

of that discussion, but even in that context, we need to consider the ongoing costs of rebuilding Iraq in the aftermath of a war, presuming that war goes the way we expect, presuming that it is relatively short in nature.

Even yesterday's estimate of \$60 billion to \$95 billion that we read about in the papers included only 1 year of reconstruction costs—1 year—when almost every expert I have heard come before the Foreign Relations Committee has talked about a decade, maybe a little bit more, but a very long-term program. By the way, all we have to do is think about Korea. We are still in Korea 53 years after a war on that peninsula.

The administration should play it straight with everyone about the costs we are going to face, just as we ought to play it straight with regard to our budget, with regard to tax cuts. In my view, we need to talk straight so we can build up the trust of the American people and those who watch us around the world. Trust does matter. It is important. That is what we are asking corporate America to do, to clean up its act. That is why we want accounting statements that are true. I think people expect to truly understand what the nature of the current situation is as we go forward.

Actually there is a serious credibility problem that is causing us problems abroad as well. I think whether or not we are believed by some of the populations abroad is reflected in how much opposition we have seen from a lot of countries, not just in their political establishment but by literally millions of people who have shown up, probably most clearly in Great Britain, which has been our strongest supporter with regard to the Iraqi situation. The population is someplace else. Why is it we are not able to make our case clear?

I think part of this comes from credibility in how we frame these issues, how the information has been brought forward. All one has to do is look at what is going on in the economy to bring about some credibility questions, when we get on to some of these issues of national security.

In this context, let me return to the issue of the nomination of Miguel Estrada. As with many of the claims about the Bush budget, too many of the claims from the other side on this issue simply lack credibility. One of those—probably the most irritating—is the claim that somehow those who oppose the Estrada nomination, or at least would like to have information to prepare ourselves for a vote, are somehow anti-Hispanic.

Does that suggest that groups such as the Congressional Hispanic Caucus, the National Association of Latino Elected and Appointed Officials, the Mexican American Legal Defense and Education Fund, the National Puerto Rican Coalition are anti-Hispanic? I do not get it.

We are making a judgment about how the constitutional process is sup-

posed to work, not talking about whether or not someone is qualified or disqualified because of ethnic background. As far as I am concerned, these kinds of demagogic attacks on Hispanic groups and those who show common cause with them lack credibility. The facts do not meet the circumstance, and they are part of an attempt to intimidate opponents of Mr. Estrada's nomination to stay silent in fulfilling our rightful and responsible position of advice and consent in selecting judges for lifetime appointments to the courts of our country.

It is not going to work, and one reason it is not going to work is the American people expect us to do our job—it is very simple—just as they expect us to pay attention to the economy and do those things that will get us flat off our back and get the economy moving. These things really are common sense, in my view. We are spending weeks upon weeks debating whether one individual is appropriate for a job because many of us do not understand what his views are, and he is unwilling to answer questions, unwilling to have a job interview, and we are forgetting about the 2½ million private sector jobs that we have lost and the 8 million-plus people who are searching for a job. One job versus 8 million.

I have a very hard time understanding where those priorities come out. What is more important to the American people?

A couple of days ago, I asked the distinguished Democratic leader about some conversations he had with the Governors who have been around town from both sides of the aisle. We have all met with them. We have sympathized with some of their needs. I asked if one single Governor lobbied the leader about the Estrada nomination, either to move it on or take it off, or what is happening. Not a single one spoke to the distinguished leader about that nomination.

It should not surprise anyone that our Nation's Governors are more concerned about the economy and the terrible fiscal crisis they face, and here we are talking about this one individual who has been nominated for this one seat on the Court of Appeals for the District of Columbia.

I know from my conversations with people in New Jersey that they feel the same way, and I am sure Americans across America agree. Why is the Senate spending all this time worrying about this one job—I do not get it—while we ignore the millions of Americans who have lost their jobs? We see the consumer confidence falling off the charts. We see our stock market reeling. We see the dollar declining. We are not paying attention to the real things that people are concerned about that make a difference to their lives, their kids' lives, their families' lives. This Estrada nomination is not the priority of the American people, and I do not think it is the priority of my Democratic colleagues.

In a moment, I am going to make a unanimous consent request that we at long last make the economy our top priority. I am going to ask that at least for now we move off the Estrada nomination, as we have done for other concerns—we have passed the omnibus appropriations bill. We were able to take up the child pornography issue this week. We ought to focus on our economy.

The bill for which I will ask unanimous consent was proposed by the distinguished Democratic leader. It includes, among other things, middle-class tax cuts, aid to the States, an expansion of benefits for unemployed Americans, those 100,000 people a week who are dropping off the unemployment rolls right now, and establish rules to restore long-term fiscal discipline and health in our economy.

I recognize my colleagues on the other side of the aisle are not likely to agree to this proposal, but as Democrats continue to emphasize the importance of dealing with our economy, I hope someone on the other side will begin to question the decision to spend days upon days and weeks upon weeks on the nomination of this one individual. I hope they will come to appreciate that there is little time to waste when it comes to boosting our economy and taking care of America's families and getting on to the priority of creating jobs for Americans. I hope they will adapt their priorities, the priorities of the Senate, to those of the American people, which is jobs and economic security.

UNANIMOUS CONSENT REQUEST

I ask unanimous consent that the pending nomination be set aside and that the Senate take up and begin debate on Calendar No. 21, S. 414, a bill to provide an immediate stimulus to our Nation's economy.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Nevada.

Mr. ENSIGN. Reserving the right to object, the way to resolve the nomination is to schedule an up-or-down vote.

I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

The Senator from New Jersey has the floor.

Mr. CORZINE. With full expectation and understanding of the position, I am disappointed with the objection that has been raised, but I am not surprised. We have a critical need to get focused on our economy in this country. The needs of the American people are not being addressed. It is not because we are having this debate. We could move off this debate and move to the economy today, then come back to it like we did with regard to the omnibus appropriations.

The American people should know there are proposals on the table that would stimulate this economy and get it moving, instead of seeing unemployment rates skyrocket, instead of seeing deficits as far as the eye can see being

put in place, with no attention being drawn to them, without dealing with the core things that matter in families' lives, in real people's lives. We could do that and still come back to this and have a full constitutional and responsible debate about what is needed to review a candidate and get on with the real needs facing our country.

I find it very difficult to understand where we are with regard to a lot of these priorities at this point in time, and I hope we will see the light before we have to go further with more of these serious problems that our American families face with their economic security.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ENSIGN. 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. ENSIGN. Mr. President, it is my pleasure today to come before the Senate to lend my support to a man of tremendous character and extraordinary legal credentials, Mr. Miguel Estrada. We have heard a lot about this nominee. We have heard a lot about why we should be focusing, why we shouldn't. As I discussed before, I would like to see us get on to things like the economy, like the budget. The simplest way to do that is to have an up-or-down vote on Miguel Estrada.

I will share a few facts about Mr. Estrada and the importance of the nomination to our legal system. Mr. Estrada is an American success story. He came to this country at the age of 17 as an immigrant from Honduras, speaking very little English. He overcame amazing obstacles to rise to the top of the legal profession. After graduating magna cum laude from Harvard Law School, Miguel became a law clerk to the Supreme Court Justice Anthony Kennedy. Since that time, he served as a Federal prosecutor in New York and Assistant Solicitor General of the United States for 1 year in the Bush Administration and 4 years in the Clinton administration. He was handed nothing, and his achievements are the product of hard work, perseverance, and a commitment to education. He is actually living the American dream.

Among other accomplishments, Mr. Estrada has argued 15 cases before the Supreme Court of the United States, including one case in which he represented a death row inmate pro bono. The American Bar Association unanimously rated Mr. Estrada as well qualified for the DC Circuit. This is the ABA's highest possible rating, and the rating typically used as the gold standard for judicial nominees in the Senate Judiciary Committee, especially on the Democrat side.

Mr. Estrada served as a member of the Solicitor General's Office in both

the Bush and Clinton administrations. He is enthusiastically supported by both President Bush and President Clinton. The long list of Hispanic groups backing Miguel Estrada's nomination includes the League of United Latin American Citizens, the U.S. Hispanic Chamber of Commerce, the Latino Coalition, the Hispanic Bar Association, and the National Association of Small Disadvantaged Businesses.

Sadly, Mr. Estrada's extraordinary accomplishments and his desire to serve our country have not been enough to protect him from the baseless, vicious, and partisan attacks he has endured through this process. Now is not the time to play partisan games with the United States judicial system. America is facing a judicial vacancy crisis in our Federal courts. The U.S. Courts of Appeals are currently 15 percent vacant, with 25 vacancies out of 167 authorized seats. The DC court, which is the court we are trying to get Miguel Estrada onto, has four vacancies on a 12-judge court.

Adding to this crisis, caseloads in the Federal courts continue to grow dramatically. Filings in the Federal appeals court reached an all-time high last year. The Chief Justice recently warned that the current number of vacancies, combined with the rising caseloads, threatens the proper functioning of the Federal courts. He has asked the Senate to provide every nominee with a prompt up-or-down vote.

Chief Rehnquist is right. Every judicial nominee deserves a prompt hearing and a chance at an up-or-down vote on the Senate floor. This nominee is not being assessed by the traditional standards of quality or by his ability to follow the law as a judge. There is no question that this nomination is being delayed and possibly blocked because of a distorted analysis of his qualifications, policies, and personal views. My colleagues on the other side of the aisle are blocking this nomination simply because he is President Bush's nominee. This is a detriment to the integrity of this body. It is unfair to the nominee. And it is unfair to the American people.

I am asking my colleagues in the Senate today to do what we were elected to do, to allow this body to work its will, and to give Mr. Estrada the up-or-down vote he deserves. I add that the precedent we are setting, this 60-vote threshold for circuit court nominees, is a dangerous precedent. Right now the Republicans are in the majority and we have the Presidency. At some point the Democrats are going to be back in the majority. At some point the Democrats are going to hold the Presidency again. Paybacks are very ugly. But make no mistake about it, with the precedent being set here, unless this can be worked out, those paybacks will come back to haunt the other side of the aisle.

It is vitally important we work this out for the health of the judiciary in this country. It should not become a

political tool to be bandied about just because somebody thinks that somebody may have a particular ideology.

We realize that having a Republican Hispanic on the DC Circuit Court of Appeals is something the other side does not like.

But just because they don't like the politics of that does not mean that they should object to him getting on the court. He deserves this. He is qualified for it. He has the integrity to carry it out. And we, as a body, should give this man an up-or-down vote. If we give him an up-or-down vote he will be confirmed by the Senate.

I believe it is our constitutional duty to give him an up-or-down vote. He has had all the hearings he needs to have. We have been doing this for almost 2 years now. We need to give this well-qualified candidate the vote he deserves.

I want to raise a couple of points. The Senator from New Jersey was talking about the economy. He says we have to get on the economy. I agree, we need to take care of the economy. I have some proposals. The President has some proposals. There are going to be other Senators who will have proposals to try to stimulate the economy. The Senator from New Jersey indicated he doesn't think what the President is doing is going to have enough of an impact. I have a proposal that actually, the first year alone, according to the Joint Tax Committee, will bring \$135 billion worth of investment into this country. I hope the other side of the aisle is going to join us in that. That is significant even in the size economy that we have.

What the President has laid out as part of his plan—I don't agree with all of it, but there are some good things in it. He has laid out a plan, not only for this year but for solid growth and, in future years, to have good, solid, long-term fiscal policy and long-term growth.

I agree with some of the things the other side of the aisle is talking about with respect to budget deficits. We do have a problem in the outyears with budget deficits. But if we do not fix the economy, we know we will never fix the deficits. We will continue to go further and further into debt. That is why it is critical for us to fix the economy, so we produce more tax revenues so we don't have these huge deficits and threats to Medicare and threats to Social Security and threats to our defense spending in the future.

We have proven here in Washington, DC, we can't cut spending. We can maybe slow down the rate of growth sometimes, but we can't cut spending. As Ronald Reagan talked about—I don't remember the exact quote, but as he said in the early 1980s: The best way to eternal life is to become a Federal agency or department in Washington. He said that because he realized once a program starts, it develops a constituency and it is impossible to cut it. So I believe if the other side is concerned

about the deficit, they should join some of us on this side of the aisle and start cutting out some of the waste and overspending in certain parts of our Government.

Having said that, let me conclude by saying let's have an up-or-down vote on Miguel Estrada so we can get on to some of the other important issues. Make no mistake about it, though; the judiciary and this part of what we do is a very important part of our role as Senators in fulfilling our obligation, our oath of obligation to defend and support the Constitution. We can get on to other things. The budget was not enacted last year. For the first time since 1974 we did not have a budget. Because of that, we ended up with some serious problems last year. The appropriations bills didn't get finished until just a couple of weeks ago.

We are asking the other side to not continue to obstruct the will and the work of this body, to join us, have an up-or-down vote, let the Senate work its will on this nomination so we can get on to other important business of the country. We have a lot of things to do. Let's join together. Let's work across the aisle. Let's join hands. There are a lot of good things we can do for the American people.

I yield the floor.

THE PRESIDING OFFICER (Mr. BUNNING). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I rise to express my great dismay at the policy of the President of the United States that he seems to be attempting to impose on the Senate, which would require each and every one of us in this body to betray the Constitution, to betray our oath of office, and to ignore the constitutional mandate that we give meaningful advice and consent on judicial nominees coming before this body.

I will never betray the Constitution and my oath. I don't care whether we have to be here night after night. I am not going to go down that road. I speak as a Senator who has voted in favor of somewhere in the range of 100 judicial nominees that President Bush has sent to this body, virtually all conservative Republicans. I wish it were different. I wish there were more progressive judges before us. But I understand the President's prerogative, and I respect his right to nominate whomever he may wish.

But this nomination before us is unprecedented. It is not only a matter of Mr. Estrada, it is a matter of the sanctity of our Constitution. It goes to the very oath of office we have taken. It would make a travesty of this body and of the Constitution for us to do otherwise than to object to the manner in which this particular nominee has been presented to the Senate.

The other nominees who have come before this body—for whom I have voted over and over again, somewhere in the range of 100 already—we at least knew what was their legal philosophy. They tended to be conservative Repub-

licans and that is the President's prerogative and I voted for them, but they had either been Federal judges or State judges, allowing us to look at their rulings in the past, or they had been legal scholars with a significant body of work that allowed us to view what the inner workings of their minds were and allowed us to determine whether they were, in fact, within the mainstream of American jurisprudential thought. This nominee stands unique. The precedent would be catastrophic to our Republic if we start, for the first time ever, to approve secret judges, stealth judges, judges who have no record and who will disclose no record to the Senate.

We have no way of knowing what this individual's legal philosophy might be. We have reason to believe he is undoubtedly a capable lawyer, in terms of his technical skills as a Solicitor, but we have no idea where he stands otherwise. The question is not whether we will have Hispanic Republican judges on the District of Columbia Court of Appeals. That is irrelevant. I voted repeatedly, as have my colleagues on my side of the aisle, for Hispanic judges and other high officials in our Government. I am proud to have played a role in supporting our Hispanic colleagues in issue after issue, and position after position. But this, this is a sham. This is a travesty. I believe any Senator who thinks seriously about his oath and reads the Constitution, the obligation—not the right but the obligation of the Senate to provide advice and consent on these offices is a profoundly important role.

It is one thing to approve or not approve Cabinet appointees and other advisers to the President; they come and they go. It is a serious matter, but at least there is not a lifelong appointment involved. In this case, we have a lifetime appointment to the second highest court in the land. What is worse, if we submit to this failure to abide by our constitutional obligations to make a meaningful decision about advice and consent, we will have opened the floodgate because it will become apparent to this President that the strategy to use from here on out is to continue to find individuals who have no track record, who may have a secret ideological agenda, and to send them one after another through the Senate to be rubberstamped by this institution. That is not acceptable. This is a matter of enormous importance.

These individuals, and this particular individual about whom we are debating today, if confirmed, will likely serve on this bench for the rest of our lifetimes, for many of us in this body. President Bush may come and he may go, but these appointments will last a lifetime.

So it is with enormous concern that I rise to express my opposition to this strategy because that is what this is about. It is about a strategy. It is not about whether a Hispanic Republican should be on the bench. It is not about whether a conservative should be on

the bench, so long as they fall within the mainstream of American jurisprudential thought. The question is, Should this Senate be allowed any idea about this individual's ideology, about his legal philosophy? There we know nothing. We would be surrendering our constitutional prerogatives and our constitutional obligations were we to respond any other way than we have attempted to do on this side. Obviously, we can move on to other agenda items, whether it be stimulating the economy, education, health care, or what have you. All that is required is for leadership of our colleagues on the other side of the aisle in support of the President to either withdraw this nominee or to have him respond to reasonable questions about his philosophy. There is no effort here to require this individual to answer questions that have not been put to other judges. The question is not his response to specific items before the Court. It would be inappropriate to ask those kinds of questions. But this is astonishing. This is stonewalling. That is what this is. It is unacceptable.

Again, over 100 judges that President Bush has nominated have been confirmed by this body, and most have gone through with my support. Most of them were conservative Republican judges. That is fine. But this is different. I hope the American public understands the profound consequences that would flow from our surrendering of our constitutional obligation to at least make meaningful decisions about whether to confirm a particular nominee.

THE BUDGET

Mr. President, I also want to express my great frustration and my great sadness in many ways over priorities that President Bush has recently exhibited relative to our young men and women in uniform and the likely war we are about to embark upon.

Americans all across this country, including my wife and myself, are about to send our finest young men and young women into harm's way in the Iraq region. We can debate the wisdom of that. But that is the reality. I think we all see this coming. We can take great pride in these men and women in uniform, the courage they show, and their commitment to America. They are asking for so little and, yet, they are willing to do whatever is required of our American military. They are the greatest military ever fielded in terms of the sophistication of technology they deal with and the requirements they meet.

But while we put this military together and send them on their way with flags flying and salutes and the prayers of all of us, the President simultaneously has recommended now in his 2004 budget recommendation that we cut impact aid education funding for the children of these very troops who we are sending into war. Is it because we can't afford to finance quality