

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 pro-

ceed 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.

[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 from 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 thought 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 ideological; 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