Is the action I take if the Senate were to pass my bill and were it to become law actionable at the WTO? Absolutely, and it ought to be to test whether what we have done is appropriate or whether, in fact, what Korea is doing at this moment is illegal, as I believe it is, and as I think the world marketplace would believe and the World Trade Organization.

Once again, the ITC is reviewing this. We hope by late March that decision will be out there. The European Union is already reviewing Hynix. I am told they are finding them in violation. Why should American workers, Idaho workers, a great American company, one of the great American success stories, have to shut itself down and put itself in financial stress because it is being dumped on in a world market?

Those are the problems we face. That is why I have introduced the legislation. My colleague, Senator CRAPO, has introduced a resolution and has spoken to it. On the House side, Congressman BUTCH OTTER speaks to it. Clearly, Idaho and Idaho's economy will take a tremendous hit because the Koreans are illegally playing the world trade game, heavily subsidized by their banks and by their government.

I yield the floor.

The PRESIDING OFFICER. Under the previous unanimous consent, the Senator from New Mexico is recognized for 5 minutes.

The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that I be given 1 minute. I do have the approval of the distinguished Senator from New Mexico.

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

Mr. HATCH. Mr. President, I compliment my colleague from Idaho. He has called it exactly the way it is. What is going on is a matter of unfair competition. It is a matter of improper governmental subsidization in competition with a company that is doing it all without government subsidization. I personally thank him for his good remarks; I agree with them and I would like to be associated with them.

Mr. CRAIG. I thank my colleague.

The PRESIDING OFFICER. The Senator from New Mexico.

LACK OF SPR POLICY

Mr. BINGAMAN. Mr. President, I appreciate the chance to speak for a few minutes about the Strategic Petroleum Reserve and the lack of action by the administration to deal with the problems we see in our oil markets today. What we are seeing by the administration is not bad policy, as such. What it is is a lack of policy for how we will use the Strategic Petroleum Reserve at a critical time such as the one we are in today. This indecision, this failure to articulate a policy, is hurting consumers and it is hurting our economy.

We have an oil supply crisis on our hands right now. Oil prices hit $40 a barrel last week. Domestic crude and product stocks are at an all-time low and oil prices are now hovering at levels that we have not seen since the gulf war. High energy prices such as this do hurt consumers and the economy. The question is, What has the administration done to minimize this economic pain that Americans are feeling?

The average consumer may not know what the price of oil is on a daily basis, but the average consumer does know the price of gasoline at the pump, and American consumers have had to bear the brunt of several weeks of very high gasoline prices while Saudi Arabia has been ramping up their production to maintain, if not to increase, their market share.

I do not know the connection between our national policy and Saudi Arabia's maintenance of market share. That has not been explained to me. But last fall, after the elections, when crude supply was first impacted and prices began to rise, the administration was urged to act to do a test sale of the Strategic Petroleum Reserve oil by several oil analysts.

A Strategic Petroleum Reserve release on this small scale would have been appropriate then. It would have been a simple statement outlining the administration's SPR policy, and it would have helped to calm jittery markets, which is certainly what we have seen in recent days and weeks. The situation we now face, in which the curtailment of oil supplies is hurting our national economic security, is precisely what we foresaw when Congress created the Strategic Petroleum Reserve. The curtailment has been months in the making. The current crisis in Venezuela has pushed the supply situation to a level that is beyond ''severe''.

The Strategic Petroleum Reserve was established in 1975, in direct response to the Arab oil embargo. Today, the Strategic Petroleum Reserve contains a total of 599.3 million barrels, almost 60 days' worth of imports. When this body considered the Omnibus Appropriations Act for 2003, I offered an amendment to extend our authority to use the SPR. That authority was set to expire later this year. I am pleased that the Senate adopted that provision and that as a result we have another 5 years of authority during which we can use SPR as a response to oil supply crises.

However, the authority was enacted for a reason. There is a supply problem. We have known this for some time now. In December, 3 million barrels of Venezuelan crude came off the market altogether. This has had a larger supply impact than removing all Iraqi crude will have under a war scenario, which we all, I believe, consider to be very likely.

Prior to December 2002, Venezuela was one of the world's five largest oil exporters. Its net exports averaged 2.4 million barrels per day. During the first 9 months of 2002, oil from Venezuela supplied approximately 14 percent of U.S. net oil imports, or about 1.5 million barrels per day.

The United States depends on Venezuela for substantial volumes of gasoline imports as well as oil imports. A 10-week general strike in Venezuela has resulted in a sharp decrease in Venezuela's exports to the United States. The strike comes at a time when markets are already tight.

On Tuesday, in the Committee on Energy and Natural Resources, we heard testimony from the Secretary of Energy that everything was getting better in Venezuela, that the crisis was passing. Recent events, though, suggest that this may not be the case. A key factor in the uncertainty that is keeping prices up is the uncertainty surrounding the administration's intentions about using the SPR. A clear statement from the administration of the conditions under which oil would be released from the SPR would have an immediate effect on lowering oil prices.

A cryptic phrase that is used by the administration is that they would release oil from the SPR only in the case of ''a severe supply disruption.'' But since the administration will not elaborate on what a severe supply disruption entails, the suspicion is that they will never release oil from SPR absent an all out war in the Persian Gulf that involves major damage to Saudi oilfields. For that reason, the psychology of the market largely discounts the existence of the Strategic Petroleum Reserve at this time, and consumers are paying all-time high prices at the pump.

Gas prices have risen more than 30 cents a gallon since December. Gas prices are high in part because our crude stocks are down. We are operating at minimum operating levels in the refining sector. With high crude prices, increased refining output means even higher prices at the pump.

Demand for gasoline is high as we head into the driving season. Since most spare capacity in the market is in the Middle East, it is going to take awhile to get the oil we need. It does not take much to send prices spiking again. Cold weather can do it. Disruption in supply from Venezuela or Nigeria could do it. War in the gulf could do it.

My colleagues have listened to many speeches over the last year bemoaning the fact we do not have an energy policy. I am not going to ask that we come to closure today on a universal, all-encompassing, comprehensive energy policy. I would settle for a single action by the administration. That would be a clearly enunciated and understandable policy for when we will use the Strategic Petroleum Reserve.

The administration may be sufficiently captive to a minimalist ideology in dealing with this oil crisis, that they never actually plan to use the Strategic Petroleum Reserve, and I hope very much that is not the case.

I call on the President to give us a clear and understandable signal as to what his policy is. Merely saying we

will wait for a severe supply disruption is not an adequate response. Consumers deserve more. The costs to our economy may become unacceptable. It certainly is a severe issue weighing down our economy at the present time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MEASURE PLACED ON CALENDAR—H.R. 534

Mr. HATCH. Mr. President, as in legislative session, I understand H.R. 534 is at the desk and is due for its second reading.

The PRESIDING OFFICER. The Senator is correct.

The clerk will read the title of the bill for the second time.

The assistant legislative clerk read as follows:

A bill (H.R. 534) to amend title 18, United States Code, to prohibit human cloning.

Mr. HATCH. I object to further proceeding.

The PRESIDING OFFICER. The objection having been heard, the bill will be placed on the calendar.

Mr. HATCH. Mr. President, I ask we now go back into executive session.

The PRESIDENT pro tempore. The Senate is in executive session.

Mr. HATCH. Mr. President, it has now been nearly 4 weeks since we began debating the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit. We have heard all of the arguments for and against his nomination. What we have not heard is a good reason why this filibuster should continue. We have not heard any good reason why his nomination should not be brought for an up or down vote.

One of the reasons that some of my Democratic colleagues say they oppose Mr. Estrada is because he allegedly did not answer their questions at his hearing. I do find this complaint unpersuasive, particularly given that (1) the hearing was chaired by a Democratic Senator, (2) the hearing lasted all day, (3) Mr. Estrada answered question after question on a broad variety of topics, and (4) every committee member had the right to ask Mr. Estrada follow-up questions in writing but only two did.

Nevertheless, in a letter dated last Thursday, February 27, 2003, White House Counsel Alberto Gonzales sent a letter to all 100 Senators directing them to additional sources of information on Miguel Estrada. This is an important letter, and I will take a moment to read the letter:

DEAR SENATOR FRIST, SENATOR DASCHLE, SENATOR HATCH, AND SENATOR LEAHY: I write in connection with the nomination of Miguel Estrada. Some Democrat Senators have indicated that they would like to know more about Mr. Estrada's record before a vote occurs. As I stated in my letter of February 12 to Senator Daschle and Senator Leahy, we believe that the Senate has had sufficient time and possesses sufficient information to vote on Miguel Estrada. More important, a majority of Senators have indicated that they posses sufficient information and would vote to confirm him.

But if some Senators believe they must have more information before they will end the filibuster of this nomination, we respectfully suggest that there are three different and important sources of information that have been and remain available and that would appropriately accommodate the request for additional information. We ask that you encourage interested Senators to avail themselves of these sources as soon as possible.

First, as I have written to you previously, individual Senators who wish to meet with Miguel Estrada may and should do so immediately. We continue to believe that such meetings could be very useful to Senators who wish to learn more about Mr. Estrada's record and character.

Second, Senators who have additional questions for Mr. Estrada should immediately pose such questions in writing to him. We propose that additional questions (in a reasonable number) be submitted in writing to Mr. Estrada by Friday, February 28. Mr. Estrada would endeavor to answer such questions in writing by Tuesday, March 4. He would answer the questions forthrightly, appropriately, and in a manner consistent with the traditional practice and obligations of judicial nominees, as he has before.

Third, Senators who wish to know more about Mr. Estrada's performance and approach when working in the United States Government—and, in particular, how that relates to his possible future performance as a Circuit Judge—should immediately ask in writing for the views of the Solicitors General, United States Attorney, and Judges for whom Mr. Estrada worked and ask them to respond by Tuesday, March 4. In particular, interested Senators could immediately send a joint letter to each of the following individuals for whom Mr. Estrada has worked in the United States Government: Judge Amalya Kearse, Justice Anthony Kennedy, former United States Attorney Otto Obermaier, former Solicitor General Ken Starr, former Solicitor General Drew Days, former Solicitor General Walter Dellinger, and former Solicitor General Seth Waxman. In our judgment, these men and women could provide their views on Mr. Estrada's background and suitability to be a Circuit Judge by March 4 without sacrificing the integrity of the decisionmaking processes of the Judiciary, United States Attorney's office, and Solicitor General officer. And their views could assist Senators who seek more information about Mr. Estrada.

We believe that these sources of information, which have been available for some time, would readily accommodate the desire for additional information expressed by some Senators who have thus far supported the filibuster of a vote on this nominee. We ask that you encourage Senators who have objected to the scheduling of a vote to avail themselves of these sources of information. And we respectfully ask that the Senate vote up or down as soon as possible on Mr. Estrada's nomination, which has been pending for nearly two years.

Please do not hesitate to contact me with any questions.

Sincerely,

ALBERTO R. GONZALES,
Counsel to the President.

Mr. HATCH. As far as I know, none of the Senators who have sought more information about Mr. Estrada have availed themselves of any of these sources. This brings to mind the story of the young man who killed both his parents, then threw himself on the mercy of the court because he was an orphan. Here, my Democratic colleagues who are complaining the loudest about not having enough information about Mr. Estrada are the very ones who are apparently not interested in finding out more about him through readily available means. Meanwhile, the filibuster goes on and on.

Another significant letter was circulated on Wednesday of last week, this one signed by more than 50 of our colleagues in the House. This, too, is a powerful letter. Let me read the letter:

WASHINGTON, DC,
February 26, 2003.

Senator TOM DASCHLE,
Senator HARRY REID,
Senator PATRICK LEAHY,
U.S. Senate, Washington, DC.

DEAR SENATORS: It is our understanding that the major objection raised by the Senate Democratic Leadership and many members of the Senate Democratic Caucus to the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit is that you have not been provided sufficient information about his legal views. Specifically, we understand that you are opposing his nomination because of the Administration's failure to provide you with internal memoranda prepared by Mr. Estrada while he served as Assistant to the Solicitor General.

We are deeply concerned that your objection to the Administration's refusal to produce these memoranda not only breaks with precedent but is also a threat to the ability of Executive Branch Officials, members of the Judiciary, and Members of Congress to receive confidential legal advice.

As you are no doubt aware, the Clinton Administration memoranda you are requesting in the case of Mr. Estrada were not requested for the seven previous nominees to the Courts of Appeals who had worked in the Solicitor General's office. Understandably, the improper appearance of a double standard for this particular nominee has been created. In addition, every living former Solicitor General—Democrat and Republican—signed a joint letter to the Senate Judiciary Committee, stating that the memoranda request would have a debilitating effect on the ability of the Department of Justice to represent the United States before the Supreme Court.

Forcing the disclosure of confidential memoranda in this instance would do serious institutional harm to all three branches of government. For example, should legal memoranda prepared for you by one of your staff be available for review by future senators (or by the Administration) in the event that the staff member were to be nominated or be considered to a judicial or other post? This appears to be the precedent you are attempting to set. As we trust you understand, such a precedent would no doubt impact the type and quality of advice we seek and receive from our staff.

We strongly urge you to reconsider your objections and drop your request for the confidential memoranda of the Clinton Justice Department.

Mr. HATCH. Mr. President, I stood on the Senate floor last week when the debate on Mr. Estrada's nomination entered its third week, and I said that there is a simple solution to the logjam

that has become the Senate. It is a straightforward solution that does not require the release of confidential memoranda or questionable claims that Mr. Estrada failed to answer questions before the committee. The solution is for Senators to vote on Mr. Estrada's nomination. Vote for him or vote against him; do what your conscience dictates. Just vote.

One reason I believe we are not voting, and the filibuster continues, is because our friends on the other side of the aisle know Mr. Estrada has enough votes to be confirmed to the Circuit Court of Appeals for the District of Columbia.

I have mentioned before that Mr. Estrada has a substantial and impressive record, despite the claims to the contrary of some of my Democratic colleagues.

One very substantial part of his record consists of the 15 cases he has argued before the United States Supreme Court. In each of these cases, a brief was filed that is publicly available for everyone and anyone to review. And in each of these cases, there is a transcript of Mr. Estrada's argument before Supreme Court.

The briefs and transcripts of each of Mr. Estrada's 15 Supreme Court cases are right here. As you can see, there is a very substantial record on Mr. Estrada. I invite any one of my Democratic colleagues who have not reviewed or acknowledged this record to do so. You can get a pretty good idea of the cases he argued, the reasoning he used, the legality that he cites, the law he applies—more than almost any other nominee for the Circuit Court of Appeals in the history of the country.

But in case any of my Democratic colleagues are finding themselves short on time these days—after all, perpetuating a filibuster does require a substantial amount of effort—I want to spend a few moments on the cases Mr. Estrada argued before the Supreme Court. A look at these cases and the significance of the legal issues argued in them should dispel any notion that Mr. Estrada has no record.

Let's start with the 1999 case of Strickler v. Greene, which Mr. Estrada argued pro bono on behalf of a death row inmate. He argued that the Commonwealth of Virginia violated the seminal Supreme Court case of Brady v. Maryland by withholding material exculpatory evidence. Although he spent hundreds of hours in his quest to overturn Tommy Lee Strickler's death sentence, he lost the case by a 7–2 margin.

In another case, Richards v. Wisconsin, Mr. Estrada argued on behalf of the United States as amicus curiae that it generally is reasonable for police officers who have a warrant to search a dwelling for evidence of drug trafficking, to enter the dwelling to execute the warrant without a prior announcement of their presence and purpose. A unanimous Supreme Court agreed with him; he won 9–0.

In the case of Old Chief v. United States, Mr. Estrada argued for the United States that the district court properly exercised its discretion, in a prosecution of a convicted felon for possession of a firearm, to admit evidence of the defendant's prior felony conviction even though the defendant offered to stipulate to that fact. He narrowly lost that case by a 5–4 margin.

The case of United States v. Gonzales dealt with 18 U.S.C. §924(c), which provides that ''[n]otwithstanding any other provision of law'' prison terms under the statute ''shall [not] run concurrently with any other terms of imprisonment.'' Mr. Estrada argued on behalf of the United States that a court may not order that a sentence imposed under §924(c) is to run concurrently with a State-law sentence that the defendant is already serving. He won this case 7–2.

In Montana v. Egelhoff, Mr. Estrada argued for the United States as amicus curiae that the Due Process Clause does not bar a State form preventing a jury in a criminal case from considering evidence of the defendant's voluntary intoxication in determining whether he possessed the mental state required for the crime charge. He won this case 5–4.

In Degen v. United States, Mr. Estrada argued for the United States that the district court had properly invoked the so-called fugitive disentitlement doctrine to bar the petitioner from contesting a civil forfeiture action. A unanimous Supreme Court ruled against him in this case, which, of course, just goes to show that you can't win them all.

Mr. Estrada did score a unanimous victory in Citizens Bank v. Strumph. In that case, Mr. Estrada argued on behalf of the United States as amicus curiae that a bank's temporary refusal to pay a debt upon the debtor's demand was not an exercise of its setoff right in violation of §326 of the Bankruptcy Code, which stays a creditor's right of setoff pending an orderly determination of the debtor's and creditor's rights.

The case of Reno v. Koray considered 18 U.S.C. §3585, which provides that a criminal defendant generally must ''be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences.'' Mr. Estrada argued for the United States that a Federal prisoner does not receive credit on his sentence for time he spent released on bail. He won this cases 8–1.

In United States v. Robertson, Mr. Estrada argued on behalf of the United States that the interstate movement of goods and people in connection with the operation of a gold mine is sufficient to justify the conclusion that the activities of the gold mine affect interstate commerce within the meaning of the RICO statute. He won this case 9–0.

In United States v. Mezzanatto, Mr. Estrada argued on behalf of the United States that the Government may use statements made in the course of plea discussions to impeach a criminal defendant's contrary testimony at trial, when the defendant and his counsel expressly agreed before those statements were made that the government would have the right to use them. He won this case 7–2.

In United States v. Alvarez-Sanchez, Mr. Estrada argued for the United States that a delay between a defendant's arrest on State narcotics charges and presentment to a Federal magistrate on subsequent Federal charges did not require suppression of an inculpatory statement to Federal agents that was made while defendant was in custody on the State charges. He won this case 9–0.

The case of Powell v. Nevada considered the rule of County of Riverside v. McLaughlin, which provides that a judicial probable cause determination must be made within 48 hours of a warrantless arrest. Mr. Estrada argued on behalf of the United States as amicus curiae that the rule did not apply retroactively. The Supreme Court ruled against his position 7–2.

In NOW v. Scheidler, Mr. Estrada argued on behalf of the United States as amicus curiae that RICO does not require proof that either the racketeering enterprise or the predicate acts of racketeering were motivated by an economic purpose. It just so happens that in this case, the defendant against whom Mr. Estrada argued was an abortion protestor, and Mr. Estrada argued on the same side as NOW. His position prevailed when an unanimous court agreed with him.

In Austin v. United States, Mr. Estrada argued for the United States that the Eighth Amendment's excessive fines clause does not apply to civil forfeiture proceedings. He lost this case 9–0.

Last but not least, in Deal v. United States, Mr. Estrada argued for the United States that a defendant who is convicted in a single proceeding of multiple violations of 18 U.S.C. §924(c) is not subject to the statute's provisions imposing a more severe sentence for a ''second or subsequent conviction.'' He won this case 6–3.

What these cases show, Mr. President, is that in 6 years Mr. Estrada compiled an impressive record before the Supreme Court. He argued 15 cases, winning 10 of them. In half of those cases, he won in a unanimous decision. There can be no question that Mr. Estrada has a record that anyone would be proud of by any standard.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. 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. HARKIN. Mr. President, there are a couple things I will speak about during this period of time: One, I do want to address myself to the issue now before us; that is, the issue of whether or not Miguel Estrada should proceed to the District of Columbia Circuit Court of Appeals. Then I will talk a little while about the events over the weekend as they pertain to the looming war in Iraq.

But as pertains to Mr. Estrada, as long as this person is in front of us on the floor of the Senate, as long as my good friend from Utah keeps taking the floor to ask for a vote on Mr. Estrada, this Senator will continue to take the floor to continue to remind my good friend from Utah of what happened to Bonnie Campbell under the Clinton administration when the Republicans controlled the Judiciary Committee.

My friend, the Senator from Utah said:

An up-or-down vote, that is all we ask. If the Democrats have enough votes to defeat Miguel Estrada, I am not going to complain about it. I might feel badly about it. I might think it is the wrong thing to do, but they have a right to do that. If my colleagues disagree, and don't like this, they can speak out, they can give their reasoning and vote no. Politics ought to be left out of it.

It is unfortunate we did not hear that when President Clinton's nominees were sent to the Senate for confirmation. In fact, I said the same thing as my friend from Utah said at the time on the nomination of Bonnie Campbell to serve on the Eighth Circuit. Bonnie Campbell is a former attorney general of the State of Iowa, an individual who, by all reckoning, did an outstanding job at the Department of Justice, heading the Office of Violence Against Women.

She was nominated by President Clinton to be on the Eighth Circuit, and we could not even get a vote on her. She received her hearing in May of 2000 and answered whatever questions were propounded to her. She stood willing to produce any and all documents she had ever written for anyone. No, not once did any Republican Senator complain that Bonnie Campbell was not forthcoming. In fact, I am told that not once did a Republican Senator complain that a Clinton nominee did not adequately answer these questions.

So here she was, ready to answer, ready to move on. The hearing was held. She had the ABA stamp of approval. As I said, she had a long and distinguished history in the field of law. There were Members on both sides of the aisle who supported her nomination. Both Senator GRASSLEY and I, from the State of Iowa, supported her nomination.

On September 21, 2000, I said right here:

If, for some reason, you think she is unqualified—I can't imagine why—then cast your vote, but at least let's bring the nominee to the floor. This, I think, is a black mark on the operations of the Senate, another indication of how the leadership of this Senate refuses to do the people's business, to let things come out on the floor so we can vote things up or down.

On October 3, 2000, I said:

It is clear who is playing politics with judgeships.

The Republican leadership of the Senate is playing the most bold-faced politics. It is not alleged these nominees are not qualified; it is simply they were nominated by a Democratic President. That is all.

I have not heard one person on the Republican side tell me that Bonnie Campbell is not qualified to be a circuit judge.

Then during the month of October 2000, I brought up Bonnie Campbell's nomination seven times on the floor. I asked unanimous consent to go to it on the executive calendar, and seven times the Republican majority objected.

My friend from Utah has talked about the Democrats' double standard. My first instinct is to call that laughable, but in reality, it is outrageous because so many extremely well-qualified Clinton nominees not only never got an up-or-down vote on the floor, they never got a vote on committee. In many cases, they didn't even get a hearing.

I mentioned this a week or so ago. My friend from Utah said Bonnie Campbell's nomination came too late in the last year of the last administration. Well, I know for a fact two of Senator KYL's district judges were nominated after Bonnie Campbell was nominated, and they were confirmed on October 3, 2000. In fact, I have a list of all the Clinton judicial nominees who were never allowed a vote. There were 79 who were not confirmed—31 circuit, 48 district. Fifty-nine were never even allowed a vote. Allen Snyder, DC Circuit, never given a vote by Republicans; Elena Kagen, DC Circuit, never given a vote by Republicans; Robert Cindrich, Third Circuit, never given a vote by Republicans. I will not read the whole list. There are 59 of them. But obviously one of those is Bonnie Campbell.

As long as Mr. Estrada is going to be here, I will keep reminding people of what they did to someone eminently well qualified who answered all the questions, was open to giving any writings, documents, or whatever anyone had asked of her. Yet she was stopped and wasn't even given a vote.

I ask unanimous consent to print in the RECORD a list of all the judicial nominees who were not confirmed that President Clinton nominated, with a list of how many were never even given a vote.

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

SEVENTY–NINE CLINTON JUDICIAL NOMINEES NOT CONFIRMED IN CONGRESS FIRST NOMINATED

(31 CIRCUIT/48 DISTRICT—59 OF THESE NEVER ALLOWED VOTES BY REPUBLICAN-CONTROLLED SENATE)

91 CIRCUIT COURT NOMINEES (22 BLOCKED FROM GETTING VOTE OR BEING CONFIRMED)

Merrick Garland, D.C. Circuit.

Allen Snyder, D.C. Circuit, never given a vote by Republicans/not confirmed.

Elena Kagen, D.C. Circuit, never given a vote by Republicans/not confirmed.

Robert Cindrich, 3rd Circuit, never given a vote by Republicans/not confirmed.

Stephen Orlofsky, 3rd Circuit, never given a vote by Republicans/not confirmed.

Robert Raymar, 3rd Circuit, never given a vote by Republicans/not confirmed.

James Beatty, 4th Circuit, never given a vote by Republicans/not confirmed.

Andre Davis, 4th Circuit, never given a vote by Republicans/not confirmed.

Elizabeth Gibson, 4th Circuit, never given a vote by Republicans/not confirmed.

Roger Gregory, 4th Circuit, never given a vote by Republicans/confirmed '01.

J. Rich Leonard, 4th Circuit, never given a vote by Republicans/not confirmed.

James Wynn, 4th Circuit, never given a vote by Republicans/not confirmed.

H. Alston Johnson, 5th Circuit, never given a vote by Republicans/not confirmed.

Enrique Moreno, 5th Circuit, never given a vote by Republicans/not confirmed.

Jorge Rangel, 5th Circuit, never given a vote by Republicans/not confirmed.

Eric Clay, 6th Circuit.

Kent Markus, 6th Circuit, never given a vote by Republicans/not confirmed.

Kathleen McCree Lewis, 6th Circuit, never given a vote by Republicans/not confirmed.

Helene White, 6th Circuit, never given a vote by Republicans/not confirmed.

Bonnie Campbell, 8th Circuit, never given a vote by Republicans/not confirmed.

Marsha Berzon, 9th Circuit.

James Duffy, 9th Circuit, never given a vote by Republicans/not confirmed.

William Fletcher, 9th Circuit.

Barry Goode, 9th Circuit, never given a vote by Republicans/not confirmed.

Ronald Gould, 9th Circuit.

Margaret McKeown, 9th Circuit.

Richard Paez, 9th Circuit.

Christine Arguello, 10th Circuit, never given a vote by Republicans/not confirmed.

James Lyons, 10th Circuit, never given a vote by Republicans/not confirmed.

Timothy Dyk, Fed. Circuit.

Arthur Gajarsa, Fed. Circuit.

(Helene White waited more than 1,500 days, never to be allowed a hearing or a vote.)

(Richard Paez waited more than 1,500 days to be confirmed.)

48 DISTRICT COURT NOMINEES (37 BLOCKED FROM GETTING VOTE OR BEING CONFIRMED)

Steven Achelpohl, District Court, never given a vote by Republicans/not confirmed.

Ann Aiken, District Court.

Richard Anderson, District Court, never given a vote by Republicans/not confirmed.

Joseph Bataillon, District Court, never given a vote by Republicans/not confirmed.

Steven Bell, District Court, never given a vote by Republicans/not confirmed.

John Bingler, District Court, never given a vote by Republicans/not confirmed.

David Cercone, District Court, never given a vote by Republicans/confirmed '02.

Patricia Coan, District Court, never given a vote by Republicans/not confirmed.

Jeffrey Colman, District Court, never given a vote by Republicans/not confirmed.

Valerie Couch, District Court, never given a vote by Republicans/not confirmed.

Legrome Davis, District Court, never given a vote by Republicans/ confirmed '02.

Rhonda Fields, District Court, never given a vote by Republicans/not confirmed.

S. David Fineman, District Court, never given a vote by Republicans/not confirmed.

Robert Freedberg, District Court, never given a vote by Republicans/not confirmed.

Dolly Gee, District Court, never given a vote by Republicans/not confirmed.

Melvin Hall, District Court, never given a vote by Republicans/not confirmed.
William Hibbler, District Court.
Faith Hochberg, District Court, never given a vote by Republicans/not confirmed.
Marian Johnston, District Court, never given a vote by Republicans/not confirmed.
Richard Lazzara, District Court, never given a vote by Republicans/not confirmed.
J. Rich Leonard, District Court, never given a vote by Republicans/not confirmed.
Stephen Lieberman, District Court, never given a vote by Republicans/not confirmed.
Matthew Kennelly, District Court.
James Klein, District Court, never given a vote by Republicans/not confirmed.
John Lim, District Court, never given a vote by Republicans/not confirmed.
Harry Litman, District Court, never given a vote by Republicans/not confirmed.
Frank McCarthy, District Court, never given a vote by Republicans/not confirmed.
Donald Middlebrooks, District Court.
Jeffrey Miller, District Court.
Margaret Morrow, District Court.
Sue Myerscough, District Court, never given a vote by Republicans/not confirmed.
Lynette Norton, District Court, never given a vote by Republicans/not confirmed.
Susan Oki Mollway, District Court.
Virginia Phillips, District Court, never given a vote by Republicans/not confirmed.
Robert Pratt, District Court.
Linda Riegle, District Court, never given a vote by Republicans/not confirmed.
Anabelle Rodriguez, District Court, never given a vote by Republicans/not confirmed.
Michael Schattman, District Court, never given a vote by Republicans/not confirmed.
Gary Sebelius, District Court, never given a vote by Republicans/not confirmed.
Kenneth Simon, District Court, never given a vote by Republicans/not confirmed.
Christina Snyder, District Court.
Clarence Sundram, District Court, never given a vote by Republicans/not confirmed.
Hilda Tagle, District Court, never given a vote by Republicans/not confirmed.
Thomas Thrash, District Court.
Cheryl Wattley, District Court, never given a vote by Republicans/not confirmed.
Wenona Whitfield, District Court, never given a vote by Republicans/not confirmed.
Ronnie White, not confirmed by floor vote.
Frederic Woocher, District Court, never given a vote by Republicans/not confirmed.

Mr. HARKIN. I want to address briefly the issue of whether or not this is anti-Hispanic, something like that. I keep hearing this talk that Democrats are going to be accused of being against Hispanics. Again, we do have to point out some history.

Enrique Moreno, Jorge Rangel, and Christine Arguello were all nominated to the circuit courts by President Clinton, but were never afforded a hearing or vote in the Judiciary Committee under Republicans. My colleague from Iowa, Mr. GRASSLEY, was quoted in the Dallas Morning News of January 31 of this year:

> If we deny Mr. Estrada the position on the DC circuit, it would be to shut the door on the American dream of Hispanic Americans everywhere.

Well, let's take a look at the reality and the record. There are more than 1,000 local, State, or Federal judges of Hispanic heritage. Yet President Bush has nominated only one Hispanic to any of the 42 vacant appellate positions. This administration has failed to nominate a single Hispanic judge for any of the circuits covering Texas, California, Arizona, New Mexico, Florida, New York, New Jersey, or Puerto Rico, where there are sizable minorities of Hispanic Americans. In contrast, President Clinton nominated 11 Latinos to these circuit courts and 21 to the district courts—quite a difference.

Again, my friend from Utah said on February 12:

> What gets me is, we are in the middle of a filibuster of a Federal judge when the Constitution says we should give advice and consent, not advice and obstruction, not advice and filibuster, not advice and unfairness.

Again, I wish I would have heard that when Bonnie Campbell had come up before the committee. As long as Mr. Estrada is here, I will continue, as I have today and as I have in the past, to bring up the issue of Bonnie Campbell because obviously it remains a dark mark on the Senate, one that was held up simply for purely partisan political reasons and nothing else.

IRAQ

Mr. President, I rise to talk about some of the events over the weekend as it pertains to the looming war in Iraq. I didn't listen to all of the talk shows, but if you listen to some of them and then you read some of the quotes in the paper by some of the people high up in this administration, particularly meaning Under Secretary Paul Wolfowitz and also Mr. Pearl, you come away with the feeling and the sense that they decided some time ago they were going to go to war against Saddam Hussein and Iraq, regardless. There is really nothing that could be done that would in any way turn away the full force and effect of the U.S. military from a full scale war in Iraq. Because no matter what happens, they have a counter, and they keep coming back to the fact that it is too little, too late, we can't wait any longer for disarmament. But the fact is, over the last 12 years, containment has worked. Even though we did not back it with as much force as we probably should have at that time and the fact that we did withdraw our inspectors in the latter part of the 1990s, when that never should have been done, the fact is, during those 12 years, Saddam Hussein never marched on another country, never started another war, and even though this administration has tried their darnedest, they have never made a link between Saddam Hussein and al-Qaida.

Now they are talking about some guy who got injured in Afghanistan and he came to Baghdad to get his leg treated because he had his leg amputated. He is somewhere around Baghdad, we don't know where. We don't even know if he is there. They suspect he is there and that is proof that Saddam is working with al-Qaida.

Perhaps one of the most outlandish statements was a couple weeks ago when this purported tape of Osama bin Laden came out. Secretary Powell said at that time that—I am paraphrasing—this just goes to show you, once again, the link between al-Qaida and Osama bin Laden and Saddam Hussein, when in fact on the tape whoever is speaking, whether it was Osama bin Laden or not, is basically saying, it is all right to use Saddam Hussein to defeat the Americans, but it is not all right to support Saddam Hussein because he, too, is an infidel, not a true Islamist. Somehow we just ignore that. But there has never been a proven link, even though they have tried awfully hard to find one. So——

Mr. HATCH. Will the Senator yield on that point?

Mr. HARKIN. Sure, I will yield for a question, without losing my right to the floor.

Mr. HATCH. I have been listening to the Senator, and I will rebut his earlier remarks later.

Is the Senator aware of Mr. Zarqawi, who is in Iraq right now, who is definitely connected with the al-Qaida people?

Mr. HARKIN. I ask the Senator, is this the guy who went to get his leg amputated?

Mr. HATCH. He is an operative working within Iraq——

Mr. HARKIN. He was injured in Afghanistan. I don't remember the name.

Mr. HATCH. This is the fellow known to be in Iraq right now—or at least has been in the last number of months—and who is one of the principal operatives for the al-Qaida group, and who has been organizing and doing other matters within Iraq itself, and who appears to have at least the go-ahead from the Iraqi Government.

If the Senator is not aware of that, then I understand why he is making these comments. But that is only one illustration. Is the Senator aware that there may be other illustrations as well?

Mr. HARKIN. Well, I have read about them and heard about them—that there may be some people in and out, or some who may have come in. The most I have heard is the one I think the Senator is talking about, but I think he came there to get his leg fixed or something. No doubt he was well connected with al-Qaida.

But I say to my friend from Utah, the Government of Iraq said they cannot find this guy. Well, our people have said it is ridiculous; of course, you can find him. Well, we cannot find Osama bin Laden in Afghanistan. We have more spy satellites and listening equipment than Iraq ever dreamed of having. I don't know whether this guy is there or not. There have been some in and out of Iraq.

Again, it is very tenuous as to whether or not there are any connections. I am sure the Senator from Utah also knows that there has been a long-standing feud between Osama bin Laden and his fundamentalists and the Iraqi dictator, Saddam Hussein. I say a pox on both their houses. But the fact is, in the eyes of Osama bin Laden and those fundamentalists, Saddam Hussein is a secular leader, not a true