressure yesterday by giving an interview by the Spanish-language Telemundo network, and vigorously urged senators to confirm Estrada.

Sen. Orrin G. Hatch (R–Utah) recently said that Estrada's Democratic opponents were ''anti-Latino,'' and brought howls from his liberal colleagues and from leaders of Latino organizations across the land.

Marisa Demeo, regional counsel for the Los Angeles-based Mexican American Legal Defense and Educational Fund, said Hatch failed to mention three Latinos nominated for judgeships by the Clinton administration whom Republican senators opposed. Those nominations—of Jorge Rangel, Enrique Moreno and Christine Arguello—were returned to President Bill Clinton without a hearing or vote.

Demeo said LULAC and AAMA back Estrada for cosmetic reasons. ''Because he's Latino, they would support him,'' she said. ''They've been very strong in thinking there should be a Latino sitting on the D.C. Circuit, and we say it is important, but not as such a cost.''

The cost, she said, would be the weakening of civil rights laws. ''The groups opposing have taken the analysis a step further,'' Demeo said. ''We look at the record to determine what kind of judge Mr. Estrada would be.''

MALDEF is supported by the Puerto Rican Legal Defense and Educational Fund, the Southwest Voter Registration Project and the Hispanic caucus, among other groups.

''I don't know why the administration put up Estrada,'' said Antonio Gonzalez, president of the Southwest Voter Registration Project. ''He was marked as a right-wing ideologue some time ago. Clearly, that is a tactic by the Bush administration . . . not to really embrace issues that are important to Latinos, but to try symbolic measures.''

Mr. LEAHY. Hispanic lawmakers and leaders, including Representative XAVIER BECERRA, Representative LUCILLE ROYBAL-ALLARD, Representative GRACE NAPOLITANO, Representative ROBERT MENENDEZ, Representative CHARLIE GONZALEZ, and Los Angeles County supervisor Gloria Molina have all spoken publicly about their opposition to this nomination.

I ask unanimous consent a recent news account of their statements be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LATINO POLITICIANS SPLIT ON ESTRADA

POLITICS: GROUPS APPLAUD, PAN BUSH'S NOMINATION TO SECOND-HIGHEST COURT IN U.S.

(By Mike Sprague)

LOS ANGELES.—President Bush's nomination of Miguel Estrada to the Washington, D.C., Court of Appeals is splitting this area's Latino politicians.

On Friday, Los Angeles County Supervisor Gloria Molina and U.S. Rep. Grace Napolitano, D–Santa Fe Springs, joined a news conference held by the Congressional Hispanic Caucus to denounce Estrada and oppose his Senate confirmation to the second-highest court in the United States.

''When this gentlemen came before us, we asked specific questions and he had very little offer,'' said Napolitano, vice chairwoman of the 20-member caucus. ''He really was a blank page. This could be our Latino Clarence Thomas.''

But Assemblyman Robert Pacheco, a Republican from the City of Industry, who was reached by telephone later in the day Friday, accused the caucus of taking a partisan stand.

''They don't represent the entire Latino community,'' he said. ''I'm very upset with the way they're approaching it, because of the partisan nature.

''What an opportunity for the Latino community to have someone in that position who has earned his stripes, having risen from poverty.''

The news conference was held at the Mexican-American Legal Defense and Educational Fund's office in Los Angeles. The organization also is opposing confirmation.

The Senate Judiciary Committee recently approved the nomination, but some Senate Democrats since then have launched a filibuster to prevent a vote.

Estrada has served as assistant U.S. solicitor and an assistant U.S. attorney.

Napolitano said that caucus members had interviewed Estrada, and he hadn't responded favorably to their questions on whether he had worked with any minority organizations or on behalf of minorities and if he had been involved as a volunteer.

Estrada said no to the questions, she said.

Rep. Lucille Roybal-Allard, D–Los Angeles, said that Estrada shouldn't be confirmed to the court just because of his ethnic origin.

''We have worked very hard to ensure that Latinos are nominated to high positions in the country,'' Roybal-Allard said. ''Just because someone has a Hispanic surname doesn't automatically qualify him for any position.''

Boyal-Allard also denied the caucus was acting for partisan reasons.

''Out of all the nominees, President Bush has appointed, this is the first time we have been opposed,'' she said. ''We're opposed to Miguel Estrada based on his lack of qualifications.''

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HISPANIC LAWMAKERS FROM CALIFORNIA OPPOSE BUSH'S COURT NOMINEE

(By Paul Chavez)

LOS ANGELES.—Hispanic lawmakers from California stepped up their campaign Friday against the first Hispanic to be nominated for a spot on an important federal appellate court.

Three Democratic members of the Congressional Hispanic Caucus and representatives from two advocacy groups said lawyer Miguel Estrada, 41, has refused to answer key questions about his position on cases, his background and other key issues.

''Ethnic origin is no automatic pass to becoming a judge on the federal judiciary, you have to be qualified,'' said Rep. Xavier Becerra, D–Los Angeles.

Estrada's nomination by President Bush has been held up in the U.S. Senate Judiciary Committee, with Democrats launching a filibuster to stall a full Senate vote until Estrada answers more questions and provides documents from his work with the Department of Justice.

Estrada was nominated in May 2001 by Bush for a seat on the U.S. Court of Appeals for the District of Columbia, which has been a steppingstone for three current justices on the U.S. Supreme Court.

Estrada, a partner in the law firm that worked with Bush during the Florida election recount, came to the United States at age 17 from Honduras. He graduated from Harvard Law School in 1986 and has argued 15 cases before the Supreme Court.

Republicans have accused Democrats of treating Estrada unfairly because he is a conservative Hispanic.

Rep. Lucille Roybal-Allard, D–Los Angeles, said the decision to oppose Estrada's appointment was not easy.

''This was a particularly difficult and disappointing decision that had to be made given the fact that the Hispanic caucus actively works long and hard to promote the appointment of more Latino judges,'' she said.

The Hispanic caucus decided to oppose Estrada after interviewing him, Roybal-Allard said.

''Unfortunately, he did not satisfactorily answer any of our questions with regard to his experience or sensitivity or commitment to ensuring equal justice and opportunity for Latinos,'' she said.

Rep. Grace Napolitano, D–Norwalk, said Estrada told the caucus that he has not done any work on behalf of minority organizations. She said such work was important since Estrada ''could be our Latino Clarence Thomas.''

The Congressional Hispanic Caucus, which is made up exclusively of Democrats, along with the Mexican American Legal Defense and Educational Fund have previously stated their opposition to Estrada's appointment.

The California branch of the League of United Latin American Citizens also said Friday it was opposed to his nomination, although its national leadership has supported Estrada. His nomination also has been supported by the U.S. Hispanic Chamber of Commerce.

Democrats have sought documents written by Estrada when he worked in the Justice Department's Solicitor General's Office. But White House counsel Alberto Gonzales told senators in a letter Wednesday that the administration would not release the documents, which are normally not made available.

All of the living former solicitors general—four Democrats and three Republicans—have agreed with the White House position, Gonzales said.

Mr. LEAHY. The Congressional Hispanic Caucus, the Mexican American Legal Defense and Education Fund, the Puerto Rican Legal Defense and Education Fund, the California Chapter of the League of United Latin American Citizens, Los Angeles County supervisor Gloria Molina, and Mario Obledo

oppose this controversial nomination. I am sure they do so out of principle. I know they do not relish opposing this nomination. These are organizations, individuals who have devoted their lives to improving the lives of Hispanic members. They worked for decades to increase representation of Latinos on the courts of our country.

It is because of the history and dedicated efforts and deep-seated commitment to the cause of equality for Hispanics I take their views seriously. I understand the Congressional Hispanic Caucus and the Puerto Rican Legal Defense and Education Fund came to their conclusion after a thorough review of the nomination but also after interviewing and meeting with the nominee.

Yesterday, we received a letter from 15 former presidents in the Hispanic National Bar Association, 15 well-respected national leaders of this important bar association, leaders who date back to the founding of the organization in 1972 have written to the Senate leadership to oppose this nomination. Their weighty opposition is based on the criteria to evaluate judicial nominees this association has formally used since 1991. It has been their standard practice for the past 30 years.

In addition to the candidates' professional experience and temperament, the criteria for endorsement also includes, ''one, the extent to which a candidate has been involved and supported and responsive to the issues, needs, and concerns of Hispanic Americans; and, two, the candidates' demonstration of the concept of equal opportunity and equal justice under law.''

In the view of the overwhelming majority of the living past presidents of the HNBA, Mr. Estrada's record does not provide evidence he meets those criteria. His candidacy falls short in those respects, they say.

Now the Hispanic National Bar Association has been at the forefront of efforts to increase diversity on the Federal bench. They have been at the forefront of the effort to improve public confidence among Hispanics and others in the fairness of the Federal courts. The most important thing in the Federal courts is the fairness, their integrity, their independence.

Time and time again I have asked, both when we have had nominees of Democratic Presidents and Republican Presidents, is this nominee somebody I believe I could walk into the court and be treated fairly? As a Democrat or Republican, whether as plaintiff or defendant, whether rich or poor, white or person of color, no matter what my religion, no matter what my background, would I be treated fairly?

During Democratic leadership of the Senate, we confirmed 100 of President Bush's nominees, and I voted for the overwhelming majority of them. When I was chairman, I moved his nominees through far faster than Republicans ever did for President Clinton when they were in charge, when they averaged only 39 confirmations per year during their six and one-half years of control of the Senate. But I set the same test. Sometimes to satisfy myself of the test I had to go to a hearing that lasted sometimes a day long to be sure. You have a conservative, I want to be sure they will be fair and not too much of an ideologue; the same way I did when I believed someone was too liberal and could be too much of an ideologue. I had to satisfy myself they would be fair.

Now, the HNBA has done the same. They want to make sure the Federal courts are independent and fair. They have supported Republican nominees as well as Democratic nominees. These 15 individuals, all of whom are past presidents of the Hispanic National Bar Association, people who have devoted a great deal of time in their legal careers to advancing the interests of Hispanics in the legal community, have felt compelled to publicly oppose the Estrada nomination.

I regret very much that the White House, instead of seeking someone who would unite the community, has brought in somebody who would divide the community.

Yesterday, Delores Huerta, who cofounded the United Farm Workers with Caesar Chavez, wrote a column in the Oregonian opposing Mr. Estrada's confirmation. I ask unanimous consent this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

[From the Oregonian, Feb. 24, 2003]

DOLORES C. HUERTA: ESTRADA WOULD DESTROY HARD-FOUGHT VICTORIES

(By Dolores C. Huerta)

As a co-founder of the United Farm Workers with Cesar Chavez, I know what progress looks like. Injustice and the fight against it take many forms—from boycotts and marches to contract negotiations and legislation. Over the years, we had to fight against brutal opponents, but the courts were often there to back us up. Where we moved forward, America's courts helped to establish important legal protections for all farm workers, all women, all Americans, Now, though, a dangerous shift in the courts could destroy the worker's rights, women's rights, and civil rights that our collective actions secured.

It is especially bitter for me that one of the most visible agents of the strategy to erase our legal victories is being called a great role model for Latinos. It is true that for Latinos to realize America's promise of equality and justice for all, we need to be represented in every sector of business and every branch of government. But it is also true that judges who would wipe out our hard-fought legal victories—no matter where they were born or what color their skin—are not role models for our children. And they are not the kind of judges we want on the federal Courts.

Miguel Estrada is a successful lawyer, and he has powerful friends who are trying to get him a lifetime job as a federal judge. Many of them talk about him being a future Supreme Court justice. Shouldn't we be proud of him?

I for one am not too proud of a man who is unconcerned about the discrimination that many Latinos live with every day. I am not especially proud of a man whose political friends—the ones fighting hardest to put him on the court—are also fighting to abolish affirmative action and to make it harder if not impossible for federal courts to protect the rights and safety of workers and women and anyone with little power and only the hope of the courts to protect their legal rights.

Just as we resist the injustice of racial profiling and the assumption that we are lesser individuals because of where we were born or the color of our skin, so too must we resist the urge to endorse a man on the basis of his ethnic background. Members of the Congressional Hispanic Caucus met with Miguel Estrada and came away convinced that he would harm our community as a federal judge. The Mexican American Legal Defense and Educational Fund and the Puerto Rican Defense and Education Fund reviewed his record and came to the same conclusion.

Are these groups fighting Miguel Estrada because they are somehow anti-Hispanic? Are they saying that only people with certain political views are ''true'' Latinos? Of course not. They are saying that as a judge this man would do damage to the rights we have fought so hard to obtain, and that we cannot ignore that fact just because he is Latino. I think Cesar Chavez would be turning over in his grave if he knew that a candidate like this would be celebrated for supposedly representing the Hispanic community. He would also be dismayed that any civil rights organization would stay silent or back such a candidate.

To my friends who think this is all about politicians fighting among themselves, I ask you to think what would have happened over the last 40 years if the federal courts were fighting against workers' rights and women's rights and civil rights. And then think about how quickly that could become the world we are living in.

As MALDEF wrote in a detailed analysis, Estrada's record suggests that ''he would not recognize the due process rights of Latinos,'' that he ''would not fairly review Latino allegations of racial profiling by law enforcement,'' that he ''would most likely always find that government affirmative action programs fail to meet'' legal standards, and that he ''could very well compromise the rights of Latino voters under the Voting Rights Act.''

Miguel Estrada is only one of the people nominated by President Bush who could destroy much of what we have built if they become judges. The far right is fighting for them just as it is fighting for Estrada. We must fight back against Estrada and against all of them. If the only way to stop this is a filibuster in the Senate, I say, Que viva la filibuster!

Dolores C. Herta is the co-founder of the United Farm Workers of America.

Mr. LEAHY. Here is what this Hispanic leader wrote:

It is true that for Latinos to realize America's promise of equality and justice for all, we need to be represented in every sector of business and every branch of government. But it is also true that judges who would wipe out our hard-fought legal victories—no matter where they were born or what color their skin—are not role models for our children. And they are not the kind of judges we want on the federal courts.

Miguel Estrada is a successful lawyer, and he has powerful friends who are trying to get him a lifetime job as a federal judge. Many of them talk about him being a future Supreme Court justice. Shouldn't we be proud of him?

I for one am not too proud of a man who is unconcerned about the discrimination that many Latinos live with every day. I am not especially proud of a man whose political

friends—the ones fighting hardest to put him on the court—are also fighting to abolish affirmative action and to make it harder if not impossible for federal courts to protect the rights and safety of workers and women and anyone with little power and only the hope of the courts to protect their legal rights.

Just as we resist the injustice of racial profiling and the assumption that we are lesser individuals because of where we were born or the color of our skin, so too must we resist the urge to endorse a man on the basis of his ethnic background.

Are these groups fighting Miguel Estrada because they are somehow anti-Hispanic? Are they saying that only people with certain political views are ''true'' Latinos? Of course not. They are saying that as a judge this man would do damage to the rights we have fought so hard to obtain, and that we cannot ignore that fact just because he is Latino. I think Cesar Chavez would be turning over in his grave if he knew that a candidate like this would be celebrated for supposedly representing the Hispanic community. He would also be dismayed that any civil rights organization would stay silent or back such a candidate.

I deeply resent the charges leveled by Republicans that those opposing this nomination are anti-Latino or anti-Hispanic. As we began this debate about 2 weeks ago, I urged Republicans who said such things to apologize for these baseless and divisive charges. They have yet to do so. Because they have not apologized for these baseless charges, it prompted the League of Latin American Citizens, an organization that has supported this nomination, to write to the Senate to protest the charges leveled without basis by Republicans. I emphasize the League of United Latin American Citizens, which supports Mr. Estrada's nomination, has written to the Senate to protest the charges of bias leveled without basis by some Republicans.

Hector Flares, the LULAC National President wrote on February 12:

[W]e are alarmed by suggestions from some of the backers of Mr. Estrada that the Senate Democrats and the members of the Congressional Hispanic Caucus are opposing his nomination because of his race, ethnicity or an anti-Hispanic bias. We do not subscribe to this view at all and we do not wish to be associated with such accusations.

LULAC has had a long and productive working relationship with many Senate Democrats and all of the members of the Congressional Hispanic Caucus and our experience is that they would never oppose any nominee because of his or her race or ethnicity. On the contrary, it is most often the Democratic members of the Senate who support LULAC's priority issues. . . .

I thank LULAC for disassociating itself with the base political efforts of Republicans to accuse those who oppose this nomination as doing so based on race or ethnicity. On the contrary, it is most often the Democratic Members of the Senate who support Hispanic priority issues.

I thank LULAC for disassociating itself with the base political efforts of some Republicans who accuse those who oppose this nomination of doing so based on race or ethnicity. I renew my request for an apology for all the statements made in connection with the Senate debate that suggest those opposed to this nomination are anti-Hispanic.

I think perhaps we should go back to a different time, a time when I first came to the Senate, when Republicans and Democrats assumed the best motives of patriotism and honesty on the part of each other; when you did not hear attacks made on people saying they are anti this race or that race or anti this religion or that religion. I am concerned.

I will speak only for myself, not for other Senators, but I look back at 29 years in the Senate, a record of one who I think has always stood for anti-discrimination, one who has a record where I have never questioned the race, ethnicity, or religion of anybody else. When I hear charges that opposition to a candidate, in this case opposition to a candidate that has divided the American people, is done on the basis of that person's race, I find that more than distasteful, I find it wrong. In the same way, I found wrong the attacks on my religion by some in the Republican Party because of opposition to 1 of this President's more than 100 nominees, especially since I made it very clear in my statements on this floor that I never once considered religion or the background of any nominee for anything—nominees from either Republican or Democratic administrations. Not in any of the thousands upon thousands of nominees of both Republican and Democratic Presidents that I voted for have I ever once considered their religious background. So I find it distasteful when my religion is attacked by members of the Republican caucus, and I find it distasteful when members of that caucus attack Democrats on the claim that their principled opposition to this nomination is anti-Hispanic. I think the largest Hispanic organization supporting Mr. Estrada made it very clear they resent it, too. I join with them on that.

We know Mr. Estrada's short legal career has been successful. By all accounts he is a good appellate lawyer and legal advocate. He has had a series of prestigious positions and is professionally and financially successful. In my case, as the grandson of immigrants, as a son, a father and grandfather, I know no matter the country of origin or economic background that a family takes pride in the success of its children. Mr. Estrada's family has much to be proud of in his accomplishments, no matter what happens to this nomination.

He is now 41 years old. He has a successful legal career in a prominent corporate law firm, which was the firm of President Reagan's first Attorney General, William French Smith, and that of President Bush's current Solicitor General, Ted Olson. I am told that Mr. Olson, along with Kenneth Starr, have been among Mr. Estrada's conservative mentors. At his relatively young age, Mr. Estrada has become a partner in the law firm of Gibson, Dunn & Crutcher, having previously worked with the Wall Street law firm of Wachtell, Lipton, Rosen & Katz.

While in private practice, his clients included major investment banks and health care providers. Mr. Estrada's financial statement, which Senator HATCH had printed in the CONGRESSIONAL RECORD, says he earned more than $½ million a year 2 years ago.

At his hearing, Mr. Estrada testified:

I have never known what it is to be poor, and I am very thankful to my parents for that. And I have never known what it is to be incredibly rich either, or even very rich, or rich.

I will let his financial statement speak for itself on that point. Half a million dollars a year in my State does put you in the upper brackets.

So he is a well-compensated lawyer in a first-rate law firm. His family and friends take pride in his success, and rightfully so.

In his almost 6 years with Gibson, Dunn & Crutcher, with its thriving appellate court practice, developed by its senior partner, Ted Olson, who was confirmed to be Solicitor General in June 2001, Mr. Estrada has had one argument before the Supreme Court—just one. That was in connection with a habeas petition on which he worked pro bono when he first came to the firm. It is one of the only pro bono cases he has taken in his entire legal career, according to his testimony.

I am about to yield the floor. I note one thing, some of the speeches on the other side of the aisle make you think everyone opposes the efforts of Democrats to get answers to fair questions and review documents provided in past nominations. Especially in the case where a supervisor has called into question a nominee's ability to be fair, that is all the more reason we should see what he did. There is also ample precedent for the Senate Judiciary Committee examining memos written by Department of Justice attorneys, including Assistant Solicitor Generals—like Mr. Estrada was—in connection with nominations to either lifetime or short-term appointments, such as in the nominations of Robert Bork, William Rehnquist, Brad Reynolds, Stephen Trott, and Benjamin Civiletti.

There have been a number of papers and published editorials and op-eds supporting our efforts to know more about Mr. Estrada before we give him a lifetime seat, before we could never question him again, before we put him, for a lifetime, on one of the most powerful courts of the country.

On February 4, Senator HATCH said, and I will paraphrase: Mr. Estrada is not nominated to the Supreme Court—of course he is right—but his nomination may be even more important because the Supreme Court hears only about 90 cases per year while the DC Circuit issues nearly 1,500 decisions per year. These decisions affect the rights of working people and the environmental rights of all people. The Senate must not be a rubberstamp.

I ask unanimous consent to have printed in the RECORD some of the editorials in favor of the position the Democrats have taken here. Just to name a few, we have editorials from the New York Times, the Boston Globe, and the Rutland Daily Herald, among others, as well as op-ed from the Washington Post and Wall Street Journal, and letters to the editor of the Washington Post, disagreeing with their earlier editorial—touted by Republicans this morning—urging an immediate vote in spite of the precedent for requesting documents and getting answers to questions before giving someone such an important job.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 13, 2003]

KEEP TALKING ABOUT MIGUEL ESTRADA

The Bush administration is missing the point in the Senate battle over Miguel Estrada, its controversial nominee to the powerful D.C. Circuit Court of Appeals. Democrats who have vowed to filibuster the nomination are not engaging in ''shameful politics,'' as the president has put it, nor are they anti-Latino, as Republicans have cynically charged. They are insisting that the White House respect the Senate's role in confirming judicial nominees.

The Bush administration has shown no interest in working with Senate Democrats to select nominees who could be approved by consensus, and has dug in its heels on its most controversial choices. At their confirmation hearings, judicial nominees have refused to answer questions about their views on legal issues. And Senate Republicans have rushed through the procedures on controversial nominees.

Mr. Estrada embodies the White House's scorn for the Senate's role. Dubbed the ''stealth candidate,'' he arrived with an extremely conservative reputation but almost no paper trail. He refused to answer questions, and although he had written many memorandums as a lawyer in the Justice Department, the White House refused to release them.

The Senate Democratic leader, Tom Daschle, insists that the Senate be given the information it needs to evaluate Mr. Estrada. He says there cannot be a vote until senators are given access to Mr. Estrada's memorandums and until they get answers to their questions. The White House can call this politics or obstruction. But in fact it is senators doing their jobs.

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[From the Boston Globe, Feb. 15, 2003]

RUSH TO JUDGES

The Senate Judiciary Committee ought to come with a warning sign: Watch out for fast-moving judicial nominees. Controlled by Republicans, the committee is approving President Bush's federal court nominees at speeds that defy common sense.

One example is Miguel Estrada, nominated to the US Court of Appeals for the District of Columbia. Nominated in May 2001, Estrada had been on a slow track, his conservative views attracting concern and criticism.

Some Republicans called Democrats anti-Hispanic for challenging Estrada. He came to the United States from Honduras at the age of 17, improved his English, earned a college degree from Columbia, a law degree from Harvard, and served as a Supreme Court clerk for Justice Anthony Kennedy.

What has raised red flags is Estrada's refusal to answer committee members' questions about his legal views or to provide documents showing his legal work. This prompted the Senate minority leader, Thomas Daschle, to conclude that Estrada either ''knows nothing or he feels he needs to hide something.''

Nonetheless, Estrada's nomination won partisan committee approval last month. All 10 Republicans voted for him; all nine Democrats voted against. On Tuesday Senate Democrats began to filibuster Estrada's nomination, a dramatic move to block a full Senate vote that could trigger waves of political vendettas.

It's crucial to evaluate candidates based on their merits and the needs of the country.

Given that the electorate was divided in 2000, it's clear that the country is a politically centrist place that should have mainstream judges, especially since many of these nominees could affect the next several decades of legal life in the United States.

Further, this is a nation that believes in protecting workers' rights, especially in the aftermath of Enron. It's an America that struggles with the moral arguments over abortion but largely accepts a woman's right to make a private choice. It's an America that believes in civil rights and its power to put a Colin Powell on the international stage.

Does Estrada meet these criteria? He isn't providing enough information to be sure. And the records of some other nominees fail to meet these standards.

Debating the merits of these nominees is also crucial because some, like Estrada, could become nominees for the Supreme Court.

The choir—Democrats, civil rights groups, labor groups, and women's groups—is already singing about how modern-day America should have modern-day judges. It's time for moderate Republicans and voters to join in so that the president can't ignore democracy's 21st-century judicial needs.

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[From the Wall Street Journal, Feb. 20, 2003]

SYMMETRY IN JUDICIAL NOMINATIONS

The White House has a message for Democratic senators tying up its judicial nominations: we won the election, you're thwarting the people's will.

Not quite. Never mind it was an evenly divided electorate. The selection of judges was a non-issue. George W. Bush didn't even mention the topic in his speech at the GOP's Philadelphia convention or in his acceptance remarks when he finally emerged victorious—thanks to judges—after Florida.

In two of the three debates, judicial selections weren't mentioned. In the other, candidate Bush, while ducking the question of whether all his judicial appointments would be anti-abortion, insisted he wouldn't have any litmus tests. But he declared that, unlike Vice President Gore, he would not appoint judicial activists; judges, he declared, ''ought not take the place'' of Congress. As the president accuses Democrats of playing politics, however, he nominates almost nothing but pro-life judges and passionate activists of a conservative stripe.

For all the emotions judicial appointments arouse on both sides, the political implications for senators are wildly exaggerated. Over the past several decades the only one who lost an election because of a judicial vote was Illinois Democrat Alan Dixon, defeated in a primary after he voted to confirm Clarence Thomas for the Supreme Court. What these battles are about is energizing the base; that's why during presidential campaigns they are retail, not wholesale, issues.

Currently, Senate Democrats are staging a mini-filibuster over the nomination of movement conservative Miguel Estrada for the U.S. Court of Appeals to the dismay of not only Republicans but many editorial writers. How dare they employ politics! In these matters there should be a simple test: symmetry. Or, as former Clinton Solicitor General Walter Dellinger declares, ''Whatever factor a President may properly consider, senators should also consider.'' Since ideology clearly is the guiding force behind the slate of Bush circuit court nominees, it's perfectly appropriate for Senate Democrats to sue the same standard.

That's certainly the criterion Republicans used in the Clinton years. Orrin Hatch is outraged at Democrats' insistence that nominee Miguel Estrada, who refuses to express an opinion on any Supreme Court decision, be more forthcoming. Yet it was only a few years ago that the same Utah Republican was insisting on the need ''to review . . . nominees with great specificity.''

In 1996 Sen. Hatch decried two Clinton, judicial nominees as ''activists who would legislate from the bench.'' Later, the then Senate Republican leader, Trent Lott, left no doubt that it was ideology that prompted his objections to the ''judicial philosophies and likely activism'' of prospective judges.

Judicial activism used to be a term reserved for liberals. Now much activism on the bench comes from the right, often, in the words candidate Bush used to attack liberals, in the form of judges who ''subvert'' the legislature. In recent years, congressional measures such as the Americans with Disabilities Act, legislation to oppose violence against women and to increase gun control have been gutted by conservative judges.

As Indiana law professor and former Clinton Justice Department official Dawn Johnson chronicled in a Washington Monthly piece last year, the right-wing Federalist Society-agenda envisions an activist judiciary that would roll back many of the guarantees enacted by Congress under the Commerce Clause and the 14th Amendment.

A contemporary example is Jeffrey Sutton, a brainy legal scholar nominated for the Fourth Circuit Court of Appeals. Mr. Sutton clearly is qualified but just as clearly would turn back the clock on protecting people with disabilities. Should senators who care about disability rights simply ignore his ideology?

The right claims that central to the Democrats' opposition to these nominees is abortion. And it's true that, more than any other issue, abortion remains a litmus test for both sides. Almost all the Bush circuit-court nominees have been pro-life and a high percentage of the Clinton appointments were pro-choice. But, as Mr. Sutton's selection shows, the issues are much broader than the disproportionate influence placed on abortion.

In the Estrada fight, some Republicans also allege an anti-Hispanic motive. Opposition to his nominees sends ''the wrong message to Hispanic communities,'' charges Georgia Sen. Saxby Chambliss. For the record, Mr. Bush has nominated one Hispanic judge to the circuit courts; President Clinton nominated 11. Three of the Clinton nominations were killed by Senate Republicans. Were they racially motivated? That makes as much sense as the Estrada charges.

To be sure, the Democrats play the same games, though the Clinton nominees, as a whole, were nowhere near as ideological as the Bush picks. But there is some overreach; the Democrats' efforts to get Mr. Estrada's private notes when he worked in the solicitor general's office would set a bad precedent.

Thoughtful people on both sides of the aisle worry about these perpetual battles. Mr. Dellinger, for one, notes that if the focus

is only on ''noncontroversial,'' selections, the result chiefly would be courts full of ''relatively undistinguished lawyers lacking any substantial record of creative scholarship or advocacy.'' Instead, he proposes a more constructive solution. Opposition leaders in the Senate would develop a short list of distinguished scholars and practitioners for the president to submit for the courts of appeal. There is a precedent: President Bush last year renominated Clinton nominee, Roger Gregory, the first African American on the Fourth Circuit, in to win acceptance for his other nominees.

Currently, Mr. Dellinger says if Senate Democrats proposed a ''distinguished'' nominee like former Solicitor General Seth Waxman for the U.S. Circuit Court, a deal could be crafted whereby he and Bush nominees Mr. Estrada and John Roberts are promptly confirmed. Republicans still would hold the upper hand, but the rightward rush would be modified.

It makes a lot of sense and would result in a better judiciary. But the activists on both sides have little interest; it wouldn't energize their bases.

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[From the Rutland Daily Herald, Feb. 24, 2003]

PARTISAN WARFARE

Senate Democrats are expected to continue their filibuster this week against the appointment of Miguel Estrada, a 41-year-old lawyer whom President Bush has named to the federal appeals court in Washington, D.C.

Sen. Patrick Leahy, ranking Democrat on the Judiciary Committee, is in the middle of the fight over the Estrada appointment. He and his fellow Democrats should hold firm against the Estrada nomination.

Much is at stake in the Estrada case, most importantly the question of whether the Democrats have the resolve to resist the efforts of the Bush administration to pack the judiciary with extreme conservative judges.

The problem with the Estrada nomination is that Estrada has no record as a judge, and senators on the Judiciary Committee do not believe he has been sufficiently forthcoming about his views. It is their duty to advise and consent on judicial nominees, and Estrada has given them no basis for deciding whether to consent.

President Bush has called the Democrats' opposition to Estrada disgraceful, and his fellow Republicans have made the ludicrous charge that, in opposing Estrada, the Democrats are anti-Hispanic. For a party on record against affirmative action, the Republicans are guilty of cynical racial politics for nominating Estrada in the first place. He has little to qualify him for the position except that he is Hispanic.

Unless the Democrats are willing to stand firm against Bush's most extreme nominations, Bush will have the opportunity to push the judiciary far to the right of the American people. Leahy, for one, has often urged Bush to send to the Senate moderate nominees around whom Democrats and Republicans could form a consensus. In a nation and a Congress that is evenly divided politically, moderation makes sense.

But Bush's Justice Department is driven by conservative idealogues who see no reason for compromise. That being the case, the Senate Democrats have no choice but to hold the line against the most extreme nominees.

Leahy has drawn much heat for opposing Bush's nominees. But he has opposed only three. In his tenure as chairman of the committee, he sped through to confirmation far more nominees than his Republican predecessor had done. But for the Senate merely to rubber stamp the nominees sent their way by the White House would be for the Senate to surrender its constitutional role as a check on the excesses of the executive.

The Republicans are accusing the Democrats of partisan politics. Of course, the Republicans are expert at the game, refusing even to consider numerous nominees sent to the Senate by President Clinton.

The impasse over Estrada is partisan politics of an important kind. The Republicans must not be allowed to shame the Democrats into acquiescence. For the Democrats to give in would be for them to surrender to the fierce partisanship of the Republicans.

The wars over judicial nominees are likely to continue as long as Bush, with the help of Attorney General John Ashcroft, believes it is important to fill the judiciary with extreme right-wing judges.

The Democrats, of course, would like nothing better than to approve the nomination of a Hispanic judge. But unless the nominee is qualified, doing so would be a form of racial pandering. That is the game in which the Republicans are engaged, and the Democrats must not allow it to succeed.

Mr. LEAHY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been listening to my distinguished colleague. I noted that he mentioned the Hispanic National Bar Association's past presidents' statement. I have seldom read a statement that is so absolutely bankrupt as this statement. I have seldom read anything that has disgusted me as much as these past presidents of this Hispanic Bar Association in this letter. I have never seen less backing for a letter than what these people have signed off on.

First, let me note for the record that the Hispanic National Bar Association supports Mr. Estrada's nomination. So these people have gone way off the reservation. They may have been past presidents, but they should never be allowed to be a president of this bar association again. They ought to throw them out of the bar association because they entered into politicization of this nominee, in contradiction to what their own bar association has done in endorsing him. The bar association speaks for its many members, not these 15 former presidents. We know why they have done this, because they are 15 partisans. It is disgraceful.

Let me read part of this letter—''Based upon our review and understanding. . . .''

What kind of review? They talked to their friends on the Democratic side? Is that where they got this stuff? Most of which is absolutely false and distorted:

Based upon our review and understanding of the totality of Mr. Estrada's record and life's experiences, we believe that there are more than enough reasons to conclude that Mr. Estrada's candidacy falls short in these respects.

Listen to this:

We believe for many reasons including his virtually nonexistent written record. . . .

Could I make a little point here that I think needs to be made? These are the appellate briefs in the 15 Supreme Court cases. There has not been a nominee before this Senate in recent years who has been able to have that type of illustration of what they do.

These inane people who have entered into partisan politics have disparaged a man who is 10 times better than they are. It is unbelievable the lengths and the depths to which they will stoop to betray one of their own fellow Hispanic people.

I hope the rest of the members of the Hispanic Bar Association will rise up and let them know how for off the mark they are.

Listen to this:

We believe that for many reasons including: his virtually nonexistent written record, his . . . judicial and academic teaching experience—

This is the written stuff that they can't match—very few of them—or even come close to matching. I don't think any of them can. The reason I don't think so is because not many people in this world have that type of a record—a written, open record that anybody can read and find. There are not many attorneys living today who have argued 15 cases before the U.S. Supreme Court and have the record of winning 10 of them.

They say he doesn't have any academic teaching experience. You mean you can't be a judge?

Let us put it this way. Since there have been many academics who have gone on the Federal bench in circuit courts of appeals, the Supreme Court, and district courts, do you mean the Hispanics can't go on the bench unless they have academic and teaching records?

That is what this seems to say by 15 former presidents of the Hispanic Bar Association which has endorsed him. They have gone against their own organization. It is hard to believe.

Then they said:

We believe that for many reasons including: his virtually nonexistent written record.

Look at that record. He has verbally expressed an unrebutted extreme view?

I haven't heard an extreme view throughout this whole process, and we have a transcript that thick of questions by our friends on the other side, and ourselves really. Extreme views? I haven't heard any extreme views. I don't think anybody has made a case that he has extreme views.

Then the letter says, ''his lack of judicial or academic teaching experience—

OK. What they are saying—these Hispanic Bar Association presidents—is that hardly any Hispanics will ever qualify for the circuit court of appeals or even the district court because they haven't had any judicial experience or teaching experience. They are condemning their own people. What a ridiculous, dumb statement. I don't swear. But I'll be darned. I am having a tough time not swearing here.

Then it says in parentheses:

(against which his fairness, reasoning skills and judicial philosophy could be properly tested)

What about the five of the eight on the current court who haven't any judicial experience? And I don't know

many of them who have had any teaching experience. You can go through dozens of Clinton appointees who never had any either.

Why the double standard for Miguel Estrada? Why? I am having a rough time answering that question.

There are some answers which I hope aren't true. But I am starting to think they are true.

It says:

. . . his poor judicial temperament.

Since he has never been a judge, how do they know what his judicial temperament is? The fact is that none of them—I don't believe any of them—even know Miguel Estrada. And if they do, they know he has a decent temperament.

Do you know where they get that? They get that from some of our friends on the other side who believe that Paul Bender, who we have discredited, I believe, fairly and honestly, who gave him the highest possible ratings when Miguel was his junior, when he was Miguel's supervisor in the Solicitor General's Office, and then off the cuff says he doesn't have a judicial temperament, in essence.

Who are you going to believe? The things that he put in writing at the time when they were really important and when they really made a difference or the off-the-cuff remarks that a partisan Democrat liberal—about as liberal as you can get—would say to try to scuttle a nomination? These guys buy it—lock, stock, and barrel. What kind of lawyers are they? Then they say:

. . . his total lack of any connection whatsoever to, or lack of demonstrated interest in the Hispanic community.

How do they know that? They are prejudging this man without knowing all the people he has met with and worked with and for whom he has been an example. Every Hispanic young person can look up to Miguel Estrada because he is the embodiment of the American dream.

My gosh. This is the most biased, uninformed, stupid, dumb letter I have ever read, and it is done for purely partisan purposes against a fellow Hispanic. I can't believe it. I couldn't believe it when I saw this.

Then it says:

. . . his refusals to answer even the most basic questions about civil rights and constitutional law.

Give me a break. He spent as much if not more time than almost any nominee we have had over the last 27 years to the circuit court of appeals. We simply did not treat people as this man is being treated by some on the other side—not everybody. What do they know about his knowledge of civil rights and constitutional law? I happen to believe Miguel Estrada will be one of the champions for civil rights, and he is certainly one of the tough lawyers with regard to constitutional law—something I doubt very many of these past presidents had much experience in. Maybe they do. I would like to hear from them if they do. But I am disgusted with them. If they do, that makes it even worse because they have misjudged him if they have the experience in these areas—and I doubt that they do.

Then they say:

. . . his less than candid responses to other straightforward questions of Senate judiciary members.

Where did they get that? I bet none of them have read this transcript. I doubt that many of them saw the hearings. Where would they get that? It certainly wasn't from this side, I guarantee you, because we saw him answer the questions. He just didn't answer them the way our colleagues on the other side of the aisle wanted him to answer them. They couldn't lay a glove on him. That is why this is a phony request for confidential and privileged materials from the Solicitor General's Office—the attorney for our country and for the people in this country.

Let me tell you that when I practiced law, my files were confidential, too. There is no way I would have given them to anybody. There is no court in the land that would force me to give them to anyone. They are privileged; that is, since I am an attorney. Can you imagine the privilege the Solicitor General's Office can assert—and they have.

Like I said, seven former Solicitors General—four of whom were Democrats—have said this is ridiculous. Yet it keeps coming up. It is a red herring. It is a double standard. It is a standard applied to Miguel Estrada that has never in history been applied to anybody else.

The letter request was to give up his recommendations on appeals, certiorari matters and amicus curiae matters.

Then it says:

. . . and because of the administration's refusal to provide the Judiciary Committee the additional information and cooperation it needs to address these concerns.

Give me a break. He has made himself available. Any Democrat who wants to talk to him he will talk to. A number of them refused to even talk to him. Why is that?

So they are trying to do justice here? Why is that so? Why is this Hispanic independent thinker being treated this way? I suggest that it is because he is Hispanic and he is an independent thinker. He doesn't just toe the line.

I am disgusted. Some of these people I know. They should have done better by their fellow Hispanics. They should have thought twice before putting their names on this piece of garbage called a letter by past presidents. It is a disgrace to the Hispanic community. It is a disgrace to the Hispanic National Bar Association and the rest of the membership that is behind Miguel Estrada. And it is a disgrace to them personally to do this type of disgraceful thing in a miserably partisan way.

I don't want to spend any more time on it. It doesn't deserve it. I didn't mean to be so aggravated, but these types of things just aggravate me to death.

I fought very hard for Clinton's nominees. The other side knows it. I was very fair to their nominees. They know it. Was everyone fair to them? Not everybody, but I was. I expect fairness to be given to our nominee and to their President's nominees.

Finally, I didn't agree with President Clinton's nominees' ideology in probably none of the cases—none of the nominees. But that wasn't the issue. The issue was whether they were qualified. And there has very seldom been a person as qualified as Miguel Estrada. All you have to do is point to the ABA's unanimous well-qualified rating, the highest rating they could possibly give. They are tough.

Now, having said that, I am really disappointed in my colleagues on the other side because they have tried to say the standing committee of the American Bar Association was prejudiced and stacked in coming up with this rating. They do not have a good argument to make, so they make a phony argument.

I want to respond to statements by one of my Democratic colleagues yesterday, suggesting that Mr. Estrada's ABA rating was somehow rigged. I hate to say it, but this is stooping low, too, to make that kind of a statement.

Before I address these statements head on, I think it is first appropriate to lay the predicate, to lay the significance of Mr. Estrada's ABA rating.

Let me just look at this chart. This chart is entitled ''Senate Democrats Praise the ABA.''

[The] ABA evaluation has been the gold standard by which judicial candidates have been judged.

That was Senator PATRICK LEAHY in March 2001.

What ABA is simply telling us, and has historically, is whether or not a prospective judge is competent.

That was Senator TOM DASCHLE on March 22, 2001.

[I] fear . . . that the Judiciary Committee will be less able than the ABA to discern a nominee's legal qualifications.

That was Senator DIANNE FEINSTEIN on March 31, 2001, the distinguished Senator from California. She is right.

The ABA, with its extensive contacts in the legal community all across the country, is the best organization to evaluate the integrity, professional competence and judicial temperament of potential nominees.

That was Senator RUSSELL FEINGOLD in July 2001.

[T]he ABA . . . has always been impartial. . . . [The ABA is] hardly partisan or ideological. . . . The ABA is the national organization of all lawyers: Democrats, Republicans, liberals, conservatives.

That was Senator CHARLES SCHUMER on May 9, 2001.

We have had our problems with the ABA when there were, it seemed to me, prejudicial decisions from time to time made. And I have had some real problems with them. But I have to say,

they certainly have cleaned up their act, and I said this before the end of the Clinton administration, even though I have not been happy with any one single organization having a vetting responsibility, which is what some of my colleagues always wanted the ABA to have.

Now, let's consider Miguel Estrada. The ABA rated him ''well qualified'' unanimously—that is the highest possible score—at around the time my Democratic colleagues heaped praise on the ABA. But now, 2 years later, some of my friends across the aisle apparently want to adopt a new rule: ABA ratings are the gold standard—unless we don't like the nominee.

It is against this backdrop that one of my Democratic colleagues, the distinguished minority whip, now asserts that respected Washington lawyer Fred Fielding somehow tricked the ABA into rating Miguel Estrada unanimously well qualified.

Now, I have great respect and loving friendship for my friend from Nevada. Everybody knows that. I care for him deeply. But I could hardly believe my ears when I heard that one. I think it is important to set the record straight, and so here are the facts. I have to presume my colleague just did not know the facts and, therefore, went off on this tangent, and I hope he will withdraw that statement once he hears what the facts are.

Mr. Fielding was a member of the ABA standing committee that rates judicial nominees when Miguel Estrada was unanimously rated well qualified. Mr. Fielding left the ABA committee in November 2001. He did not become affiliated with Boyden Gray's Committee for Justice until August 2002. In fact, the Committee for Justice was not even founded until August 2002. There is no way the Committee for Justice could have influenced Mr. Fielding's duties at the ABA because the Committee for Justice did not even exist at the time.

From 1996 to 2002, when he was on the ABA committee, Fred Fielding consistently evaluated nominees fairly and with an open mind. He voted to rate many of President Clinton's circuit court nominees ''well qualified,'' including the following:

Allan Snyder, the DC Circuit Court of Appeals; Robert Katzmann, the Second Circuit Court of Appeals; Marjorie Rendell, the Third Circuit Court of Appeals; Maryanne Barry, the Third Circuit Court of Appeals; Robert Cindrich, the Third Circuit Court of Appeals; Stephen Orlofsky, the Third Circuit Court of Appeals; Andrew Davis, the Fourth Circuit Court of Appeals; Alston Johnson, the Fifth Circuit Court of Appeals; Ronald Gilman, the Sixth Circuit Court of Appeals; Kathleen McCree Lewis, the Sixth Circuit Court of Appeals; Ann Claire Williams, the Seventh Circuit Court of Appeals; Susan Graber, the Ninth Circuit Court of Appeals; James Duffy, the Ninth Circuit Court of Appeals; Richard Tallman, the Ninth Circuit Court of Appeals; Raymond Fisher, the Ninth Circuit Court of Appeals; Stanley Marcus, the Eleventh Circuit Court of Appeals; Frank Hull, the Eleventh Circuit Court of Appeals—all of those rated by Mr. Fielding as unanimously well qualified.

You can hardly say this man was as was described yesterday; in fact, not at all. Anybody who knows Fred Fielding knows he is an honest man. It is offensive to have that type of characterization made, even in the height of a very political battle, which this appears to be—well, to be. I could have said 2 weeks ago: to be coming.

Now, as that list illustrates, Mr. Fielding voted to give numerous Clinton circuit nominees the highest rating possible. If he had been promoting a partisan agenda, he would not have voted to find a single Clinton nominee well qualified, or he certainly would have found a number of those, perhaps, not well qualified—even though they deserved the qualification they got—if he was partisan.

There is simply no reason to believe his vote to find Miguel Estrada well qualified reflected anything other than his unbiased, nonpartisan assessment of Mr. Estrada's fitness for the Federal bench.

Moreover, there is simply no way Mr. Fielding alone could have been responsible for the ABA's unanimous decision to rate Miguel Estrada ''well qualified.'' The ABA's rules make clear that every member of the ratings committee must evaluate each nominee independently:

> After careful consideration of the formal report and its enclosures, each member submits his or her rating vote to the Chair.

Now, that is an insult to the other members of the standing committee for somebody to imply they would all pay attention to a ''corrupt'' Mr. Fielding, if that were even possible, which, of course, it is not.

Mr. Fielding's background as a Republican was more than offset by the committed Democrats who served on the ABA committee at the time and who joined in the unanimous decision to give Miguel Estrada a well-qualified rating.

For example, according to public records, the chairman of the ABA committee at the time Mr. Estrada was rated well qualified contributed to the election campaign of Senator SCHUMER. This individual agreed that Miguel Estrada is ''well qualified,'' the highest rating possible.

Now, I am not going to accuse the chairman of the ABA committee at the time, because he donated to Senator SCHUMER's campaign—which he had every right to do—I am not going to accuse him of being improper, as I believe the implication was for Mr. Fielding.

Get this point. The ABA's Second Circuit representative contributed to Senator Robert Torricelli's reelection campaign and to the New Jersey Democratic State Committee. This individual agreed that Miguel Estrada should be given the highest rating: ''well qualified,'' unanimously, the highest rating.

I am not going to say that person was biased because that person gave to Senator Torricelli. It is apparent he was not biased.

How about the ABA's Fourth Circuit representative? He made political contributions to Senator CHARLES SCHUMER, Senator TOM DASCHLE, Senator JEAN CARNAHAN, former Vice President Al Gore, Representative JERROLD NADLER, Representative MARTIN FROST, Representative ANTHONY WEINER, Representative ELLEN TAUSCHER, and Representative CHARLES RANGEL. This individual agreed that Miguel Estrada is ''well qualified.'' I do not think these people would be influenced by some Republican saying: Well, we ought to pull a fast one here and get this fellow well qualified when he was not worthy of being well qualified.

There is no question that Fred Fielding is a Republican. There is no question that he supports Republicans politically. But there is also no question he is a person of impeccable honor and integrity who has served as White House Counsel and that he would do what is right on this committee, just like these Democrats did what was right in rating Miguel Estrada as well qualified.

How about this: The ABA's Sixth Circuit representative—this is on the standing committee—contributed to the Democratic National Committee, Senator FRANK LAUTENBERG, Senator CHARLES SCHUMER, former Senator BILL BRADLEY, Senator EDWARD KENNEDY, Representative RICHARD GEPHARDT, and the Arizona State Democratic Central Executive Committee. Now, this individual agreed that Miguel Estrada is ''well qualified,'' the highest rating the standing committee could give. He could not be a more partisan Democrat, but I believe he is doing the job fairly on the committee.

The fact that he supports Democrats, I wish he didn't as much as a Republican, but the fact that he supports Democrats I find no problem with.

How about this one: The ABA's Seventh Circuit representative contributed to Emily's List, the feminist political organization; Voters for Choice, one of the pro-abortion organizations; Senator PATTY MURRAY; former Representative Geraldine Ferraro, former Senator Carol Moseley-Braun; Senator MARY LANDRIEU; Senator Jean Carnahan; Senator BARBARA MIKULSKI, and Senator DICK DURBIN. Yet he voted ''well qualified.'' So Fielding is out of line? Come on. That is phony.

How about the ABA's Eighth Circuit representative. He contributed to Senator JOSEPH BIDEN, Senator HILLARY CLINTON, Senator Paul Wellstone, Senator Jean Carnahan, and former Vice President Al Gore. This individual agreed that Miguel Estrada is ''well qualified.'' I don't think he had any

bias in that. I don't think Fred Fielding had all that influence with all these big-time Democrats. I really don't. I don't think anybody in their right mind does.

How about the ABA's Eleventh Circuit representative. He contributed to Senator Max Cleland. This individual agreed that Miguel Estrada is ''well qualified.'' Did he have a bias? Do you think he was influenced by Fred Fielding?

How about the ABA's Federal circuit representative who contributed to Emily's List, the pro-feminist list; Senator Chuck Robb; the Democratic National Committee. This individual agreed that Miguel Estrada is ''well qualified.'' That is just the beginning of the story.

At the start of the 108th Congress, the ABA then reaffirmed Mr. Estrada's unanimous well-qualified rating. It appears that the Democrats on this year's ABA committee are equally enthusiastic about Miguel Estrada's nomination.

The ABA's DC Circuit representative—Fred Fielding's successor—contributed to the Democratic National Committee and Emily's List. This individual agreed that Miguel Estrada is ''well qualified.''

The ABA's Federal circuit representative contributed to Senator HILLARY CLINTON, the Irish American Democrats, Representative NANCY PELOSI, the Democratic National Committee, Senator JOHN BREAUX, former Vice President Al Gore, and the Democratic Congressional Campaign Committee. This individual agreed that Miguel Estrada is ''well qualified.''

I wonder why all these Democrats on the ABA's standing committee find him well qualified while our friends on the floor are filibustering this well-qualified individual? I don't understand it. It seems to me to be a double standard.

The ABA's Fourth Circuit representative contributed to Senator JOHN EDWARDS in the North Carolina Democratic Victory Fund and Bill Bradley. This individual agreed that Miguel Estrada is ''well qualified.''

The ABA's Eighth Circuit representative contributed to the Missouri Democratic State Committee and Senator Jean Carnahan. This individual agreed that Miguel Estrada is ''well qualified.'' There are a lot of Democrat leaders who contributed to a lot of Democrats running for office who all found Miguel Estrada well qualified, unanimously well qualified.

What is clear from this recitation of political contributions is that in Mr. Estrada's case, the attorneys on the ABA committee put aside their political views and provided the Senate with a neutral and dispassionate analysis of his qualifications.

Fred Fielding, of course, did not hijack the ABA process, nor was Mr. Fielding's participation in that process ''unethical,'' as my Democratic colleagues suggested.

It is time to get rid of these phony arguments. In the case of Miguel Estrada, the process worked just as the ABA intended. It took a lot of very partisan Democrats acting in a nonpartisan way fulfilling their duties on the ABA standing committee to find him well qualified, not just when Mr. Fielding was on the committee but also the second time in this Congress.

That is pretty important stuff. I have to respond to Senator LEAHY's remarks that Miguel Estrada handled only one pro bono case. That is not accurate. I am sure my colleague must have overlooked the case of Campaneria v. Reid. Miguel Estrada represented pro bono, without fee, a criminal defendant seeking to vacate his conviction on grounds that the admission of his confession at trial violated the Miranda rule. The two judges on the Second Circuit panel hearing the case agreed with Miguel Estrada that his client's right to remain silent had been violated but ultimately ruled that the error was harmless. One judge dissented, arguing that the admission of Mr. Campaneria's confession was not harmless. Miguel Estrada spent countless pro bono hours on that case which further illustrates his commitment to equal access to justice for all.

Since Senator LEAHY brought up Mr. Estrada's pro bono work, let me remind him of Mr. Estrada's work in Strickler v. Green. This is an important case as well. It is important to bring it up in light of what has been said. Miguel Estrada represented, free of charge, Tommy David Strickler, who was convicted of abducting a college student from a shopping center and murdering her. Miguel Estrada devoted hundreds of hours to Mr. Strickler's appeal without being paid. Ultimately, the Supreme Court held that although a Brady violation had occurred when the prosecution withheld exculpatory evidence from the defense, the error was harmless. Mr. Strickler was accordingly executed, but it does not negate the fact that Miguel Estrada gave that kind of service free.

It was a legitimate question, too. The court did not rule for Miguel Estrada in the case, but he did do what he has been accused of not doing, and that is giving pro bono service for a person in need.

I would like to read a portion of a letter the committee received from Mr. Estrada's cocounsel in the case, Barbara Hartung:

> [Miguel Estrada] values highly the just and proper application of the law. . . . Miguel's respect for the Constitution and the law may explain why he took on Mr. Strickler's case, which at the bottom concerned the fundamental fairness of a capital trial and death sentence. I should note that Miguel and I have widely divergent political views and disagree strongly on important issues. However, I am confident that Miguel Estrada will be a distinguished, fair and honest member of the federal appellate bench.

Why do we have these arguments that are not right? Why are we doing that to this man? Why is it that this Hispanic man who is an independent thinker and who has an amazing record for a person of his age, who has the qualifications to be on the Circuit Court of Appeals for the District of Columbia, why are we doing this to him? Why the double standard? Nobody else has been treated this shabbily, especially by these past presidents of the Hispanic Bar Association. Keep in mind that Hispanic National Bar Association supports Miguel Estrada. Yet these people gratuitously signed this ridiculous letter. I hope they feel ashamed of themselves. They ought to be.

The Hispanic community ought to tell them to be ashamed of themselves. I believe they will. I think that is going on right now. The Hispanic people are starting to catch on on this and what is going on. It just plain isn't fair. It just plain isn't right. It just plain is not a good thing to do to filibuster a Federal judicial nominee. It just isn't. We have always had some who wanted to do it, but we on this side have always been able to stop them. This is the first true filibuster that we have had on a Federal judicial nominee.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Nevada.

Mr. REID. Mr. President, I know there are others who wish to speak, but I wanted to take a minute to talk about my friend's comments about Mr. Fielding.

I think that while my name was mentioned—and I have the greatest respect for my friend from Utah. We are close personal friends. Our families are friends. We have been in each other's homes. There is nothing personal about this. This is a partisan matter we are bringing before the Senate.

Mr. President, the political contributions that people make is certainly very different from being an inside political operative, as Mr. Fielding was. In fact, for lack of a better way to describe him, he was an inside guy for the Republicans and had been for many years. I will list in a minute the many things he had done.

Mr. President, the more I hear about the ABA, the more convinced I am the Republicans were right when they said let us not have the ABA involved in this. I think those people who said that were absolutely right. I didn't know as much about the ABA as I do now. I practiced law for a long time before I came here. I was a trial attorney. I didn't belong to the ABA. I thought it was a bad organization then, and the more I hear about it today, the worse I think it is. I think what they have done on these judicial nominations—Democratic and Republican—reeks, smells. There are thousands of lawyers in the country, thousands of members of the ABA. Couldn't they get people who are selecting nominees who could pass the smell test? In this one, this ABA qualification should be thrown right in the trash.

Mr. President, it is not the Senator from Nevada who feels Mr. Fielding

was wrong in what he did. Here is an article out of a newspaper dated yesterday, by Tom Brune. The headline is ''Estrada Endorser Had Partisan Role.'' It goes on to say—this is a news article, not an editorial:

The lawyer who recommended the American Bar Association's highest rating for controversial appellate judge candidate Miguel Estrada took part in partisan Republican activities during his term as a nonpartisan judicial evaluator for the Bar, according to records and interviews.

The man who wrote this column said what I quoted. He says:

While serving on the ABA's nonpartisan Standing Committee on the Federal Judiciary, veteran Washington lawyer Fred F. Fielding also worked for Bush-Cheney Transition Team, accepted an appointment from the Bush administration and helped found a group to promote and run ads supporting Bush judicial nominees, including Estrada.

An editorial comment here, Mr. President. That is only part of his political involvement. Let me read part of it. There are other things.

Fielding cofounded the Committee for Justice, with Bush confidante and former White House counsel C. Boyden Gray. They founded this organization to help the White House with the public relations end of its effort to pack the bench and to run ads against Democrats. . . .

In addition, Fielding has a long career as a Republican insider. He served as Deputy Counsel to President Richard Nixon. He then served on the Reagan-Bush campaign in 1980, the Thursday Night Group. He served on the Lawyers for Reagan advisory group, the Bush-Reagan transition, 1980–1981. He served—this is a dandy—he was conflict of interest counsel. That is a laugher. He worked with the Office of Government Ethics, which is also a joke. He served on the White House transition team. He served in the Office of Counsel to the President, as deputy counsel to President Reagan. He served on the Bush-Quayle campaign in 1988; as Republican National Convention legal advisor; as campaign counsel to Senator Quayle; and as deputy director of the Bush-Quayle transition team. He served on the Bush-Quayle campaign, 1992, as the senior legal advisor conflict of interest counsel and the Republican National Committee advisor. He served as the legal advisor to the Dole-Kemp campaign, 1996.

Mr. President, in short, the Bush White House could not have handpicked somebody with better partisan credentials than Fielding to evaluate his DC Circuit Court nominees.

The ABA should be ashamed of themselves. Lawyers are trying to have a reputation that is good and does not have conflicts of interest, that is ethical. This thing reeks.

Estrada graduated with honors from Harvard. You cannot take that away from him. He is a fine lawyer, but this ABA thing, take it away because it means nothing. How can one have confidence that Mr. Fielding did not paint a very rosy picture for partisan reasons.

The article by Mr. Brune goes on to say:

Fielding evaluated Estrada in the month after President George W. Bush nominated him on May 9, 2001, ABA officials said. That was just weeks after Fielding vetted executive appointments for Bush's transition team and a year before he helped start the partisan Committee for Justice, records show.

Contrary to what was said a few minutes ago, Fielding did cofound this group while a member of the ABA evaluation committee.

The article continues:

The overlap has thrust Fielding—and his evaluation . . .—into the heated political battle over Estrada's nomination. . . .

. . . On February 12, Senator Harry Reid charged that Fielding had a conflict.

I said at that time, and there is a quote in the newspaper:

Doesn't Mr. Fielding's dual role—purportedly ''independent'' evaluator and partisan foot soldier—violate ABA rules?

As the investigative reporter notes:

Those rules say no Standing Committee member should participate in an evaluation if it would give rise to the appearance of impropriety or would otherwise be incompatible with the committee's purpose of a fair and nonpartisan process.

It goes on to say, ''Former ABA President Robert Hirshon said he was concerned when in late July 2002 he read reports that Fielding had joined Republican C. Boyden Gray to start the Committee for Justice.''

''That raised some concerns in my mind,'' said Hirshon, ''given the fact that our committee has been tarred by both conservatives and liberals as poster boys for the other side. . . .''

He called Roscoe Trimmier, Jr., then the Standing Committee chair, and asked him to talk with Fielding. ''I don't see how you can do both,'' Hirshon said. If Fielding became involved in Gray's group, he couldn't serve as an ABA evaluator again, he said.

. . . Fielding is still listed as a board member of the Committee for Justice.

''I don't see the conflict,'' Gray said—

I bet he didn't. He helped form the Committee for Justice.

He added that

Fielding didn't vet Estrada while on the transition team and left the ABA post soon after the group formed.

But Nan Aron, executive director of the liberal Alliance for Justice, which opposes Estrada, charges that Fielding is too partisan to do a fair evaluation.

The article notes:

Fielding was President Ronald Reagan's White House counsel—

And some of the things I have already put into the RECORD.

Listen to this fact uncovered by the reporter:

In May, Bush appointed Fielding to an international center that settles trade disputes.

He gets $2,000 a day plus expenses for this.

The article also notes that:

last fall, President Bush thanked Fielding publicly during a rally for his judicial nominees.

I bet he did.

The article also notes that Burbank, a Professor of ethics at the University of Pennsylvania says Fielding's activities raise questions of appearances, which would cause more damage to the ABA. Ironically, Bush removed the ABA from his long-held role prescreening judicial nominees because of the evaluators' perceived liberal bias.

''In light of the controversy concerning the proper role of the ABA Standing Committee,'' Burbank said, ''it seems to me to be a shame to structure the process in such a way that reasonable people might be concerned.''

Mr. President, let me simply say that the evaluation by Fred Fielding is a scam, it is unfair, it is not right. There certainly is an appearance of unfairness and partisanship. If you want to debate Miguel Estrada based on this ABA qualification, I will do that all day long. There are many positive things Estrada has. This is not one of them. This was an evaluation done by a very partisan person, who has only recommended well qualified ratings for Bush nominees in D.C.

I repeat what I said a few minutes ago. The more I learn about the ABA, the less I feel inclined to support the ABA for anything they want. In this situation, if I ever have anything to do with it in the future, the ABA should be eliminated. It would be one less process we would have to go through to get people on this floor. The ABA's ''gold standard'', as far as I am concerned, is tarnished, and rightfully so.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I am disappointed. I just read over all of the Democrats on the Standing Committee who have contributed to Democratic Party politics. I have never accused any of these people. Along with these are these judges on this chart. What does that mean? That he wasn't right when he found unanimously well qualified all of the Clinton judges, or nominees?—that is not right—when he voted for Miguel, along with all of these Democrats I have listed who have contributed?

All I can say is I think we have answered the points. I agree no outside body should be a voting instruction. I have always felt that. But I have to say the ABA has been part of the process, whether we like it or not, for a long time. There were plenty of Democrats who voted for Miguel Estrada as well qualified.

The PRESIDING OFFICER. The Democratic leader.

DEALING WITH ECONOMIC PROBLEMS

Mr. DASCHLE. Mr. President, I was home in South Dakota over the last week, and I had the opportunity to talk with farmers and ranchers, businesspeople, educators, and government leaders. What I bring back from those many discussions is the strong belief that if there is anything we do in the Senate over the course of the next several weeks, it ought to be addressing the economic problems that our country is facing.

I wish I had an accurate count of the number of times in various ways business men and women and farmers and ranchers asked the question: So why are you spending all of this time on a judge when our country is in such economic disarray?

This is an important issue, the Estrada nomination, but we have said from the beginning, and I think we will be able to continue to say with authority, that there will not be any resolution until the Solicitor General documents are released and until Mr. Estrada is more forthcoming with regard to his positions.

We can take up time on the Senate floor week after week, or we can put it aside, make some decision with regard to whether or not there will be some reconciliation on that issue and answer the question posed by so many South Dakotans to me last week: When will we address the economy? When will we recognize that there is a lot more productive use of the Senate's time than an unending debate about Miguel Estrada?

They do not understand why we are stymied and why we are unresponsive to the growing concern they have about the direction the economy is taking.

There is a growing credibility gap between what the President and the administration says and what they do, between their rhetoric and their reality. The President has taken occasion to go around the country to talk about his concern for the economy. On several occasions over the last couple of weeks, he has made his speeches about his concern for the economy and his approach through his tax cuts. I have to say, if he cared, if he was concerned, he would ask the Senate to take up this matter immediately. It will not be a day too soon.

A report was released this morning that said consumer confidence is now at a 10-year low. Consumer confidence, as registered and reported through its index, has plummeted to 64 from a revised 78 just last month. That is the lowest rating since 1993, 10 years. Unemployment is rising. We have seen an increase in the number of unemployed by 40 percent. We now have 8.3 million Americans out of work and 2.5 million private sector jobs have been lost just in the last 2 years. The unemployment spells are lengthening, wage growth is now stagnant, and the shortage of jobs has slowed wage growth so that only those at the very top are still experiencing wage increases that outpace inflation. We now have the worst job creation record in 58 years, while State budgets continue to be plagued with deficits of close to $70 billion. Some have reported even more than that.

We have an economic crisis that is not being addressed, and while that economic crisis grows, there is another concern expressed to me last week by scores of South Dakotans who are our first responders. Our fire departments, our police departments, those involved in crisis management all tell me they haven't a clue as to what they would be required to do should some emergency come about. There is no coordination. There is absolutely no training.

When I asked them last week, What would you suggest I go back and tell the President and my colleagues, they said: Understand that unless we have training, unless we have communications equipment, unless we have more of a coordinated effort to bring us into the infrastructure required for response, we will not be able to live up to the expectations of the people right here. Help us.

We have attempted to help those first responders over and over: last December, with $2.5 billion that the President said we could not afford; last month with $5 billion that the President, once again, said we could not afford. You tell those first responders that we cannot afford providing them the resources to do their job when we look at what has happened in just the last 48 hours in our basing arrangements with Turkey. According to press reports, we can afford up to $6 billion in grants and $20 billion in loan guarantees for Turkey, but for some reason we cannot afford providing homeland and hometown assistance—direct, coordinated help—to provide the training and communication and coordination required. That is a credibility gap that I think this President needs to address.

I hope we can set aside this issue of Mr. Estrada and deal with the issue about which our people, regardless of geography, are concerned. The President has a plan, Democrats have proposed a plan, and there is a significant difference between the two. There, too, we find a credibility gap.

An article was written in the New York Times that appeared this morning by David Rosenbaum entitled ''The President's Tax Cut and Its Unspoken Numbers.'' I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Feb. 25, 2003]

THE PRESIDENT'S TAX CUT AND ITS UNSPOKEN NUMBERS

(By David E. Rosenbaum)

WASHINGTON, Feb. 24.—The statistics that President Bush and his allies use to promote his tax-cut plan are accurate, but many of them present only part of the picture.

For instance, in a speech in Georgia last week, the president asserted that under his proposal, 92 million Americans would receive an average tax reduction of $1,083 and that the economy would improve so much that 1.4 million new jobs would be created by the end of 2004.

No one disputes the size of the average tax reduction, and the jobs figure is based on the estimate of a prominent private economic forecasting firm.

But this is what the president did not say: Half of all income-tax payers would have their taxes cut by less than $100; 78 percent would get reductions of less than $1,000. And the firm that the White House relied on to predict the initial job growth also forecast that the plan could hurt the economy over the long run.

The average tax cut (the total amount of revenue lost divided by the total number of tax returns) is over $1,000 because a few rich taxpayers would get such large reductions. For households with incomes over $200,000, the average cut would be $12,496, and the average for those with incomes over $1 million would be $90,222.

But the cut for those with incomes of $40,000 to $50,000, according to calculations by the Brookings Institution and the Urban Institute, would typically be $380. For those with incomes of $50,000 to $75,000, it would be $553.

The president's jobs figure was based on a preliminary analysis by Macroeconomic Advisers, of St. Louis. The firm, to whose services the White House subscribes, issued projections in January concluding that by raising disposable income, bolstering stock values and reducing the cost of capital, the president's program would lead to 1.365 million new jobs by the end of next year.

But the White House has never mentioned the caution in the second paragraph of the firm's report. The forecasters predicted that if the tax cuts were not offset within a few years by reductions in government spending, interest rates would rise, private investment would be crowed out, and the economy would actually be worse than if there had been no tax changes.

The president has not proposed spending reductions that would offset the tax cuts. To the contrary, the administration has argued that the budget deficits resulting from the cuts would be too small to harm the economy.

Another argument that administration officials make regularly is that under the president's plan, the wealthy would bear a larger share of the nation's tax burden than they do now. A table released last month by the Treasury's office of tax analysis showed that people with incomes over $100,000 would see their share of all income taxes rise to 73.3 percent from the current 72.4 percent.

At the same time, the table showed, taxpayers with incomes of $30,000 to $40,000 would get a 20.1 percent reduction in income taxes, and those earning $40,000 to $50,000 would get a 14.1 percent cut.

The problem with figures like those is that a large percentage of a small amount of money may be less important to a low- middle-income family's lifestyle than a small percentage of a large amount of money would be to a rich family. For example, a $50 tax cut would be a 50 percent reduction for a household that owed only $100 in taxes to start with, but that small amount of money would not significantly improve the family's well-being.

A better measure may be the increase in after-tax income, or take-home pay, that would result from tax cuts. According to data from the Joint Congressional Committee on Taxation, the tax reduction of $380 for a family with an income of $45,000 would amount to less than 1 percent of the household's after-tax income. But the $12,496 tax cut received by a family with an income of $525,000 would mean a 3 percent increase in money left after taxes.

The president and his advisers also offer a variety of incomplete statistics to bolster their proposal to eliminate the taxes on most stock dividends.

Among the points they make are that more than half of all taxable dividends are paid to people 65 and older, that their average saving from eliminating the tax on dividends would be $936, that 60 percent of people receiving dividends have incomes of $75,000 or less and that up to 60 percent of corporate profits are lost to income taxes paid by either the companies or the stockholders.

All that is true, but here is a more complete picture:

Only slightly more than one-quarter of Americans 65 and older receive dividends. Two-thirds of the dividends the elderly receive are paid to the 9 percent of all elderly who have incomes over $100,000.

Tht Tax Policy Center at the Brookings Institution and the Urban Institute calculated that the average tax cut from the dividend exclusion would be $29 for those with incomes of $30,000 to $40,000 and $51 for taxpayers with incomes of $40,000 to $50,000.

On the other hand, the two-tenths of 1 percent of tax filers with incomes over $1 million (who have 13 percent of all income) receive 21 percent of all dividends, and the Tax Policy Center figured that their average tax reduction from the dividend exclusion would be $27,701. For taxpayers with incomes of $200,000 to $500,000, the typical tax cut from the exclusion was calculated at $1,766.

In instances where both the corporation and the shareholder are paying taxes at the maximum rate, it is possible, as the administration maintains, for 60 percent of the profits to be taxed away. But calculations based on I.R.S. data and performed by Robert S. McIntyre of the nonpartisan Citizens for Tax Justice show that on average, only 19 percent of corporate profits are paid in taxes by companies and shareholders combined.

Mr. DASCHLE. Mr. President, the President talks about his plan providing 92 million Americans with an average tax reduction of $1,083, and yet with closer scrutiny and attention, with a more careful review of the facts, we find that is not the case at all. That is like Bill Gates and TOM DASCHLE averaging their income. If he and I averaged our income, mine would be somewhere around $39 billion. I only wish I had $39 billion to average with Bill Gates, but I do not. But that is the method this President is using to provide these average numbers with regard to the beneficiaries of his tax cut.

Here are the facts: 78 percent of Americans are going to get less than $1,000, and over half of all taxpayers will get less than $100 under the President's plan. That is right, less than $100. That is all more than half of all taxpayers will receive under the President's plan. That is fact. That is a credibility gap. That is saying one thing and doing another. That is saying the average American gets $1,000 but actually, in fact, the average American is going to get under $100.

There is a credibility gap across the board. He said his plan will create 1.4 million jobs by the end of 2004.

According to the same report President Bush cites by macroeconomic advisers of St. Louis, his tax cuts actually have the potential to harm the economy in the long run, but the President did not mention any references to those parts of the report stated later on.

The President has said eliminating the double taxation of dividends is good for enhancing the lifestyle of millions of Americans all across the country. The reality is that only 22 percent of those with incomes under $100,000 reported any dividend income in the year 2000. The average tax cut from the dividend exclusion would be $29 for those with incomes below $40,000.

There is a lot to discuss. There is a great need in this country to do what the American people are hoping we will do, and that is take up issues they are concerned about, to address the issues they will rise and fall on over the course of the next several months.

I cannot tell my colleagues the emotion I feel in the room oftentimes as I talk to businessmen whose lips would quiver, whose eyes would moisten, who would tell me: TOM, I do not know if I can be in business a year or two from now if things do not change. I have not sold a piece of farm equipment in 2 years. I have seen my sales plummet more than 20 percent in the last 3 months. I have no confidence about how we are going to turn this around, they tell me, unless you in Washington understand that things have to be done to make this economy better.

What do we do? We come back to Washington and we are back in the same old trap, talking about the same old thing. That will not change until Mr. Estrada is more forthcoming. So we can spend time on the economy or we can spend time talking about issues that have no relevance to the daily lives of the people of South Dakota and the people all across this country.

Mr. CORZINE. Will the minority leader yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from New Jersey.

Mr. CORZINE. I truly appreciate the focus on issues that matter directly to the people who live in our States and who live across the country.

The Senator spoke about the individual business person who had not sold any farm equipment. We are closing the last two autoplants in New Jersey over the next 2 or 3 years. They have already cut down to one shift. Bell Labs, one of the great research institutions of America, has literally been a part of the reduction of 130,000 jobs at Lucent, a lot of them in New Jersey. A lot of the Bell Labs people are doing basic core research, and the people are very upset.

That is what that consumer confidence number is. It is incredible in the history of real measurements of what is going on in the minds of American consumers. By the way, it is going on in business, too.

I ask the minority leader whether he saw yesterday's survey from Manpower, Inc. They said only 20 percent of businesses in America think they will add any jobs in the next 6 months, an indication of the kind of depth of concern that actually exists in the business community in conjunction with consumer confidence.

I applaud the minority leader for making sure we are being focused to have a debate about something that matters to people's lives, and I hope we can bring forth a real debate about a stimulus program to get our economy going, put people back to work because that is where real concerns seem to be. I presume that is the kind of question the Senator is receiving in South Dakota.

Mr. DASCHLE. I appreciate very much the comments of the distinguished Senator from New Jersey because I think among us all no one knows these economic issues better than he does.

Again, I would say to the distinguished Senator, this is part of that credibility gap I was referring to. The President professes to be concerned, the President talks about his proposals to address the economy, and yet we are not planning to take up any economic stimulus for months, I am told. It may be May before it comes to the Senate. How can anybody with any truthfulness express concern about the economy and say, no, but we will just do it later? We will not do it this week, we will not even do it this month, we will do it sometime down the road but, yes, I am concerned.

When they look at consumer confidence, when they look at the numbers of jobs lost, when they see those plants close, when they see the consumer confidence drop as precipitously as it has, how in the world can anybody in the world confess to be supportive of economic recovery and economic stimulus with numbers like that and the inaction we see from the White House?

Mr. CORZINE. If the minority leader will yield for one other observation and question, has the Senator noticed the fact that we have lost almost another trillion dollars in market value? And by the way, that translates into 401(k)s and IRAs for individuals. Those are some very serious numbers, actually since this program with regard to dividend disclosure has been announced. There is a credibility gap between the reality of what is being suggested as an economic growth program and what is actually occurring out in the real world. Certainly my constituents and the people I hear from around the country and in the business community are saying much of the same thing. I presume that is what the Senator is hearing as well from the folks in South Dakota.

Mr. DASCHLE. I say to the Senator from New Jersey, that is exactly what I am hearing from the people of our State. As I have traveled around the country, I hear it in other parts of the country as well. This is a very serious issue that will not go away, and I think the more we face the uncertainty of war, the more we face the uncertainty of international circumstances, the more this domestic economic question is going to be exacerbated.

People want more certainty. They want more confidence. They want to at least believe we understand how serious it is out there and we are going to do something to address it. And what do we do? We come back after a week's break and not one word about the economy from the other side, not one word about the recognition of how serious this problem is. We are still talking about the Estrada nomination.

UNANIMOUS CONSENT REQUEST—S. 414

I ask unanimous consent that the Senate proceed to legislative session

and begin the consideration of Calendar No. 21, S. 414, a bill to provide an economic stimulus package.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard.

Several Senators addressed the Chair.

Mr. DASCHLE. Mr. President, I believe I still have the floor privilege.

The PRESIDING OFFICER. The Democrat leader still has the floor.

Mr. DURBIN. Will the Senator from South Dakota yield?

Mr. DASCHLE. I yield to the Senator from Illinois.

Mr. DURBIN. I thank the minority leader for coming to the floor, and I hope those who are following the debate understand what just happened. The minority leader of the Senate has asked this Senate to move to the issue of the state of America's economy, that we take up immediately the question of what we can do to save businesses, create jobs, and I think foster some hope in America.

There was an objection immediately from the Republican side of the aisle. They do not want to discuss this issue.

I ask the minority leader the following: Since he has been home—and I have been in communication with the people of my State of Illinois—is it not a fact now that we have reached a point where our economy is dissembling, our foreign policy is in disarray, and this Congress is totally disingenuous, it ignores the reality of the challenges facing America today? I also ask the minority leader if he would tell me what he believes we should be debating at this point in time to do something about turning this economy around and bringing hope back to America.

Mr. DASCHLE. I thank the Senator from Illinois for his observation and his question. If we go home—and I know the Senator from Illinois was just home as well—there are two issues on the minds of virtually every American right now. I was asked questions everywhere I went pertaining to the Senator's first question, and that, of course, is what is going to happen in Iraq? We generally have an idea of what may evolve over the course of the next few weeks, and there is not much that South Dakotans can do about that.

The second question is, What is going to happen to my economic circumstance?

I talked to one businessman who had to lay off a couple of his employees, and it hurt him dearly. They had worked for him for a long period of time. He said: Tom, I have no choice.

I talked to people who had their health insurance dropped, in part because business was so bad their employer could no longer sustain the cost incurred of paying their health insurance. They said: We understand, but at least we got to keep our job.

But what are you going to do about it? That is the question. What are we going to do about it? What will the majority do about it? What message are we going to send to those people to whom we must show some empathy if, indeed, these conversations with our constituents mean anything at all? That is why it is imperative we are cognizant of the message we send today, tomorrow, the next day, and the next day.

As this economy worsens, we spend our Senate time totally consumed with one nomination having to do with a circuit court nominee for the District of Columbia. This is the third week we have been on it. We can resolve this matter if Mr. Estrada will come forth with the information. But if he will not, let's move to something else until he does.

Mr. DURBIN. Will the Senator yield?

Mr. DASCHLE. I yield to the Senator.

Mr. DURBIN. I have followed this debate on a daily basis. If I am not mistaken, the Senator from Utah, Mr. BENNETT, came to the floor with a positive and constructive suggestion. He said that this nominee, Miguel Estrada, should produce the written documents from his experience working for the Department of Justice, working for the Supreme Court. In fact, he even suggested at one point they be produced so they can be reviewed carefully by both the Republican and Democratic leaders of the Senate Judiciary Committee and then a determination be made as to whether there should be followup hearings or questions and ultimately a vote so there would be disclosure. This suggestion did not come from a Democratic Senator; it came from a Republican Senator, Mr. BENNETT of Utah.

I thought it was a fair suggestion to break the logjam, to resolve this nomination up or down, and to move on to the people's business.

Can the Senator from South Dakota, our minority leader, tell me whether that suggestion of producing those documents really is consistent with what we are trying to achieve so we can once and for all give Mr. Estrada his fair hearing and final determination? Is that what this is about?

Mr. DASCHLE. That is exactly what this is about. I thank the Senator for asking the question. It is no more complicated than that.

On a bipartisan basis, Republican and Democrat Senators have said we need the best information that can be provided by any nominee before we are called upon to fulfill our constitutional obligation. That is what we are suggesting. We need that information to make the best judgment. That information is being withheld.

If I had an applicant for a job in my office and I said, I want you to fill out this application and I will be happy to consider your qualifications for employment in my office, and he or she said, I don't think I will fill out the second and third page, I will give you the front page, I will give you the name, address, and maybe my employment history, but that is it, you have to make a guess as to the rest of my qualifications because I am not telling you, I would say to that prospective employee, come back when you can fill out the full application. That is what I would say. That is what every employer in this country would say.

Remarkably, when I went home last week and explained the issue to my constituents, they said: That sounds fair. That sounds reasonable. If an applicant for a lifetime position on the second highest court of the land is not willing to fill out his job application, how in the world should we consider that nominee as a bona fide applicant for the position in the first place? That, again, is a diversion from what I think most people are concerned about. They are concerned about this, and they want fairness, but they are a whole lot more concerned about whether they will be giving job applications to anyone in their State in their circumstances because they are doing the opposite.

We do not have lifetime applications for jobs in South Dakota because the economy is very soft. If anything, we are losing jobs in South Dakota. So while we talk about 1 job for the circuit court, we have lost 2.5 million jobs in the last 2 years in this economy. That does not make sense. That is what the American people want us to address.

Mr. DURBIN. If the Senator will yield for a last question, many people on the other side suggested we are picking on Miguel Estrada, we have focused on this man, a Hispanic nominee, and this is somewhat personal in terms of what we are trying to achieve.

I ask the Senator minority leader, is it not our constitutional responsibility to establish a standard and process to apply to all judicial nominees so that there is full disclosure from them as to who they are, what they believe, their values, so if they are given a lifetime appointment on the court, we at least know, going in, who these people might be. Is it not also the fact, as the Senator from South Dakota has told us, that Miguel Estrada has consistently refused to do just that, consistently refused to answer the questions, consistently refused to disclose the documents, consistently refused to tell us who he is as he seeks one of the highest Federal judicial appointments in the land?

I ask the Senator from South Dakota, is this an issue which goes beyond Miguel Estrada and calls into question the constitutional responsibility of the Senate when it comes to judicial nominees? We have approved 103 Federal judges for this Republican President, and I have voted for the overwhelming majority of them. Are we not in this discussion trying to raise the fundamental issue of equity and process as to the responsibility of the Senate under the Constitution?

Mr. DASCHLE. The Senator from Illinois has said it very well. That is exactly what this is about. At one level, this is about fulfilling constitutional obligations. This is about following precedent. This is about making sure there is fairness as we consider these nominees for all courts, but especially for courts at that level.

This is also about something also, about the management of the Senate. While the Senate has been concerned about one job for the last 3 weeks, a lot of us are saying we ought to be concerned about the 8.3 million jobs we do not have in this country today as a result of disastrous economic policies on the part of this administration, 2.5 million of which have been lost in the last 2 years. We spend our time talking about one job; there is no talk on the other side about all of those millions of jobs lost in this country because there is no economic policy.

What we are suggesting this morning is that there ought to be some consideration for those jobs, too; that to be consumed by one job and not consumed, or at least willing to address those millions of other jobs, is something I cannot explain to the people of my State or to the people of our country. I hope our Republicans will do something along those lines in the not too distant future.

Mr. SCHUMER. Will the Senator yield?

Mr. DASCHLE. I am happy to yield.

Mr. SCHUMER. Two questions. I want to follow up again on what the Senator from South Dakota said in the dialog with my colleague from Illinois. First, I know the Estrada judge issue has gotten a lot of attention in the newspapers. When I go back to my State of New York, virtually no one asks me about it—very few people. I get lots of people asking about the war and also about the economy and jobs. Is that particular to New York because we had September 11 or is the same thing happening in South Dakota?

Mr. DASCHLE. I say to the Senator from New York, before he came to the floor, I began my comments by reporting conversations I had with people back home last week. I was moved by the comments, by the reports, by the emotion I felt as I talked to people whose businesses, whose jobs, are perhaps more precarious than they have been for years. All the statistics bear that out. Consumer confidence is the lowest in 10 years, the number of those unemployed going up by millions in the last 2 years; every economic indicator is pointing to the growing crisis we face in the economy.

Yet what do we do? We find ourselves once again most likely scheduled for the entire week, debating 1 job rather than the 2.5 million jobs lost just in the last 2 years alone.

Mr. SCHUMER. If my colleague will yield for another question, we have seen in the newspapers the talk that the Democrats are filibustering, that Democrats are preventing the Senate from going forward to other issues, whereas the Republicans are eager to go to other issues.

The real truth on this floor is, first of all, that we have asked just now to go to economic issues, that last week when the Republican leadership—they run the show—decided to bring up this omnibus budget, the Estrada nomination did not stand in the way. We did it. We voted in one fell swoop for the entire Federal budget, and, in fact, last week this floor, because the Republican leadership chose to do so, actually voted on three other judges who I believe passed unanimously, if not close to unanimously. And the filibuster, in a sense—in a very real sense—is not being conducted by the Democrats but rather, led by my capable and good friend from Utah, by the Republicans, and we would be happy to move on to other issues that are pressing, that are on people's minds, and maybe come back to this issue at some point when we get the requested material.

Just to rephrase my question, who is really preventing us from moving forward? Who is filibustering? Why are we staying on this issue? Is that the Senator's choice as the leader of the Democrats or is that the choice of our good friend from Tennessee as leader of the Republicans?

Mr. DASCHLE. I think the Senator from New York put his finger on exactly the question. We just attempted to move on to something else. We were prevented from doing so. It is not just something else but perhaps the single most important domestic issue facing our country today. Yesterday, the request was made and agreed to that we take up the Hatch-Leahy PROTECT Act, as we should have agreed. I am glad that we were able to take it up and pass it.

The Senate has demonstrated the ability to move off this legislation when it sees fit. We did it just yesterday. As the Senator from New York suggests, we did it again a few weeks ago with passage of the omnibus legislation. We are capable of moving off the bill and dealing with the other issues. I can't explain why we have chosen—why our Republican colleagues have chosen—to stay on this legislation even though we know there are so many more pressing issues that ought to be taken up. I can't explain their intransigence. I can't explain why they want to prolong this debate. I can't explain why they are unwilling to consider the 2.5 million jobs rather than the one job that we continue to debate on the Senate floor. That is inexplicable to me.

I just hope the American people understand. We have come back after listening to our people. They made it clear to us what they want us to take up. They want us to deal with the economy. They want us to deal with the real problems we have with homeland security and the lack of training, the lack of communication and the lack of good technology and equipment which they need so badly. They do not have that either. That, too, would be economic in many respects, if we can provide that assistance. But it is not being provided because it is not being given the attention. Therein lies the credibility gap. Something is said and nothing is done. There is a big difference between rhetoric and reality when it comes to this administration and many of our colleagues on the other side.

Mr. SCHUMER. If my colleague will yield for just one final question, might it not be fair to say that it is not the Democrats filibustering to prevent Estrada from coming forward for a vote but, rather, the Republicans are filibustering until they get the vote on Estrada, which they have so far refused to call for? Is that an unfair characterization?

Mr. DASCHLE. That is exactly what happened this morning. If we were filibustering we would not have suggested that we get off the issue. A filibuster is to prolong the debate. We want to end the debate. We want to move on to something far more pressing to the people of this country than the one job. We want to talk about those 2.5 million jobs that we have lost. Therein lies the issue.

I hope the Republicans will bring this debate to a close so long as it doesn't appear that Mr. Estrada is willing to cooperate. At such time as he is prepared to do so, we can take this matter up again. But in the meantime, we ought to be concerned about those millions of jobs that continue to be lost because of congressional inaction and because of a failed economic policy on the part of the administration.

Mr. SCHUMER. I thank the leader.

Mr. CORZINE. Mr. President, will the distinguished minority leader yield for one more question?

Mr. DASCHLE. I am happy to yield.

Mr. CORZINE. Mr. President, I asked questions earlier about the private sector. I think we have all 50 Governors from across this Nation now in the Nation's Capital. I know many of them come to visit their Senate representatives and their congressional representatives. I wonder if the minority leader has had one single Governor approach him with respect to the Estrada nomination or whether he has had one single or multiple Governors come and talk about the state of their fiscal affairs in their State governments and their unbelievable difficulty in trying to maintain employment and support in Medicaid and all the other issues. I was just wondering if the minority leader has had any discussions with them about Judge Estrada versus the sake of the economy—or homeland security for that matter.

Mr. DASCHLE. I think the Senator from New Jersey asked the question that makes the point. The answer is absolutely no. Our Governors, of course, are hearing from the same people we are hearing from. They are concerned about the status quo. Someone once told me the status quo was Latin

for the ''mess word.'' Their concern for the ''mess word'' and this mess continues to be compounded by a budget deficit that grows by the month. We are told now that we could exceed $70 billion. Some have suggested that the figure could be as high as $100 billion in debt. They are struggling with their own budgets in part because of the mess we created for them in Medicaid, in education, in homeland defense, unfunded mandates, and the sagging economy, and no real economic plan in place. Their message in coming to Washington is: Fix it; help us address this issue and be a full partner recognizing that you, too, have a full responsibility to engage with us in solving this issue.

I think if you took a poll of all 50 Governors, should we stay on the Estrada nomination or should we address the economy and these budgetary questions, it would be unanimous—Republican and Democrat—they would say no; fix the economy and help us solve our own financial and fiscal problems. Do not be as consumed as you are about one job until you solve the problem for those 2.5 million jobs that haven't been addressed.

Mr. CORZINE. I join with my colleagues on this side of the aisle in complimenting the leader and for rating this issue one job versus 2.5 million jobs. We have a major issue in this country with regard to our economy, and that is at the top of our agenda.

Mr. DASCHLE. I yield the floor.

Mr. HATCH. Mr. President, I have heard these crocodile tears on the other side. It is amazing to me because they know what a phony issue is—the request for confidential and privileged memorandum from the Solicitor General's Office—and they are building their whole case on that. All they have to do to go on to anything else in the Senate is to exercise the advice and consent that the Constitution talks about; that is, to vote up and down. If they feel as deeply as they do about these, I think, spurious arguments that have been made just in the last few minutes—by the way, made by people who had all of last year to come up with a budget, and for the first time in this country couldn't even do that. The reason they didn't is because they knew it was pretty tough. They criticized us all these years for coming up with these tough budgets because we had to make the decisions. Senator DOMENICI from New Mexico has had to make tough decisions as Budget Committee chairman. We always came up with a budget, as tough as it was. We are criticized all the time for not having enough money for the poor and this and that and everything else, every phony argument in the books. Yet when they had the opportunity and saw how tough it is to come up with a budget, my gosh, they did not do it, nor did they do all those appropriations bills that we had to do once we took over.

All they have to do to go on to these wonderful economic issues—and we all want to do it—is allow a vote up or down. They don't like Miguel Estrada for one reason or another. Some of them are perhaps sincere reasons. I think other reasons are that they think he is just an independent Hispanic. Frankly, they do not like him. Vote him down, if you want. They have that right. If they feel sincerely that they are right in voting him down, vote him down. But let us have a vote. I have heard the distinguished Senator from Illinois ask, Why doesn't Mr. Estrada produce those papers? He is not in the Solicitor General's Office. He is not the Attorney General of the United States. He is not the Chief Counsel of the White House. He hasn't controlled those papers. As far as he is concerned, he is proud of his work and they could be disclosed. The problem is seven former Solicitors General—four of them are Democrats—said you can't give those kinds of papers up because it would ruin the work of the Solicitor General's Office.

Look, if they are sincere and they really want to get on to the budget work they never did last year, the appropriations work they never did last year—we had to do it—then just vote. It is tough work. By gosh, it is tough to come up with a budget. I know the distinguished Senator from New Mexico has had to go through a lot of torment and criticism year after year to come up with a budget. But he always did, and we always did. We were maligned by the other side because we were never good enough, because we had to live within the budget constraints. When they found that they had to live within the budget constraints, they skipped a beat and missed doing the budget.

Here they are coming in here with crocodile tears saying a circuit court of appeals judge is not important enough. Well, if he is not, vote him down, let's have a vote, and let's vote him down. Now——

Mr. SCHUMER. Will my good friend yield for a question?

Mr. HATCH. If I could finish. I am wound up right now. I would like to unwind a little bit before I yield to my dear friend.

And to say that we are filibustering because we are trying to get a vote on this? Why don't we just do that? Why don't I just—I ask unanimous consent that we proceed to a vote on the Miguel Estrada nomination, so we can get to all these important budget matters. It would be a quick way of doing it. And those who do not like Miguel Estrada: vote him down. Those who do: vote him up. I ask unanimous consent that we proceed to a vote on Miguel Estrada.

The PRESIDING OFFICER (Mr. SESSIONS). Is there objection?

Mr. REID. I ask to amend the unanimous consent request, that after the Justice Department provides the requested documents relevant to Mr. Estrada's Government service, which were first requested in May 2001, the nominee then appear before the Judiciary Committee to answer the questions which he failed to answer in his confirmation hearing and any additional questions that may arise from reviewing such documents.

Mr. HATCH. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. Can you amend a unanimous consent request? It is my understanding that you can't.

Mr. REID. Of course you can. Absolutely. We do it all the time.

Mr. HATCH. Not if we object.

The PRESIDING OFFICER. The Senator from Nevada can ask the Senator from Utah to modify his request.

Mr. HATCH. Well, I refuse to modify it. I think we ought to vote up or down.

Look, if you folks are sincere on this other side—and, my goodness, I have to believe you must be, although I think if you are not, it is the most brazen thing I have seen in a long time to come here and act like the whole world is being held up because we want to fill one of the most important judge seats in this country. And we want to do it with a person who has had this much of a transcript of record, who has this much of a paper trail that they have been able to examine, who has had 2 years sitting here waiting for a stinking solitary vote.

Mr. REID. Parliamentary inquiry.

Mr. HATCH. Why not give him a vote?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Utah?

Mr. REID. I object.

Mr. HATCH. Oh, my goodness.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Objection is heard.

Mr. HATCH. Mr. President, the distinguished minority leader said that half of the American people are only getting $100 out of this tax cut. I happen to know, the people who are at the $40,000 level are getting about a $1,000 tax cut. Just understand, the top 50 percent in our society pay 96-plus percent of the total income taxes in this country. So that is another phony argument.

I have to say, there are 52 million people in the stock market who have wanted dividends in spite of the representations that were made here. And in this downturn in the economy, perhaps they have not been able to get dividends because the companies have not done well. But this downturn started in the year 1999 or 2000. This President was not the President at the time. He has inherited these problems.

I just have to say that for people who never passed a budget last year, and did not pass hardly any of the appropriations bills, to come in here and use these crocodile tears, that this is somehow holding up our economic wherewithal in this country, when they refuse to allow a vote, as we just saw—I think there is something wrong here.

Just remember, even the Washington Post said, ''Just Vote.'' Just vote, fellows and ladies. All you have to do is vote. If you don't like Miguel Estrada, vote him down.

The reason they don't want a vote, and the reason this is a filibuster, is that they know Miguel Estrada has the votes here on the floor to be confirmed.

And for those who think that the economy is everything, let me just make a point. The judiciary is one-third of these separated powers. If we don't have a strong judiciary in this country, we will never have a strong economy because the Constitution would not be maintained. I would have to say this body has not maintained it through the years, as I have seen unconstitutional legislation after unconstitutional legislation move through here. It isn't this body that has preserved the Constitution, nor has it been the executive branch. We have seen a lot of unconstitutional things over there over the years, although I believe people have tried to sincerely do what is right. But it has been the courts that have saved this country and the Constitution.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. HATCH. I will. Let me make one more statement.

It has been the courts. This is an important position, and if we are going to have to go through this on every circuit court of appeals nominee because the other side just doesn't like them—they don't have a good, valid reason for voting against Miguel Estrada, other than this phony red herring issue about the Solicitor General's Office, which I don't think anybody in their right mind would buy.

''Just Vote,'' the Washington Post said.

I will be happy to yield to my colleague.

Mr. SCHUMER. I thank my colleague. And I know he feels passionately about this. Many of us feel passionately about this.

Mr. HATCH. More than passionately.

Mr. SCHUMER. I would like to ask the Senator two questions.

The first question is this. My colleague said, in a very well done speech—I read it—before the University of Utah Federalist Society, in 1997:

Determining which of President Clinton's nominees will become activists is complicated and it will require the Senate to be more diligent and extensive in its questioning of nominees' ''jurisprudential views.''

Now, in fairness to my friend——

Mr. HATCH. Does the Senator have a question?

Mr. SCHUMER. I have a question. I am coming to it. In fairness, the Senator just said how important the judiciary is.

Mr. HATCH. That is right.

Mr. SCHUMER. Now, in those papers, the books that my colleague has held up—I have read them. I read the whole transcript. I was there for much of it. I chaired that hearing.

Mr. HATCH. There is a lot more than a transcript here.

Mr. SCHUMER. I know. I ask my colleague, does Miguel Estrada talk about how he feels about the 1st amendment, or the 2nd amendment, or the 11th amendment, or the commerce clause, or the right to privacy, or all the major issues that he will rule on for the rest of his life if he becomes a judge? And if he does not, other than to say, ''I will follow the law''—and we all know judges follow the law in different ways—then why isn't what is good for the goose good for the gander?

In other words, when it was a Democratic nominee—and this is not tit for tat. My colleague, who cares about the judiciary, said he needed extensive questions. We didn't get that opportunity because, as my colleague well knows, Mr. Estrada just said, on every issue asked, ''I will follow the law.''

Mr. HATCH. Ask a question.

Mr. SCHUMER. My question to my colleague is——

The PRESIDING OFFICER. The Senator from New York will place a question.

Mr. SCHUMER. Why shouldn't we be accorded the same right, as he espoused in his speech in 1997, to get all the details to this appointment to the second highest court of the land, which is going to have a lifetime—Mr. Estrada has a job now; but this is a different job—a lifetime appointment that will affect everybody? Why is the one different than the other?

Mr. HATCH. Regular order, Mr. President.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. HATCH. Look, I don't withdraw that statement. That statement is an important statement. The distinguished Senator from New York and his colleagues had almost 2 years. The distinguished Senator from New York conducted this hearing. The distinguished Senator from New York said it was a fairly conducted hearing. The distinguished Senator from New York had a right to ask any questions he wanted. He did. The distinguished Senator from New York had a right to ask written questions. He did not.

He could have asked: What do you think about the 11th amendment? Listen, that is a question that is almost improper because you are saying——

Mr. SCHUMER. Could I ask my colleague to yield?

Mr. HATCH. Let me finish answering your question. He could have asked: What do you feel about the first amendment? Are you kidding? That is not a question that should be asked a judicial nominee. And any judicial nominee would answer: What I feel is irrelevant—which is the way he answered it. It is what the law says. Frankly, he answered that time after time after time on question after question after question.

Where were the written questions of the distinguished Senator from New York? They were not there. You had a chance to do it. You didn't do it. Now, after the fact, 2 years later, this man has been sitting there, waiting for fairness, being treated totally unfair, and he can't get—my gosh, he can't get a vote up or down, which is what the Washington Post says we should do.

Mr. SCHUMER. Will my colleague yield for a question?

Mr. HATCH. I know Senator DOMENICI has been waiting a long time.

Mr. SCHUMER. Sir, I was waiting longer than Senator DOMENICI. If my colleague will yield?

Mr. HATCH. No. Senator DOMENICI has been waiting for well over an hour. And, well, I am not yielding the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. DOMENICI. Mr. President, might I ask the distinguished Senator from Utah how much longer he intends to speak on this round?

Mr. HATCH. Well, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

## THE ECONOMY

Mr. DOMENICI. Mr. President, I would like to discuss for a few minutes with the Senate, and those who are interested in what we are doing here, first, the issue of the American economy and what we ought to be doing about it because the other side of the aisle—the Democratic leadership in the Senate—has decided that they are not going to permit us to vote on a most eminently qualified nominee, whose qualifications I will discuss shortly.

They come to the floor and discuss an issue—to wit, the American economy and the plight of the American worker—as if they can do something about that problem, as if they have a solution to the economic woes in this country, as if they could do something in the Senate that would help the working people.

They have no plan. The plans they have submitted are, according to most economists, far inferior to the only plan we have, and that is the plan of the President of the United States.

Nobody should be fooled by this discussion. We can take to the floor for the next 5 weeks and have speeches by the other side of the aisle claiming that they are concerned about the working people, that we have problems in the economy, but none of that will do anything to help the American people. If we know how to help them, we have to do something. And to do something, we have to act in the Senate and the House or the President has to act. As a matter of fact, the Budget Committee, which is currently chaired by the distinguished Senator from Oklahoma, Mr. NICKLES, which I used to chair, and which 3 years ago was chaired by a Democrat because they were in control, has to produce a budget before we can do anything.

So in response to all the rhetoric, we can take no action until we have a

budget that lays forth what we will do, when we will do it, and how we will do it.

I submit that the chairman of the Budget Committee this year will produce a budget on time. It will come to the floor on time. I predict it will be passed on time, as compared with last year when the other side of the aisle was in charge of the budget. They produced no budget. They came to the floor and said: We can't produce it because it is too hard and we don't have the votes. So we did nothing. Isn't that spectacular, that the leadership on that side of the aisle, the last time they were charged with doing something for the American people with a budget, punted? They punted. They had no plan. They produced none.

Today, when we have a bona fide issue that we can do something about—that is, appoint a circuit court judge who is qualified—they have the effrontery to come to the floor and engage in a discussion as if a discussion about the plight of the American worker would solve the problems of the American worker. What will their discussions do for the American worker? Do they have some grand plan they want to come down here and talk about? They have been doing it in spite of whatever the debate is. They have been talking about whatever plan they had. I have not seen it foment any great enthusiasm on the part of those who are worried about the American economy, unless it is themselves talking to themselves. I have heard no great group of American economists saying: Boy, they have a great plan to help the American workers. Quite to the contrary.

There is only one plan around that has significant support. And if they want to change it, they will have their opportunity. But it will not get changed with speeches. It will get changed when the bills come to the floor. They will be here in due course. As a matter of fact, they will be here faster than they ever got here when the Democrats were in control.

We have a commitment from the chairman of the Budget Committee that it will be here on time and that it will be a plan that will be voted on by that committee and presented to us so we can vote on it on behalf of the American people. That side will have their chance to amend it, if they can. That is what we are going to do. We are going to start that and then move it right along. We will move it more expeditiously than it has ever been moved before because we have the will, we have the leadership in the White House, and we understand that we have to produce a budget resolution with the requisite mandates to the committees of the Senate to reduce taxes in whatever way we collectively want, be it the President's wishes or some other plan. But we have to do it—not speeches, not coming down here and creating something sort of a let's have another showdown here on the floor, let's talk about the economy because we don't want the Senate to vote on the issue that is justifiably before us—to wit, whether or not Miguel Estrada is entitled to have a vote.

I thought it might be interesting to look at a few comparisons. I took some of these judges who sit on the DC Circuit. Let's see how they compare with the nominee and what happened to them as they came before the Senate.

We have Karen Henderson, appointed by George Bush; we have Justice Rogers and David Tatel; then we have Miguel Estrada. Let's look at a comparison. These judges are there on the bench, they were appointed and confirmed. Here is one from Duke University, Judge Henderson, who attended the University of North Carolina Law School. It is interesting, as far as other things are concerned that those candidates did to prepare them to sit on the bench, such as Circuit Court clerkships, Supreme Court clerkships, and Federal Government service. Look, these others had none. Yet, they were deemed to have had adequate experience to go on the bench. And Miguel Estrada is not.

Look at what he has done compared to them. Just look at the list. Obviously, he graduated from a comparably good law school. His is Harvard. One of theirs was Chicago. One of theirs was Harvard. One was North Carolina. And then look at all the other things he has done. Yet they say he is unqualified. But these two—these three get appointed. They are serving, and they are apparently qualified.

Look at the really important issue. Look at how long it took this judge from the time her name was submitted to take her seat on the bench—51 days. No aspersions on this judge. She must be great. She got there in 51 days. But she had none of the experience Miguel Estrada had. She graduated from a good law school, certainly. And she went to an undergraduate school, got a degree at Duke, a great university.

But how about experience, the experience of being part of the Attorney General's Office of the United States, which this candidate did under a Democrat and a Republican, a circuit court clerkship, Supreme Court clerkship? They had none of that, and look at how quickly they got appointed: 51 days, 113 days, 108 days. Look at Miguel Estrada: 650 days and counting since he was recommended until today while they continue to say: No vote.

Again, we have a lot of time in the Senate. So the Democrats can come down here this afternoon, and nobody is going to keep them from debating the economy. If they want to equate a debate in the Chamber of the Senate about the economy and call it 2 million to 1, or whatever words they were using, let them have it. It doesn't do anything to help the American people and the working man. What it does is detract from the fact that they want to change the precedent of this institution.

I am hopeful that before we are finished, good leaders on that side of the aisle, including the distinguished minority leader, will exercise some common sense about the future of the Senate and the appointment of Federal judges. The future of this institution as an institution that is supposed to look at the Presidential nominees and work with Presidents and then indicate whether we want to approve them or not is in real jeopardy because they are about to say that from this day forward, because of their stubbornness about this nominee, they are going to change the rules so that judges will need 60 votes, not the majority rule that we thought existed.

I will not yield to my good friend. I see him standing out of the corner of my eye, and I will save his words. Please understand, I will yield soon.

So what they would like to do is to change from 51 votes being necessary to approve judges of the United States under our Constitution—because of what I perceive as nothing more than an unfounded fear—and you know, their fear is not the one that has been expressed. Their fear is that this young man will be a great judge and, besides that, he is Hispanic, whether you want to argue, as some would, that a Honduran who is Hispanic is not Hispanic, which is a most incredible argument. If we were to start that across America when we are talking about Hispanics, we are going to have to decide which one is Hispanic, and if a Honduran with his family name is not one, as some would say on that side of the aisle, that is pure, absolute lunacy.

So they are going to say we don't want him there, but it is not because they fear him as a circuit court judge. They fear him because he is then, if he sits on the circuit court, a legitimate, potential U.S. Supreme Court member. We have not had one who is Hispanic. They are frightened to death. While all of their fear is illegitimate, some of it is selfish fear because they think their party should be the one that nominates a Hispanic who would be on the U.S. Supreme Court. They think that because Hispanics are predominantly members of the Democratic Party, they should be the party that puts into position a Hispanic who might go to the highest bench in the country.

I believe that is a terrific burden to place on this young man, who at this early age has accomplished more, by way of experience, legal accomplishments, and academic accomplishments, than any of the members sitting on the circuit court today.

I finished talking about those judges who were far less experienced and how long it took them to become judges. Now I will take these judges who have comparable experience to Miguel Estrada. I find that by looking in the records and seeing what they did. In addition to the law schools and undergraduate, it looks like circuit court clerkships, looks like Supreme Court

clerkship, looks like Federal Government service are pretty much equivalent to what Miguel Estrada has. Look here, it took only 15 days from the time of nomination to confirmation. Raymond Randolph, appointed by George Bush, attended Drexel University; graduated from Pennsylvania Law School, summa cum laude, much like Miguel Estrada; who was a circuit court clerk for a Second Circuit Judge; Assistant Solicitor General and Deputy Solicitor General. That is much like Miguel Estrada. It took 66 days from nomination to vote. A comparably equipped nominee, it took 66 days.

Another one is Merrick Garland, appointed by President Clinton, graduate of Harvard, summa cum laude; Harvard Law School, circuit court clerk, special assistant—very much the same as Miguel. That took only 71 days. Isn't that amazing? Very comparable credentials. This man has been waiting 650 days—Miguel Estrada—and it is continuing day by day.

I don't get a chance to come down here as frequently as some, although Senator NICKLES and I agreed many months ago that we would be special friends to Miguel Estrada and help him as he moved through here. He has so many helpers in a job that is very simple. Senator NICKLES spoke yesterday and he referred to that special kinship. I haven't been here as often as some but I have heard some very good speeches. I heard some very good efforts on the part of the other side of the aisle to justify the delays that are taking place. Some have wondered whether it does any good for Republicans to insist that this man be given an up-or-down vote, and that whatever is occurring on the other side of the aisle—I have given you four or five reasons it may be occurring—but I suggest our effort is doing some good.

I will tell you that in my State three newspapers over the weekend announced in open and bold editorials that the Democrats should stop the filibuster, retreat from it, and get on with the vote. One of them is a newspaper known as the Santa Fe New Mexican. Obviously, those who know our State know that this paper—a very old newspaper—is certainly not a conservative newspaper. They say in their editorial—the lead words are—Bingaman—meaning our Senator—''Bingaman should lead the Dems' filibuster retreat.'' They have a very lengthy discussion of why my colleague, the junior Senator from New Mexico, should lead the Democrat retreat from the filibuster that is working its way on the Democrat side. I ask that the editorial be printed in the RECORD.

[From the Santa Fe New Mexican, Feb. 24, 2003]

BINGAMAN SHOULD LEAD DEMS' FILIBUSTER RETREAT

As legendary prizefighter Joe Louis said of an upcoming opponent reputed to be fast on his feet: ''He can run, but he can't hide.''

Senate Democrats, along with the Republican majority, fled Washington last week as their way of honoring Presidents' Day. The annual recess suspended their filibuster against a federal judgeship vote. The Dems are making an unwarranted stand, and an unseemly fuss, over the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit.

The filibuster—protracted talking under senatorial privilege—had consumed a week of debate about Estrada before the senators left town. Now they're gravitating back to the Potomac, and the Dems can hide no longer. Resumption of their verbose balking will make them look ridiculous—at a time when the nation needs statesmen to stand up against the White House warmonger and his partisans commanding Capitol Hill.

The Democrats have chosen a particularly poor target: Estrada, who came from Honduras as a boy and went on to lead his law class at Harvard, is better qualified than many a Democratic appointee now holding life tenure on one federal bench or another.

But after confirming so many less-qualified judges while they held power, Estrada's senatorial tormentors now offer ''reasons'' why he shouldn't be confirmed; too young; too bashful about answering leading questions; appointed only because he's Hispanic—or, to some senators' way of thinking, not Hispanic enough.

What really rankles with the Democrats, though, is Estrada's politics. He's a conservative. Surprise, surprise; we've got a conservative president, and it's the president who makes the appointments to the federal judiciary.

As the party on the outs, the Dems had better get used to like-minded appointments from the president. If their game-playing goes on, a disgusted American public might keep George W. Bush in office for the next six years. The country certainly didn't see any reason to balance Bush against a Democratic Congress when it had a chance just a few months ago. With their spiteful behavior toward Bush appointees, the Dems aren't exactly gaining goodwill.

If they find the Republican so repugnant, let 'em vote against him; at least they'll be putting their ideals—or their party colors—on display. But this is no Mr. Smith against some diabolical establishment; it's a bunch of sore losers making themselves even more so.

To break a filibuster by cloture takes 60 senators. The Senate's 51 Republicans need nine of the 48 Democrats, or eight of them and ex-Republican Jim Jeffords of Vermont.

New Mexico's Jeff Bingaman should lead the Democratic blockade-runners. By all measures, Bingaman is a class act; a lawyer who knows that senators have no business obstructing appointments on purely political grounds. He also knows that Republicans aren't going to hold the White House forever; that sooner or later a Democratic president will be choosing judges. And he realizes that Republicans, like their mascot, have long memories.

The last thing our justice system needs is an ongoing feud over appointments to district and appellate judgeships. Let Judge Estrada's confirmation be a landmark of partisan politics' retreat from the courtroom.

Mr. DOMENICI. Mr. President, we have a rather active University of New Mexico newspaper. It is named the Daily Lobo, after the athletic team. They have a columnist there, Scott Darnell, who wrote:

Miguel Estrada isn't probably someone with an immense amount of name recognition—yet.

That is this University of New Mexico editorial comment. Then they proceed to quote the distinguished Democratic Senators who have in the past stated that we should not filibuster Federal judge appointments. They cite TED KENNEDY, our distinguished Senate colleague, and PATRICK LEAHY, our distinguished colleague, and they quote from them as to why we should not use a filibuster when it comes to the appointment of judges.

Of course, the editorial asks, Why now? The editorial proceeds to talk about this young judge and his great qualifications. It indicates that we should not make this mistake in changing what we have been doing for so many years and create a 60-vote requirement for a judgeship.

Then the third article is from the largest newspaper in the State—the Albuquerque Journal. They have a very lengthy editorial piece. The headline is ''End Filibuster, Put Court Nominee to Vote.'' That is the daily Albuquerque newspaper. They merely conclude that the time has come. That is from my home State. I suggest when you put the three together, they have gotten the message very well. They have heard both sides. They quote arguments made on the other side and find them without merit, and they proceed to indicate that, without question, the time has come to have a vote.

I ask unanimous consent that those two articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Albuquerque Journal, Feb. 24, 2003]

END FILIBUSTER, PUT COURT NOMINEE TO VOTE

What the Colt revolver was on the dusty streets of the Old West, the filibuster is on the floor of the U.S. Senate: The great equalizer gives 41 senators the ability to bring the chamber's business to a halt.

The tactic should be unholstered only on issues of high principle or grave importance. Considering the issues currently confronting Washington, the judicial nomination of Miguel Estrada does not rise above partisan wrangling. To block a vote on his appointment to the U.S. Court of Appeals for the District of Columbia Circuit is an abuse of the filibuster.

Democrats say the filibuster is justified because too little is known about Estrada and he has not been forthcoming about his judicial philosophy.

New Mexico Sen. Jeff Bingaman said Friday he has not made up his mind about backing continuation of the delay tactic, and echoed the Democratic indictment of the Honduran immigrant as a stealth conservative.

''Obviously, you become suspicious of a person's point of view if he won't answer questions,'' Bingaman said.

Let's get on past mere suspicions of Democrats and declare guilt by association. Estrada is the choice of President Bush. His views doubtlessly come closer to mirroring Bush's than those of left-leaning Democrats or those of Clinton's judicial nominees.

Feminist Majority president Eleanor Smeal, for one, doesn't need any more information about Estrada to know that in blocking him, ''the Democrat leadership is giving voice to its massive base of labor, civil rights, women's rights, disability rights, environmental, gay and lesbian rights groups.''

Oh, then this is about constituent politics.

There's another constituent-oriented facet: Miguel Estrada is a successful immigrant, current front-runner to become the first Hispanic Supreme Court justice and an obvious role model—in short, a poster boy for Republican recruitment of minorities away from the one, true political faith.

This isn't about suspicions; Estrada is Democrats' worst nightmare from a partisan perspective.

From a personal perspective, Democrats who have worked with him in the Clinton administration have high praise. Seth Waxman, Clinton's solicitor general, called Estrada a ''model of professionalism.'' Former Vice President Al Gore's top legal adviser, Ron Klain, said Estrada is ''genuinely compassionate. Miguel is a person of outstanding character (and) tremendous intellect.''

During Judiciary Committee hearings in September, Estrada said: ''although we all have views on a number of subjects from A to Z, the first duty of a judge is to a put all that aside.''

That's good advice for a judge, and it's good advice for senators sitting in judgment of a nominee. Put aside pure partisan considerations; weight Estrada's qualifications, character and intellect; end the filibuster and put this nomination to a vote.

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[From the Daily Lobo, Feb. 24, 2003]

ESTRADA NAYSAYERS HYPOCRITICAL

(By Scott Darnell)

Miguel Estrada isn't probably someone with an immense amount of name recognition—yet.

President Bush appointed him to an open seat on the U.S. Court of Appeals, District of Columbia Circuit on May 9, 2001; he immigrated to the United States from Honduras when he was 15 years old, graduated from Harvard Law School magna cum laude in 1986, has been a clerk for a Supreme Court justice, an assistant U.S. attorney and the assistant solicitor general, among other stints in private practice. He is supported by many national organizations, including the Hispanic Business Council, the Heritage Foundation, the Washington Legal Foundation and the Hispanic Business Roundtable.

Unfortunately, Estrada's confirmation has been delayed and prevented by many Democrats within the Senate, an action fueled by many leftist groups, organizations and lobbyists in America. Currently, Senate Democrats are planning to, or may actually be carrying out, an intense filibuster against Estrada's nomination; filibustering, or taking an issue to death, is definitely a method for lawmakers to prevent a policy or other initiative from ever coming to fruition—ending a filibuster is difficult, especially in our closely divided Senate, taking a whopping 60 votes.

The most unfortunate part of the Senate Democrats' obstruction on Capitol Hill lies in the fact that many high-ranking Senate Democrats have at one time condemned nomination filibusters quite harshly, leaving their intense efforts to carry out a filibuster today very hypocritical. For example, Patrick Leahy, the senior Democrat on the Judiciary Committee, said, from Congressional Record in 1998, that ''I have stated over and over again . . . that I would object and fight any filibuster on a judge, whether it is somebody I opposed or supported.''

Sen. Ted Kennedy said, from Congressional Record in 1995, that, ''Senators who feel strongly about the issue of fairness should vote for cloture, even if they intend to vote against the nomination itself. It is wrong to filibuster this nomination, and Senators who believe in fairness will not let a minority of the Senate deny [the nominee] his vote by the entire Senate.''

Finally, Sen. Barbara Boxer, from California said, from Congressional Record in 1995, that, ''The nominee deserves his day, and filibustering this nomination is keeping him form his day.''

It seems people can change quite a bit in only a matter of years.

But why are Senate Democrats and many leftist organizations so dead set against Estrada's nomination? The obvious answer lies in the fact that the court he is being nominated to is considered the second-highest court in the nation and often times though of as a stepping stone to the Supreme Court.

Secondly, Senate Democrats and organizations such as the NAACP or the AFL–CIO recognize Estrada's ethnicity—they recognize his heritage and the future he is making for himself—but let's face it, he's just the wrong type of minority. He's Hispanic and these politicians and organizations are all for the pro-active advancement of Hispanics, just not his type of Hispanic. The National Association for the Advancement of Colored People is now going to read ''The National Association for the Advancement of Colored People Who Believe in ONLY Leftist Principles and Ideology.''

Miguel Estrada will not, while in whatever courtroom he may preside over, pander to the interests of those who wish to establish and ingrain a persistent racial inequality in America, those who do not now carry out the legacies of past civil rights leaders, but instead bastardize those past efforts by forcing racial tension upon Americans to keep society at their beck and call while gaining personal notoriety, prestige and wealth.

If the Senate Democrats try to filibuster Estrada's nomination, they will be holding back debate and action on the immediate national and foreign issues affecting this country, such as creating and passing the appropriate economic stimulus package, among other important topics.

If the Senate feels that Estrada has committed a criminal or moral transgression at some point in his life that would injure the integrity and standing of his service as justice of one of our nation's highest courts, they should provide sufficient evidence to that end and take whatever measures necessary to disallow a moral or actual criminal from taking the bench. But, in this case, no such criminal or moral transgression can be seen, and the argument against his nomination is purely idealogical; a filibuster would represent a blatant obstruction of our political system and a disservice to the American people. So, as Democratic Sen. Barbara Boxer put it so succinctly a few years ago, ''Let the nominee have his day.''

Mr. DOMENICI. Mr. President, I repeat, it is one thing to delay; it is another thing to talk a lot; and it is yet another thing to attempt to get the issue that is before us and find a way around it and cloud the issue. That is all that is happening this morning with the discussion by the Democratic leadership, joined by certain Democratic Senators, when they argue that Republicans, by insisting that we vote on this nominee, are in some way failing to do justice to the economic problems that exist in our country.

I hope it doesn't take a lot more discussion for people to understand that is absolutely an untruth. It is an absolutely irrelevant argument. They can talk all they like about the economy and quit talking about Miguel Estrada and not one single thing will happen to benefit the American workers, not one thing.

We need to do something, and what we must do is decide whether we want the President's plan or some modification of it. The only way we can do that is to move with dispatch on the issues before us, those issues, in the way prescribed under our rules. There is no one suggesting we should throw away our rules and pass a plan tomorrow morning. Nobody is suggesting we do that.

In due course, in the matter of only a few weeks, we will be voting on whose plan should be adopted to help the American economy move forward.

I submit that the facts are overwhelming that the arguments against Miguel Estrada are not justified. Those arguments do not justify these delays.

I yield the floor.

## RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:30 p.m.

Thereupon, the Senate, at 12:30 p.m., recessed until 2:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

## EXECUTIVE SESSION

### NOMINATION OF MIGUEL A. ESTRADA, OF VIRGINIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA—Continued

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, nearly 2 years ago, President George Bush nominated Miguel Estrada to serve on the U.S. Court of Appeals for the District of Columbia. When confirmed, he will be the first Hispanic member of this court. But the other side of the aisle has stalled. In fact, as I look back, we have been on this particular nomination since February 5. The other side has continued to stall this nomination, preventing something that is very simple, that I think the American people now understand, and that is a very simple up-or-down vote.

Every Senator in this body can decide either they support this nomination or they do not. Earlier today, attempts were made from the other side of the aisle to bring up other legislation with the call that it is time to move on, and I agree; it is time to move on. We have had hours and days and nights to debate and discuss the opportunity given to both sides of the aisle, and now it is time for us to vote on this nominee.

For nearly 2 years, the nomination of this man—now, remember, the American Bar Association has deemed him well qualified—has languished as some in this body have played politics with his future. They have consistently refused to give Miguel Estrada this very

simple right, I would argue, and that is an up-or-down vote.

In fact, the tactic, which is a filibuster—and the American people understand it is a filibuster—is something my colleagues on the other side of the aisle have said they would not use, filibustering of such a nominee. They have said that in the past. Yet they are filibustering this nomination on the floor of the Senate. We feel that is wrong. We will continue to fight for this up-or-down vote for this qualified nominee.

We came back from a recess yesterday. It is fascinating as we look around the country, even the newspapers, if we look at the top 57 newspapers—I do not think one can say the top 57, but to read what 57 major newspapers in this country are seeing and saying in terms of their editorials, indeed, 50 newspapers from 25 States and the District of Columbia have editorialized either in favor of the Estrada nomination and/or, I should say, against this filibuster of a nominee, in essence saying, yes, please give him an up-or-down vote.

It seems, because we are demanding a supermajority to become the standard, that the other side of the aisle is holding this Hispanic nominee, Miguel Estrada, to a higher standard than any other nominee to this court has ever been held. I think this is wrong. It is unreasonable, using a filibuster and forcing a judicial nominee to effectively gather 60 votes rather than 50 votes for confirmation. It sets a new and unreasonable precedent.

In the sense of fairness, I once again appeal to my colleagues on the other side of the aisle to give us that vote. Clearly, Senators have had adequate time to debate this nominee. I myself have come to this floor on five separate occasions to attempt to reach an agreement with the other side of the aisle for a time certain for a vote on the confirmation, and each time my Democratic colleagues object to giving him a simple up-or-down vote.

The two arguments I am hearing from the other side of the aisle are, one, they want unprecedented access to this confidential memoranda and, secondly, they need more information.

The first, to my mind, is a specious argument. It has been talked about again and again on the floor. It is almost a fig leaf because they know it cannot and should not be complied with.

I do want to address the second argument very briefly, not so much in substance but in terms of how we can bring this matter to a conclusion for the American people and for this nominee, so we can get to an up-or-down vote, and that is if they really feel there are specific questions that have not been answered, to reach out and figure some reasonable way to get the information to those questions. Again, outside of the rhetoric that flows back and forth and outside the heat of the argument, in the spirit of working together, I do want to suggest we work together on both sides of the aisle—and I would be happy to do it with the Democratic leader or his representative—toward putting together a reasonable list of questions that Members may wish to pose to Miguel Estrada. I would hope that once we agree upon the questions, submit them, and get the answers back, that process would allow us to come back to what I think we should be able to turn to immediately, but with the filibuster we are unable to, and that is to have a vote this week on the nomination.

I am really talking more process at this point, with an appeal to the other side for us to put together questions to submit and, once we receive those answers, be able to have a vote this week. Thus, I ask unanimous consent that the vote on the confirmation of the nomination of Miguel Estrada occur at 9:30 on Friday, February 28.

Before the Chair puts the question, I would add, and I want to stress, that I will work toward getting answers to any reasonable list of questions that could be worked out on both sides of the aisle.

The PRESIDING OFFICER. Is there objection?

The Senator from Nevada.

Mr. REID. I ask the majority leader to modify his proposal in the following manner: I ask unanimous consent that after the Justice Department complies with the request for documents we have sought, namely the memoranda from the Solicitor's Office which were first requested on May of 2001, the nominee then appear before the Judiciary Committee to answer the questions which he failed to answer in his confirmation hearing and additional questions that may arise from receiving any such documents.

Mr. FRIST. Mr. President, I will not modify my unanimous consent request as spelled out.

Mr. REID. I object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Texas.

Mrs. HUTCHISON. Mr. President, as we have just heard from our distinguished majority leader, the Senate has had the nomination of Miguel Estrada since May 9, 2001. This man has been waiting for confirmation for almost 2 years. This is the most qualified person who has never gotten a vote in the Senate. In fact, the American Bar Association rated Miguel Estrada unanimously well qualified, the highest possible rating. Never before have Senators filibustered such a nominee.

Mr. Estrada would be the first Hispanic to serve on the Nation's second most important Federal court, adding diversity to our judicial system. Miguel Estrada's nomination is supported by a number of Hispanic organizations, including the Hispanic National Bar Association, the League of United Latin American Citizens, and the U.S. Hispanic Chamber of Commerce. The Austin American Statesman wrote last Friday: If Democrats have something substantive to block Miguel Estrada's confirmation to the U.S. Court of Appeals for the District of Columbia, it is past time they share it.

Miguel Estrada's nomination was announced in May of 2001 and has been held hostage since by the Senate Democrats who have yet to clearly articulate their objections to him.

Mr. Estrada is widely regarded as one of the Nation's top appellate lawyers, having argued 15 cases before the Supreme Court of the United States. He is currently a partner in a Washington, DC, law firm and practices law. He is truly an American success story.

Miguel Estrada emigrated to the United States from Honduras at the age of 17, speaking very little English. He graduated magna cum laude from Harvard Law School and served as a law clerk to U.S. Supreme Court Justice Anthony Kennedy. He has been in the judicial system. He is an esteemed academic. He has a stellar record. Yet Miguel Estrada cannot get a vote on the floor of the Senate. He has been a highly respected Federal prosecutor in New York City. He served as Assistant Solicitor General under President George H.W. Bush for 1 year and under President Clinton for 4 years.

His nomination has broad bipartisan support, including support from high-ranking Clinton administration officials such as former Solicitor General Seth Waxman and Ron Klain, the former counselor to Vice President Al Gore.

Mr. Estrada has worked throughout his career while he has been in the public sector and the private sector to uphold our Constitution and preserve justice.

That we cannot get a vote on this qualified man is incredible. I am afraid it could be the beginning of a precedent that, in my opinion, is unconstitutional.

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.

However, today we are changing the Constitution because we are, in essence, requiring 60 votes to break a filibuster in order to confirm this judge, Miguel Estrada. Why have we set a bar of 60 votes for this man? What is the thought process of the Democrats who are filibustering this appointment that they would substitute a 60-vote requirement for the constitutional provision that has always meant 51 votes or a majority of those present, a simple majority? And yet we are setting a new bar, a 60-vote bar, without going to the people, without going through the process of a constitutional amendment. This is not right. This man has been pending for 21 months.

We are now in the Chamber. He has come out of committee. We are in the Chamber trying to get a vote of a simple majority to put the first Hispanic on the DC Court of Appeals, a Hispanic who graduated with honors, magna cum laude, from Harvard Law School, with years of experience as one of the most highly esteemed appellate lawyers in America, and we cannot get a vote on Miguel Estrada.

Let me read some of the editorials that have been written about this nomination. On February 18, 2003, the Washington Post wrote:

The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together to prevent the full Senate from acting. The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.

Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.

Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised a substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway—just for good measure. It's long past time to stop these games and vote.

Mr. President, the Washington Post has shown the fallacy of all the arguments that have been thrown out there against Mr. Estrada: Well, he did not answer questions; well, he is too young; well, he is not Hispanic enough.

Give me a break. This is ridiculous. This is a man who is one of the most highly qualified appellate lawyers in America, who has a stellar academic record, who has a stellar reputation in public life, who has strong bipartisan support, and who cannot get a vote in the Senate because he is being filibustered.

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. It is setting a new standard that Democrats and Republicans before have always agreed would never be done. When Democrats were in control, they did not filibuster nominees or they did not allow filibusters of nominees by Republicans, and Republicans are in control. And we are asking for the same courtesy, the same tradition, and, in fact, the same respect for the Constitution. The Constitution says advise and consent. When the Constitution requires more than a 51-vote margin or a simple majority, it so states. That is not the case in confirmation of judges, and it has not happened before on a partisan basis. There was one bipartisan filibuster. There has never been a partisan filibuster before.

There is no controversy about this nominee. There have been controversies before—controversies where you could legitimately see a difference in qualifications or in background issues or in experience issues. None of that applies to this nominee.

I think it is time the Democrats state if there are real objections. For instance, if there are more questions to be answered, have another hearing, or submit the questions in writing and let Miguel Estrada have a chance to answer these questions. Miguel Estrada has offered to go and visit with many Democrats who have not found the time to be able to see him. Yet we can't get a vote in the Senate on this distinguished nominee.

Let me read an article by Rick Martinez from the Raleigh News & Observer:

Once again, a minority is being denied a vote. Democrats in the U.S. Senate have threatened a filibuster to block the confirmation of Hispanic Miguel Estrada, nominated by President Bush to the federal Court of Appeals for the D.C. circuit.

If Estrada were applying to the University of Michigan law school, Democrats, it seems, would support giving him 20 points just for being Hispanic. Given the party's unqualified support of affirmative action, why shouldn't it ante up to 10 or 15 Senate votes for confirmation simply because of his ethnicity? Goodness knows that Hispanics, now the nation's largest ethnic group, are largely unrepresented in the federal judiciary.

Democrats counter that their opposition is based on Estrada's views and qualifications. If so, at what point along the ladder from law student to the federal bench is race no longer relevant?

For Democrats, it was when Estrada stepped on a rung they viewed as conservative. Once that ideological line was crossed, all the benefits of affirmative action—increased representation, diversity of social experience, providing an example for minority youth—no longer applied to the Honduran-born lawyer.

Mr. Martinez says:

The whole Estrada tiff is the latest warning to Hispanics that racial politics is about power, not equality. Hispanics have been given fair warning that those who wander off their pre-assigned ideological plantation will pay a heavy price. Ethnic hit man, Rep. Bob Menendez, a New Jersey Democrat, unleashed an ugly personal attack on Estrada by questioning his Hispanic heritage. To date not one Democratic leader has taken Menendez to task for his unwarranted remarks. That they came from a man with a Latin surname doesn't make them any more legitimate or any less offensive than if they came from Sen. Trent Lott.

Democrats, write this down. We Hispanics don't all look alike, we don't all think alike, and God has yet to appoint Menendez to pass judgment on our ethnicity. Ideology has never been an ethnic prerequisite, and it shouldn't be for one on the federal bench either.

There are approximately 50 editorials written throughout the country about the qualifications of this man. This one written by Rick Martinez in Raleigh, NC, basically says there is a different standard for Hispanics—that Hispanics are not a monolith and they shouldn't be judged as a monolith. In fact, Miguel Estrada is one of the most qualified people—not one of the most qualified Hispanics, one of the most qualified people who—have ever been nominated for an appellate court in our country. He has the experience. He has the background. He has the academic credentials. And he has a reputation that is sterling. Yet we can't get a vote on Miguel Estrada.

I hope those who are refusing to allow a vote on Miguel Estrada will listen to the League of United Latin American Citizens—LULAC—which has come out strongly for this qualified man and that does not really understand why there is a different standard being set for him than is being set for other appellate court nominees.

I urge my colleagues to listen to the Hispanic National Bar Association president, who represents 25,000 Hispanic American lawyers in the United States, endorsing Mr. Estrada, the National Association of Small Disadvantaged Businesses, which came out in

strong support of Mr. Estrada, and a bipartisan group of 14 former colleagues in the Office of the Solicitor General at the U.S. Department of Justice who have come out foursquare for Miguel Estrada.

There is no legitimate reason being stated not to give Miguel Estrada a vote. To say that he didn't answer questions, if legitimate—if they would ask him questions and let him answer them, but they haven't. Saying he is too young is ridiculous; saying he is not Hispanic when he came to our country from Honduras at the age of 17 speaking little English—and he wanted a part of the American dream. But he didn't want it given to him; he wanted to earn it.

He worked his way into Columbia University and was a Phi Beta Kappa. He worked his way into Harvard Law School and graduated magna cum laude. He worked to get a partnership with a major law firm after being a Supreme Court Justice clerk which is reserved for only the best graduates of law schools in our country.

This man deserves a vote. He deserves the respect of the Constitution, and he is not getting it as we speak today. 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.

I hope the Senate will do the right thing. If there are legitimate questions, raise them. Let Mr. Estrada answer them. But this man deserves a vote, and the Constitution deserves respect and adherence by this body.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask for permission to speak on behalf of Miguel Estrada.

The PRESIDING OFFICER. The Senator is recognized.

Mr. CHAMBLISS. Mr. President, I am still new to this body having been here less than 2 months at this point in my career in the Senate. After spending 8 years in the House of Representatives, I am still feeling my way through with respect to finding the microphone, and things like that.

I am somewhat at a loss when it comes to the process through which we are now going. It is totally unlike any type of process that I experienced in the House of Representatives because we don't confirm judges anywhere except in the Senate. I spent 26 years as a lawyer before being elected to the House of Representatives. In my 26 years as a lawyer, I tried hundreds of cases, and on appeals dozens and dozens of cases, and I had a number of opportunities to appear before both trial judges and appellate judges, on a variety of different issues.

At any one moment before an appellate court, you can pretty well look at a judge and tell whether or not that judge has done his homework on your issue. You have a sense of whether or not he has the intellect to interpret the issue and be very responsive to your argument. And if you ever find a judge who is not responsive, you can check his background, and you may find out that maybe he did not have the intellect to follow the course of your argument.

So when I look at the background of Miguel Estrada and try to decide whether or not, were I to appear as a lawyer before him, he would be the type of individual to whom I could make an argument and have him interpret that argument, even though it is on a very complex issue, I believe he would be. I have to tell you, his is one of the most unusual profiles I have ever seen of any member of the bar, much less any potential member of the bench.

It is unusual not just because his is a true American dream story. It is unusual because this man, as a practicing lawyer in public service and in the private sector, has distinguished himself above all other lawyers with whom he has ever been associated.

He is a man who has distinguished himself by coming to the United States, not speaking much, if any, English, and not only attending major universities, but graduating from those universities with high honors: from Columbia University with an undergraduate degree, and Harvard Law School with a law degree.

At Harvard Law School he was a member of the editorial board of the Law Review. And those of us who went to law school know there are only a few Law Review editorial board members. I can still remember in my law school class those who were members of the law review. Out of my class, of the 200 who started in law school, there were—I think about five of them—who were members of the Law Review. So it is a very distinct intellectual group of students who make the Law Review. And the editors of the Law Review are the elite of those very few who are designated with law review status.

The intellectual background of this man is unquestioned. He does have the capability of interpreting and deciphering any complex issue that might be presented to him as a member of the appellate court bench.

So when I think about, again, appearing before a man with his type of background, to argue a complex case, I think it would be wonderful to know you have somebody with the qualifications and the capability of Miguel Estrada to really listen to your argument and make the kind of decision every lawyer wants to have made on his or her particular case.

One thing that confuses me about Miguel Estrada's nomination is, I was told while I was in law school that I should join the American Bar Association as a student. And I did. I was a very active member of the American Bar Association in my small, rural community in Georgia for all of the 26 years I practiced law.

The American Bar Association is a very well respected, very highly recognized peer group within our profession. The American Bar Association was asked to review Mr. Estrada, as they review every other judicial nominee, and to make a recommendation to this body as to whether or not he is qualified to be confirmed by this body to the District of Columbia Circuit Court. They came back and said: Not only is he qualified, not only does he possess the academic and intellectual and legal background to serve on the Circuit Court for the District of Columbia, but he is well qualified. We are giving him the highest recommendation that lawyers can give to a lawyer who seeks confirmation to any court.

As a member of the Judiciary Committee, I have already seen that we have some judges who come through the committee who do not receive the highest recommendation from the American Bar Association, but nevertheless get confirmed by this body. And they should, because everybody is not going to get that highest qualification recommendation from the American Bar Association.

But Mr. Estrada got the highest qualification from his peers—those men and women who practice law with him, who talked to other lawyers who practiced law with him, who know how he functions day in and day out in the practice of law, who know his temperament and his capabilities as well as his ability to serve in the capacity of an appellate court judge. And for that body to come forward and say, we are going to give him the highest recommendation possible is just another one of the assets he brings to this body from the standpoint of confirming his nomination.

I was not here when Mr. Estrada had his hearing before the Judiciary Committee. That took place in September of last year when the committee was controlled by the Democrats. At that point in time, from what I read in the record, Mr. Estrada appeared before the Judiciary Committee for a full day's hearing. Every member of the Judiciary Committee had the opportunity to ask Mr. Estrada any question they wanted to. And they did.

There has been some question about whether or not he was totally forthcoming in his answers, whether he gave complete responses to the questions that were asked of him. Well, in addition to having the opportunity to ask Mr. Estrada questions at the time of his hearing, whether Mr. LEAHY was chairman or now with Mr. HATCH as chairman, the members of the Judiciary Committee always have the opportunity to submit written questions in addition to those questions that are asked at the hearing.

If a Judiciary Committee member is not satisfied with answers to questions he or she asked, he or she simply has the right to come back and say, I want

you to go into further detail with respect to this particular issue, to tell me whatever it is I want to have answered. Only two members of the Judiciary Committee came forward and said: We have additional questions we want to ask. Those two were both Democrats. They had the right to do it. They did it. And I respect them for coming back with additional questions when they felt they did not get totally complete answers. The fact of the matter is, though, those questions were answered immediately by Mr. Estrada.

So for somebody to come forward now on the other side of the aisle and say, we do not think he fully answered our questions, where were they? Where were they at the time of the hearing? Why didn't they come forward after the hearing if they were not satisfied at the hearing and submit additional written questions?

To come to this body now and to say Mr. Estrada was not totally forthcoming at the time of the hearing just shows this particular nomination has dipped itself into the depths of political partisanship. And it is not right.

I am biased. I am a lawyer. I think I am a member of the greatest profession that exists in the United States of America. I think we have a great judicial system because even though a lot of people throw rocks at our system—and I myself even have criticized it from time to time—we have the best system in the world. We have the best system in the world because it works. And people of all walks and backgrounds have the opportunity to have their cases heard by a judge, whether it is Mr. Estrada or a magistrate court judge in Colquitt County, GA. People have the right to have their cases heard.

And now, for somebody to come forward and say, I asked this guy a question, and he did not really answer my question, therefore, I am going to vote against him, I think just throws another rock at our judicial system that should not be thrown.

Referring, again, to Mr. Estrada's qualifications being called into question, this is an issue that has been batted back and forth between political parties. I have listened to an extensive amount of the debate over the past 2 or 3 weeks, both as Presiding Officer as well as on and off the floor. I have listened to my colleagues on the other side of the aisle raise issues relative to Mr. Estrada. In talking about qualifications of anybody to go to the bench, particularly the circuit court versus the district court, you can look at an individual lawyer and say, this man or this woman has appeared before the highest court in the land, the Supreme Court, not once, not twice, not 3 times, but 15 times to argue cases, and he has distinguished himself very well in those 15 arguments. As we all know, sometimes you are on the winning side and sometimes you are on the losing side, but 10 out of the 15 times that Mr. Estrada has been to the U.S. Supreme Court, irrespective of whether he was on the appellate side, which is the losing side going in, or whether he was on the appellee's side, the winning side going in, he has prevailed at the end of the day. So for a guy to argue 15 times before the U.S. Supreme Court and to win 10 of them is a very distinguishable record.

The fact that he even argued cases before the Supreme Court very honestly puts him in a category of lawyers that is the most highly respected group of lawyers that exists in the United States today. There are just not many folks who have the opportunity to argue a case before the Supreme Court. Here we have a man who has argued 15 cases before them.

Another argument I have heard time and time again is that we should be able to see the memos that he submitted to his boss while he was assistant to the Solicitor General. Some believe we should be able to see what was in his mind from a legal perspective, and use those memos to try to determine whether or not he has the judicial qualifications and temperament to serve as a member of the DC Circuit Court of Appeals.

Let me tell you what that is like. As a practicing lawyer, if I have somebody come into my office and I interview them and take notes and I then take their case and go into my law library and do extensive research on the issue for my client to make sure that I am well prepared from a legal precedent standpoint and I then write a memorandum, which I have put in my file to make sure that at the appropriate time—when the case either comes to a hearing or I have an argument with opposing counsel—that memorandum is personal and privileged to me and my client.

What the Democrats have asked for is, to view the collateral memos that were prepared by Mr. Estrada for his boss, the Solicitor General, while he was working in the Clinton administration and while he was working in the Bush 41 administration. That is wrong. They should not ask for it in the first place, but the Justice Department is absolutely right in refusing to produce them. They should not produce those memos because those memos are personal. They are private. They are privileged.

Every lawyer in the country ought to be outraged that the Justice Department is even being asked for those memoranda to be presented to this body for review when they were prepared in a private setting, in a setting in which there was a lawyer-client relationship in existence. Those types of memos have never been allowed to be offered into court for proof of any issue, and they should not be required to be presented here in this body.

Speaking of politics being involved here, again, as a new Member of this body and a new member of the Judiciary Committee, I am having a little trouble understanding the politics of this issue. I could understand it if Mr. Estrada has been a lifelong Republican, had the tattoo of an elephant on him and was a known advocate or radical that held forth extreme positions. I could understand the politics involved in seeking to block this man by the folks on the other side of the aisle.

But that is not the case. Here we have a man who came to the United States speaking little or no English, a man who went to two of the finest schools in America not known for their conservative-leaning students or faculty, Columbia University and Harvard. I don't know where they lean, but they are certainly not conservative-leaning universities.

That is his background. He comes from an administration that was not a conservative-leaning administration, the Clinton administration. He worked for 4 years in that administration. He worked for the Solicitor General in the first Bush administration for a year and then the Clinton administration for 4 years. There is nothing to indicate that this man would have an off-the-wall conservative-leaning philosophy.

I do not understand the politics of somebody coming up and saying: Well, we think he may be too conservative or he may be radical.

Those kinds of statements were made within the Judiciary Committee, and there is simply no basis for them.

The fact is, every Solicitor General who lives today who has worked for any administration, whether it is Republican or Democratic, has come forward and signed a letter saying, No. 1, the privileged memoranda sought to be produced from the Justice Department should not be produced because they will compromise future administrations. They never should be produced. And No. 2, they recommend Mr. Estrada for confirmation by this body.

When somebody in that position makes a statement, it takes it totally out of the realm of politics and puts it in the realm of professionalism, which is where it ought to be. We ought to have good, quality, competent men and women going to the bench.

As a Member of the House of Representatives during the Clinton administration, I had a good friend who was nominated to the District Court for the Northern District of Georgia. She is a good lawyer. She was a really outstanding U.S. attorney. She is not a Republican, but I thought she ought to be put on the district court. She was, in fact, appointed, and she was confirmed by this body because she was a good lawyer. She was the type of person who ought to be on the bench.

The same thing holds true for Mr. Estrada. All you have to do is look at his record. It is pretty easy to tell that he is a good lawyer. When you talk to other lawyers about him, I promise you, in the legal profession, you know very quickly whether or not somebody is well respected and well thought of.

Mr. Estrada has the respect of his colleagues. We have searched high and

low. If anybody has anything negative to say about Mr. Estrada, it has come forward. Only one coworker who he worked with over the years has had anything negative to say about Mr. Estrada.

Do you know what is unusual about that? That same individual, who was his supervisor in the Office of Solicitor General during the Clinton years, gave him a rating on two different years. That review rating that was given to Mr. Estrada was ''outstanding'' by this particular individual who is now the only member of the Solicitor General's Office, or any other place where Mr. Estrada was employed, who has had anything whatsoever, to say in a negative capacity regarding Mr. Estrada.

So whether it is people he worked for, whether you look at his qualifications from an educational standpoint, vis-a-vis an intellectual standpoint, whether it is the Hispanic community that you look to for a recommendation on Mr. Estrada—everywhere you look, he gets nothing but the highest marks, the absolute highest marks.

One other area in which I think Mr. Estrada has really excelled is with respect to what we in the legal community refer to as pro bono work. Pro bono work is done different ways in different parts of the world. In my part of Georgia, a practicing lawyer does pro bono work when he or she takes appointed criminal cases usually. Occasionally, you will represent an individual in a civil matter and you don't get paid for it. That is what we talk about as a pro bono type case. Mr. Estrada has been very active in the world of pro bono service. In fact, he handled one case that was a death row inmate case, which is not the normal type of case that a lawyer of Mr. Estrada's background would handle. But he took the case and, obviously, he did the work necessary to fully, totally, and very professionally represent his client, because he spent almost 400 hours in research and preparation for representing this individual—a death row inmate's case.

For a man to spend 400 hours—I don't know what his billable rate is, but even at my billable rate in rural Georgia, that would have been an awful lot of money that Mr. Estrada sacrificed for the sake of making sure this death row inmate had more than adequate representation. In fact, with Mr. Estrada, the death row inmate was represented by an outstanding lawyer who had the capability—and I am absolutely certain he did—to do everything necessary to fully and totally represent his client.

Now, one final criticism of Mr. Estrada is that he has no judicial experience. Well, I don't buy this argument. In fact, I think, if anything, it may be to his advantage. Having judicial experience sometimes, I think, could be even a negative factor, although in a case where you had somebody as qualified as Mr. Estrada, it would not make any difference one way or the other. But you have an individual here who has legal experience. That is what is important. He has legal experience in being able to work on complex cases, and most of the time, cases that come before the circuit court are complex cases. Mr. Estrada has the ability to deal with those complex cases because he has handled them for years and years as a practicing attorney in the public and private sectors. He has the type of background that lends itself to being able to deal with those complex cases and make a rational, reasonable interpretation of the Constitution, which every judge is expected to do and which is exactly what Mr. Estrada said he would do at his hearing in September before the Judiciary Committee.

I close by saying there have been 57 newspaper editorials I have seen relative to the nomination of Mr. Estrada and the treatment of his nomination on the floor of the Senate. Of the 57 editorials that have appeared in newspapers all across America, 50 have been favorable toward Mr. Estrada. One of those editorials appeared in a newspaper in my home State, in Atlanta, GA. The Atlanta Journal-Constitution wrote an editorial—about 3 weeks ago now—that was complimentary to Mr. Estrada and critical of the Senate for not moving on his nomination.

Let me tell you, when it comes to politics, the Atlanta Journal-Constitution is not on one side most of the time; they are on one side all of the time. I have never received, in my political career, the endorsement of the Atlanta Journal-Constitution, except for the one time when I did not have an opponent and I guess they had to endorse me. To say that they are in any way leaning toward the conservative side on any issue would be outlandish. But even the Atlanta Journal-Constitution came out and said this is wrong.

This man is a good and decent man. He has the intellect and background to serve on the Circuit Court for the District of Columbia Court of Appeals, and he should be confirmed. That line has been repeated by newspapers in America day in and day out for the last several months.

The Augusta newspaper, also in my State, wrote a glowing editorial also recommending that this body confirm the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia.

I think, without question, that the right arguments have been made in support of Mr. Estrada. Just in winding down—I see my friend from Nevada here, and I don't know whether he wants time or not—I want to say that, from the standpoint of support from the Hispanic community, there has been overwhelming support from every aspect of the Hispanic community. When you look at the League of United Latin American Citizens—that is what we call LULAC—which is the Nation's oldest and largest Hispanic civil rights organization, the president of that organization, Mr. Rick Dovalina, wrote a letter, and this is what he said about Mr. Estrada:

> On behalf of the League of United Latin American Citizens, the nation's oldest and largest Hispanic civil rights organization, I write to express our strong support for the confirmation of Mr. Miguel A. Estrada. . . . Few Hispanic attorneys have as strong educational credentials as Mr. Estrada who graduated magna cum laude and Phi Beta Kappa from Columbia and magna cum laude from Harvard Law School, where he was editor of the Harvard Law Review. He also served as a law clerk to the Honorable Anthony M. Kennedy in the U.S. Supreme Court, making him one of a handful of Hispanic attorneys to have had this opportunity. He is truly one of the rising stars in the Hispanic community and a role model for our youth.

The Hispanic National Bar Association president, Rafael A. Santiago, stated as follows:

> The Hispanic National Bar Association, national voice of over 25,000 Hispanic lawyers in the United States, issues its endorsement. . . . Mr. Estrada's confirmation will break new ground for Hispanics in the judiciary. The time has come to move on Mr. Estrada's nomination. I urge the Senate Committee on the Judiciary to schedule a hearing on Mr. Estrada's nomination and the U.S. Senate to bring this highly qualified nominee to a vote, said Rafael A. Santiago, of Hartford, Connecticut, National President of the Hispanic National Bar Association.

So this man has the qualifications. He has the educational background. He has the legal background. He has the intellect. He has the support of Democrats. He has the support of Republicans. He has the support of liberals. He has the support of conservatives. He has the support of the Hispanic community. The only support he is lacking to bring this nomination to a vote on the floor of the Senate is the support from our colleagues on the other side of the aisle.

Not allowing this nomination to come to the floor for a vote is not fair, it is not judicially just. It is not just in any way from an ethical, moral, or judicial standpoint.

Mr. Estrada's nomination has been debated back and forth now for, gosh, going on 3 weeks. I guess 3 weeks starting tomorrow—a total of 4 weeks. We were here 2 weeks, we were out 1 week, and now we are back. So I guess it is a total of 4 weeks. We have a lot of business that needs to be brought before this body. We have a jobs growth package that needs to be debated and passed that the President has put forth. We have the impending conflict with Iraq and the continuing war on terrorism that needs to be dealt with on the floor of this body. We need to move to other business.

We need the folks on the other side of the aisle to come forward and say: OK, we will give you a vote. We do not think he is qualified, but we are willing to give Mr. Estrada a vote. That is the right thing to do, that is the just thing to do, and that is the judicial thing to do. If they want to vote against him, vote against him, but if we want to vote for him, we ought to have the opportunity to vote for him. We ought

not require 60 votes. We ought to require 51 votes, as I think our Constitution requires, and we ought to bring the name of Miguel Estrada to the floor of the Senate and have a vote.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. REID. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. Yes, I will be glad to yield.

Mr. REID. Mr. President, the distinguished Senator from Georgia just stated that there is a lot of business this Senate has to do and that we should get off the Estrada nomination and get on to these other matters. The Senator from Massachusetts, I am sure, agrees with my friend from Georgia that we have a lot of business to do.

I know from having worked with the Senator from Massachusetts over the years—and I ask the Senator if he will acknowledge this—there is business we need to do that we have been prevented from doing. For example, something we have not heard a word about is the minimum wage. People in Nevada are desperate. We have a service industry. Sixty percent of the people in Nevada who receive the minimum wage are women; for 40 percent of those women, that is the only money they get for the families. That would be a good issue to take up—minimum wage—doesn't the Senator from Massachusetts agree?

Mr. KENNEDY. The Senator is entirely correct. I was listening to my new friend from Georgia talking about the business that needs to be done. As the Senator remembers very well, our leader, Senator DASCHLE, tried to bring before the Senate an economic stimulus program that would have provided assistance to working middle-income families. It would have provided assistance to small business. It would have provided funding for education and the programs for which the Governors, Republicans and Democrats alike, indicated support. It would have provided additional assistance to the States to meet their Medicaid challenges. I hope to get to that in a moment. And it would have permitted funding in transportation. This would have made an important difference in trying to restore our economy.

The Senator, as part of the leadership, is familiar with the fact that Senator DASCHLE was prepared to bring that up and start that debate, but there was objection from the other side.

The Senator brings up the issue of minimum wage, and he knows how strongly I feel about an increase in the minimum wage which Republicans have denied us the opportunity to have. As the Senator has pointed out, more than 60 percent of those who are minimum wage recipients are women. So this is a women's issue. Of the women who receive the minimum wage, a majority of them have children, so it is a children's issue. It is a women's issue and it is a children's issue. Since a great number of those who receive minimum wage are men and women of color, it is a civil rights issue. It is a women's issue, a children's issue, a civil rights issue, and, most of all, it is a fairness issue because most Americans think that if someone works 40 hours a week, 52 weeks of the year, they should not live in poverty.

The great majority of Americans feel that way. We want to put that before the Senate and Republicans refuse to let us have a vote on that issue. We have been battling that issue not just for 10 days, not just for 2 weeks, but we have been battling that issue for the last 5 years.

I agree with the Senator when he says we have been trying to get matters before the Senate. We could bring up minimum wage. I am quite prepared as the principal sponsor—it is not a complicated issue. We have debated that issue time in and time out, year in and year out. It is not a complicated issue. We ought to be able to have debate and an up-or-down vote on that issue.

I think of all these statements of let the majority have a ruling on this nomination. Does the Senator remember as I do when we voted on a prescription drug program and a majority in the Senate was for the proposal of Senator GRAHAM of Florida and Senator MILLER, of which I was proud to be a cosponsor? That would have provided a comprehensive prescription drug program for all who needed it in the United States. We had 52 Members, a clear majority, for a prescription drug program, the third leg of the Medicare stool on which our seniors rely: hospitalization, physician care, prescription drugs. We had the 52 votes, and do you think we were permitted to have a vote in the Senate? No, our Republicans objected to that. How short is their memory.

Mr. REID. Will the Senator yield for another question?

Mr. KENNEDY. I will be glad to yield.

Mr. REID. The Senator is aware that this extended debate deals with the job of one person, a man by the name of Miguel Estrada. It is not as if he is not working. Does the Senator agree he is partner in one of the most prestigious law firms in America and pulling down hundreds of thousands of dollars a year? I say to my friend from Massachusetts, should not the Senate be more concerned about the millions of people who are underemployed, the millions of people who are unemployed, the people who are lacking health care—44 million people with no health care—and many people who are underinsured? Should not the Senate be dealing with those people rather than one person who is employed making hundreds of thousands of dollars a year?

Mr. KENNEDY. Mr. President, I say to the Senator from Nevada, I think he makes the case. It is such a compelling, overwhelming, rational case he makes about what is happening across this country. I know it is true, when the Senator from Nevada speaks about those who are unemployed, those who are underemployed, he is speaking for the people of Massachusetts. That statement the Senator just made is of central concern to the families in my State who are seeing now the highest unemployment in some 10 years, and the prospects are difficult, as people look down the road.

It was not always this way. We have seen it was not. I ask my colleague and friend, so many on the other side throw up their hands and say: It is the economic cycles. Is it not true that the longest periods of economic growth and price stability have been under Democratic Presidents? We had it over the last 8 years under President Clinton. That was not an accident. The time before that was in the early 1960s under President Kennedy. The longest periods of economic growth, price stability, and full employment were under Democrats. That is the record. That is the history.

We want to get back to a sound economic policy. A sound economic policy means creating jobs and having price stability, and the Senator understands this very clearly. Our minority leader, Senator DASCHLE does, and that is what we hope to resume with an effective economic program that can make a difference to families across this country.

The Senator from Nevada being a leader in this body, I am interested in whether the Senator agrees with me that the people in his State, as well as mine—I know I speak for all of New England on this. People are concerned, deeply concerned, about their economic future and they are concerned, obviously, about their security, the dangers which all of us are familiar with in terms of terrorist activities. In my State, they are concerned about their sons and daughters, especially if they are in the Reserve or the National Guard. We now have the highest calling up of the Reserves and the Guard since World War II. Communities are particularly concerned because more often than not, people who are being called up are those who have also been trained as auxiliary firefighters, police officers, or first responders in the medical professions.

What I hear the Senator from Nevada saying is we should try to respond to these kinds of anxieties. The leaders have provided a program which has galvanized many of our Members—all of the Members on our side—and his point is that as leaders in our party we should be focused on that program.

I was listening to my friend from Georgia talking about the attitude of some Hispanic leaders. I have a letter from 15 past presidents of the Hispanic National Bar: We, the undersigned past presidents, write in strong opposition to the nomination of Miguel Estrada for a judge on the Circuit Court of Appeals for the District of Columbia. I

will later come back to the statement they made.

Despite the pressure from our Senate Republicans and the White House to abandon our principles and our obligations, the Senate Democrats intend to abide by our constitutional duty to provide advice and consent in the judicial confirmation process. The White House, however, continues to refuse to give us the information necessary for our consideration of the nomination of Miguel Estrada. The White House is asking the Senate to rubberstamp its judicial nominees when those nominees will have enormous power over the lives of the people we serve. If we confirm nominees to a lifetime appointment to the Federal bench without looking into their record, we would open the door for the White House to roll back civil rights, workers' rights, and important environmental protections, along with many other Federal rights we have worked so hard to develop.

The danger involving the DC Circuit is even greater, because that court has exclusive jurisdiction over so many issues that affect all Americans. Since the Supreme Court hears relatively few cases in these areas, the DC Circuit is often the court of last resort for individuals to obtain the justice they deserve. If Mr. Estrada is confirmed, he will be called upon to decide many of these cases. Often, individuals have been victimized unfairly and in a manner not envisioned by the Constitution. They have come to the Federal courts for protection and relief. In doing so, they have changed America. They have made this country a stronger, better, and fairer land. They helped America fulfill its promise of equal opportunity, equal rights, and equal justice under the law. They have given real meaning in people's lives to the great principles of the Constitution and the many laws Congress has enacted over the years to protect these basic rights.

When we consider the nomination of Mr. Estrada, we need to understand the crucial importance of these cases and how the rights of so many others can be decided by a single case. These cases would not necessarily have turned out the way they did if we did not have Federal judges who are acutely aware of the rights and the needs of the most vulnerable Americans, and how their rulings affect so many people's lives.

Would Mr. Estrada be such a judge? Would he have this strong sense of justice of the needs of people he would serve? We do not know because we have been prevented from learning about this nominee, and the White House is trying to keep it that way.

Our response is clear. We will not confirm Mr. Estrada unless we know what kind of jurist he would be. Our constitutional responsibility requires no less.

Let me describe a few of the landmark cases the judges of the DC Circuit have decided. In Barnes v. Costle in 1977, the DC Circuit was faced with a situation that was and still is far too common in the American workplace. Paulette Barnes had been hired by the Environmental Protection Agency, but she quickly discovered she would not be able to do her work effectively. Her male supervisor repeatedly asked her to join him after work for social activities. She politely declined. He then made repeated sexual remarks and propositions to her. She refused. But her supervisor would not be deterred. He kept harassing her and even tried to convince her his behavior was common. Ms. Barnes could not escape these overtures and the unfair pressure she faced, because her job required her to work with her boss.

After she repeatedly refused to have an affair, he started to retaliate against her. He belittled her work. He took away many of her responsibilities. He harassed her continuously. Finally, he had her fired because she refused to go along with his demands.

Ms. Barnes sued her employer under title VII of the Civil Rights Act of 1964. Congress passed this important legislation in order to end workplace discrimination and open the doors to equal employment for all Americans, but the EPA did not see it this way. Its lawyers argued when Congress enacted title VII, we did not intend sexual harassment to be included in the ban on sexual discrimination.

What Ms. Barnes faced was not discrimination, they said. She was not fired because she was a woman but because she refused to engage in sexual activities with her supervisor. Fortunately, the judges of the DC Circuit understood the importance of the case. They took time to look into the record. They found our intent in passing title VII was to give women and minorities equal rights in the workplace so everyone would have a truly equal opportunity to succeed.

The judges agreed that so long as harassment of this kind was allowed to continue, women could not have equal rights in the workplace. They ruled that allowing female workers to suffer harassment to keep their jobs is a type of discrimination that has long relegated women to lower-level jobs and made it more difficult for them to have equal rights in the workplace.

The DC Circuit held that harassment of the type suffered by Ms. Barnes was illegal sex discrimination. If not for the judges of the DC Circuit, her case could have turned out very differently. Thus, the importance of the DC Circuit.

In 2003, the outcome of Ms. Barnes' case would almost certainly be a foregone conclusion. We know today the kind of behavior she faced is unacceptable, but in Ms. Barnes' case the trial judge dismissed her suit because he thought such harassment was not prohibited by title VII. That behavior was not unacceptable until the DC Circuit said it was unacceptable.

Would Mr. Estrada be the type of judge to give the meaning we intended to our legislation? Would he protect the rights of women and minorities? Would he take the time to consider how his rulings will affect them? We do not know, because the White House does not want us to know.

In a second case in 1981, Bundy v. Jackson, the DC Circuit considered the plight of another woman who had suffered severe harassment at work. Sandra Bundy proved at trial that while she was employed by the District of Columbia, she was repeatedly propositioned by some of her supervisors and they made crude and offensive remarks to her. She complained to another supervisor, but he replied it was natural for the other men in the office to harass. He then began the same type of abuse and propositioned her several times. A coworker obtained her home phone number, which she had unlisted, and started calling to proposition her. The facts in this case were so extreme and Ms. Bundy's situation was so oppressive that the district judge in the case actually made a formal finding that making of improper sexual advances to female employees was standard operating procedure, a fact of life, a normal condition of employment in her job. Miss Bundy began to complain more forcefully and her performance ratings began to suffer. She was denied a promotion and continued to endure anguish on the job.

When she took her case to court, the company admitted the harassment and argued it was legal. Can you believe that? The company admitted the harassment and argued it was legal. The company contended because Miss Bundy had not been fired or demoted, she could not claim a violation of title VII. The DC Circuit rejected this argument, as it obviously should have. The court held that the terms and conditions of employment include the psychological work environment. The court agreed that an employer can oppress an employee with such offensive and damaging remarks that the oppression rises to the level of discrimination, even if the employer does not demote or fire the employee.

As in Barnes, the court in Bundy showed thoughtful and careful consideration of what Congress intended to do for the American workplace when it passed title VII.

The court also considered the precarious situation in which Miss Bundy found herself and in which too many women often find themselves today. The court held unless Miss Bundy's rights were protected, many other workplaces could oppress and harass women in similar ways without any fear of legal repercussions. The DC Circuit held that title VII protects all Americans from harassment at work, whether or not harassment includes a formal change in job description.

We cannot dismiss these examples merely as evidence that America has changed since the 1970s and early 1980s. It was the courts such as the DC Circuit and opinions such as Barnes and

Bundy that made America change. The conclusion of these cases was not foregone. In both cases, the district judge had dismissed the claim, saying that what the women had alleged was not a violation of title VII. It took the judges on the DC Circuit, with genuine respect for the rule of law, to give effect to what Congress intended when it passed title VII. The DC Circuit did more than uphold the law. It gave practical effect to the right of women to be free from sexual harassment in the workplace.

We can now look back at the employers' arguments and in those cases say that they are preposterous. The sad truth, however, is that those arguments did not become preposterous until the DC Circuit said they were.

A third case to demonstrate the importance of this court is in Farmworker Justice Fund v. Brock. In 1987, the DC Circuit reviewed evidence developed over the course of many years that farm workers were being deprived of basic sanitation. The Department of Labor mandated the availability of drinking water, hand-washing facilities, and bathroom facilities in many other workplaces, but the Department said protections were not necessary for farm workers. The result was that many farm workers worked long hours in the heat and Sun without adequate drinking water. They worked under unacceptable hygiene conditions, without bathroom facilities, and with no place to wash their hands. Infectious diseases often spread quickly among farm workers.

Congress addressed this problem years before. The Occupational Safety and Health Act mandated that the Department issue rules on workplace conditions for farm workers but the Department disagreed. It thought that improving the working conditions of these laborers was a low priority, and for years the Department refused to say when it would even consider a rule to protect these workers. The Department also argued that although there was clear evidence of unacceptable risk to the health of farm workers, it would not promulgate a rule to end these conditions because the States were better able to do so. The DC Circuit correctly rejected that argument and brought safe and sanitary working conditions for farm workers across the country. The court held that the intent of Congress in passing OSHA was to limit the Department's discretion. The court ordered the Department to pass these regulations within a specific timeframe. The court said that workplace safety was precisely a matter for the U.S. Department of Labor to address to ensure safe conditions across the country. In deciding this case, the DC Circuit gave farm workers the protections they needed and ensured that a generation of workers would grow up healthier and safer.

A fourth excellent example of the importance of the DC Circuit is Laffey v. Northwest Airlines. In that case, decided in 1976, the DC Circuit considered the disparate pay that Northwest Airlines offered its male and female employees. Even before that case, it was clear that under the Equal Pay Act companies could not pay men and women different salaries for doing the same job. The airline thought it could avoid this requirement for its in-flight cabin attendants by creating two separate job categories for men and women. The two categories had essentially the same duties but different names and very different pay and promotion opportunities.

Both men and women would seat passengers and ensure their safety during the flight and both would deal with any medical problems that arose during the flight. They would both serve food and clean up the cabin. But the airline would only hire women to be stewardesses, a classification that meant being confined to domestic flights, while male persons were assigned to international flights. Even on domestic flights, stewardesses had to work in the more crowded sections of the plane while men worked in first class. In fact, if there was any real difference between the two jobs, it was that the women had the more difficult assignment. Yet the men received up to 55 percent more for doing essentially the same job.

The DC Circuit refused to allow the airline to design the jobs in a way that relegated women to low-paying positions with little chance of promotion. The court understood that when we passed the Equal Pay Act, Congress was not concerned with arbitrary technicalities. We were concerned with protecting the lives and livelihood of real people.

The DC Circuit gave effect to this intent. It held that where two individuals have jobs that are essentially identical because they have the same duties and responsibilities, an employer cannot discriminate against one of them by paying them less.

A fifth example of this indispensable role of the court is the Calvert Cliffs Coordinating Committee in which the DC Circuit in 1971 considered the National Environmental Protection Act which requires Federal agencies to balance their activities with their impact on the environment. In passing the act, Congress asks large agencies for the first time to consider ways to protect the environment.

In a challenge to this requirement, the Atomic Energy Commission was sued to stop activities that were adversely affecting the environment. The Commission said that it had taken environmental concerns into account and thought that these concerns were outweighed by the need for nuclear testing. The DC Circuit held that under the act, the Commission, as all other Federal agencies, must take environmental concerns seriously, must justify the burden that its activities would place on the environment.

Our duty, the court said, is to see that important legislative purposes prevailing in the Halls of Congress are not lost or misdirected in the vast hallways of the Federal bureaucracy. There is no better description of the unique demands on the DC Circuit. It has sole jurisdiction over many basic issues affecting the people of our country. The Senate needs to know that the judges of that court understand the enormous challenge of ensuring that the important policies we seek to achieve are actually implemented under the laws we pass.

In each of these examples, the DC Circuit has dealt with situations where real people face real problems in obtaining the justice they deserve. The court responded, as the Constitution says that it should, free from the pressures of politics. The DC Circuit respected the rule of law and applied it fairly.

Would Mr. Estrada continue this tradition? Or would he look for opportunities to limit or even roll back basic rights? We do not know because the White House insists on keeping the Senate and the country in the dark about this nomination. The fundamental rights of the American people are too important to be entrusted to a person about whom we know so little. Until we learn what kind of jurist Mr. Estrada can be, the Senate should not confirm him.

MEDICARE AND MEDICAID

Mr. President, a front page article in yesterday's New York Times should be essential reading for every Member of the Senate and for every American. It describes the Bush administration's stealth attack on Medicare and Medicaid—an attack driven by an extreme right-wing agenda and by powerful special interests.

The administration is proposing unacceptable changes in the obligations of government to its citizens. Under the Bush plan, the Nation's long-standing commitment to guarantee affordable health care to senior citizens, the poor, and the disabled would be broken. Medicare is a promise to the Nation's senior citizens, but for the administration, it is just another profit center for HMOs and other private insurance plans. Medicaid is a health care safety net for poor children and their parents, the disabled, and low income elderly, but the administration would shred that safety net to pay for tax cuts for the rich and to push its right-wing agenda.

The promise of Medicare could not be clearer. It says, play by the rules, contribute to the system during your working years, and you will be guaranteed affordable health care during your retirement years. For almost half a century, Medicare has delivered on that promise. All of us want to improve Medicare, but the administration's version of improving Medicare is to force senior citizens to give up their doctors and join HMOs. That is unacceptable to senior citizens and it should be unacceptable to the Congress. There is nothing wrong with

Medicare that the administration's policy can fix.

The administration has a variety of rationalizations for its assault on Medicare—and each of these rationalizations is wrong. Republicans have never liked Medicare. They opposed it from the beginning and have never stopped trying to undermine it. The Newt Gingrich Congress tried to destroy it a decade ago, but the American people rejected that strategy, and President Clinton vetoed it. Now that Republicans control both Houses of Congress and the Presidency, they are at it again. Their plan would say that no senior can get the Medicare prescription drug coverage they need without joining an HMO.

It is no accident that the administration's scheme hinges on forcing senior citizens into HMOs or other private insurance plans. Whether the issue is Medicare or the Patients' Bill of Rights, the administration stands with powerful special interests that seek higher profits and against patients who need medical care. If all senior citizens are forced to join an HMO, the revenues of that industry would increase more than $2.5 trillion over the next decade. Those are high stakes. There will be a big reward for HMOs and the insurance industry if the administration succeeds. But there is an even greater loss for senior citizens who have worked all their lives to earn their Medicare, and that loss should be unacceptable to all of us. Senior citizens should not be forced to give up the doctors they trust to get the prescription drugs they need.

The Bush administration cloaks this plan in the language of reasonableness. They say that they just want to reduce Medicare's cost, so that it will be affordable when the baby boom generation retires. But HMOs are a false prescription for saving money under Medicare.

Administrative costs under Medicare are just 2 percent. Ninety-eight cents of every Medicare dollar is spent on medical care for senior citizens. By contrast, profit and administrative costs for Medicare HMOs average eighteen percent, leaving far less for the medical care the plan is supposed to provide.

This chart is a pretty graphic reflection of this point. ''Private insurance, a recipe for reduced benefits or higher premiums.''

These are the administrative costs and profits: under Medicare, 2 percent; under private insurance, 18 percent.

I ask the administration, how is spending more money on administration and profit supposed to reduce Medicare costs?

In fact, Medicare has a better record of holding down costs than HMOs and private insurance. Since 1970, the cost per person of private insurance has increased 40 percent more than Medicare. Last year, the per person cost of Medicare went up 5.2 percent, but private insurance premiums went up more than twice as fast 12.7 percent. Across the country, families are seeing their health premiums soar and their health coverage cut back. If the administration really thinks this is the right prescription for Medicare, they should talk to working families in any community in America.

This chart indicates that private insurance will not reduce Medicare costs or improve its financial stability. It illustrates the increases in Medicare costs versus private insurance premiums: 5.2 percent under Medicare; 12.7 percent under private insurance.

The administration claims that drastic changes are needed because Medicare will become unaffordable as the ratio of active workers supporting the program to the number of retirees declines. But analyses from the Urban Institute, using the projections of the Medicare Trustees, show that Medicare will actually be less burdensome for the next generation of workers to support than it is for the current generation. Economic growth and productivity gains will raise incomes of workers by enough to more than offset both the change in the ratio of workers and the yearly increase in medical costs. In fact, the real product per worker—after Medicare is paid for—will increase from $66,000 to $101,000. The issue is priorities. For this administration, the priority is making the powerful and wealthy still more powerful and wealthy—not assuring affordable health care for senior citizens.

This administration also claims that the changes it is proposing are intended to help senior citizens by giving them more choices. The real choice that senior citizens want is the choice of the doctor and hospital that will give them the care they need—not the choice of an HMO that denies such care.

This chart, ''Senior citizens choose Medicare, not private insurance, shows the proportion of senior citizens choosing Medicare versus Medicare HMOs'': In 1999, 83 percent chose Medicare; 17 percent, HMOs; and in 2003, 89 percent, Medicare, while 11 percent, HMOs.

Seniors have a choice today and they choose Medicare. Even so, this administration's proposal will say to seniors: if you want to receive the prescription drug program, you will have to get it under an HMO.

Senior citizens who want it already have a choice of HMOs and private insurance plans that offer alternatives to Medicare. But by and large, senior citizens have rejected that choice. In 1999, 17 percent of senior citizens chose an HMO. By 2003, only eleven percent chose one.

Congress enacted Medicare in 1965, because private insurance could not and would not meet the needs of senior citizens. In 2003, private insurance still won't meet their needs. Vast areas of the country have no private insurance alternative to Medicare. Two hundred thousand seniors will be dropped by HMOs this year, because the HMOs are not making enough profit. Last year, HMOs dropped half a million seniors. In 2001, they dropped 900,000 seniors. Yet that is the system the administration wants to force on senior citizens.

This chart shows the number of senior citizens that have effectively been dumped from Medicare HMO coverage. We find that in 2001, 934,000 seniors were dropped; in 2002, 536,000 dumped; in 2003, 215,000; in the year 2000, 327,000; and 407,000 in 1999. HMOs have been dropping seniors who wanted voluntarily to be in the HMO system.

Under the Bush plan, states will have an incentive to cut back coverage for those in need and spend the money that should go for health care on other projects.

The Child Health Insurance Program, CHIP, which now gives more than five million children the chance for a healthy start in life will be abolished.

Millions of senior citizens will no longer be able to count on federal nursing home quality standards to protect them if they are unable to remain in their own homes.

Spouses of senior citizens who need nursing home care will no longer be guaranteed even a minimum amount of income and savings on which to live.

We know that state budgets are in trouble because of the faltering economy. The demands on Medicaid are greater than ever, as more families lose their job and their health care. Instead of the money that states need to maintain the Medicaid safety net, the Bush administration gives states a license to shred it. Every day, this administration makes it clearer that tax cuts to make the rich richer is a higher priority than health care for senior citizens, and low income children, and the disabled. It's time for Congress and administration to stand up for the priorities of the American people—not the priorities of the wealthy and powerful.

Medicare and Medicaid are two of the most successful social programs ever enacted. It makes no sense for the administration to try to impose its harsh right wing agenda on programs that have done so much to bring good health care and genuine health security to vast numbers of senior citizens, low-income families and the disabled. The American people will reject this misguided program and so should the Congress.

The administration is not in favor of real choices for the elderly. They don't favor letting senior citizens choose their own doctor. They don't favor a fair and unbiased choice between and HMO and Medicare. Senior citizens already have that. What the Bush administration favors is a Hobson's choice, where senior citizens are forced to choose between the doctor they trust and the prescription drugs they need. And that is an unacceptable choice. The administration's plan for Medicare will victimize 40 million senior citizens and the disabled on Medicare. I want to just draw the attention of the Members to this chart I have in the Chamber.

These are the Medicare HMOs. There are huge gaps for senior citizens, areas of the country with no Medicare+Choice plans. There are vast areas of the country, outlined in red, where they do not even have this program. And still, the administration wants to insist that seniors subscribe to it.

Under the Bush plan, long-term Federal spending for health care for the needy will be reduced under their new proposed block grant program for Medicaid. That idea was proposed under then-Congressman Gingrich almost a decade ago. Under the new program, long-term Federal funding for health care for the needy will be reduced so that more money will be available for tax cuts for the wealthy. Under the Bush plan, States will have an incentive to cut back coverage for those in need and spend the money that should go for health care on other projects.

The Child Health Insurance Program, the CHIP program, which now gives more than 5 million children the chance for a healthy start in life, will effectively be abolished.

Millions of senior citizens will no longer be able to count on the Federal nursing home quality standards to protect them if they are unable to remain in their own homes. I was here not many years ago when we took days to debate the kinds of protections that we were going to give to our seniors who were in nursing homes. The examples out there of the kinds of abuses that were taking place were shocking to all of us. So we passed rules and regulations. But under this particular proposal, the administration is recommending millions of seniors will no longer be able to count on Federal nursing home quality standards to protect them if they are unable to remain in their homes. Spouses of senior citizens who need nursing home care will no longer be guaranteed even a minimum amount of income or savings on which to live.

We know that State budgets are in trouble because of the faltering economy. The demands on Medicaid are greater than ever as more families lose their jobs and their health care. Instead of the money that States need to maintain the Medicaid safety net, the Bush administration gives States a license to shred it.

Every day, this administration makes it clearer that tax cuts to make the rich richer is a higher priority than health care for our senior citizens and low-income children and the disabled. That is the bottom line: Every day, this administration makes it clearer that tax cuts to make the rich richer is a higher priority than health care for our senior citizens and low-income children and the disabled.

It is time for Congress and the administration to stand up for the priorities of the American people, not the priorities of the wealthy and the powerful.

Medicare and Medicaid are two of the most successful social programs ever enacted. It makes no sense for the administration to try to impose its harsh right-wing agenda on programs that have done so much to bring good health care and genuine health security to vast numbers of senior citizens, low-income families, and the disabled.

The American people will reject this misguided program, and so should the Congress.

Mr. REID. Will the Senator yield for a question?

Mr. KENNEDY. I am glad to.

Mr. REID. I have listened on the floor and off the floor to the Senator's statement, and especially about Medicare and Medicaid.

I ask the Senator, we have heard now for 2 years from this administration that the answer to the problems of the country are tax cuts, tax cuts, tax cuts. I ask the Senator—and I am confident of the answer—if he is aware that the deficit this year will be the largest in the history of the world, about $500 billion if you do not mask it with the Social Security surpluses?

Now, I am asking the Senator from Massachusetts, will the proposals by this administration in their tax cut proposal do anything to help the people in Nevada and Massachusetts and the rest of the country who are desperate for help in regard to Medicare and Medicaid?

Mr. KENNEDY. Absolutely not. And your observation goes right to the heart of the central issue that we have in the Senate; that this is a question of choices. It is a question of priorities. It is a question of choices, whether we are going to allow this emasculation of Medicare and Medicaid—especially when Medicaid looks after so many needy children. About one-half of the coverage is actually for poor children, although more than two-thirds of the expenditures are for the elderly and the disabled. But it looks after an enormous number of the poorest of children, and also after the frail elderly.

And the Medicare system, we guaranteed in 1965—I was here at that time. I was here in 1964 when it was defeated. It was defeated in 1964, and then 8 months later it was proposed here on the floor of the Senate and it passed overwhelmingly. And 17 Senators who were against it in 1964 supported it in 1965. The only intervening act during that period of time was an election—an election. Finally, our colleagues had gone back home and listened to the needs of our elderly people, the men and women who had fought in the World Wars, who brought this country out of the Depression, who sacrificed for their children, who worked hard, played by the rules, and wanted some basic security during their senior years from the dangers of health care costs.

We made a commitment. The Senator remembers. I have heard him speak eloquently on it. And in that 1965 Medicare Act we guaranteed them hospitalization and we guaranteed them physician services, but we did not guarantee prescription drugs because only 3 percent of even the private insurance carriers were carrying it at that time.

I ask the Senator whether he would agree with me that now prescription drugs are as indispensable, are as essential to the seniors in Nevada as hospitalization and physician visits? They are in Massachusetts.

Mr. REID. Mr. President, I ask unanimous consent that I be allowed to answer the question of the Senator from Massachusetts without the Senator from Massachusetts losing the floor.

The PRESIDING OFFICER (Mr. CHAFEE). Is there objection?

Without objection, it is so ordered.

Mr. REID. I say to my friend from Massachusetts, while the Senator was serving in the Senate in those years, in the early 1960s and mid 1960s, I was serving on the hospital board of Southern Nevada Memorial Hospital, the largest hospital district in Nevada at that time. I was there when Medicaid came into being.

Now, does the Senator realize—and I think he has heard me say this before; and I ask this in the form of a question, although I don't need to; I have the floor to answer the Senator's question—prior to Medicaid coming into being, that for that hospital of ours, that public hospital, 40 percent of the senior citizens who came into that hospital had no health insurance?

And when we had people come into that hospital with, as I referred to them then, an old person—I don't quite look at it the same now—they would have to sign to be responsible for their mother, their father, their brother, their sister, whatever the case might be, that they would pay that hospital bill. And if they did not pay, do you know what we would do? We had a collection department. We would go out and sue them for the money.

Now, I say to my friend from Massachusetts, the distinguished Senator, for virtually every senior who comes to the hospital—it does not matter where they are in America—they have health insurance with Medicare.

Mr. KENNEDY. That is right.

Mr. REID. Medicare is an imperfect program, but it is a good program.

And I answer the question about pharmaceuticals, prescription drugs. When Medicare came into being, seniors did not need prescription drugs because we did not have the lifesaving drugs we have now. We did not have the drugs that made people feel better. We did not have the drugs that prevent disease. Now we have those.

I say to my friend from Massachusetts, rather than spending the time here, as we are dealing with a man who has a job, Miguel Estrada, making hundreds of thousands of dollars a year—rather than dealing with him, I would rather be dealing with people in Nevada who have no prescription drugs.

In America, the greatest power in the world, we have a medical program for senior citizens that does not have a prescription drug benefit. That is embarrassing to us as a country. And

what are we doing here? We are debating whether a man should have a job.

We understand the rules. If they want to get off this, then let them file cloture. If they want to get out of this, let them give us the memos from the Solicitor's Office. Let him come and answer questions or let them pull the nomination.

The reason they are not doing that is, they don't want to debate this stuff. Look at the chart the Senator has. Tax cuts of $1.8 trillion, what does that do to Medicare and Medicaid? I hope I have answered the Senator's question. A prescription drug benefit is a priority, and it has to be a program more than just in name only.

Mr. KENNEDY. I thank the Senator for his usual eloquence and passion.

Just to sum up two items, as we discussed earlier, we passed a prescription drug program. Fifty-two Members of the Senate did so last year. I don't know why we couldn't debate it. I am sure our leader would support that effort.

Finally, let me point out something the Senator has mentioned. This chart summarizes it all. Under the administration's program for the States, over a 10-year period, Medicaid will be cut $2.4 billion, while there will be $1.8 trillion in tax cuts.

This is a question of priorities. I went through the various charts that reflected how this $2.4 billion Medicaid cut will be achieved versus the $1.8 trillion in tax cuts. This is a question of choice. This is a question of priorities when it comes to the Medicare and Medicaid Programs. The quicker we get the chance to debate these and get some votes on them, the better off our seniors will be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, the Senator from Nevada has asked that we vote on Miguel Estrada. I ask unanimous consent that we proceed to a vote on Miguel Estrada now.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, I ask that the Senator's request be modified in the following fashion: I ask unanimous consent that after the Justice Department finds the requested documents relevant to Mr. Estrada's government service, which were first requested in May of 2001, the nominee then appear before the Judiciary Committee to answer the questions which he failed to answer in his confirmation hearing and any additional questions that may arise from reviewing such documents.

Mr. CRAIG. Mr. President, I object and restate my unanimous consent request.

Mr. REID. To which I object. I object.

Mr. CRAIG. Mr. President, I just heard the Democrat leader come to the floor to demand a vote on Miguel Estrada so we could move on to other important issues. He had the opportunity to have that vote, and he objected. He wants to raise the issue of moving judges to a supermajority vote, denying this man, Miguel Estrada, a vote on the floor of the Senate under the constitutional clause of advice and consent to the President.

Let me talk about that for a few moments. Before I talk about that, as the chairman of the Aging Committee who has spent countless hours, as has the Senator from Massachusetts, on the issue of Medicare, he and I would both agree that when Medicare was passed in 1965, some 33 years ago, medicine was practiced much differently than it is now. Yet he is saying we want Medicare just like it was, and we want to add a new program to it.

As the Senator from Massachusetts well knows, when he voted for Medicare in 1965, it was expected to be about a 10, 20-billion-dollar-plus program. Today it is verging on a quarter of a trillion dollars, at least by the end of the decade, and it will potentially, by 2030, consume a quarter of the U.S. Government's budget.

I know the Senator from Massachusetts knows as well as I that the world has changed and health care delivery has changed and that we are not going to practice 33-year-old medicine on 2003 seniors. They don't expect it. They don't want it. They demand change.

In that change comes prescription drugs as a reasonable and right approach. But as we offer that to America's seniors, let us offer them a modernized, contemporary health care delivery system. Let us not lurk in the concept of a 33-year-old system that is now close to pushing us to deny services simply because it has become so costly and so bureaucratic. To deny them anything more than a modern health care delivery system with prescription drugs in it is to deny them the obvious; that is, quality health care.

Those are the facts. Those are the statistics. We can certainly debate those today. But we ought to be debating Miguel Estrada. The Democrats want to debate him. They deny us the vote that he is entitled to have. So for a few moments today, I would like to visit about Miguel Estrada.

Before I do that, I found this most intriguing. This is a fascinating issue. We suggest that it is partisan, and it appears to be almost at times. Yet I noticed in the RECORD of today a few quotes from a Democrat Senator. He said:

> Mr. President, the court provides the foundation upon which the institutions of government and our free society are built. Their strength and legitimacy are derived from a long tradition of Federal judges whose knowledge, integrity, and impartiality are beyond reproach. The Senate is obligated, by the Constitution and the public interest, to protect the legitimacy and to ensure that the public's confidence in the court system is justified and continues for many years to come. As guardians of this trust, we must carefully scrutinize the credentials and qualifications of every man and woman nominated by the President to serve on the Federal bench. The men and women we approve for these lifetime appointments make important decisions each and every day which impact the American people. Once on the bench, they may be called upon to consider the extent of our rights to personal privacy, our rights to free speech, or even a criminal defendant's right to counsel. The importance of these positions and their influence must not be dismissed. We all have benefited from listening to the debate about Miguel Estrada's qualifications to serve on the district court. After reviewing Mr. Estrada's personal and professional credentials, including personally interviewing the nominee, I believe he is qualified to serve on the district court, and I will vote for him.

That is Senator NELSON of Nebraska. That Senator wants a vote. I want a vote. We owe Miguel Estrada a vote—not a supermajority vote, not an effort to change the rules of the Senate, not an effort to deny the constitutional responsibility of this body that the other side is now doing, tragically enough, for the politics of the business instead of the substance of the issue. That is a tragedy that ought not be laid upon the floor of this Senate nor ought to come before what has been a responsible process and very important procedure.

I have been out in my State for a week, as have many of my colleagues. I say oftentimes to Idahoans: We watch the President. We see him every night on television. We, Members of the Senate and the other body, make headlines and are often talked about in the press. But very seldom does the third and equally important branch of Government, the judicial branch, get the attention. There are no natural lobbyists in general. There is no influence out there urging and pushing that the courts be treated responsibly, that these vacant positions be filled so that courts can do their duty and responsibility under the Constitution and provide for fair judgment of those who might come before them.

That responsibility lies in the President of the United States and in the Senate. We are the ones responsible for assuring that the courts are filled when those positions are vacant by appropriate people who have great integrity, who have moral and ethical standards, and who believe in the Constitution of our country.

Miguel Estrada fails on none of those qualifications. Here today, for the first time, Mr. Estrada is a target for a much larger hit; that is to suggest that a minority of the Senate could ultimately control the Supreme Court of the United States. I believe that is the battleground, while a lot of subterfuge may go on, smoke and mirrors, or diversion of attention; and I think most people who are now watching this debate are beginning to understand there is something very strange about it.

There used to be an old advertisement on television asking, ''where's the beef.'' Well, where's the issue here? Where is the substance of the issue, after the committee of jurisdiction, the Judiciary Committee, on which I serve, and on which the Senator from Massachusetts serves, very thoroughly went

through the background of Miguel Estrada? He came out with high qualifications, having been reviewed by the ABA. Wherein lies the problem—the simple problem of allowing this name and nomination to come to the floor for a vote—a vote. I tendered that vote a few moments ago by unanimous consent, to see it denied on the other side of the aisle because they say you must have a super vote, a 60-plus vote. No, we suggest the Constitution doesn't say that. We suggest that threshold has never been required. So I think what is important here is the reality of the debate and how we have handled it.

I have the great privilege of serving from the West, from the State of Idaho. There are a lot of traditions out there. One of the great traditions is sitting around campfires, visiting, telling stories, and talking about the past. Probably one of the most popular stories to tell in the dark of night in only the glow of the campfire is a good ghost story. It scares the kids, and even the adults get a little nervous at times because their back side is dark and only their faces are illuminated. The imagination of the mind can go beyond what is really intended. So great stories get told at the campfire.

I have listened to this debate only to think that great stories are attempting to be told here—or should I suggest that ghost stories are being proposed here—about Miguel Estrada. Why would we want to be suggesting there is something about this man that is not known, that there is not full disclosure on all of the issues? I suggest there is full disclosure. The other side is deliberately obstructing a nomination that has been before the Senate for 21 months. In that 21 months, there were no ghost stories; nothing new was found, except the reality of the man himself—the reality of a really fascinating and valuable record for the American public to know.

Their argument is that because they cannot find anything wrong with him—no ghost stories—then there have to be bad things hidden. Somebody could not be quite as good as Miguel Estrada. Why not? There are a lot of people out there who achieve and are phenomenally successful, morally and ethically sound, and well based, and who believe in our Constitution and are willing to interpret it in relation to the law and not to the politics of something that might drive them personally.

I don't believe in activist judges on the courts. I don't believe they get to go beyond the law or attempt to take us where those of us who are lawmakers intend us not to go or where the Constitution itself would suggest we do not go. So search as they may, they cannot find. And when they cannot find, they will obstruct. They have obstructed. Week 1. We are now into week 2. My guess is we will be into week 3 or 4. Hopefully, the American people are listening and understanding something is wrong on the floor of the Senate; something is wrong in that there is an effort to change the Constitution of our country simply by process and procedure—or shall I say the denying of that. I think those are the issues at hand here. That is what is important.

Mr. President, there was nothing more in telling a ghost story than in the imagination that came to the mind. There is nothing wrong with Miguel Estrada, except in the imagination in the minds of the other side, who would like to find a story to tell. But they cannot find one, dig as they might. There have been 21 months of effort, 21 months of denial. Why? Are we playing out Presidential politics on the floor of the Senate this year? It is possible. I hope we don't have to go there, and we should not. These are issues that are much too important.

This President has done what he should do. It is his responsibility to find men and women of high quality and high integrity, who are well educated and well trained in the judicial process and system—search them out and recommend them, nominate them to fill these judgeships. That is what he has done. Now he is being denied that.

A difference of philosophy? Yes, sure. It is his right to choose those he feels can best serve. He has found and has offered to us men and women of extremely high quality. Yet, at these higher court levels, and here in the district court, they are being denied.

Miguel Estrada has been under the microscope and nobody has found the problem. On the contrary, we have found much to admire. At least let me speak for myself. I have found much to admire in Miguel Estrada. By now, I don't need to repeat his history. I don't need to repeat the story of a young man coming to this country at 17 years of age, hardly able to speak English, who changed himself and the world around him, so that he is now recognized by many as a phenomenal talent and a scholar. Let me just say I think he and his family should be very proud of his achievements. They should also be proud of his receiving the nomination. Of all the people, they surely do not deserve to have the judicial nomination process turned into some kind of gamut, in which you run a person through and you throw mud at them, or you allege, or you imply, or you search for the ultimate ghost story that doesn't exist, to damage their integrity, to damage the image and the value and quality of the person.

Senators are within their rights to oppose any judicial nominee on any basis they choose. In the last 8 years, when President Clinton was President, I voted for some of his judges; I voted against some of them because they didn't fit my criteria of what I thought would be a responsible judge for the court. But I never stood on the floor and denied a vote, obstructed a vote. I always thought it was important that they be brought to the floor for a vote. Then we could debate them and they would either be confirmed or denied on a simple vote by a majority of those present and voting. That is what our Constitution speaks to. That is what our Founding Fathers intended. They didn't believe we should allow a minority of the people serving to deny the majority the right to evaluate and confirm the nominations of a President to the judicial branch of our Government.

If they want to administer a particular litmus test, as one of our colleagues on the Judiciary Committee has been advocating, that is their choice. If they simply do not like the way a nominee answered the questions that were put to him, then they can vote against the nominee for all of the reasons and the responsibilities of a Senator. But to say they cannot vote because there is no information about the nominee, or because he has not answered their questions, or because critical information is being withheld, well, that is clearly a figment of their imagination. That is a ghost lurking somewhere in the mind of a Senator, because for 21 months, try as they might, that ghost, or that allegation, has not been found or fulfilled.

In the real world, there is an enormous record on this nominee, bigger than the records of most of the judiciary nominees who have been confirmed by the Senate. In the real world, Mr. Estrada has answered question after question, just not always the way his opponents wished he would answer them; not just exactly the way his opponents would wish he had answered them, but he did answer them. In the real world, there is no smoking gun in the privileged documents that the opposition is unreasonably and inappropriately requesting.

There is something very familiar about the tactic being used against Miguel Estrada, and I finally realized what it was. This is the same obstructionism we have seen again and again from our friends on the other side, the same process that denied us the right to a budget, the right to appropriations for 12 long months. They could not even produce a budget. So we brought it to the floor and in 4 weeks we finalized that process.

For the last year and a half, we have lived with that issue of obstructionism, and today we are with it again. Now we are in our second week of denying an up-or-down vote. What is wrong with having an up-or-down vote? That is our responsibility. That is what we are charged to do under the Constitution.

I believe that is the issue. Instead of fighting on policy grounds, they are simply wanting to deny this issue to death. In the last Congress, as I mentioned, we had no budget, we saw an Energy Committee shut down because they would not allow that Energy Committee to write an energy bill, and they would not allow authorizing committees to function in a bipartisan way when they controlled the majority. Denial and obstruction is not a way to run a system. It is certainly not the way to operate the Senate.

Now we have a personality. Now it is not an abstract concept. Now it is not a piece of a budget or a dollar and a cent, as important as those issues are. We are talking about an individual who has served our country well, who has achieved at the highest levels, who is a man of tremendous integrity, and because he does not fit their philosophic test, the litmus test of their philosophy as to those they want on the court, but he does achieve all of the recognition of all of those who judge those who go to the court on the standards by which we have always assessed nominees to the judiciary system, that is not good enough anymore. The reason it is not good enough is because it is President George Bush who has made that nomination.

In the current Congress, that is an issue with which we should not have to deal. We should be allowed to vote, and I hope that ultimately we can, and certainly we will work very hard to allow that to happen. That is what we ought to be allowed to offer: to come to the floor, have an up-or-down vote on Miguel Estrada, debating for 1 week, debating for 2 weeks, debating for 3 weeks, if we must, but ultimately a vote by Senators doing what they are charged to do.

That is the most important step and, of course, that is the issue. Or is the issue changing the name of the game, changing or raising the bar, in this instance, to a higher level of vote, not for Miguel Estrada but for future votes, possibly a Supreme Court Justice? I do not know what the strategy is, but there is a strategy.

It is undeniable because we have seen it day after day, time after time. We watched it when they chaired the Judiciary Committee last year. I now serve on the Judiciary Committee. I went there this year with the purpose of trying to move judges through, trying to get done what is our responsibility to do, trying to fill the phenomenal number of vacancies. When there are vacancies in the court and caseloads are building, that means somebody is being denied justice. We should not allow our judiciary system to become so politicized by the process that it cannot do what it is charged to do. Therein lies the issue. I believe it is an important issue for us, and it is one I hope we will deal with if we have to continue to debate it.

Let me close with this other argument because I found this one most interesting. They said: We are just rubberstamping George Bush's nominations. Have you ever used a rubberstamp? Have you ever picked up a stamp, tapped it to an ink pad, tapped it to a piece of paper? That is called rubberstamping. My guess is it takes less than a minute, less than a half a minute, less than a second to use a rubberstamp.

That is a false analogy. Twenty-one months does not a rubberstamp make; 21 months of thorough examination, hours of examination by the American Bar Association. I am not an attorney, but my colleague from Nevada is. It used to be the highest rating possible that the American Bar Association would give in rating the qualifications of a nominee. I used to say that rating was probably too liberal. Now I say it is a respectable rating. Why? Because the bar on the other side has been raised well beyond that rating. Now we are litmus testing all kinds of philosophical attitudes that the other side demands a nominee have, and if they say, We are simply going to enforce or carry out or interpret the law against the Constitution, that is no longer good enough. Rubberstamping? A 5-second process, a 2-second process, or a 21-month process? I suggest there is no rubberstamping here.

I suggest the Judiciary Committee, under the chairmanship of PAT LEAHY, now under the chairmanship of ORRIN HATCH, has done a thorough job of examining Miguel Estrada, who has a personal history that is inspiring, work achievement that is phenomenally impressive, a competence and a character that has won him testimonials from all of his coworkers and friends, Democrats and Republicans, liberal and conservative.

As I mentioned, I am a new member of the Judiciary Committee. It is the first time in 40 years that an Idahoan has served on that committee, and I am not a lawyer. So I look at these nominees differently than my colleagues who serve on that committee who are lawyers. But I understand records. I understand achievement. I understand integrity. I understand morals, ethics, and standards that are as high as Miguel Estrada's.

I am humbled in his presence that a man could achieve as much as he has in as short a time as he has. I am angered—no, I guess one does not get angry in this business. I am frustrated, extremely frustrated that my colleagues on the other side would decide to play the game with a human being of the quality of Miguel Estrada, to use him for a target for another purpose, to use him in their game plan for politics in this country, to rub themselves up against the Constitution, to have the Washington Post say: Time's up. Enough is enough. To have newspaper after newspaper across the country say: Democrats, you have gone too far this time. Many are now saying that, and that is too bad to allow that much partisan politics to enter the debate.

We all know that partisan politics will often enter debates, but it does not deny the process. It does not obstruct the process. It does not destroy the process. Ultimately, the responsibility is to vote, and it is not a supermajority. The Senator from Nevada knows that, and the Senator from Idaho knows that. I could ask unanimous consent again that we move to a vote on the nomination of Miguel Estrada, and the Senator would stand up and say: I object.

That is how one gets to the vote on the floor of the Senate. After the issue has been thoroughly considered, Senators ultimately move to a vote. That is my responsibility as a Senator. That is one that I will work for in the coming days. That is one that many of my colleagues are working for.

We will come to the floor, we will continue to debate the fine points of Miguel Estrada, but we will not raise the bar. We should not set a new standard. In this instance, we should not allow a minority of Senators to deny the process because there is now a substantial majority who would vote for Miguel Estrada because they, as I, have read his record, have listened to the debate, have thoroughly combed through all of the files to understand that we have a man of phenomenally high integrity who can serve this country well on the District Court of Appeals that he has been nominated by President Bush to serve on.

Our responsibility is but one: to listen, to understand, to make a judgment, and to vote up or down on Miguel Estrada. So I ask the question, Is that what the other side will allow? Or are they going to continue to deny that? Are they going to continue to demand that a new standard be set? The American people need to hear that. They need to understand what is going on on the floor of the Senate, and many are now beginning to grasp that.

As newspapers talk about it, some in the Hispanic community are now concerned that somehow this has become a racist issue. I do not think so. I hope not. It should not be. It must not be. Tragically, we are talking about a fine man who is ready to serve this country and who is being caught up in the politics of the day, and that should not happen on the floor of the Senate.

Before I got into politics, I was a rancher in Idaho, and I can vouch for the fact that a lot of cowboy traditions are still alive and well in the Intermountain West. One of those great traditions is storytelling—gathering around a campfire and telling ghost stories. Some of those stories can be pretty scary. But nobody really believes them—certainly not adults, and not in the light of day.

I am reminded of that storytelling tradition of the West when I look back on the debate surrounding Miguel Estrada to the U.S. Court of Appeals for the D.C. District. The reason this debate reminds me of those old ghost stories is that the opposition's arguments amount to just that: stories about imagined ghosts and monsters, told for the purpose of frightening people.

I have been serving in the Senate for better than a decade, and I have seen a lot of filibusters about a lot of things, but this is the first time I have seen a filibuster over nothing—that's right: nothing. The other side is deliberately obstructing the nomination of Miguel Estrada because after 21 months they can find nothing wrong with this nominee.

Their argument is that because they cannot find anything wrong with him,

all the bad things must be hidden, and therefore they need more time for their fishing expedition on this nomination. Only now, that fishing expedition is going into documents that are privileged, and public policy itself would be violated by breaking that privilege. That's not just my opinion—as we have heard again and again, it is the opinion of the seven living former Solicitors General, both Democrat and Republican.

With nothing to complain about, the opposition is trying to get us all to believe that there must be some terrible disqualifying information that is being withheld from the Senate. What that terrible information is, they leave us to imagine: maybe some writings that will reveal a monster who is going to ascend to the bench where he can rip the Constitution to shreds and roll back civil liberties. Maybe something even worse.

These are nothing more than ghost stories, deliberately attempting to frighten the American people and this Senate. It is time to shine the light of day on this debate, time to realize there is no monster under the bed.

And it is high time that the Democrat leadership put a stop to the politics of character assassination that go along with all this storytelling. It is outrageous to suggest that Miguel Estrada is hiding something, or being less than forthcoming with this Senate. The Senate Judiciary Committee had plenty of time over the last 21 months to find some real problem with this nominee—but no such problem was found. The American Bar Association reviewed him, found nothing wrong with him, and even gave him its highest rating—''well qualified.'' The Bush administration looked into his record before sending up the nomination. And let's not forget that he worked for the previous administration, too, which not only hired him but gave him good reviews.

So Miguel Estrada has been under the microscope, and nobody has found a problem with him. On the contrary, we have found much to admire—at least, let me speak for myself—I have found much to admire about Mr. Estrada. By now, his story is pretty well known to anyone who follows the daily news, let alone Senators who study the nominees who come before them, so I won't repeat it again. Let me just say that I think he and his family should be very proud of his achievements. They should also be proud of his receiving this nomination. And of all people, they surely do not deserve to have the judicial nomination process turned into some kind of grueling gauntlet through the mud being generated by the opposition.

Senators are within their rights to oppose any judicial nominee on any basis they choose. If they want to administer a particular litmus test, as one of our colleagues on the Judiciary Committee has been advocating, that is their choice. If they simply do not like the way a nominee answered the questions that were put to him, then they can vote against that nominee for that reason.

But to say they cannot vote because there is no information about this nominee, or because he has not answered their questions, or because critical information is being withheld—well, apparently they do not live in the same world the rest of us do. Because in the real world, there is an enormous record on this nominee—bigger than the records on most of the judicial nominees who have been confirmed by the Senate. In the real world, Mr. Estrada has answered question after question—just no always the way that his opponents wished he would have answered. And in the real world, there is no smoking gun in the privileged documents that the opposition is unreasonably and inappropriately requesting.

There is something very familiar about this tactic being used against Miguel Estrada, and I finally realized what it was: this is the same obstructionism that we have seen again and again from our friends on the other side. Instead of fighting on policy grounds, they just obstruct and delay the issue to death. In the last Congress, we never got a budget, we never got an energy bill—just more obstruction and delay. And in this current Congress, instead of having an honest up-or-down vote on this nominee, they filibuster about the past history of judicial nominees under former administrations.

Another of my colleagues revealed during this debate that obstructionism is a tactic out of a playbook for stopping President Bush from getting his nominees to the higher courts—maybe not every court, but certainly the circuit courts and maybe someday the Supreme Court. We have heard on this Senate floor about that playbook advising our Democrat colleagues to use the Senate rules to delay and obstruct nominees—first in committee and then on the Senate floor.

This is the first step in raising the bar for all of President Bush's nominees. That is the goal—to raise the bar, to impose new tests never envisioned in the Constitution, for anyone nominated by President Bush. Make no mistake about this: it is partisan politics at its most fundamental. Instead of the Senate performing its constitutional role of advise and consent, the Democrat leadership intends to put itself in a position to dictate to the President who his nominees can be. Instead of allowing the normal process to work—the process through which all judicial nominees have gone before—they are fashioning a new set of tests that will become the standard.

And while I am talking about raising the bar, let me anticipate the argument of the opposition. I have heard a lot from my Democrat colleagues about how they are offended at being expected to ''rubberstamp'' President Bush's nominees. Last I checked, it takes about two seconds to ''rubberstamp'' something; you just pound the stamp on an inkpad and then on a piece of paper, and you are done.

This nomination, on the other hand, has been in the works for 21 months, involved extensive hearings by a then-Democrat-led Judiciary Committee, included supplemental questions posed by Committee members, a non-unanimous vote of that Committee, and weeks of debate on this floor. For any Senator to say this amounts to being pushed into ''rubberstamping'' this nominee is hogwash.

Furthermore, anybody who wants to complain about ''rubberstamping'' ought to be out here standing side by side with Republicans, demanding an up-or-down vote on this nominee. I say to my colleagues, if you are not satisfied that this nominee will be a good judge on the Court of Appeals, then vote against him. If you are sincere about your objections, and not just playing political games, then you have nothing to lose by demanding a fair vote.

I do not see how anybody could read the record on this nominee and listen to the debate in this Senate and not conclude that Miguel Estrada will serve the United States with distinction on the Federal bench. His personal history is inspiring; his work achievements are impressive; his competence and character have won him testimonials from friends and coworkers of every political stripe.

I am a new member of the Judiciary Committee—the first Idahoan to serve on that committee in more than forty years—and I am proud to say that my first recorded vote on that committee was to confirm Mr. Estrada. I am now asking my colleagues to allow the full Senate to have the opportunity to vote on this nominee. Let us stop the storytelling, get back to the real world, and have a fair up-or-down vote on the confirmation of Miguel Estrada.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Democratic whip.

Mr. REID. Mr. President, the Democratic leader was on the floor this morning and spoke at some length about the problems facing this country. The problems facing this country are significant. It is untoward, as the Democratic leader stated, that we are not dealing with issues the people we represent, who are in our home States, want to talk about. They want us to do something about the health care delivery system in this country. That includes prescription drugs. It includes the Patients' Bill of Rights. It includes Medicare. It includes Medicaid.

The people at home want us to at least remember that we have environmental problems facing this country that we need to deal with. The people at home understand education is a significant issue. The people at home understand their State—there are only four States that do not have a budget deficit. All other States are spending in the red. They want some help. We, as a

Senate, deserve to deal with those and other issues that the people of our States believe we should be talking about.

There have been a number of requests made: Why do we not vote on this in 6 hours, 4 hours, 2 hours, 10 hours, 2 days, Friday by 9:30? And we have said very simply—this is the ninth day of this debate covering a period of approximately 3 weeks—Miguel Estrada needs to be candid and forthright. And how is that going to be accomplished? It is going to be accomplished by his giving us information, answering questions, and giving us the memos he wrote when he was at the Solicitor General's Office.

We should be dealing with the issues I have outlined, and others, issues that people really care about at home. But, no, we are not going to take up S. 414 that Senator DASCHLE asked unanimous consent that we move to, the economic stimulus package the Democrats prefer. What it does is give immediate tax relief to the middle class and has no long-term impact on the deficit of this country.

If we brought that up and the majority did not like our bill, we could have a debate on what is the best thing to do to deal with the financial woes of this country. That is what we should be dealing with.

As I have said earlier today, and I repeat, the reason we are not dealing with those issues of immense importance to this country is the majority does not have a plan or a program.

The President's tax cut proposal, his own Republicans do not like it. The chairman of the Ways and Means Committee of the House does not like it. Individual Members of the Senate, who are Republicans, who do not like his program, have written to him and talked to him. So that is why they are not bringing that up.

Why are we not going to do something dealing with health care? Because they do not have their act together. They do not know what they want.

So without running through each issue we should be talking about, let me simply say Miguel Estrada needs to be resolved and can be resolved in three ways: The nomination be pulled and we can go to more important issues; No. 2, he can answer the questions people want to propound to him and have propounded to him; and thirdly, he submit the memos he wrote when he was in the Solicitor General's Office and answer questions.

There has been a lot said in righteous indignation: We cannot give these memos because it would set a precedent that has never been set in the history of this country. Senators DASCHLE and LEAHY, the Democratic leader and the ranking member of the Judiciary Committee, wrote to the White House and said: Give us the memos. Let him answer the questions.

We get a 15-page letter back from Gonzales, the counsel to the President, saying: We are not going to do that.

My staff just showed me a letter—I guess he did not have time, as counsel to the President did, to write a 15-page letter—in two or three sentences saying that Gonzales, if he wanted to talk to Senator DASCHLE and I, they would have him come forward and he could sit down and talk to us.

We are not going to do that. The Democrats in the Judiciary Committee unanimously voted against Miguel Estrada because he did not answer the questions and he did not submit the memos.

My case to the Senate, my case to the American people, is there is no precedent set by his giving this information, and I say that for a number of reasons.

I have a detailed letter from the Department of Justice describing their efforts to respond to the Senate's request for Chief Justice Rehnquist's Office of Legal Counsel memos during his nomination—he was a Supreme Court Justice at the time, but now he is the Chief Justice—and a legal letter from the Department of Legislative and Intergovernmental Affairs, John Bolton, on August 7, 1986, which states and I quote:

We attach an index of those documents—

Rehnquist legal memorandum from when he was the Assistant Attorney General for the Office of Legal Counsel in the Solicitor's Office—

and will provide the Committee with access in accordance with our existing agreement.

The letter also indicates that numerous other legal memoranda were provided to the committee prior to that date. The letter also contains an attachment, ''Index to Supplemental Release to Senate Judiciary Committee,'' which lists three additional memos relating to legal constraints on possible use of troops to prevent movement of May Day demonstrators, possible limitations posed by the Posse Comitatus Act on the use of troops, authority of members of the Armed Forces on duty in civil disturbances to make arrests.

These are internal memos, obviously, written by attorneys containing legal analyses and deliberations about very sensitive issues. Again, it is obvious that legal memos similar to Mr. Estrada's were provided to the Senate Judiciary Committee, reviewed and returned to the Department. In fact, Senator BIDEN, still a member of this body, wrote to Attorney General Meese to thank him for his cooperation and then asked for additional memos that I assume were provided.

I ask unanimous consent that a letter dated July 23, 1986, written to the Honorable Strom Thurmond, chairman of the Senate Judiciary Committee, from JOE BIDEN asking that the Department of Justice supply certain information regarding the nomination of William B. Rehnquist to be Chief Justice, I ask simply that that matter be forwarded to the Senate and be printed in the RECORD.

As well, we have a request back—I am sorry. We have a letter written to JOE BIDEN from Senator EDWARD M. KENNEDY, Howard Metzenbaum, and Paul Simon, members of that Judiciary Committee, who asked for certain information dealing with memoranda that Rehnquist prepared. We have a letter written to Attorney General Meese from JOE BIDEN setting forth the materials that were requested, together with Rehnquist documents that are wanted. We have a letter dated August 7 to Chairman Thurmond from John Bolton that I referred to in more general terms. That lists in detail the material that was supplied.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, July 23, 1986.*

Hon. STROM THURMOND,
*Chairman, Senate Judiciary Committee, Washington, DC.*

DEAR STROM: I have enclosed the request of the Department of Justice for documents concerning the nomination of William H. Rehnquist to be Chief Justice. Please forward the enclosed request for expedited consideration by the Department. I understand it may be necessary to develop mutually satisfying procedures should any of the requested documents be provided to the Committee on a restricted basis.

Sincerely,

JOSEPH R. BIDEN, Jr.,
*Ranking Minority Member.*

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U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
*Washington, DC, July 23, 1986.*

Hon. JOSEPH R. BIDEN, Jr.,
*Ranking Minority Member, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR JOE: In preparation for the Senate Judiciary Committee hearings on the nomination of William H. Rehnquist be to Chief Justice of the United States, please ask Chairman Thurmond to provide the following information and materials, as soon as possible:

1. For the period from 1969–1971, during which Mr. Rehnquist served as Assistant Attorney General for the Office of Legal Counsel, all memoranda, correspondence, and other materials on which Mr. Rehnquist is designated as a recipient, or materials prepared by Mr. Rehnquist or his staff, for his approval, or on which his mane or initials appears, related to the following:

—executive privilege;

—national security, including but not limited to domestic surveillance, anti-war demonstrators, wiretapping, reform of the classification system, the May Day demonstration, the Kent State killings, and the investigation of leaks;

—the nominations of Harry A. Blackmun and G. Harrold Carswell to be Associate Justices of the Supreme Court;

—civil rights;

—civil liberties.

2. The memo prepared by law clerk Donald Cronson for Justice Jackson concerning the school desegregation cases, entitled, ''A Few Expressed Prejudices on the Segregation Cases''.

3. The original of the Cronson cable to Mr. Rehnquist in 1971, which appears in the Congressional Record of December 9, 1971.

4. Financial disclosure statements for Justice Rehnquist for the period from his appointment to the Court until 1982.

5. Any book contracts to which Justice Rehnquist is a signatory and which were in

effect for all or any part of the period from January 1984 to the present, or for which he was engaged in negotiations during the same period.

Sincerely,

EDWARD M. KENNEDY.
HOWARD M. METZENBAUM.
PAUL SIMON.

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U.S. SENATE,
COMMITTEE ON THE JUDICIARY
*Washington, DC, August 6, 1986.*

Hon. EDWIN MEESE III,
*Attorney General, Department of Justice, Washington, DC.*

DEAR MR. ATTORNEY GENERAL: First, I wish to express my appreciation for the manner in which we were able to resolve the issue of access to documents which we requested in connection with Justice Rehnquist's confirmation proceedings. I am delighted that we were able to work out a mutually acceptable accommodation of our respective responsibilities.

We have now had an opportunity to conduct a preliminary examination of the materials which were provided to us last evening, and we have noticed that several of the items refer to other materials, most of which appear to be incoming communications to which the nominee was responding while he headed the Office of Legal Counsel. Attached hereto is a list of those other materials, and I would appreciate your taking appropriate steps to see that those items are made available as soon as possible.

Finally, once you have provided us with access to these additional materials, I would appreciate your providing us with a written description of the steps which have been taken, and the files which have been searched, in your Department's effort to be responsive to our requests.

Once again, thanks for your continuing assistance.

Sincerely,

JOSEPH R. BIDEN, Jr.,
*Ranking Minority Member.*

REHNQUIST DOCUMENTS

A. Letter from Lt. Gen. Exton, dated Dec. 2, 1970. (This item is referenced in the attachments to I.2.)

B. The ''transmittal of June 5, 1969'' from Herbert E. Hoffman, (This item is referenced in II.1.)

C. The ''directive . . . sent out by General Haig on June 30.'' (This item is referenced on the first page of the first attachment to II.2.)

D. ''Haig memorandum of June 30.'' (This item is referenced on the first page of the first attachment to II.2.)

E. ''NSSM–113''. (This item is referenced in II.4.)

F. The ''request'' of William H. Rehnquist. (This is referenced in the first paragraph of II.5.)

G. The ''request'' of William H. Rehnquist. (This item is referenced in the first paragraph of II.6.)

H. John Dean's ''memorandum of Nov. 16, 1970.'' (This item is referenced in II.8.)

I. Robert Mardian's ''memorandum of January 18, 1971.'' (This item is referenced in II.10.)

J. The ''similar memorandum to Mr. Pellerzi and his response of January 21 concerning the above-captioned matter.'' (These *two* items are referenced in II.10.)

K. Kenneth E. BeLieu's ''request of October 28, 1969 for rebuttal material.'' (This item is referenced in V.1.)

L. William D. Ruckelshaus' ''memorandum of December 19, 1969.'' (This item is referenced in VI.2, and in VI.4.)

M. William D. Ruckelshaus' ''memorandum of February 6, 1970.'' (This item is referenced in VI.5.)

N. Mr. Revercomb's request. (This item is referenced in I.1.)

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DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
*Washington, DC, August 7, 1986.*

Hon. STROM THURMOND,
*Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.*

DEAR CHAIRMAN THURMOND: This letter responds to Senator Biden's August 6 request for certain additional materials referred to in the documents from the Office of Legal Counsel (OLC) that were made available for the Committee's review, and for an explanation of the procedures followed by the Office of Legal Counsel in locating and reviewing those materials. Because OLC went to extraordinary lengths in responding to the document requests in a very short time, I think it would be useful to describe those efforts first.

The files of the Office of Legal Counsel for the years 1969–1971 are maintained in two, duplicative sets: one in hard copy (on a chronological basis) and the other on a computerized system (which can be searched by words or phrases). The Office's normal procedure in response to any request for documents—be it from the public, another government agency, or from a member of Congress—is to conduct a search through the computer system to locate the potentially responsive document or documents. The documents thus identified are then reviewed in hard copy to determine whether they are responsive to the request and whether they may be released, consistent with preserving the integrity of the Office's role as confidential legal advisor to the Attorney General and to the President. The computer search and review is supervised directly by senior career personnel of the Office.

In this case, the Office went far beyond its routine process to ensure the comprehensiveness of its response. In keeping with established procedures, members of the career OLC staff, under the supervision of the senior career lawyer who usually handles such matters, performed extensive subject matter searches of the computer data base to identify all documents in the files that were conceivably responsive to the request. Those documents were then reviewed by a senior career staff lawyer to determine their responsiveness. In addition, OLC career staff performed an overlapping review, from the hard copy files maintained by OLC for 1969–1971, of all documents prepared by or under the direction and supervision of Mr. Rehnquist. Finally, a staff lawyer worked with the Records Management Division of the Department of Justice to try to identify and locate any files stored in the federal records center that might possibly contain responsive documents.

I note that review of the stored files in this manner is extraordinary and to our knowledge unprecedented. The OLC files from the relevant time period were consolidated with other Departmental files by the Records Management Division, and then processed and maintained by that Division based on a complicated and incomplete filing system. It is virtually impossible to determine whether documents from the Office of Legal Counsel may be in a particular stored file, or indeed to determine whether particular files were maintained.

Nonetheless, in an effort to be as complete as possible in responding to the request, OLC undertook to try to identify any stored files that could conceivably contain responsive documents. Although an initial review of the index maintained by the Records Management Division did not suggest that those files contained responsive material that OLC had not previously located, in an abundance of caution OLC requested access to any possibly relevant files. Those files were received from the records center in Suitland, Maryland, late yesterday afternoon. Based on a review of those files by OLC career staff, OLC located three additional memoranda relating to the May Day arrests, each of which was prepared by OLC staff. We attach an index of those documents, and will provide the Committee with access in accordance with our existing agreement.

In addition, the files received from the federal records center included a copy of the December 2, 1970, letter from Lt. Gen. Exton, which is requested as item A by Senator Biden in his August 6 letter. We will also furnish this letter to the Committee under the same terms. With the exception of item M on Senator Biden's list, which has already been made available to the Committee, OLC has been unable to locate any of the other requested materials in its files or in the stored files. Many of these documents may, in fact, no longer exist. The various ''requests'' listed as items F, G, and K, for example, were most likely oral requests that were never memorialized in writing.

In sum, the staff of the Office of Legal Counsel went to extraordinary lengths to ensure that all responsive materials were located, putting literally hundreds of hours into this project.

Please let me know if we can be of further assistance.

Sincerely,

JOHN R. BOLTON,
*Assistant Attorney General.*

INDEX TO SUPPLEMENTAL RELEASE TO SENATE JUDICIARY COMMITTEE

1. 5/71 memo to file from Eric Fygi: ''Prevention by Use of Troops of Departure of Mayday Demonstrators from West Potomac Park for Demonstration Sites''

This memorandum discusses legal constraints on possible use of troops to prevent movement of May Day demonstrators.

2. 4/26/71 memo to WHR from Eric Fygi and Mary C. Lawton: ''Legal and Practical Considerations Concerning Protective Actions by the United States to Ameliorate the 'Mayday Movement' Traffic Project''

This memorandum discusses possible limitations posed by the Posse Comitatus Act on the use of troops in connection with the planned May Day demonstrations.

3. 4/29/71 memo to file from Mary C. Lawton (copy provided to WHR): ''Authority of members of the Armed Forces on duty in civil disturbances to make arrest''

This memorandum questions arising under federal and D.C. law and the Uniform Code of Military Justice with respect to arrests by members of the armed forces.

4. 12/3/70 letter from Lt. Gen. H.M. Exton to Attorney General Mitchell (as requested by Senator Biden's letter of August 6, 1986).

Mr. REID. Madam President, my friend from Idaho, the distinguished senior Senator—and he is my friend; I have the greatest respect for him; he is a fine man; he represents his State very well—I respectfully submit to this body my friend's statements regarding what the Senate did not do last year is a statement made through a pair of glasses that obviously are very foggy.

I say that because there is a lot of talk here about things that were not done. But the fact is the work that was left undone last year was left undone as a result of the President of the United States and the Republican-led House of Representatives not allowing us to move the appropriations bills. We

passed 2 bills, leaving 11 undone. The House of Representatives simply refused to take votes on those very difficult bills. They knew if they took votes on those bills as they wanted them in the House of Representatives, it would create chaos among the people in the country because the people would know then that the Republicans simply were not meeting the demands of the American people.

As a result of that, even though we passed every bill out of the Senate Appropriations Committee—all 13—we were not allowed to take them up. So we have to understand that is basically the way it is.

The senior Senator from Idaho has talked about the need to have a vote on Estrada. It is within the total power of the majority to have a vote. How do they have a vote? The rules in this body have been the same for a long time: File a motion to invoke cloture. Why does the Senate have a rule such as this? The Senate of the United States, as our Founding Fathers said, is the saucer that cools the coffee. The Constitution of the United States is a document that is not to protect the majority; this Constitution protects minorities. The majority can always protect itself. The Constitution protects the minority. If the majority wants to vote, it can invoke cloture—try to. It takes 60 votes. No question about that. Then they can have the up-or-down vote that they want.

All the crocodile tears are being shed for this man who is fully employed downtown here with a big law firm, making hundreds of thousands of dollars a year. We are holding up the work of this country that deals with problems that people who do not make that kind of money have, people who are struggling to make sure they can pay their rent, make their house payment, pay their car payment, that they can find enough money to get to work on public transportation, people who need a minimum wage increase, people who have no health care; they cannot take their children to the hospital when they are sick, and if they do, they know they are going to be billed large sums. Some places do not have indigent hospital care. We know there are many people who are underinsured, as Senator KENNEDY and I talked about. There are 44 million who do not have health insurance. Those are the problems with which we should be dealing.

The Clark County School District in Las Vegas is the fifth or sixth largest school district in America. A quarter of a million children need help. The school district is in dire need of help. The Leave No Child Behind is leaving a lot of kids behind because there is no money to take care of the problems. We met with Governors today for lunch, and they were told when they met with the President yesterday for Leave No Child Behind they are supposed to do the testing, and if that does not work out, they are supposed to take care of the other problems. That is not the deal we made. The States were desperate before that was passed. We do not fund the IDEA act, children with disabilities. These are the issues we should be dealing with—not spending 3 weeks of our time on a man who is fully employed. Let's talk about some of the people who have no jobs or are underemployed.

Having said that, my friend, the distinguished senior Senator from Idaho, cannot understand why there is not a vote on Estrada the way he believes a vote should occur. My friend, the distinguished senior Senator from Idaho, voted against 13 Clinton nominees on the floor, including Rosemary Barkett, born in Mexico, who emigrated to the United States. She had a great rating from the ABA, before Fred Fielding was on the committee, and he does not write her evaluation report.

By the way, the one thing on which I agree with the Republicans: They were right in saying the ABA should be out of the process. I will join with anyone in the future to get the ABA out of the process. It is corrupt, unethical; there are absolute conflicts of interest. The Republicans were right; it has been unfair.

I cannot imagine that body having thousands of——

Mr. CRAIG. Will the Senator yield?

Mr. REID. In one second, I will yield—thousands of lawyers, and they cannot get people who would be fair and reasonable and do not appear to have conflicts of interest? It is ripe to get rid of it.

Mr. CRAIG. I would not deny the Senator the right to the floor. I am curious, for the 8 years of the Clinton administration, this was the gold plate. The American Bar Association quality test was a gold plate. I said wait a moment here and voted against some of them.

Mr. REID. I respond to my friend, I said on the Senate floor today in the presence of the chairman of the Judiciary Committee, they were right. I acknowledge that.

Mr. CRAIG. A year makes a lot of difference, in the opinion of the Senator?

Mr. REID. Knowledge makes a difference. I am not a member of the Judiciary Committee.

Mr. CRAIG. And I am a freshman there.

Mr. REID. I think the ABA should be ashamed of themselves.

I said this morning, I practiced law quite a few years before coming here. I was not a member of the ABA for a number of reasons. Had I known this, I would really not have been a member. Lawyers all over America—we have, going back to biblical times, had problems with lawyers.

Mr. CRAIG. That is why——

Mr. REID. The ABA, I cannot think of a better phrase than that they should be ashamed of themselves for what they have done.

This is off the subject, but I will get back on the subject. I believe all Presidents, Democrat and Republican, have had trouble getting nominees—whether it is Cabinet officers, sub-Cabinet officers, members of the military, whether it is judges—trying to get them before the Senate because of the length of time the FBI investigations take and all the hoops people have to jump through now.

I say let's eliminate the ABA from the judges. I don't know how many of my colleagues here agree, but I agree, and I will join with the Republicans anytime to get the ABA out of the process.

My friend, the distinguished Senator from Idaho, voted against Judge Sonia Sotomayor, the first Hispanic female appointed to the circuit, and Judge Richard Paez confirmed to the Ninth Circuit after 1,520 days following his nomination. In fact, the distinguished senior Senator from Idaho not only voted against Judge Paez's confirmation, before that vote on March 9, 2000, but also voted on that day to indefinitely postpone the nomination of Richard Paez.

I find it fascinating that someone who voted to indefinitely postpone a vote on Paez would now say that Estrada is entitled to an immediate vote on his nomination.

Mr. CRAIG. Will the Senator yield?

Mr. REID. I am happy to yield, although I do not lose my right to the floor.

Mr. CRAIG. Madam President, the Senator is absolutely right. I did vote against those judges, as I said on the floor a few moments ago. I voted for some of the Clinton judges and against some of them based on philosophy. The question I ask, though, is, Did I ever deny the Senate the right to go to a vote? Did I ever filibuster as the Senator's party is now doing on this issue?

Mr. REID. I say to my friend that we had to vote cloture on Paez. That is how we got a vote on Paez. That is how that came about. We had to invoke cloture, and we had enough people of goodwill on the other side of the aisle who joined with us to invoke cloture. So the debate stopped.

Mr. CRAIG. I see.

Mr. REID. Madam President, as I was saying before, the question was asked. Senator CRAIG voted against the motion to invoke cloture on the debate on Paez who was pending for more than 1,500 days.

I want everyone within the sound of my voice to hear this. As Senator DASCHLE and I said, when the Democrats took over control of the Senate, we said it is not payback time no matter how bad President Clinton was treated. And we could go into a long harangue about how unfair it was. I will not even mention a few of the judges. The record is replete with examples of how poorly they were treated and how unfairly they were treated. We did not have payback time when we were in the majority, and it is not payback time when we are in the minority.

We approved, during the short time that we had control of the Senate, 100

judges—exactly. Three judges have come before this body for a vote. They were approved unanimously.

The situation with Miguel Estrada is a little bit different. It is a little bit different. It is a lot different. It is tremendously different because this is a man about whom speeches have been given all over town. He is so good that he is going to go to the Supreme Court.

It triggered something in the mind of the members of the Judiciary Committee. If that is the case, maybe we should ask him some questions. My dear friend from Utah, from our sister State and neighboring State, had on his desk books—look at all the answers he has given. There are answers, and then there are answers. He didn't answer the questions. That was our concern. He responded to questions, but he didn't answer them.

We believe that what has gone on in the past is not something we want, so in this situation I am able to say here that 2 days ago everything has been said but not everyone has said it. We are in a new phase of this debate. Everything has been said and everybody has said it. So now it is just repeat time. I am going to do a little repeat time.

I know my friend from New York wishes to speak. I will be as quick as I can, but I do want to respond to some of the questions that have been raised in the last bit by my colleagues on the other side of the aisle.

In 1996, Republicans allowed no—zero percent, absolute number zero—circuit court nominees to be confirmed. In 1997, they allowed 7 of just 21 of President Clinton's 21 circuit court nominees, one-third. Only 5 of President Clinton's first 11 circuit nominees that same year were confirmed. In 1998, Republicans allowed 13 of the 23 pending circuit court nominees to be confirmed. That percentage was pretty good—the best year for circuit court nominations and 6.5 years in control of the Senate. In 1999, Republicans backed down to 28 percent and allowed 7 of the 25 circuit court nominees to be confirmed—about 1 of over 4.

Four of President Clinton's first 11 circuit court nominations that year were not confirmed. In 2000, Republicans allowed only 8 of 26, 31 percent. All but one of the circuit court candidates were initially nominated that year without confirmation.

Republicans simply have no standing to complain that 100 percent of President George W. Bush's circuit court nominees have not be confirmed. The recent issue makes it plain. Democrats have been far better to this President than they were to President Clinton.

Under Republicans, as a consequence, the number of vacancies on the circuit courts more than doubled—from 16 in January 1995 to 33 by the time the Senate was reorganized in the summer of 2001. Republicans allowed only 7 circuit court judges to be confirmed per year; on average, we confirmed 17 in just 17 months.

The other thing that I find so interesting is the majority is complaining about the District of Columbia Circuit Court being so understaffed. What they are saying now is that this DC Circuit is so understaffed that we have to do something about this.

As my friend from Utah said to me, make a difference. As I indicated to him about the ABA, I didn't know as much then as I know now about the ABA.

But what I wanted to talk about here is the DC Circuit Court problems. They talked about double standards on that side of the aisle today. Let me give you a couple of examples.

DC Circuit Court nominees Elena Kagan, Allan Snyder, and Merrick Garland. Senator CORNYN remarked that Judge Garland was confirmed in only a few months. Today the Senator repeated that claim using the chart that said Garland waited only 71 days from his nomination to confirmation.

If only that were the case, but all you have to do is talk to Judge Garland and look at the real record. Judge Garland was first nominated in 1995—the year the Republicans took over the Senate—and not allowed to be confirmed until 1997, hardly a few months.

The prior two Republican administrations under President Reagan and George W. Bush appointed 11 judges to the 12-member court. When President Reagan came to Washington, there was a concerted effort to pack this court in particular with activist judges in the hopes of limiting opportunity for citizens to challenge regulations and limiting constitutional power to enforce hard-fought constitutional and statutory rights to protect workers and to protect the environment.

President Reagan, with the help of the Senate, put activist Robert Bork on the DC Circuit. Like Miguel Estrada, Bork was one of the first judges nominated by that President. Shortly after winning Bork's confirmation to the circuit in 1982, President Reagan pushed through the Scalia nomination to the DC Circuit, and Ken Starr the following year.

That is a real lineup. Bork, Starr, Scalia—quite amazing. He named another five conservatives after that for a total of eight appointments to the court alone in his 8 years as President.

The first President Bush took a similarly special interest in the DC Circuit and chose Clarence Thomas to be one of his first dozen nominees. Thomas, who I had the pleasure of voting against when he came before the Senate, was one of two other nominees of the first President Bush. Four of the 11 judges put on the District of Columbia Circuit were later nominated by the Republican Presidents to the Supreme Court.

During the period when Republicans had nominations to that court—when Scalia and Thomas served there—the court, clearly any legal scholar can tell you, began to limit opportunities for individual citizens and judges to represent them. To have standing to challenge Government action.

At the same time, the DC Circuit became less deferential to agency regulations intended to protect consumers and workers. These decisions were praised by Republican activists.

With a Democratic Senate, President Clinton was able to name two moderate judges to this court in order to moderate this bench. However, once Republicans took over, they tried to prevent any more Democratic appointees from getting on this court.

So it is simply incorrect—and I hope not intentionally—to claim that Garland waited only 71 days between his nomination and his confirmation. It was a matter of years, not days—almost 2 years.

Why did he have to wait so long? Once Republicans took over the Senate, they decided to try to prevent President Clinton from filling circuit court vacancies, especially in the DC Circuit. In fact, during their time in the majority, vacancies on the appellate courts more than doubled, to 33, during their 6½ years in control of the Senate.

I believe Republicans decided to prevent President Clinton from bringing any balance to the DC Circuit. As you know, the Republicans had named 11 judges to this powerful 12-member court.

First, when Garland was nominated to the 12th seat, Republicans said the DC Circuit did not need a 12th judge. For example, the distinguished senior Senator from Iowa, Mr. GRASSLEY, said that this judgeship cost $1 million a year and did not need to be filled due to those costs.

Then Senator GRASSLEY said he was relying on the view of a Republican appointee to this court, Judge Silberman. Judge Silberman—you can read about him in a number of different places, including the book ''Blinded by the Right,'' written by Mr. David Brock, where this man, who was an activist for the far right, would meet with this judge, while he was sitting on the bench, walking to his anteroom, and talk about political strategy on how to embarrass Democrats, talk about political strategy, what to do to embarrass the President of the United States and the First Lady of the United States. That is Judge Silberman.

Judge Silberman recently told the Federalist Society that judicial nominees should say nothing in their confirmation hearings—the same advice he gave Scalia when Silberman was in the Reagan White House. And, as you know with Scalia, a nominee's silence on an issue certainly does not guarantee that a nominee does not have deeply held views on an issue.

Yesterday, I went into some detail about my respect for the ability of Judge Scalia to reason. This is a logical man, a brilliant man. But we, for various reasons, knew quite a lot about Scalia. He had written opinions before he went to the Supreme Court. And

even though some of us may not have agreed with his judicial philosophy, no one—no one—can dispute his legal attributes, his legal abilities, his ability to reason and think.

Scalia recently authored a majority opinion for the Supreme Court in favor of the Republican Party of Minnesota that ABA-modeled ethics rules could not prevent a judicial candidate from sharing his views on legal issues. That was Scalia, the person I just bragged about.

While there might have been some ambiguity about how much a judicial candidate could say before that Supreme Court decision last summer, after that decision there is none now, and Mr. Estrada has no ethical basis for refusing to answer the questions that we say he has not answered.

Let's talk about Silberman a little more.

He told Senator GRASSLEY that the addition of another judge on that court would make it ''more difficult'' ''to maintain a coherent stream of decisions.'' Surely he did not mean that the addition of a Democrat appointee to that court filled with Republican appointees would make it more difficult to have unanimous decisions by mostly Republican panels.

My friend Senator GRASSLEY and other Republicans also relied on the views of another Republican appointee, Judge J. Harvie Wilkinson of the Fourth Circuit. I don't know much about Harvie Wilkinson. I don't know if he is giving advice about how to embarrass Democrats in his judicial capacity, which is unethical and against the canons of judicial ethics. But I don't know anything about Harvie Wilkinson, other than what I am going to tell you right now. He said:

> [W]hen there are too many judges . . . there are too many opportunities for Federal intervention.

So this makes me think that the opposition to Garland getting a vote was pretty political.

Well, then look at what happened. Another Republican appointee to the DC Circuit retired, and then the Republicans said the DC Circuit did not need an 11th judge on that court. Garland would have then been the 11th judge instead of the 12th.

So the Republicans came to the floor stating that the declining caseload of the DC Circuit did not warrant the appointment of a Clinton appointee. They argued that 10 judges could handle the 1,625 appeals filed in the then-most-recent year for which statistics were available.

I can only imagine what the Republicans would be saying now if Gore—who got more votes in the last election than did the President—if he had won the Supreme Court case in that election recount. Now, the number of cases filed in the DC Circuit has fallen by another 200 per year, down to 1,400 in 2001, the most recent year for which statistics are available. So under their analysis—that is, the analysis of Silberman and Wilkinson—the DC Circuit would need only 9 judges to handle these cases, not 10 or 11 or 12.

In fact, under their analysis, 8 DC Circuit judges could probably handle the 1,400 appeals if each judge took a few more cases on average—175 rather than 162. In fact, the First Circuit had 1,463 appeals that year, more than the DC Circuit, but they only have 6 judges.

So let me be as clear as I can. I am not saying that the DC Circuit needs only eight judges and that Estrada and Roberts are people for whom they should not have submitted their names. I am simply saying that these were the Republican arguments against confirming Merrick Garland and any other Clinton appointees to that court. Now they are strangely silent on the plummeting caseload of the DC Circuit and whether it is important we spend $1 million per year for each job.

These saviors of the budget—the majority—and they are responsible, along with the President, for the largest deficit in the history of the world, almost $500 billion this year—are not concerned, I guess, about $1 million per year. Because you are talking about four judges or so, and that is only $4 million. And when we have a deficit approaching $500 billion, I guess that is chump change.

After delaying Garland from 1995 to 1997, 23 Republicans still voted against the confirmation of this uncontroversial and well-liked nominee. I think it is important note that, despite Garland's unassailed reputation for fairness, Republicans forced him to wait on the floor all this time—even after he was voted out of committee—11 months on the floor.

Clinton's two other nominees to the DC Circuit were not nearly as fortunate. Elana Kagan and Allen Snyder were never allowed a committee vote or a floor vote. They were held up by anonymous Republicans.

That is worse than what we are doing—absolutely, totally worse. What we are doing is within the rules because you have rules that you can follow. If it is not put out of committee, you have no recourse. If they had brought it to the floor, we could have at least tried to invoke cloture. And that is what the majority can do now.

They did not even give these two qualified people—both of whom graduated first in their class, Harvard—they were never even allowed a committee vote, or certainly not a floor vote. They were held up by anonymous Republicans.

Now, we are not doing anything in the dark of the night. We do not have anonymous holds on Miguel Estrada. We are out here on the floor saying, we want information on him. Until we get it, we are going to vote against this man. And I assume these anonymous holds—I don't know how many it was—one, or two, or three, or four, or five Republicans in the dark of the night preventing a vote.

Now the Republicans want to say it is wrong and unconstitutional to need 60 votes. It is not quite worth a hearty laugh, but it is sure kind of funny for them to say it is unconstitutional. Unconstitutional that we are following the Constitution—article II, section 2, of the Constitution?

Now Republicans want to say it is wrong and unconstitutional to need 60 votes—more than a majority—to end a debate under longstanding Senate rules, but it is not antidemocratic and unfair for Republicans to allow just one member of their own party—maybe two or three—to prevent a vote up or down on a judicial nominee, or at least allow us to file a motion to invoke cloture; that is, when a Democrat was President.

Madam President, I know the Senator from New York is here to speak. Is that true? I will have plenty of opportunity at a subsequent time to speak. But there will be a time when I respond to the statement the junior Senator from Texas made yesterday regarding the Senate's role on confirmations. I look forward to doing that.

I apologize to my friend from New York. She had duty here at 5 o'clock, and I have taken far too much time.

I did want to respond to some statements made when the Senator from New York was not on the floor. I felt it was important that the record be made clear.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Madam President, I understand that the Senator from New York wishes to speak. I don't wish to delay her, but in the spirit of going back and forth, I have sought to be recognized. I will not take a great deal of time because I want to be sure the Senator from New York is given the proper opportunity to speak.

Mr. REID. Madam President, because of the graciousness of the Senator from Utah, I ask unanimous consent that following the statement of the Senator from New York, the Senator from Utah be recognized.

Mr. BENNETT. Madam President, I would object because I have the floor.

Mr. REID. I am sorry. I thought you were going to let her speak.

Mr. BENNETT. I do intend to let her speak, but I would like to give my statement first.

Mr. REID. I didn't understand that. Then I ask unanimous consent that the Senator from New York be recognized following the Senator from Utah. I would say to the Senator from Utah, the Senator from New York has been waiting a long time, so in the matter of who has been here the longest, it has been her.

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

Mr. BENNETT. I thank my friend from Nevada. I sit behind him. He may not have noticed how long I was waiting.

I have been interested in this debate. It goes on. As the Senator from Nevada

has said, just about everything that can be said has been said. But at the same time the country is beginning to discover this debate. While everything may have been said on the floor, it seems that not everything has been said out in the country. It is interesting to me that we are getting more and more editorial comment throughout the Nation on this issue.

One that came to my attention just this morning is in this morning's Washington Post. Those who get upset about what they believe is the liberal bias of the newspapers usually do not include the Washington Post among the list of those publications favorable to Republicans. There are columnists in the Washington Post that are considered favorable to Republicans. Mr. Novak comes to mind. But the Post itself is considered to be part of the leftwing media, according to those on talk radio.

So when someone who is part of the establishment of the Washington Post editorial page speaks out on this issue and says something contrary to that which is normally assumed to be the party line of the mainstream media, it is worth noting and commenting on.

In this morning's Washington Post, Benjamin Wittes, a member of the editorial page staff, has an op-ed piece entitled Silence is Honorable.

I would like to quote from it at some length. This is how Mr. Wittes begins:

Asked whether the Constitution evolves over time, the nominee to the U.S. Court of Appeals for the District of Columbia Circuit told the Senate Judiciary Committee that, while such debates were interesting, ''as an appellate judge, my obligation is to apply precedent.'' Asked whether he favored capital punishment, a nominee said only that the death penalty's constitutionality was ''settled law now'' and that he didn't ''see any way in which [his] views would be inconsistent with the law in this area.''

Miguel Estrada, one of President Bush's nominees to the D.C. Circuit, is facing a filibuster by Democratic senators who claim that his refusal to address their questions at his hearing—combined with the White House's refusal to release his memos from his days at the solicitor general's office—makes him an unreadable sphinx. Yet the careful answers quoted above are not Estrada's. The first was given by Judge Judith Rogers at her hearing in 1994, the second by Judge Merrick Garland the following year. Both were named to the bench by President Clinton. Neither was ever accused of stonewalling the committee. And both were confirmed.

But the rules they are a-changin', and answers barely distinguishable from these are no longer adequate. Asked whether he thought the Constitution contained a right to privacy, Estrada said that ''the Supreme Court has so held and I have no view of any nature whatsoever . . . that would keep me from apply[ing] that case law faithfully.'' Asked whether he believed Roe v. Wade was correctly decided, he declined to answer. While he has personal views on abortion, he said, he had not done the work a judge would do before pronouncing on the subject. Roe ''is there,'' he said. ''It is the law . . . and I will follow it.''

The real difference between Estrada's questioning and that of Garland and Rogers is not that Estrada held back. It is that Garland and Rogers faced nothing like the inquest to which Estrada was subjected. Both, along with Judge David Tatel—the other Clinton appointee now on the court—faced only a brief and friendly hearing.

I would note, outside of the article, that that brief and friendly hearing was under Republican auspices because Republicans controlled the Senate. Back to the article:

And none was pushed to give personal views on those matters on which his or her sense of propriety induced reticence. To be sure, there was no controversy surrounding the fitness of any of the Clinton nominees, so the situation is not quite parallel. When Garland, a moderate former prosecutor who had recommended the death penalty, said he could apply the law of capital punishment, there was no reason to suspect he might be shielding views that would make him difficult to confirm. By contrast, many Democrats suspect that Estrada's refusal to discuss Roe is intended to conceal his allegedly extremist views. But that only begs the question of why Estrada is controversial in the first place that Democrats think it appropriate to demand that he bare his judicial soul as a condition of even getting a vote.

This is the conclusion of this portion of the op-ed piece:

Nothing about his record warrants abandoning the respect for a nominee's silence that has long governed lower court nominations.

And silence is the only honorable response to certain questions. It is quite improper for nominees to commit or appear to commit themselves on cases that could come before them.

That is the end of that quote. This is the standard we followed in this body for many years. I will not pretend that members of the Judiciary Committee of both parties in Congress, controlled by both parties, would use the Judiciary Committee, the blue slip process and other patterns of senatorial courtesy to keep people from getting to the bench. That is part of our history. That has always been done. But once a hearing has been held and the committee has voted out a nominee, we have always allowed that nominee to go to a vote. That is the standard that has been established in this body. That is the standard that has been followed by Democrats and Republicans alike. And that is the standard that is being changed in this circumstance.

The Senator from Nevada talked a good bit about the Constitution and questions that have been raised about constitutionality by the Republicans. I would simply point out this obvious fact with respect to the Constitution on this question: The Founding Fathers gave the power to advise and consent in certain executive decisions to the Senate. The Founding Fathers recognized that the power to advise and consent was a very significant one, an unusual one held solely to the Senate. So they outlined those areas where the power to advise and consent would require a supermajority.

The Founding Fathers said: If you are advising and consenting on a treaty, which becomes law when it is ratified, equal to the Constitution, then you have to have a two-thirds majority. If you are amending the Constitution, you have to have a two-thirds majority. These are serious enough matters, with long-term impact, that they must have a two-thirds majority.

They could have said: The advise and consent power always requires a supermajority, but they did not. The Founding Fathers made it very clear those specific areas where a supermajority would be required and then left it to an ordinary majority on the advise and consent power with respect to Presidential nominations. And throughout the entire history of the Republic, we have followed the pattern of a simple majority for the advise and consent power to be exercised by the Senate.

Make no mistake, if the Senate sets the precedent in the Estrada case that the advise and consent power from this time forward requires a supermajority of 60 votes, they are changing forever the pattern of the Senate's relationship to the executive branch in this area. I am not one who says that is unconstitutional. I think it is within the power of the Senate. I disagree with those who are saying it violates the Constitution. I think it violates the intent of the Framers of the Constitution. I think that is very clear. But it is within the power of the Senate to do that if we want.

As I have said before, we on our side of the aisle discussed this when we were faced with those nominees from President Clinton whom we considered controversial. There were those in our conference who insisted that we must do that—change the pattern and require President Clinton's nominees to pass the 60 point bar. To his credit, my senior colleague from Utah argued firmly against that. Even though he was against the nominees in some cases, he said we must not change the historic pattern that says once a nominee is voted out of the committee, he or she gets a clear up-or-down vote by a majority. To his credit, the Republican leader at the time, the majority leader, Senator LOTT, said exactly the same thing: We must not go down that road. Those in our conference who said let's do it on that particular judge agreed and backed down, and no matter how strongly people on this side of the aisle felt about a particular judge, there was never an attempt to use the filibuster power to change what we considered to be the clear intent of the Founding Fathers and change the advise and consent situation, where there was an additional supermajority required, an additional supermajority added to that which the Founding Fathers themselves wrote into the Constitution.

Now the Democrats have decided they are going to do that. It is their right. To me, it signals a determination on their part that they expect to be in the minority for a long time. One of the reasons Senator HATCH gave for us not to do it was, we will have an opportunity in the future to be voting on nominees offered by a President of our

own party, and if we do this to the other party, they will then feel comfortable in doing it to the nominees of our party; let's just not do that.

I think by deciding to do this on this nominee, the Democrats have virtually conceded the fact that they do not expect another Democratic President for long time. They believe they will be in the minority for a long time and, therefore, they must establish this weapon as one of the weapons they will use as part of the minority to obstruct the activities in the Senate for a long time to come.

I hope they decide ultimately to bet on the future. I hope they decide ultimately they do expect that there will be a Democratic President sometime in the future, that they do expect there will be a Democratic Senate sometime in the future and they want to save for the future the right that every President, Democrat or Republican, and every Senate, Democrat or Republican, has maintained since the founding of the Republic 2½ centuries ago.

Madam President, if I may go back to the article written by Benjamin Wittes in this morning's Washington Post that summarizes the implications of going in this direction and what it will do long term, he says:

> Not knowing what sort of judge someone will be is frustrating, but that is the price of judicial independence. While it would be nice to know how nominees think and what they believe and feel, the price of asking is too high. The question, rather, is whether a nominee will follow the law. Estrada has said that he will. Those who don't believe him are duty bound to vote against him, but they should not oblige nominees to break the silence that independence requires.

That is what our friends on the Democratic side are doing. They have never demanded it before. We did not demand it of their nominees. They are changing the rules—''the rules they are a'changing,'' as Mr. Wittes points out. I ask my friends on the Democratic side to think long and hard about the long-term consequences of changing the rules—changing the rules, as Mr. Wittes talks about it, in terms of what is demanded of nominees; changing the rules as we are talking about it here in terms of the supermajority that would be added to the existing constitutional requirement of the Senate as it performs its role in advising and consenting to executive nominations.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mrs. CLINTON. Madam President, I thank the Senator from Utah for his kindness and consideration with respect to the order. I was happy to have the opportunity to hear him, as I often am.

With respect to the arguments that have been made in the last hour or so, I think it is clear that there is a fundamental difference of opinion regarding the Senate's obligation and duty under the advise and consent clause of the U.S. Constitution.

Mr. DORGAN. Will the Senator yield for a unanimous consent request?

Mrs. CLINTON. Yes.

Mr. DORGAN. I ask unanimous consent that I may speak following the speech of the Senator from New York.

Mr. BENNETT. I object. There is a Republican speaker coming. I would amend the UC request to say that Senator TALENT, if he is on the floor, be recognized first, and then Senator DORGAN be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object, I have not followed the order on the floor of the Senate today. I don't know whether the Senator from Utah has. I was told I would be recognized at 5:30 and was prepared to do that. If there has been a process today in which Republicans and Democrats follow each other precisely, then I will understand what the Senator from Utah is trying to do. If not, I am here. The reason I am here is to present remarks following the Senator from New York. If others wish to be involved in the lineup, I will be happy to entertain that. I guess I don't understand the circumstance under which the Senator from Utah is opposing this.

Mr. BENNETT. I am not sure what the circumstance was prior to my coming to the floor either. I was told we were going back and forth. If I might inquire as to how much time the Senator would use, perhaps there would be no problem.

Mr. DORGAN. It was my intention to consume an hour, but I will not do that; it will be a half hour. I would certainly be accommodating to anybody else. I would like to speak, and others are not here. I don't intend to interrupt. If there is an order established, I do not want to interrupt that. I don't know that to be the case.

Mr. BENNETT. I don't know that to be the case all day long. I do know that was the case earlier. Reserving the right for my friend who is anticipating to be here at 6, and was told in advance he could be here at 6, I renew my unanimous consent request that following the Senator from New York, the Senator from Missouri, Mr. TALENT, would be recognized to speak, after which the Senator from North Dakota, Mr. DORGAN, would be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object—and I will now object—if the other side wishes to protect people who are not here in deference to those who are here, I expect the Senator from Utah would want us to do the same thing on this side of the aisle. If a Republican is waiting to speak, and a Democrat is not yet on the floor, but someone here says it is really the opportunity for the Democrats to speak even if the Republican is here, we will object. So I guess I understand the point the Senator from Utah is making. I will not object to his request as long as he understands that we will do that, I suppose. I don't think it is the most efficient way of handling things. Those who are on the floor and prepared to speak, I expect that is the way we ought to recognize people.

Mr. BENNETT. I thank my friend for his consideration. I say to him he caught me at somewhat of a disadvantage in that I am the only one on the floor and didn't know what was going on. I am trying to accommodate people on both sides, which is why I want to make sure the Senator from North Dakota is recognized to speak.

Mr. DORGAN. Madam President, continuing to reserve the right to object, if this is the process, I will simply at some appropriate point ask for a time certain to speak tomorrow and will be here promptly at that time. I am here now and those who the Senator from Utah is attempting to protect are not here. I will not object because I do not want to interrupt an order apparently they think on that side exists. If that, in fact, is the order, we will certainly make sure that is the case for people on both sides of the aisle as we proceed.

Mr. BENNETT. I would expect the Democratic leader to be sure of enforcing the same process on behalf of Senators on his side of the aisle.

Mr. DORGAN. Madam President, I do not think that is the most efficient use of time in the Senate. It seems to me those who are here want to be recognized to proceed. Recognizing it is not the most efficient use of time, I will not object to the request by the Senator from Utah.

Mr. BENNETT. I thank my friend.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York.

Mrs. CLINTON. I thank the Chair. Madam President, I have been, as I said, listening with great interest to the debate on this issue. It is a very significant and important debate. As I often do when I come to the Chamber, I imagine, instead of being a Senator with the great honor of representing the State of New York and speaking in this Chamber, that I am just another citizen, as I have been most of my life, watching the debate on C–SPAN or one of the other television networks that might cover parts of it, and I would be asking myself: What is this all about? Why has so much time been consumed in the Senate over this one nominee?

The bottom line answer is that this side of the aisle has a very deep concern about any candidate seeking a lifetime position who refuses to answer the most basic questions about his judicial philosophy. And that, in fact, to permit such a candidate to be confirmed without being required to answer those questions is, in our view, a fundamental denial and repudiation of our basic responsibilities under the advice and consent clause of article II, section 2, of the U.S. Constitution.

Earlier this afternoon, as I was waiting for my opportunity to speak, I heard the Senator from Idaho admit that he had, based on philosophy, voted against certain nominees who had been sent to the Senate by President Clinton. I happen to think that is a totally

legitimate reason to vote for or against a nominee. I happened to agree with the Senator from Idaho when he said he voted against nominees by President Clinton based on philosophy. That is an integral part of the advise and consent obligation.

The problem that we have on this side of the aisle is we cannot exercise the advise and consent obligation because we do not get any answers to make a determination for or against this nominee based on philosophy. I could not have done a better job than the Senator from Idaho did in summing up what the problem is. I thank the Senator from Idaho for being candid, for saying he voted against President Clinton's nominees based on philosophy.

We could resolve this very easily if the nominee would actually answer some questions, legitimate questions that would permit those of us who have to make this important decision and are not just saluting and following orders from the other end of Pennsylvania Avenue, by being able to look into the philosophy and then deciding: Are we for this nominee or are we against this nominee?

This nomination would also be expedited if the President and his legal counsel would respond to the letter of February 11 sent to the President by the minority leader and the distinguished ranking member of the Judiciary Committee asking for additional information on which to make a decision concerning this nominee, and, in fact, both Senators Daschle and Leahy are very explicit about what information is required. I will reiterate the request. Specifically, they asked the President to instruct the Department of Justice to accommodate the request for documents immediately so that the hearing process can be completed and the Senate can have a more complete record on which to consider this nomination and, second, that Mr. Estrada answer the questions he refused to answer during the Judiciary Committee hearing to allow for a credible review of his judicial philosophy and legal views.

I would argue, we are not changing the rules. In fact, we are following the rules and the Constitution, and we are certainly doing what the Senator from Idaho said very candidly he did with respect to President Clinton's nominees. We are trying to determine the judicial philosophy of this nominee in order to exercise our advise and consent obligation.

I have also been interested in my friends on the other side of the aisle talking and reading from newspapers and asserting that we are somehow requesting more information from this nominee than from other nominees and that, in fact, it is honorable not to answer relevant questions from Judiciary Committee members. It may be honorable by someone's definition of honor, but it is not constitutional. It is fundamentally against the Constitution to refuse to answer the questions posed by a Judiciary Committee member.

If there were any doubt about this standard, all doubt was removed last year. How was it removed? It was removed in a Supreme Court opinion rendered by Justice Scalia arising out of a case brought by the Republican Party concerning the views of judges.

For the record, I think it is important we understand this because perhaps some of my colleagues have not been informed or guided by the latest Supreme Court decisions on this issue, but I think they are not only relevant, they are controlling, to a certain extent, when we consider how we are supposed to judge judges.

Republicans focus on the ABA model code that judicial candidates should not make pledges on how they will rule or make statements that appear to commit them on controversies or issues before the court. They are, understandably, using this as some kind of new threshold set by Mr. Estrada who refused to answer even the most basic questions about judicial philosophy or his view of legal decisions.

Some judicial candidates, it is true, go through with very little inquiry. They come before the Judiciary Committee. They are considered mainstream, noncontroversial judges. Frankly, the Senators do not have much to ask them. They go through the committee. They come to the floor. That is as it should be. Were it possible, that is the kind of judge that should be nominated—people whose credentials, background, experience, temperament, and philosophy is right smack in the center of where Americans are and where the Constitution is when it comes to important issues. When someone does not answer questions or when they are evasive, it takes longer and you keep asking and you ask again and again. That was, unfortunately, the case with this particular nominee.

The Republican Party sued the State of Minnesota to ensure their candidates for judicial office could give their views on legal issues without violating judicial ethics. Republicans took that case all the way to the Supreme Court. In an opinion by Justice Scalia, the Supreme Court ruled that the ethics code did not prevent candidates for judicial office from expressing their views on cases or legal issues. In fact, Justice Scalia said anyone coming to a judgeship is bound to have opinions about legal issues and the law, and there is nothing improper about expressing them.

Of course, we do not and should not expect a candidate to pledge that he is always going to rule a certain way. We would not expect a candidate, even if he agreed that the death penalty was constitutional, to say: I will always uphold it, no matter what. That would be an abuse of the judicial function and discretion.

Specifically, in Republican Party of Minnesota v. White, the Supreme Court overruled ABA model restrictions against candidates for elective judicial office from indicating their views. I think the reasoning is applicable to those who are nominated and confirmed by this body for important judicial positions within the Federal judiciary.

Justice Scalia explained in the majority opinion, even if it were possible to select judges who do not have preconceived views on legal issues it would hardly be desirable to do so.

I want my friends on the other side to hear the words of one of the two favorite Justices of the current President, Justice Scalia: Even if it were possible, it would not be desirable.

Why? Because, clearly, we need to know what the judicial philosophy is. Judges owe that to the electorate, if they are elected; to the Senate if they are appointed.

Justice Scalia goes on: Proof that a justice's mind at the time he joined the court was a complete tabula rasa in the area of constitutional adjudication would be evidence of lack of qualification, not lack of bias. And since avoiding judicial preconceptions on legal issues is neither possible nor desirable, pretending otherwise by attempting to preserve the appearance of that type of impartiality can hardly be a compelling State interest, either. In fact, that is Justice Scalia quoting Justice Rehnquist.

Before this decision, some judicial candidates may have thought—and some of my colleagues may have thought—that judicial candidates could not share their views on legal issues, and I think that might have been a fair assessment of the state of the law at that time. But that is no longer a fair assessment.

A judicial candidate cannot be compelled to share his views, but Justice Scalia tells us that a judicial candidate who does not share his views refuses to do so at his own peril, and that is exactly what this nominee has done. At his own peril, he has gotten his marching orders from the other end of Pennsylvania Avenue, from all those who advise judicial nominees, from the Federalist Society and all the rest of those organizations, not to answer any questions, to dodge all of the issues, to pretend not to have an opinion about any Supreme Court case going back to Marbury v. Madison.

Well, he does so, in Justice Scalia's words, at his peril. That is what has brought this nomination to this floor for all these days, because this nominee wants to be a stealth nominee. He wants to be a nominee who is not held accountable for his views so that we who are charged under the Constitution to make this important judgment cannot do so based on his judicial philosophy.

Justice Scalia has a lot to say to my friends on the other side. If it were possible to become a Federal judge, with lifetime tenure, on the second highest court of the land, without ever saying

anything about your judicial philosophy, I think that would be astonishing. It would be troubling. It would run counter to the Constitution and to this opinion written by one of the most conservative members of the current Court.

Mr. Estrada basically has come before this Senate and claimed he cannot give his view of any Supreme Court case without reading the briefs, listening to the oral argument, conferring with colleagues, doing independent legal research, and on and on. That is just a dressed up way of saying: I am not going to tell you my views, under any circumstances.

One has to ask himself—and I do not want to be of a suspicious mindset—why will this nominee not share his views? Are they so radical, are they so outside the mainstream of American judicial thought, that if he were to share his views, even my friends on the other side would say wait a minute, that is a bridge too far; we cannot confirm someone who believes that?

How can I go home and tell my constituents that I voted for somebody who actually said what he said? I cannot think of any other explanation. Why would a person, who clearly is intelligent—we have heard that constantly from the other side—who has practiced law, not be familiar with the procedures of the Judiciary Committee, of the constitutional obligation of advise and consent or even of Justice Scalia and Justice Rehnquist's opinions about the importance of answering such questions?

So I have to ask myself: What is it the White House knows about this nominee they do not want us to know? And if they do not want us to know, they do not want the American people to know. I find that very troubling.

I do not agree with the judicial philosophy of many of the nominees sent up by this White House. I voted against a couple of them. I voted for the vast majority of them, somewhere up in the 90 percentile. At least I felt I could fulfill my obligation so when I went back to New York and saw my constituents and they asked why did I vote for X, I could say to them it was based on the record. He may not be my cup of judicial tea, but he seems like a pretty straightforward person. Here is what he said and that is why I voted for him. Or to the contrary, I could not vote for this nominee because of the record that was presented.

I cannot do that with this particular nominee. And you know what. The other end of Pennsylvania Avenue that is calling the shots on this nomination does not want me to have that information.

I think that is a denial of the basic bargain that exists under the Constitution when it comes to nominating and confirming judges to the Federal courts.

It could have been different. The Founders could have said let's put all of this into the jurisdiction of the Executive; let him name whoever he wants. Or they could have said: No, let's put it in the jurisdiction of the legislature; let them name whoever they want. Instead, as is the genius of our Founders and of our Constitution, there was a tremendous bargain that was struck, rooted in the balance of power that has kept this Nation going through all of our trials and tribulations, all of our progress, that balance of power which said we do not want this power to rest in any one branch of Government; we want it shared. We want people to respect each other across the executive and legislative lines when it comes to the third branch of Government.

So, OK, Mr. President, you nominate. OK, Senators, you advise and consent. That is what this is about.

Sometimes I wonder, as my friends on the other side talk about it, how they can so cavalierly give up that constitutional obligation. The unfortunate aspect of this is we could resolve this very easily. All the White House has to do is send up the information. Let Mr. Estrada answer the questions. He may still have a majority of Senators who would vote to put him on the DC Circuit. I do not know how it would turn out because I do not have the information.

While we are in this stalemate caused by the other end of Pennsylvania Avenue, which for reasons that escape me have dug in their heels and said, no, they will not tell us anything about this person, there is a lot of other business that is not being done, business about the economy, the environment, education and health care, business that really does affect the lives of a lot of Americans.

On that list of business that I consider important is what is happening in our foster care system. Tomorrow evening, I will have the great privilege of hosting the showing of a tremendous movie about the foster care system, along with Congressman TOM DELAY. I invite all of my colleagues from both Houses of Congress to come and see this movie that vividly illustrates what happens in our foster care system.

I have worked in the past with Congressman DELAY to try to improve the foster care system. I look forward to doing that in the future. He has a great commitment to the foster care system and the foster children who are trapped within it. I use that word with great meaning because, indeed, that is often what happens to them. And the stories of abuse and neglect that first lead children to go into the foster care system are compounded by the stories of abuse and neglect once they are in that system.

Mr. Fisher will be joining Congressman DELAY and me at the Motion Picture Association screening room for this important movie. This is a screening just for Members of Congress. I think it will illustrate better than certainly my words could why it is so important we join hands and work on this issue along with many others who affect the lives of children as well as men and women across America.

Occasionally, a movie comes to the screen that brings to life the stories that have become routine in the newspapers and that we too often ignore—the stories of children living with abuse and neglect, shuffled in and out of our foster care system, often with little guidance from or connection to any one adult. Too often these stories end in the most tragic way possible:

7-year-old Faheem Williams in Newark, NJ was recently found dead in a basement with his two brothers where they were chained for weeks at a time.

6-year-old Alma Manjarrez in Chicago was beaten by her mother's boyfriend and left to die outside in the snow and cold of the winter.

And despite 27 visits by law enforcement to investigate violence, 7-year-old Ray Ferguson from Los Angeles was recently killed in the crossfire of a gun battle in his neighborhood.

Antwone Fisher's story is different.

Mr. Fisher overcame tremendous odds: He was born in prison, handed over to the State, and lived to tell his story of heartbreaking abuse. At the age of 18, he left foster care for the streets. With nowhere to turn, he found the support, education, and structure in the U.S. Navy. In the Navy, Fisher received a mentor and professional counselor, which helped him turn his life around.

Mr. Fisher survived his childhood and has lived to inspire us all and send us a stern reminder that it is our duty to reform the foster care system so that no child languishes in the system, left to find his own survival or to die. Antwone's success story should be the rule not the exception.

Tomorrow night, House Majority Leader TOM DELAY and I will be cohosting a screening of the movie ''Antwone Fisher'' for Members of Congress. We decided to host this together because we both feel that it is imperative that we raise national awareness about foster care—through one child's own experience—and encourage our colleagues to tackle this tough issue with us.

Congressman DELAY and I had received an award together in the year 2000 from the Orphan Foundation of America for the work that we both have done in this area. Earlier this year, I asked my staff to reach out to his staff to find ways we might work together to focus on this issue. This movie was a natural fit for both of us and I look forward to continuing to work with Representative DELAY as we take a hard look at reforming our foster care system. Congressman DELAY and his wife, Christine, are strong advocates for foster children and are foster parents themselves.

I hope that many of my colleagues in the Senate will take us up on the invitation and join us for this important movie.

But, for those who can't join us, I wanted to share a little bit about Antwone's story in his own words from his book, ''Finding Fish''—

The first recorded mention of me and my life was [from the Ohio State child welfare records]: Ward No. 13544.

Acceptance: Acceptance for the temporary care of Baby boy Fisher was signed by Dr. Nesi of the Ohio Revised Code.

Cause: Referred by division of Child Welfare on 8–3–59. Child is illegitimate; paternity not established. The mother, a minor is unable to plan for the child. The report when on to detail the otherwise uneventful matter of my birth in a prison hospital facility and my first week of life in a Cleveland orphanage before my placement in the foster care home of Mrs. Nellie Strange.

According to the careful notes made by the second of what would be a total of thirteen caseworkers to document my childhood, the board rate for my feeding and care cost the state $2.20 per day.

Antwone went on to document that the child welfare caseworker felt that his first foster mother had become ''too attached'' to him and insisted that he be given up to another foster home. The caseworker documents this change:

Foster mother's friend brought Antwone in from their car. Also her little adopted son came into the agency lobby with Antwone. . . . They arrived at the door to the lobby and the friend and the older child quickly slipped back out the door. When Antwone realized that he was alone with the caseworker, he let out a lust yell and attempted to follow them.

Caseworker picked him up and brought him in. Child cried until completely exhausted and finally leaned back against caseworkers, because he was completely unable to cry anymore.

Later he describes when the caseworker brought him to his next foster home—she too slipped out the door when he was not looking. He says, ''All through my case files, everybody always seemed to be slipping away in one sense or another.''

When Antwone arrived at the next foster home and as he grew, at first he was not told of his troubled entry into the world:

But for all that I didn't know and wasn't told about who I was, a feeling of being unwanted and not belonging had been planted in me from a time that came before my memory.

And it wasn't long before I came to the absolute conclusion that I was an uninvited quest. It was my hardest, earliest truth that to be legitimate, you had to be invited to be on this earth by two people—a man and a woman who loved each other. Each had to agree to invite you. A mother and a father.

Antwone Fisher never knew a permanent home—never knew a loving mother and father. Instead, he was left to fend for himself when he was expelled from foster care at 18—a time when the state cuts off payments to foster parents. Antwone found himself on the streets and homeless.

Thanks to the work of many on both sides of the aisle in Congress we have begun important work to make sure that Antwone's story is not repeated. No child should have to grow up in foster care from birth and never be adopted and no child should ever have to leave the system at 18, with absolutely no support.

There are approximately 542,000 children in our Nation's foster care system—16,000 of these young people leave the system every year having never been adopted. They enter adulthood the way they lived their lives, alone.

In 1999, when I was First Lady, I advocated for and Congress took an important step to help these young adults by passing the Chafee Foster Care Independence Act. This program provides states with funds to give young people assistance with housing, health care, and education. It is funded at $410 million annually, and should be increased. But it was an important start to addressing the population of children who ''age-out'' of our foster care system.

This bill came after the important bipartisan Adoption and Safe Families Act of 1997. As First Lady, it was an honor to work on what's considered to be one of the most sweeping changes in federal child welfare law since 1980.

It ensured that a child's safety is paramount in all decisions about a child's placements. For those children who cannot return home to their parents, they may be adopted or placed into another permanent home quickly. Since the passage of this law, foster child adoptions have increased by 78 percent.

The next major hurdle that I believe we need to tackle in reforming our child welfare system is the financing system.

Currently, we spend approximately $7 billion annually to protect children from abuse and neglect, to place children in foster care, and to provide adoption assistance. The bulk of this funding, which was approximately $5 billion in fiscal year 2001, flows to States as reimbursements for low-income children taken into foster care when there is a judicial finding that continuation in their home is not safe.

This funding provides for payments to foster families to care for foster children, as well as training and administrative costs.

This funding provides a critical safety net for children, who through difficult and tragic circumstances end up in the care of the state. It ensures that children are placed in foster care only when it is necessary for their safety, it ensures that efforts are made to reunify children with their families as soon as it safe, it works to make sure that the foster care placement is close to their own home and school, and it requires that a permanency plan is put in place. All of these safeguards are critical.

The financing, however, is focused on the time the child is in foster care and it continues to provide funding for States the longer and longer a child is in the system. The funding is not flexible enough to allow for prevention or to help children as they exit the system—critical times when children fall through the cracks.

President Bush has put a proposal on the table to change the way foster care is financed in order to provide greater flexibility so that states can do more to prevent children form entering foster care, to shorten the time spent in care, and to provide more assistance to children and their families after leaving.

While I absolutely do not support block granting our child welfare system—I do think that it is important that President Bush has come to the table with an alternative financing system and I believe that it provides us with an opportunity to carefully consider how to restructure our child welfare system.

We must ask critical questions:

Will States be required to maintain child safety protection that we passed as part of the Adoption and Safe Families Act?

Will States be required to target funds to prevention and post-foster care services?

What happens if there is a crisis and more foster care children enter the system? Will States receive additional funds?

While I believe all of these questions deserve answers, I applaud President Bush and Representative DELAY for being willing to tackle this hard problem. I look forward to working with them to find solutions so that we do not allow any child to fall through the cracks.

This is just one of the many issues that are basically left on the back burner while we engage in this constitutional debate that could be resolved if information were provided.

As I said, I have to question the reasons why that information is not forthcoming. It gives me pause. This administration is compiling quite a record on secrecy. That bothers me. It concerns me. I think the American people are smart enough and mature enough to take whatever information there is about whatever is happening in the world—whether it is threats we may face or the judicial philosophy of a nominee. That is how a democracy is supposed to work. If we lose our openness, if we turn over our rights to have information, we are on a slippery slope to lose our democracy. Now, of course, in times of national crisis and threat like we face now, there are some things you cannot share with everyone. But you certainly can and should share them with the people's elected representatives. That is why we are here. I err on the side of trying to make sure we share as much information as possible.

For the life of me, I cannot understand why the White House will not share information about this nominee. Until it does, until Mr. Estrada is willing to answer these questions, I have to stand with my colleague from Idaho—I cannot cast a vote until I know a little bit more about the judicial philosophy. This is not a Republican or Democratic request. This is a senatorial request.

This is what the Senate is supposed to be doing.

I urge our colleagues and friends on the other side of the aisle, do whatever you can to persuade the White House and the Justice Department to level with the Senate, to level with the American people, to provide the information that will enable us to make an informed decision and fulfill our constitutional responsibility.

It seems to me to be the very minimum we can ask. It certainly is what has been provided and asked for in the past. I hope it will be forthcoming, that the letter sent by Senators DASCHLE and LEAHY will get a favorable response, we will be able to get the information the Judiciary Committee has requested, that many Members feel we need, and we can move on. We can tend to the people's business, including the need to reform our foster care system to try to save the lives of so many children who would otherwise be left behind and left out of the great promise of America.

The PRESIDING OFFICER (Mr. ALEXANDER.) The Senator from Missouri.

Mr. TALENT. When I was growing up, there was a tradition in the Senate that I observed as an outsider, of course, about how the Senate handled its constitutional function of giving advice and consent for presidential nominees. The Senate pretty much understood on the basis of a bipartisan consensus that its role was secondary, that its power was a check rather than a primary power to appoint people, either to the executive branch or to the judicial branch. I observed that Senators pretty much voted to confirm Presidential nominees if they believed those nominees were competent and if they believed those nominees were honest, and they did not inquire too greatly of the nominees' philosophy for the executive or into the nominees' jurisprudence for the legislative. There would be flaps or personal problems, but basically that was the role the Senate played and the traditional understanding of its constitutional function.

Unfortunately, I think we will all agree, that consensus has broken down over the last few years. We will all agree that both sides have some responsibility for that consensus breaking down. What we are experiencing now from the Senators who are opposing and filibustering the Estrada nomination is so extreme given the past traditions of the Senate that it threatens the spirit and, I argue, even the letter of the Constitution, and it threatens the ability of the Senate and the integrity of the Senate to do the work of the people.

Let me go into that a little bit. First of all, I take it from my understanding of the debate that the Senators who are opposing Mr. Estrada are not questioning his abilities as a lawyer or his honesty or integrity as an individual. I appreciate that. This is not a personal attack on Mr. Estrada. No one is saying he is unqualified as a lawyer. No one is saying he is dishonest in terms of his professional dealings or dishonest as a man and, indeed, you could not say that based on his experience which is clearly well known after the hours of debate we have put into this nomination.

He arrived in this country knowing very little English. He worked his way up, if you will. He was a leader in his law school class. He was on the Law Review. An achievement he was able to get, as not all of us were able to get, he clerked for an outstanding judge, a Democratic appointee on the Second Circuit, and then on the Supreme Court, and did an outstanding job in the Solicitor General's Office, according to his supervisors of both parties.

No one is questioning his abilities or honesty, as I understand it. As I understand, no one is saying they think he is not competent or honest in the sense of the standard that traditionally had been applied. What they are saying is this. They are saying, first of all, they will vote against the nominee, even to an appellate court, because they disagree with that nominee's jurisprudence, which is, itself, a step beyond what the Senate ever did in the past. But they are going beyond that. They are saying they will vote against the nominee, even to an appellate court, not just because they disagree with his jurisprudence, but because they suspect they might disagree with his jurisprudence.

And if he answered questions no other nominee who worked for the Solicitor General's Office has ever been expected to answer, and which they should not have to answer, given the need for the integrity of the executive branch, but they are going beyond that.

The opponents on this floor of the Estrada nomination are not just saying they will vote against nominees if they disagree with their jurisprudence, or vote against them if they suspect they might disagree with their jurisprudence; they are saying they are not even going to allow a vote on a nominee even to an appellate court if they suspect they might disagree with that nominee's jurisprudence.

I ask my colleagues, I beg my colleagues who are opposing this nomination, to consider what this new standard, if it were to be adopted by the Senate as a whole, would mean for the Constitution, would mean for the Senate, and would mean for Estrada, as well.

As I said, the Constitution assigned, we can all agree, the primary power of appointment to the President. Yet the Constitution shares some of that power with the Senate and that is not unusual. Even though we have a separation of powers, there are a number of instances where the executive is given a little legislative power, or the legislative is given a little executive power. For example, when the President is given the power to negotiate treaties and conclude them with foreign countries but subject to the requirement that two-thirds of the Senate ratify those treaties. So the Senate is given, in effect, a little executive power.

The Framers of the Constitution knew how to provide for the Senate to exercise the executive power they gave it by a supermajority vote when they wanted to provide that.

When the Framers said, we want to actually take a little bit more power away from the President, they said, we are not only going to require that the Senate ratify treaties but we are going to require that they ratify them by a supermajority vote, a two-thirds vote. The Framers knew how do to that when they wanted to do it. The assumption is they didn't want to take that extra measure of power away from the executive. Yes, they wanted to share the power of appointments with the Senate, as several colleagues have said. They are correct in saying that. The Senate is a partner in this process. But according to its traditions, it has always been a junior partner. According to the spirit of the Constitution, it exercises this partnership by a majority vote and not a supermajority vote.

If we adopt the tradition in this body that we will filibuster nominees, if we suspect we might disagree with their jurisprudence, we are in effect saying it will require 60 votes for this body to confirm a judicial nomination. That, I submit to you, is a usurpation of the executive authority as granted under the Constitution. It is a shift in constitutional authority away from the executive and to the legislature—and not even to the Congress as a whole but to the Senate.

As much as I stand up for the Senator from New York in saying as much as we have to stand up for the prerogatives and the authority of the Senate under the Constitution, our first responsibility is to the Constitution and to the distribution of powers, as the letter of the Constitution indicates and as the traditions of this Senate have always confirmed.

I am deeply concerned. If we were to adopt the standards being applied here to Miguel Estrada across the board, we would be doing something which is unconstitutional and which violates the spirit and I believe the letter of the Constitution as well.

My second concern is that this kind of a filibuster under these circumstances will poison the operation of the Senate on other matters. The filibuster, whatever you think of it, is a power that should be reserved for issues of only the greatest seriousness. I am not saying an appellate court nomination isn't important, it is important, but it is an appellate court nomination. Mr. Estrada, if he is confirmed to this post, whatever my colleagues may suspect his jurisprudence might lead him to do, is not going to change settled interpretations of the Constitution of the United States that can only occur on the Supreme Court level. And to haul out the nuclear

weapon, if you will, of a filibuster on an issue that, while important, is not of the first letter of importance undermines the integrity and the ability of this Senate to pull together on issues that are of the first importance.

I agree with the Senator from New York. We need to get on to issues of health care. We need to get on to issues of education. We need to get on to issues of defense and of tax relief to create jobs. All of these things are very important. That is why we should not filibuster an appellate court nomination. Allow a vote at least, I ask my colleagues.

Let me say finally that I am concerned about the effect of this on the justice that we as a body and as Americans owe to the man whose interests and whose career are at stake here. Miguel Estrada is, after all, a person. Sometimes the great forces of history, of cultural division, and focus on personal disputes involving broader issues come to focus on one man or one woman. We have seen that happen sometimes in our history. And it may be unavoidable. But we should always keep in mind that we are dealing with a human being, a person who has done his best by his life to keep his obligations to his colleagues and to his country—a person who has excelled by any standard. None is questioning that—a person who has conducted himself with integrity and has done so in a town where it is sometimes difficult to conduct yourself with integrity. And his professional future is hanging, if you will, on a thread. We ought to consider what is just to him. He deserves this post. He has worked hard for it. His qualifications qualify him for the post. We should at least give him a vote.

That is why the newspapers and the opinion of this country for the last week or so have been decidedly in favor, if not of Mr. Estrada and I think most of the opinion of the country has indeed be in favor of confirming him for the reasons I have indicated—but at least in favor of giving him a vote.

I am not going to read all of the editorials, certainly. I ask unanimous consent to have printed in the RECORD an editorial of February 7, 2003, from the St. Louis Post-Dispatch, one my hometown newspapers, and also a letter—they may already be in the RECORD—and one in the New York Daily News by Gov. George Pataki.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Daily News, Feb. 17, 2003]

THE SENATE SHOULD CONFIRM ESTRADA

(By Gov. George E. Pataki)

Miguel Estrada, President Bush's nominee for the District of Columbia Circuit Court of Appeals, is a New York success story—the embodiment of all that has made our state a beacon of freedom and opportunity around the globe.

His life is an inspiration to us all, especially to the children of new immigrants. Yet his nomination has gotten caught up in the all-too-familiar Washington game of partisan politics. That's wrong. When the Senate returns from its break, it should act quickly to end this senseless bickering.

Born in Tegucigalpa, Honduras, Estrada came to the U.S. in 1978. Just 17, he could barely speak English. He proved to be a quick study. Just five years later, he graduated with honors from Columbia University.

After a three-year stint at Harvard Law School, where he served as editor of the prestigious Harvard Law Review, Estrada came home to New York to clerk for a federal appellate judge, Amalya Kearse, who was appointed by Democratic President Jimmy Carter.

After a clerkship with the Supreme Court—one of the highest honors a young lawyer can receive—Estrada spent three years as a federal prosecutor in New York City. He argued numerous cases before appellate courts and 15 cases before the Supreme Court. No wonder the American Bar Association gave him its highest rating: well-qualified.

Estrada's compelling life story and superlative qualifications explain why his nomination has elicited such broad support. No fewer than 18 Hispanic organizations and countless individuals have called on the Senate to confirm him. Herman Badillo, a former Democratic congressman from New York, calls him ''a role model, not just for Hispanics, but for all immigrants and their children.''

The League of United Latin American Citizens calls Estrada ''one of the rising stars in the Hispanic community and a role model for our youth.'' And the U.S. Hispanic Chamber of Commerce calls his nomination a ''historic event.''

Estrada's nomination is equally popular among Democrats. Former vice President Al Gore's chief of staff testifies that he is ''a person of outstanding character and tremendous intellect'' with an ''incredible record of achievement.'' Former President Bill Clinton's solicitor general describes Estrada as ''a model of professionalism and competence.''

The support for Estrada is as deep as it is wide. Yet some Democrats in the Senate are filibustering his nomination—talking it to death and refusing to let their colleagues vote. That's just wrong. In fact, in the two centuries since our nation was founded, that has never happened to a nominee for the federal appellate courts.

Simply put, the Senate should do its job, put aside partisan politics and vote on Estrada's nomination. It's just common sense—but unfortunately, common sense all too often gets shoved aside by party politics in Washington.

Here in New York, we know that now more than ever we must put aside partisan differences and work together for the best interests of all New Yorkers. We also know that the efforts of new immigrants or their children who, through hard work, achieved the American dream—New Yorkers like Badillo, Secretary of State Powell and Estrada—must be rewarded and emulated, not held hostage to party politics.

Estrada has reached the pinnacle of his profession and is a credit to the people of New York. When the Senate finally confirms him, I have every confidence he likewise will prove a credit to America's judicial system.

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[From the Washington Post, Feb. 18, 2003]

JUST VOTE

The Senate has recessed without voting on the nomination of Miguel Estrada to the U.S. Court of Appeals for the D.C. Circuit. Because of a Democratic filibuster, it spent much of the week debating Mr. Estrada, and, at least for now, enough Democrats are holding together to prevent the full Senate from acting. The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such materials, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only *because* he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.

Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.

Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised to substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway-just for good measure. It's long past time to stop these games and vote.

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[From the St. Louis Post-Dispatch, Feb. 7, 2003]

A FILIBUSTER IS NOT A FIX

The process for appointing federal judges is badly broken. A filibuster won't fix it.

Democrats are trying to decide whether to filibuster the nomination of Miguel Estrada to the powerful federal appeals court for the District of Columbia. They consider Mr. Estrada a stealth conservative who is being groomed for the U.S. Supreme Court as a Hispanic Clarence Thomas.

The Democrats' fear may turn out to be valid. But the filibuster is the parliamentary equivalent of declaring war. Instead of declaring war, the Democrats should sue for peace and try and to fix the process.

The Senate's confirmation process is not supposed to be a rubber stamp. Judicial nominees have been defeated for political reasons—often good political reasons. The Supreme Court is a better place without Clement Haynsworth, Harrold Carswell and Robert Bork. But ever since Mr. Bork, the process of advise and consent has become attack and delay.

During Bill Clinton's presidency, the GOP-controlled Senate held up highly qualified nominees for ideological reasons. Then, during the two years of Democratic control, the Senate held up highly qualified nominees from President George W. Bush. Now the Republicans are ramming through judges as fast as McDonald's sling burgers.

The only consistent principle in this recent Senate history is that turnabout is fair play. That's a poor way to choose judges.

Mr. Bush, like Ronald Reagan, considers conservative ideology a key qualification for judgeship. Unfortunately, Senate Democrats have set upon highly qualified nominees—such as Michael McConnell, a brilliant law professor, who was eventually confirmed—as wolfishly as they have upon weaker nominees, such as Charles Pickering.

In an ideal world, Mr. Bush would realize that the lackluster Mr. Pickering, a friend of Sen. Trent Lott, R–Miss., raises divisive racial questions. In an ideal world, the president would nominate the best-qualified legal minds, not ideologies.

But in the real world, Mr. Pickering is acceptable and Mr. Estrada is well-qualified. Mr. Estrada is an immigrant from Honduras who went to Harvard Law School, clerked on the Supreme Court and worked in the Solicitor General's office. Democrats, frustrated by the absence of a paper trail, and Mr. Estrada's sometimes-evasive answers on issues such as abortion, tried to get legal memos that Mr. Estrada wrote while in the Solicitor General's office. But both Democratic and Republican solicitors general have urged that the memos be kept private so that future solicitors general receive candid views from their staff.

In short, the Democratic position doesn't justify a filibuster. Instead, Democrats should reach out to Republicans and try to develop a bipartisan truce that gives judges prompt, but thorough, hearings that will speed the important process of filling the many vacancies on the federal bench.

Mr. TALENT. Mr. President, I want to read an editorial from the February 18 issue of the Washington Post. It sums up the case better than or as well as I can:

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We all know a filibuster is underway here, an obstruction tactic.

That is not from the editorial. That was my editorial comment.

The arguments against Mr. Estrada's confirmation range from the unpersuasive to the offensive. He lacks judicial experience, his critics say—though only three current members of the court had been judges before their nominations. He is too young—though he is about the same age as Judge Harry T. Edwards was when he was appointed and several years older than Kenneth W. Starr was when he was nominated. Mr. Estrada stonewalled the Judiciary Committee by refusing to answer questions—though his answers were similar in nature to those of previous nominees, including many nominated by Democratic presidents. The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. He is not a real Hispanic and, by the way, he was nominated only because he is Hispanic—two arguments as repugnant as they are incoherent. Underlying it all is the fact that Democrats don't want to put a conservative on the court.

Laurence H. Silberman, a senior judge on the court to which Mr. Estrada aspires to serve, recently observed that under the current standards being applied by the Senate . . .

I ask you to listen carefully to this. . . . being applied by the Senate, not one of his colleagues could predictably secure confirmation. He's right. To be sure, Republicans missed few opportunities to play politics with President Clinton's nominees. But the Estrada filibuster is a step beyond even those deplorable games. For Democrats demand, as a condition of a vote, answers to questions that no nominee should be forced to address—and that nominees have not previously been forced to address. If Mr. Estrada cannot get a vote, there will be no reason for Republicans to allow the next David S. Tatel—a distinguished liberal member of the court—to get one when a Democrat someday again picks judges. Yet the D.C. Circuit—and all courts, for that matter—would be all the poorer were it composed entirely of people whose views challenged nobody.

Nor is the problem just Mr. Estrada. John G. Roberts Jr., Mr. Bush's other nominee to the D.C. Circuit, has been waiting nearly two years for a Judiciary Committee vote. Nobody has raised a substantial argument against him. Indeed, Mr. Roberts is among the most highly regarded appellate lawyers in the city. Yet on Thursday, Democrats invoked a procedural rule to block a committee vote anyway—just for good measure. It's long past time to stop these games and vote.

I ask my colleagues to consider carefully—and I know there have been abuses of this process on both sides of the aisle—but I ask my colleagues to consider carefully whether, in the name of the Constitution, in the name of the obligation of this Senate to go on to other things and resolve them, in the name of comity and the traditions of this body, the Washington Post isn't right, and whether it isn't long past time to stop these games and vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, first, let me respond to my colleague and friend from the State of Missouri which adjoins my home State of Illinois.

I say to him, I do not disagree with many of the things he said. This debate over Miguel Estrada should not be about the person. I have met him. I sat down in my office with him. He has a very impressive life story to tell having come to the United States as an immigrant when he was about 17 years old, with a limited command of English. The man had some extraordinary achievements. He went on to become the editor of the Law Review at Harvard, served as a member of the Department of Justice, worked at the Supreme Court as a clerk. He is with a major, prestigious law firm. You would really be hard pressed to find anything in his background that is anything short of impressive. That is not the issue.

The fact that he is Hispanic, I say to my friend from Missouri, in my mind, is a plus in many respects. It certainly is not a minus. I was honored to name a Hispanic to the district court in Chicago when I had that opportunity a few years ago. I believe our judiciary should reflect the diversity of the United States. And if this is an example of affirmative action by the White House to put a Hispanic on the DC Circuit court, I say: Three cheers. I think it is the right thing to do.

It has nothing to do with his Hispanic heritage. As I said, that is a plus. There is nothing negative about that in any respect. What is at issue, and the reason the Senate has been tied up with this nomination, is the fact that Mr. Estrada has not been forthright in explaining who he is in terms of what he believes. And that is a fair question.

If we are going to give someone a lifetime appointment to the DC Circuit court—which is not just another court for the District of Columbia, but a major court in our Federal judicial system—I think it is not only reasonable, it is imperative that the Senate ask basic questions of Mr. Estrada. And we did. Time and time again, he stopped short of answering because that is now the drill at the Department of Justice.

The nominees go through this very rigorous training about how to handle a Senate judicial hearing. I am told they have videotapes and play them back and they ask them the questions most often asked of nominees. They school them in the answers to give to not reveal, at any point, what they really think, trying to get away with saying as little as possible, trying to get through the hearing with a smile on their face and their family behind them, and trying to get through the Senate without any controversy.

There is nothing wrong with that if a person has a history that you can turn to and say, well, this man or this woman has been on the bench for so many years and has handed down so many opinions. And we have read them. We know what they believe. They have expressed themselves over and over again. Or if they have published law journal articles, for example, that explain their point of view, that is all there for the record. You could draw your own conclusions.

But in the case of Mr. Estrada, none of that is there. He has not done that much in terms of publications nor involvement in cases. We said to him: Help us understand you. If you will not answer the question directly, let us at least look at the legal documents you prepared so we can see how you analyzed the law.

That has been done before. Other nominees have offered that information. Mr. Estrada said: I would be happy to share it with you as well. But the Department of Justice stepped in and the White House stepped in and said: No, we will not let the Senate see what Mr. Estrada has written as an attorney.

Why? Why would they want to conceal this information, unless, in fact, there is something very controversial and worrisome.

So we come here today not with any personal animus against Miguel Estrada. To the contrary, on a personal basis, he is a very extraordinary individual personally, academically, and professionally. But we have a right to ask these questions. Let me restate that. We have a responsibility to ask those questions, to make certain that each man and woman headed for this awesome lifetime appointment, this awesome position of responsibility, really is the person we want in that position.

Now, make no mistake, with President Bush in the White House, the nominees are more than likely to be Republican, more than likely to be conservative, more than likely to be members—proud members—of the Federalist Society. I know that. That is the nature of this process, the nature of politics. Yet it is still our responsibility to make certain they are just conservative and not extreme in their positions. We cannot draw that conclusion on Miguel Estrada because he has carefully concealed what he really believes. And that is why we are here.

So as a result of focusing on this nomination for 3 straight weeks, we have ignored so many other issues that should be brought to the Senate. We could resolve this issue tomorrow morning easily.

Senator BENNETT, a Republican, of Utah has come to the floor and made a suggestion that I think is eminently reasonable. Let Miguel Estrada turn over his legal writings so they can be reviewed by Senator HATCH and Senator LEAHY. And if they find anything in there of moment, of consequence, or of controversy, let them follow through with the questions or, if necessary, a hearing, and let's be done with it, a vote up or down.

Senator DASCHLE came to the floor today, the Democratic leader, and said that would be perfectly acceptable. We would have the information, and then we could reach our conclusion. And in the process we could be protecting our responsibility as Members of the Senate.

It has nothing to do with Miguel Estrada personally, but it does have something to do with our constitutional authority and responsibility to review each nominee.

EPHEDRA

Mr. President, I would also like to address another issue that is totally unrelated.

On February 14, a Friday, I stood in this spot and spoke about an issue, one that has been on my mind for almost 6 months, an issue which worries me, concerns me, because it relates to the health and safety of American families.

On that day, I challenged the Secretary of Health and Human Services, Tommy Thompson, under his authority to protect American families, to protect them against a nutritional supplement known as ephedra. You will find this supplement in a lot of diet pills, pills that are being sold over the counter as a supplement or vitamin or food product. They are sold as a way to lose weight or increase your energy or performance.

People come in and buy them, with no restriction on how old you have to be or what your health is or what might interact with these supplements. And people buy those and find out, in many instances, that not only don't they work, they are dangerous.

I have challenged Secretary Thompson for 6 months—6 months—to take these dangerous products off the market, and he has not done so. That was February 14.

On February 16, a pitcher from the Baltimore Orioles dropped dead during training. He had cardiac arrest, and the coroner who examined his body afterwards—those who did the autopsy—disclosed the fact that he had used these supplements with ephedra. That was 2 days after I had given that speech.

Time has run out for Steve Bechler and for many like him when it comes to protection from the harm of dangerous dietary supplements containing ephedra. We cannot bring Steve Bechler or my own constituent in Lincoln, IL, Sean Riggins, back. But we can fight to make sure this dangerous product is taken off the market immediately.

Sean Riggins was a 16-year-old boy. And about 4 weeks after I held a hearing in Washington, he went into a convenience store in Lincoln, IL, a small town, and bought—off the counter, with no identification, no check—a pill that was supposed to help him to perform better as a football player. The pill had ephedra in it. As best we can determine, Sean Riggins—this healthy football player, 16 years old—washed down that pill with Mountain Dew or some other product with caffeine in it and went into cardiac arrest and died. This healthy young man died, after taking a pill sold over the counter that contained ephedra.

I cannot think of another product that has generated so many adverse events, so many bad results—some extremely serious, even fatal—and yet has failed to generate any response from this Government to protect families and individuals buying these products.

The Food and Drug Administration has received over 18,000 reports of adverse events, serious health consequences, from those using ephedra and within those 18,000 over 100 deaths. Yet the Food and Drug Administration and Secretary Thompson refuse to act. They want to study the issue. And as they study, innocent people die.

Last August, I wrote to Secretary Thompson and urged him to ban these products. At that time, Lee Smith, an airline pilot from Nevada, had not yet suffered the debilitating stroke that cost him his health and his job due to ephedra.

I again wrote to Secretary Thompson on August 22. At that time, when I sent him a letter begging him to do something about these products, my constituent, Sean Riggins—that healthy 16-year-old boy in Lincoln, IL, who played football and wrestled for his high school team—was still alive. He died September 3, after consuming an ephedra product called yellow jacket. You will find those by cash registers at gas stations and convenience stores across America—kids popping them because they think they make them better performers when it comes to sports or, even worse, taking these pills and drinking beer, craziness that leads to terrible health consequences. And those pills are sold over the counter, with no Government control.

I wrote again, and I spoke directly to Secretary Tommy Thompson in September and October. My Governmental Affairs Subcommittee had hearings on the dangers of ephedra in July and October.

I again urged the Secretary, in a letter sent to him less than 1 month before Steve Bechler of the Baltimore Orioles died. Incidentally, did you see the followup articles in the sports pages, as other athletes, professional baseball players such as David Wells came forward and told his story about how he wanted to lose some weight, and he took an ephedra product and his heart was racing at 200 beats a minute. He flat-lined. He was almost in cardiac arrest before they finally brought him back.

These are not sickly individuals. These are healthy athletes who are taking these products sold over the counter and risking their lives in the process.

Yet the most we can get from Secretary Thompson in response is a suggestion that maybe we need a warning label. When the reporters asked him this past weekend about Steve Bechler of the Baltimore Orioles, his death because of ephedra, the Secretary was quoted as saying: ''I wouldn't use it, would you?''

Well, I must say to the Secretary, this is not a matter of his personal preference. It is not a matter of whether as a consumer he would buy the product. It is a matter of his personal responsibility, his responsibility as Secretary of Health and Human Services to get this dangerous product off the shelves of American stores today and to protect families.

I am not the only person calling for this ban on ephedra products. The American Medical Association, representing over 200,000 doctors, called on Secretary Thompson to ban ephedra products. They didn't do it last week after Steve Bechler died. No. They did it over a year ago after Canada had banned this product for sale in their country. They went to Secretary Thompson and said it is dangerous to sell in the United States. He has done nothing.

Let me tell you another thing you might not know. The U.S. Army has banned the sale of ephedra in their commissaries worldwide after 33

ephedra-related deaths occurred among American servicemen. Does this make any sense? We believe as a government that we need to protect the men and women in uniform and so we ban the sale of these products at commissaries across the world, and yet the Secretary of Health and Human Services and the Commissioner of the Food and Drug Administration will not ban the sale of these products in convenience stores and drugstores and gas stations across America.

When you ask him about it, the Secretary says: I am studying it. I have a group called the RAND Commission that is going to study it.

With all due respect, we don't need another study. The Food and Drug Administration has received over 18,000 adverse reports about ephedra. The FDA could do followup on the most serious ones. In fact, the FDA did commission a review of adverse reports several years ago. That review by Drs. Haller and Benowitz established that 31 percent of the reports were definitely or probably related to ephedra and an additional 31 were deemed to be possibly related.

We understand what we are up against. Ephedra is a danger. It is so dangerous that when it was used in its synthetic form with caffeine, that was banned over 15 years ago. They said you couldn't sell a drug in America, nor could you sell an over-the-counter drug product in America that contained ephedra and caffeine because, put together, it is a dangerous and sometimes lethal combination. But yet if you step back from the over-the-counter drugs and call it a nutrition supplement, a vitamin, a food, you are totally exempt from that prohibition. You can combine those two lethal substances, ephedra and caffeine, and sell them with impunity. Does that make any sense? Is that protecting consumers across America? Is that what you expect from your government?

Certainly it is not what I expect. Many of these companies say it is a natural product. Ephedra is naturally occurring. That is no defense. Arsenic is a natural product. Hemlock is a natural product. That doesn't mean that they are safe. In fact, they are dangerous.

We have seen a lot of studies that have come out about ephedra. We know what needs to be done. Many States have already taken action. Because the Federal Government has failed to act, over 20 States have enacted restrictions on the sale of ephedra-containing products.

Incidentally, if you think these products are something you have never heard of, the leading sales of ephedra products are under the brand name Metabolife 365. You have seen them advertised on television and in magazines. Every time you walk into a drugstore and convenience store, you find: Metabolife tablets help you lose weight. Look carefully. Many of them contain ephedra, this lethal drug which has killed so many people.

Suffolk County, a week or so ago in New York, decided to ban this product as well after a 20-year-old named Peter Schlendorf died in 1996, and others suffered serious consequences. They understood, as the U.S. Army, Canada, Britain, Australia, and Germany, that action had to be taken to protect the residents. The National Football League, the NCAA, and the International Olympic Commission have reached the same conclusion, banning the use of this product by athletes.

I wrote to the Baseball Commissioner, Bud Selig, last week and to the Baseball Players' Association urging them to follow suit. The question isn't whether these individual organizations will show responsibility. The question is whether this Government will accept its responsibility.

I don't know Secretary Thompson that well. I have met him a few times. He is a very likable person. He certainly has had a distinguished public career in the State of Wisconsin, serving as a legislator and Governor of the State for many years, one of the most popular elected officials in its history. Everyone tells me this man really understands public service. I believe it.

This really seems to be a blind spot. When I talked to Secretary Thompson on the phone about these products, he said: How are we going to stop these fellows from selling these products and endangering people? I said: Mr. Secretary, you can stop them. You have the authority to stop them.

Time passes and nothing happens. I understand this industry is powerful. I have heard from them. I have heard from my colleagues in the Senate and House who have said: Don't take on these folks in the vitamin and nutritional supplement industry. They really have a lot of political clout. They do. But for goodness' sakes, if you can't stand up to an industry that is selling a lethal product to protect American families, why in the world would you take the oath of office to serve in the Senate? I think every Member understands that responsibility. It goes beyond political fear. It goes right to the heart of your political responsibility, the oath of office we all take and one we all value so much.

In closing, I say to Secretary Thompson, you have another chance now. It is a chance which I pray you will take. The last time I made a speech on the floor of the Senate about this issue, Steve Bechler of the Baltimore Orioles, a man in his early twenties, a promising athlete with a great future ahead of him, was still alive. Sadly, he is not alive today. He took this product and he died as a result. Others will, too.

That story, that tragic story of Steve Bechler, Sean Riggins, and so many others will be repeated over and over again. This industry may have political clout, but it does not have a conscience. It is up to the Secretary, as head of the Health and Human Services Department, to accept his responsibility to protect American families. A warning label is not enough. You cannot get by with putting a label on this product, saying: Caution, use of this product may cause stroke, a coronary event, or death. Why in the world would you allow such a product to be sold over the counter, unregulated in terms of the age of the buyer, unregulated in terms of the dosage? How in the world can you justify that kind of a thing?

The Secretary needs to accept his responsibility, and if he does, I will be the first to applaud him. But until he does, stay tuned. You will continue to hear these speeches on the floor from me and others while helpless victims across America fall because of their consumption of this deadly product.

Mr. REID. Will the Senator yield for a question?

Mr. DURBIN. I am happy to yield.

Mr. REID. As the Senator knows, the Senate has been tied up in the matter of Miguel Estrada for 9 or 10 days. From what the Senator said, I don't know much about the product, but he has made a very persuasive argument. It seems to me if the administration and the Secretary, as part of the administration, refuses to do anything administratively, maybe we could well use some Senate time debating this issue. Maybe there should be a moratorium put on the sale of this until further information is obtained on it. I make that suggestion.

My direct question, if the Secretary refuses to do something forthwith, wouldn't we well use the time that is now being spent on this nomination talking about this product that has killed people as the Senator has related?

Mr. DURBIN. The Senator is absolutely right. In fact, we not only could, we should. We should accept that responsibility. We do have this Government which has three coequal branches. If the executive branch and Secretary Thompson refuses to use the authority he has under the law, frankly, I think we should ban the sale of this product in the U.S.

As the Senator knows, we have been tied up for 3 weeks because Miguel Estrada refuses to disclose legal writings he has made. Even Republican Senators have suggested that he should.

We have waited for Republicans to understand that with more information, we can put this behind us and move on to other important business—not just questions about health and safety, but questions about the economy of this Nation, issues on which we ought to be debating and acting.

In closing, I am just going to ask Secretary Thompson again to take this very seriously. I hope we don't have to read about more athletes and other unsuspecting individuals and children who lose their lives as a result of these dangerous products. I say to any citizens following this debate, please think twice before you use a product containing ephedra. There are too many

cases of death and serious health consequences for people who thought they were taking an innocent little pill that can be sold over the counter at a convenience store. In fact, many have turned out to be lethal doses that have killed or caused a great deal of harm.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. NELSON of Florida. Mr. President, the courts provide the foundation upon which the institutions of government in our free society are built. Their strength and legitimacy are derived from a long tradition of Federal judges whose knowledge, integrity and impartiality are beyond reproach.

The Senate is obligated by the Constitution—and the public interest—to protect this legacy and to ensure that the public's confidence in the court system is justified and continues for many years to come.

As guardians of this trust we must carefully scrutinize the credentials and qualifications of every man and woman nominated by the President to serve on the Federal bench.

The men and women we approve for these lifetime appointments make important decisions each and every day, which impact the American people. Once on the bench they may be called upon to consider the extent of our right to personal privacy, our right to free speech, or even a criminal defendant's right to counsel. The importance of these positions and their influence must not be dismissed.

We all have benefitted from listening to the debate about Miguel Estrada's qualifications to serve on the D.C. Circuit.

I very much respect those Senators who desire to have additional information about Mr. Estrada's personal beliefs. Their efforts reflect a sound commitment to the Senate's constitutional obligation to advise and consent.

At the same time, I am troubled by those who have suggested that some Senators are anti-Hispanic because they seek additional information about this nominee. Poisoning the debate with baseless accusations demeans the nomination process.

After reviewing Mr. Estrada's personal and professional credentials—including personally interviewing the nominee—I believe he is qualified to serve on the D.C. Circuit Court—and, I will vote in favor of his nomination.

A Federal appellate judge's power to decide and pronounce judgment and carry it into effect is immense and comes with a moral and legal obligation to conform to the highest standards of conduct.

Federal judges must possess a high degree of knowledge of established legal principles and procedures and must also be impartial, even tempered and have a well-defined sense of justice, compassion and fair play.

In addition, a judge must have the integrity to leave legislating to lawmakers. Judges must have the self-restraint to avoid injecting their own personal views or ideas that may be inconsistent with existing decisional or statutory law.

I believe Mr. Estrada possesses the knowledge and skills needed to be a successful court of appeals judge. Few would argue with his academic credentials, litigation experience or intelligence.

And based on my conversation with him, and those who know him well, I believe he respects—and will honor—his moral and legal obligation to uphold the law impartially.

However, should Mr. Estrada someday be considered for a position on the Supreme Court—as some have suggested he could be—I believe further inquiry not only will be justified, but necessary.

While appellate judges are constrained to a great degree by precedent, and by a check on their power by the Supreme Court, justices on the High Court have greater latitude to insert their own ideological viewpoints.

Mr. Estrada agreed wholeheartedly with this point when we discussed his nomination.

Make no mistake; I believe all judicial nominees should be completely forthcoming during the confirmation process.

Mr. Estrada has argued that he's satisfied a minimum threshold of disclosure, and that revealing additional information about his personal ideological beliefs may compromise his image of impartiality—if he eventually is seated on the federal bench.

I disagree with his approach, because it leads to the suspicion and mistrust—like that which now engulfs us.

Furthermore, I do not believe a similar argument reasonably can be made by a nominee to the Supreme Court. Ideology can be central to the High Court's decisions. As a result, absolute disclosure by Supreme Court nominees is necessary to protect the public interest.

In sum, while I believe Mr. Estrada could have been more forthcoming in order to avoid this controversy, my conclusion is that he is qualified to serve on the D.C. Circuit.

Should he come before the Senate as a nominee to the Supreme Court, he must be willing to provide additional information about his personal beliefs.

## LEGISLATIVE SESSION

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

## MORNING BUSINESS

Mr. TALENT. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

## HONORING MAJOR GENERAL PHILIP G. KILLEY FOR 40 YEARS OF SERVICE

Mr. DASCHLE. Mr. President, today I salute a great American and South Dakotan, Major General Philip G. Killey.

General Killey, currently the Adjutant General of the South Dakota National Guard, retires at the end of this week, after 40 years of service. His service includes nearly a quarter-century with the South Dakota National Guard, including two separate appointments as Adjutant General covering more than 6 years.

Since September 11, 2001, General Killey's job has become more demanding and complex, but, as ever through his career, he has proven worthy of the challenge. Since September 11, his troops have been performing a broad variety of missions, from bolstering security at our State's airports to enforcing the no-fly zone over Iraq, from fighting forest fires to keeping the peace in Bosnia. All this, while also staying trained and ready for their next assignment.

Now, that next assignment is here. About 1,200 South Dakota Guard personnel have been called to active duty as part of our Nation's buildup on the borders of Iraq. Given the small population of our State, this is a major contribution. In fact, on a per capita basis, South Dakota is contributing more Guard personnel than all but five other States. This is a much larger commitment than the South Dakota Guard was asked to provide during Desert Storm, its other major call-up of the post-Cold War period, and it has come at a time when General Killey is already managing other high-priority commitments.

Managing these tasks and the Iraq call-up turns out to be the capstone event of General Killey's long military career, and it stands as a real testament to his skill and leadership. It is at critical moments like this, when your resources are stretched thin and you are asked to do even more, that gaps in training, leadership or equipment will reveal themselves. But in South Dakota, General Killey's troops have met the test. They are ready, and it shows.

Over the years, General Killey and I have worked together on many fronts to improve the equipment and facilities of the Guard. In the past 2 years, we have been able to secure nearly $35 million in construction funds to improve 7 Guard facilities at Camp Rapid, Fort Meade, Pierre, Watertown, Mitchell, and Sioux Falls. We were able to

secure $97 million to upgrade 2 battalions of the multiple launch rocket system, one in South Dakota and one in Arkansas, making our artillery system one of the most modern and battle-ready in the National Guard.

In these and other endeavors, I have come to appreciate and respect General Killey for his vision, his energy and initiative, and his sophistication in dealing with both military and civilian authorities. It's been a valuable and productive partnership.

We clearly owe a debt of gratitude to General Killey for 40 years of patriotic service to our State and our Nation. I am proud to call him a fellow South Dakotan and wish all the best for him and his wife, Ellen.

## RULES OF PROCEDURE OF THE SELECT COMMITTEE ON ETHICS

Mr. VOINOVICH. Mr. President, in accordance with Rule XXVI.2 of the Standing Rules of the Senate, I ask unanimous consent that the Rules of Procedure of the Select Committee on Ethics, which were adopted February 23, 1978, and revised November 1999, be printed in the CONGRESSIONAL RECORD for the 108th Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF THE SELECT COMMITTEE ON ETHICS

PART I: ORGANIC AUTHORITY

SUBPART A—S. RES. 338 AS AMENDED

S. Res. 338, 88th Cong., 2d Sess. (1964)

*Resolved,* That (a) there is hereby established a permanent select committee of the Senate to be known as the Select Committee on Ethics (referred to hereinafter as the ''Select Committee'') consisting of six Members of the Senate, of whom three shall be selected from members of the majority party and three shall be selected from members of the minority party. Members thereof shall be appointed by the Senate in accordance with the provisions of Paragraph I of Rule XXIV of the Standing Rules of the Senate at the beginning of each Congress. For purposes of paragraph 4 of Rule XXV of the Standing Rules of the Senate, service of a Senator as a member or chairman of the Select Committee shall not be taken into account.

(b) Vacancies in the membership of the Select Committee shall not affect the authority of the remaining members to execute the functions of the committee, and shall be filled in the same manner as original appointments thereto are made.

(c)(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints or allegations of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of routine business of the Select Committee not covered by the first paragraph of this subparagraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a member of the majority Party and one member of the quorum is a member of the minority Party. During the transaction of routine business any member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) The Select Committee may fix a lesser number as a quorum for the purpose of taking sworn testimony.

(d)(1) A member of the Select Committee shall be ineligible to participate in—

(A) any preliminary inquiry, or adjudicatory review relating to—

(i) the conduct of—

(I) such member;

(II) any officer or employee the member supervises; or

(III) any employee of any officer the member supervises; or

(ii) any complaint filed by the member; and

(B) the determinations and recommendations of the Select Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the Select Committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of Rule XXXVII of the Standing Rules of the Senate.

(2) A member of the Select Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Select Committee and the determinations and recommendations of the Select Committee with respect to any such preliminary inquiry or adjudicatory review. Notice of such disqualification shall be given in writing to the President of the Senate.

(3) Whenever any member of the Select Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review or disqualifies himself or herself under paragraph (2) from participating in any preliminary inquiry or adjudicatory review, another Senator shall, subject to the provisions of subsection (d), be appointed to serve as a member of the Select Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Select Committee with respect to such preliminary inquiry or adjudicatory review. Any Member of the Senate appointed for such purposes shall be of the same party as the Member who is ineligible or disqualifies himself or herself.

SEC. 2. (a) It shall be the duty of the Select Committee to—

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

(2)(A) recommend to the Senate by report or resolution by a majority vote of the full committee disciplinary action to be taken with respect to such violations which the Select Committee shall determine, after according to the individual concerned due notice and opportunity for a hearing, to have occurred;

(B) pursuant to subparagraph (A) recommend discipline, including—

(i) in the case of a Member, a recommendation to the Senate for expulsion, censure, payment of restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these; and

(ii) in the case of an officer or employee, dismissal, suspension, payment of restitution, or a combination of these;

(3) subject to the provisions of subsection (e), by a unanimous vote of 6 members, order that a Member, officer, or employee be reprimanded or pay restitution, or both, if the Select Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate;

(4) in the circumstances described in subsection (d)(3), issue a public or private letter of admonition to a Member, officer, or employee, which shall not be subject to appeal to the Senate;

(5) recommend to the Senate, by report or resolution, such additional rules or regulations as the Select Committee shall determine to be necessary or desirable to insure proper standards of conduct by Members of the Senate, and by officers or employees of the Senate, in the performance of their duties and the discharge of their responsibilities;

(6) by a majority vote of the full committee, report violations of any law, including the provision of false information to the Select Committee, to the proper Federal and State authorities; and

(7) develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.

(b) For the purposes of this resolution—

(1) the term ''sworn compliant'' means a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as Members, officers, or employees of the Senate;

(2) the term ''preliminary inquiry'' means a proceeding undertaken by the Select Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial case for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred; and

(3) the term ''adjudicatory review'' means a proceeding undertaken by the Select Committee after a finding, on the basis of a preliminary inquiry, that there is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred.

(c)(1) No—

(A) adjudicatory review of conduct of a Member or officer of the Senate may be conducted;

(B) report, resolution, or recommendation relating to such an adjudicatory review of conduct may be made; and

(C) letter of admonition pursuant to subsection (d)(3) may be issued, unless approved by the affirmative recorded vote of no fewer than 4 members of the Select Committee.

(2) No other resolution, report, recommendation, interpretative ruling, or advisory opinion may be made without an affirmative vote of a majority of the Members of the Select Committee voting.

(d)(1) When the Select Committee receives a sworn complaint or other allegation or information about a Member, officer, or employee of the Senate, it shall promptly conduct a preliminary inquiry into matters raised by that complaint, allegation, or information. The preliminary inquiry shall be of duration and scope necessary to determine whether that is substantial credible evidence which provides substantial cause for the Select Committee to conclude that a violation within the jurisdiction of the Select Committee has occurred. The Select Committee may delegate to the chairman and vice chairman the discretion to determine the appropriate duration, scope, and conduct of a preliminary inquiry.

(2) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines by a recorded vote that there is not such substantial credible evidence, the Select Committee shall dismiss the matter. The Select Committee may delegate to the chairman and vice chairman the authority, on behalf of the Select Committee, to dismiss any matter that they determine, after a preliminary inquiry, lacks substantial merit. The Select Committee shall inform the individual who provided to the Select Committee the complaint, allegation, or information, and the individual who is the subject of the complaint, allegation, or information, of the dismissal, together with an explanation of the basis for the dismissal.

(3) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that a violation is inadvertent, technical, or otherwise of a de minimis nature, the Select Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline. The Select Committee may issue a public letter of admonition upon a similar determination at the conclusion of an adjudicatory review.

(4) If, as a result of a preliminary inquiry under paragraph (1), the Select Committee determines that there is such substantial credible evidence and the matter cannot be appropriately disposed of under paragraph (3), the Select Committee shall promptly initiate an adjudicatory review. Upon the conclusion of such adjudicatory review, the Select Committee shall report to the Senate, as soon as practicable, the results of such adjudicatory review, together with its recommendations (if any) pursuant to subsection (a)(2).

(e)(1) Any individual who is the subject to a reprimand or order of restitution, or both, pursuant to subsection (a)(3) may, within 30 days of the Select Committee's report to the Senate of its action imposing a reprimand or orter of restitution, or both, appeal to the Senate by providing written notice of the basis for the appeal to the Select Committee and the presiding officer of the Senate. The presiding officer of the Senate shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

(2) A motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Select Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.

(f) The Select Committee may, in its discretion, employ hearing examiners to hear testimony and make findings of fact and/or recommendations to the Select Committee concerning the disposition of complaints.

(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

(h) The Select Committee shall adopt written rules setting forth procedures to be used in conducting preliminary inquiries and adjudicatory reviews.

(i) The Select Committee from time to time shall transmit to the Senate its recommendations as to any legislative measures which it may consider to be necessary for the effective discharges of its duties.

SEC. 3. (a) The Select Committee is authorized to (1) make such expenditures; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment periods of the Senate; (4) require by subpoena or otherwise the attendance of such witnesses and the production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony orally or by deposition; (7) employ and fix the compensation of a staff director, a counsel, an assistant counsel, one or more investigators, one or more hearing examiners, and such technical, clerical, and other assistants and consultants as it deems advisable; and (8) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, by contract as independent contractors or, in the case of individuals, by employment at daily rates of compensation not in excess of the per diem equivalent of the highest rate of compensation which may be paid to a regular employee of the Select Committee.

(b)(1) The Select Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the executive branch of the Government) whenever the Select Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any compliant or allegation, which, in the determination of the Select Committee is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee.

(2) Any adjudicatory review as defined in section 2(b)(3) shall be conducted by outside counsel as authorized in paragraph (1), unless the Select Committee determines not to use outside counsel.

(c) With the prior consent of the department or agency concerned, the Select Committee may (1) utilize the services, information and facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee thereof, the Select Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the chairman of the Select Committee determines that such action is necessary and appropriate.

(d)(1) Subpoenas may be authorized by—

(A) the Select Committee; or

(B) the chairman and vice chairman, acting jointly.

(2) any such subpoena shall be issued and signed by the chairman and the vice chairman and may be served by any person designated by the chairman and vice chairman.

(3) The chairman or any member of the Select Committee may administer oaths to witnesses.

(e)(1) The Select Committee shall prescribe and publish such regulations as it feels are necessary to implement the Senate Code of Official Conduct.

(2) The Select Committee is authorized to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction.

(3) The Select Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct or proposed conduct of the person seeking the advisory opinion.

(4) The Select Committee may in its discretion render an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within its jurisdiction to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(5) Notwithstanding any provision of the Senate Code of Official Conduct or any rule or regulation of the Senate, any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of paragraphs (3) and (4) and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

(6) Any advisory opinion rendered by the Select Committee under paragraphs (3) and (4) may be relied upon by (A) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered: Provided, however, that the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and, (B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(7) Any advisory opinion issued in response to a request under paragraph (3) and (4) shall be printed in the Congressional Record with appropriate deletions to assure the privacy of the individual concerned. The Select Committee shall, to the extent practicable, before rendering an advisory opinion, provide any interested party with an opportunity to transmit written comments to the Select Committee with respect to the request for such advisory opinion. The advisory opinions issued by the Select Committee shall be compiled, indexed, reproduced, and made available on a periodic basis.

(8) A brief description of a waiver granted under paragraph 2(c) [Note: Now Paragraph 1] of Rule XXXIV or paragraph 1 of Rule XXXV of the Standing Rules of the Senate shall be made available upon request in the Select Committee office with appropriate deletions to assure the privacy of the individual concerned.

SEC. 4. The expenses of the Select Committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

SEC. 5. As used in this resolution, the term ''officer or employee of the Senate'' means—

(1) an elected officer of the Senate who is not a Member of the Senate;

(2) an employee of the Senate, any committee or subcommittee of the Senate, or any member of the Senate;

(3) the legislative Counsel of the Senate or any employee of his office;

(4) an Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) a Member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) an employee of the Vice President if such employee's compensation is disbursed by the Secretary of the Senate; and

(7) an employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate.

SUBPART B—PUBLIC LAW 92–191—FRANKED MAIL, PROVISIONS RELATING TO THE SELECT COMMITTEE

SEC. 6. (a) The Select Committee on Standards and Conduct of the Senate [NOTE: Now the Select Committee on Ethics] shall provide guidance, assistance, advice and counsel, through advisory opinions or consultations, in connection with the mailing or contemplated mailing of franked mail under section 3210, 3211, 3212, 3218(2) or 3218, and in connection with the operation of section 3215, of title 39, United States Code, upon the request of any Member of the Senate or Member-elect, surviving spouse of any of the foregoing, or other Senate official, entitled to send mail as franked mail under any of those sections. The select committee shall prescribe regulations governing the proper use of the franking privilege under those sections by such persons. (b) Any complaint filed by any person with the select committee that a violation of any section of title 39, United States Code, referred to in subsection (a) of this section is about to occur or has occurred within the immediately preceding period of 1 year, by any person referred to in such subsection (a), shall contain pertinent factual material and shall conform to regulations prescribed by the select committee. The select committee, if it determines there is reasonable justification for the complaint, shall conduct an investigation of the matter, including an investigation of reports and statements filed by that complainant with respect to the matter which is the subject of the complaint. The committee shall afford to the person who is the subject of the complaint due notice and, if it determines that there is substantial reason to believe that such violation has occurred or is about to occur, opportunity for all parties to participate in a hearing before the select committee. The select committee shall issue a written decision on each complaint under this subsection not later than thirty days after such a complaint has been filed or, if a hearing is held, not later than thirty days after the conclusion of such hearing. Such decision shall be based on written findings of fact in the case by the select committee. If the select committee finds, in its written decision, that a violation has occurred or is about to occur, the committee may take such action and enforcement as it considers appropriate in accordance with applicable rules, precedents, and standing orders of the Senate, and such other standards as may be prescribed by such committee.

(c) Notwithstanding any other provision of law, no court or administrative body in the United States or in any territory thereof shall have jurisdiction to entertain any civil action of any character concerning or related to a violation of the franking laws or an abuse of the franking privilege by any person listed under subsection (a) of this section as entitled to send mail as franked mail, until a complaint has been filed with the select committee and the committee has rendered a decision under subsection (b) of this section.

(d) The select committee shall prescribe regulations for the holding of investigations and hearings, the conduct of proceedings, and the rendering of decisions under this subsection providing for equitable procedures and the protection of individual, public, and Government interests. The regulations shall, insofar as practicable, contain the substance of the administrative procedure provisions of sections 551–559 and 701–706, of title 5, United States Code. These regulations shall govern matters under this subsection subject to judicial review thereof.

(e) The select committee shall keep a complete record of all its actions, including a record of the votes on any question on which a record vote is demanded. All records, data, and files of the select committee shall be the property of the Senate and shall be kept in the offices of the select committee or such other places as the committee may direct.

SUBPART C—STANDING ORDERS OF THE SENATE REGARDING UNAUTHORIZED DISCLOSURE OF INTELLIGENCE INFORMATION, S. RES. 400, 94TH CONGRESS, PROVISIONS RELATING TO THE SELECT COMMITTEE

SEC. 8. * * *

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed, shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SUBPART D—RELATING TO RECEIPT AND DISPOSITION OF FOREIGN GIFTS AND DECORATIONS RECEIVED BY MEMBERS, OFFICES AND EMPLOYEES OF THE SENATE OR THEIR SPOUSES OR DEPENDENTS, PROVISIONS RELATING TO THE SELECT COMMITTEE ON ETHICS

Section 7342 of title 5, United States code, states as follows:

SEC. 7342. Receipt and disposition of foreign gifts and decorations.

''(a) For the purpose of this section—

''(1) 'employee' means—

''(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Rate Commission;

''(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

''(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

''(D) a member of a uniformed service;

''(E) the President and the Vice President;

''(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

''(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

''(2) 'foreign government' means—

''(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

''(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

''(C) any agent or representative of any such unit or such organization, while acting as such;

''(3) 'gift' means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

''(4) 'decoration' means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

''(5) 'minimal value' means a retail value in the United States at the time of acceptance of $100 or less, except that—

''(A) on January 1, 1981, and at 3 year intervals thereafter, 'minimal value' shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

''(B) regulations of an employing agency may define 'minimal value' for its employees to be less than the value established under this paragraph; and

''(6) 'employing agency' means—

''(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

''(B) the Select Committee on Ethics of the Senate, for Senators and employees of the

Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

''(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

''(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

''(b) An employee may not—

''(1) request or otherwise encourage the tender of a gift or decoration; or

''(2) accept a gift or decoration, other than in accordance with, the provisions of subsections (c) and (d).

''(c)(1) The Congress consents to—

''(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

''(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that

''(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

''(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

''(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a gift described in paragraph (1)(B)(ii)), an employee shall—

''(A) deposit the gift for disposal with his or her employing agency; or

''(B) subject to the approval of the employing agency, deposit the gift with that agency for official use. Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).

''(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

''(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

''(e)(1) Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of the Federal Property and Administrative Services Act of 1949. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

''(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

''(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transfer such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

''(2) Such listings shall include for each tangible gift reported—

''(A) the name and position of the employee;

''(B) a brief description of the gift and the circumstances justifying acceptance;

''(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

''(D) the date of acceptance of the gift;

''(E) the estimated value in the United States of the gift at the time of acceptance; and

''(F) disposition or current location of the gift.

''(3) Such listings shall include for each gift of travel or travel expenses—

''(A) the name and position of the employee;

''(B) a brief description of the gift and the circumstances justifying acceptance; and

''(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

''(4) In transmitting such listings for the Central Intelligence Agency, the Director of Central Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

''(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

''(2) Each employing agency shall—

''(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

''(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

''(C) take any other actions necessary to carry out the purpose of this section.

''(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who files to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus $5,000.

''(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host government that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

''(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

''(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.''

PART II: SUPPLEMENTARY PROCEDURAL RULES

145 Cong. Rec. S1832 (daily ed. Feb. 23, 1999)

RULE 1: GENERAL PROCEDURES

(a) OFFICERS. In the absence of the Chairman, the duties of the Chair shall be filled by the Vice Chairman or, in the Vice Chairman's absence, a Committee member designated by the Chairman.

(b) PROCEDURAL RULES: The basic procedural rules of the Committee are stated as part of the Standing Orders of the Senate in Senate Resolution 338, 88th Congress, as amended, as well as other resolutions and laws. Supplementary Procedural Rules are states herein and are hereinafter referred to as the Rules. The Rules shall be published in the Congressional Record not later than thirty days after adoption, and copies shall be made available by the Committee office upon request.

(c) MEETINGS:

(1) The regular meeting of the Committee shall be the first Thursday of each month while the Congress is in session.

(2) Special meetings may be held at the call of the Chairman or Vice Chairman if at least forty-eight hours notice is furnished to all members. If all members agree, a special meeting may be held on less than forty-eight hours notice.

(3)(A) If any member of the Committee desires that a special meeting of the Committee be called, the member may file in the

office of the Committee a written request to the Chairman or Vice Chairman for that special meeting.

(B) Immediately upon the filing of the request the Clerk of the Committee shall notify the Chairman or the Vice Chairman of the filing of the request. If, within three calendar days after the filing of the request, the Chairman or the Vice Chairman does not call the requested special meeting, to be held within seven calendar days after the filing of the request, any three of the members of the Committee may file their written notice in the office of the Committee that a special meeting of the Committee will be held at a specified date and hour; such special meeting may not occur until forty-eight hours after the notice is filed. The Clerk shall immediately notify all member of the Committee of the date and hour of the special meeting. The Committee shall meet at the specified date and hour.

(d) QUORUM:

(1) A majority of the members of the Select Committee shall constitute a quorum for the transaction of business involving complaints or allegations, of, or information about, misconduct, including resulting preliminary inquiries, adjudicatory reviews, recommendations or reports, and matters relating to Senate Resolution 400, agreed to May 19, 1976.

(2) Three members shall constitute a quorum for the transaction of the routine business of the Select Committee not covered by the first subparagraph of this paragraph, including requests for opinions and interpretations concerning the Code of Official Conduct or any other statute or regulation under the jurisdiction of the Select Committee, if one member of the quorum is a Member of the Majority Party and one member of the quorum is a Member of the Minority Party. During the transaction of routine business any member of the Select Committee constituting the quorum shall have the right to postpone further discussion of a pending matter until such time as a majority of the members of the Select Committee are present.

(3) Except for an adjudicatory hearing under Rule 5 and any deposition taken outside the presence of a Member under Rule 6, one Member shall constitute a quorum for hearing testimony, provided that all Members have been notice of the hearing and the Chairman has designated a Member of the Majority Party and the Vice Chairman has designated a Member of the Minority Party to be in attendance, either of whom in the absence of the other may constitute the quorum.

(e) ORDER OF BUSINESS: Questions as to the order of business and the procedure of the Committee shall in the first instance be decided by the Chairman and Vice Chairman, subject to reversal by a vote by a majority of the Committee.

(f) HEARINGS ANNOUNCEMENTS: The Committee shall make public announcement of the date, place and subject matter of any hearing to be conducted by it at least one week before the commencement of that hearing, and shall publish announcement in the Congressional Record. If the Committee determines that there is good cause to commence a hearing at an earlier date, such notice will be given at the earliest possible time.

(g) OPEN AND CLOSED COMMITTEE MEETINGS: Meetings of the Committee shall be open to the public or closed to the public (executive session), as determined under the provisions of paragraphs 5 (b) to (d) of Rule XXVI of the Standing Rules of the Senate. Executive session meetings of the Committee shall be closed except to the members and the staff of the Committee. On the motion of any member, and with the approval of a majority of the Committee members present, other individuals may be admitted to an executive session meeting for a specific period or purpose.

(h) RECORD OF TESTIMONY AND COMMITTEE ACTION: An accurate stenographic or transcribed electronic record shall be kept of all Committee proceedings, whether in executive or public session. Such record shall include Senators' votes on any question on which a recorded vote is held. The record of a witness's testimony, whether in public or executive session, shall be made available for inspection to the witness or his counsel under Committee supervision; a copy of any testimony given by that witness in public session, or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness if he so requests. (See Rule 5 on Procedures for Conducting Hearings.)

(i) SECRECY OF EXECUTIVE TESTIMONY AND ACTION AND OF COMPLAINT PROCEEDINGS:

(1) All testimony and action taken in executive session shall be kept secret and shall not be released outside the Committee to any individual or group, whether governmental or private, without the approval of a majority of the Committee.

(2) All testimony and action relating to a complaint or allegation shall be kept secret and shall not be released by the Committee to any individual or group, whether governmental or private, except the respondent, without the approval of a majority of the Committee, until such time as a report to the Senate is required under Senate Resolution 338, 88th Congress, as amended, or unless otherwise permitted under these Rules. (See Rule 8 on Procedures for Handling Committee Sensitive and Classified Materials.)

(j) RELEASE OF REPORTS TO PUBLIC: No information pertaining to, or copies of any Committee report, study, or other document which purports to express the view, findings, conclusions or recommendations of the Committee in connection with any of its activities or proceedings may be released to any individual or group whether governmental or private, without the authorization of the Committee. Whenever the Chairman or Vice Chairman is authorized to make any determination, then the determination may be released at his or her discretion. Each member of the Committee shall be given a reasonable opportunity to have separate views included as part of any Committee report. (See Rule 8 on Procedures for Handling Committee Sensitive and Classified Materials.)

(k) INELIGIBILITY OR DISQUALIFIED OF MEMBERS AND STAFF:

(1) A member of the Committee shall be ineligible to participate in any Committee proceeding that relates specifically to any of the following:

(A) a preliminary inquiry or adjudicatory review relating to (i) the conduct of (I) such member; (II) any officer or employee the member supervises; or (ii) any complaint filed by the member; and

(B) the determinations and recommendations of the Committee with respect to any preliminary inquiry or adjudicatory review described in subparagraph (A).

For purposes of this paragraph, a member of the committee and an officer of the Senate shall be deemed to supervise any officer or employee consistent with the provision of paragraph 12 of Rule XXXVII of the Standing Rules of the Senate.

(2) If any Committee proceeding appears to relate to a member of the Committee in a manner described in subparagraph (1) of this paragraph, the staff shall prepare a report to the Chairman and Vice Chairman. If either the Chairman or the Vice Chairman concludes from the report that it appears that the member may be ineligible, the member shall be notified in writing of the nature of the particular proceeding and the reason that it appears that the member may be ineligible to participate in it. If the member agrees that he or she is ineligible, the member shall so notify the Chairman or Vice Chairman. If the member believes that he or she is not ineligible, he or she may explain the reasons to the Chairman and Vice Chairman, and if they both agree that the member is not ineligible, the member shall continue to serve. But if either the Chairman or Vice Chairman continues to believe that the member is ineligible, while the member believes that he or she is not ineligible, the matter shall be promptly referred to the Committee. The member shall present his or her arguments to the Committee in executive session. Any contested questions concerning a member's eligibility shall be decided by a majority vote of the Committee, meeting in executive session, with the member in question not participating.

(3) A member of the Committee may, at the discretion of the member, disqualify himself or herself from participating in any preliminary inquiry or adjudicatory review pending before the Committee and the determination and recommendations of the Committee with respect to any such preliminary inquiry or adjudicatory review.

(4) Whenever any member of the Committee is ineligible under paragraph (1) to participate in any preliminary inquiry or adjudicatory review, or disqualifies himself or herself under paragraph (3) from participating in any preliminary inquiry or adjudicatory review, another Senator shall be appointed by the Senate to serve as a member of the Committee solely for purposes of such preliminary inquiry or adjudicatory review and the determinations and recommendations of the Committee with respect to such preliminary inquiry or adjudicatory review. Any member of the Senate appointed for such purposes shall be of the same party as the member who is ineligible or disqualifies himself or herself.

(5) The President of the Senate shall be given written notice of the ineligibility or disqualification of any member from any preliminary inquiry, adjudicatory review, or other proceeding requiring the appointment of another member in accordance with subparagraph (k)(4).

(6) A member of the Committee staff shall be ineligible to participate in any Committee proceeding that the staff director or outside counsel determines relates specifically to any of the following:

(A) the staff member's own conduct;

(B) the conduct of any employee that the staff member supervises;

(C) the conduct of any member, officer or employee for whom the staff member has worked for any substantial period; or

(D) a complaint, sworn or unsworn, that was filed by the staff member. At the direction or with the consent of the staff director or outside counsel, a staff member may also be disqualified from participating in a Committee proceeding in other circumstances not listed above.

(l) RECORDED VOTES: Any member may require a recorded vote on any matter.

(m) PROXIES; RECORDING VOTES OF ABSENT MEMBERS:

(1) Proxy voting shall not be allowed when the question before the Committee is the initiation or continuation of a preliminary inquiry or an adjudicatory review, or the issuance or recommendation related thereto concerning a Member or officer of the Senate. In any such case an absent member's vote may be announced solely for the purpose of recording the member's position and such announced votes shall not be counted for or against the motion.

(2) On matters other than matters listed in paragraph (m)(1) above, the Committee may order that the record be held open for the vote of absentees or recorded proxy votes if the absent Committee member has been informed of the matter on which the vote occurs and has affirmatively requested of the Chairman or Vice Chairman in writing that he be so recorded.

(3) All proxies shall be in writing, and shall be delivered to the Chairman or Vice Chairman to be recorded.

(4) Proxies shall not be considered for the purpose of establishing a quorum.

(n) APPROVAL OF BLIND TRUSTS AND FOREIGN TRAVEL REQUESTS BETWEEN SESSIONS AND DURING EXTENDED RECESSES: During any period in which the Senate stands in adjournment between sessions of the Congress or stands in a recess scheduled to extend beyond fourteen days, the Chairman and Vice Chairman, or their designees, acting jointly, are authorized to approve or disapprove blind trusts under the provision of Rule XXXIV.

(o) COMMITTEE USE OF SERVICES OR EMPLOYEES OF OTHER AGENCIES AND DEPARTMENTS:

With the prior consent of the department or agency involved, the Committee may (1) utilize the services, information, or facilities of any such department or agency of the Government, and (2) employ on a reimbursable basis or otherwise the services of such personnel of any such department or agency as it deems advisable. With the consent of any other committee of the Senate, or any subcommittee, the Committee may utilize the facilities and the services of the staff of such other committee or subcommittee whenever the Chairman and Vice Chairman of the Committee, acting jointly, determine that such action is necessary and appropriate.

RULE 2: PROCEDURES FOR COMPLAINTS, ALLEGATIONS, OR INFORMATION

(a) COMPLAINT, ALLEGATION, OR INFORMATION: Any member or staff member of the Committee shall report to the Committee, and any other person may report to the Committee, a sworn complaint or other allegation or information, alleging that any Senator, or officer, or employee of the Senate has violated a law, the Senate Code of Official Conduct, or any rule or regulation of the Senate relating to the conduct of any individual in the performance of his or her duty as a Member, officer, or employee of the Senate, or has engaged in improper conduct which may reflect upon the Senate. Such complaints or allegations or information may be reported to the Chairman, the Vice Chairman, a Committee member, or a Committee staff member.

(b) SOURCE OF COMPLAINT, ALLEGATION, OR INFORMATION: Complaint, allegations, and information to be reported to the Committee may be obtained from a variety of sources, including but not limited to the following:

(1) sworn complaints, defined as a written statement of facts, submitted under penalty of perjury, within the personal knowledge of the complainant alleging a violation of law, the Senate Code of Official Conduct, or any other rule or regulation of the Senate relating to the conduct of individuals in the performance of their duties as members, officers, or employees of the Senate;

(2) anonymous or informal complaints;

(3) information developed during a study or inquiry by the Committee or other committees or subcommittees of the Senate, including information obtained in connection with legislative or general oversight hearings;

(4) information reported by the news media; or

(5) information obtained from any individual, agency or department of the executive branch of the Federal Government.

(c) FORM AND CONTENT OF COMPLAINTS: A complaint need not be sworn nor must it be in any particular form to receive Committee consideration, but the preferred complaint will:

(1) state, whenever possible, the name, address, and telephone number of the party filing the complaint;

(2) provide the name of each member, officer or employee of the Senate who is specifically alleged to have engaged in improper conduct or committed a violation;

(3) state the nature of the alleged improper conduct or violation;

(4) supply all documents in the possession of the party filing the complaint relevant to or in support of his or her allegations as an attachment to the complaint.

RULE 3: PROCEDURES FOR CONDUCTING A PRELIMINARY INQUIRY

(a) DEFINITION OF PRELIMINARY INQUIRY: A ''preliminary inquiry'' is a proceeding undertaken by the Committee following the receipt of a complaint or allegation of, or information about, misconduct by a Member, officer, or employee of the Senate to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(b) BASIS FOR PRELIMINARY INQUIRY: The Committee shall promptly commence a preliminary inquiry whenever it has received a sworn complaint, or other allegation of, or information about, alleged misconduct or violations pursuant to Rule 2.

(c) SCOPE OF PRELIMINARY INQUIRY:

(1) The preliminary inquiry shall be of such duration and scope as is necessary to determine whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Chairman and Vice Chairman, acting jointly, on behalf of the Committee may supervise and determine the appropriate duration, scope, and conduct of a preliminary inquiry. Whether a preliminary inquiry is conducted jointly by the Chairman and Vice Chairman or by the Committee as a whole, the day to day supervision of a preliminary inquiry rests with the Chairman and Vice Chairman, acting jointly.

(2) A preliminary inquiry may include any inquiries, interviews, sworn statements, depositions, or subpoenas deemed appropriate to obtain information upon which to make any determination provided for by this Rule.

(d) OPPORTUNITY FOR RESPONSE: A preliminary inquiry may include an opportunity for any known respondent or his or her designated representative to present either a written or oral statement, or to respond orally to questions from the Committee. Such an oral statement or answers shall be transcribed and signed by the person providing the statement or answers.

(e) STATUS REPORTS: The Committee staff or outside counsel shall periodically report to the Committee in the form and according to the schedule prescribed by the Committee. The reports shall be confidential.

(f) FINAL REPORT: When the preliminary inquiry is completed, the staff or outside counsel shall make a confidential report, oral or written, to the Committee on findings and recommendations, as appropriate.

(g) COMMITTEE ACTION: As soon as practicable following submission of the report on the preliminary inquiry, the Committee shall determine by a recorded vote whether there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred. The Committee may make any of the following determinations:

(1) The committee may determine that there is not such substantial credible evidence and, in such case, the Committee shall dismiss the matter. The Committee, or Chairman and Vice Chairman acting jointly on behalf of the Committee, may dismiss any matter which, after a preliminary inquiry, is determined to lack substantial merit. The Committee shall inform the complainant of the dismissal.

(2) The Committee may determine that there is such substantial credible evidence, but that the alleged violation is inadvertent, technical, or otherwise of a de minimis nature. In such case, the Committee may dispose of the matter by issuing a public or private letter of admonition, which shall not be considered discipline and which shall not be subject to appeal to the Senate. The issuance of a letter of admonition must be approved by the affirmative recorded vote of no fewer than four members of the Committee voting.

(3) The Committee may determine that there is such substantial credible evidence and that the matter cannot be appropriately disposed of under paragraph (2). In such case, the Committee shall promptly initiate an adjudicatory review in accordance with Rule 4. No adjudicatory review of conduct of a Member, officer, or employee of the Senate may be initiated except by the affirmative recorded vote of not less than four members of the Committee.

RULE 4: PROCEDURES FOR CONDUCTING AN ADJUDICATORY REVIEW

(a) DEFINITION OF ADJUDICATORY REVIEW: An ''adjudicatory review'' is a proceeding undertaken by the Committee after a finding, on the basis of a preliminary inquiry, that there is substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred.

(b) SCOPE OF ADJUDICATORY REVIEW: When the Committee decides to conduct an adjudicatory review, it shall be of such duration and scope as is necessary for the Committee to determine whether a violation within its jurisdiction has occurred. An adjudicatory review shall be conducted by outside counsel as authorized by section 3(b)(1) of Senate Resolution 338 unless the Committee determines not to use outside counsel. In the course of the adjudicatory review, designated outside counsel, or if the Committee determines not to use outside counsel, the Committee or its staff, may conduct any inquiries or interviews, take sworn statements, use compulsory process as described in Rule 6, or take any other actions that the Committee deems appropriate to secure the evidence necessary to make a determination.

(c) NOTICE TO RESPONDENT: The Committee shall give written notice to any known respondent who is the subject of an adjudicatory review. The notice shall be sent to the respondent no later than five working days after the Committee has voted to conduct an adjudicatory review. The notice shall include a statement of the nature of the possible violation, and description of the evidence indicating that a possible violation occurred. The Committee may offer the respondent an opportunity to present a statement, orally or in writing, or to respond to questions from members of the Committee, the Committee Staff, or outside counsel.

(d) RIGHT TO A HEARING: The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate or before it imposes an order of restitution or reprimand (not requiring discipline by the full Senate).

(e) PROGRESS REPORTS TO COMMITTEE: The Committee staff or outside counsel shall periodically report to the Committee concerning the progress of the adjudicatory review. Such reports shall be delivered to the Committee in the form and according to the schedule prescribed by the Committee, and shall be confidential.

(f) FINAL REPORT OF ADJUDICATORY REVIEW TO COMMITTEE: Upon completion of an adjudicatory review, including any hearings held pursuant to Rule 5, the outside counsel or the staff shall submit a confidential written report to the Committee, which shall detail the factual findings of the adjudicatory review and which may recommend disciplinary action, if appropriate. Findings of fact of the adjudicatory review shall be detailed in this report whether or not disciplinary action is recommended.

(g) COMMITTEE ACTION:

(1) As soon as practicable following submission of the report of the staff or outside counsel on the adjudicatory review, the Committee shall prepare and submit a report to the Senate, including a recommendation or proposed resolution to the Senate concerning disciplinary action, if appropriate. A report shall be issued, stating in detail the Committee's findings of fact, whether or not disciplinary action is recommended. The report shall also explain fully the reasons underlying the Committee's recommendation concerning disciplinary action, if any. No adjudicatory review of conduct of a Member, officer or employee of the Senate may be conducted, or report or resolution or recommendation relating to such an adjudicatory review of conduct may be made, except by the affirmative recorded vote of not less than four members of the Committee.

(2) Pursuant to S. Res. 338, as amended, section 2(a), subsections (2), (3), and (4), after receipt of the report prescribed by paragraph (f) of this rule, the Committee may make any of the following recommendations for disciplinary action or issue an order for reprimand or restitution, as follows:

(i) In the case of a Member, a recommendation to the Senate for expulsion, censure, payment or restitution, recommendation to a Member's party conference regarding the Member's seniority or positions of responsibility, or a combination of these;

(ii) In the case of an officer or employee, a recommendation to the Senate of dismissal, suspension, payment of restitution, or a combination of these;

(iii) In the case where the Committee determines, after according to the Member, officer, or employee due notice and opportunity for a hearing, that misconduct occurred warranting discipline less serious than discipline by the full Senate, and subject to the provisions of paragraph (h) of this rule relating to appeal, by a unanimous vote of six members order that a Member, officer or employee be reprimanded or pay restitution or both;

(iv) In the case where the Committee determines that misconduct is inadvertent, technical, or otherwise of a de minimis nature, issue a public or private letter of admonition to a Member, officer or employee, which shall not be subject to appeal to the Senate.

(3) In the case where the Committee determines, upon consideration of all the evidence, that the facts do not warrant a finding that there is substantial credible evidence which provides substantial cause for the Committee to conclude that a violation within the jurisdiction of the Committee has occurred, the Committee may dismiss the matter.

(4) Promptly, after the conclusion of the adjudicatory review, the Committee's report and recommendation, if any, shall be forwarded to the Secretary of the Senate, and a copy shall be provided to the complainant and the respondent. The full report and recommendation, if any, shall be printed and made public, unless the Committee determines by the recorded vote of not less than four months of the Committee that it should remain confidential.

(h) RIGHT OF APPEAL:

(1) Any individual who is the subject of a reprimand or order of restitution, or both, pursuant to subsection (g)(2)(iii), may, within 30 days of the Committee's report to the Senate of its action imposing a reprimand or order of restitution, or both, appeal to the Senate by providing written notice of the appeal to the Committee and the presiding officer of the Senate. The presiding officer shall cause the notice of the appeal to be printed in the Congressional Record and the Senate Journal.

(2) S. Res. 338 provides that a motion to proceed to consideration of an appeal pursuant to paragraph (1) shall be highly privileged and not debatable. If the motion to proceed to consideration of the appeal is agreed to, the appeal shall be decided on the basis of the Committee's report to the Senate. Debate on the appeal shall be limited to 10 hours, which shall be divided equally between, and controlled by, those favoring and those opposing the appeal.

RULE 5: PROCEDURES FOR HEARINGS

(a) RIGHT TO HEARING: The Committee may hold a public or executive hearing in any preliminary inquiry, adjudicatory review, or other proceeding. The Committee shall accord a respondent an opportunity for a hearing before it recommends disciplinary action against that respondent to the Senate or before it imposes an order of restitution or reprimand. (See Rule 4(d).)

(b) NON-PUBLIC HEARINGS: The Committee may at any time during a hearing determine in accordance with paragraph 5(b) of Rule XXVI of the Standing Rules of the Senate whether to receive the testimony of specific witnesses in executive session. If a witness desires to express a preference for testifying in public or in executive session, he or she shall so notify the Committee at least five days before he or she is scheduled to testify.

(c) ADJUDICATORY HEARINGS: The Committee may, be the recorded vote of not less than four members of the Committee, designate any public or executive hearing as an adjudicatory hearing; and any hearing which is concerned with possible disciplinary action against a respondent or respondents designated by the Committee shall be an adjudicatory hearing. In any adjudicatory hearing, the procedures described in paragraph (j) shall apply.

(d) SUBPOENA POWER: The Committee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such correspondence, books, papers, documents or other articles as it deems advisable. (See Rule 6.)

(e) NOTICE OF HEARINGS: The Committee shall make public an announcement of the date, place, and subject matter of any hearing to be conducted by it, in accordance with Rule 1(f).

(f) PRESIDING OFFICER: The Chairman shall preside over the hearings, or in his absence the Vice Chairman. If the Vice Chairman is also absent, a Committee member designated by the Chairman shall preside. If an oath or affirmation is required, it shall be administered to a witness by the Presiding Officer, or in his absence, by any Committee member.

(g) WITNESSES:

(1) A subpoena or other request to testify shall be served on a witness sufficiently in advance of his or her scheduled appearance to allow the witness a reasonable period of time, as determined by the Committee, to prepare for the hearing and to employ counsel if desired.

(2) The Committee may, by recorded vote of not less than four members of the Committee, rule that no matter of the Committee or staff or outside counsel shall make public the name of any witness subpoenaed by the Committee before the date of that witness's scheduled appearance, except as specifically authorized by the Chairman and Vice Chairman, acting jointly.

(3) Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the Committee at least two working days in advance of the hearing at which the statement is to be presented. The Chairman and Vice Chairman shall determine whether such statements may be read or placed in the record of the hearing.

(4) Insofar as practicable, each witness shall be permitted to present a brief oral opening statement, if he or she desires to do so.

(h) RIGHT TO TESTIFY: Any person whose name is mentioned or who is specifically identified or otherwise referred to in testimony or in statements made by a Committee member, staff member or outside counsel, or any witness, and who reasonably believes that the statement tends to adversely affect his or her reputation may—

(1) Request to appear personally before the Committee to testify in his or her own behalf; or

(2) File a sworn statement of facts relevant to the testimony or other evidence or statement of which he or she complained. Such request and such statement shall be submitted to the Committee for its consideration and action.

(i) CONDUCT OF WITNESSES AND OTHER ATTENDEES: the Presiding Officer may punish any breaches of order and decorum by censure and exclusion from the hearings. The Committee, by majority vote, may recommend to the Senate that the offender be cited for contempt of Congress.

(j) ADJUDICATORY HEARING PROCEDURES:

(1) NOTICE OF HEARINGS: A copy of the public announcement of an adjudicatory hearing, required by paragraph (e), shall be furnished together with a copy of these Rules to all witnesses at the time that they are subpoenaed or otherwise summoned to testify.

(2) PREPARATION FOR ADJUDICATORY HEARINGS:

(A) At least five working days prior to the commencement of an adjudicatory hearing, the Committee shall provide the following information and documents to the respondent, if any:

(i) a list of proposed witnesses to be called at the hearing;

(ii) copies of all documents expected to be introduced as exhibits at the hearing; and

(iii) a brief statement as to the nature of the testimony to be given by each witness to be called at the hearing.

(B) At least two working days prior to the commencement of an adjudicatory hearing, the respondent, if any, shall provide the information and documents described in divisions (i), (ii) and (iii) of subparagraph (A) to the Committee.

(C) At the discretion of the Committee, the information and documents to be exchanged under this paragraph shall be subject to an appropriate agreement limiting access and disclosure.

(D) If a respondent refuses to provide the information and documents to the Committee (see (A) and (B) of this subparagraph), or if a respondent or other individual violates an agreement limiting access and disclosure, the Committee, by majority vote,

may recommend to the Senate that the offender be cited for contempt of Congress.

(3) SWEARING OF WITNESSES: All witnesses who testify at adjudicatory hearings shall be sworn unless the Presiding Officer, for good cause, decides that a witness does not have to be sworn.

(4) RIGHT TO COUNSEL: Any witness at an adjudicatory hearing may be accompanied by counsel of his or her own choosing, who shall be permitted to advise the witness of his or her legal rights during the testimony.

(5) RIGHT TO CROSS-EXAMINE AND CALL WITNESSES:

(A) In adjudicatory hearings, any respondent and any other person who obtains the permission of the Committee, may personally or through counsel cross-examine witnesses called by the Committee and may call witnesses in his or her own behalf.

(B) A respondent may apply to the Committee for the issuance of subpoenas for the appearance of witnesses or the production of documents on his or her behalf. An application shall be approved upon a concise showing by the respondent that the proposed testimony or evidence is relevant and appropriate, as determined by the Chairman and Vice Chairman.

(C) With respect to witnesses called by a respondent, or other individual given permission by the Committee, each such witness shall first be examined by the party who called the witness or by that party's counsel.

(D) At least one working day before a witness's scheduled appearance, a witness or a witness's counsel may submit to the Committee written questions proposed to be asked of that witness. If the Committee determines that it is necessary, such questions may be asked by any member of the Committee, or by any Committee staff member if directed by a Committee member. The witness or witness's counsel may also submit additional sworn testimony for the record within twenty-four hours after the last day that the witness has testified. The insertion of such testimony in that day's record is subject to the approval of the Chairman and Vice Chairman acting jointly within five days after testimony is received.

(6) ADMISSIBILITY OF EVIDENCE:

(A) The object of the hearing shall be to ascertain the truth. Any evidence that may be relevant and probative shall be admissible unless privileged under the Federal Rules of Evidence. Rules of evidence shall not be applied strictly, but the Presiding Officer shall exclude irrelevant or unduly repetitious testimony. Objections going only to the weight that should be given evidence will not justify its exclusion.

(B) The Presiding Officer shall rule upon any question of the admissibility of testimony or other evidence presented to the Committee. Such rulings shall be final unless reversed or modified by a recorded vote of not less than four members of the Committee before the recess of that day's hearings.

(C) Notwithstanding paragraphs (A) and (B), in any matter before the Committee involving allegations of sexual discrimination, including sexual harassment, or sexual misconduct, b a Member, officer, or employee within the jurisdiction of the Committee, the Committee shall be guided by the standards and procedures of Rule 412 of the Federal Rules of Evidence, except that the Committee may admit evidence subject to the provisions of this paragraph only upon a determination of not less than four members of the full Committee that the interests of justice require that such evidence be admitted.

(7) SUPPLEMENTARY HEARING PROCEDURES: The Committee may adopt any additional special hearing procedures that it deems necessary or appropriate to a particular adjudicatory hearing. Copies of such supplementary procedures shall be furnished to witnesses and respondents, and shall be made available upon request to any member of the public.

(k) TRANSCRIPTS:

(1) An accurate stenographic or recorded transcript shall be made of all public and executive hearings. Any member of the Committee, Committee staff member, outside counsel retained by the Committee, or witness may examine a copy of the transcript retained by the Committee of his or her own remarks and may suggest to the official reporter any typographical or transcription errors. If the reporter declines to make the requested corrections, the member, staff member, outside counsel or witness may request a ruling by the Chairman and Vice Chairman, acting jointly. Any member or witness shall return the transcript with suggested corrections to the committee offices within five working days after receipt of the transcript, or as soon thereafter as is practicable. If the testimony was given in executive session, the member or witness may only inspect the transcript at a location determined by the Chairman and Vice Chairman, acting jointly. Any questions arising with respect to the processing and correction of transcripts shall be decided by the Chairman and Vice Chairman, acting jointly.

(2) Except for the record of a hearing which is closed to the public, each transcript shall be printed as soon as is practicable after receipt of the corrected version. The Chairman and Vice Chairman, acting jointly, may order the transcript of a hearing to be printed without the corrections of a member or witness if they determine that such member or witness has been afforded a reasonable time to correct such transcript and such transcript has not been returned within such time.

(3) The Committee shall furnish each witness, at no cost, one transcript copy of that witness's testimony given at a public hearing. If the testimony was given in executive session, then a transcript copy shall be provided upon request, subject to appropriate conditions and restrictions prescribed by the Chairman and Vice Chairman. if any individual violates such conditions and restrictions, the Committee may recommend by majority vote that he or she be cited for contempt of Congress.

RULE 6: SUBPOENAS AND DEPOSITIONS

(a) SUBPOENAS:

(1) AUTHORIZATION FOR ISSUANCE: Subpoenas for the attendance and testimony of witnesses at depositions or hearings, and subpoenas for the production of documents and tangible things at depositions, hearings, or other times and places designated therein, may be authorized for issuance by either (A) a majority vote of the Committee, or (B) the Chairman and Vice Chairman, acting jointly, at any time during a preliminary inquiry, adjudicatory review, or other proceeding.

(2) SIGNATURE AND SERVICE: All subpoenas shall be signed by the Chairman or the Vice Chairman and may be served by any person eighteen years of age or older, who is designated by the Chairman or Vice Chairman. Each subpoena shall be served with a copy of the Rules of the Committee and a brief statement of the purpose of the Committee's proceeding.

(3) WITHDRAWAL OF SUBPOENA: The Committee, by recorded vote of not less than four members of the Committee, may withdraw any subpoena authorized for issuance by it or authorized for issuance by the Chairman and Vice Chairman, acting jointly. The Chairman and Vice Chairman, acting jointly, may withdraw any subpoena authorized for issuance by them.

(b) DEPOSITIONS:

(1) PERSONS AUTHORIZED TO TAKE DEPOSITIONS: Depositions may be taken by any member of the Committee designated by the Chairman and Vice Chairman, acting jointly, or by any other person designated by the Chairman and Vice Chairman, acting jointly, including outside counsel, Committee staff, other employees of the Senate, or government employees detailed to the Committee.

(2) DEPOSITION NOTICES: Notices for the taking of depositions shall be authorized by the Committee, or the Chairman and Vice Chairman, acting jointly, and issued by the Chairman, Vice Chairman, or a Committee staff member or outside counsel designated by the Chairman and Vice Chairman, acting jointly. Depositions may be taken at any time during a preliminary inquiry, adjudicatory review or other proceeding. Deposition notices shall specify a time and place for examination. Unless otherwise specified, the deposition shall be in private, and the testimony taken and documents produced shall be deemed for the purpose of these rules to have been received in a closed or executive session of the Committee. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear, or to testify, or to produce documents, unless the deposition notice was accompanied by a subpoena authorized for issuance by the Committee, or the Chairman and Vice Chairman, acting jointly.

(3) COUNSEL AT DEPOSITIONS: Witnesses may be accompanied at a deposition by counsel to advise them of their rights.

(4) DEPOSITION PROCEDURE: Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or administered by any member of the Committee if one is present. Questions may be propounded by any person or persons who are authorized to take depositions for the Committee. If a witness objects to a question and refuses to testify, or refuses to produce a document, any member of the Committee who is present may rule on the objection and, if the objection is overruled, direct the witness to answer the question or produce the document. If no member of the Committee is present, the individual who has been designated by the Chairman and Vice Chairman, acting jointly, to take the deposition may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or Vice Chairman of the Committee, who may refer the matter to the Committee or rule on the objection. If the Chairman or Vice Chairman, or the Committee upon referral, overrules the objection, the Chairman, Vice Chairman, or the Committee as the case may be, may direct the witness to answer the question or produce the document. The Committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify or produce documents after having been directed to do so.

(5) FILING OF DEPOSITIONS: Deposition testimony shall be transcribed or electronically recorded. If the deposition is transcribed, the individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence and the transcriber shall certify that the transcript is a true record of the testimony. The transcript with these certifications shall be filed with the chief clerk of the Committee, and the witness shall be furnished with access to a copy at the Committee's offices for review. Upon inspecting the transcript, with a time limit set by the Chairman and Vice Chairman, acting jointly, a witness may request in writing changes in the transcript to correct errors in transcription. The witness may

also bring to the attention of the Committee errors of fact in the witness's testimony by submitting a sworn statement about those facts with a request that it be attached to the transcript. The Chairman and Vice Chairman, acting jointly, may rule on the witness's request, and the changes or attachments allowed shall be certified by the Committee's chief clerk. If the witness fails to make any request under this paragraph within the time limit set, this fact shall be noted by the Committee's chief clerk. Any person authorized by the Committee may stipulate with the witness to changes in this procedure.

RULE 7: VIOLATIONS OF LAW; PERJURY; LEGISLATIVE RECOMMENDATIONS; EDUCATIONAL MANDATE; AND APPLICABLE RULES AND STANDARDS OF CONDUCT

(a) VIOLATIONS OF LAW: Whenever the Committee determines by the recorded vote of not less than four members of the full Committee that there is reason to believe that a violation of law, including the provision of false information to the Committee, may have occurred, it shall report such possible violation to the proper Federal and state authorities.

(b) PERJURY: Any person who knowingly and willfully swears falsely to a sworn complaint or any other sworn statement to the Committee does so under penalty of perjury. The Committee may refer any such case to the Attorney General for prosecution.

(c) LEGISLATIVE RECOMMENDATIONS: The Committee shall recommend to the Senate by report or resolution such additional rules, regulations, or other legislative measures as it determines to be necessary or desirable to ensure proper standards of conduct by Members, officers, or employees of the Senate. The Committee may conduct such inquiries as it deems necessary to prepare such a report or resolution, including the holding of hearings in public or executive session and the use of subpoenas to compel the attendance of witnesses or the production of materials. The Committee may make legislative recommendations as a result of its findings in a preliminary inquiry, adjudicatory review, or other proceedings.

(d) EDUCATIONAL MANDATE: The Committee shall develop and implement programs and materials designed to educate Members, officers, and employees about the laws, rules, regulations, and standards of conduct applicable to such individuals in the performance of their duties.

(e) APPLICABLE RULES AND STANDARDS OF CONDUCT:

(1) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code.

(2) The Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Committee.

RULE 8: PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED MATERIALS

(a) PROCEDURES FOR HANDLING COMMITTEE SENSITIVE MATERIALS:

(1) Committee Sensitive information or material is information or material in the possession of the Select Committee on Ethics which pertains to illegal or improper conduct by a present or former Member, officer, or employee of the Senate; to allegations or accusations of such conduct; to any resulting preliminary inquiry, adjudicatory review or other proceeding by the Select Committee on Ethics into such allegations or conduct; to the investigative techniques and procedures of the Select Committee on Ethics; or to other information or material designated by the staff director, or outside counsel designated by the Chairman and Vice Chairman.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of Committee Sensitive information in the possession of the Committee or its staff. Procedures for protecting Committee Sensitive materials shall be in writing and shall be given to each Committee staff member.

(b) PROCEDURES FOR HANDLING CLASSIFIED MATERIALS:

(1) Classified information or material is information or material which is specifically designated as classified under the authority of Executive Order 11652 requiring protection of such information or material from unauthorized disclosure in order to prevent damage to the United States.

(2) The Chairman and Vice Chairman of the Committee shall establish such procedures as may be necessary to prevent the unauthorized disclosure of classified information in the possession of the Committee or its staff. Procedures for handling such information shall be in writing and a copy of the procedures shall be given to each staff member cleared for access to classified information.

(3) Each member of the Committee shall have access to classified material in the Committee's possession. Only Committee staff members with appropriate security clearances and a need-to-know, as approved by the Chairman and Vice Chairman, acting jointly, shall have access to classified information in Committee's possession.

(c) PROCEDURES FOR HANDLING COMMITTEE SENSITIVE AND CLASSIFIED DOCUMENTS:

(1) Committee Sensitive documents materials shall be stored in the Committee's offices, with appropriate safeguards for maintaining the security of such documents or materials. Classified documents and materials shall be further segregated in the Committee's offices in secure filing safes. Removal from the Committee offices of such documents or materials is prohibited except as necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, or as otherwise specifically approved by the staff director or by outside counsel designated by the Chairman and Vice Chairman.

(2) Each member of the Committee shall have access to all materials in the Committee's possession. The staffs of members shall not have access to Committee Sensitive or classified documents and materials without the specific approval in each instance of the Chairman, and Vice Chairman, acting jointly. Members may examine such materials in the Committee's offices. If necessary, requested materials may be hand delivered by a member of the Committee staff to the member of the Committee, or to a staff person(s) specifically designated by the member, for the Member's or designated staffer's examination. A member of the Committee who has possession of Committee Sensitive documents or materials shall take appropriate safeguards for maintaining the security of such documents or materials in the possession of the Member or his or her designated staffer.

(3) Committee Sensitive documents that are provided to a Member of the Senate in connection with a complaint that has been filed against the Member shall be hand delivered to the Member or to the Member's Chief of Staff or Administrative Assistant. Committee Sensitive documents that are provided to a Member of the Senate who is the subject of a preliminary inquiry, adjudicatory review, or other proceeding, shall be hand delivered to the Member or to his or her specifically designated representative.

(4) Any Member of the Senate who is not a member of the Committee and who seeks access to any Committee Sensitive or classified documents or materials, other than documents or materials which are matters of public record, shall request access in writing. The Committee shall decide by majority vote whether to the make documents or materials available. If access is granted, the Member shall not disclose the information except as authorized by the Committee.

(5) Whenever the Committee makes Committee Sensitive or classified documents or materials available to any Member of the Senate who is not a member of the Committee, or to a staff person of a Committee member in response to a specific request to the Chairman and Vice Chairman, a written record shall be made identifying the Member of the Senate requesting such documents or materials and describing what was made available and to whom.

(d) NON-DISCLOSURE POLICY AND AGREEMENT:

(1) Except as provided in the last sentence of this paragraph, no member of the Select Committee on Ethics, its staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics shall release, divulge, publish, reveal by writing, word, conduct, or disclose in any way, in whole, or in part, or by way of summary, during tenure with the Select Committee on Ethics or anytime thereafter, any testimony given before the Select Committee on Ethics in executive session (including the name of any witness who appeared or was called to appear in executive session), any classified or Committee Sensitive information, document or material, received or generated by the Select Committee on Ethics or any classified or Committee Sensitive information which may come into the possession of such person during tenure with the Select Committee on Ethics or its staff. Such information, documents, or material may be released to an official of the executive branch properly cleared for access with a need-to-know, for any purpose or in connection with any proceeding, judicial or otherwise, as authorized by the Select Committee on Ethics, or in the event of termination of the Select Committee on Ethics, in such a manner as may be determined by its successor or by the Senate.

(2) No member of the Select Committee on Ethics staff or any person engaged by contract or otherwise to perform services for the Select Committee on Ethics, shall be granted access to classified or Committee Sensitive information or material in the possession of the Select Committee on Ethics unless and until such person agrees in writing, as a condition of employment, to the nondisclosure policy. The agreement shall become effective when signed by the Chairman and Vice Chairman on behalf of the Committee.

RULE 9: BROADCASTING AND NEWS COVERAGE OF COMMITTEE PROCEEDINGS

(a) Whenever any hearing or meeting of the Committee is open to the public, the Committee shall permit that hearing or meeting to be covered in whole or in part, by television broadcast, radio broadcast, still photography, or by an other methods of coverage, unless the Committee decides by recorded vote of not less than four members of

the Committee that such coverage is not appropriate at a particular hearing or meeting.

(b) Any witness served with a subpoena by the Committee may request not to be photographed at any hearing or to give evidence or testimony while the broadcasting, reproduction, or coverage of that hearing, by radio, television, still photography, or other methods is occurring. At the request of any such witness who does not wish to be subjected to radio, television, still photography, or other methods of coverage, and subject to the approval of the Committee, all lenses shall be covered and all microphones used for coverage turned off.

(c) If coverage is permitted, it shall be in accordance with the following requirements:

(1) Photographers and reporters using mechanical recording, filming, or broadcasting apparatus shall position their equipment so as not to interfere with the seating, vision, and hearing of the Committee members and staff, or with the orderly process of the meeting or hearing.

(2) If the television or radio coverage of the hearing or meeting is to be presented to the public as live coverage, the coverage shall be conducted and presented without commercial sponsorship.

(3) Personnel providing coverage by the television and radio media shall be currently accredited to the Radio and Television Correspondents' Galleries.

(4) Personnel providing coverage by still photography shall be currently accredited to the Press Photographers' Gallery Committee of Press Photographers.

(5) Personnel providing coverage by the television and radio media and by still photography shall conduct themselves and the coverage activities in an orderly and unobtrusive manner.

RULE 10: PROCEDURES FOR ADVISORY OPINIONS

(a) WHEN ADVISORY OPINIONS ARE RENDERED:

(1) The Committee shall render an advisory opinion, in writing within a reasonable time, in response to a written request by a Member or officer of the Senate or a candidate for nomination for election, or election to the Senate, concerning the application of any law, the Senate Code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(2) The Committee may issue an advisory opinion in writing within a reasonable time in response to a written request by any employee of the Senate concerning the application of any law, the Senate code of Official Conduct, or any rule or regulation of the Senate within the Committee's jurisdiction, to a specific factual situation pertinent to the conduct or proposed conduct of the person seeking the advisory opinion.

(b) FORM OF REQUEST: A request for an advisory opinion shall be directed in writing to the Chairman of the Committee and shall include a complete and accurate statement of the specific factual situation with respect to which the request is made as well as the specific question or questions which the requester wishes the Committee to address.

(c) OPPORTUNITY FOR COMMENT:

(1) The committee will provide an opportunity for any interested party to comment on a request for an advisory opinion—

(A) which requires an interpretation on a significant question of first impression that will affect more than a few individuals; or

(B) when the Committee determines that comments from interested parties would be of assistance.

(2) Notice of any such request for an advisory opinion shall be published in the Congressional Record, with appropriate deletions to insure confidentiality, and interested parties will be asked to submit their comments in writing to the Committee within ten days.

(3) All relevant comments received on a timely basis will be considered.

(d) ISSUANCE OF AN ADVISORY OPINION:

(1) The Committee staff shall prepare a proposed advisory opinion in draft form which will first be reviewed and approved by the Chairman and Vice Chairman, acting jointly, and will be presented to the Committee for final action. If (A) the chairman and Vice Chairman cannot agree, or (B) either the Chairman or Vice Chairman requests that it be taken directly to the Committee, then the proposed advisory, opinion shall be referred to the Committee for its decision.

(2) An advisory opinion shall be issued only by the affirmative recorded vote of a majority of the members voting.

(3) Each advisory opinion issued by the Committee shall be promptly transmitted for publication in the Congressional Record after appropriate deletions are made to insure confidentiality. The Committee may at any time revise, withdraw, or elaborate on any advisory opinion.

(e) RELIANCE ON ADVISORY OPINIONS:

(1) Any advisory opinion issued by the Committee under Senate Resolution 338, 88th Congress, as amended, and the rules may be relied upon by—

(A) Any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered if the request for such advisory opinion included a complete and accurate statement of the specific factual situation; and

(B) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(2) Any person who relies upon any provision or finding of an advisory opinion in accordance with the provisions of Senate Resolution 338, 88th Congress, as amended, and of the rules, and who acts in good faith in accordance with the provisions and findings of such advisory opinion shall not, as a result of any such act, be subject to any sanction by the Senate.

RULE 11: PROCEDURES FOR INTERPRETATIVE RULINGS

(a) BASIS FOR INTERPRETATIVE RULINGS: Senate Resolution 338, 88th Congress, as amended, authorizes the Committee to issue interpretative rulings explaining and clarifying the application of any law, the Code of Official conduct, or any rule or regulation of the Senate within its jurisdiction. The Committee also may issue such rulings clarifying or explaining any rule or regulation of the Select Committee on Ethics.

(b) REQUEST FOR RULING: A request for such a ruling must be directed in writing to the Chairman or Vice Chairman of the Committee.

(c) Adoption of Ruling:

(1) The Chairman and Vice Chairman, acting jointly, shall issue a written interpretative ruling in response to any such request, unless—

(A) they cannot agree,

(B) it requires an interpretation of a significant question of first impression, or

(C) either requests that is be taken to the Committee, in which event the request shall be directed to the Committee for a ruling.

(2) A ruling on any request taken to the Committee under subparagraph (1) shall be adopted by a majority of the members voting and the ruling shall then be issued by the Chairman and Vice Chairman.

(d) PUBLICATION OF RULINGS: The Committee will publish in the Congressional Record, after making appropriate deletions to ensure confidentiality, any interpretative rulings issued under this Rule which the Committee determines may be of assistance of guidance to other Members, officers or employees. The Committee may at any time revise, withdraw, or elaborate on interpretative rulings.

(e) RELIANCE ON RULINGS: Whenever an individual can demonstrate to the Committees' satisfaction that his or her conduct was in good faith reliance on an interpretative ruling issued in accordance with this Rule, the Committee will not recommend sanctions to the Senate as a result of such conduct.

(f) RULINGS BY COMMITTEE STAFF: The Committee staff is not authorized to make rulings or give advice, orally or in writing, which binds the Committee in any way.

RULE 12: PROCEDURES FOR COMPLAINTS INVOLVING IMPROPER USE OF THE MAILING FRANK

(a) AUTHORITY TO RECEIVE COMPLAINTS: The Committee is directed by section 6(b) of Public Law 93–191 to receive and dispose of complaints that a violation of the use of the mailing frank has occurred or is about to occur by a Member or officer of the Senate or by a surviving spouse of a Member. All such complaints will be processed in accordance with the provisions of these Rules, except as provided in paragraph (b).

(b) DISPOSITION OF COMPLAINTS:

(1) The Committee may dispose of any such complaint by requiring restitution of the cost of the mailing, pursuant to the franking statute, if it finds that the franking violation was the result of a mistake.

(2) Any complaint disposed of by restitution that is made after the Committee has formally commenced an adjudicatory review, must be summarized, together with the disposition, in a report to the Senate, as appropriate.

(3) If a complaint is disposed of by restitution, the complainant, if any, shall be notified of the disposition in writing.

(c) ADVISORY OPINIONS AND INTERPRETATIVE RULINGS: Requests for advisory opinions or interpretative rulings involving franking questions shall be processed in accordance with Rules 10 and 11.

RULE 13: PROCEDURES FOR WAIVERS

(a) AUTHORITY FOR WAIVERS: The Committee is authorized to grant a waiver under the following provisions of the Standing Rules of the Senate:

(1) Section 101(h) of the Ethics in Government Act of 1978, as amended (Rule XXXIV), relating to the filing of financial disclosure reports by individuals who are expected to perform or who have performed the duties of their offices or positions for less than one hundred and thirty days in a calendar year;

(2) Section 102(a)(2)(D) of the Ethics in Government Act, as amended (Rule XXXIV), relating to the reporting of gifts;

(3) Paragraph 1 of Rule XXXV relating to acceptance of gifts; or

(4) Paragraph 5 of Rule XLI relating to applicability of any of the provisions of the Code of Official Conduct to any employee of the provisions of a the Code of Official Conduct to any employee of the Senate hired on a per diem basis.

(b) REQUESTS FOR WAIVERS: A request for a waiver under paragraph (a) must be directed to the Chairman or Vice Chairman in writing and must specify the nature of the waiver being sought and explain in detail the facts alleged to justify a waiver. In the case of a request submitted by an employee, the views of his or her supervisor (as determined under paragraph 12 of Rule XXXVII of the Standing Rules for the Senate) should be included with the waiver request.

(c) RULING: The Committee shall rule on a waiver request by recorded vote with a majority of those voting affirming the decision. With respect to any individual's request for a waiver in connection with the acceptance or reporting the value of gifts on the occasion of the individual's marriage, the Chairman and the Vice Chairman, acting jointly, may rule on the waiver.

(d) AVAILABILITY OF WAIVER DETERMINATIONS: A brief description of any waiver granted by the Committee, with appropriate deletions to ensure confidentiality, shall be made available for review upon request in the Committee office. Waivers granted by the Committee pursuant to the Ethics in Government Act of 1978, as amended, may only be granted pursuant to a publicly available request as required by the Act.

RULE 14: DEFINITION OF ''OFFICER OR EMPLOYEE''

(a) As used in the applicable resolutions and in these rules and procedures, the term ''officer or employee of the Senate'' means:

(1) An elected officer of the Senate who is not a Member of the Senate;

(2) An employee of the Senate, any committee or subcommittee of the Senate, or any Member of the Senate;

(3) The Legislative Counsel of the Senate or any employee of his office;

(4) An Official Reporter of Debates of the Senate and any person employed by the Official Reporters of Debates of the Senate in connection with the performance of their official duties;

(5) A member of the Capitol Police force whose compensation is disbursed by the Secretary of the Senate;

(6) An employee of the Vice President, if such employee's compensation is disbursed by the Secretary of the Senate;

(7) An employee of a joint committee of the Congress whose compensation is disbursed by the Secretary of the Senate;

(8) An officer or employee of any department or agency of the Federal Government whose services are being utilized on a full-time and continuing basis by a Member, officer, employee, or committee of the Senate in accordance with Rule XLI(3) of the Standing Rules of the Senate; and

(9) Any other individual whose full-time services are utilized for more than ninety days in a calendar year by a Member, officer, employee, or committee of the Senate in the conduct of official duties in accordance with Rule XLI(4) of the Standing Rules of the Senate.

RULE 15: COMMITTEE STAFF

(a) COMMITTEE POLICY:

(1) The staff is to be assembled and retained as a permanent, professional, nonpartisan staff.

(2) Each member of the staff shall be professional and demonstrably qualified for the position for which he or she is hired.

(3) The staff as a whole and each member of the staff shall perform all official duties in a nonpartisan manner.

(4) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(5) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific advance permission from the Chairman and Vice Chairman.

(6) No member of the staff may make public, without Committee approval, and Committee Sensitive or classified information, documents, or other material obtained during the course of his or her employment with the Committee.

(b) APPOINTMENT OF STAFF:

(1) The appointment of all staff members shall be approved by the Chairman and Vice Chairman, acting jointly.

(2) The Committee may determine by majority vote that it is necessary to retain staff members, including a staff recommended by a special counsel, for the purpose of a particular preliminary inquiry, adjudicatory review, or other proceeding. Such staff shall be retained only for the duration of that particular undertaking.

(3) The Committee is authorized to retain and compensate counsel not employed by the Senate (or by any department or agency of the Executive Branch of the Government) whenever the Committee determines that the retention of outside counsel is necessary or appropriate for any action regarding any complaint or allegation, preliminary inquiry, adjudicatory review, or other proceeding, which in the determination of the Committee, is more appropriately conducted by counsel not employed by the Government of the United States as a regular employee. The Committee shall retain and compensate outside counsel to conduct any adjudicatory review undertaken after a preliminary inquiry, unless the Committee determines that the use of outside counsel is not appropriate in the particular case.

(c) DISMISSAL OF STAFF: A staff member may not be removed for partisan, political reasons, or merely as a consequence of the rotation of the Committee membership. The Chairman and Vice Chairman, acting jointly, shall approve the dismissal of any staff member.

(d) STAFF WORKS FOR COMMITTEE AS WHOLE: All staff employed by the Committee or housed in Committee offices shall work for the Committee as a whole, under the general direction of the Chairman and Vice Chairman, and the immediate direction of the staff director or outside counsel.

(e) NOTICE OF SUMMONS TO TESTIFY: Each member of the Committee staff or outside counsel shall immediately notify the Committee in the event that he or she is called upon by a properly constituted authority to testify or provide confidential information obtained as a result of and during his or her employment with the Committee.

RULE 16: CHANGES IN SUPPLEMENTARY PROCEDURAL RULES

(a) ADOPTION OF CHANGES IN SUPPLEMENTARY RULES: The Rules of the Committee, other than rules established by statute, or by the Standing Rules and Standing Orders of the Senate, may be modified, amended, or suspended at any time, pursuant to a recorded vote of not less than four members of the full Committee taken at a meeting called with due notice when prior written notice of the proposed change has been provided each member of the Committee.

(b) PUBLICATION: Any amendments adopted to the Rules of this Committee shall be published in the Congressional Record in accordance with Rule XXVI(2) of the Standing Rules of the Senate.

## PART III—SUBJECT MATTER JURISDICTION

Following are sources of the subject matter jurisdiction of the Select Committee:

(a) The Senate Code of Official Conduct approved by the Senate in Title I of S. Res. 110, 95th Congress, April 1, 1977, as amended, and stated in Rules 34 through 43 of the Standing Rules of the Senate;

(b) Senate Resolution 338, 88th Congress, as amended, which states, among others, the duties to receive complaints and investigate allegations of improper conduct which may reflect on the Senate, violations of law, violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate; recommend disciplinary action; and recommend additional Senate Rules or regulations to insure proper standards of conduct;

(c) Residual portions of Standing Rules 41, 42, 43 and 44 of the Senate as they existed on the day prior to the amendments made by Title I of S. Res. 110;

(d) Public Law 93–191 relating to the use of the mail franking privilege by Senators, officers of the Senate; and surviving spouses of Senators;

(e) Senate Resolution 400, 94th Congress, Section 8, relating to unauthorized disclosure of classified intelligence information in the possession of the Select Committee on Intelligence;

(f) Public Law 95–105, Section 515, relating to the receipt and disposition of foreign gifts and decorations received by Senate members, officers and employees and their spouses or dependents;

(g) Preamble to Senate Resolution 266, 90th Congress, 2d Session, March 22, 1968; and

(h) The Code of Ethics for Government Service, H. Con. Res. 175, 85th Congress, 2d Session, July 11, 1958 (72 Stat. B12). Except that S. Res. 338, as amended by Section 202 of S. Res. 110 (April 2, 1977), and as amended by Section 3 of S. Res. 222 (1999), provides:

(g) Notwithstanding any other provision of this section, no adjudicatory review shall be initiated of any alleged violation of any law, the Senate Code of Official Conduct, rule, or regulation which was not in effect at the time the alleged violation occurred. No provisions of the Senate Code of Official Conduct shall apply to or require disclosure of any act, relationship, or transaction which occurred prior to the effective date of the applicable provision of the Code. The Select Committee may initiate an adjudicatory review of any alleged violation of a rule or law which was in effect prior to the enactment of the Senate Code of Official Conduct if the alleged violation occurred while such rule or law was in effect and the violation was not a matter resolved on the merits by the predecessor Select Committee.

## APPENDIX A—OPEN AND CLOSED MEETINGS

Paragraphs 5 (b) to (d) of Rule XXVI of the Standing Rules of the Senate reads as follows:

(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by a committee or a subcommittee thereof on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in classes (1) through (6) would require the meeting to be closed followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense

that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations.

(c) Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.

(d) Whenever disorder arises during a committee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the Chair to enforce order on his own initiative and without any point of order being made by a Senator. When the Chair finds it necessary to maintain order, he shall have the power to clear the room, and the committee may act in closed session for so long as there is doubt of the assurance of order.

APPENDIX B—''SUPERVISORS'' DEFINED

Paragraph 12 of Rule XXXVII of the Standing Rules of the Senate reads as follows:

For purposes of this rule—

(a) a Senator or the Vice President is the supervisor of his administrative, clerical, or other assistants;

(b) a Senator who is the chairman of a committee is the supervisor of the professional, clerical, or other assistants to the committee except that minority staff members shall be under the supervision of the ranking minority Senator on the committee;

(c) a Senator who is a chairman of a subcommittee which has it own staff and financial authorization is the supervisor of the professional, clerical, or other assistants to the subcommittee except that minority staff members shall be under the supervision of the ranking minority Senator on the subcommittee;

(d) the President pro tempore is the supervisor of the Secretary of the Senate, Sergeant at Arms and Doorkeeper, the Chaplain, the Legislative Counsel, and the employees of the Office of the Legislative Counsel;

(e) the Secretary of the Senate is the supervisor of the employees of his office;

(f) the Sergeant at Arms and Doorkeeper is the supervisor of the employees of his office;

(g) the Majority and Minority Leaders and the Majority and Minority Whips are the supervisors of the research, clerical, and other assistants assigned to their respective offices;

(h) the majority Leader is the supervisor of the Secretary for the Majority and the Secretary for the Majority is the supervisor of the employees of his office; and

(i) the Minority Leader is the supervisor of the Secretary for the Minority and the Secretary for the Minority is the supervisor of the employees of his office.

## RULES OF THE COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP

Ms. SNOWE. Mr. President, pursuant to Rule 26 of the Standing Rules of the Senate, I submit the rules for the Committee on Small Business and Entrepreneurship to be printed in the CONGRESSIONAL RECORD. The Committee rules for the 108th Congress are identical to the rules adopted by the Committee for the 107th Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP, 108TH CONGRESS

1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee.

2. MEETING AND QUORUMS

(a) The regular meeting day of the Committee shall be the first Wednesday of each month unless otherwise directed by the Chairman. All other meetings may be called by the Chairman as he deems necessary, on 5 business days notice where practicable. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Committee Members may file in the Office of the Committee their written notice that a notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, such member of the Committee as the Chairman shall designate shall preside.

(b)(1) A majority of the Members of the Committee shall constitute a quorum for reporting any legislative measure or nomination.

(2) One-third of the Members of the Committee shall constitute a quorum for the transaction of routine business, provided that one Minority Member is present. The term ''routine business'' includes, but is not limited to, the consideration of legislation pending before the Committee and any amendments thereto, and voting on such amendments. 132 Congressional Record Sec. 3231 (daily edition March 21, 1986)

(3) In hearings, whether in public or closed session a quorum for the asking of testimony, including sworn testimony, shall consist of one Member of the Committee.

(c) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote on the date of the meeting to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

(d) It shall not be in order for the Committee to consider any amendment in the first degree proposed to any measure under consideration by the Committee unless thirty written copies of such amendment have been delivered to the Offices of the Chairman and the Ranking Member at least 2 business days prior to the meeting. This subsection may be waived by the agreement of the Chairman and Ranking Member or by a majority vote of the members of the Committee.

3. HEARINGS

(a)(1) The Chairman of the Committee may initiate a hearing of the Committee on his authority or upon his approval of a request by any Member of the Committee. If such request is by the Ranking Member, a decision shall be communicated to the Ranking Member within 7 business days. Written notice of all hearings, including the title, a description of the hearing, and a tentative witness list shall be given at least 5 business days in advance, where practicable, to Members of the Committee.

(2) Hearings of the Committee shall not be scheduled outside the District of Columbia unless specifically authorized by the Chairman and the Ranking Minority Member or by consent of a majority of the Committee. Such consent may be given informally, without a meeting, but must be in writing.

(b)(1) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact if a quorum be present as specified in Rule 2(b).

(2) The Chairman and Ranking Member shall be empowered to call an equal number of witnesses to a Committee hearing. Such number shall exclude an Administration witness unless such witness would be sole hearing witness, in which case the Ranking Member shall be entitled to invite one witness. Interrogation of witnesses at hearings shall be conducted on behalf of the Committee by Members of the Committee or such Committee staff as is authorized by the Chairman or Ranking Minority Member.

(3) Witnesses appearing before the Committee shall file with the Clerk of the Committee a written statement of the prepared testimony at least 2 business days in advance of the hearing at which the witness is to appear unless this requirement is waived by the Chairman and the Ranking Minority Member.

(c) Witnesses may be subpoenaed by the Chairman with the agreement of the Ranking Minority Member or by consent of a majority of the Members of the Committee. Such consent may be given informally, without a meeting but must be in writing. Subpoenas shall be issued by the Chairman or by the Member of the Committee designated by him. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of memoranda, documents and records shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or closed hearing may be accompanied by counsel of his own choosing, who shall be permitted while witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken, or confidential material presented to the Committee, or any report of the proceedings of a closed hearing, or confidential testimony or material submitted voluntarily or pursuant to a subpoena, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

4. SUBCOMMITTEES

The Committee shall not have standing subcommittees.

5. AMENDMENT OF RULES

The foregoing rules may be added to, modified or amended; provided, however, that not less than a majority of the entire Membership so determined at a regular meeting with due notice, or at a meeting specifically called for that purpose.

## RULES OF THE SELECT COMMITTEE ON INTELLIGENCE

Mr. ROBERTS. Mr. President, paragraph 2 of Senate Rule XXVI requires that not later than March 1 of the first year of each Congress, the rules of each Committee shall be published in the RECORD.

In compliance with this provision, I ask unanimous consent that the Rules of the Select Committee on Intelligence be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON INTELLIGENCE, UNITED STATES SENATE

(Adopted June 23, 1976)

(Amended October 24, 1990

(Amended February 25, 1993)

(Amended February 22, 1995)

RULE 1. CONVENING OF MEETINGS

1.1. The regular meeting day of the Select Committee on Intelligence for the transaction of Committee business shall be every other Wednesday of each month, unless otherwise directed by the Chairman.

1.2. The Chairman shall have authority, upon notice, to call such additional meetings of the Committee as he may deem necessary and may delegate such authority to any other member of the Committee.

1.3. A special meeting of the Committee may be called at any time upon the written request of five or more members of the Committee filed with the Clerk of the Committee.

1.4. In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C. and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.5. If five members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, these members may call a meeting by filing a written notice with the Clerk of the committee in writing of the date and time of the meeting.

RULE 2. MEETING PROCEDURES

2.1. Meetings of the Committee shall be open to the public except as provided in S. Res. 9, 94th Congress, 1st Session.

2.2. It shall be the duty of the Staff Director to keep or cause to be kept a record of all Committee proceedings.

2.3. The Chairman of the Committee, of if the Chairman is not present the Vice Chairman, shall preside over all meetings of the Committee. In the absence of the Chairman and the Vice Chairman at any meeting the ranking majority member, or if no majority member is present the ranking minority member present shall preside.

2.4. Except as otherwise provided in these Rules, decisions of the Committee shall be by a majority vote of the members present and voting. A quorum for the transaction of Committee business, including the conduct of executive sessions, shall consist of no less than one third of the Committee Members, except that for the purpose of hearing witnesses, taking sworn testimony, and receiving evidence under oath, a quorum may consist of one Senator.

2.5. A vote by any member of the Committee with respect to any measure or matter being considered by the Committee may be cast by proxy if the proxy authorization (1) is in writing; (2) designates the member of the Committee who is to exercise the proxy; and (3) is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

2.6. Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee.

RULE 3. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the Committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the Committee may direct. The subcommittees shall be governed by the Rules of the Committee and by such other rules they may adopt which are consistent with the Rules of the Committee.

RULE 4. REPORTING OF MEASURES OR RECOMMENDATIONS

4.1. No measures or recommendations shall be reported, favorably or unfavorably, from the Committee unless a majority of the Committee is actually present and a majority concur.

4.2. In any case in which the Committee is unable to reach a unanimous decision, separate views or reports may be presented by any member or members of the Committee.

4.3. A member of the Committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three working days in which to file such views, in writing with the Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report.

4.4. Routine, non-legislative actions required of the Committee may be taken in accordance with procedures that have been approved by the Committee pursuant to these Committee Rules.

RULE 5. NOMINATIONS

5.1. Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least 14 days before being voted on by the Committee.

5.2. Each member of the Committee shall be promptly furnished a copy of all nominations referred to the Committee.

5.3. Nominees who are invited to appear before the Committee shall be heard in public session, except as provided in Rule 2.1.

5.4. No confirmation hearing shall be held sooner than seven days after receipt of the background and financial disclosure statement unless the time limit is waived by a majority vote of the Committee.

5.5 The Committee vote on the confirmation shall not be sooner than 48 hours after the Committee has received transcripts of the confirmation hearing unless the time limit is waived by unanimous consent of the Committee.

5.6 No nomination shall be reported to the Senate unless the nominee has filed a background and financial disclosure statement with the committee.

RULE 6. INVESTIGATIONS

No investigation shall be initiated by the Committee unless at least five members of the Committee have specifically requested the Chairman or the Vice Chairman to authorize such an investigation. Authorized investigations may be conducted by members of the Committee and/or designated Committee staff members.

RULE 7. SUBPOENAS

Subpoenas authorized by the Committee for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the Chairman, the Vice Chairman, or any member of the Committee designated by the Chairman, and may be served by any person designated by the Chairman. Vice Chairman or member issuing the subpoenas. Each subpoena shall have attached thereto a copy of S. Res. 400, 94th Congress, 2d Session and a copy of these rules.

RULE 8. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

8.1 NOTICE.—Witnesses required to appear before the Committee shall be given reasonable notice and all witnesses shall be furnished a copy of these Rules.

8.2 OATH OF AFFIRMATION.—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the Committee.

8.3 INTERROGATION.—Committee interrogation shall be conducted by members of the Committee and such Committee staff as are authorized by the Chairman, Vice Chairman, or the presiding member.

8.4 COUNSEL FOR THE WITNESS.—(a) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to his or her appearance before the Committee, the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(b) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so small, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action which may include warning, censure, removal, or a recommendation of contempt proceedings.

(c) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question he wishes propounded to his client or to any other witness and may, at the conclusion of his client's testimony, suggest the presentation of other evidence or the calling of other witnesses. The Committee may use such questions and dispose of such suggestions as it deems appropriate.

8.5 STATEMENTS BY WITNESSES.—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of his or her testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding members. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of his or her appearance before the Committee.

8.6 OBJECTIONS AND RULINGS.—Any objection raised by a witness or counsel shall be ruled upon the Chairman or other presiding member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present overrules the ruling of the chair.

8.7 INSPECTION AND CORRECTION.—All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect, in the office of the Committee, the transcript of their testimony to determine

whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the Committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at his or her expense.

8.8 REQUESTS TO TESTIFY.—The Committee will consider requests to testify on any matter or measure pending before the Committee. A person who believes that testimony or other evidence present at a public hearing, or any comment made by a Committee member or a member of the Committee staff may tend to affect adversely his or her reputation, may request to appear personally before the Committee to testify on his or her own behalf, or may file a sworn statement of acts relevant to the testimony, evidence, or comment, or may submit to the Chairman proposed questions in writing for the cross-examination of other witnesses. The Committee shall take such action as it deems appropriate.

8.9 CONTEMPT PROCEDURES.—No recommendation that a person be cited for contempt of Congress shall be forwarded to the Senate unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he or she should not be held in contempt, and agreed by majority vote of the Committee, to forward such recommendation to the Senate.

8.10 RELEASE OF NAME OF WITNESS.—Unless authorized by the Chairman, the name of any witness scheduled to be heard by the Committee shall not be released prior to, or after, his or her appearance before the Committee.

RULE 9. PROCEDURES FOR HANDLING CLASSIFIED OR SENSITIVE MATERIAL

9.1. Committee staff offices shall operate under strict precautions. At least one security guard shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

9.2. Sensitive or classified documents and material shall be segregated in a secure storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the Committee offices of such documents and other materials is prohibited except as is necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, and in conformity with Section 10.3 hereof. All documents or materials removed from the Committee offices for such authorized purposes must be returned to the Committee's secure storage area for overnight storage.

9.3. Each member of the Committee shall at all times have access to all papers and other material received from any source. The Staff Director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the Committee, and such registry shall be available to any member of the Committee.

9.4. Whenever the Select Committee on Intelligence makes classified material available to any other Committee of the Senate or to any member of the Senate not a member of the Committee, such material shall be accompanied by a verbal or written notice to the recipients advising of their responsibility to protect such material pursuant to section 8 of S. Res. 400 of the 94th Congress. The Clerk of the Committee shall ensure that such notice is provided and shall maintain a written record identifying the particular information transmitted and the Committee or members of the Senate receiving such information.

9.5 Access to classified information supplied to the Committee shall be limited to those Committee staff members with appropriate security clearance and a need-to-know, as determined by the Committee, and, under the Committee's direction, the Staff Director and minority Staff Director.

9.6. No member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the committee in executive session including the name of any witness who appeared or was called to appear before the Committee in executive session, or the contents of any papers or materials or other information received by the Committee except as authorized herein, or otherwise as authorized by the Committee in accordance with section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate. For purposes of this paragraph, members and staff of the Committee may disclose classified information in the possession of the Committee only to persons with appropriate security clearances who have a need to know such information for an official governmental purpose related to the work of the Committee. Information discussed in executive sessions of the Committee and information contained in papers and materials which are not classified but which are controlled by the committee may be disclosed only to persons outside the Committee who have a need to know such information for an official governmental purpose related to the work of the Committee and only if such disclosure has been authorized by the Chairman and Vice Chairman of the Committee, or by the Staff Director and Minority Staff Director, acting on their behalf. Failure to abide by this provision shall constitute grounds for referral to the Select Committee on Ethics pursuant to Section 8 of S. Res. 400.

9.7 Before the Committee makes any decision regarding the disposition of any testimony, papers, or other materials presented to it, the Committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the members of the Committee or the Committee staff.

9.8 Attendance of persons outside the Committee at closed meetings of the Committee shall be kept at a minimum and shall be limited to persons with appropriate security clearance and a need-to-know the information under consideration for the execution of their official duties. Notes taken at such meetings by any person in attendance shall be returned to the secure storage area in the Committee's offices at the conclusion of such meetings, and may be made available to the department, agency, office, committee or entity concerned only in accordance with the security procedures of the Committee.

RULE 10. STAFF

10.1 For purposes of these rules, Committee staff includes employees of the Committee, consultants to the Committee, or any other person engaged by contract or otherwise to perform services for or at the request of the Committee. To the maximum extent practicable, the Committee shall rely on its full-time employees to perform all staff functions. No individual may be retained as staff of the Committee or to perform services for the Committee unless that individual holds appropriate security clearances.

10.2 The appointment of Committee staff shall be confirmed by a majority vote of the Committee. After confirmation, the Chairman shall certify Committee staff appointments to the Financial Clerk of the Senate in writing. No Committee staff shall be given access to any classified information or regular access to the Committee offices, until such Committee staff has received an appropriate security clearance as described in Section 6 of Senate Resolution 400 of the 94th Congress.

10.3 The Committee staff works for the Committee as a whole, under the supervision of the Chairman and Vice Chairman of the Committee. The duties of the Committee staff shall be performed, and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, and shall be administered under the direct supervision and control of the Staff Director. The Minority Staff Director and the Minority Counsel shall be kept fully informed regarding all matters and shall have access to all material in the files of the Committees.

10.4. The Committee staff shall assist the minority as fully as the majority in the expression of minority views, including assistance in the preparation and filing of additional, separate and minority in the expression of minority views, to the end that all points of view may be fully considered by the Committee and the Senate.

10.5. The members of the Committee staff shall not discuss either the substance or procedure of the work of the Committee with any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during their tenure as a member of the Committee staff at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

10.6. No member of the Committee staff shall be employed by the Committee unless and until a member of the Committee staff agrees in writing, as a condition of employment to abide by the conditions of the nondisclosure agreement promulgated by the Senate Select Committee on Intelligence, pursuant to Section 6 of S. Res. 400 of the 94th Congress, 2d Session, and to abide by the Committee's code of conduct.

10.7. No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment, to notify the Committee or in the event of the Committee's termination the Senate of any request for his or her testimony, either during his tenure as a member of the Committee staff or at any time thereafter with respect to information which came into his or her possession by virtue of his or her position as a member of the Committee staff. Such information shall not be disclosed in response to such requests except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.8. The Committee shall immediately consider action to be taken in the case of

any member of the Committee staff who fails to conform to any of these Rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the Committee staff.

10.9. Within the Committee staff shall be an element with the capability to perform audits of programs and activities undertaken by departments and agencies with intelligence functions. Such element shall be comprised of persons qualified by training and/or experience to carry out such functions in accordance with accepted auditing standards.

10.10. The workplace of the Committee shall be free from illegal use, possession, sale or distribution of controlled substances by its employees. Any violation of such policy by any member of the Committee staff shall be grounds for termination of employment. Further, any illegal use of controlled substances by a member of the Committee staff, within the workplace or otherwise, shall result in reconsideration of the security clearance of any such staff member and may constitute grounds for termination of employment with the Committee.

10.11. In accordance with title II of the Civil Rights Act of 1991 (P.L. 102–166), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, handicap or disability.

RULE 11. PREPARATION FOR COMMITTEE MEETINGS

11.1. Under direction of the Chairman and the Vice Chairman, designated Committee staff members shall brief members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee members in preparation for such meeting and to determine any matter which the Committee member might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

11.2. The Staff Director shall recommend to the Chairman and the Vice Chairman the testimony, papers, and other materials to be presented to the Committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the Senate and Rules of the Committee.

11.3. The Staff Director shall ensure that covert action programs of the U.S. Government receive appropriate consideration by the Committee no less frequently than once a quarter.

RULE 12. LEGISLATIVE CALENDAR

12.1. The Clerk of the Committee shall maintain a printed calendar for the information of each Committee member showing the measures introduced and referred to the Committee and the status of such measures; nominations referred to the Committee and their status; and such other matters as the Committee determines shall be included. The Calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the Committee.

12.2. Unless otherwise ordered, measures referred to the Committee shall be referred by the Clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

RULE 13. COMMITTEE TRAVEL

13.1. No member of the Committee or Committee Staff shall travel abroad on Committee business unless specifically authorized by the Chairman and Vice Chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the Committee when travel is completed.

13.2. When the Chairman and the Vice Chairman approve the foreign travel of a member of the committee staff not accompanying a member of the Committee, all members of the Committee are to be advised, prior to the commencement of such travel, of its extent, nature and purpose. The report referred to in Rule 13.1 shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee pursuant to the Rules of the Committee.

13.3. No member of the Committee staff shall travel within this country on Committee business unless specifically authorized by the Staff Director as directed by the Committee.

RULE 14. CHANGES IN RULES

These Rules may be modified, amended, or repealed by the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

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APPENDIX A.—94TH CONGRESS, 2D SESSION

S. Res. 400

[Report No. 94–675]

[Report No. 94–770]

IN THE SENATE OF THE UNITED STATES

*March 1, 1976*

Mr. Mansfield (for Mr. Ribicoff) (for himself, Mr. Church, Mr. Percy, Mr. Baker, Mr. Brock, Mr. Chiles, Mr. Glenn, Mr. Huddleston, Mr. Jackson, Mr. Javits, Mr. Mathias, Mr. Metcalf, Mr. Mondale, Mr. Morgan, Mr. Muskie, Mr. Nunn, Mr. Roth, Mr. Schweiker, and Mr. Weicker) submitted the following resolution; which was referred to the Committee on Government Operations.

*May 19, 1976*

Considered, amended, and agreed to resolution to establish a Standing Committee of the Senate on Intelligence, and for other purposes

*Resolved,* That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a)(1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the ''select committee''). The select committee shall be composed of fifteen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) seven members to be appointed from the Senate at large.

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Four of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and three shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(b) No Senator may serve on the select committee for more than eight years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the Ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 4(e)(1) of rule XXV of the Standing Rules of the Senate.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision named in clause (D), (E), or (F) to

the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred, to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the attention of the Senate or such other committee or committees. In making such report, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the selection committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purpose of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoenas.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, by commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally in writing, notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. The committee shall not publicly disclose such information without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered to be disclosed.

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not public disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the information of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate (whichever the case

may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such information, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which the committee or which Members of the Senate received such information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct[1] to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct[1] shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct[1] determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office-or employment or punishment for contempt, in the case of an officer or employee.

SEC. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 10. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

SEC. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency: *Provided,* That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, presidential directives or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 12. Subject to the Standing rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of the United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 14. (a) As used in this resolution, the term ''intelligence activities'' includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policy-making function.

(b) As used in this resolution, the term ''department or agency'' includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now

conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 15. (This section authorized funds for the select committee for the period May 19, 1976, through Feb. 28, 1977.)

SEC. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

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APPENDIX B.—94TH CONGRESS, 1ST SESSION

S. Res. 9

IN THE SENATE OF THE UNITED STATES

*January 15, 1975*

Mr. Chiles (for himself, Mr. Roth, Mr. Biden, Mr. Brock, Mr. Church, Mr. Clark, Mr. Cranston, Mr. Hatfield, Mr. Hathaway, Mr. Humphrey, Mr. Javits, Mr. Johnston, Mr. McGovern, Mr. Metcalf, Mr. Mondale, Mr. Muskie, Mr. Packwood, Mr. Percy, Mr. Proxmire, Mr. Stafford, Mr. Stevenson, Mr. Taft, Mr. Weicker, Mr. Bumpers, Mr. Stone, Mr. Culver, Mr. Ford, Mr. Hart of Colorado, Mr. Laxalt, Mr. Nelson, and Mr. Haskell) introduced the following resolution; which was read twice and referred to the Committee on Rules and Administration.

Resolution amending the rules of the Senate relating to open committee meetings

*Resolved*, That paragraph 7(b) of rule XXV of the Standing Rules of the Senate is amended to read as follows:

''(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meetings may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

''(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

''(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

''(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

''(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

''(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

''(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

''(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person

Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt.''

SEC. 2. Section 133A(b) of the Legislative Reorganization Act of 1946, section 242(a) of the Legislative Reorganization Act of 1970, and section 102(d) and (e) of the Congressional Budget Act of 1974 are repealed.

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## FIRST RESPONDERS PARTNERSHIP GRANT ACT OF 2003 INCLUDED IN THE ECONOMIC RECOVERY ACT OF 2003

Mr. LEAHY. Mr. President, I rise today in support of Democratic Leader DASCHLE's request to bring before the Senate the Economic Recovery Act of 2003, S. 414, which includes legislation I introduced last month: the First Responders Partnership Grant Act of 2003.

I thank the Democratic leader for authoring this important economic stimulus package. In seeking to improve homeland security, I am proud that he saw fit to include the First Responders Partnership Grant Act—on which he, Democratic Whip REID and Senator BREAUX join me as cosponsors. This legislation will supply our Nation's first responders with the support they so desperately need to protect homeland security and prevent and respond to acts of terrorism.

I want to begin by thanking each of our Nation's brave firefighters, emergency rescuers, law enforcement officers, and other first responder personnel for the jobs they do for the American public day in and day out. Our public safety officers are often the first to respond to any crime or emergency situation. On September 11, the Nation saw that the first on the scene at the World Trade Center were the heroic firefighters, police officers, and emergency personnel of New York City. These real-life heroes, many of whom gave the ultimate sacrifice, remind us of how important it is to support our State and local public safety partners.

But while we ask our Nation's first responders to defend us as never before on the front lines against the dark menace of domestic terrorism, we have failed to supply them with the Federal support they need and deserve to protect us, as we expect and need them to protect us.

Since February 7, 2003, the Federal Homeland Security Advisory System has kept State and local first responders on Orange Alert, a ''high'' condition indicating a high probability of a terrorist attack and when additional precautions by first responders are necessary at public events.

Since then, counterterrorism officials have warned that the threat of terrorist attacks on U.S. soil is at a higher level than in previous months due to the possibility of impending military action against Iraq. This is the second time since September 11, 2001, that the national warning level has been at Orange Alert—from September 10 to September 24 last year, Attorney General Ashcroft declared our country at Orange Threat level.

From March 12, 2002, until this month, we were at Yellow Alert, an ''elevated'' threat level declared when there is a significant risk of terrorist attacks, requiring increased surveillance of critical locations.

Counties, cities, and towns in my home State of Vermont and across the United States find themselves overwhelmed by increasing homeland security costs required by the Federal Government. Indeed, the National Governors' Association estimates that States incurred around $7 billion in security costs over the past year alone.

As a result, the national threat alerts and other Federal homeland security requirements have become unfunded Federal mandates on our State and local governments. Rutland County Sheriff R.J. Elrick, president of the Vermont Sheriffs' Association, recently wrote to me:

We are in dire need of financial support to keep our personnel trained and equipped to meet the challenges here at home as we continue our vigilant commitment to fight terrorism.

When terrorists strike, first responders are and will always be the first people we turn to for help. We place our lives and the lives of our families and friends in the hands of these officers, trusting that when called upon they will protect and save us.

Just how, without supplying them with the necessary resources, do we expect our Nation's first responders to realistically carry out their duties?

Our State and local law enforcement officers, firefighters and emergency personnel are full partners in preventing, investigating, and responding to terrorist acts. They need and deserve the full collaboration of the Federal Government to meet these new national responsibilities.

Washington is buzzing about the literally hundreds of billions of additional dollars the President plans to ask Congress to provide for our military services to fight the war on terrorism abroad. The same cannot be said for helping security here at home, which is shamefully overlooked.

For a year and a half I have been working hard to remedy that, with allies like our distinguished Democratic leader and assistant Democratic leader, and New York Senators SCHUMER and CLINTON. As former chair and now ranking member of the Judiciary Committee, I have made it a high priority to evaluate and meet the needs of our first responders.

For these reasons, I commend the Democratic leader for including in the homeland security section of his economic stimulus package the First Responders Partnership Grant Act, which will give our Nation's law enforcement officers, firefighters, and emergency personnel the resources they need to do their jobs. This legislation will establish a grant program at the Department of Homeland Security to provide $5 billion nationwide for current fiscal year to support State and local public safety officers in their efforts to protect homeland security and prevent and respond to acts of terrorism.

Similar to the highly successful Department of Justice Community Oriented Policing Services—COPS—and the Bulletproof Vest Partnership Grant Programs, the First Responder Grants will be made directly to State and local government units for overtime, equipment, training, and facility expenses to support our law enforcement officers, firefighters, and emergency personnel.

The First Responder Grants may be used to pay up to 90 percent of the cost of the overtime, equipment, training, or facility. In cases of fiscal leadership, the Department of Homeland Security may waive the local match requirement of 10 percent to provide Federal funds for communities that cannot afford the local match.

In a world shaped by the violent events of September 11, day after day we call upon our public safety officers to remain vigilant. We not only ask them to put their lives at risk in the line of duty, but also, if need be, give their lives to protect us.

If we take time to listen to our Nation's State and local public safety partners, they will tell us that they welcome the challenge to join in our national mission to protect our homeland security. But we cannot ask our firefighters, emergency personnel, and law enforcement officers to assume these new national responsibilities without also providing new Federal support.

The First Responders Partnership Grant Act will provide the necessary Federal support for our State and public safety officers to serve as full partners in the fight to protect our homeland security. We need our first responders for the security and the lifesaving help they bring to our communities. All they ask is for the tools they need to do their jobs for us. And for the sake of our own security, that is not too much to ask.

I commend Senator DASCHLE for his leadership, and hope that the Senate will soon consider this desperately needed economic stimulus package.

## LOCAL LAW ENFORCEMENT ACT OF 2001

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. In the last Congress Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred July 22, 2001 in Pleasanton, CA. Two men assaulted an Afghani cab driver in an incident that police labeled a hate crime. The two attackers, Kenny Loveless and Travis Gossage, both 21, yelled racial epithets at the cab driver during their ride. Upon getting out of the cab they struck the outside of the cab. When the driver got out to inspect the cab the two men attacked the driver and continued to yell racial slurs.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## THE MEASURE OF SUCCESS: CELEBRATING A LEGACY OF AFRICAN AMERICAN ACHIEVEMENT

Ms. FEINSTEIN. Mr. President, ''Success is to be measured not so much by the position one has reached in life, as by the obstacles which he has overcome while trying to succeed.'' This statement, made over 100 years ago by Booker T. Washington, rings true today.

Twenty-seven years ago, February was designated ''Black History Month.'' Today, I am pleased to join in the celebration of the many achievements and contributions African Americans have made to our history. I encourage all of you to celebrate this rich history of achievement year-round.

America's history has been shaped by the courage, talent, and ingenuity of African-Americans. Each February we rediscover familiar stories of those who triumphed over bigotry and hatred to help move our Nation closer to living up to its greatest potential. In the lives of Frederick Douglass, Harriet Tubman, Sojourner Truth, Rosa Parks, and Thurgood Marshall we find heroes who dedicated their lives to liberty, freedom, and equality. During this month we also celebrate the achievements and vision of civil rights leaders such as Martin Luther King, Jr. and Medgar Evers and are reminded that we must continue the important work they started.

A look through our own State's history reveals a rich portrait of African American achievement in California.

In science, George Edward Alcorn, Jr. is a brilliant physicist and inventor who has made considerable contributions to semiconductor technology and other scientific fields. He graduated from Occidental College in Los Angeles with a B.A. in Physics, and received an M.S. and Ph.D. in Nuclear, Atomic and Molecular Physics from Howard University. He has been issued more than 25 patents for his groundbreaking work and is most well-known for inventing the Imaging X-ray Spectrometer used for detecting life on other planets.

Dr. Alcorn has also been extensively involved in community service. He was awarded a NASA–EEO medal for his contributions in recruiting minority and women scientists and engineers and for his assistance to minority businesses in establishing research programs. He is a founder of Saturday Academy, which is a weekend honors program designed to supplement and extend math-science training for inner-city students in grades 6 to 8.

Mae Jemison, an African American physician, scientist and engineer, was the first woman of color to go into space more than 10 years ago. Dr. Jemison was only 16 when she entered Stanford University; she graduated in 1977 at age 20 with degrees in both chemical engineering and African American studies. A few years later, she received a medical degree from Cornell University. Dr. Jemison was selected by NASA in 1988 for Astronaut training and in 1992 became a mission specialist aboard the space shuttle Endeavor.

Throughout her career, Dr. Jemison remained undaunted by the lack of role models in her area of expertise and instead paved the way as a hero for women and minorities interested in the science and technology fields. She once said, ''I saw a world that was changing and I wanted to be a part of that.''

Last year, she was honored by the Mentoring Center in Oakland during a ceremony where she stressed the need for caring adults to reach out for young people in these troubled times. Just recently, Dr. Jemison encouraged a young audience at the Modesto Community College to shoot for the stars and realize their capacity to dream. She said, ''We have to have a vision of what we want the world to be in the future. We must combine lessons from the past with our responsibility for the present. It's the only way to have hope for the future.''

Politics: African Americans in the political arena have worked tirelessly to advance the civil rights of all people in California. Largely as a result of their efforts, African Americans are well represented in California local, State and Federal Governments.

Below is a short list of other African-American Californians who have made similar contributions to our State and communities across the Nation:

Yvonne Brathwaite Burke was the first black woman to be elected to the California General Assembly and the first to be elected to represent California in the United States Congress.

Congressman Ronald V. Dellums was elected to Congress in 1970. He was the first African-American to serve on the Armed Services Committee and was its first black chairman.

Herb J. Wesson, Jr. is only the second African American in California history to be elected the 65th Speaker of the California State Assembly, one of the most powerful positions in the State. As a student at Lincoln University, a historically black college, Mr. Wesson was inspired to pursue a political career while listening to a speech by then Congressman Ron Dellums of California.

During his career, Mr. Wesson has introduced bills that protected labor rights for immigrant workers, ensured pay equity across gender lines, increased funding for low performing schools, and promoted job training for at-risk teens. He has earned a reputation as a natural born leader, mediator

and bridge-builder, someone other Assembly members turned to when seeking to resolve a conflict.

Sports: African Americans have played an extremely influential role in the development of professional sports. Among the most prominent, Tony Gwynn has demonstrated excellence on and off the field. A native of Long Beach, Gwynn played baseball for the San Diego Padres for 20 years.

In addition to his incredible skill on the diamond, Gwynn became a sports hero for youth across the nation. Demonstrating sportsmanship, community service, and athleticism, Gwynn has won numerous community awards for his dedication and activism. He was inducted into the World Sports Humanitarian Hall of Fame in 1999.

California can also be very proud of its local African American heroes—those who often go unrecognized by the national community.

Improving the community relations in her native neighborhood of Watts, in Los Angeles, has been a lifelong commitment for ''Sweet'' Alice Harris. ''Sweet Alice,'' as she is affectionately called, is the founder of Parents of Watts, a program designed to encourage children to stay in school and away from drugs.

Today, Parents of Watts has grown into numerous organizations that provide emergency food and shelter for the homeless, offer health seminars, provide legal and drug counseling, and operate a program for unwed mothers.

Sweet Alice is truly one of the best known and most influential community leaders of her generation. Her lifetime of service and commitment to disadvantaged youth stems from her early years as a homeless teenage parent at age 16. In March of 2002, Lt. Governor Cruz Bustamante honored Sweet Alice with the Lt. Governor's Woman of the Year award for her tireless efforts for providing Los Angeles youth with a fighting chance in their community, a dedication that has spanned nearly 40 years.

This Black History Month, I would like to applaud all African American heroes who have overcome great adversity and risen to incredible heights of success. Many of these heroes have come from humble beginnings, making their successes and contributions to their communities all the more remarkable.

I look forward to the coming year in which we will, without a doubt, continue to see African Americans succeed and make a difference, both in their communities and in our country.

## ADDITIONAL STATEMENTS

### BLACK HISTORY MONTH

• Mr. NELSON of Florida. Mr. President, I rise today to commemorate and honor the achievements of African-Americans as the celebration of Black History Month draws to a close. I know my colleagues join me in remembering the sacrifices and contributions African-Americans have made to our country. From laying the foundation of the United States Capitol, to creating the design of the Nation's capital, a feat accomplished by noted scientist Benjamin Banneker, composing great music and writing classic literature, African-Americans' influence on our society and culture is immeasurable.

So many of our modern conveniences are due to the innovation and imagination of great African-American inventors like Garrett A. Morgan, creator of the modern stop light and the gas mask, which our Nation's forces may be utilizing in combat in Iraq. The great scientist, George Washington Carver, took tiny peanuts and engineered myriad uses for them. Pioneering astronauts like Guion Bluford, and most recently, Lieutenant Colonel Michael Anderson, whom we lost in the *Columbia* tragedy, undertook experiments in space that will advance our technological and scientific knowledge, expanding our horizons to space and beyond.

It is only fitting that we take time to remember these and other numerous accomplishments. Our Nation, and indeed the world, have benefited from the selfless sacrifices African-Americans have made in service to our country. We must continue to work to ensure that all African-Americans are afforded the opportunity to participate in, and realize, the American Dream. In the words, of Reverend Doctor Martin Luther King, Jr.: ''We are not makers of history. We are made by history.'' Indeed, the history and experiences of African-Americans have helped shape America and will continue to do so for generations to come.•

### CONCORD, NEW HAMPSHIRE CELEBRATES ITS 150TH BIRTHDAY

• Mr. GREGG. Mr. President, I rise today in honor of Concord, the Capital City of New Hampshire. As the United States prepares this year to observe the 227th anniversary of our independence, the citizens of Concord will be celebrating the City's 150th birthday. It is therefore timely and appropriate that we recognize this great American community.

Concord runs eight miles from north to south and covers almost 39,000 acres. However, this geographic description fails to illustrate its unique position in New Hampshire and U.S. history. First settled in the early 1700's as the Plantation of Penacook, an Indian word describing the serpentine but beautiful meanderings of the Merrimack River, the town was later renamed Rumford in 1734 and then Concord in 1765. In 1853, 150 years ago, the people living there incorporated Concord as a city. In 1788, the leaders of New Hampshire approved the new federal constitution in the Old North Meeting House in Concord and, thus, New Hampshire became the ninth and ratifying state of the original thirteen. Since 1809, Concord has served as the Capital of New Hampshire and, naturally, has been the heart of political life in our state. However, the City has a proud record for being the center of commerce and transportation as well. One of its best known industries was the Abbott-Downing Company which shipped thousands of its famous stagecoaches and wagons all over the world. In addition, the granite from Concord became the cornerstone for buildings throughout the United States. Furthermore, the City was the northern hub for the railroad industry in the first half of the 20th century.

Of course, we cannot talk about this city without praising its most distinctive feature: the people of Concord. In this community, the citizens value the importance of helping one's neighbor and, thus, have long been responsible for strengthening the New Hampshire way of life. They have never been restrained in lending their talents and energy to any noble cause. The experiences of two Concord residents in the Civil War exemplifies this ethical code. On April 15, 1861, President Lincoln issued a proclamation calling for 75,000 troops to fight to preserve the Union. Within hours of learning of this announcement, Concord Police Officer Edward Sturtevant enlisted in the Army. Because he was such a natural leader, he was eventually promoted to major and later gave his life at the Battle of Fredericksburg. Harriet Patience Dame also greatly contributed during this time. At the age of 46, she offered her services as an Army Nurse. From the time of her enlistment until well after the war ended, she cared for the injured, the sick and the dying without taking one day's furlough or one day's sick leave. An exhausting schedule to be sure but one that fits the character of Concord.

This spirit continues into modern times and may be best expressed by Concord school teacher Christa McAuliffe as she was preparing to become the first teacher in space: Her message ''I touch the future, I teach'' perfectly captures the dedication which characterizes the people of this community. With that, I am proud to honor and salute them as they celebrate the 150th birthday of Concord, New Hampshire, the Capital City of the Granite State.•

### HONORING DOROTHY GONZALEZ

• Mr. JOHNSON. Mr. President, I rise today to honor the late Dorothy Gonzalez, of Rapid City, SD. On February 17, Oglala Lakota College's East Wakpamni District College Center in Batesland, SD, was renamed in Dorothy Gonzalez's honor. This is an honor she richly deserves.

Dorothy had a distinguished 28 year career as an educator and administrator at Oglala Lakota College. In 1975, she became East Wakpamni District College Center's first director. She served as East Wakpamni District

College's director until 1990, before becoming He Sapa College Center's director. She was named Center Director of the Year in 1985 and 1987.

East Wakpamni District College Center being renamed in honor of Dorothy Gonzalez is wonderfully appropriate. Dorothy immensely enriched the life of countless young people in South Dakota. She was an extraordinary educator, mentor, and leader. It is an honor for me to share her accomplishments with my colleagues and to publicly commend the talent and commitment to education she always exhibited throughout her life. She was a woman of great scholarship and knowledge, and her positive influence will be felt for years to come.

Dorothy's dedication to high quality Native American education serves as her greatest legacy. Her work continues to inspire all those who knew her. Our Nation and South Dakota are far better places because of Dorothy Gonzalez's life, and while we miss her very much, the best way to honor her is to emulate the love and support she shared with others.●

## RABBI MICHAEL BARENBAUM

● Mrs. BOXER. Mr. President, I rise today to honor Rabbi Michael Barenbaum on the occasion of his retirement after 27 years as senior rabbi at Congregation Rodef Sholom in San Rafael, California.

Rabbi Barenbaum is a man of great kindness and integrity who carries the Jewish values of caring and compassion with him in everything he does. With his wisdom and intelligence, he has changed thousands of lives for the better.

Under his leadership, Congregation Rodef Sholom has more than tripled in size, and its religious school has become one of the largest in Northern California. Rabbi Barenbaum has attracted thousands of worshipers, including members of other congregations and faiths, through the thoughtfulness of his sermons and the lively, informal spirit of his services.

At the same time, Rabbi Barenbaum has fostered a strong tradition of social action among his congregation. In the 1970s and 80s, he led local efforts to welcome and help settle Jewish emigres from the Soviet Union. He established a Mitzvah Day program that put nearly a thousand congregants to work on dozens of community-service programs throughout Marin County. He has been a leader in ecumenical housing, in aiding the homeless, and in bringing together clergy of all faiths to create services for people in need.

As he heads into a well-deserved retirement, Rabbi Barenbaum has said that he plans to work on establishing a Jewish hospice in the San Francisco Bay Area. After years of moving others to action, he is eager to serve as a volunteer.

Mr. President, here is a man—a real mensch. I am sure that even in retirement, Rabbi Barenbaum will continue to do wonders and inspire others for many years to come.●

## TRIBUTE TO THE UNIVERSITY OF KENTUCKY BASKETBALL TEAM

● Mr. BUNNING. Mr. President, I rise today to honor and pay tribute to our Nations's winningest college basketball program of all time, the University of Kentucky Wildcats. Earlier this month, on February 6, the UK Basketball Program celebrated its 100th anniversary.

One century later, Kentucky basketball fans in our great Commonwealth and across the country have celebrated 7 National Championships, 41 Southeastern Conference Championships, 36 All-Americans, 5 Hall of Famers, and more than 1,835 victories. UK Basketball has more wins and more NCAA Tournament appearances than any other university in the Nation. Since 1927, the UK Basketball team has had only one losing season.

To most UK Basketball fans, cheering for a Wildcat win in Rupp Arena is about much more than just basketball. The UK Basketball tradition is something all Kentuckians can be proud of. Over the past six years, Kentucky has led the Nation in average attendance even though some other schools with nationally-ranked teams have larger buildings. Many fans wait in lines for days in order to get the chance to see a game in legendary Rupp Arena.

The women and men of Kentucky are proud of the tradition of Kentucky Basketball. I am proud to represent our great Commonwealth and especially the University of Kentucky as it celebrates its basketball program's 100th anniversary.●

## RECOGNIZING KLAUS WUST

● Mr. ALLEN. Mr. President, today I recognize Klaus Wust of Shenandoah County, VA, and the contribution he has made to the preservation of American history.

Mr. Wust was born in Bielefeld, Westphalia in Germany in 1925. In 1949, he received a scholarship to spend a year at Bridgewater College in Bridgewater, VA. Here he learned a great deal about the contribution German immigrants had made to the Shenandoah Valley of Virginia. He was so impressed by these achievements that he permanently settled in the Shenandoah Valley and devoted the rest of his life to researching and writing about the contributions German immigrants have made in this region of the Commonwealth.

Mr. Wust's extensive body of work serves as a primer for anyone focusing on the revolutionary period of the 1700s and early 1800s colonial era. He made a significant contribution in helping to restore American/German relations following World War II through his research and writings. He is the author of eight books, coauthor of seventeen books and dozens of articles on the history of German-Americans in the United States.

In 2002, Klaus Wust was recognized with the highest civic award authorized by the Federal Republic of Germany, the Federal Cross of Merit. The served as the Founding Director of the Museum of American Frontier Culture in Staunton, VA, and the Strasburg Museum in Strasburg, VA.

From 1957 until 1967, he served as Editor of the German language Washington Journal. Mr. Wust also served for seven years with the Leader Program of the U.S. Department of State and served as the personal interpreter for German governmental delegations visiting the United States, including the last four Chancellors.

I congratulate Mr. Wust on his impressive body of work and his commitment to preserving the history of our Nation for generations to come.●

## DETROIT RANGER DISTRICT

● Mr. SMITH. Mr. President, I rise today on behalf of the residents of the City of Detroit, OR, to pay tribute and express by gratitude to the dedicated staff of the Detroit Ranger District of the United States Forest Service located in Detroit, OR—in particular the former District Ranger, Stephanie Phillips.

The City of Detroit is a small community located on one of Oregon's most popular recreational lakes, nestled in the Santiam Canyon. Surrounded on all sides by federally managed lands, Detroit is a community whose residents rely a great deal on the cooperation and effectiveness of the Forest Service for any type of economic success.

Despite a combination of natural and man-made disasters, the determined residents of Detroit and the dedicated public servants of the Detroit Ranger District, led by Ranger Phillips, mixed steely resolution with true grit to begin a process that will ensure the long-term sustainability of this small community.

The level of appreciation for the staff of Forest Service can be best characterized by a certificate recently presented to the Detroit Ranger District which read: ''In appreciation and recognition of the Detroit Ranger District Staff for your contributions as a team of dedicated professionals in service to the general public, but especially to the local communities of Detroit and Idanha. We applaud your participation with the technical support for Detroit Lake area. We thank you for your advocacy in all of the Federal Lakes Recreation local projects.''

Mr. President, I would like to add my words of appreciation for those in the Detroit Ranger District for their dedication to the public good. The City of Detroit still faces many challenges. But I am confident that they will succeed. While the public servants of our Federal agencies are often faceless and nameless to us in Congress, many are

considered friends and partners in the communities they serve.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT REQUIRED BY THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT ON THE EMERGENCY REGARDING PROLIFERATION OF WEAPONS OF MASS DESTRUCTION—PM 17

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

*To the Congress of the United States:*

As required by section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), I transmit herewith a 6-month periodic report prepared by my Administration on the national emergency with respect to the proliferation of weapons of mass destruction that was declared in Executive Order 12938 of November 14, 1994.

GEORGE W. BUSH.

THE WHITE HOUSE, *February 25, 2003.*

## MESSAGE FROM THE HOUSE

At 2:46 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the pursuant to 22 U.S.C. 1928a, and the order of the House of January 8, 2003, the Speaker appoints the following members of the House of Representatives to the United States Group of the North Atlantic Assembly: Mr. BEREUTER of Nebraska, Chairman Mr. REGULA of Ohio, Mr. HEFLEY of Colorado, Mr. GILLMOR of Ohio, Mr. GOSS of Florida, Mr. EHLERS of Michigan, Mr. MCINNIS of Colorado, Mr. BILIRAKIS of Florida.

## MEASURES REFERRED

The Committee on Finance was discharged from further consideration of the following measure which was referred to the Committee on Health, Education, Labor, and Pensions:

S. 389. A bill to increase the supply of quality child care.

The Committee on the Judiciary was discharged from further consideration of the following measure which was referred to the Committee on Rules and Administration:

S. Res. 65. A resolution authorizing expenditures by the Committee on the Judiciary.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1195. A communication from the Administrator, Dairy Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in the Central Marketing Area (DA–01–07)'' received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1196. A communication from the Administrator, Dairy Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in the Northeast and Other Marketing Areas (DA–00–03)'' received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1197. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Exemption for Shipments of Tree Run Citrus (Doc. No. FV02–905–4 FIR)'' received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1198. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Raisins Produced from Grapes Grown in California; Modifications to the Raisins Diversion Program (Doc. No. FV03–989–11FR)'' received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1199. A communication from the Administrator, Fruit and Vegetable Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Raisins Produced from Grapes Grown in California; Additional Opportunity for Participation in 2002 Raisin Diversion Program (Doc. No. FV02–989–5FIR)'' received on February 12, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1200. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pesticides; Tolerance Exemption for Polymers (FRL 7291–7)'' received on February 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1201. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pelargonic Acid (Nonanoic Acid); Exemption from the Requirement of a Pesticide Tolerance (FRL 7278–7)'' received on February 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1202. A communication from the Acting Principle Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Decanoic Acid; Exemption from the Requirement of a Pesticide Tolerance (FRL 7278–6)'' received on February 20, 2003; to the Committee on Agriculture, Nutrition, and Forestry.

EC–1203. A communication from the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Abbreviation of Waiver of Training for State or Local Law Enforcement Officers Authorized to Enforce Immigration Law During a Mass Influx of Aliens (RIN 1115–AG84) (INS No. 2241–02)'' received on February 24, 2003; to the Committee on the Judiciary.

EC–1204. A communication from the Deputy General Counsel, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Screening of Aliens and Other Designated Individuals Seeking flight Training (RIN 1105–AA80)'' received on February 20, 2003; to the Committee on the Judiciary.

EC–1205. A communication from the Chief Justice, Supreme Court of the United States, transmitting, pursuant to law, the report of the Proceedings of the Judicial Conference of the United States of September 24, 2002, received on February 24, 2003; to the Committee on the Judiciary.

EC–1206. A communication from the Regulations Coordinator, Office of Operations Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Health Insurance Reform: Modifications to Electronic Data Transactions and Code Sets (CMS–003–FC and CMS–0050FC) ((0938–AK64)(0938–AK96))'' received on February 14, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1207. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' received on February 14, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1208. A communication from the Acting Assistant General Counsel for Regulations, Office of the General Counsel, Office of Special Education and Rehabilitative Services, transmitting, pursuant to law, the report of a rule entitled ''Experimental and Innovative Training (CFDA No. 84.263A)'' received on February 24, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1209. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Human Cells, Tissues, and Cellular and Tissue-Based Products Establishment Registration and Listing (Doc. No. 97N–484R)'' received on February 24, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1210. A communication from the Director, Regulations Policy and Management, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures, Delay of Effective Date (RIN0905–AC81)(Doc. No. 92N–0297)'' received on February 20, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1211. A communication from the Acting General Counsel, National Endowment for the Arts, transmitting, pursuant to law, the report of a nomination for the position of Chairman, received on February 24, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1212. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Fifth Annual Report for the Temporary Assistance for Needy Families (TANF) Program, received on February 12, 2003; to the Committee on Health, Education, Labor, and Pensions.

EC–1213. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska (Direct Final Rule) (1018–AI88)'' received on February 11, 2003; to the Committee on Energy and Natural Resources.

EC–1214. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Abandoned Mine Land Reclamation Notices (1029–AB99)'' received on February 24, 2003; to the Committee on Energy and Natural Resources.

EC–1215. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the report of the Energy Information Administration's Performance Profiles of Major Energy Producers 2001 being released electronically on the World Wide Web at http.//www.eia.doc.gov/emeu/perfpro/, received on February 14, 2003; to the Committee on Energy and Natural Resources.

EC–1216. A communication from the Administrator, Energy Information Administration, Department of Energy, transmitting, pursuant to law, the Energy Information Administration's (EIA) report entitled ''Emissions of Greenhouse Gases in the United States 2001''; to the Committee on Energy and Natural Resources.

EC–1217. A communication from the Assistant Secretary, Land and Minerals Management, Engineering and Operations Division, Mineral Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Oil and Gas and Sulphur Operations in the Outer Continental Shelf-Oil and Gas Drilling Operations (1010–AC43)'' received on February 14, 2003; to the Committee on Energy and Natural Resources.

EC–1218. A communication from the Assistant Secretary, Land and Minerals Management, Engineering and Operations Division, Mineral Management Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Rule (NFR) Oil and Gas and Sulphur Operations in the Outer Continental Shelf- Document Incorporated by Reference—American Petroleum Institute's Specification 2C for Offshore Cranes (API Spec 2 C) (RIN1010–AC82)'' received on February 14, 2003; to the Committee on Energy and Natural Resources.

EC–1219. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–571 ''Health Organizations RBC Amendment Act of 2002'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1220. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–572 ''Uniform Interstate Enforcement of Domestic Violence Protection Orders Act of 2002'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1221. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–569 ''Disposal of District Owned Surplus Real Property Temporary Amendment Act of 2002'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1222. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–570 ''Exclusive Right Agreement Time Period Temporary Amendment Act of 2002'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1223. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–576 ''Draft Master Plan for Public Reservation 13 Approval Act of 2002'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1224. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–573 ''Investments of Insurers Act of 2002'' received on February 14, 2003; to the Committee on Governmental Affairs .

EC–1225. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–575 ''Surname Choice Amendment Act of 2002'' received on February 14 , 2003; to the Committee on Governmental Affairs.

EC–1226. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–574 ''Housing Production Trust Fund Affordability Period Temporary Amendment Act of 2002'' received on February 14 , 2003; to the Committee on Governmental Affairs.

EC–1227. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–568 ''Insurance Compliance Self-Evaluation Privilege Act of 2002'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1228. A communication from the Chairman of the Council, Council of the District of Columbia, transmitting, pursuant to law, the report on D.C. Act 14–490 ''Carl Wilson Basketball Court Designation Act of 2002'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1229. A communication from the Chief Financial Officer, Export-Import Bank of the United States, transmitting, pursuant to law, the Management Report required by the Chief Financial Officers Act of 1990; to the Committee on Governmental Affairs.

EC–1230. A communication from the Assistant Secretary for Administration, Department of Transportation, transmitting, pursuant to law, the report of the inventories of commercial positions in the Department of Transportation; to the Committee on Governmental Affairs.

EC–1231. A communication from the Deputy Director, Trade and Development Agency, transmitting, pursuant to law, the report of the United States Trade and Development Agency (USTDA) Annual Financial Audit to Congress; to the Committee on Governmental Affairs.

EC–1232. A communication from the Secretary of Labor, transmitting, pursuant to law, the 2002 Annual Report on Performance and Accountability; to the Committee on Governmental Affairs.

EC–1233. A communication from the Director, Office of Personnel Management, Workforce Compensation and Performance Service, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Administratively Uncontrollable Overtime (3206–AJ57)'' received on February 24, 2003; to the Committee on Governmental Affairs.

EC–1234. A communication from the Director, United States Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Retirement Coverage and Service Credit Elections Available to Current and Former Nonappropriated Fund Employees'' received on February 14, 2003; to the Committee on Governmental Affairs.

EC–1235. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, General Service Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Federal Acquisition Circular 2001–12 (FAC 2001–12)'' received on February 20, 2003; to the Committee on Governmental Affairs.

EC–1236. A communication from the Director , Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled ''Post-Employment Conflict of Interest Restrictions; Revisions of Departmental Component Designations (3209–AA07)'' received on February 24, 2003; to the Committee on Governmental Affairs.

EC–1237. A communication from the Director , Office of Personnel Policy, Department of the Interior, transmitting, pursuant to law, the report of a vacancy in the position of Assistant Secretary-Indian Affairs, received on February 24, 2003; to the Committee on Indian Affairs.

EC–1238. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Health Insurance Reform; Security Standards (CMS–0049–F) (0938–AI57)'' received on February 14, 2003; to the Committee on Finance.

EC–1239. A communication from the Deputy General Counsel, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Recognition of Organizations and Accreditation of Representatives, Attorneys, and Agents (2900–AI93)'' received on February 24, 2003; to the Committee on Veterans' Affairs.

EC–1240. A communication from the Deputy General Counsel, Veterans Health Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Fisher Houses and Other Temporary Lodging (2900–AL13)'' received on February 24, 2003; to the Committee on Veterans' Affairs.

EC–1241. A communication from the Deputy General Counsel, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Loan Guaranty: Implementation of Public Law 107–103 (2900–AL23)'' received on February 24, 2003; to the Committee on Veterans' Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CAMPBELL, without amendment:

S. Res. 64. An original resolution authorizing expenditures by the Senate Committee on Indian Affairs.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was reported on February 20, 2003, during the recess of the Senate, pursuant to a unanimous consent agreement of February 13, 2003:

By Mr. LUGAR, from the Committee on Foreign Relations: Treaty Doc. 107–8—The Moscow Treaty (Exec. Rept. No. 108–1)

TEXT OF COMMITTEE RECOMMENDED RESOLUTION OF RATIFICATION

*Resolved, (two thirds of the Senators present concurring therein),*

SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO CONDITIONS AND DECLARATIONS.—The Senate advises and consents to the ratification of the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions (T. Doc. 107–8, in this resolution referred to as the ''Moscow Treaty'' or ''Treaty''), subject to the conditions in section 2 and declarations in section 3.

SEC. 2. CONDITIONS.—The advice and consent of the Senate to the ratification of the Moscow Treaty is subject to the following conditions, which shall be binding on the President:

(1) REPORT ON THE ROLE OF COOPERATIVE THREAT REDUCTION AND NONPROLIFERATION ASSISTANCE.—Recognizing that implementation of the Moscow Treaty is the sole responsibility of each party, not later than 60 days after the exchange of instruments of ratification of the Treaty, and annually thereafter on February 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report and recommendations on how United States Cooperative Threat Reduction assistance to the Russian Federation can best contribute to enabling the Russian Federation to implement the Treaty efficiently and maintain the security and accurate accounting of its nuclear weapons and weapons-usable components and material in the current year. The report shall be submitted in both unclassified and, as necessary, classified form.

(2) ANNUAL IMPLEMENTATION REPORT.—Not later than 60 days after exchange of instruments of ratification of the Treaty, and annually thereafter on April 15, the President shall submit to the Committee on Foreign Relations and the Committee on Armed Services of the Senate a report on implementation of the Treaty by the United States and the Russian Federation. This report shall be submitted in both unclassified and, as necessary, classified form and shall include—

(A) a listing of strategic nuclear weapons force levels of the United States, and a best estimate of the strategic nuclear weapons force levels of the Russian Federation, as of December 31 of the preceding calendar year;

(B) a detailed description, to the extent possible, of strategic offensive reductions planned by each party for the current calendar year;

(C) to the extent possible, the plans of each party for achieving by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty;

(D) measures, including any verification or transparency measures, that have been taken or have been proposed by a party to assure each party of the other party's continued intent and ability to achieve by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty;

(E) information relevant to implementation of this Treaty that has been learned as a result of Strategic Arms Reduction Treaty (START) verification measures, and the status of consideration of extending the START verification regime beyond December 2009;

(F) any information, insufficiency of information, or other situation that may call into question the intent or the ability of either party to achieve by December 31, 2012, the strategic offensive reductions required by Article I of the Treaty; and

(G) any actions that have been taken or have been proposed by a party to address concerns listed pursuant to subparagraph (F) or to improve the implementation and effectiveness of the Treaty.

SEC. 3. DECLARATIONS.—The advice and consent of the Senate to the ratification of the Moscow Treaty is subject to the following declarations, which express the intent of the Senate:

(1) TREATY INTERPRETATION.—The Senate reaffirms condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe (CFE) of November 19, 1990 (adopted at Vienna on May 31, 1996), approved by the Senate on May 14, 1997, relating to condition (1) of the resolution of ratification of the Intermediate-Range Nuclear Forces (INF) Treaty, approved by the Senate on May 27, 1988.

(2) FURTHER STRATEGIC ARMS REDUCTIONS.—The Senate encourages the President to continue strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States.

(3) BILATERAL IMPLEMENTATION ISSUES.—The Senate expects the executive branch of the Government to offer regular briefings, including consultations before meetings of the Bilateral Implementation Commission, to the Committee on Foreign Relations and the Committee on Armed Services of the Senate on any implementation issues related to the Moscow Treaty. Such briefings shall include a description of all efforts by the United States in bilateral forums and through diplomatic channels with the Russian Federation to resolve any such issues and shall include a description of—

(A) the issues raised at the Bilateral Implementation Commission, within 30 days after such meetings;

(B) any issues related to implementation of this Treaty that the United States is pursuing in other channels, including the Consultative Group for Strategic Security established pursuant to the Joint Declaration of May 24, 2002, by the Presidents of the United States and the Russian Federation; and

(C) any Presidential determination with respect to issues described in subparagraphs (A) and (B).

(4) NONSTRATEGIC NUCLEAR WEAPONS.—Recognizing the difficulty the United States has faced in ascertaining with confidence the number of nonstrategic nuclear weapons maintained by the Russian Federation and the security of those weapons, the Senate urges the President to engage the Russian Federation with the objectives of—

(A) establishing cooperative measures to give each party to the Treaty improved confidence regarding the accurate accounting and security of nonstrategic nuclear weapons maintained by the other party; and

(B) providing United States or other international assistance to help the Russian Federation ensure the accurate accounting and security of its nonstrategic nuclear weapons.

(5) ACHIEVING REDUCTIONS.—Recognizing the transformed relationship between the United States and the Russian Federation and the significantly decreased threat posed to the United States by the Russian Federation's strategic nuclear arsenal, the Senate encourages the President to accelerate United States strategic force reductions, to the extent feasible and consistent with United States national security requirements and alliance obligations, in order that the reductions required by Article I of the Treaty may be achieved prior to December 31, 2012.

(6) CONSULTATIONS.—Given the Senate's continuing interest in this Treaty and in continuing strategic offensive reductions to the lowest possible levels consistent with national security requirements and alliance obligations of the United States, the Senate urges the President to consult with the Senate prior to taking actions relevant to paragraphs 2 or 3 of Article IV of the Treaty.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Army nomination of Col. Steven J. Hashem.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

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

Air Force nomination of Richard M. * Norris.

Air Force nomination of Joseph P. Dibeneditto.

Air Force nomination of John C. Landreneau.

Navy nomination of Waymon J. Jackson.

Air Force nomination of Charles N. Davidson.

Air Force nomination of Thomas R. Unrath.

Army nominations beginning Thomas W. Shea and ending Thomas W. Yarborough, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Robert J. Kincaid and ending Rodney L. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nomination of Bradley J. Jorgensen.

Army nominations beginning Theresa S. Gonzales and ending Anthony S. Thomas, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Ronald E. Ellyson and ending Sheldon Watson, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning David J Cohen and ending Michael J Zapor, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Brad A * Blankenship and ending Eugene K * Webster, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Sheila R * Adams and ending Ammon * Wynn III, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Mary C * Adamschallenger and ending David A * Wright, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Tedd S * Adair II and ending Rebecca A * Yurek, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning David W Garcia and ending Terry E Raines, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Army nominations beginning Donovan G Green and ending Daniel M Williams, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nomination of Karl G. Hartenstine.

Marine Corps nomination of Leland W. Suttee.

Marine Corps nomination of Carlos D. Sanabria.

Marine Corps nomination of John W. Bradway, Jr.

Marine Corps nomination of Kathleen A. Hoard.

Marine Corps nomination of Jeffrey A. Fultz.

Marine Corps nomination of Eric R. McBee.

Marine Corps nominations beginning Christopher J. Ambs and ending Douglas E. Weddle, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nominations beginning Robert E. Cote and ending Frank L. White, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nominations beginning Charles W. Anderson and ending Jerry B. Schmidt, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nominations beginning Douglas M. Finn and ending Ronald P. Heflin, which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

Marine Corps nominations beginning Calvin L. Hynes and ending Charles S. Morrow, Jr., which nominations were received by the Senate and appeared in the Congressional Record on February 11, 2003.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CRAIG:

S. 433. A bill to provide for enhanced collaborative forest stewardship management within the Clearwater and Nez Perce National Forests in Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 434. A bill to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 435. A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself, Mr. GRASSLEY, and Mr. SPECTER):

S. 436. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 437. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River Indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 438. A bill to withdraw Federal land in Finger Lakes National Forest, New York, from entry, appropriation, disposal, or disposition under certain Federal laws; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUNNING:

S. 439. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 440. A bill to designate a United States courthouse to be constructed in Fresno, California, as the 'Robert E. Coyle United States Courthouse'; to the Committee on Environment and Public Works.

By Mrs. BOXER:

S. 441. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouses in that county; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 442. A bill to provide pay protection for members of the Reserve and the National Guard, and for other purposes; to the Committee on Finance.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 443. A bill to authorize the Secretary of the Interior to establish a program to inventory, evaluate, document, and assist efforts to preserve surviving United States Life-Saving Service stations; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 444. A bill to authorize the Secretary of the Army to carry out a project for flood damage reduction and ecosystem restoration for the American River, Sacramento, California, and for other purposes; to the Committee on Environment and Public Works.

By Ms. LANDRIEU:

S. 445. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to the Committee on Armed Services.

By Mr. BOND:

S. 446. A bill to suspend the duty on triethyleneglycol bis(2-ethyl hexanoate); to the Committee on Finance.

By Ms. LANDRIEU:

S. 447. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Health, Education, Labor, and Pensions.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CAMPBELL:

S. Res. 64. An original resolution authorizing expenditures by the Senate Committee on Indian Affairs; from the Committee on Indian Affairs; to the Committee on Rules and Administration.

By Mr. HATCH (for himself and Mr. LEAHY):

S. Res. 65. A resolution authorizing expenditures by the Committee on the Judiciary; to the Committee on Rules and Administration.

By Ms. COLLINS (for herself and Mr. FEINGOLD):

S. Con. Res. 8. A concurrent resolution designating the second week in May each year as ''National Visiting Nurse Association Week''; to the Committee on the Judiciary.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. Con. Res. 9. A concurrent resolution recognizing and congratulating the State of Ohio and its residents on the occasion of the bicentennial of its founding; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 3

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 3, a bill to prohibit the procedure commonly known as partial-birth abortion.

S. 50

At the request of Mr. JOHNSON, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 50 , a bill to amend title 38, United States Code, to provide for a guaranteed adequate level of funding for veterans health care, and for other purposes.

S. 54

At the request of Mr. SCHUMER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 54, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

S. 59

At the request of Mr. INOUYE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 59, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 85

At the request of Mr. LUGAR, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 85, a bill to amend the Internal Revenue Code of 1986 to provide for a charitable deduction for contributions of food inventory.

S. 87

At the request of Mrs. CLINTON, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 87, a bill to provide for homeland security block grants.

S. 104

At the request of Mr. HOLLINGS, the name of the Senator from Wisconsin

(Mr. KOHL) was added as a cosponsor of S. 104, a bill to establish a national rail passenger transportation system, reauthorize Amtrak, improve security and service on Amtrak, and for other purposes.

S. 140

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 140, a bill to amend the Higher Education Act of 1965 to extend loan forgiveness for certain loans to Head Start teachers.

S. 152

At the request of Mr. BIDEN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 152, a bill to assess the extent of the backlog in DNA analysis of rape kit samples, and to improve investigation and prosecution of sexual assault cases with DNA evidence.

S. 168

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 168, a bill to require the Secretary of the Treasury to mint coins in commemoration of the San Francisco Old Mint.

S. 244

At the request of Mr. ALLEN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 244, a bill to require the Secretary of the Treasury to redesign $1 Federal Reserve notes so as to incorporate the preamble to the Constitution of the United States, a list describing the Articles of the Constitution, and a list describing the Amendments to the Constitution, on the reverse of such notes.

S. 245

At the request of Mr. BROWNBACK, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 245, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 257

At the request of Mr. NELSON of Florida, the names of the Senator from Oregon (Mr. SMITH) and the Senator from New Hampshire (Mr. GREGG) were added as cosponsors of S. 257, a bill to amend title 38, United States Code, to clarify the applicability of the prohibition on assignment of veterans benefits to agreements regarding future receipt of compensation, pension, or dependency and indemnity compensation, and for there purposes.

S. 271

At the request of Mr. SMITH, the names of the Senator from Utah (Mr. HATCH), the Senator from Minnesota (Mr. DAYTON), the Senator from California (Mrs. FEINSTEIN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Florida (Mr. GRAHAM) and the Senator from South Dakota (Mr. DASCHLE) were added as cosponsors of S. 271, a bill to amend the Internal Revenue Code of 1986 to allow an additional advance refunding of bonds originally issued to finance governmental facilities used for essential governmental functions.

S. 272

At the request of Mr. SANTORUM, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 272, a bill to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low income Americans to gain financial security by building assets, and for other purposes.

S. 318

At the request of Mr. KERRY, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 318, a bill to provide emergency assistance to nonfarm-related small business concerns that have suffered substantial economic harm from drought.

S. 330

At the request of Mr. CAMPBELL, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 330, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 346

At the request of Mr. LEVIN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 346, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements.

S. 360

At the request of Mrs. LINCOLN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 360, a bill to amend the Internal Revenue Code of 1986 to treat natural gas distribution lines as 10-year property for depreciation purposes.

S. 361

At the request of Mrs. LINCOLN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 361, a bill to amend the Internal Revenue Code of 1986 to allow for an energy efficient appliance credit.

S. 363

At the request of Ms. MIKULSKI, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 363, a bill to amend title II of the Social Security Act to provide that the reductions in social security benefits which are required in the case of spouses and surviving spouses who are also receiving certain Government pensions shall be equal to the amount by which two-thirds of the total amount of the combined monthly benefit (before reduction) and monthly pension exceeds $1,200, adjusted for inflation.

S. 369

At the request of Mr. THOMAS, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 369, a bill to amend the Endangered Species Act of 1973 to improve the processes for listing, recovery planning, and delisting, and for other purposes.

S. 374

At the request of Mr. BAUCUS, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 374, a bill to amend the Internal Revenue Code of 1986 to repeal the occupational taxes relating to distilled spirits, wine, and beer.

S. 392

At the request of Mr. REID, the names of the Senator from Missouri (Mr. BOND) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 392, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive both military retired pay by reason of their years of military service and disability compensation from the Department of Veterans Affairs for their disability.

S. 403

At the request of Mr. BAUCUS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 403, a bill to lift the trade embargo on Cuba, and for other purposes.

S. 426

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 426, a bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes.

S. CON. RES. 7

At the request of Mr. CAMPBELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. Con. Res. 7, a concurrent resolution expressing the sense of Congress that the sharp escalation of anti-Semitic violence within many participating States of the Organization for Security and Cooperation in Europe (OSCE) is of profound concern and efforts should be undertaken to prevent future occurrences.

S. RES. 46

At the request of Mr. BINGAMAN, the names of the Senator from Indiana (Mr. BAYH), the Senator from Louisiana (Mr. BREAUX), the Senator from Colorado (Mr. CAMPBELL), the Senator from Idaho (Mr. CRAPO), the Senator from Illinois (Mr. DURBIN), the Senator from Massachusetts (Mr. KERRY), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. Res. 46, a resolution designating March 31, 2003, as ''National Civilian Conservation Corps Day''.

S. RES. 52

At the request of Mr. CAMPBELL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. Res. 52, a resolution recognizing the social problem of child abuse and neglect, and supporting efforts to enhance public awareness of the problem.

S. RES. 62

At the request of Mr. ENSIGN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. Res. 62, a resolution calling upon the Organization of American States (OAS) Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights, the European Union, and human rights activists throughout the world to take certain actions in regard to the human rights situation in Cuba.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself and Mr. CRAPO):

S. 434. A bill to authorize the Secretary of agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the Idaho Panhandle National Forest Improvement Act of 2003. This bill is an opportunity to provide lands for local benefits and to meet the facility needs of the Forest Service in the Silver Valley of Idaho. This bill will offer for sale or exchange administrative parcels of land in the Idaho Panhandle National Forest that the Forest Service has identified as no longer in the interest of public ownership and that disposing of them will serve the public better. The proceeds from these sales will be used to improve or replace the Forest Service's Ranger Station in Idaho's Silver Valley.

The Forest Service administrative parcels identified for disposal include the land permitted by the Granite/Reeder Sewer District on Priest Lake, Shoshone Camp in Shoshone County, and the North-South Ski Bowl, south of St. Maries.

The bill also directs the Forest Service to improve or construct a new ranger station in the Silver Valley. The current ranger station is in dire need of repair or replacement, and this will ensure my commitment to a continued and increased presence of the Forest Service in the Silver Valley.

This is a win-win situation for the taxpayers, the Forest Service, the residents of the Silver Valley, and the permittees on the parcels of land to be disposed of.

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By Mr. CRAIG (for himself and Mr. CRAPO):

S. 435. A bill to provide for the conveyance by the Secretary of Agriculture of the Sandpoint Federal Building and adjacent land in Sandpoint, Idaho, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CRAIG. Mr. President, I rise today to introduce the, ''Sandpoint Land and Facilities Act of 2003''. This bill is a unique opportunity to meet the facility needs of the Forest Service in Sandpoint, ID and to provide facilities for the local county government. This bill will transfer ownership of the local General Service Administration building currently housing the Forest Service to that agency. The bill also provides authority for the Forest Service to work with Bonner County, ID to exchange the existing building to Bonner County in exchange for a new and more functional building to the Forest Service. This transfer of ownership will not only provide the opportunity for the local Forest Service office to obtain a facility that best meets their needs but also will meet the facility needs of Bonner County.

The transfer of this facility will allow the Forest Service to improve service to the public, improve public and employee safety, make the Idaho Panhandle National Forest more financially competitive, and allow increased spending on resource programs that contribute to healthier ecosystems. In turn, Bonner County will benefit by providing to them a building that consolidates county offices so that better services can be provided to the local public, including ADA compliant access to the county courtrooms.

Additionally, the GSA will dispose of a building that is only partially occupied and is remotely located from other GSA facilities.

This is a win-win situation for the Forest Service, Bonner County, GSA, and the taxpayers and an outstanding example of the Federal Government at the local level working with the county government to create common sense solutions that result in more efficient operations and better service to the public.

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By Mr. LEAHY (for himself, Mr. GRASSLEY, and Mr. SPECTER):

S. 436. A bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve the administration and oversight of foreign intelligence surveillance, and for other purposes; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I rise today, joined by my good friends, Senators GRASSLEY and SPECTER, to introduce the Domestic Surveillance Oversight Act of 2003. This bill does not change or diminish any power available to the government in the pursuit of homeland security, but it does create important mechanisms to allow the Congress and the public to assess how effectively and appropriately the government is using its domestic surveillance powers.

I also rise to speak about an important bipartisan report being released today by myself, Senator SPECTER, and Senator GRASSLEY entitled ''FBI Oversight in the 107th Congress by the Senate Judiciary Committee: FISA Implementation Failures,'' ''FIF Report''. The report summarizes our joint conclusions based upon our bipartisan oversight of the FBI and DOJ's performance in using the Foreign Intelligence Surveillance Act, ''FISA'', an important tool in conducting domestic surveillance. The report distills our mutual findings and conclusions from numerous bipartisan hearings, classified briefings and other oversight activities. It concludes that the FBI continues to be in need of serious reform. The report also sets forth our bipartisan disappointment with the DOJ and FBI's non-responsiveness to our oversight efforts and the resulting necessity for better oversight tools, such as the bill we introduce today.

Our committee worked with the FBI and the Justice Department to achieve initial reforms both through administrative steps and also through legislation. Most notably, last fall we enacted a new Department of Justice charter that included some provisions of the FBI Reform Act. We need to enact the rest of that bipartisan bill.

Taken together, this bill and report represent a bipartisan statement about the importance of oversight and, where possible, sunshine on the government's domestic surveillance efforts. Only by fulfilling our constitutional responsibility to conduct such oversight, can we in Congress help to protect both the security and the liberty of the American people.

In times of national stress there is an understandable impulse for the government to ask for more power. Sometimes more power is needed, but many times it is not. After the September 11 attacks, we worked together in a bipartisan fashion and with unprecedented speed to craft and enact the USA PATRIOT Act which enhanced the government's powers.

Now, as word continues to circulate about a possible sequel to the USA PATRIOT Act that the Department of Justice is considering in secret and that supposedly would give government even more power, it is constructive for us to first examine and understand how Federal agencies are using the power they already have. We must answer two questions.

First, is that power being used effectively, so that our citizens not only feel safer, but are in fact safer?

Second, is that power being used appropriately, so that our liberties are not sacrificed?

In short, before we can craft and enact new laws, we must first make sure that the Department of Justice and FBI are properly using the laws that are already on the books. That is the purpose of enhanced Congressional oversight.

Domestic Surveillance Oversight Act:

Today, with the Senior Senator from Iowa and the Senior Senator from

Pennsylvania, I am introducing the bipartisan Domestic Surveillance Oversight Act of 2003. This bill provides basic information to Congress and the American people about the FBI's use of FISA to conduct surveillance on Americans. Such domestic surveillance is certainly appropriate in some cases, and the bill does not intrude in any way upon law enforcement or diminish its ability to conduct FISA surveillance when necessary and appropriate. Nor does it require the Department of Justice to publicly release any sensitive or classified information. Rather, it seeks reporting only on the aggregate number of FISA wiretaps and other surveillance measures directed specifically against Americans each year. In this way, the public and Congress can assess over time whether the government has turned more of its powerful surveillance techniques on its own citizens, as opposed to non-U.S. persons. If necessary, we can ask it to explain its actions.

The amendment also clarifies that the Foreign Intelligence Surveillance Court, FISC, and FISA Court of Review have the authority to adopt rules and procedures, and it requires that those rules be shared with the Intelligence and Judiciary Committees of the Senate and House of Representatives as well as the Supreme Court. In the last year, and only after requests from Senators GRASSLEY, SPECTER and myself, the FISC shared its rules with Congress for the first time. One of those rules and one which was eventually rejected by the FISA Review Court embodied a controversial legal interpretation of a provision we crafted in the USA PATRIOT Act. The Congress ought to have been immediately informed of that court rule either by the FISC or the DOJ, but it was not. It is entirely appropriate that a court be enabled to promulgate its own rules. It is entirely inappropriate that those rules be kept secret from Congress.

Consistent with national security, the bill directs the Attorney General to include in an annual public report the portions of applications to and opinions of the FISC and FISA Court of Review that contain significant legal interpretations of FISA or the Constitution. These disclosures will not include the facts of any particular case, which this provision requires to be redacted in order to preserve national security. This type of disclosure, however, will prevent secret case law from developing which interprets both FISA and the Constitution in ways unknown to the Congress and the public.

The first annual report required under this provision is also to include the same type of legal information for the four years before the year of the first report.

Finally, the bill would require a report to appropriate committees of Congress on the use of National Security Letters to request information from public libraries or libraries affiliated with high schools or universities. Such letters are functionally equivalent to an administrative subpoena and require no court approval. We have heard from members of the library community that the FBI may be returning to a discredited practice from the Hoover days of monitoring public and college libraries to ascertain what books people are reading. In fact, a media report from Vermont, which I ask consent to place in the RECORD, indicates that bookstore owners there are scared to keep records for just this reason. Again, this provision would not in any way limit the use of National Security Letters, but would merely require an annual report of such activities to Congress, so that we can ascertain whether or not these administrative subpoenas are being used for improper purposes. This section would also ensure that reports on the use of such letters are provided to all appropriate oversight committees.

This enhanced reporting is exactly what was called for by the American Bar Association in a resolution adopted on February 10, and echoed in a Washington Post editorial on February 12, 2003. As the Post editorialized, the Department of Justice ''needs to disclose how it is using the [powers] it already has. Yet the Justice Department has balked at reasonable oversight and public information requests . . . Congress should insist on a full understanding of what the [D]epartment is doing.'' I ask unanimous consent to print a copy both of the ABA resolution as well as the Washington Post editorial in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Adopted February 10, 2003:

Section of Individual Rights and Responsibilities (lead sponsor); Section of Litigation; Section of Criminal Justice, Section of Administrative Law and Regulatory Practice; Section of International Law and Practice; Section of Science and Technology Law; Young Lawyers Division.

*Resolved,* That the American Bar Association urges the Congress to conduct regular and timely oversight, including public hearings (except when Congress determines that the requirements of national security make open proceedings inappropriate), to ensure that government investigations undertaken pursuant to the Foreign Intelligence Surveillance Act, 50 U.S.C. 1801 et seq. (''FISA'' or ''the Act'') do not violate the First, Fourth, and Fifth Amendments to the Constitution and adhere to the Act's purposes of accommodating and advancing both the government's interest in pursuing legitimate intelligence activity and the individual's interest in being free from improper government intrusion.

*Further resolved,* That the American Bar Association urges the Congress to consider amendments to the Act to

(1) Clarify that the procedures adopted by the Attorney General to protect United States persons, as required by the Act, should ensure that FISA is used when the government has a significant (i.e. not insubstantial) foreign intelligence purpose, as contemplated by the Act, and not to circumvent the Fourth Amendment; and

(2) Make available to the public an annual statistical report on FISA investigations, comparable to the reports prepared by the Administrative Office of the United States Courts, pursuant to 18 U.S.C. sec. 2519, regarding the use of Federal wiretap authority.

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[From the Washington Post, Feb. 12, 2003]

PATRIOT ACT: THE SEQUEL

The Justice Department's draft of a second round of law enforcement and domestic security authorities—a kind of sequel to the USA Patriot Act of 2001—offers an unintended glimpse of additional powers that the Bush administration if coveting. The draft, labeled ''CONFIDENTIAL—NOT FOR DISTRIBUTION'' and dated Jan. 9, was obtained last week by the Center for Public Integrity, Washington-based nonprofit. Department officials quickly stressed that it is not a final version. But the document's proposals may become the next battlefield in the struggle to preserve American liberties while enabling the domestic war on terrorism. The proposals range from constructive to dangerous.

A government DNA database for terrorists and suspected terrorists could be useful, though it would need refinement to protect suspects who are proved innocent. Another useful proposal would allow the special appeals court that reviews government surveillance requests in national security cases to appoint lawyers to argue against the government. Under current law, it hears only from one side. The draft would create a federal crime for terrorist hoaxes, which now must be prosecuted under provisions designed for other purposes.

But the draft contains many troubling provisions. It would further expand intelligence surveillance powers into the traditional realm of law enforcement. Like a Senate bill soon to be taken up by the Judiciary Committee, it would allow foreigners suspected of terrorism to be watched as intelligence targets—rather than subjects of law enforcement—even if they could not be linked to any foreign group or state. But it would go further. It would allow intelligence surveillance in certain circumstances even when the government could not produce any evidence of a crime. It also would allow certain snooping with no court authorization, not only—as now—when Congress declared war but when it authorized force or when the country was attacked. The result of such changes would be to magnify the government's discretion to pick the legal regime under which it investigates and prosecutes national security cases and to give it more power unilaterally to exempt people from the protections of the justice system and place them in a kind of alternative legal world. Congress should be pushing in the opposite direction.

Before the department asks Congress for more powers, it needs to disclose how it is using the ones it already has. Yet the Justice Department has balked at reasonable oversight and public information requests. In fact, the draft legislation would allow the department to withhold information concerning the identity of Sept. 11 detainees—a matter now before the courts. At the very least, Congress should insist on a full understanding of what the department is doing before granting the executive branch still more authority.

This bill does not in any way diminish the government's powers, but it does allow Congress and the public to monitor their use. We cannot fight terrorism effectively or safely with the lights turned out and with little or no accountability. It is time to harness the power of the sun to enable us to better win this fight.

*FIF Report*: The wisdom of this bill is also supported by our bipartisan report, which Senators SPECTER, GRASSLEY, and I also release today, based on a year of bipartisan effort.

Today's FBI oversight report focuses on the use of the immense powers granted under FISA. We expanded the government's FISA powers after September 11 in the USA PATRIOT Act, a law that all three of us had a hand in crafting.

Unfortunately our hearings, briefings and other oversight revealed that the FBI is ill-equipped to implement FISA. Nor are its problems amenable to legal ''quick fixes.'' In fact, many of these problems are not unique to the FISA context, but echo broader and more systemic problems that have plagued the FBI for years.

Here are a few of the report's basic conclusions: *Poor training*: Key FBI agents and officials were inadequately trained in important aspects of not only FISA, but also in fundamental aspects of criminal law. *Excessive secrecy*: Secrecy regarding the most basic legal and procedural aspects of the FISA have hurt, not helped, implementation of FISA. *Headquarters Bureaucracy*: FBI headquarters often not only fails to support the work of many of its best street agents, but it actually sometimes hinders them in doing their important jobs. *Culture of Quashing Criticism*: The FBI has a deep rooted culture of punishing those who point out problems. Just yesterday, in fact, a DOJ Inspector General's Report was released substantiating claims of retaliation against FBI United Chief John Roberts for his approved appearance on 60 Minutes. More troubling, these allegations involved senior officials at the FBI, including the head of the division official charged with investigating claims of misconduct in the FBI. This culture has materially hurt the FBI's intelligence operations.

Unfortunately, as our report describes in detail, we have run into many roadblocks in conducting FBI oversight. Some obstacles were due to a lack of cooperation by the Department of Justice and FBI. The FIF Report outlines many prime examples supporting the necessity of the increased reporting called for in the bill that I introduce with Senators GRASSLEY and SPECTER today. For instance, the FIF Report describes how the FISC issued an unclassified opinion last May strongly criticizing the DOJ and FBI and containing important legal interpretations of FISA and the USA PATRIOT Act amendments to it. Even after repeated requests by myself, Senator SPECTER and Senator GRASSLEY for a copy of this unclassified legal opinion, the DOJ refused to provide us one. Eventually, the FISC, not DOJ, provided us with a copy of this unclassified document and, again only at our request, copies of the FISA Court of Review's argument and opinion were made public. I hope that this resistance towards legitimate oversight will not be shown in the future.

Sunlight is the best solvent for the sticky and ineffective machinery of government, and it is the best disinfectant to discourage the abuse of power. Our comprehensive FBI oversight has revealed that there is much work to be done.

Effective oversight of the powers given to the government for homeland security means fewer blank checks, and more checks and balances.

I ask unanimous consent, that the text of the bill I am introducing, a sectional analysis, and a letter of support be printed in the RECORD.

There being no objection, the additional materials were ordered to be printed in the RECORD, as follows:

S. 436

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Domestic Surveillance Oversight Act of 2003''.

**SEC. 2. IMPROVEMENTS TO FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.**

(a) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

''(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

''(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

''(A) All of the judges on the court established pursuant to subsection (a).

''(B) All of the judges on the court of review established pursuant to subsection (b).

''(C) The Chief Justice of the United States.

''(D) The Committee on the Judiciary of the Senate.

''(E) The Select Committee on Intelligence of the Senate.

''(F) The Committee on the Judiciary of the House of Representatives.

''(G) The Permanent Select Committee on Intelligence of the House of Representatives.''.

(b) REPORTING REQUIREMENTS.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(A) by redesignating title VI as title VII, and section 601 as section 701, respectively; and

(B) by inserting after title V the following new title:

''TITLE VI—PUBLIC REPORTING REQUIREMENT

''PUBLIC REPORT OF THE ATTORNEY GENERAL

''SEC. 601. In addition to the reports required by sections 107, 108, 306, 406, and 502, in April of each year, the Attorney General shall issue a public report setting forth with respect to the preceding calendar year—

''(1) the aggregate number of United States persons targeted for orders issued under this Act, including those targeted for—

''(A) electronic surveillance under section 105;

''(B) physical searches under section 304;

''(C) pen registers under section 402; and

''(D) access to records under section 501;

''(2) the number of times that the Attorney General has authorized that information obtained under such sections or any information derived therefrom may be used in a criminal proceeding;

''(3) the number of times that a statement was completed pursuant to section 106(b), 305(c), or 405(b) to accompany a disclosure of information acquired under this Act for law enforcement purposes; and

''(4) in a manner consistent with the protection of the national security of the United States—

''(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted;

''(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted; and

''(C) in the first report submitted under this section, the matters specified in subparagraphs (A) and (B) for all documents and applications filed with the courts established under section 103, and all otherwise unpublished opinions and orders of that court, for the 4 years before the preceding calendar year in addition to that year.''.

(2) The table of contents for that Act is amended by striking the items for title VI and inserting the following new items:

''TITLE VI—PUBLIC REPORTING REQUIREMENT

''Sec. 601. Public report of the Attorney General.

''TITLE VII—EFFECTIVE DATE

''Sec. 701. Effective date.''.

**SEC. 3. ADDITIONAL IMPROVEMENTS OF CONGRESSIONAL OVERSIGHT OF SURVEILLANCE ACTIVITIES.**

(a) TITLE 18, UNITED STATES CODE.—Section 2709(e) of title 18, United States Code, is amended by adding at the end the following new sentence: ''The information shall include a separate statement of all such requests made of institutions operating as public libraries or serving as libraries of secondary schools or institutions of higher education.''.

(b) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended to read as follows:

''(C)(i) On a semiannual basis the Attorney General shall fully inform the congressional intelligence committees, the Committee on the Judiciary of the House of Representatives, and the Committee on the Judiciary of the Senate concerning all requests made pursuant to this paragraph.

''(ii) In the case of the semiannual reports required to be submitted under clause (i) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.

''(iii) In this subparagraph, the term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).''.

(c) FAIR CREDIT REPORTING ACT.—Section 625(h)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(1)), as amended by section 811(b)(8)(B) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306), is further amended—

(1) by striking ''and the Committee on Banking, Finance and Urban Affairs of the House of Representatives'' and inserting '',

the Committee on Financial Services, and the Committee on the Judiciary of the House of Representatives''; and

(2) by striking ''and the Committee on Banking, Housing, and Urban Affairs of the Senate'' and inserting '', the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Judiciary of the Senate''.

SECTIONAL ANALYSIS OF THE DOMESTIC SURVEILLANCE OVERSIGHT ACT OF 2003

Sec. 1. Short title. The short title of the bill is the ''Domestic Surveillance Oversight Act of 2003.''

Sec. 2. Additional Improvements to Foreign Intelligence Surveillance Act of 1978 (FISA). This section amends FISA to clarify the authority of the Intelligence Surveillance Court (FISC) and FISA Court of Review to establish such rules and procedures as are reasonably necessary for their operation.

In addition, the bill requires the FISC and FISA Court of Review to transmit such rules and procedures to the judges on the FISC and Court of Review, the Chief Justice of the U.S., and the Judiciary and Intelligence Committees of the Senate and House. Previously, these rules have not been provided to Congress as a matter of course.

This section also adds to the public reporting requirements in FISA. It directs the Attorney General (AG) to include in the annual public report the aggregate number of U.S. persons targeted for any type of order under the act.

The report will also include information about the aggregate number of times FISA is being used for criminal cases, to enhance oversight regarding the changes enacted in the USA PATRIOT Act. The report will list the number of times the AG authorized FISA information to be used in a criminal proceeding or for law enforcement purposes.

Finally, ''in a manner consistent with the protection of national security,'' this section directs the report to include the portions of applications to and opinions of the FISC and FISA Court of Review that involve significant construction or interpretation of FISA or the Constitution. Such disclosures shall not include the facts of any particular case which are to be redacted. The first annual report is to include application and opinion information for the four years preceding the year of the first report to ensure that important legal interpretations, such as FISA Court of Review opinion that was almost not made public last summer, are publicly disseminated.

Sec. 3. Additional Improvements of Congressional Oversight of Surveillance Activities. This section adds to a reporting requirement to the House and Senate Judiciary and Intelligence Committees on the use of National Security Letters. The report will include a statement of requests for information directed to public libraries or libraries affiliated with high schools and universities. The section also would ensure that current reports on the use of such letters are provided to both the intelligence and judiciary committees as well as updating the names of certain pertinent committees that receive such reports. The section would allow Congress to assess the validity of public reports that a long discredited program of domestic library surveillance is being revived.

FEBRUARY 25, 2003.

Hon. PATRICK J. LEAHY,
*Senate Judiciary Committee, Russell Senate Building, Washington, DC.*
Hon. CHARLES E. GRASSLEY,
*Senate Judiciary Committee, Hart Senate Building, Washington, DC.*
Hon. ARLEN SPECTER,
*Senate Judiciary Committee, Hart Senate Building, Washington, DC.*

DEAR SENATORS LEAHY, GRASSLEY AND SPECTER: Wewrite in support of the Domestic Surveillance Oversight Act of 2003. The Foreign Intelligence Surveillance Act (FISA) authorizes secret wiretaps and secret searches of the homes and offices of Americans and other forms of data gathering for national security reasons. While the initial enactment of FISA was an appropriate accommodation of national security interests and individual rights to privacy and due process, since its initial enactment FISA has been expanded in ways that pose an increased threat to individual rights. Moreover, FISA surveillance authorities are now being used more and more; indeed, it appears that the federal government carries out more electronic surveillance under the authority of FISA than under criminal rules.

Given the absolute secrecy of FISA searches and seizures, mechanisms for public accountability are crucial to protect rights of privacy—as well as to insure effective and efficient use of this extraordinary authority. Your bill to require public accounting of the number of US persons subjected to surveillance under FISA, the number of times FISA information is used for law enforcement purposes, and to require disclosure of other information would be an important step in providing for oversight and public scrutiny of these extraordinary powers.

Disclosure of such information is important to informing the American public and will not be harmful to the national security, as it will not give any greater clues as to who is being targeted, or the scope of the anti-terrorism efforts than is already known from the Justice Department's own extensive public descriptions of those efforts.

We commend you on your leadership on this issue and look forward to working with you and your colleagues to achieve appropriate policies for responding to terrorism and other national security threats.

LAURA W. MURPHY,
*Director, Washington National Office.*
TIMOTHY H. EDGAR,
*Legislative Counsel, American Civil Liberties Union.*
JAMES X. DEMPSEY,
*Executive Director, Center for Democracy and Technology.*
KATE MARTIN,
*Director, Center for National Security Studies.*
MORTON H. HALPERIN,
*Director, Open Society Policy Center.*

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[From the Burlington Free Press, Feb. 19, 2003]

BOOKSTORE OWNERS FIGHT DISCLOSURE ACT

(By Cadence Mertz)

The gears turned in Laurie Kettler's mind as she contemplated how the USA Patriot Act might affect the bookstore she co-owns in St. Albans.

At first, she thought The Kept Writer Bookshop & Cafe had no records that authorities could use to track what her customers are reading. Then it dawned on her. Records of online purchases stay in the system for a year. Authorities could demand those records under a provision of the USA Patriot Act passed in the wake of Sept. 11 to aid in tracking down possible terrorists.

''I guess I'm going to need to do something about that,'' Kettler said of the online records. She doesn't want that information to go to the federal government. ''It just seems like a violation of privacy.''

Efforts to prevent police from obtaining blueprints of their customers' reading habits are on other bookstore owners' minds. Michael Katzenberg, co-owner of Bear Pond Books in Montpelier, has purged lists of the books its customers buy.

Other local bookstores cheer Katzenberg's decision. They cite customer privacy and the First Amendment protecting citizens' rights to free speech. The government is over-stepping its bounds, and bookstore owners will go to lengths to protect the very law that allows authors to publish without censor.

''I support what he did, and I'm right there with him,'' said Mike DeSanto, co-owner of the Book Rack and Children's Pages in Winooski, who declined to disclose whether he has a list of his customers' reading preferences. If he did have a list, he says, he would be considering getting rid of it.

''This is wrong what they're doing,'' DeSanto said of the USA Patriot Act.

Customers at Flying Pig Books in Charlotte participate in a readers' club—after buying $100 of books patrons receive $10 off their next purchase, co-owner Josie Leavitt said. It is unlikely the bookstore would purge that record, which has the titles of customers' past purchases, because of its usefulness, Leavitt said. Customers like to have a reminder of what they have bought in the past, she said.

Faced with a request from law enforcement, Leavitt said the bookstore would refuse to turn over the information. She belongs to the American Booksellers Foundation for Free Expression, the group that helped defend a Colorado bookstore last year against just such an intrusion by law enforcement.

''That's what books are all about. Books represent freedom and if people can't read they're not free,'' Leavitt said.

The Vermont Library Association agrees. The group sent a letter to Vermont's congressional delegation describing the provisions of the USA Patriot Act pertaining to libraries and book stores as unconstitutional.

''They are dangerous steps toward the erosion of our most fundamental civil liberties,'' the October letter reads in part.

Peter Hall, U.S. attorney for Vermont, said the measure would be used only in ''very rare and limited and supervised circumstances,'' Hall said. Bookstore owners can do what they want with records of their customers' purchases, he said.

Borders Books & Music would review requests from authorities on a case-by-case basis, said Tod Gross, manager of the Burlington store. The national chain keeps no records of customer purchases, except for special orders, and those files are purged monthly, Gross said.

Two recent court cases have shown law enforcement's willingness to seek records from bookstores.

Independent counsel Kenneth Starr attempted to obtain a list of the books Monica Lewinsky had bought from a Washington, D.C. bookstore while investigating former President Bill Clinton. Law enforcement in Colorado subpoenaed a bookstore customers' purchases during a drug investigation. A Colorado Supreme Court blocked the subpoena.

Kettler, in St. Albans, said her first thoughts are for her customers' privacy. A woman seeking a book on ovarian cancer

should not have to worry her illness might be disclosed by the shopkeeper, Kettler said.

''I guess I'm going to stop keeping such meticulous records,'' she said.

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By Mr. KYL (for himself and Mr. MCCAIN):

S. 437. A bill to provide for adjustments to the Central Arizona Project in Arizona, to authorize the Gila River indian Community water rights settlement, to reauthorize and amend the Southern Arizona Water Rights Settlement Act of 1982, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KYL. Mr. President, on behalf of Senator MCCAIN and myself I am introducing legislation today that would codify the largest water claims settlement in the history of Arizona. This bill represents the tremendous efforts of literally hundreds of people in Arizona and here in Washington over a period of five years. Looking ahead, this bill could ultimately be nearly as important to Arizona's future as was the authorization of the Central Arizona Project, CAP, itself.

Since Arizona began receiving CAP water from the Colorado River, litigation has divided water users over how the CAP water should be allocated and exactly how much Arizona was required to repay the federal government. This bill will, among other things, codify the settlement reached between the United States and the Central Arizona Water Conservation District over the state's repayment obligation for costs incurred by the United States in constructing the Central Arizona Project. It will also resolve, once and for all, the allocation of all remaining CAP water. This final allocation will provide the stability necessary for State water authorities to plan for Arizona's future water needs. In addition, approximately 200,000 acre-feet of CAP water will be made available to settle various Indian water claims in the State. The bill would also authorize the use of the Lower Colorado River Basin Development Fund, which is funded solely from revenues paid by Arizona entities, to construct irrigation works necessary for tribes with congressionally approved water settlements to use CAP water.

Title II of this bill settles the water rights claims of the Gila River Indian Community. It allocates nearly 100,000 acre-feet of CAP water to the Community, and provides funds to subsidize the costs of delivering CAP water and to construct the facilities necessary to allow the Community to fully utilize the water allocated to it in this settlement. Title III provides for long-needed amendments to the 1982 Southern Arizona Water Settlement Act for the Tohono O'odham Nation, which has never been fully implemented.

This bill will allow Arizona cities to plan for the future, knowing how much water they can count on. The Indian tribes will finally get ''wet'' water, as opposed to the paper rights to water they have now, and projects to use the water. In addition, mining companies, farmers, and irrigation delivery districts can continue to receive water without the fear that they will be stopped by Indian litigation.

While some minor issues remain, we have every confidence that these issues will be resolved as the legislation progresses. In addition, we hope that negotiations with the San Carlos Apache Tribe, the only party not yet included in the settlement, will move forward so that all claims can be resolved by this bill.

In summary, this bill is vital to the citizens of Arizona and will provide the certainty needed to move forward with water use decisions. Furthermore, the United States can avoid litigating water rights and damage claims and satisfy its trust responsibilities to the Tribes. The parties have worked many years to reach consensus rather than litigate, and I believe this bill represents the best opportunity to achieve a fair result for all the people of Arizona.

Mr. MCCAIN. Mr. President, I am pleased to join my colleague, Senator KYL, as a co-sponsor of this important legislation, the Arizona Water Settlements Act of 2003, which would ratify negotiated settlements for Central Arizona Project, CAP, water allocations to municipalities, agricultural districts and Indian tribes, state CAP repayment obligations, and final adjudication of long-standing Indian water rights claims.

These settlements reflect more than 5 years of intensive negotiations by state, Federal, tribal, municipal, and private parties. I commend all those involved in these negotiations for their extraordinary commitment and diligence to reach this final stage in the settlement process. I also praise my colleague, Senator JON KYL, and Interior Secretary Gail Norton, for their leadership in facilitating these settlements. From my experience in legislating past agreements, I recognize the enormous challenge of these negotiations, and I appreciate their personal dedication to this settlement process.

This legislation is vitally important to Arizona's future because these settlements will bring greater certainty and stability to Arizona's water supply by completing the allocation of CAP water supplies. Pending water rights claims by various Indian tribes and non-Indian users will be permanently settled as well as the repayment obligations of the State of Arizona for construction of the CAP.

I join with Senator KYL today to express support for the agreements embodied in this bill and to encourage conclusion of this settlement process in the near future. Significant progress has been made in resolving key issues since we last sponsored a bill to facilitate this agreement in the 107th Congress. Some of these key issues pertain to the final apportionment of CAP water supplies, cost-sharing of CAP construction and water delivery systems, amendment of the 1982 settlement agreement with the Tohono O'odham Nation, mitigation measures necessitated by sustained drought conditions, and equitable apportionment of drought shortages.

While this bill reflects agreements reached on a host of issues after an intensive and extended effort by the numerous parties involved, it is important to emphasize that this bill does not represent the final settlement. All parties recognize that a very limited number of the provisions of this bill may be modified as the negotiations continue. We fully expect that the legislative process will culminate with a final agreement early in the next congressional session.

Mr. President, we introduce this bill today as an expression of our strong support of the various parties to successfully achieve conclusion to this process. The Arizona Water Settlements Act will be a historic accomplishment that will benefit all citizens of Arizona, the tribal communities, and the United States.

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By Mr. BUNNING:

S. 439. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; to the Committee on Finance.

Mr. BUNNING. Mr. President, the Social Security system is one of this country's most important programs. Millions of older and disabled Americans rely on their Social Security checks each month as a reliable source of income.

We all know the long-term financial problems the Social Security system faces, and it is critical that Congress enact legislation to overhaul the system as soon as possible to ensure that our children and grandchildren can rely on a robust and healthy Social Security program.

Today, I am introducing a bill, the Social Security Protection Act, that will immediately begin protecting the integrity and finances of the Social Security system by combating fraud and abuse.

Fraud and abuse in the Social Security system not only threatens its long-term viability, but it also robs money from the millions of Americans who are contributing a portion of their hard-earned paychecks each month to the program.

The Social Security Protection Act makes several common-sense and much-needed changes, including denying Social Security benefits to individuals who are fugitive felons and parole violators, creating new civil monetary penalties to combat fraud, and providing additional protections to Social Security employees while on the job.

The bill also provides additional oversight of representative payees who are appointed by the Social Security

Administration to manage the finances of beneficiaries who are unable to do so by themselves. Aside from additional oversight, the bill also imposes harsher penalties on representative payees who have misused their clients' funds, and even allows the Social Security Administration in certain circumstances to reissue misused funds to beneficiaries.

Finally, the bill makes some changes to Social Security's attorney-fee withholding process, and expands it to Supplemental Security Income claims, as well. The bill also makes some other minor and non-controversial changes to Social Security law and the Ticket to Work and Work Incentives Improvement Act of 1999.

Last year, a similar version of this legislation came close to passing Congress. I hope that we can work in a bipartisan fashion with the House of Representatives to get this legislation passed so that our Social Security system can be better protected against fraud and abuse.

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By Mrs. BOXER:

S. 440. A bill to designate a United States courthouse to be constructed in Fresno, California, as the ''Robert E. Coyle United States Courthouse''; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, I am pleased to introduce legislation to name the Federal courthouse building now under construction at Tulare and ''O'' Streets in downtown Fresno, CA the ''Robert E. Coyle United States Courthouse.''

It is fitting that the Federal courthouse in Fresno be named for Senior U.S. District Judge Robert E. Coyle, who is greatly respected and admired for his work as a judge and for his foresight and persistence which contributed so much to the Fresno Courthouse project. Judge Coyle has been a leader in the effort to build a new courthouse in Fresno for more than a decade.

In the course of his work, Judge Coyle, working with the Clerk of the United States District Court for the Eastern District, conceived and founded a program called ''Managing a Capitol Construction Program'' to help others understand the process of having a courthouse built. This Eastern District program was so well received by national court administrators that is now a nationwide program run by Judge Coyle.

In addition to meeting the needs of the court for additional space, the courthouse project has become a key element in the downtown revitalization of Fresno. Judge Coyle's efforts, and those in the community with whom he worked, produced a major milestone when the groundbreaking for the new courthouse took place.

Judge Coyle has had a distinguished career as an attorney and on the bench. Appointed to California's Eastern District bench by President Ronald Reagan in 1982, Judge Coyle has served as a judge for the Eastern District for 20 years, including 6 years as senior judge. Judge Coyle earned his law degree from University of California, Hastings College of the Law in 1956. He then worked for Fresno County as a Deputy District Attorney before going into private practice in 1958 with McCormick, Barstow, Sheppard, Coyle & Wayte, where he remained until his appointment by President Reagan.

Judge Coyle is very active in the community and has served in many judicial leadership positions, including: Chair of the Space and Security Committee; Chair of the Conference of the Chief District Judges of the Ninth Circuit; President of the Ninth Circuit District Judges Association; Member of the Board of Governors of the State Bar of California; and President of the Fresno County Bar.

My hope is that, in addition to serving the people of the Eastern District as a courthouse, this building will stand as a reminder to the community and people of California of the dedicated work of Judge Robert E. Coyle.

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By Mrs. BOXER:

S. 441. A bill to direct the Administrator of General Services to convey to Fresno County, California, the existing Federal courthouses in that county; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing legislation to transfer the B.F. Sisk Federal Courthouse in Fresno, CA to the County of Fresno, when the new Federal courthouse is completed.

Fresno County is rapidly growing county in the heart of California's Great Central Valley. The County of Fresno's Superior Court has a serious need for new court space that will grow in the years ahead. The Sisk Building contains courthouses and related space that will help the people of Fresno County meet those needs. The Sisk Building's existing security measures are a perfect fit for Fresno County's justice system.

This legislation is a common sense measure that will allow appropriate utilization of the Sisk Building, while contributing to the ongoing revitalization of downtown Fresno. I am proud that it is yet another opportunity for the Federal Government to improve the lives of Fresno County's people.

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By Ms. LANDRIEU:

S. 442. A bill to provide pay protection for member of the Reserve and the National Guard, and for other purposes; to the Committee on Finance.

Ms. LANDRIEU. Mr. President, I rise today to offer legislation that will help our Nation's reservists and members of the National Guard who have been called to active duty.

Since 1991, the U.S. military has significantly scaled down its troop levels to reflect the end of the Cold War. With the reduction of active duty troops, the military has become increasingly dependent on the Reserves and National Guard to supplement troops who have been sent to deal with crises all over the world.

In addition to this, we have had to rely on an increasingly diverse group of people to fight our wars. The conflict in Afghanistan was heavily reliant on new technologies in the air and personnel intensive techniques on the ground. In order to properly execute the war on terror, we have relied on highly skilled individuals such as linguists and Civil Affairs personnel who have worked closely with the population of Afghanistan. We will have to rely on them again in Iraq. Many of these men and women have been reservists.

These two trends reflect a dramatic shift in the structure of our armed forces. Gone are the Cold War days when we had a massive military positioned all over the globe. We are now reliant on a much leaner force, which views the Reserves and National Guard as necessary components to any conflict, and not forces of last resort.

Between 1945 and 1989, a period which encompassed most of the Cold War, reservists and Guardsmen were called up four times: during the Korean War, the Berlin Crisis of 1961, the Cuban Missile Crisis, and the Vietnam War. A majority of those mobilized during this period were called up during the Korean War, when over 800,000 troops were activated to supplement the 900,000 active duty forces fighting in Korea.

Between 1990 and today, reservists and Guardsmen have been called up six separate times. Over 230,000 reservists and Guardsmen were mobilized for the Gulf War, forming nearly half of the force that drove Iraqi forces from Kuwait. Since then, reservists and Guardsmen have been activated for the Haiti Intervention, the ongoing Bosnian Peacekeeping mission, the ongoing patrol of the No Fly Zones in Iraq, the Kosovo conflict, and the War on Terrorism which has seen 151,348 reservists and Guardsmen activated in support of Operations Enduring Freedom and Noble Eagle. Many of them are in the Persian Gulf Region today.

Over the past ten years, the OPTEMPO of the Reserves has increased by fifty percent.

This OPTEMPO has had a significant strain on reservists and their families. In almost every instance, when a reservist or Guardsman is activated, their military salary is significantly smaller then their civilian salary. In many cases, service member's income is cut in half. This places a particular strain to reservists and Guardsmen as their household budget is structured by their civilian salary. The decrease in income that activation brings makes it increasingly difficult to pay the bills. Whether or not the Nation is at war, mortgages, rent, credit card debt, student loans, and other household expenses must be paid.

When we send our fighting men and women into harm's way, it is important that they concentrate on one

thing: their mission. When Guardsmen and reservists are worried about having enough money for rent of the mortgage or whether their children have enough to see a doctor, they cannot concentrate on the mission, and this becomes a readiness issue.

Many corporations volunteer to make up the difference between the military and civilian salaries of their Guardsmen and reservists. Not only do these employers sacrifice important members of their companies for national defense, they hold their jobs for them and they voluntarily choose to continue paying them. In some instances, employers have continued to provide health insurance and other benefits. This represents a significant burden that the employer has undertaken, in order to ensure that their employees and their families are taken care of during times of national emergency.

In order to alleviate the burden that these employers face and to encourage more employers to pay the difference to Reserve and Guard employees, I have drafted legislation that would provide an incentive for employers to make up the difference between the military and civilian pay of activated reservists. The Reservists and Guardsmen Pay Protection Act of 2003 provides a tax credit to employers who continue paying their service members after they are activated. It also requires the Federal Government to make up the difference between civilian and military pay for Federal employees who are activated.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 442

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Reservists and Guardsmen Pay Protection Act of 2003''.

**SEC. 2. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES.**

(a) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

**''§ 5538. Nonreduction in pay while serving in the uniformed services**

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform service in the uniformed services shall be entitled to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service in the uniformed services.

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given in section 4303 of title 38;

''(2) the term 'service in the uniformed services' has the meaning given that term in section 4303 of title 38 and includes duty performed by a member of the National Guard under section 502(f) of title 32 at the direction of the Secretary of the Army or Secretary of the Air Force;

''(3) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(4) the term 'basic pay' includes any amount payable under section 5304.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as added by this section) beginning on or after September 11, 2001.

**SEC. 3. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT ADDED TO GENERAL BUSINESS CREDIT.**

(a) READY RESERVE-NATIONAL GUARD CREDIT.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business-related credits) is amended by adding at the end the following:

**''SEC. 45G. READY RESERVE-NATIONAL GUARD EMPLOYEE CREDIT.**

''(a) GENERAL RULE.—For purposes of section 38, the Ready Reserve-National Guard employee credit determined under this section for any taxable year is an amount equal to 50 percent of the actual compensation amount for such taxable year.

''(b) DEFINITION OF ACTUAL COMPENSATION AMOUNT.—For purposes of this section, the term 'actual compensation amount' means the amount of compensation paid or incurred by an employer with respect to a Ready Reserve-National Guard employee on any day during a taxable year when the employee was absent from employment for the purpose of performing qualified active duty.

''(c) LIMITATIONS.—

''(1) MAXIMUM PERIOD FOR CREDIT PER EMPLOYEE.—The maximum period with respect to which the credit may be allowed with respect to any Ready Reserve-National Guard employee shall not exceed the 12-month period beginning on the first day such credit is so allowed with respect to such employee.

''(2) DAYS OTHER THAN WORK DAYS.—No credit shall be allowed with respect to a Ready Reserve-National Guard employee who performs qualified active duty on any day on which the employee was not scheduled to work (for reason other than to participate in qualified active duty).

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED ACTIVE DUTY.—The term 'qualified active duty' means—

''(A) active duty, other than the training duty specified in section 10147 of title 10, United States Code (relating to training requirements for the Ready Reserve), or section 502(a) of title 32, United States Code (relating to required drills and field exercises for the National Guard), in connection with which an employee is entitled to reemployment rights and other benefits or to a leave of absence from employment under chapter 43 of title 38, United States Code, and

''(B) hospitalization incident to such duty.

''(2) COMPENSATION.—The term 'compensation' means any remuneration for employment, whether in cash or in kind, which is paid or incurred by a taxpayer and which is deductible from the taxpayer's gross income under section 162(a)(1).

''(3) READY RESERVE-NATIONAL GUARD EMPLOYEE.—The term 'Ready Reserve-National Guard employee' means an employee who is a member of the Ready Reserve or of the National Guard.

''(4) NATIONAL GUARD.—The term 'National Guard' has the meaning given such term by section 101(c)(1) of title 10, United States Code.

''(5) READY RESERVE.—The term 'Ready Reserve' has the meaning given such term by section 10142 of title 10, United States Code.''.

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 of such Code (relating to general business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following:

''(16) the Ready Reserve-National Guard employee credit determined under section 45G(a).''.

(c) CONFORMING AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 45F the following:

''Sec. 45G. Ready Reserve-National Guard employee credit.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

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By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 444. A bill to authorize the Secretary of the Army to carry out a project for flood damage reduction and ecosystem restoration for the American River, Sacramento, California, and for other purposes; to the Committee on Environment and Public Works.

Mrs. BOXER. Mr. President, today I am introducing a bill to improve flood protection for Sacramento, CA. The flood control project authorized by this bill has been evaluated by the U.S. Army Corps of Engineers and will be conducted in accordance with the Report of the Chief of Engineers dated November 5, 2002. This is a companion bill to one that Representative MATSUI is introducing today in the House.

Currently, Sacramento has woefully inadequate flood protection. This bill would raise the existing walls of Folsom Dam by seven feet, which would substantially increase flood protection for the Sacramento region. Without this improvement, $40 billion of property, including the California State Capitol, 6 major hospitals, 26 nursing home facilities, over 100 schools, three major freeway systems, and approximately 160,000 homes and apartments, are at risk if there is a devastating flood.

For a city of its size, Sacramento falls shockingly below the flood protection that it deserves. The Folsom Mini-Raise is the critical next step in providing Sacramento necessary flood protection, enabling the system to handle storms far larger than any recorded event in the American River Watershed.

Previous plans to raise the level of the Folsom Dam called for the building of a temporary bridge to handle the traffic that would be disrupted while the Folsom Dam Road was closed during the construction project. Security concerns now warrant an indefinite closure of the Folsom Dam Road.

So, in addition to authorizing the Mini-Raise, this bill authorizes the U.S. Department of Transportation to work with the State of California to design and construct a permanent bridge west of and adjacent to Folsom Dam over the American River to replace the current two-lane road over the dam. It will alleviate security concerns by moving traffic away from the dam while still providing the thousands of area commuters with a reliable means of transportation across the river.

This bill would provide important safeguards to the people of one of the fastest growing areas in the Nation. By raising Folsom Dam and replacing the road across the dam, we can greatly increase public safety in the Sacramento area. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 444

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Sacramento Public Safety Act of 2003''.

**SEC. 2. FLOOD DAMAGE REDUCTION AND ECOSYSTEM RESTORATION, AMERICAN RIVER, CALIFORNIA.**

The Secretary of the Army is authorized to carry out the project for flood damage reduction and ecosystem restoration, American River, Sacramento, California, substantially in accordance with the plans, and subject to the conditions, described in the Report of the Chief of Engineers for the project dated November 5, 2002.

**SEC. 3. CONSTRUCTION OF PERMANENT BRIDGE ADJACENT TO FOLSOM DAM.**

(a) IN GENERAL.—As part of the project authorized by section 2, the Secretary of Transportation shall carry out a project to design and construct a bridge west of and adjacent to Folsom Dam, California. In carrying out the project, the Secretary shall also construct necessary linkages from the bridge to existing roadways.

(b) DESIGN AND CONSTRUCTION.—In designing and constructing the bridge, the Secretary shall—

(1) coordinate with the Secretary of the Army regarding the project authorized by section 2; and

(2) provide appropriate sizing and linkages to support present and future traffic flow requirements for the city of Folsom, California.

(c) GRANT ASSISTANCE.—The Secretary of Transportation shall make a grant to the State of California in an amount sufficient to pay not less than 80 percent of the cost of the project authorized by this section.

Mrs. FEINSTEIN. Mr. President, I rise in support of the legislation being introduced by my colleague from California the Sacramento Public Safety Act.

This Bill would authorize flood control protection and ecosystem restoration through a Mini-Raise of the Folsom Dam as well as authorize the design and construction of a permanent bridge to replace the road that currently runs on top of the Dam.

Providing Sacramento with flood protection is a critical public safety need. Further delays only serve to expand opportunities for a catastrophic flood.

No urban area in the United States is at higher risk of flooding than Sacramento, CA.

Located at the confluence of two major rivers, the American and Sacramento, the floodplain is home to half-a-million residents, $40 billion in property, 5,000 businesses and the necessary supporting infrastructure, all of which has less than 100-year flood protection.

With more than $30 billion in damageable property in the floodplain, the Corps of Engineers has estimated the damage from a flood would range from a minimum of $7 billion to as much as $15 billion.

As one of the largest economic engines in the world, a flood in California's capital city would effectively shut down the State's government and seriously disrupt regional commerce and transportation.

The Mini-Raise will provide Sacramento with a 213-year level of protection. It will allow the system to safely handle a storm 50 percent larger than anything ever recorded in the 3,000-year history of the American River Watershed; it will add 95,000 acre-feet of new emergency flood storage capacity to allow operators to control dam outflows in accordance to what the downstream levees can safely carry; it will bring Folsom Dam into compliance with Federal Dam safety standards; it will restore wildlife habitat along the Lower American River; and it will improve conditions for naturally spawning Steelhead and Salmon by mechanizing temperature control shutters.

The project has wide support at Federal, State, and local level. It is supported by the Army Corp of Engineers and funded in the Bush administration's budget request.

The project has bi-partisan support in Congress including Republican Congressman POMBO, as well as Democrats: ROBERT MATSUI, GEORGE MILLER, MIKE THOMPSON, and ELLEN TAUSCHER.

It has the local support of Heather Fargo, Mayor of Sacramento; Deborah Ortiz, California State Senator; Darrell Steinberg, California Assemblyman; Illa Collin, Chairman of the Sacramento County Board of Supervisors; Butch Hodkins, Executive Director of the Sacramento Area Flood Control Agency; Karolyn W. Simon, President of American River Flood Control Alliance; Donald Gerth, California State University, Sacramento; and Vicki Lee, Conservation Chair of the Sierra Club.

The bill also calls for a permanent bridge to replace the road that currently runs atop Folsom Dam. Given the recent announcement by the Bureau of Reclamation and the Department of the Interior to close the road over the Dam, the need for such a bridge has become doubly important. This bridge will serve the needs of nearly 20,000 commuters who use the Folsom Dam Road every day.

I want to thank my colleague from California for introducing this critical piece of legislation and I ask for support from the rest of the Senate.

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By Ms. LANDRIEU:

S. 445. A bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service; to the Committee on Armed Services.

Ms. LANDRIEU. Mr. President, many bills were introduced in the last Congress that would lower the age at

which Reservists can receive retirement benefits. Most of these bills were met with resistance from the Department of Defense, due to cost estimates over a 10-year period. It is my hope that his Bill, the Reserve Retirement and Retention Act of 2003, will serve as a compromise measure and deliver retirement benefits to Reservists and Guardsmen at an earlier age. This legislation would lower the retirement age of a Reservist by one year for every 2-year period that he or she serves past the requisite 20 years for retirement. For example, if a Reservist should serve for 22 years, he or she could receive retirement benefits at age 59. This legislation will serve as a critical tool in encouraging the most experienced Reservists and Guardsmen to stay past the 20-year mark. It is my hope that this measure will encourage our Reservists and Guardsmen to stay in their units longer, while making their retirement benefits more generous for them and their families.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 445

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Reservists Retirement and Retention Act of 2003''.

**SEC. 2. ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE.**

(a) AGE AND SERVICE REQUIREMENTS.—Subsection (a) of section 12731 of title 10, United States Code, is amended to read as follows:

''(a)(1) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

''(A) satisfies one of the combinations of requirements for minimum age and minimum number of years of service (computed under section 12732 of this title) that are specified in the table in paragraph (2);

''(B) performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed 20 years of service computed under section 12732 of this title before October 5, 1994, the number of years of qualifying service under this subparagraph shall be eight; and

''(C) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

''(2) The combinations of minimum age and minimum years of service required of a person under subparagraph (A) of paragraph (1) for entitlement to retired pay as provided in such paragraph are as follows:

| ''Age, in years, is at least: | The minimum years of service required for that age is: |
|---|---|
| 55 | 30 |
| 56 | 28 |
| 57 | 26 |
| 58 | 24 |
| 59 | 22 |
| 60 | 20.''. |

(b) 20-YEAR LETTER.—Subsection (d) of such section is amended by striking ''the years of service required for eligibility for retired pay under this chapter'' in the first sentence and inserting ''20 years of service computed under section 12732 of this title.''.

(c) EFFECTIVE DATE.—This section and the amendments made by this subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply with respect to retired pay payable for that month and subsequent months.

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By Ms. LANDRIEU:

S. 447. A bill to amend the Higher Education Act of 1965 to require institutions of higher education to preserve the educational status and financial resources of military personnel called to active duty; to the Committee on Health, Education, Labor, and Pensions.

Ms. LANDRIEU. Mr. President, When the President give the order to activate reservists and National Guardsmen, the lives of those men and women are put on hold. Businesses, careers, and families are left behind so that America's interests may be served. Students make up a substantial part of our National Guard and Reserve forces. When these students are activated, it jeopardizes their academic standing, as well as their scholarships and grants. This bill would preserve their academic standing for the duration of their service as well as a one year period that follows that service. It would also preserve their scholarships and grants, as well as entitle them to a refund of unused tuition and fees. Federal law already safeguards the employment status of activated reservists and Guardsmen. It is time that we extend the same guarantee to students.

This legislation would require colleges, universities, and community colleges to grant National Guardsmen and reservists a leave of military absence when they are called to active duty. This leave of absence would last while the student is serving on active duty and a one year period at the conclusion of active service. This bill would preserve the academic credits that the student had earned before being activated. It would also preserve the scholarships and grants awarded to the student before being activated. Under this legislation, students would be entitled to receive a refund of tuition and fees or credit the tuition and fees to the next period of enrollment after the student returns from military leave. If a student elects to receive a refund, it would allow them to receive a full refund, minus the percentage of time the student spent enrolled in classes.

The protections that are already afforded our reservists and Guardsmen are appropriate considering the hardships they endure on the nation's behalf. We need to acknowledge the many college students who are in the ranks of the Guard and Reserve and extend to them the protections they deserve. In this day of uncertainty on the world stage, our reservists must be prepared to be called up at a moments notice. Thousands have already been activated for Operations Enduring Freedom, and many thousands more are either in Kuwait or on their way there. Once they get to their duty station, they need to focus all of their attention on the mission. This legislation provides our student reservists with the proper safeguards on their academic career which will allow them to accomplish their mission.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 447

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Reservist Opportunities and Protection of Education Act''.

**SEC. 2. LEAVE OF ABSENCE FOR MILITARY SERVICE.**

(a) OBLIGATION AS PART OF PROGRAM PARTICIPATION REQUIREMENTS.—Section 487(a)(22) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(22)) is amended by inserting ''and with the policy on leave of absence for active duty military service established pursuant to section 484C'' after ''section 484B''.

(b) LEAVE OF ABSENCE FOR MILITARY SERVICE.—Part G of title IV of the Higher Education Act of 1965 is amended by inserting after section 484B (20 U.S.C. 1091b) the following new section:

**''SEC. 484C. LEAVE OF ABSENCE FOR MILITARY SERVICE.**

''(a) LEAVE OF ABSENCE REQUIRED.—Whenever a student who is a member of the National Guard or other reserve component of the Armed Forces of the United States, or a member of such Armed Forces in a retired status, is called or ordered to active duty, the institution of higher education in which the student is enrolled shall grant the student a military leave of absence from the institution while such student is serving on active duty, and for one year after the conclusion of such service.

''(b) CONSEQUENCES OF MILITARY LEAVE OF ABSENCE.—

''(1) PRESERVATION OF STATUS AND ACCOUNTS.—A student on a military leave of absence from an institution of higher education shall be entitled, upon release from serving on active duty, to be restored to the educational status such student had attained prior to being ordered to such duty without loss of academic credits earned, scholarships or grants awarded, or, subject to paragraph (2), tuition and other fees paid prior to the commencement of the active duty.

''(2) REFUNDS.—

''(A) OPTION OF REFUND OR CREDIT.—An institution of higher education shall refund tuition or fees paid or credit the tuition and fees to the next period of enrollment after the student returns from a military leave of absence, at the option of the student. Notwithstanding the 180-day limitation referred to in section 484B(a)(2)(B), a student on a military leave of absence under this section shall not be treated as having withdrawn for purposes of section 484B unless the student fails to return at the end of the military leave of absence (as determined under subsection (a) of this section).

''(B) PROPORTIONATE REDUCTION OF REFUND FOR TIME COMPLETED.—If a student requests a refund during a period of enrollment, the percentage of the tuition and fees that shall

be refunded shall be equal to 100 percent minus—

''(i) the percentage of the period of enrollment (for which the tuition and fees were paid) that was completed (as determined in accordance with section 484B(d)) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the period of enrollment; or

''(ii) 100 percent, if the day the student withdrew occurs after the student has completed 60 percent of the period of enrollment.

''(c) ACTIVE DUTY.—In this section, the term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term—

''(1) does not include active duty for training or attendance at a service school; but

''(2) includes, in the case of members of the National Guard, active State duty.''.

## STATEMENTS ON SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 64—AUTHORIZING EXPENDITURES BY THE SENATE COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL submitted the following resolution; from the Committee on Indian Affairs; which was referred to the Committee on Rules and Administration:

S. RES. 64

*Resolved,* That, in carrying out its powers, duties and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on Indian Affairs is authorized from March 1, 2003, through February 28, 2005, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2. (a) The expenses of the committee for the period March 1, 2003, through September 30, 2003, under this resolution shall not exceed $1,051,310.00, of which amount (1) no funds may be expended for the procurement of the services or individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(b) For the period October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed $1,848,350.00, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(c) For the period October 1, 2004, through February 28, 2005, expenses of the committee under this resolution shall not exceed $787,173.00, of which amount (1) no funds may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $1,000 may be expended for the training of professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The committee shall report its finding, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2003.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the committee, except that vouchers shall not be required (1) for the disbursement of the salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2003, through February 28, 2005, to be paid from the Appropriations account for ''Expenses of Inquiries and Investigations''.

### SENATE RESOLUTION 65—AUTHORIZING EXPENDITURES BY THE COMMITTEE ON THE JUDICIARY

Mr. HATCH (for himself and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on the Judiciary and the Committee on Rules and Administration:

S. RES. 65

*Resolved,* That, in carrying out its powers, duties, and functions under the Standing Rules of the Senate, in accordance with its jurisdiction under rule XXV of such rules, including holding hearings, reporting such hearings, and making investigations as authorized by paragraphs 1 and 8 of rule XXVI of the Standing Rules of the Senate, the Committee on the Judiciary is authorized from March 1, 2003, through September 30, 2003; October 1, 2003, through September 30, 2004; and October 1, 2004, through February 28, 2005 in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to employ personnel, and (3) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable or non-reimbursable basis the services of personnel of any such department or agency.

SEC. 2(a). The expenses of the committee for the period of March 1, 2003, through September 30, 2003, under this resolution shall not exceed $4,605,727, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

(B) for the period October 1, 2003, through September 30, 2004, expenses of the committee under this resolution shall not exceed $8,110,222, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1936).

(C) For the period October 1, 2004, through February 28, 2005, expenses of the committee under this resolution shall not exceed $3,458,551, of which amount (1) not to exceed $200,000 may be expended for the procurement of the services of individual consultants, or organizations thereof (as authorized by section 202(i) of the Legislative Reorganization Act of 1946, as amended), and (2) not to exceed $20,000 may be expended for the training of the professional staff of such committee (under procedures specified by section 202(j) of the Legislative Reorganization Act of 1946).

SEC. 3. The Committee shall report its findings, together with such recommendations for legislation as it deems advisable, to the Senate at the earliest practicable date, but not later than February 28, 2005, respectively.

SEC. 4. Expenses of the committee under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee except that vouchers shall not be required (1) for the disbursement of salaries of employees paid at an annual rate, or (2) for the payment of telecommunications provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (3) for the payment of stationery supplies purchased through the Keeper of the Stationery, United States Senate, or (4) for payments to the Postmaster, United States Senate, or (5) for the payment of metered charges on copying equipment provided by the Office of the Sergeant at Arms and Doorkeeper, United States Senate, or (6) for the payment of Senate Recording and Photographic Services, or (7) for payment of franked and mass mail costs by the Sergeant at Arms and Doorkeeper, United States Senate.

SEC. 5. There are authorized such sums as may be necessary for agency contributions related to the compensation of employees of the committee from March 1, 2003, through September 30, 2003, October 1, 2003 through September 30, 2004; and October 1, 2004 through February 28, 2005, to be paid from the Appropriations account for ''Expenses of Inquires and Investigations.''

### SENATE CONCURRENT RESOLUTION 8—DESIGNATING THE SECOND WEEK IN MAY EACH YEAR AS ''NATIONAL VISITING NURSE ASSOCIATIONS WEEK''

Ms. COLLINS (for himself and Mr. FEINGOLD) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 8

Whereas visiting nurse associations (VNAs) are nonprofit home health agencies that, for over 120 years, have been united in their mission to provide cost-effective and compassionate home and community-based health care to individuals, regardless of the individuals' condition or ability to pay for services;

Whereas there are approximately 500 visiting nurse associations, which employ more than 90,000 clinicians, provide health care to more than 4,000,000 people each year, and provide a critical safety net in communities by developing a network of community support services that enable individuals to live independently at home;

Whereas visiting nurse associations have historically served as primary public health care providers in their communities, and are today one of the largest providers of mass immunizations in the medicare program (delivering over 2,500,000 influenza immunizations annually);

Whereas visiting nurse associations are often the home health providers of last resort, serving the most chronic of conditions (such as congestive heart failure, chronic obstructive pulmonary disease, AIDS, and quadriplegia) and individuals with the least ability to pay for services (more than 50 percent of all medicaid home health admissions are by visiting nurse associations);

Whereas any visiting nurse association budget surplus is reinvested in supporting the association's mission through services, including charity care, adult day care centers, wellness clinics, Meals-on-Wheels, and immunization programs;

Whereas visiting nurse associations and other nonprofit home health agencies care for the highest percentage of terminally ill and bedridden patients;

Whereas thousands of visiting nurse association volunteers across the Nation devote time serving as individual agency board members, raising funds, visiting patients in their homes, assisting in wellness clinics, and delivering meals to patients;

Whereas the establishment of an annual National Visiting Nurse Association Week would increase public awareness of the charity-based missions of visiting nurse associations and of their ability to meet the needs of chronically ill and disabled individuals who prefer to live at home rather than in a nursing home, and would spotlight preventive health clinics, adult day care programs, and other customized wellness programs that meet local community needs; and

Whereas the second week in May is an appropriate week to establish as national Visiting Nurse Association Week: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) designates the second week in May each year as ''National Visiting Nurse Association Week''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Ms. COLLINS. Mr. President, I am pleased to join my colleague from Wisconsin, Senator RUSS FEINGOLD, in submitting a resolution to establish an annual National Visiting Nurse Associations Week in honor of these health care heroes who are dedicated to service in the ultimate caring profession.

The Visiting Nurse Associations, VNAs, of today are founded on the principle that people who are sick, disabled and elderly benefit most from health care when it is offered in their own homes. Home care is an increasingly important part of our health care system today. The kinds of highly skilled—and often technically complex—services that the VNAs provide have enabled millions of our most frail and vulnerable patients to avoid hospitals and nursing homes and stay just where they want to be—in the comfort and security of their own homes.

Visiting Nurse Associations are nonprofit home health agencies that provide cost-effective and compassionate home and community-based health care to individuals, regardless of their condition or ability to pay for services. VNAs literally created the profession and practice of home health care more than one hundred years ago, at a time when there were no hospitals in many communities and patients were cared for at home by families who did the best they could. VNAs made a critical difference to these families, bringing professional skills into the home to care for the patient and support the family. They made a critical difference in the late 19th century, and are making a critical difference now as we embark upon the 21st.

VNAs were pioneers in the public health movement, and, in the late 1800s, VNA responsiveness meant running milk banks, combating infectious diseases, and providing care for the poor during massive influenza epidemics. Today, that same responsiveness means caring for the dependent elderly, the chronically disabled, and the terminally ill—some of our most vulnerable citizens—and providing high-tech services previously provided in hospitals, such as ventilator care, blood transfusions, pain management and home chemotherapy.

Health care has gone full circle. Patients are spending less time in the hospital. More and more procedures are being done on an outpatient basis, and recovery and care for patients with chronic diseases and conditions has increasingly been taking place in the home. Moreover, the number of Americans who are chronically ill or disabled in some way continues to grow each year. Once again, VNAs are making a critical difference, providing comprehensive home health services and caring support to patients and their families across the country

There currently are approximately 500 VNAs nationwide. Through these exceptional organizations, 90,000 clinicians dedicate their lives to bringing health care into the homes of an estimated three million Americans every year. VNAs are truly the heart of home care in this country today, and it is time for Congress to recognize the vital services that visiting nurses provide to their patients and their families. I urge my colleagues to join Senator FEINGOLD and me in cosponsoring this resolution establishing an annual National Visiting Nurse Associations' Week.

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## SENATE CONCURRENT RESOLUTION 9—RECOGNIZING AND CONGRATULATING THE STATE OF OHIO AND ITS RESIDENTS ON THE OCCASION OF THE BICENTENNIAL OF ITS FOUNDING

Mr. VOINOVICH (for himself and Mr. DEWINE) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 9

Whereas Ohio was the 17th State to be admitted to the Union and was the first to be created from the Northwest Territory;

Whereas the name ''Ohio'' is derived from the Iroquois word meaning ''great river'', referring to the Ohio River which forms the southern and eastern boundaries;

Whereas Ohio was the site of battles of the American Indian Wars, French and Indian Wars, Revolutionary War, the War of 1812, and the Civil War;

Whereas in the nineteenth century, Ohio, a free State, was an important stop on the Underground Railroad as a destination for more than 100,000 individuals escaping slavery and seeking freedom;

Whereas Ohio, ''The Mother of Presidents'', has given eight United States presidents to the Nation, including William Henry Harrison, Ulysses S. Grant, Rutherford B. Hayes, James A. Garfield, Benjamin Harrison, William McKinley, William H. Taft, and Warren G. Harding;

Whereas Ohio inventors, including Thomas Edison (incandescent light bulb), Orville and Wilbur Wright (first in flight), Henry Timken (roller bearings), Charles Kettering (automobile starter), Charles Goodyear (process of vulcanizing rubber), Garrett Morgan (traffic light), and Roy Plunkett (Teflon) created the basis for modern living as we know it;

Whereas Ohio, ''The Birthplace of Aviation'', has been home to 24 astronauts, including John Glenn, Neil Armstrong, and Judith Resnick;

Whereas Ohio has a rich sports tradition and has produced many sports legends, including Annie Oakley, Jesse Owens, Cy Young, Jack Nicklaus, and Nancy Lopez;

Whereas Ohio has produced many distinguished writers, including Harriet Beecher Stowe, Paul Laurence Dunbar, Toni Morrison, and James Thurber;

Whereas the agriculture and agribusiness industry is and has long been the number one industry in Ohio, contributing $73,000,000,000 annually to Ohio's economy and employing 1 in 6 Ohioans, and that industry's tens of thousands of Ohio farmers and 14,000,000 acres of Ohio farmland feed the people of the State, the Nation, and the world;

Whereas the enduring manufacturing economy of Ohio is responsible for ¼ of Ohio's Gross State Product, provides over one million well-paying jobs to Ohioans, exports $26,000,000,000 in products to 196 countries, and provides over $1,000,000,000 in tax revenues to local schools and governments;

Whereas Ohio is home to over 140 colleges and universities which have made significant contributions to the intellectual life of the State and Nation, and continued investment in education is Ohio's promise to future economic development in the ''knowledge economy'' of the 21st century;

Whereas, from its inception, Ohio has been a prime destination for people from all corners of the world, and the rich cultural and ethnic heritage that has been interwoven into the spirit of the people of Ohio and that enriches Ohio's communities and the quality of life of its residents is both a tribute to, and representative of, the Nation's diversity;

Whereas Ohio will begin celebrations commemorating its bicentennial on March 1, 2003, in Chillicothe, the first capital of Ohio;

Whereas the bicentennial celebrations will include Inventing Flight in Dayton (celebrating the centennial of flight), Tall Ships on Lake Erie, Tall Stacks on the Ohio River, Red, White, and Bicentennial Boom in Columbus, and the Bicentennial Wagon Train across the State;

Whereas Ohio residents will celebrate 2003 as the 200th anniversary of Ohio's founding: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) recognizes and congratulates Ohio and its residents for their important contributions to the economic, social, and cultural development of the United States on the occasion of the bicentennial of the founding of the State of Ohio; and

(2) directs the Secretary of the Senate to transmit a copy of this concurrent resolution to the Governor of Ohio.

## NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, March 4th at 2:30 p.m. in Room SD–366.

The purpose of this hearing is to receive testimony on S. 164, a bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of César Estrada Chávez and the farm labor movement; S. 328 a bill to designate Catoctin Mountain Park in the State of Maryland as the ''Catoctin Mountain National Recreation Area'', and for other purposes; S. 347 a bill to direct the Secretary of the Interior and the Secretary of Agriculture to conduct a joint special resources study to evaluate the suitability and feasibility of establishing the Rim of the Valley Corridor as a unit of the Santa Monica Mountains National Recreation Area, and for other purposes; S. 425 a bill to revise the boundary of the Wind Cave National Park in the State of South Dakota.

Because of the limited time available for the hearings, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Washington, D.C. 20510–6150.

For further information, please contact: Tom Lillie (202–224–5161) or Pete Lucero (202–224–6293).

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, February 25, 2003, at 9:30 a.m., in open and closed session, to receive testimony on the defense authorization request for fiscal year 2004 and the future years defense program.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, February 25 at 10:00 a.m. to consider the President's proposed FY 2004 budget for the Department of Energy.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, February 25 at 2:00 p.m. to receive testimony regarding natural gas supply and prices.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, February 25, 2003, at 9:30 a.m., to hold a hearing on The State of the World Report on Hunger.

AGENDA

*Witnesses:*

Panel 1: Mr. James T. Morris, Executive Director, The World Food Program, United Nations, Rome, Italy; and The Honorable Andrew S. Natsios, Administrator, U.S. Agency for International Development, Department of State, Washington, DC.

Panel 2: Ms. Ellen S. Levinson, Government Relations Director, Cadwalader, Wickersham & Taft, Washington, DC; Mr. Ken Hackett, Executive Director, Catholic Relief Services, Baltimore, MD; and Dr. Joachim Von Braun, Director General, The International Food Policy Research Institute, Washington, DC.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Tuesday, February 25, 2003, at 9:30 a.m., in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 344, a bill expressing the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. HATCH. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, February 25, 2003, for a joint hearing with the House of Representatives' Committee on Veterans' Affairs, to hear the legislative presentation of the Disabled American Veterans.

The hearing will take place in room 216 of the Hart Senate Office Building at 2 p.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. HATCH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, February 25, 2003 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON AVIATION

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Tuesday, February 25, 2003, at 9:30 a.m. on FAA reauthorization-airport financing.

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

## PRIVILEGE OF THE FLOOR

Mr. TALENT. I ask unanimous consent that a member of my staff, Christopher Papagianis, be granted floor privileges.

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

## DISCHARGE AND REFERRAL—S. RES. 65 AND S. 389

Mr. TALENT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further action on S. Res. 65 and that the matter be referred to the Committee on Rules and Administration.

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

Mr. TALENT. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 389 and that the bill be referred to the Committee on Health, Education, Labor, and Pensions.

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

## REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT 108–3

Mr. TALENT. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on February 25, 2003, by the President of the United States: Second Additional Protocol Modifying Convention with Mexico Regarding Double Taxation and Prevention of Fiscal Evasion, Treaty Document No. 108–3. I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

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

The message of the President is as follows:

*To the Senate of the United States:*

I transmit herewith for Senate advice and consent to ratification, the Second Additional Protocol that Modifies the Convention Between the Government of the United States of America and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Mexico City on November 26, 2002. I also transmit, for the information of the Senate, the report of the Department of State concerning the proposed Protocol.

The Convention, as amended by the proposed Protocol, would be similar to tax treaties between the United States and other developed nations. It would provide maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Protocol was concluded in recognition of the importance of the United States economic relations with Mexico.

I recommend that the Senate give early and favorable consideration to this Protocol, and that the Senate give its advice and consent to ratification.

## ORDERS FOR WEDNESDAY, FEBRUARY 26, 2003

Mr. TALENT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, February 26. I further ask unanimous consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate return to executive session and resume consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit.

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

## PROGRAM

Mr. TALENT. Mr. President, on behalf of the majority leader, and for the information of all Senators, tomorrow the Senate will begin its 10th day of consideration of the Estrada nomination. Unfortunately, my colleagues on the other side of the aisle continue to prevent us from proceeding to a final vote on this extremely talented and well-qualified nominee. The majority leader has said Members should prepare for full days and evenings as we hope to bring to a close debate on this nomination. Rollcall votes are, therefore, expected during tomorrow's session.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. TALENT. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:57 p.m., adjourned until Wednesday, February 26, 2003, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate February 25, 2003:

### NATIONAL COUNCIL ON DISABILITY

ANNE RADER, OF VIRGINIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 2004, VICE KATE PEW WOLTERS, TERM EXPIRED.

### UNITED STATES TAX COURT

DIANE L. KROUPA, OF MINNESOTA, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS, VICE ROBERT P. RUWE, TERM EXPIRED.

MARK VAN DYKE HOLMES, OF NEW YORK, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS, VICE JULIAN L. JACOBS, TERM EXPIRED.

### DEPARTMENT OF STATE

GREGORY W. ENGLE, OF COLORADO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE TOGOLESE REPUBLIC.

ERIC S. EDELMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKEY.

### FOREIGN SERVICE

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

LOUISE BRANDT BIGOTT, OF ILLINOIS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

### DEPARTMENT OF STATE

JESSAMYN FAY ALLEN, OF TEXAS
ARNALDO ARBESU ARBESU JR., OF FLORIDA
DAVID ASHLEY BAGWELL JR., OF ALABAMA
GREGORY W. BAYER, OF CONNECTICUT
MITCHELL PETER BENEDICT, OF VIRGINIA
NICHOLAS RICHARD BERLINER, OF CONNECTICUT
AUDU MARK E. BESMER, OF CONNECTICUT
LEE RUST BROWN, OF UTAH
AMY CHRISTINE CARLON, OF TEXAS
ELIZABETH EMILY DETTER, OF MARYLAND
ROBERT ANDREW DICKSON III, OF VIRGINIA
MATTHEW S. DOLBOW, OF CONNECTICUT
J. BRIAN DUGGAN, OF TEXAS
JOHN LEE ESPINOZA, OF TEXAS
JAMES DOUGLAS FELLOWS, OF MARYLAND
ROBERT WILLIAM GERBER, OF NORTH CAROLINA
CYNTHIA F. GREGG, OF WASHINGTON
KEITH LEE HEFFERN, OF VIRGINIA
J. DENVER HERREN, OF OKLAHOMA
WILLIAM DENNIS HOWARD, OF CALIFORNIA
NATHANIEL GRAHAM JENSEN, OF NEW HAMPSHIRE
WILLIAM B. JOHNSON, OF FLORIDA
ROBERT E. KEMP, OF TEXAS
HELEN GRACE LAFAVE, OF NEW HAMPSHIRE
MICHAEL JOHN LAYNE, OF NEW YORK
THOMAS ERIC LERSTEN, OF VIRGINIA
AMY MARIE MASON, OF MAINE
MIKAEL C. MCCOWAN, OF NEW YORK
KIMBERLY A. MCDONALD, OF VIRGINIA
JONATHAN ROBERT MENNUTI, OF VIRGINIA
JOAQUIN MONSERRATE-PENAGARICANO, OF FLORIDA
GLENN CARLYLE NYE III, OF VIRGINIA
JENNIFER L. RASAMIMANANA, OF CALIFORNIA
ARLISS MERRITT REYNOLDS, OF ARIZONA
KAREN E. ROBBLEE, OF NEW YORK
ROBERT C. RUEHLE, OF NEW YORK
EUGENIA MARIA SIDEREAS, OF ILLINOIS
LONNIE REECE SMYTH JR., OF TEXAS
CAROL J. VOLK, OF NEW YORK
AMY HART VRAMPAS, OF FLORIDA
CHARLES A. WINTERMEYER JR., OF WASHINGTON
KAMI ANN WITMER, OF PENNSYLVANIA
JENNIFER FOREST YANG, OF CALIFORNIA
ZAID ABDULLAH ZAID, OF MARYLAND

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF STATE AND COMMERCE TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

MARC SAMUEL ABRAMSON, OF MASSACHUSETTS
JOHN GRAHAM ALEXANDER, OF VIRGINIA
STEFANIE RAQUEL ALTMAN, OF VIRGINIA
BRIAN E. ANSELMAN, OF TEXAS
SARAH LABARRE ANTHES, OF VIRGINIA
MARY SUZANNE ARCHULETA, OF COLORADO
ROCHELLE MARIE BALOUGH, OF VIRGINIA
WILLIAM R. BARBER, OF MASSACHUSETTS
DAVID C. BARNES, OF VIRGINIA
CHRISTOPHER ALBERT BARON, OF HAWAII
GINA M. BEANE, OF VIRGINIA
CLIFF R. BETTS, OF VIRGINIA
CHRISTOPHER WATKINS BISHOP, OF MISSISSIPPI
MATTHEW ANDREW BOCKNER, OF THE DISTRICT OF COLUMBIA
SUZANNE L. BODOIN, OF MASSACHUSETTS
PATRICIA A. BONOCORA, OF VIRGINIA
WALTER BRAUNOHLER, OF MICHIGAN
LAURA J. BROWN, OF VIRGINIA
RACHEL BRUNETTE, OF CALIFORNIA
DOUGLAS CAREY, OF NEW MEXICO
VINAY CHAWLA, OF NEW JERSEY
LIZA K. CHING, OF CALIFORNIA
AMY L. CHRISTIANSON, OF VIRGINIA
MICHAEL A. CLASSICK, OF OREGON
MICHAEL CLAUSEN, OF NEW YORK
CAROLYN HOPE COBERLY, OF THE DISTRICT OF COLUMBIA
ANNE SOPHIE COLEMAN, OF ILLINOIS
CHRISTINA K. COLLINS, OF VIRGINIA
PATRICK DANIEL CONNELL, OF MASSACHUSETTS
ROSE CHUPKA COOKMAN, OF VIRGINIA
PAUL M. CUNNINGHAM, OF CONNECTICUT
DAVID J. DALY, OF VIRGINIA
SARAH R. DELL, OF VIRGINIA
LOREN DENT, OF VIRGINIA
MARSHALL CLARK DERKS, OF VIRGINIA
REBEKAH DRAME, OF CALIFORNIA
SUNNYE C. DURHAM, OF VIRGINIA
T. ALAN ELROD, OF WYOMING
SARAH R. ELSBERG, OF COLORADO
TIMOTHY EYDELNANT, OF NEW YORK
ERIC G. FLAXMAN, OF TEXAS
MORGAN LYNN FLO, OF VIRGINIA
PETER JAMES GANSER, OF VIRGINIA
THOMAS GARCIA, OF VIRGINIA
MATTHEW GARDNER, OF THE DISTRICT OF COLUMBIA
ERIC GEELAN, OF NEW YORK
KATHLEEN D. GIBILISCO, OF CALIFORNIA
JOHN H. GIMBEL IV, OF NEVADA
JENNIFER CORNEY GOFF, OF VIRGINIA
DIANE G. GORDON, OF MARYLAND
NIKOLAS E. GRANGER, OF WASHINGTON
CHRISTOPHER R. GREEN, OF TEXAS
TRAVER GUDIE, OF ARIZONA
JONATHAN ALEXANDER HABJAN, OF CALIFORNIA
JASON EDWARD HAHN, OF NEW YORK
CHARLES JEFFREY HAMILTON, OF UTAH
DARRIEN SCOTT HANEY, OF TEXAS
RICHARD F. HANRAHAN JR., OF ILLINOIS
GARY HARRINGTON, OF KENTUCKY
MICHAEL V. HAYDEN JR., OF VIRGINIA
LESLIE DIANE HEATH, OF TEXAS
INGA HEEMINK, OF TEXAS
LAWRENCE R. HENDERSON, OF VIRGINIA
ROBERT C. HOBACK, OF VIRGINIA
ELEANOR C. HODGES, OF VIRGINIA
ROBERT F. HOMMOWUN, OF CALIFORNIA
D. IAN HOPPER, OF VIRGINIA
AARON E. HUDSON, OF VIRGINIA
JOHN J. IBARRA, OF TEXAS
ROBERT M. JENKINS, OF VIRGINIA
JOHN E. JOHNSON, OF WASHINGTON
KAREN M. JOYCE, OF CALIFORNIA
DEBORAH J. KANAREK, OF CALIFORNIA
JAMES DAVID KAY, OF WASHINGTON
MARK EVANS KENDRICK, OF TEXAS
WENDY ANNE KENNEDY, OF WASHINGTON
BRIAN P. KLEIN, OF VIRGINIA
STEPHEN CHRISTIAN KOCHUBA, OF PENNSYLVANIA
ERIN ELIZABETH KOTHEIMER, OF NEW YORK
SANDRA ANNE LABARGE, OF WASHINGTON
SARAH LAGIER, OF VIRGINIA
MICHAEL LARRALDE, OF VIRGINIA
RACHEL LEATHAM, OF THE DISTRICT OF COLUMBIA
ROSABELLE T. LEGRAND, OF VIRGINIA
AMY CATHERINE LENK, OF MINNESOTA
JAMES V. LIDDLE, OF THE DISTRICT OF COLUMBIA
AARON LUSTER, OF ARKANSAS
KENNETH R. MAYER, OF VIRGINIA
TIFFANY LAVERN MCGRIFF, OF NEW JERSEY
PATRICIA ANN MEEKS, OF VIRGINIA
TETA MARIA MOEHS, OF VIRGINIA
DANIELLE MONOSSON, OF CALIFORNIA
MICHAEL J. MORELL, OF VIRGINIA
NINA MORRIS, OF THE DISTRICT OF COLUMBIA
MICHAEL A. MULIERI, OF MARYLAND
NICHOLAS S. NAMBA, OF CONNECTICUT
BRIANA LEIGH OLSEN, OF WASHINGTON
SUSAN M. ORR, OF MARYLAND
CLARE O'SULLIVAN, OF VIRGINIA
DANTE PARADISO, OF MASSACHUSETTS
CAROLINE G. PERKINS, OF VIRGINIA
LAURA SUZANNE PERKINS, OF THE DISTRICT OF COLUMBIA
AMANDA PILZ, OF CALIFORNIA
JOSEPH PORTO, OF VIRGINIA
LINDA J. POTOTSKY, OF VIRGINIA
JAMES H. POTTS, OF VIRGINIA
SUZANA PSENICNIK, OF CALIFORNIA
MICHELE RAFFINO, OF VIRGINIA
JAY R. RAMAN, OF THE DISTRICT OF COLUMBIA
CHRISTOPHER RICHARD REYNOLDS, OF NEW JERSEY
JENNIFER THERESA ROBINSON, OF VIRGINIA
CARLOS G. SALAS, OF VIRGINIA
AARON BEERS SAMPSON, OF MINNESOTA
JOSEPH KEIJI SAUS, OF VIRGINIA
JULIE P. SEIBERT, OF THE DISTRICT OF COLUMBIA
TARYN L. SEYER, OF VIRGINIA
THEODORE J. SILVER, OF VIRGINIA

BARRY W. SLIWINSKI, OF MARYLAND
JEFFREY B. SMITH, OF TEXAS
ALEXANDRIA MAURY STABLER, OF NEW YORK
CHAD I. STEVENS, OF THE DISTRICT OF COLUMBIA
JACK D. SUGARMAN, OF VIRGINIA
DAVID S. SYRVALIN, OF VIRGINIA
NILS E. TALBOT, OF VIRGINIA
ERIC H. TRAUPE, OF VIRGINIA
NATHANIEL S. TURNER, OF MARYLAND
SONIA FRANCELA URBOM, OF WASHINGTON
CALVIN F. VAN OURKERK, OF WASHINGTON
NEAL VERMILLION, OF WISCONSIN
MICHAEL A. VIA, OF ARIZONA
ERIKA VILLEGAS, OF THE DISTRICT OF COLUMBIA
TANYA GANT WARD, OF WASHINGTON
JENNIFER D. WASHELESKI, OF THE DISTRICT OF COLUMBIA
DRAKE WEISERT, OF VIRGINIA
ADAM P. WEST, OF ILLINOIS
WILLIAM WARTHEN WHITAKER, OF ALASKA
DAVID SIDNEY WILLIAMS, OF CALIFORNIA
KENNETH E. WILLIAMS, OF VIRGINIA
DALE RICHARD WRIGHT, OF CALIFORNIA
NOELLE O. WRIGHT-YOUNG, OF MARYLAND

THE FOLLOWING-NAMED CAREER MEMBERS OF FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF STATE

WALTER B. DEERING, OF FLORIDA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

DEPARTMENT OF STATE

KATHLEEN HATCH ALLEGRONE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER-MINISTER:

TONI CHRISTIANSEN-WAGNER, OF COLORADO

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ANNE H. AARNES, OF WASHINGTON
HILDA MARIE ARELLANO, OF TEXAS
LILIANA AYALDE, OF MARYLAND
JONATHAN M. CONLY, OF VIRGINIA
J. MICHAEL DEAL, OF CALIFORNIA
KENNETH C. ELLIS, OF VIRGINIA
DAWN M. LIBERI, OF FLORIDA
KIERTISAK TOH, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

DAVID RUSSELL ADAMS, OF VIRGINIA
JONATHAN STUART ADDLETON, OF FLORIDA
DARRYL T. BURRIS, OF FLORIDA
LETITIA KELLY BUTLER, OF TEXAS
PAUL G. EHMER, OF WASHINGTON
PATRICK C. FLEURET, OF VIRGINIA
WILLIAM HAMMINK, OF FLORIDA
DAVID WILLIAMS HESS, OF CALIFORNIA
JAY KNOTT, OF OREGON
HARRY M. LIGHTFOOT SR., OF MARYLAND
ALEXANDRIA LEE PANEHAL, OF OHIO
RUDOLPH THOMAS, OF VIRGINIA
ANTHONY N. VANCE, OF VIRGINIA
PAUL E. WEISENFELD, OF THE DISTRICT OF COLUMBIA
PAMELA A. WHITE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

EDWARD W. BIRGELLS, OF TEXAS

IN THE COAST GUARD

UNDER SECTION 188, TITLE 14, U.S. CODE, THE FOLLOWING NAMED OFFICERS OF THE UNITED STATES COAST GUARD TO BE MEMBERS OF THE PERMANENT COMMISSIONED TEACHING STAFF OF THE COAST GUARD ACADEMY IN THE GRADES INDICATED:

*To be commander*

PAUL S. SZWED, 0000

*To be lieutenant commander*

MELINDA D. MCGURER, 0000
BRIGID M. PAVILONIS, 0000

*To be lieutenant*

DARELL SINGLETERRY, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be colonel*

JOYCE A. ADKINS, 0000
DOUGLAS A. APSEY, 0000
RICHARD A. ASHWORTH, 0000
JEFFREY L. BRYANT, 0000
MARIEJOCELYNE CHARLES, 0000
ALAN L. DOERMAN, 0000
HOWARD T. HAYES, 0000
KIRK C. MAYNARD, 0000
ANTHONY F. OKOREN JR., 0000
THOMAS M. RICE, 0000
PHIL L. SAMPLES, 0000
SEAN P. SCULLY, 0000
DANNY G. SEANGER, 0000
STEVEN A. WILSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be lieutenant colonel*

PAUL L. CANNON, 0000
CHARLES N. DAVIDSON, 0000
NORMAN DESROSIERS JR., 0000
IRA M. FLAX, 0000
ROBERT A. GALLAGHER, 0000
DANA E. GROVER, 0000
RICHARD M. HALL, 0000
GARY S. * LINSKY, 0000
MICHAEL J. LOVETT, 0000
STEVEN A. SCHAICK, 0000
CASSANDRA O. THOMAS, 0000
RONALD UNDERWOOD, 0000
CHERRI S. WHEELER, 0000
FRANK A. YERKES JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be lieutenant colonel*

MARTIN ALEXIS, 0000
RONNY G. ALFORD, 0000
DANIEL H. ATCHLEY, 0000
STEVEN E. BLACK, 0000
STEVEN J. BYRNES, 0000
PATRICK J. CLARK, 0000
JANELLE E. COSTA, 0000
STEVEN D. DAMANDA, 0000
ROBERT A. DAWSON, 0000
JAMES H. DIENST, 0000
TRACY G. DILLINGER, 0000
DEBORAH A. DOWNES, 0000
DAVID DUQUE, 0000
RICHARD W. FARNUM, 0000
JERRI L. FLETCHER, 0000
JOSE M. FONSECA RIVERA, 0000
PAUL R. GARDETTO, 0000
JEFFREY C. GILLEN, 0000
FRANK A. GLENN, 0000
FRANK J. GODSHALL, 0000
MARY K. * GOOD, 0000
LARRY D. GUDGEL, 0000
ROBERT C. HALL, 0000
DAVID A. HAMMIEL, 0000
JAMES T. HARCARIK, 0000
KAREN M. HOUSE, 0000
JEFFERY A. JOHNSON, 0000
WILLIAM A. KIEFFER, 0000
MICHAEL T. KINDT, 0000
ANDREA R. KRULL, 0000
RANDALL L. * LANGSTEN, 0000
WENDY M. LARSON, 0000
SUBRINA V. S. LINSCOMB, 0000
MEGAN MCCORMICK, 0000
NAOMI P. MCMILLAN, 0000
JAMES A. MULLINS, 0000
TIMOTHY D. * NELSON, 0000
HANS V. RITSCHARD, 0000
CHRISTOPHER S. ROBINSON, 0000
JOSEPH S. ROGERS, 0000
SHELIA P. SCOTT NEUMANN, 0000
SCOTT C. G. SHEPARD, 0000
LEE D. SHIBLEY, 0000
ROBERT L. TAYLOR JR., 0000
ANGELA V. THRASHER, 0000
JOSEPH G. WEAVER, 0000
PATRICIA K. WELCH, 0000
KRISTA K. WENZEL, 0000
KERSHAW L. WESTON, 0000
PAUL G. WILSON, 0000
JEROME E. WIZDA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be lieutenant colonel*

JOHN J. ABBATIELLO, 0000
KENNETH F. ABEL, 0000
DAVID ABERCROMBIE, 0000
MARK A. ABRAMSON, 0000
DALE R. ADDINGTON, 0000
MICHAEL A. ADDISON JR., 0000
REX E. ADEE, 0000
KEVIN P. ADELSEN, 0000
ANDREW J. ADRIAN, 0000
ROY ALAN C. AGUSTIN, 0000
STEPHEN AHRENS, 0000
DERRICK A. AIKEN, 0000
ARCADIO ALANIZ JR., 0000
SUSAN R. ALANIZ, 0000
TERESA M. ALESCH, 0000
JAMES E. ALEXANDER, 0000
WILLIAM S. ALEXANDER, 0000
ALEE R. ALI, 0000
RODGER C. ALLEM, 0000
DIANE BREIVIK ALLEN, 0000
JAMES T. ALLEN, 0000
JONAS C. ALLMAN, 0000
MATTHEW G. ANDERER, 0000
WILLIAM D. ANDERSEN, 0000
ALBERT J. ANDERSON, 0000
BRUCE P. ANDERSON, 0000
DAVID J. ANDERSON, 0000
DAVID T. ANDERSON, 0000
DONALD R. ANDERSON, 0000
EUGENE S. ANDERSON, 0000
JEFFREY L. ANDERSON, 0000
JOHN H. ANDERSON, 0000
JON K. ANDERSON, 0000
THEODORE B. ANDERSON, 0000
THOMAS M. ANDERSON, 0000
TIMOTHY A. ANDERSON, 0000
TIMOTHY J. ANDERSON, 0000
TERENCE S. ANDRE, 0000
MICHAEL J. ANGWIN, 0000
RICHARD J. ANTOLIK JR., 0000
TIMOTHY M. APPLEGATE, 0000
BRENDA S. ARMSTRONG, 0000
DIANE M. ARNOLD, 0000
MICHAEL J. ARNOLD, 0000
MARVIN A. AROSTEGUI, 0000
WILLIAM C. ARTHUR, 0000
CHRISTINE H. ASHENFELTER, 0000
JOHN M. ASKEW, 0000
CHRISTOPHER L. ATTEBERRY, 0000
GREG H. AULD, 0000
KURT L. AUSTIN, 0000
MARK A. AUSTIN, 0000
MARK A. AVERY, 0000
DAVID S. BABYAK, 0000
STEVEN E. BACHELOR, 0000
DAVID M. BACHLER, 0000
KENNETH W. BACKES, 0000
THOMAS N. BAILEY, 0000
MARK A. BAIRD, 0000
MATTHEW C. BAKER, 0000
CHRISTOPHER P. BAKKE, 0000
REGIS J. BALDAUFF, 0000
DAVID D. BALDESSARI, 0000
RICHARD L. BALTES, 0000
MATTHEW W. BAMPTON, 0000
NEAL L. BANIK, 0000
DARWYN O. BANKS, 0000
GEORGE A. BARBER JR., 0000
DIETER E. BAREIHS, 0000
JAMES E. BARGER, 0000
DAVID R. BARKDULL, 0000
BARRY K. BARKER, 0000
KAREN L. BARLOW, 0000
THOMAS E. BARRETT III, 0000
WILLIAM M. BARRETT, 0000
GEORGE C. BARTH, 0000
ALEXANDER R. BARTHE, 0000
FRANCESCA BARTHOLOMEW, 0000
PHILIP J. BARTON, 0000
ALAN J. BARYS, 0000
EDWARD J. BASNETT, 0000
HARIDEV S. BASUDEV, 0000
RONALD J. BATTERSBY, 0000
KENNETH J. BAUER, 0000
MICHAEL J. BAUER, 0000
PAUL D. BAUER, 0000
JAMES R. BAUMGARDNER, 0000
PATRICK J. BAUMHOVER, 0000
EDWIN S. BAYBA, 0000
JOHN T. BAYNES JR., 0000
LONNY E. BEAL, 0000
ALAN K. BEATY, 0000
JOHN P. BEAUCHEMIN, 0000
THOMAS BECHT, 0000
ROBERT D. BECKEL JR., 0000
DAVID T. BECKWITH, 0000
MARK BEDNAR, 0000
MARY A. BEHNE, 0000
THOMAS W. BEHNKE, 0000
JON A. BELIVEAU, 0000
GARY W. BELL, 0000
DONALD F. BELLINGHAUSEN, 0000
BARRY D. BENNETT JR., 0000
CLAY BENTON, 0000
CHRISTOPHER A. BERES, 0000
BRETT E. BERG, 0000
CRAIG N. BERG, 0000
MITCH L. BERGER, 0000
WILLIE A. BERGES, 0000
WILLIAM S. BERNER, 0000
MICHAEL C. BERNERT, 0000
JAMES B. BERRY, 0000
LAURA W. BERRY, 0000
WILLIAM A. BERRY, 0000
JOSEPH J. BERTE III, 0000
DAVID ALLEN BETHANY, 0000
MICHAEL P. BETTNER, 0000
PAUL E. BIANCHI, 0000
JOHN D. BIEGGER, 0000
BRENT D. BIGGER, 0000
BRADFORD LEE BINGAMAN, 0000
DANIEL J. BIRRENKOTT, 0000
ROBERT J. BLAIR II, 0000
ROBERT B. BLANKE, 0000

DAVID P. BLANKS, 0000
DAVID W. BLIESNER, 0000
SONNY P. BLINKINSOP, 0000
PETER J. BLOOM, 0000
ROBERT S. BLUE, 0000
KENNETH G. BOCK, 0000
ERIC A. BOE, 0000
ROBERT BOLHA, 0000
JOHN A. BOLIN, 0000
BRADLEY J. BOLSTAD, 0000
CRAIG L. BOMBERG, 0000
MILDRED E. BONILLALUCIA, 0000
JOE B. BONORDEN, 0000
KEITH P. BOONE, 0000
DAVID M. BOOTS, 0000
STEVEN M. BORDEN, 0000
LINDSEY J. BORG, 0000
LAURENCE C. BOSTROM, 0000
ANDREW R. BOUCK, 0000
SCOTT J. BOURGEOIS, 0000
MARK A. BOVA, 0000
DAVID E. BOYER, 0000
KEITH M. BOYER, 0000
WILLIAM D. BRACKEN, 0000
MARK T. BRADLEY, 0000
MICHAEL H. BRADY, 0000
MICHAEL D. BRAMHALL, 0000
MATTHEW C. BRAND, 0000
RICHARD H. BRANNAN JR., 0000
JEFFREY G. BRANTING, 0000
DAVID SCOTT BREED, 0000
MACK L. BREELAND, 0000
JOHN M. BRIGHT, 0000
KENNETH W. BROCKMANN, 0000
SEAN C. BRODERICK, 0000
JOHN P. BROOKER, 0000
KEVIN B. BROOKER, 0000
GARY S. BROOKS, 0000
HAROLD E. BROSOFSKY, 0000
BYRON K. BROUSSARD, 0000
BENJAMIN B. BROWN, 0000
CYNTHIA ANN THON BROWN, 0000
EDWARD R. BROWN, 0000
ELIZABETH A. BROWN, 0000
ERIC D. BROWN, 0000
JEFFREY D. BROWN, 0000
JEFFREY G. BROWN, 0000
LAWRENCE E. BROWN, 0000
MARK W. BROWN, 0000
MICHAEL A. BROWN, 0000
STEPHEN E. BROWN, 0000
BRENTON L. BROWNING, 0000
STEPHEN M. BROWNING, 0000
JAY E. BRUHL, 0000
LAWRENCE A. BRUNDIDGE, 0000
ARCHIBALD E. BRUNS, 0000
JAMES W. BRUNS, 0000
ALAN R. BUCK, 0000
RONALD D. BUCKLEY, 0000
JOHN T. BUDD, 0000
ERIC N. BUECHELE, 0000
SHERRY M. BUNCH, 0000
SUZANNE C. BUONO, 0000
RANDALL D. BURKE, 0000
ALAN R. BURKET, 0000
ROLANDA BURNETT, 0000
JOHN P. BURNS, 0000
MICHAEL R. BURTON, 0000
JOHN M. BUSCH, 0000
WILLIAM C. BUSCH, 0000
RHETT L. BUTLER, 0000
ARTURO M. BUXO, 0000
DEBORAH A. CAFARELLI, 0000
DAVID A. CAFFEE, 0000
JOSEPH H. CAGLE, 0000
SCOTT E. CAINE, 0000
KATHLEEN D. CALLAHAN, 0000
PAUL M. CALTAGIRONE, 0000
DAWN M. CAMPBELL CURRIE, 0000
JOHN J. CAPOBIANCO, 0000
JOSEPH J. CAPPELLO JR., 0000
MANUEL A. CARDENAS, 0000
CARL C. CARHUFF, 0000
PAUL J. CARLIN, 0000
LEWIS H. CARLISLE, 0000
LISA A. CARNEY, 0000
RUSSELL G. CARRIKER, 0000
ORAN Y. CARROLL, 0000
DAVID M. CARTER, 0000
EDWARD V. CASSIDY, 0000
DOUGLAS C. CATO JR., 0000
MIKE S. CAUDLE, 0000
SEAN M. CAVANAUGH, 0000
PAUL E. CAVE, 0000
DANNY A. CECIL, 0000
JAMES M. CENEY, 0000
MARK D. CERROW, 0000
JACK M. CESSNA, 0000
WALTER S. D. CHAI, 0000
JAMES E. CHAPMAN, 0000
JOSEPH F. CHAPMAN, 0000
GEORGE G. CHAPPEL JR., 0000
BRADY C. CHEEK, 0000
EVANGELINE M. CHEEKS, 0000
JOHN T. CHENEY, 0000
JULIAN M. CHESNUTT, 0000
MICHAEL R. CHISHOLM, 0000
STANLEY F. CHMURA JR., 0000
TIMOTHY C. CHUSTZ, 0000
CHARLES A. CIUZIO, 0000
GREGORY W. CLARK, 0000
MURRAY R. CLARK, 0000
RANDALL J. CLARK, 0000
ROBERT W. CLARK, 0000
ROLAND D. CLARK, 0000
JON E. CLAUNCH, 0000
JOSEPH L. CLAVIN, 0000
GREGORY S. CLAWSON, 0000
TIMOTHY R. CLAYTON, 0000
PETER C. CLEMENT, 0000
JOSEPH G. * CLEMONS, 0000
ROBERT V. I. CLEWIS, 0000
NEAL A. CLINEHENS, 0000
STEPHEN D. CLUTTER, 0000
KENNETH E. COBURN, 0000
GEORGE A. COGGINS, 0000
MARK A. COLBERT, 0000
ROBERT M. COLEMAN, 0000
MICHAEL L. COLLAT, 0000
THOMAS J. CONNARE, 0000
MARK S. CONNOLLY, 0000
ROFTIEL CONSTANTINE, 0000
RICHARD H. CONVERSE, 0000
KATHLEEN A. COOK, 0000
DOUGLAS E. COOL, 0000
JACK R. COOLEY, 0000
MARY M. COOLEY, 0000
WILLIAM T. COOLEY, 0000
JAMES M. COON, 0000
TIMOTHY M. COONS, 0000
GARY L. COOPER II, 0000
THEODORE A. CORALLO, 0000
HERBERT L. CORK III, 0000
KAREN M. CORRENTE, 0000
ROBERT COSTA, 0000
DANIEL S. COSTELLO JR., 0000
JOHN E. COULAHAN JR., 0000
RONALD C. COURNOYER, 0000
SHANE P. COURVILLE, 0000
RICHARD A. COVENO, 0000
JEFFREY L. COWAN, 0000
STEVEN A. COWLES, 0000
DOUGLAS A. COX, 0000
JAMES H. CRAFT, 0000
KENNETH B. CRAIB JR., 0000
KEVIN L. CRAIG, 0000
GEORGE S. CRAWFORD, 0000
BRET A. CRENWELGE, 0000
RORY C. CREWS, 0000
ANDREW A. CROFT, 0000
YELLIXA Z. CRUZ, 0000
STEVEN R. CSABAI, 0000
EARL F. CULEK, 0000
JAMES P. CUMMINGS, 0000
CHARLES J. CUNNINGHAM, 0000
HARMON H. CURRY JR., 0000
HENRY L. CYR, 0000
MARK G. CZELUSTA, 0000
DAVID W. CZZOWITZ, 0000
DANNY P. DAGHER, 0000
DAVID H. DAHL, 0000
MILES D. DAHLBY, 0000
PETER J. DAHLIN, 0000
STEPHEN M. DALE, 0000
JOHN V. DALLIN III, 0000
MARK T. DAMIANO, 0000
PETER DAMICO, 0000
THOMAS E. DANEK JR., 0000
GARY R. DANIELSON, 0000
MARK S. DANIGOLE, 0000
ELISA L. DANTONIO, 0000
PHILIPPE R. DARCY, 0000
MICHAEL J. DARGENIO, 0000
CHARLES W. DARNELL JR., 0000
KEITH R. DASTUR, 0000
KELLIE L. DAVILA MARTINEZ, 0000
BRADFORD C. DAVIS, 0000
JAMES A. DAVIS, 0000
KATHY B. DAVIS, 0000
MICHEAL D. DAVIS, 0000
REGINALD F. DAVIS, 0000
RICKY A. DAVIS, 0000
ROBERT D. DAVIS, 0000
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STEPHEN L. DAVIS, 0000
MICHAEL T. DAVISON, 0000
AMY L. DAYTON, 0000
KEVIN G. DECKARD, 0000
DOUGLAS D. DECKER, 0000
SCOTT E. DECKER, 0000
FREDERICK DEFRANZA, 0000
BRADEN P. DELAUDER, 0000
JOHN C. DELBARGA, 0000
MARK D. DELONG, 0000
NICHOLAS J. DEMARCO, 0000
BYRON G. DEMBY, 0000
CHARLES E. DENMARK, 0000
JOSEPH B. DENNIS, 0000
RICHARD M. DENTON, 0000
WAYNE M. DESCHENEAU, 0000
ERNEST J. DESIMONE, 0000
ROBERT A. DESTASIO, 0000
DOUGLAS M. DEUITCH, 0000
MICHELE A. DEWERTH, 0000
DAVID L. DEY, 0000
ANGEL A. DIAZ, 0000
ROLANDO DIAZ JR., 0000
CRAIG ALAN DICUS, 0000
QUENTIN J. DIERKS, 0000
MARK S. DIERLAM, 0000
TODD A. DIERLAM, 0000
STEVEN D. DIESSNER, 0000
JAMES E. DILLARD, 0000
LEVENCHI L. DINGLE, 0000
DAVID C. DISIPIO, 0000
RHEA E. DOBSON, 0000
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DAVID M. DOE, 0000
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PATRICK J. DOHERTY, 0000
PETER A. DONNELLY, 0000
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JIMMY D. DONOHUE, 0000
PAMELA S. DONOVAN, 0000
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JAMES K. DRAKE, 0000
WILLIAM D. DRIES JR., 0000
DANIEL A. DRISCOLL, 0000
MERVIN C. DRISKELL, 0000
JOHN F. DROHAN, 0000
KENNETH E. DUCK, 0000
JAMES R. DUDLEY, 0000
VALERIE LYNN DUFFY, 0000
STERLING K. DUGGER, 0000
ANDREW G. DUNNAM, 0000
ERIN B. DURHAM, 0000
STEVEN A. DUTKUS SR., 0000
DUNCAN A. DVERSDALL, 0000
MICHAEL J. DWYER, 0000
DAVID B. EASLEY, 0000
ROBERT M. EATMAN, 0000
JAMES DAVID EATON III, 0000
PAUL B. EBERHART, 0000
JUAN C. ECHEVERRY, 0000
JAMES R. ECHOLS, 0000
JAMES K. ECK, 0000
JAMES E. EDMONDS, 0000
GLORIA J. EDWARDS, 0000
TRENT H. EDWARDS, 0000
ROBERT S. EHLERS JR., 0000
DAVID G. EHRHARD, 0000
LAWRENCE A. EICHHORN, 0000
TIMOTHY A. EICHHORN, 0000
MARK H. EICHIN, 0000
JOHN T. EICHNER, 0000
LINDA L. EISEL, 0000
GOLDA T. ELDRIDGE JR., 0000
GEOFFREY S. ELLAZAR JR., 0000
RAYMOND A. ELLIOTT, 0000
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CARSON A. ELMORE, 0000
ALBERT M. ELTON II, 0000
KIRK E. EMIG, 0000
TODD W. ENDERSON, 0000
SCOTT A. ENOLD, 0000
JERI A. ERGINKARA, 0000
MARK A. ERICKSON, 0000
BLAINE E. ESCOE, 0000
ROBERT P. ESSAD, 0000
ROBERT E. EUBANKS, 0000
DAVID P. EVANS, 0000
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ROBERT S. FANEUFF, 0000
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DIANE C. FICKE, 0000
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MERRILL P. FINK, 0000
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BRADLEY J. FISHEL, 0000
TYRON FISHER, 0000
WILLIAM D. FISHER, 0000
PHILIP R. FITTANTE, 0000
ROBERT P. FLEISHAUER, 0000
KEITH W. FLETCHER, 0000
LEE A. FLINT III, 0000
THOMAS A. FLORING, 0000
JEFFREY J. FLORY, 0000
MARK E. FLUKER, 0000
MICHAEL J. FOLKERTS, 0000
NEAL D. FONTANA, 0000
CHRISTOPHER E. FORSETH, 0000
ROGER L. FORSYTHE, 0000
JOSEPH C. FORTNEY, 0000
MYRON K. FORTSON, 0000
HARRY A. FOSTER, 0000
JACKSON L. FOX, 0000
LAURENT J. FOX, 0000
SCOTT M. FOX, 0000
PAUL R. FRANCIS, 0000
CEPHAS L. FRANKLIN, 0000
ANTHONY C. FRANZEL, 0000
BERNADETTE I. FRASER, 0000
DARREN A. FRASER, 0000
GERALD A. FREDERICK JR., 0000
FRANK FREEMAN III, 0000
THOMAS H. FREEMAN, 0000
JONATHAN B. FRENCH, 0000
JOSEPH P. FRIERS, 0000
SEAN M. FRISBEE, 0000
CHRIS T. FROEHLICH, 0000
JAMES A. FROM, 0000
BRYAN A. KEA FUJIMOTO, 0000
WALTER J. FULDA, 0000
STACY A. K. FURCINI, 0000
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ARNOLD CHARLES FUST, 0000
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SCOT B. GERE, 0000
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COLLEEN A. GILMOUR, 0000
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KEVIN B. GLENN, 0000
PAUL D. GLOYD, 0000
DONAVAN E. GODIER, 0000
JERRY C. GOFF, 0000
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MACE CLARK GOLDEN, 0000
DAVID B. GOLDSTEIN, 0000
GERALD V. GOODFELLOW, 0000
TERRY L. GOODRICH, 0000
JAMES A. GORDON, 0000
MITCHELL R. GORDON, 0000
JOHN R. GORDY II, 0000
JOHN C. GORLA JR., 0000
ANNE L. GORNEY, 0000
GREGORY S. GORSKI, 0000
GARY J. GOTTSCHALL, 0000
GLENN L. GRAHAM, 0000
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WILLIAM V. GRAHAM, 0000
DEBRA J. GRAVELLE, 0000
ROBERT S. GRAVES, 0000
PHILIP T. GRECO, 0000
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SANDRA M. GREGORY, 0000
GORDON C. GRIFFIN, 0000
DANIEL T. GRILLONE, 0000
JAMES W. GRISWOLD, 0000
MARY E. GRISWOLD, 0000
STEVEN M. GRISWOLD, 0000
KAREN L. GROTH, 0000
RONALD L. GROVE, 0000
FUSUN S. K. GRUMBACH, 0000
DARYL W. GUILL, 0000
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JON E. GULLETT, 0000
BRUCE F. GUNN, 0000
TONY D. GURNEY, 0000
GREGORY M. GUTTERMAN, 0000
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DONALD M. HALE JR., 0000
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MARK C. HARYSCH, 0000
DENNIS E. HASKIN, 0000
SCOTT A. HATFIELD, 0000
CLARENCE E. HAUCK, 0000
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SCOTT M. * HAVERKATE, 0000
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BRADLEY L. HEBING, 0000
ANDREW G. HECHT, 0000
BARBARA J. HEINLEIN, 0000
ROBERT D. HELGESON, 0000
JAY B. HELMING, 0000
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BRENT S. HENDRICKS, 0000
TIM V. HENKE, 0000
SUZANN HENSLEY, 0000
STEVEN W. HERMAN, 0000
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GUSTAVO A. HERNANDEZ, 0000
CARY A. HERRERA, 0000
MARGARET A. HERRING, 0000
TIMOTHY L. HERSHBERGER, 0000
JEFFREY M. HESS, 0000
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TERRY J. HESTERMAN, 0000
JAMES R. HETHERINGTON, 0000
TROY D. HEWGLEY, 0000
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ERIC W. HITTMEIER, 0000
DEREK S. HO, 0000
ELLIE HO, 0000
DANIEL M. HODGKISS, 0000
LAWRENCE M. HOFFMAN, 0000
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ERIK E. HOIHJELLE, 0000
JOHN J. HOKAJ, 0000
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DALE A. HOLLAND, 0000
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EDDIE R. HOWARD, 0000
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DENNIS M. HOWRY, 0000
THOMAS J. HUDD, 0000
PETER G. HUDDLE, 0000
KENNETH W. HUDELSTON III, 0000
PETER J. HUGHES, 0000
RUSSELL R. HULA, 0000
SHAWN D. HULLIHEN, 0000
LISA J. HUMMLER, 0000
JENNIFER A. HUMMON, 0000
FREDERICK E. HUMPHREY, 0000
ROBERT L. HUNKELER II, 0000
ROBERT P. HUNT JR., 0000
TERRY E. HUNTER, 0000
THOMAS K. HUNTER JR., 0000
KENNETH F. HUTCHISON, 0000
HIROSHI N. IKEDA, 0000
MICHAEL T. IMBUS, 0000
GARY K. INGHAM, 0000
ALLEN B. INGLE, 0000
PETER J. IVERSEN, 0000
JACQUELINE R. JACKSON, 0000
THOMAS E. JACKSON, 0000
TRACY E. JACKSON, 0000
YOLANDA JACKSON, 0000
SCOTT E. JAMES, 0000
MARC S. JAMISON, 0000
STEVEN J. JANECZKO, 0000
CLARENCE E. JANSON, 0000
DOUGLAS L. JANTZEN, 0000
JOSEPH MICHAEL JANUKATYS, 0000
DOUGLAS W. JAQUISH, 0000
CHARLENE D. JEFFERSON, 0000
DEREK A. JEFFRIES, 0000
DANIEL K. JENKINS, 0000
DAVID L. JENSEN, 0000
CURTIS E. JOHANSON, 0000
BARRY K. JOHNSON, 0000
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KIRK P. JOHNSON, 0000
ORESTE M. JOHNSON, 0000
TATE A. JOHNSON, 0000
TODD S. JOHNSTON, 0000
ALAIN L. M. JONES, 0000
JACQUELINE H. JONES, 0000
TONISH E. JONES, 0000
TRACY A. JONES, 0000
RICHARD J. JORGENSEN, 0000
KEVIN D. JOST, 0000
MICHAEL S. JOYAL, 0000
DAVID J. JULAZADEH, 0000
SHANNON D. JURRENS, 0000
EMIL B. KABBAN, 0000
STEVEN T. KAEGI, 0000
EDWIN W. KALER III, 0000
PHYLLIS L. KAMPMEYER, 0000
DAVID H. KANESHIRO, 0000
SAMUEL S. KANG, 0000
RUSTAM KARMALI, 0000
MICHAEL B. KATKA, 0000
JOSEPH C. KATUZIENSKI, 0000
THOMAS J. KAUTH, 0000
CHARLES B. KEARNEY III, 0000
SUSAN B. KEFFER, 0000
KIRK L. KEHRLEY, 0000
STANFORD K. KEKAUOHA, 0000
LORETTA A. KELEMEN, 0000
ROBERT B. KELLAS, 0000
STEPHEN L. KELLER, 0000
JOHN J. KELLEY, 0000
JEFFREY W. KELLY, 0000
ANTOINETTE T. KEMPER, 0000
DAVID C. KENNEDY, 0000
JONATHAN P. KENNEDY, 0000
THOMAS J. KENNEY, 0000
JEFFREY D. KERSTEN, 0000
DOUGLAS J. KIESER, 0000
JOHN F. JOS KIESLER, 0000
JACK E. KING JR., 0000
JAMES R. KING JR., 0000
NEDIM KIRIMCA, 0000
BRIAN W. KIRKWOOD, 0000
KENNETH S. KLEIN, 0000
JENNIFER M. KLEINSCHMIDT, 0000
MARK R. KLING, 0000
FREDERICK M. KMIECIK, 0000
MATTHEW A. KMON, 0000
KEVIN J. KNECHT, 0000
ANTONE A. KNETTER, 0000
TAMMY M. KNIERIM, 0000
JACK T. KNIGHT JR., 0000
MALLORY P. KNIGHT, 0000
JEFFRY D. KNIPPEL, 0000
JOEL E. KNISELY, 0000
MICHAEL R. KOBOLD, 0000
TAMI L. KOBOLD, 0000
THOMAS J. KOBYLARZ, 0000
STEVEN M. KOKORA, 0000
ROBERT E. KOLES, 0000
ALAN L. KOLLIEN, 0000
ANNE M. KONNATH, 0000
MONICA KOPF, 0000
JAMES M. KORMANIK, 0000
HOWARD N. KOSHT, 0000
DANIEL A. KOSIN, 0000
JOHN F. KOSMAN, 0000
RICHARD D. KOSOBUCKI, 0000
PATRICK J. KOSTRZEWA, 0000
JAMES F. KOTT, 0000
WILLIAM J. KRALIK, 0000
EDWARD R. KRAMER, 0000
KEVIN C. KRAUSE, 0000
SCOTT A. KRAUSE, 0000
PETER A. KRAWCZYK, 0000
DENNIS L. KREPP, 0000
ERIC J. KREUL, 0000
JEFFREY B. KROMER, 0000
DAVID A. KRUMM, 0000
PAUL M. KUCHAREK, 0000
STEVEN T. KUENNEN, 0000
DIANA L. KUHN, 0000
CHRISTOPHER T. KUKLINSKI, 0000
PATRICK T. KUMASHIRO, 0000
SUZANNE S. KUMASHIRO, 0000
LYNDEN C. KUNZ, 0000
SHIAONUNG D. KUO, 0000
FRANK J. KUSKA, 0000
EDGAR J. LABENNE, 0000
BURNETT F. LACHANCE, 0000
BRUCE A. LACHARITE, 0000
DEO A. LACHMAN, 0000
KENNETH E. LACY, 0000
MARK D. LAFOND, 0000
JOEL T. LAGASSE, 0000
JEFFREY A. LAMB, 0000
SCOTT A. LAMB, 0000
STEPHEN C. LAMB, 0000
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HENRI C. LAMBERT, 0000
PETER J. LAMBERT, 0000
GERALD F. LANAGAN, 0000
TODD R. LANCASTER, 0000
JAMES A. LANCE, 0000
ROBIN H. LANDERS, 0000
ANDREW J. LANDOCH, 0000
CHERYL L. LANKE, 0000
JOSEPH LANZETTA, 0000
DALE B. LARKIN, 0000
PATIENCE C. LARKIN, 0000
MARK H. LARSEN, 0000
JOSEPH M. LASK, 0000
ALAN P. LAURSEN, 0000
ALAN J. LAVERSON, 0000
JUDITH A. LAW, 0000
RICHARD E. LAWRENCE JR., 0000
GLEN K. LAWSON, 0000
KELLY A. LAWSON, 0000
RANDOLPH S. LAWSON, 0000
RICHARD C. LEATHERMAN, 0000
RICHARD D. LEBLANC, 0000
MICHAEL A. LECLAIR, 0000
CHRIS P. LEE, 0000
STEVEN W. LEGRAND, 0000
WILLIAM S. LEISTER, 0000
BODEN J. LEMAY, 0000
HELEN M. LENTO, 0000
BRENDA K. LEONG, 0000
JOSEPH A. LESS, 0000
CHRISTOPHER N. LEWIS, 0000
MICHAEL A. LEWIS, 0000
PETER A. LEWIS, 0000
ROBERT C. LIGHTNER, 0000
ROBERT P. LINARES, 0000
LAWRENCE LIND, 0000
WALTER J. LINDSLEY, 0000
TIMOTHY G. LITTLE, 0000
JACK R. LOCKHART, 0000
JEFFREY L. LONG, 0000
SCOTT C. LONG, 0000
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STUART A. LUM, 0000
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VINCENT MADRID, 0000
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BRENDA P. MANGENTE, 0000
HOLLY R. MANGUM, 0000
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BRENT P. MARKOWSKI, 0000
TIMOTHY M. MARKS, 0000
THOMAS ANTHONY MAROCCHINI, 0000
ALLEN M. MARSHALL JR., 0000
JAMES A. MARSHALL, 0000
CHRISTOPHER S. MARTIN, 0000
JOSEPH D. MARTIN, 0000
STEVEN G. MARTIN, 0000
RAMIRO MARTINEZ, 0000
DAVID A. MARTINSON, 0000
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MARK S. MARYAK, 0000
MICHAEL A. MARZEC, 0000
SCOTT M. MASER, 0000
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RODNEY M. MASON, 0000
GRIFFITH S. MASSEY, 0000
KEVIN P. MASTIN, 0000
LIA MASTRONARDI, 0000
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TIMOTHY J. MATSON, 0000
MARK J. MATSUSHIMA, 0000
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RANDY A. MAULDIN, 0000
HAROLD J. MCALDUFF, 0000
PAUL J. MCANENY, 0000
JOHN D. MCCAULEY, 0000
RICHARD D. MCCOMB, 0000
RICHARD I. MCCOOL, 0000
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JANI L. MCCREARY, 0000
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ERICK D. MCCROSKEY, 0000
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JENNY A. MCGEE, 0000
GAY M. MCGILLIS, 0000
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MILES L. MCGINNIS, 0000
THOMAS R. MCGRAW, 0000
SCOTT E. MCKINNEY, 0000
MARTIN G. MCKINNON, 0000
PATRICK K. MCLEOD, 0000
CATHERINE G. MCLOUD, 0000
LOUIS E. MCNAMARA JR., 0000
STEVEN D. MCNEELY, 0000
ROSS T. MCNUTT, 0000
STACY S. MCNUTT, 0000
ANNE C. MCPHARLIN, 0000
TIMOTHY E. MCPHARLIN, 0000
SHANNON P. MEADE, 0000
TRACEY M. MECK, 0000
THOMAS C. MEDARA, 0000
RONALD S. MEDLEY, 0000
RACHEL M. MEEK, 0000
DONALD S. MEEKER, 0000
PABLO F. MELENDEZ, 0000
EDWARD C. MELTON III, 0000
ROBERT C. MENARD, 0000
TERRY L. MENELEY, 0000
DAVID S. MERRIFIELD, 0000
MICHAEL S. METRUCK, 0000
JEFFREY D. METZ, 0000
TAL W. METZGAR, 0000
MARK A. MEYER, 0000
MICHAEL B. MEYER, 0000
RUSSELL W. MEYER, 0000
THOMAS L. MICK, 0000
RAYMONE G. MIJARES, 0000
GALEN W. MILLARD, 0000
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RICKY L. MILLIGAN, 0000
MICHAEL A. MINIHAN, 0000
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MICHELE RM MITCHELL, 0000
THOMAS L. MITCHELL JR., 0000
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HIRAM A. MORALES JR., 0000
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RICHARD S. MOUNTAIN, 0000
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WALTER C. MOYNIHAN, 0000
MAUREEN C. * MURPHY, 0000
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THOMAS E. MURPHY, 0000
JUDIANNA MURRAY, 0000
KEVIN R. MURRAY, 0000
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SCOTT L. MUSSER, 0000
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LYNDA D. MYERS, 0000
NICHOLAS S. MYERS JR., 0000
RUSSELL S. MYERS, 0000
WILLIAM A. NACE, 0000
DAVID S. NAHOM, 0000
MICHAEL F. NAHORNIAK, 0000
DOUGLAS R. NARMOUR, 0000
ERIC S. NELSON, 0000
KIM M. NELSON, 0000
LOWELL A. NELSON, 0000
MARTIN H. NELSON, 0000
RICHARD G. NELSON, 0000
RICHARD S. NELSON, 0000
SAMUEL F. NELSON, 0000
WILLIAM J. NELSON, 0000
WILLIAM D. NEUENSWANDER, 0000
BRIAN D. NEUMANN, 0000
TIMOTHY P. NEWMAN, 0000
WILLIAM S. NICHOLS, 0000
GLENN W. NICHOLSON, 0000
DANIEL M. NICKERSON, 0000
GREGORY W. NICODEMUS, 0000
STEVEN R. NIELSEN, 0000
LUCIAN L. NIEMEYER II, 0000
CRAIG W. NORDLIE, 0000
DIAN L. NORRIS, 0000
WESLEY S. NORRIS, 0000
MICHAEL J. NOVOTNY, 0000
MICHAEL A. NOWACZYK, 0000
MICHAEL J. NUTTER, 0000
RICHARD L. OARR, 0000
BRUCE E. OCAIN, 0000
DANIEL J. OCONNOR, 0000
STEPHEN D. OCONNOR, 0000
JOHN S. OECHSLE, 0000
PETER R. OERTEL, 0000
KENNETH M. OLSEN, 0000
RICHARD C. OLSON, 0000
RAYMOND P. OMARA, 0000
BARBARA M. OMSTEAD, 0000
DAVID L. ONAN, 0000
JIMMIE L. ONEAL JR., 0000
BRIAN A. OUELLETTE, 0000
ALISON L. OVERBAY, 0000
BRETT L. OWENS, 0000
LAYNE B. PACKER, 0000
ELIZABETH A. PANGRAC, 0000
TROY W. PANNEBECKER, 0000
ANN MARIE PARKER, 0000
JAMES T. PARKER, 0000
JEFFREY A. * PARKER, 0000
JOHN L. PARKER, 0000
DALE P. PARTRIDGE, 0000
JOHN C. PASCHALL, 0000
PHILLIP G. PATE, 0000
RONALD J. PATRICK, 0000
ERIC J. PAYNE, 0000
JOHN G. PAYNE, 0000
VALERIE S. PAYNE, 0000
RICHARD E. PEARCY, 0000
JOHN W. PEARSE, 0000
JUDITH H. PEER, 0000
MICHAEL E. PEET, 0000
CHRISTOPHER J. PEHRSON, 0000
MICHAEL W. PENLAND, 0000
CLAYTON B. PERCE, 0000
JOHN J. PERNOT, 0000
RONALD L. PERRILLOUX, 0000
PATRICK J. PETERS, 0000
JON J. PETRUZZI, 0000
STEPHEN D. PETTERS, 0000
TIMOTHY J. PFEIFER, 0000
ALTON P. PHILLIPS, 0000
DAVID L. PHILLIPS JR., 0000
MARK R. PHILLIPS, 0000
MATTHEW T. PHILLIPS, 0000
BRYANT D. PHILP, 0000
RICHARD G. PIERCE, 0000
SCOTT D. PIERCE, 0000
CHARLENE A. PIERSONLASSITER, 0000
WILLIAM E. PINTER, 0000
MICHAEL S. PITTS, 0000
DANIEL J. PIXLEY, 0000
CHRISTOPHER E. PLAMP, 0000
MATTHEW L. PLASS, 0000
FRANZ M. PLESCHA, 0000
JOHN EDWARD POAST III, 0000
DANIEL J. POLAHAR JR., 0000
BRENT G. POLGLASE, 0000
SUSAN L. POLLMAN, 0000
ADRIAN C. PONE, 0000
LAURA R. POPE, 0000
TODD J. POSPISIL, 0000
GARY L. POTTER JR., 0000
CARLOS M. POVEDA III, 0000
GLENN E. POWELL JR., 0000
OM PRAKASH II, 0000
JOHN C. PRATER, 0000
MICHAEL D. PRAZAK, 0000
JOHN B. PRECHTEL, 0000
TIMOTHY P. PRESS, 0000
DAVID L. PRESTON, 0000
LESTER E. PRESTON, 0000
DONALD G. PRIAULX, 0000
ARTHUR C. PRICE, 0000
JEFFREY K. PRICE, 0000
LARRY G. PRICE, 0000
MYLAND E. PRIDE, 0000
ROBERT J. PROVOST, 0000
SHARON K. PRUITT, 0000
JAMES A. PRYOR, 0000
JEANNA L. PRYOR, 0000
CLIFFORD T. PUCKETT, 0000
MICHAEL W. PUFFENBARGER, 0000
GEORGE R. PULLIAM, 0000
JOHN R. QUATTRONE, 0000
ROGER ARLANTICO QUINTO, 0000
RAYMOND S. SM RABANO, 0000
DAVID J. RAGGIO, 0000
GEORGE R. RAIHALA, 0000
STEVEN A. RANALLI, 0000
PAMELA J. RANDALL, 0000
WESLEY S. RANDALL, 0000
THOMAS F. RATHBUN, 0000
JAMES A. RAULERSON, 0000
LINDA M. RAY, 0000
STEPHEN A. RAY, 0000
RICHARD M. REDDECLIFF, 0000
BRADLEY S. REED, 0000
MICHAEL D. REED, 0000
TIMOTHY S. REED, 0000
DONALD REESE, 0000
MARC E. REESE, 0000
DANIEL S. REIFSCHNEIDER, 0000
DANIEL L. REILLY, 0000
ROBERT W. REIMAN, 0000
PAUL E. REIMERS, 0000
GREGORY M. REITER, 0000
CHRISTOPHER E. RENNER, 0000
ROBERT A. RENNER, 0000
ROBERT L. RHYNE, 0000
LANCE G. RIBORDY, 0000
CARLOS F. RICE, 0000
TIMOTHY S. RICE, 0000
LISA D. RICHTER, 0000
VICTOR L. RICK, 0000
TIMOTHY L. RILEY, 0000
EDWARD J. RIMBACK, 0000
LLOYD E. RINGGOLD JR., 0000
CHRISTOPHE F. ROACH, 0000
JOHN D. ROACH, 0000
KEVIN J. ROBBINS, 0000
GREGORY D. ROBERTS, 0000
JEFFREY W. ROBERTS, 0000
RICHARD G. ROBERTS, 0000
DOUGLAS A. ROBERTSON, 0000
RANDY K. ROBERTSON, 0000
WILLIAM B. ROBEY, 0000
AARON N. ROBINSON, 0000
BRIAN S. ROBINSON, 0000
KYLE W. ROBINSON, 0000
TIMOTHY J. ROCKWELL, 0000
RAYMOND E. ROESSLER, 0000
GEORGE M. ROGERS, 0000
PAUL J. ROGERSON, 0000
PETER C. ROLLER, 0000
KRIS G. RONGONE, 0000
JENNIFER L. ROOKE, 0000
DARLENE M. ROQUEMORE, 0000
JOHN J. ROSCOE, 0000
DEAN E. ROSENQUIST, 0000
DAVID A. ROSS, 0000
JAMES P. ROSS, 0000
WILLIAM G. ROSS, 0000
JOSEPH W. ROTH, 0000
ROBERT W. ROTH, 0000
JAMES A. ROTHENFLUE, 0000
STEPHEN D. ROTTA, 0000
RANDALL S. ROWE, 0000
WILLIAM H. RUDD III, 0000
DON A. RUFFIN, 0000
JEFFREY N. RUMRILL, 0000
BRADFORD L. RUPERT, 0000
RICKY N. RUPP, 0000
WILLIAM Y. RUPP, 0000
MARK A. RUSE, 0000
BARBARA J. RUSNAK, 0000
MICHAEL J. RUSSEL, 0000
DAVID L. RUSSELL II, 0000
JOHN T. RUSSELL, 0000
GRANT G. RUTLIN, 0000
RONALD G. RYDER, 0000
DAVID M. RYER, 0000
PER I. SAELID, 0000
DAVID G. SALOMON, 0000
ROBERT J. SALSBERRY, 0000
MICHAEL J. SALYARDS, 0000
JOHN R. SAMMARTINO, 0000
DARLENE M. SANDERS, 0000
THOMAS R. SANDS, 0000
DERREK D. SANKS, 0000
DEXTER M. SAPINOSO, 0000
CATHERINE J. SAUCHUK, 0000
SCOTT H. SAUL, 0000
DAVID E. SAVILLE, 0000
SCOTT A. SAVOIE, 0000
FRANK W. SCHADDELEE, 0000
THOMAS P. SCHADEGG, 0000
GREGORY SCHAELLING, 0000
DONALD M. SCHAUBER JR., 0000
LYNN I. SCHEEL, 0000

JON SCHILDER, 0000
ANDREW J. SCHLACHTER, 0000
SCOTT H. SCHLIEPER, 0000
DANIEL M. SCHMIDT, 0000
KIRK A. SCHNEIDER, 0000
RICHARD L. SCHOONMAKER, 0000
DAVID M. SCHROEDER, 0000
PHIL J. SCHROEDER, 0000
PAUL F. SCHULTZ, 0000
TIMOTHY P. SCHULTZ, 0000
WILLIAM F. SCHUPP JR., 0000
JAMES B. SCHUSTER, 0000
STEPHEN R. SCHWARTZ, 0000
MARK F. SCHWARZ, 0000
DAVID A. SCHWARZE, 0000
CHRIS H. SCHWEINSBERG, 0000
LELAND G. SCIFERS, 0000
SHANE P. SCOGGINS, 0000
BRYON L. SCOTT, 0000
JEFFERY C. SCOTT, 0000
BRETT H. SCUDDER, 0000
KURT A. SEARFOSS, 0000
JOEL SEIDBAND, 0000
TODD J. SERRES, 0000
KENNETH C. SERSUN, 0000
DOUGLAS S. SEWALL, 0000
ALAN L. SHAFER, 0000
SHAWN P. SHANLEY, 0000
SCOTT D. SHAPIRO, 0000
MARC S. SHAVER, 0000
ANTHONY C. SHAW, 0000
WAYNE K. SHAW, 0000
WILLIAM K. SHEDD, 0000
GLEN A. SHEPHERD, 0000
MICHAEL D. SHEPHERD, 0000
JEFFREY A. SHEPPARD, 0000
DANIEL J. SHERIDAN, 0000
JEFFREY E. SHERWOOD, 0000
CYNTHIA A. SHEWELL, 0000
JOHN R. SHIELDS, 0000
DAVID K. SHINTAKU, 0000
ARNETHA R. SHIPMAN, 0000
HOWARD A. SHRUM III, 0000
ERIC SILKOWSKI, 0000
RICHARD J. SILONG, 0000
FRANK W. SIMCOX IV, 0000
KEVIN HUGH SIMMONS, 0000
NIGEL J. SIMPSON, 0000
WILSON T. SIMS JR., 0000
PAUL L. J. SINOPOLI, 0000
TIMOTHY J. SIPES, 0000
ROBERT D. SKELTON, 0000
LYNDEN P. SKINNER, 0000
THOMAS J. SKROCKI, 0000
STEVEN R. SLATTER, 0000
TIMOTHY A. SLAUENWHITE, 0000
ANDREW T. SLAWSON, 0000
DENETTE L. SLEETH, 0000
RICHARD E. SLOOP JR., 0000
STEVEN E. SMILEY, 0000
DIANE M. SMITH, 0000
DIRK D. SMITH, 0000
JEFFREY D. SMITH, 0000
JEFFREY J. SMITH, 0000
KELVIN B. SMITH, 0000
KENNETH P. SMITH, 0000
MATTHEW N. SMITH, 0000
MICHAEL J. SMITH, 0000
PEIMIN M. SMITH, 0000
RANDOLPH G. SMITH, 0000
ROBERT J. SMITH JR., 0000
RUDOLPH A. SMITH JR., 0000
RUSSELL E. SMITH, 0000
RYAN J. SMITH, 0000
STEPHEN A. SMITH, 0000
THOMAS L. SMITH, 0000
WESLEY E. SMITH, 0000
DAVID M. SNOW, 0000
DONALD A. SNYDER, 0000
STEVEN P. SNYDER, 0000
PATRICE A. SOLORZANO, 0000
DWIGHT C. SONES, 0000
INEZ A. SOOKMA, 0000
CRAIG A. SOUZA, 0000
CHRISTOPHER F. SPAGNUOLO, 0000
KAY L. SPANNUTH, 0000
KEVIN L. SPARKS, 0000
JENNIFER L. SPEARS, 0000
JOSEPH M. SPIESS, 0000
KURT M. SPILGER, 0000
CHRISTOPHER STAFFORD, 0000
STANLEY STAFIRA, 0000
DANIEL J. STAGGENBORG, 0000
DAVID G. STAMOS, 0000
DARRYL L. STANKEVITZ, 0000
NANCY NAOMI STANLEY, 0000
DAVID M. STANTON, 0000
VALISE A. STANTON, 0000
SCOTT A. STARK, 0000
JAMES M. STARLING, 0000
ROBERT B. STARNES, 0000
DONALD C. STARR, 0000
CHARLES F. J. STEBBINS, 0000
KEVIN B. STEELE, 0000
THOMAS M. STEELE, 0000
ALLEN M. STEENHOEK, 0000
CHARLES A. STEEVES, 0000
DOUGLAS K. STENGER, 0000
MARK T. STEPHENS, 0000
KEVIN J. STEVENS, 0000
CHAD M. STEVENSON, 0000
RAYMOND S. STEVENSON, 0000
ALBERT K. STEWART, 0000
DAVID T. STEWART, 0000
ERIC C. STEWART, 0000
MICHAEL A. STEWART, 0000
BARRY W. STGERMAIN, 0000
BRUCE C. STINAR, 0000
KEVIN L. STONE, 0000
TROY R. STONE, 0000
CHARLES R. STONER, 0000
RONALD K. STORY, 0000
MICHAEL K. STOWERS, 0000
JESSE L. STRICKLAND III, 0000
LEWIS H. STROUGH, 0000
MICHAEL SULEK, 0000
DAVID M. SULLIVAN, 0000
EDWARD J. SULLIVAN, 0000
SEAN M. SULLIVAN, 0000
DONALD H. SUMMERLIN, 0000
BRANDON E. SWEAT, 0000
MARK J. SWEENEY, 0000
GERALD A. SWIFT, 0000
RAYMOND A. SWOGGER, 0000
MICHAEL T. SYMOCK, 0000
JOHN A. TALARICO, 0000
MICHAEL L. TALBERT, 0000
JEFFREY B. TALIAFERRO, 0000
WILLIAM M. TART, 0000
KENNETH R. TATUM JR., 0000
RICHARD D. TAVENNER, 0000
ANDREW M. TAYLOR, 0000
PATRICK W. TAYLOR, 0000
RODNEY L. TAYLOR, 0000
DAVID B. TEAL, 0000
BRETT P. TELFORD, 0000
SCOTT J. TEW, 0000
SHARON C. THOMAS, 0000
WALTER D. THOMAS, 0000
DEBORAH E. THOMPSON, 0000
HENRY C. THOMPSON, 0000
JEFFREY A. THOMPSON, 0000
STEPHEN R. THOMPSON, 0000
ROBERT C. THOMSON, 0000
MICHAEL D. THURBER, 0000
GREGORY S. THURGOOD, 0000
ANDREW J. THURLING, 0000
PAUL W. TIBBETS IV, 0000
MICHAEL A. TICHENOR, 0000
MICHAEL J. TILLEMA, 0000
JOHN L. TILLMAN, 0000
BRIAN J. TINGSTAD, 0000
JAMES M. TITTINGER, 0000
RICHARD G. TOBASCO, 0000
JULIAN H. TOLBERT, 0000
WADE G. TOLLIVER, 0000
JOHN S. TOMJACK, 0000
GARY A. TOPPERT, 0000
TIMOTHY M. * TORRES, 0000
JOHN H. TOUCHTON III, 0000
TIMOTHY P. TOWNES, 0000
NHAT D. TRAN, 0000
TIMOTHY J. TRAUB JR., 0000
KEVIN T. TRISSELL, 0000
GERALD J. TROMBLEY, 0000
EDSON C. TUNG JR., 0000
KIP B. TURAIN, 0000
MARK J. TURCOTTE, 0000
GREGORY L. TURES, 0000
STEPHEN E. TURNER JR., 0000
RICHARD E. UNIS, 0000
MICHAEL J. VACCARO, 0000
SCOTT R. VADNAIS, 0000
VICTOR J. VALDEZ, 0000
DAVID D. VALLIERE, 0000
CURT A. VAN DE WALLE, 0000
LJ VANBELKUM, 0000
ALVIN M. VANN JR., 0000
JUAN R. VASQUEZ, 0000
GLENN M. VAUGHAN, 0000
BRIAN T. VAUGHN, 0000
OSCAR R. VAUGHN, 0000
AGUSTIN E. VELEZ, 0000
THOMAS A. VENTRIGLIA, 0000
LASZLO A. VERES, 0000
SCOTT A. VESPER, 0000
EDWARD J. VEST, 0000
RICHARD A. VETSCH, 0000
PATRICK H. VETTER, 0000
GEORGE VICARI JR., 0000
JOSEPH H. VIERECKL, 0000
TERRY W. VIRTS, 0000
STEVEN A. VLASAK, 0000
ROBERT A. VOEGTLY, 0000
RANDALL L. VOGEL, 0000
GEORGE S. VOGEN, 0000
JESSIE H. VOISIN JR., 0000
PAUL C. VONOSTERHELDT, 0000
PAUL E. WADE, 0000
DONALD R. WAHONICK JR., 0000
BARRY C. WAITE, 0000
DAVID M. WAITE, 0000
MARK K. WAITE, 0000
SCOTT E. WALCHLI, 0000
FEDERICO G. WALDROND, 0000
CHRISTOPHER P. WALKER, 0000
JON W. WALKER, 0000
JULIE E. WALKER, 0000
MICHAEL J. WALKER, 0000
THOMAS M. WALKER, 0000
WARD A. WALKER, 0000
TODD T. WALKOWICZ, 0000
DAVID E. WALLACE, 0000
DARRELL E. WALLIS JR., 0000
STEPHEN D. WALTERS, 0000
MICHAEL G. WAN, 0000
MARK A. WARACK, 0000
MICHAEL R. WARD, 0000
WILLIAM R. WARD, 0000
MICHAEL S. WASSON, 0000
WILLIAM R. * WATKINS III, 0000
DOUGLAS A. WATKINS, 0000
ERIC E. WATKINS, 0000
PHILIP R. WATSON, 0000
BRYAN C. WATT, 0000
CHRISTIAN G. WATT, 0000
SHANNON D. WEATHERMAN, 0000
WILLIAM M. WEAVER, 0000
JEFFERY D. WEBBER, 0000
SCOTT D. WEBER, 0000
THOMAS J. WEBER, 0000
TIMOTHY F. WEBER, 0000
JEFFREY R. WEED, 0000
JAMES C. WEIGLE, 0000
JAMES L. WEINGARTNER, 0000
RICHARD A. WEIR, 0000
CLYDE A. WEIRICK, 0000
DOUGLAS P. WEITZEL, 0000
STEVEN M. WELD, 0000
DOUGLAS H. WELLS, 0000
SCOTT R. WELLS, 0000
RUSSELL P. WELSCH, 0000
DERON L. WENDT, 0000
GARY F. WESSELMANN, 0000
JOHN E. WEST JR., 0000
JOHN W. WEST, 0000
ROBERT A. WEST, 0000
JAMES E. WEYER, 0000
ELISE M. WHEELER, 0000
NATHAN T. WHITE, 0000
RANDALL G. WHITE, 0000
TODD D. WHITE, 0000
WILLIAM G. WHITE, 0000
JAMIE S. WHITLEY, 0000
JAMES T. WHITLOW, 0000
JIM R. WIEDE, 0000
JEFFREY J. WIEGAND, 0000
MARSHA W. WIERSCHKE, 0000
PAUL A. WIESE, 0000
SANDRA L. WILKERSONLEAF, 0000
JOHN W. WILKINSON, 0000
JOHN A. WILLCOCKSON, 0000
GARY W. WILLETS, 0000
CHRISTOPHER R. WILLIAMS, 0000
DARRYL R. WILLIAMS, 0000
JOHN A. WILLIAMS, 0000
JOHN A. WILLIAMS II, 0000
MARK C. WILLIAMS, 0000
MATTHEW R. WILLIAMS, 0000
STEPHEN H. WILLIAMS, 0000
TIMOTHY N. WILLIAMS, 0000
WILLIE J. WILLIAMS JR., 0000
STEVEN E. WILLIS, 0000
TRAVIS A. WILLIS JR., 0000
ROBERT W. WILLOUGHBY, 0000
EVA C. WILSON, 0000
HAROLD L. WILSON, 0000
KENNEDY B. WILSON JR., 0000
ROBERT D. WILSON, 0000
DONALD W. WINGATE JR., 0000
JAMES D. WINGO JR., 0000
MARK S. WINGREEN, 0000
ANNE M. WINKLER, 0000
JOHN S. WINSTEAD, 0000
ROHINI T. S. WINTERS, 0000
JON K. WISHAM, 0000
JAMES W. WISNOWSKI, 0000
KENNETH J. WITTE, 0000
DANNY R. WOLF, 0000
JULIA A. WOLF, 0000
ENOCH K. WONG, 0000
JOHN M. WOOD, 0000
KENTON T. WOOD, 0000
PAUL R. WOOD, 0000
WILLIAM A. WOODCOCK, 0000
THIERRY C. WOODS, 0000
TIMOTHY A. WOODS, 0000
LARRY D. WORLEY JR., 0000
COLIN J. WRIGHT, 0000
DAVID C. WRIGHT, 0000
DEAN N. WRIGHT, 0000
CHRISTOPHER J. WYMAN, 0000
JOSEPH M. YAKUBIK, 0000
BRIAN E. YATES, 0000
ROBERT E. YATES, 0000
ROBERT B. YOUNG JR., 0000
DAVID R. YOUTSEY, 0000
JAMES RICHARD ZAGATA, 0000
PAUL ALBERT ZAVISLAK JR., 0000
CATHERINE M. ZEITLER, 0000
BRIAN P. * ZEMBRASKI, 0000
ARTHUR E. ZEMKE, 0000
TIMOTHY A. ZOERLEIN, 0000
DAVID R. ZORZI, 0000
JEFFREY R. ZOUBEK, 0000
MICHEL P. ZUMWALT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

CATHERINE M. AMITRANO, 0000
LESLIE R. ANN, 0000
DENISE G. AUGUSTINE, 0000
TAMARA A. AVERETTBRAUER, 0000
SUSAN E. BASSETT, 0000
JENNIFER D. BAUER, 0000
DAVID A. BEAVERS, 0000
MARIE L. BERRY, 0000
DIANE L. BILBRAY, 0000
MICHELLE L. BISHOP, 0000
MICHAEL W. BOUCHARD, 0000
LEE S. BRYANT, 0000
NONA F. BUCHANAN, 0000
DANIEL J. BUSHEME, 0000
SHELLY D. BUTLER, 0000
LOLA R. B. CASBY, 0000
LINDA J. CASHION, 0000
ROBERT K. CLAY, 0000
KELLY A. COLEMAN, 0000

ANNE M. CONWELL, 0000
LENORA L. COOK, 0000
ANKA COSIC, 0000
DAWN B. DANIEL, 0000
WANDA L. DAVIES, 0000
LISA D. DEDECKER, 0000
JANE G. DENTON, 0000
PATRICIA L. DYKSTRA, 0000
BARBARA A. EISENSTEIN, 0000
EDWARD F. FARLEY, 0000
MARGARET E. FOLTZ, 0000
ELEANOR T. FOREMAN, 0000
REBECCA L. GOBER, 0000
ANNETTE GOMEZ, 0000
ANNA M. GREEN, 0000
SANDRA D. HAGEDORN, 0000
JUDITH A. HUGHES, 0000
ROBIE V. HUGHES, 0000
ROBIN E. HUNT, 0000
BRENDA K. IRWIN, 0000
ALETA P. JEFFERSON, 0000
CYNTHIA F. JEFFREY, 0000
LINDA M. JENNINGS, 0000
BEVERLY J. JOHNSON, 0000
MARTHA J. JOHNSTON, 0000
BARBARA A. JONES, 0000
BARBARA A. KALMEN, 0000
JERILYN L. KEITH, 0000
TRACEY M. KEITH, 0000
JOANN M. KELSCH, 0000
JACK L. KENNEDY, 0000
PHILLIP G. KLEINMAN, 0000
NANCY M. LACHAPELLE, 0000
ELIZABETH A. LARINO, 0000
CAROL M. LARSEN, 0000
DIANE F. LENTTUCKER, 0000
ELIZABETH K. LOVE, 0000
LYNN M. MALONE, 0000
IRMA L. MCNAMEE, 0000
SUSAN M. MCNITT, 0000
ANN M. MCQUADE, 0000
JUDITH A. MEEK, 0000
ALTHEA B. B. MILLER, 0000
TERESA L. MILLWATER, 0000
KELLEY C. MOORE, 0000
KAY H. NIMS, 0000
CAROLE A. NUSSEL, 0000
NANCY A. OPHEIM, 0000
JULIE P. PACK, 0000
PENNIE G. PAVLISIN, 0000
ALLISON W. PLUNK, 0000
JONATHAN N. PORTIS, 0000
TERRY L. PRIZER, 0000
MARINA C. RAY, 0000
RICHARD J. REUSCH JR., 0000
CAROLE S. ROBBINS, 0000
SUK HI ROSS, 0000
KATHLEEN SAMUEL, 0000
JOHN G. SANFORD, 0000
DELIA M. SANTIAGO, 0000
CLAIR M. SHEFFIELD, 0000
DONNA R. SMITH, 0000
JEAN E. SPRINGER, 0000
DIANA L. STARKEY, 0000
KEVIN V. STEVENS, 0000
HILDEGARDE P. STEWART, 0000
FRANCIS J. STOECKER III, 0000
JULIE M. STOLA, 0000
NAOMI E. STRANO, 0000
ANNATA RAE SULLIVAN, 0000
PATRICIA J. SWEENEY, 0000
MYRON J. TASSIN JR., 0000
SHARON L. TAYLOR, 0000
RACHEL VLK, 0000
KARLA J. VOY, 0000
MARY C. WAHL, 0000
MARGARET M. WALSH, 0000
ELIZABETH M. WILCOX, 0000
CYNTHIA K. WRIGHT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

MARK T. ALLISON, 0000
BARBARA B. ALTERA, 0000
ARLEN E. BEE, 0000
JOSEPH PAUL BIALKE, 0000
JAMES G. BITZES, 0000
WILLIAM B. BOYCE, 0000
SCOTT K. BRADSHAW, 0000
JAMES R. BYRNE, 0000
TODI S. CARNES, 0000
WENDY S. CARROLL, 0000
FERDINANDO P. CAVESE, 0000
DAVID P. CHARITAT, 0000
JOSEPH E. COLE, 0000
DEBORAH L. COLLINS, 0000
JAMES H. DAPPER, 0000
KIRK L. DAVIES, 0000
MELINDA L. DAVIS PERRITANO, 0000
ERIC L. DILLOW, 0000
THOMAS F. DOYON, 0000
JAMES M. DURANT III, 0000
THOMAS L. FARMER, 0000
MARK C. GARNEY, 0000
TIMOTHY A. HICKS, 0000
STEPHEN P. KELLY, 0000
LESLIE D. LONG, 0000
JAMES W. MEINDERS, 0000
BLAKE C. NIELSEN, 0000
TERRY A. OBRIEN, 0000
MICHAEL J. OCONNOR, 0000
MICHAEL J. OSULLIVAN, 0000
FERAH OZBEK, 0000
CHRISTOPHER M. PETRAS, 0000
LINDA L. RICHARDSON, 0000
FLOYD S. RISLEY, 0000
ERIC J. ROTH, 0000
MATTHEW J. RUANE, 0000
KENNETH R. SHARRETT, 0000
DOUGLAS M. STEVENSON, 0000
EDWARD H. THOMPSON, 0000
CHRISTOPHER C. VANNATTA, 0000
VICKI K. WEEKES, 0000
KAREN S. WHITE, 0000
PHILIP T. WOLD, 0000
FREDERICK M. WOLFE, 0000

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

BRIAN K. BALFE, 0000
NORBERTO R. CASTRO JR., 0000
GLENN H. CURTIS, 0000
ROBERT P. NYRE, 0000
RENWICK L. PAYNE, 0000
JAMES H. TROGDON III

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES MARINE CORPS UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant colonel*

BRIAN T ALEXANDER, 0000
KELLY P ALEXANDER, 0000
JULIAN D ALFORD, 0000
RICHARD E ANDERS, 0000
BRIAN P ANNICHIARICO, 0000
CHRISTOPHER A ARANTZ, 0000
JAMES L ARMSTRONG, 0000
FRANK S ARNOLD, 0000
THOMAS E ARNOLD JR., 0000
JOHN D AUGSBURGER, 0000
BRIAN F BAKER, 0000
GRANT C BAKLEY, 0000
FRANCISCO M BALL, 0000
EDWARD L BARBOUR III, 0000
ROBERT S BARR, 0000
PETER B BAUMGARTEN, 0000
BRIAN T BECKWITH, 0000
STEVEN F BELSER, 0000
MICHAEL J BERGERUD, 0000
MICHAEL C BERRYMAN, 0000
DEBRA A BEUTEL, 0000
ANDREW D BIANCA, 0000
JAMES W BIERMAN JR., 0000
DOUGLAS H. BIGGS, 0000
MICHAEL A. BLACKWOOD, 0000
JEFFREY L. BLAU, 0000
SEAN C. BLOCHBERGER, 0000
KERRY J. BLOCK, 0000
GARY G. BLOESL, 0000
PHILLIP W. BOGGS, 0000
COREY K. BONNELL, 0000
CARMINE J. BORRELLI, 0000
EDMUND J. BOWEN, 0000
MICHAEL L. BRAMBLE, 0000
GREGORY A. BRANIGAN, 0000
ROBERT M. BRASSAW, 0000
GREGORY T. BREAZILE, 0000
JAMES C. BRENNAN, 0000
MARK C. BREWSTER, 0000
JAMES M. BRIGHT, 0000
BRADLEY W. BROWN, 0000
MICHAEL H. BROWN, 0000
RAPHAEL P. BROWN, 0000
WILLIAM R. BROWN, 0000
KURT J. BRUBAKER, 0000
STEVEN L. BUCKLEY, 0000
WILLIAM S. BUDD, 0000
ERIC F. BUER, 0000
CRAIG M. BURRIS, 0000
MARK A. BUTLER, 0000
RAYMOND D. BUTLER, 0000
TIMOTHY G. CALLAHAN, 0000
WILLIAM E. CALLAHAN, 0000
SCOTT D. CAMPBELL, 0000
RICHARD L. CAPUTO JR., 0000
JAMES K. CARBERRY, 0000
CHRISTOPHER C. CAROLAN, 0000
WINFIELD S. CARSON JR., 0000
JEFFREY S. CARUSONE, 0000
AUGUSTO G. CATA, 0000
CURTIS E. CATENCAMP, 0000
ROBERT A. CECCHINI, 0000
STEVEN E. CEDRUN, 0000
JOHN H. CELIGOY, 0000
JOHN M. CHADWICK, 0000
DAVID G. CHANDLER, 0000
PHILLIP W. CHANDLER, 0000
IRA M. CHEATHAM, 0000
GREGORY L. CHESTERTON, 0000
STEPHEN S. CHOATE, 0000
THOMAS M. CLASEN, 0000
DAVID L. COGGINS, 0000
BIAGIO COLANDREO JR., 0000
MICHAEL G. COLEMAN, 0000
ANTONIO COLMENARES, 0000
DANIEL B. CONLEY, 0000
SEAN P. CONLEY, 0000
WILLIAM J. CONLEY JR., 0000
SHAWN P. CONLON, 0000
JAMES S. CONNELLY, 0000
JEFFREY T. CONNER, 0000
KEVIN B. CONROY, 0000
JONATHAN P. COOK, 0000
MICHAEL A. COOLICAN, 0000
ROBERT L. COULOMBE, 0000
ROBERT A. COUSER, 0000
JAMES L. COX, 0000
PATRICK F. COX, 0000
DENNIS A. CRALL, 0000
JOHN M. CURATOLA, 0000
PAUL G. CURRAN, 0000
PETER W. CUSHING, 0000
MICHAEL D. DAHL, 0000
THOMAS A. DAMISCH, 0000
ROBERT J. DARLING, 0000
JEFFREY P. DAVIS, 0000
JOEL J. DAVIS, 0000
MARK C. DELUNA, 0000
MARSHALL DENNEY III, 0000
DARRIN DENNY, 0000
KENNETH M. DETREUX, 0000
PETER J. DEVINE, 0000
ANTHONY P. DIBENEDETTO JR., 0000
DAVID G. DIEUGENIO JR., 0000
MICHAEL W. DINARDO, 0000
HENRY J. DOMINGUE JR., 0000
JAMES E. DONNELLAN, 0000
FRANCIS L. DONOVAN, 0000
THOMAS A. DOUGHERTY III, 0000
JONATHAN F. DOUGLAS, 0000
STEPHEN E. DUKE, 0000
WILLIAM R. DUNN II, 0000
ROBERT M. EHNOW, 0000
NORMAN R. ELIASEN, 0000
TODD R. EMO, 0000
RUSSELL W. EMONS JR., 0000
TERRI E. ERDAG, 0000
DANIEL P. ERMER, 0000
JOHN A. ESQUIVEL, 0000
RUSSELL E. ETHERIDGE JR., 0000
DAMON E. FIELDS, 0000
RONALD R. FINELLI, 0000
MICHAEL J. FINLEY, 0000
CLAYTON J. FISHER, 0000
JOHN M. FITTS, 0000
DAVID A. FLYNN, 0000
PAUL J. FONTANEZ, 0000
ANDREW W. FORTUNATO, 0000
PAUL A. FORTUNATO, 0000
KEVIN R. FOSTER, 0000
MICHAEL V. FRANZAK, 0000
CHRISTOPHER L. FRENCH, 0000
RICHARD W. FULLERTON, 0000
JONATHAN O. GACKLE, 0000
MAX A. GALEAI, 0000
JOHN R. GAMBRINO, 0000
DOUGLAS K. GELBACH, 0000
MICHAEL W. GEORGE, 0000
JAMES P. GFRERER, 0000
ANDREW J. GILLAN, 0000
DAVID S. GLASSMAN, 0000
CHRISTOPHER W. GOEDEKE, 0000
PATRICK A. GRAMUGLIA, 0000
DOMINIC A. GRASSO, 0000
ALAN S. GREENE, 0000
ALAN M. GREENWOOD, 0000
RONALD A. GRIDLEY, 0000
GREGORY J GRINAKER, 0000
CHRIS M GROOMS, 0000
DANIEL J HAAS, 0000
KARL J HACKBARTH, 0000
RICHARD D HALL, 0000
WILLIAM J HARKINS JR., 0000
GERALD F HARPER JR., 0000
DAWN L HARRISON, 0000
JAMES D HAWKINS II, 0000
KEVIN A HAWLEY, 0000
SHAWN D HEALY, 0000
KARSTEN S HECKL, 0000
ANDREW J HEINO, 0000
MARK A HENSEN, 0000
JAMES H HERRERA, 0000
HARRY J HEWSON III, 0000
DAVID M HITCHCOCK, 0000
WILLIAM R HITTINGER, 0000
MARK R HOLLAHAN, 0000
CHARLES M HOLLER, 0000
JEFFREY Q HOOKS, 0000
MATTHEW C HOWARD, 0000
DAVID S HOWE, 0000
STEPHEN M HOYLE, 0000
DONALD E HUMPERT, 0000
MICHAEL A HUNTER, 0000
NANCY E HURLESS, 0000
DOUGLAS G HURLEY, 0000
JAMES H HUTCHINS, 0000
HENRY M HYAMS III, 0000
THOMAS D IGNELZI, 0000
CHRISTIAN A ISHAM, 0000
ANNETTE R JACOBSEN, 0000
RUDOLPH M JANICZEK, 0000
JEFFREY A JEWELL, 0000
BRANDON F JOHNSON, 0000
CHARLES H JOHNSON III, 0000
JAMES C JOHNSON JR., 0000
MARK D JOHNSON, 0000
MARK T JOHNSON, 0000
THOMAS V JOHNSON, 0000
GARY S JOHNSTON, 0000
DAVID R JONESE, 0000
WILLIAM M JURNEY, 0000
JEFFREY A KARNES, 0000
DAVIN M KEITH, 0000
PATRICK N KELLEHER, 0000
MICHAEL W KELLY, 0000
ANDREW R KENNEDY, 0000
MICHAEL W KETNER, 0000
KEVIN J KILLEA, 0000
MICHAEL P KILLION, 0000

TRACY W KING, 0000
BRIAN T KLINE, 0000
MARK D KNUTH, 0000
VINCENT C KUCALA, 0000
MICHAEL L KUHN, 0000
DOUGLAS S KURTH, 0000
CHRIS D LANDRY, 0000
MICHAEL J LEE, 0000
FREDERICK H LENGERKE, 0000
JOSEPH A LETOILE, 0000
FRANK LUSTER III, 0000
PAUL G MACK, 0000
KEVIN W MADDOX, 0000
THOMAS P MAINS III, 0000
KATHY J MALONEY, 0000
DAREN K MARGOLIN, 0000
GREGORY L MASIELLO, 0000
REY Q MASINSIN, 0000
DAVID W MAXWELL, 0000
TIMOTHY A MAXWELL, 0000
MICHAEL A MCCARTHY, 0000
MITCHELL J MCCARTHY, 0000
THOMAS R MCCARTHY JR., 0000
DARIN J MCCLOY, 0000
BRIAN K MCCRARY, 0000
KEVIN F MCCRAY, 0000
LANCE A MCDANIEL, 0000
JAMES F MCGRATH, 0000
DAVID W MCMORRIES, 0000
BRAD J MCNAMARA, 0000
BRENT E MEEKER, 0000
JACQUELINE R MELTON, 0000
LUIS A MERCADO, 0000
GLEN MILES, 0000
SCOTT T MINALDI, 0000
JAMES J MINICK, 0000
DENNY A MIRELES, 0000
FRANK G MITTAG, 0000
JACK P MONROE IV, 0000
EDWARD M MONTGOMERY, 0000
LOUIS J MORSE JR., 0000
FRANK R MOTLEY JR., 0000
PAUL L MULLER, 0000
MICHAEL J MURPHY, 0000
ANDREW J MURRAY, 0000
RICHARD J MUSSER, 0000
STEPHEN M NEARY, 0000
SAMUEL C NELSON III, 0000
RANDALL P NEWMAN, 0000
STEPHEN C NEWMAN, 0000
TERRENCE A OCONNELL, 0000
PATRICK ODONNELL, 0000
MICHAEL R ORR, 0000
DAVID A OTTIGNON, 0000
JOSEPH T PARDUE, 0000
DOUGLAS W PASNIK, 0000
PAUL D PATTERSON JR., 0000
ROY D PAUL, 0000
CURTIS M PERMITO, 0000
ROBERT A PESCATORE, 0000
ROBERT R PIATT, 0000
CHARLES D PINNEY, 0000
PAUL A POND, 0000
PETER D PONTE, 0000
SERGIO POSADAS, 0000
ROBERT D PRIDGEN, 0000
CHARLES E PROTZMANN, 0000
JOHN M PUSKAR, 0000
WARD V QUINN III, 0000
JEFFREY M REAGAN, 0000
DAVID L REEVES, 0000
GERALD R REID, 0000
PHILLIP J REIMAN, 0000
JOHN C REIMER, 0000
AUSTIN E RENFORTH, 0000
STEPHEN E REYNOLDS, 0000
LARRY D RICHARDS II, 0000
MICHAEL B RICHARDSON, 0000
JOSEPH R RIZZO, 0000
EUGENE H ROBINSON JR., 0000
ROD D ROBISON, 0000
PAUL J ROCK JR., 0000
STEVEN A ROSS, 0000
GARY P RUSSELL, 0000
LAWRENCE S RYDER, 0000
BRYAN F SALAS, 0000
MICHAEL SALEH, 0000
TIMOTHY M SALMON, 0000
NOEL B SANDLIN, 0000
JAMES B SCHAFER, 0000
DAVID A SCHLICHTING, 0000
DOUGLAS R SCHUELER, 0000
MARC A SEHRT, 0000
CHRISTOPHER C SEYMOUR, 0000
ROSEANN L SGRIGNOLI, 0000
ANDREW G SHORTER, 0000
JOSEPH F SHRADER, 0000
SCOTT C SHUSTER, 0000
PAUL G SICHENZIA, 0000
JAMES L SIGMON III, 0000
CHRISTOPHER J SILL, 0000
JOHN A SISSON, 0000
SCOTT R SIZEMORE, 0000
STEPHEN D SKLENKA, 0000
WILLIAM N SLAVIK, 0000
ANDREW H SMITH, 0000
ANTONIO B SMITH, 0000
LARRY E SMITH II, 0000
RICHARD C SMITH, 0000
RUSSELL E SMITH, 0000
STEPHANIE C SMITH, 0000
CHRISTOPHER B SNYDER, 0000
BRUCE W SODERBERG, 0000
NANCY A SPRINGER, 0000
CHRISTOPHER C STARLING, 0000
JOHN B STARNES, 0000
DENNIS R STEPHENS, 0000
JAMES C STEWART, 0000
RICHARDO C STEWART, 0000
MICHAEL R STROBL, 0000
SAMUEL T STUDDARD, 0000
EUGENE L SUMMERS, 0000
FRANK J SVET, 0000
MICHAEL M SWEENEY, 0000
STEPHEN P SWEENEY, 0000
TRACY J TAFOLLA, 0000
TROY D TAYLOR, 0000
TRAVIS A TEBBE, 0000
STEPHEN R TERRELL, 0000
HUGH V TILLMAN, 0000
PAUL TIMONEY, 0000
WILLIAM A TOSICK II, 0000
VAN K TRAN, 0000
JOHN D TROUTMAN, 0000
DAVID L TURNER, 0000
DARIO W VALLI, 0000
KRISTI L VANGORDER, 0000
DALE S VESELY, 0000
WILLIAM A VISTED, 0000
JAMES A VOHR, 0000
COLBY C VOKEY, 0000
CHRISTOPHER J WAGNER, 0000
THOMAS F WALSH III, 0000
HOWARD S WALTON, 0000
JOHN J WANAT, 0000
ANDREW J WAREHAM, 0000
VINCENT P WAWRZYNSKI, 0000
JOHN S WEDEMEYER, 0000
THOMAS D WEIDLEY, 0000
BRADLEY E WEISZ, 0000
DAVID P WELLS, 0000
STEPHEN A WENRICH, 0000
JAMES F WERTH, 0000
JAMES W WESTERN, 0000
JOSEPH S WHITAKER, 0000
JAMES W WIECKING, 0000
ANDREW G WILCOX, 0000
PATRICK R WILKS, 0000
KIRK C WILLE, 0000
EUSEEKERS WILLIAMS JR., 0000
GEORGE S WILLIAMS, 0000
BRENT S WILLSON, 0000
GARY A WINTERSTEIN, 0000
WILLIAM P WITZIG, 0000
KENNETH P WOLF JR., 0000
JEFFREY A WOLFF, 0000
DAKOTA L WOOD, 0000
JOHN R WOODWORTH, 0000
HUGH A WORDEN, 0000
MARK A WORKMAN, 0000
ANTHONE R WRIGHT, 0000
JOHN T YANVARY, 0000
MARK E YAPP, 0000
SCOTT E YOST, 0000
MICHAEL W YOUNG, 0000
ROBERT C YOUNG, 0000
KENNETH ZIELECK, 0000
PHILLIP J ZIMMERMAN, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be commander*

ROSEMARIE H. O'CARROLL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

JOHN M. HAKANSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

*To be lieutenant commander*

DANIEL P ARTHUR, 0000
JOSEPH J BIONDI, 0000
MARK E COOPER, 0000
ROBERT V DANIELS, 0000
CHRISTOPHER S DIGNAN, 0000
JAMES S DYE, 0000
TIMOTHY T EARL, 0000
JASON C EATON, 0000
THOMAS J FITZGERALD, 0000
TIMOTHY J HERALD, 0000
CHARLES B JACKEL, 0000
GARY L JACOBSEN, 0000
RICHARD LEBRON, 0000
HANS E LYNCH, 0000
MATTHEW S MEMMELAAR, 0000
MATTHEW J MULCAHY, 0000
CHASE D PATRICK, 0000
STEPHEN J PAYSEUR, 0000
EDWARD J ROBLEDO, 0000
STACY L SCHWARTZ, 0000
JOHN J SEIFERT, 0000
CALVIN F SWANSON, 0000
BRIAN L TOTHERO, 0000
RICHARD K VERHAAGEN, 0000
ALEXIS T WALKER, 0000
JOHN A WARDEAN, 0000
JAMES A WIEST, 0000
WALTER C WRYE IV, 0000