

report to Congress prior to using U.S. Armed Forces against Iraq pursuant to section 3(a) of the Authorization for the Use of Military Force, to report on the following:

1. A determination that further diplomatic and other peaceful means will not adequately protect the national security of the United States against the threat posed by Iraq. In other words, that war is, indeed, a last resort.

2. A full accounting of the implications, both positive and negative, of initiating military action against Iraq in regard to homeland security, the war on terrorism, regional stability in the Middle East, the Middle East peace process, and the proliferation of weapons of mass destruction. In other words, to understand the implications that an invasion of Iraq would have for our other international interests, including the combat against terrorism and the regional stability in the Middle East.

3. The steps the United States and its allies will take to ensure that any and all weapons of mass destruction and the related knowledge base will be safeguarded from dispersal to other rogue states and international terrorist organizations. In other words, to see that the risk of use of weapons of mass destruction would actually be reduced, not increased, by an invasion of Iraq. As an aside, I might comment, the serious problem that is created by our lowering the threshold for the use of nuclear weapons in that area.

4. The United States' plan for achieving long-term social, economic and political stabilization of a post-conflict Iraq, including a plan to provide humanitarian assistance to the Iraqi people and to ensure respect of their human rights as well as bringing to justice the individuals responsible for serious violations of international humanitarian and human rights law committed in Iraq.

5. The nature and extent of the international support for military action against Iraq and the impact of military action against Iraq on allied support for the broader war on terrorism. In other words, it is not just a matter of "you're either with us or against us" but how does this help us work together to accomplish our goals around the world now and in the future.

6. The steps the United States and its allies will take to protect United States soldiers, allied forces and Iraqi civilians from any known or suspected environmental hazards, associated with battlefield agents.

7. An estimate of the full costs including humanitarian aid in light of possible refugee flows, reconstructing Iraq, and securing political stability in the region, and

8. The anticipated short and long-term effects of military action on the economy and the Federal budget.

We end by saying it is the sense of Congress that the report required by subsection (a) should be delivered by the President in the form of a public

address to a joint session of Congress. I think with this kind of report, that is satisfactory on all these points, our men and women in uniform will have everything they need to defend the security of the American people. Without such a report I must conclude that it is at least premature, or more likely contrary to our national interest, the fight against terrorism, to our ability to lead the world, to launch a military attack against Iraq now.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. CAPUANO) is recognized for 5 minutes.

(Mr. CAPUANO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. ALLEN) is recognized for 5 minutes.

(Mr. ALLEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 5 minutes.

(Mr. DELAHUNT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Ms. SOLIS) is recognized for 5 minutes.

(Ms. SOLIS addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. VAN HOLLEN) is recognized for 5 minutes.

(Mr. VAN HOLLEN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BACA) is recognized for 5 minutes.

(Mr. BACA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

#### NOMINATION OF MIGUEL ESTRADA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. RODRIGUEZ) is recognized for 60 minutes as the designee of the minority leader.

Mr. RODRIGUEZ. Mr. Speaker, one of the reasons why we decided to come over this afternoon is again to talk a little bit about the Miguel Estrada case that is before the Senate. One of the concerns that we had was in terms of

the fact that he had been nonresponsive in terms of the questions.

Let me first of all start by thanking the Senate for doing the right thing and, that is, deciding not to support the nomination of Miguel Estrada. We take, at least as elected officials, a very important role in making sure that when we are asked to support a letter—

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind the Member that any reference to Senators' positions or statements is not in order.

Mr. RODRIGUEZ. Thank you very much, Mr. Speaker, I will make every attempt not to do that. Thank you.

One of the things that as elected officials, we take pride in doing, letters of support to constituents, letters of support for individuals to certain positions, and we want to make sure that, as elected officials, when we do a letter of support, that we know the nominee, that we know who that person is. We ask for documentation in some cases. I do not write letters for anyone unless I know the person personally, because I know full well as an elected official, one of the first things I was told, Mr. Speaker, and I know you probably have experienced this is you do not want to write a letter for someone that later on commits a crime. There is nothing worse than doing that. We want to make sure we do the right thing. In so doing, also, the Senate has a responsibility, and, that is, to look at the candidates that come before them and to be able to ask the questions of them, and to be able to look and then make a decision based on that.

Here we have a nominee that has failed to respond to questions. Maybe people would say, why not give him a chance? As elected officials, we get elected to 2 years. You might say, well, I'm going to vote for Mr. RODRIGUEZ this time, I'm not sure, but I'm going to give him a chance. With the nominees for the Federal court, we do not have a second chance. They are there for life. I would ask you that if you are going to be hiring someone in your office, if you are going to be hiring someone in a firm, if you are going to be hiring someone and he is going to be staying with you for life, you want to make sure that you feel comfortable about making that decision. And so I want to thank the Senators that have stood there strongly and asked those questions that are important. My thanks to all those who are sharing—

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair is reminding the Member again to avoid improper references to the Senate.

Mr. RODRIGUEZ. I can make reference to the Senate as long as I do not tell them what they need to do; is that correct, Mr. Speaker?

The SPEAKER pro tempore. Remarks in debate may include statements as to the bills they have sponsored, but any other references or summations of their positions should be avoided.

Mr. RODRIGUEZ. I will try to refer to the Constitution. The Constitution says that the Senate has an obligation to stand for the Constitution and to make sure and consent. That would be appropriate, Mr. Speaker, I would presume, since it is in behalf of the Constitution. Thank you.

I want to also take this opportunity to thank all those that have shared their message and stress the importance of making sure that this debate takes place.

Throughout this debate, Members from both sides of the aisle have continued to accuse those of us who have opposed Miguel Estrada of setting a double standard. They have even gone as far as saying that we are anti-Hispanic for doing so. I have heard some of these proponents of Miguel Estrada profess their great support of the Hispanic community. While we welcome them to join our fight on the issues that matter to our community, we think that it is important to clarify the record.

I would ask them, where was that support in terms of the Hispanic community when it came to bilingual education? Where were these votes in behalf of bilingual education? Do they think that they are supporting the Hispanic community by voting for the Bush budget that eliminates funding for school programs critical to our children's academic success? Or when they threaten the school lunch program as we are seeing now? And how can they say they are supporting Hispanics when they oppose the earned income tax credit program that is so critical for our working families?

And how can they also say that they are supporting Hispanics when they failed to extend unemployment insurance benefits at the time when Hispanic unemployment is one of the largest in the Nation? And how can they touch, in terms of our Hispanic community, when they voted to not even allow legal permanent residents the opportunity for basic human services but still feel that it is okay to send them to war?

Some of these Members have also gone to the floor and spoken in Spanish. I want to commend them for that effort. But we will not be fooled by some nice sound bytes in Spanish or pretty photographs. Your voting record will be the determining factor of determining whether the community, the Hispanic community, is going to be supportive or not. I know as the elections come around, the presidential, as well as the Senate, and the House elections, people are going to be reaching out to the Hispanic community. There is a great opportunity there to get some votes, but that record is going to be determined based on the records in

responding to the needs of that community.

We continue, and will continue to oppose Miguel Estrada because we know nothing about Mr. Estrada. He is a mute nominee. The Senate opponents to Estrada are acting fairly because they are doing their job as they move forward as far as I understand. They faced the White House strategy of nominating and hiding. They deserve answers. I think in response to those questions, we feel that Miguel Estrada deserves better treatment, in all honesty, in terms of being advised by the administration, I presume, not to answer those questions.

I ask you once again, would you hire someone who would not be responsive to those questions? I think the burden of proof is on Miguel Estrada.

□ 1530

Miguel Estrada has to show that he should be the person nominated, especially when he is nominated for life. So when we interviewed Mr. Estrada, we asked him basic questions that other nominees have answered. He had no response. There were no answers. He was asked about judges that he admired. He was asked about people that he looked up to. There were no responses. In some cases we asked him about the *Lau v. Nichols* decision, and when the 20 members of the Hispanic Caucus met with him he chose not to respond and/or he was either naive about the *Lau v. Nichols* decision, which is a very important decision on bilingual education.

For critical questions, Mr. Estrada provided no answers; and yet these are the same questions that the supporters of Mr. Estrada in the Senate have asked the other non-Hispanic nominees during the judiciary hearings. If there is a double standard, it is seeking questions from one nominee but defending the mute nonresponses of another, and I guess some of the Members have also forgotten what transpired with Richard Paez, who languished on for 4 years in the Senate, and Enrique Moreno who also was waiting for nomination. Where were the Hispanic fighting individuals out there on behalf of Enrique Moreno? Where were they for Jorge Rangel? Where were they for Christina Arguello? Where were they for Sonia Sotomayer?

Where were they for these Hispanic members who had been nominated to the courts? All appointees had their nominations stalled for extraordinary amounts of time, and I think I speak for all Americans when we say that it is time to go back to business. We need to focus on our needs of our families. We need to work to get our legislation and address their needs. We need to work towards a comprehensive and realistic prescription drug plan that addresses our needs. We need to keep looking in terms of how are we going to build the economy and the importance of creating jobs and raising our country to where we once were just a

few years ago. We have been entrusted to look out for this country, and yet we have failed to move in that direction.

So we will continue to be in opposition to the Estrada nomination. We are going to continue to move forward and at least from the caucus's perspective continue to be in opposition to the nomination.

I also want to take this opportunity to indicate that when we met with the nominee, it is not every day that the caucus is unanimous about their decisions. We have 20 members of the Hispanic Caucus; and we took it very seriously because, after all, here we have a Hispanic member before us, and so for us to go against him, it is a hard decision. It was not something that we took lightly. It was important for us to make sure that we gave him every opportunity that we could.

So what we did was we had formed a committee, a task force, of which the gentleman from Texas (Mr. GONZALEZ), the gentleman from California (Mr. BECERRA), and the gentleman from New Jersey (Mr. MENENDEZ) were part of as well as the rest of the delegation. In that we looked at various criteria, and I want to take this opportunity to review that criteria that we looked at and the evaluation that we utilized.

One of those areas that we looked at in terms of evaluating Mr. Estrada's performance was in the commitment to equal justice for Latinos. As we looked at that commitment in terms of equal justice for Latinos, we asked questions that revolved around the issue of past history to see if he had some sense of history of our Hispanic struggle in this country for justice. We inquired about certain cases. What we gathered is no record, and the response in that category was no record. There was no way. There was no information. So the only thing we could gather from Mr. Estrada is that at least in this country he has had no commitment to our Hispanic community in this country. He has had no contact with our community in this country. He has been involved with no organization of Hispanics in this country, and he either failed to respond to us or has not had any contact whatsoever. So on the issue of commitment to equal justice for Latinos, we had to indicate no record, and we have it listed as indicating no record.

On the commitment to protecting Latinos' interests in the courts, we asked him in terms of the importance of the role of a judge if he was being looked at as the administration has portrayed as a Latino candidate to one of the highest courts, second to the Supreme Court. We wanted to make sure that we would have a person that would have an understanding of what it means to be Latino in this country; and as I recall, the gentleman from New Jersey (Mr. MENENDEZ) talked about the importance of judges having a clear understanding. And he mentioned a particular case of a particular court where the judge kept insisting

that the client, in this case a Hispanic, look at the judge. And finally the attorney at that point told him it is due respect to a person of authority that sometimes Hispanics would not necessarily look one straight in the eyes because it means defiance instead of respect versus what the judge was looking at; and yet in that category of commitment to protecting Latinos' interests in the courts, we found Miguel Estrada failing in that category.

On the third category that we had in terms of support for Congress's right to pass civil rights laws, there is no record and no response. We asked him in terms of the history some of the cases that have been important for the Hispanic community in this effort, for example, the Plyler case out of Rhode Island where it gave the Hispanic immigrants the opportunity to go to public schools. We asked him about, as I mentioned earlier, the *Lau v. Nichols* decision regarding bilingual education, and in those he either had no knowledge of those cases and/or he chose not to respond. So we had to indicate no record on behalf of Mr. Estrada.

On the fourth category where it talked about support for individuals' access to the courts, there we talked about in past history in terms of his support, what has he done to try to help people to come forward and move forward, Latinos, if he had provided any kind of assistance in that area, any kind of internships or any kind of effort. It was very unclear in terms of any of his comments.

On the fifth category, the support for Latino organizations or causes through pro bono legal expertise, we asked him if he ever provided any kind of help or assistance or if he ever volunteered in any way to help clients. The response was no. So we had to give him a failing grade in that category. When we asked him support for Latino organizations or causes through volunteerism and we went a little bit beyond the other one in terms of pro bono, any kind of volunteerism, still no form of volunteer efforts. We had to give him a failing grade. When we asked him for support for Latino law students or young legal professionals through mentoring or any internship programs and we went a little more in-depth in that area, again we found that Mr. Miguel Estrada failed in that category.

And, finally, on the commitment to increase Latino access to clerkships once on the bench, there was no response and very little history in the past, and he failed. We went a little bit beyond that also in some discussions on specifics about other writings that he might have done; and when it comes to Miguel Estrada, we know very little about this candidate. Here is a person that we are scheduled to nominate to the second highest court of this Nation, and yet he has never been a judge, a municipal judge, never been a district judge, never been any form of a judge; and yet we have him before us.

So we question the rationale and the approach. I am sure that when he went

before the administration that he responded to the questions that the administration posed before him; and if nothing else, we would ask Miguel Estrada that he would respond maybe to those same questions the administration had posed to him, but that has not happened. There is no opinion on any Supreme Court case that we could gather from him.

There is a list of questions that we have gotten that he has failed to respond to; and it is a series of questions both in committee and the Senate and from us, and when he was asked, Do you have any opinion on the *Rowe v. Wade* decision and do you believe that *Rowe* was correctly decided?, no response whatsoever at all to that specific question. When he was asked specifically on questions that most Members are asked, and that is regarding, for example, a very simple question that is usually brought up to Members is the basic question of Which three cases do you think have been very important cases in this country or that you are supportive of and which three cases do you disagree with?, he has failed to respond.

I am not an attorney, but I know I would have picked up a couple of them, if nothing else, those cases that discriminate against African Americans, the *Plessy v. Ferguson* case, and all those cases that discriminated; and I would presume that it would have been easy for him to be able to pick some of these cases, at least outline and say that they were unjust, even if it was at that time, and that they needed to be corrected; but he chose not to respond.

So the only thing I can gather is that here is a nominee who I think has been misguided by the administration maybe not to say anything and assume that because he was Hispanic and that if anyone went against him or decided to go against him, they were going to label him anti-Hispanic. As the Hispanic Caucus in this country, we have an obligation and a responsibility, and one of those responsibilities is to make sure that we have good nominees; and whether he is Hispanic or not Hispanic, I think it is important that they need to respond to the questions that are before them.

So it becomes really important that we look at these nominees in a very careful way, and I have to admit it was not an easy decision, but it was a unanimous decision on behalf of the 20 congressional Members that are Hispanic, the Hispanic Congressional Caucus; and all of us felt that he did not deserve the nomination, and he does not deserve to be a Federal judge unless he chooses to answer the questions that are before him like everyone else. Because he is Hispanic, that does not make him qualified; and because he is Hispanic, that does not give him any special treatment. We expect him to answer the questions like anyone else.

So we also want to take this opportunity to thank LULAC of California, the State LULAC that has gone in

favor of not accepting the nomination. We want to personally also take this opportunity to ask and thank MALDEF, Mexican American Legal Defense and Education Fund, that has come forward on this issue and has taken a pretty good stand on that.

And with me tonight also is a Congresswoman out of California; and before I ask her to say a few words, I want to also indicate that I am really pleased that today we had Linda Chavez-Thompson with the AFL-CIO and a lot of the unions that are also concerned with the nomination of Miguel Estrada come forward in a press conference against the nomination of Miguel Estrada.

□ 1545

I wanted to thank those groups that were before us, and I also want to thank some of the past presidents of LULAC that have gone against the nomination of Miguel Estrada, in addition to various other Members of the legal profession.

We have the gentlewoman from California (Ms. SOLIS) here, and I want to ask her to join me in dialoguing a little bit and personally thank her for the efforts she has taken in this area. And I want to ask her, because I know we as a caucus took it very seriously, and we know after we decided to go after and not to accept the nomination of Miguel Estrada, it was not an easy decision for us as Latinos in this country, because we are there to push and get as many Latinos as we can into the courts, but we want to make sure that they are also responsive, because they are appointed for life, and that they are also qualified as we move forward, and not having the responses, not having the comments and not answering the questions is not meeting that particular objective.

Ms. SOLIS. Mr. Speaker, I appreciate this opportunity to be here tonight also to speak on behalf of this very important issue that I am also lending my support to not go with the nomination that has been put forward by the President, and that is Mr. Estrada. The reason I say that is because as someone who grew up in a humble community, whose parents immigrated to this country over 50 years ago to strive for opportunities for their children, they taught me some very valued principles. Those very valued principles are to be a part of the community, to value and support your traditions and to always remember where you came from. Remembering where you came from means that you do not ignore your ancestry and who you are.

One of the questions that was posed to Mr. Estrada when he came to visit with us as Hispanic Caucus members were interviewing him, he made it very clear that it was irrelevant to be associated as a Hispanic, that he felt very proud because of his qualifications, and that he did not want to be considered for this position because he was Hispanic. No doubt, that is an issue that

many people will look at very seriously.

But one of the criteria that I think we take to heart very seriously is not only that an individual who comes forward to us seeking our support from our caucus, 20 members, if I am correct, it is very important for them to outline what they believe what their intentions are.

It is just like a job interview. If I were an employer and an prospective employee comes to me and asks me to give them a job, I certainly want them to answer very important questions, like where they stand on very important issues that as an employer I need to know. This gentleman did not answer those questions for us appropriately, and my understanding is he did not do that as well with the other House.

My concern is that I am being somehow evaluated because I am viewed as being non-Hispanic or un-American because I refuse to support someone who is of Hispanic ancestry, but yet does not believe, in my opinion, in the principles that I and other members of the Hispanic Caucus espouse, and that is communities, that is tradition and values, to support members of our community, but to give back, to demonstrate a willingness to give back. And we have not seen any of those points at least reflected in any information that we have received from Mr. Estrada.

I want to say that the Hispanic Caucus has, on occasion, supported Republican nominees, and we have done that with the full enforcement of our caucus. In fact, two nominees that came before us, Republican Hispanics, were Jose Martinez of Florida and Jose Luis Linarez of New Jersey. They were supported by the Hispanic Caucus proudly and were able to reflect on their background and the things they have done to give back to the communities. Those are noble things to talk about. We did not hear that from Mr. Estrada.

One of the things I am concerned about, too, is there are some accusations we do not have the support of other Hispanic members or traditional organizations out there in the community. Nothing could be farther from the truth. I would like to just give you an indication of who those individuals and organizations are.

The United Farm Workers of America has come out strongly against the nomination of Miguel Estrada; 15 past presidents of the Hispanic Bar Association, which many of us are affiliated with; the United States Hispanic Leadership Institute; the Southwest Voter Registration and Education Project; the Labor Council for Latin American Advancement, known as LCLAA, one of the largest union representative groups in the country; the California Chapter of the League of United Latin American Citizens. In fact, my own chapter came out opposing this nomination. We received a letter a few days ago from Rosemary Lopez.

Mr. Estrada is opposed by the Farm Labor Organizing Committee; the

Farmworker Association of Florida; La Raza Lawyers Association of California; the Mexican American Legal Defense and Education Fund; the Puerto Rican Legal Defense and Educational Fund; the National Farm Workers Ministry; the National Latino Institute for Reproductive Health; and the Willie C. Velasquez Institute. These groups all oppose the nomination of Miguel Estrada.

I would ask people when they consider what position we took as a caucus, that they recognize what we had to go through. This is a very elaborate process that we took into consideration. We take very, very seriously the decisions that we make.

I can tell you today that I am still not convinced that this is the best nominee to represent us, who be there for a lifetime appointment, and then possibly move on to a higher position.

I have some serious questions. If I were an employer and the prospective employee did not respond to any questions I asked, I would say that person may not be the best qualified for that position.

Mr. RODRIGUEZ. Mr. Speaker, I want to thank the gentlewoman, and want to take this opportunity to also indicate that as a caucus we have stuck strong, all 20 of us, and, once again, it does not happen that often, but we did and we continue to be in opposition to the nomination of Miguel Estrada.

#### OPPOSING THE NOMINATION OF MIGUEL ESTRADA

The SPEAKER pro tempore (Mr. BISHOP of Utah). Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. GONZALEZ) is recognized for the balance of the minority leader's hour, 32 minutes.

Mr. GONZALEZ. Mr. Speaker, it is a great honor again to appear before the House on this most important and weighty topic.

The nomination of Mr. Estrada means a great deal to all Americans, but especially to the minority communities. The President should be commended and applauded for seeking diversity in all departments, agencies and branches of government. To the extent that he actually accomplishes that is the true question that lies before us in the Miguel Estrada nomination.

I want to start off with, I guess, my understanding of how Federal judges gain their positions, which in many ways are the most powerful positions held by any public official. To start with, it is a lifetime appointment. There is no election, there is no review. That individual, once appointed, will remain there for an indefinite period of time.

Constitutionally, the President of the United States does have the authority, the duty and the responsibility to nominate individuals to the Federal bench, all the way up to the Supreme

Court of the United States. Constitutionally, though, that nomination, not the appointment, but the nomination itself, because there is never an appointment actually until the Senate acts, and that other body under the Constitution of the United States has the power to advise and consent, without which the nomination would not proceed to the appointment and finalization.

The scheme of things and the brilliance of our Founding Fathers as reflected in this document is all part of a checks and balances scheme. That is, we have three equal branches of government. We have the legislative branch, obviously, the executive branch and the judicial branch.

Many will argue which is the most powerful of all those branches. My own opinion is that it is the judicial branch. The reason I say that is, in the final analysis, they actually interpret the laws that we pass in this Chamber. They actually interpret the laws that we pass in this Congress, and they apply the law.

So the very will of the people as expressed through their elected representatives could be frustrated by a judicial branch that did not give life and meaning and substance to what we do in the legislative branch. The executive branch proposes, obviously, and leads in great measure, and then we obviously will legislate. But none of it will ever bear fruit without the judicial branch.

It is one of the most important duties that the legislative branch has as part of the checks and balances system to review these nominees. My colleague from California, I think, put it very well, it is a job interview. It a little more sophisticated. There is pomp and circumstance, it is ceremonial in nature, but that particular hearing really is a job interview. The advise and consent function is a job interview, no more and no less. Important, yes.

There is an individual who, for whatever reason, seeks this nomination and appointment. It seems only fair that those qualifications of that individual will be subject to scrutiny. So we will have a formal hearing in the other Chamber.

It is so important that anyone appearing in this process that will subject himself or herself to that process be forthcoming. You ask, well, what is relevant, what would be relevant that one would ask someone who aspires to put on those black robes and interpret and apply the laws of the United States, statutory and constitutional?

You can have a good faith disagreement as to what might be appropriate or not, but we have not had that debate. No one has really said that the questions posed to Miguel Estrada are inappropriate. No one has said that these questions should not be answered. They have not been answered, but no one has said these are not relevant to judging this individual's qualifications to hold this particular