

what I see to help them understand that which the Washington Post editorial said last week; that is, the risks of not going to war in the present circumstances are probably greater than the risks of going to war. Those who are looking to the United States to exercise leadership in this part of the world—indeed, to free them from the tyranny of Saddam Hussein—are just as desperate that perhaps we might back down as are those who fear that war will come.

War is never an easy decision, and I assure all of my constituents that this President is not given to war simply as something to do. That which we hear in the press about this possibility is clearly wrong; that is, the suggestion that perhaps the President is going to war in order to secure more oil for America. I point out that if oil were our motivation, war would be our last option. We could simply turn to Saddam Hussein, remove the sanctions, make accommodations with him, and say, go ahead and produce all the oil you want and we will take advantage of that and the impact of that on the world oil market.

Nor does it have anything to do, as some have suggested in the press, with the desire on the part of this President to somehow redeem the pledge that was made by his father. All of this rewrites history. George W. Bush—or George Bush, the first, if I might use that term—was operating under a series of resolutions from the United Nations that did not authorize him to invade Iraq or go into Baghdad to remove Saddam Hussein. The decision was made, after examining the circumstances on the battlefield, that the mandate laid down by both the Congress and the U.N. had been fulfilled when the first George W. Bush had succeeded in liberating Kuwait.

We can look back through the lens of history and say that was a mistake in terms of what happened in the area, but by no means was it a circumstance where we could say that the present President Bush feels a need to somehow revenge his father or atone for his father. At the time, the decision was made on the basis of the legal situation and the best information available from the battlefield. In hindsight, we might say it was the wrong decision, but under no circumstances can we say that the first President Bush should be criticized for having made it.

No, the reason we are going forward in Iraq has to do with much more of the American spirit and the American tradition. America is not an imperial power, in spite of the statements by some of the people in the European press. America does not seek Roman-type domination over other nations. When America moves forward in war, it is for one purpose only, and that is to advance the cause of freedom. Usually, it is to advance the cause of freedom in America; that is, to preserve our citizens from attack. That is an aspect of the current situation.

Those who say, no, Iraq has never attacked us are being blind to the interconnections throughout the world of the Middle East with respect to terror. They say, we do not have a smoking gun to prove absolutely that al-Qaida, when they attacked the World Trade Center and the Pentagon, was receiving aid from Iraq. Those who are waiting for that kind of absolute certainty before they move ahead are not cognizant of the intelligence information that is available not only to those who have attended classified briefings but, frankly, to the whole world based on the presentations made by Secretary Powell at the U.N. and in other circumstances.

There can be no doubt that America has been attacked, has been attacked by those who have received sanctuary in Iraq, and has been attacked by those who will, if not stopped, come back at us again and again and again. It is their clear desire to drive the Americans out of the Middle East through military—if necessary, terrorist—tactics, to see to it that we leave. When we leave, what will be the legacy of that decision? If we back out of our military threat against Iraq, what will we leave behind? Will we leave stability? Will we leave freedom? Will we leave prosperity? No. If we back out of the region now, we will leave behind us continued warfare, continued death, continued poverty, and continued torture. That is not the American tradition, to turn our back on those circumstances and walk away when there is an opportunity to advance freedom, liberty, prosperity, and peace.

I do not envy the President the challenge of the decision he must make, but I recognize America has traditionally, when aroused, stood on the side of moving ahead to protect liberty wherever we can. If we do go ahead with military action in Iraq in the face of Saddam Hussein's continuing refusal to disarm, what, then, will be the legacy we will leave behind when the entire operation is finished? We can only look at other American circumstances to try to find the parallel. When we moved into imperial Japan at the end of the second world war, defeated the Japanese military, what did we find? A feudal system where women were not only not allowed to vote but in many cases were treated like property and chattel, where slavery existed throughout the empire, where property rights were not available to any except those who had been born to them—a feudal society firmly mired in circumstances of centuries before.

What did we leave behind when we departed? A free nation that had women's suffrage, where slavery was abolished, where property rights were available to all, where the rule of law existed in a democratic society. We saw the Japanese rise to a level of prosperity thereafter that made them the second strongest economy in the world. That was the legacy we left behind when we achieved military victory.

When we won the Second World War, we not only liberated those people who considered themselves under the yoke of foreign domination—the Dutch, the French, the Belgians, et cetera—we also liberated the Germans, who were our enemies, and the Japanese, who were our enemies. After the Second World War, those who had been our adversaries had a greater degree of freedom, a greater degree of prosperity, and a peace and calm in their circumstances they did not have under their previous regimes. They did not live under American domination or American legions left there as the Romans would do. They lived there in freedom and peace and were protected by American military might from those who would have attacked that peace.

It is that history in America that gives me confidence that President Bush will do the right thing in Iraq. If war becomes necessary because of Saddam Hussein's continued refusal to disarm and his continued refusal to step down and turn his country to freedom, if war becomes necessary, the American tradition says the legacy we will leave behind will be one that our children can be proud of and in which Iraqi children can rejoice.

Let us not shrink from our responsibility to be the protectors of freedom and liberty throughout the world. And let us not shrink from our responsibility to protect America from those who would attack us if we do not move ahead.

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

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

The legislative clerk proceeded to call the roll.

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

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

ESTRADA NOMINATION

Mr. DASCHLE. Mr. President, shortly we will have a vote on cloture on the nomination of Miguel Estrada. Let me just say that I am saddened that we have to have this vote at all. Democrats are not interested in delaying the debate, delaying the vote. What we are interested in is the same standard set for judicial nominees virtually all through history. Nominees in the past have come before the Judiciary Committee, they have answered their questions, they have provided the documentation, votes have been taken, and judges overwhelmingly have been confirmed. This is the exception, not the rule.

While we were in the majority we confirmed 101 judicial nominees. I haven't checked, and I have no way of knowing, but I suspect all 101 confirmed judges are conservatives. I don't think they would have made it through

the screening process of the Bush administration were they not conservative.

We have voted on a large number—I don't have the number before me—of judges this year. Again, I would say, without exception, those judges are conservative and, with rare exception, those judges were confirmed unanimously.

There are those who suggest that somehow because this is a conservative judge, Democrats are balking at confirmation. I will oppose Mr. Estrada even if we have the opportunity at some point in the future because I am confident, based on his answers to questions so far, and the limited information we do have available to us so far, that he represents an extreme point of view, not a moderate point of view. I believe those extreme positions are ones that would cause concern, whether he were extreme liberal or extreme conservative.

But the issue in this immediate case is not philosophical temperament. This issue is about intransigence. This issue is whether or not Miguel Estrada or anybody else ought to be held to the same standard for consideration of this important position, the second highest court in the land. He has been asked to fill out a job application and he refuses to fill out the final pages of that application. We are left to guess what his qualifications are. We are left to guess what his judicial temperament is. For many of my colleagues, that is insufficient. His attitude, his disposition, his intransigence is why we are here today. So it is not Democrats, it is Mr. Estrada, it is the administration that continues to be unwilling to provide the cooperation and the information that Members have used in the past to make their judgments.

There has been so much misinformation regarding past precedent, but even if you sift through all of the misinformation in the assertions relating to other judges and their degree of compliance with the law, I don't know of anyone who has not acknowledged that Solicitor General documents have been shared with members of the Judiciary Committee and the Senate on past occasions. That is fact. Judge Bork, Benjamin Civiletti, Judge Rehnquist—there are many who have provided the very information we have requested.

So it is regrettable we are at this point. We have been debating this nomination now for a month. I would like very much for us to turn to other important matters. We may be going to war soon. The Senate ought to have an opportunity to discuss the implications of war, our thoughts about war. We have not had that discussion. Perhaps now is the time to do so.

As I have said on the floor on several occasions, the administration seems to be consumed with this one job but ignores the fact that over 2.5 million Americans have lost their jobs. This Senate ought to be devoting its attention and time to dealing with the real

issues confronting our country domestically, which are the economy, the loss of jobs, the stagnation, the uncertainty.

I was with a group this morning who said investment is simply not in evidence in large measure because of uncertainty, because people do not know what the future holds economically. We ought to be moving forward on an economic debate. We ought to be moving forward to address those 2.5 million Americans who have lost their jobs, but we have not done so. Yet day after day, hour after hour, we continue to be consumed by the one job at the expense of the millions.

There are many reasons I wish conditions would be different this morning. I do hope Mr. Estrada will see fit to be more cooperative. I have appreciated the willingness on the part of the administration to encourage Mr. Estrada to meet with Members. But as many of us have noted, it is not his willingness to meet; it is his unwillingness to provide information that has brought us to this point. Meeting alone is cosmetic. Meeting alone is more of a public relations ploy than a meaningful way with which to ascertain the facts. We don't need more public relations. We don't need more efforts to meet if those meetings cannot be more productive.

So I hope we can move on to issues of great import to this country, whether it is foreign policy or the economy or the many other domestic issues we face. We have attempted day after day to bring an economic stimulus bill to the Senate floor. Perhaps with this vote the way can be cleared to allow that to happen. But whatever happens, I think it is important to put my colleagues on notice that the vote will not change regardless of how many votes may be cast. We feel strongly as a caucus, and we will continue to hold the position as a caucus, that the information Mr. Estrada has so far failed to provide is not in keeping with past precedent; it is not in keeping with constitutional expectations; it is not in keeping with our expectations with regard to the cooperation we would expect from any nominee.

I hope as we consider how we might resolve this matter, Mr. Estrada will work with us, provide information we have asked, work with us to ensure that those unanswered questions can be answered and that in the meantime we can turn to the matters of interest, of import, of concern to the American people.

I yield the floor.

Mr. REID. Mr. President, I ask unanimous consent before we go into executive session to have printed in the RECORD two documents. One is an editorial that appeared in the Chicago Tribune, written by Eduardo M. Penalver, who was a Supreme Court clerk for Justice John Paul Stevens.

I further ask unanimous consent to have printed in the RECORD a letter written to Majority Leader Frist, dated

today, from a number of Hispanic leaders from around the Nation, with the final paragraph:

We want more representation for our community in the courts, but not at such a high price. We accept liberal and conservative thinkers among us, but Mr. Estrada is much more than a conservative, he is an ideologue. We cannot support the confirmation of an ideologue to such an important position in our society. The cost is too high. We urge you and the members of the Senate to oppose Mr. Estrada's confirmation.

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

[From the Chicago Tribune, Mar. 4, 2003]

ARE ESTRADA'S OPPONENTS ANTI-LATINO?

(By Eduardo M. Penalver)

No merit to argument that to oppose Estrada's nomination is to oppose interests of Latinos.

The fight over the nomination of Miguel Estrada to the influential Washington, D.C.-based federal appeals court has lifted the veil on the riddle that lies at the heart of the Latino identity: What exactly does it mean to be a "Latino"?

Republican politicians have struggled to paint Estrada's opponents as anti-Latino. They have been joined by a handful of the Latino organizations supporting Estrada's nomination. And then there's the national TV ad, sponsored by Estrada supporters, that depicts a brown boy seeking work and confronting a shop owner who apparently does not want to hire a Latino. The ad not-so-subtly suggests that Estrada's opponents are like the bigot in the store.

I count myself among those who—for ideological reasons—firmly oppose Estrada's nomination. But I am also Latino. And while the Republican moralizing is hard to swallow from the party that in the last decade has given us such "Latino-friendly" faces as U.S. Rep. Tom Tancredo (R-Colo.) and former California Gov. Pete Wilson, it still seems worth asking whether there is some inconsistency between being Latino and opposing the first Latino to be nominated to the D.C. federal circuit.

To answer that question, we have to first decide what it means to be a Latino. This is no easy task. Although we have learned to call ourselves Latino or Hispanic, those of us of Latin-American ancestry have often questioned the propriety of being grouped under a unitary label.

After all, it is not immediately clear what my Cuban-American family, which lived in relative privilege in Cuba and was embraced by the United States as victims of communist tyranny during the Cold War, shares with Mexican farmworkers in California's central valley or the El Salvadoran woman who cleans my office, both of whom likely come from extreme poverty and who have been greeted in this country with exploitation and disdain.

Still, I have always believed (or perhaps hoped) that being a Latino, like being an African-American, had some substantive, perhaps even political content. In discussing the Estrada nomination with other Latinos, particularly those who support the Estrada nomination, however, I have struggled to articulate what that content might be.

Estrada has been criticized by some (both Latinos and non-Latinos) for being insufficiently Latino because his family in Honduras was not poor. By that definition, however, virtually none of the Cubans who arrived in the United States in the first years after the revolution would qualify as authentically Latino. Estrada has also been criticized for being too conservative.

But the voting patterns of Latinos (and not of just Cuban-Americans) are far too mixed to impose such a simplistic political litmus test on Latino authenticity. Moreover, as a devout member of the Federalist Society, Estrada's most conservative, and—in my opinion—troubling, views likely relate to his understanding of the proper role of the national government in the federal system, an issue on which few Latinos who are not lawyers have much of an ax to grind.

Despite the definitional difficulties, those of us who call ourselves Latino at a minimum must share a commitment to the notion that being Latino has some significance.

That significance may be rooted in the fact that, despite our obvious diversity, we are perceived by the Anglo majority to fall within a single group and to possess a common set of stereotypical traits, and that, as a result of the way we are perceived, we share an experience of discrimination in this country. It is possible—though I do not think it to be the case—that being Latino means little more than that. But if it does not even mean that much (or that little), why would we ever even use the term and why would we waste our time forming organizations around such a meaningless notion?

I believe that this minimal shared belief provides a principled basis for opposing the Estrada nomination from a distinctively Latino point of view. In addition, I believe that this shared belief suggests that those Latino organizations that have endorsed the Estrada nomination have betrayed the very ideals on which they were founded.

From this minimalist Latino perspective, it is not decisive whether Estrada is rich or poor or liberal or conservative. What matters is that Estrada has never said or done anything to indicate that he views himself as belonging to, or having something to contribute to or gain from, this Latino (or Hispanic or Latin American) community we have chosen for ourselves. Indeed, by all accounts, he thinks racial and ethnic categories are irrelevant, even harmful.

Miguel Estrada is not less Latino because he comes from a professional Honduran family or because he is a hard-line conservative. But he is certainly less worthy of Latino support because he is against the notion that a Latino identity is a concept with any meaning or value. As a result, organizations whose founding principles revolve around the opposite belief have no business endorsing his nomination to a U.S. Court of Appeals.

If Estrada did believe that his Latino identity had some significance, I would probably still oppose him—perhaps because my ideological commitments are more important to me than my desire to see a Latino on the D.C. circuit. But even under those circumstances, given the typical conservative denial that race or ethnicity should ever matter, his Republican supporters' attempt to manipulate ethnic loyalties for the sake of their ideological crusade would still seem particularly cynical and offensive.

Nevertheless, the notion that his presence on the federal appeals court would be good for Latinos would be entitled to more weight. Given Estrada's apparent beliefs that Latino identity is irrelevant, however, there is not the least bit of merit to the argument that to oppose Estrada's nomination is to oppose the interests of the Latino community. To the contrary, those of us in the Latino community who oppose Estrada's nomination are simply giving him what he has always asked for: to be treated as an individual and not as the member of a group.

MARCH 5, 2003.

Majority Leader BILL FRIST,
U.S. Senate, Washington, DC.

DEAR MAJORITY LEADER FRIST: We write you today on the nomination of Miguel

Estrada to the D.C. Circuit of Appeals. We are all Latino/Hispanic/Chicano professors researching, writing, and teaching in colleges and universities throughout the country. We come from a world, not too dissimilar from the other worlds in our society, where not only are Latinos under represented in our rank of professors, but we are also under represented among the students and worse yet among the Presidents and Deans of our institutions. Nevertheless, we believe in studying old ideas, developing and exchanging new ideas, and training the next generation of thinkers to explore and improve the world around them, however they choose to do so.

We have followed with extreme interest the Senate's review and debate on the nomination of Mr. Estrada. For many in our broader society, they may be confused as to whether Mr. Estrada should be supported or not; however, we are not. We stand united in our opposition to the confirmation of Mr. Estrada to the D.C. Circuit Court of Appeals. We recognize and congratulate Mr. Estrada on his professional accomplishments. So few Hispanics have had the privileges that he has had to serve as a Supreme Court clerk, to serve in the Solicitor General's Office of the Department of Justice or to reach the level of partner at a major law firm in this country. At the end of the day, however, the question we ask is whether Mr. Estrada would be a fair judge? We conclude that he would not be.

He evaded questions from the Senate. That does not give us confidence that he would be a fair and open-minded judge if he feels he has to hide how he approaches the law. His past record, although limited, also provides some disturbing insight into how he would rule as a judge. We see that he would not be a supporter of affirmative action at the very colleges and universities where we teach where Latinos are sorely under represented and under served. A major problem facing Chicanos and other Hispanics is the issue of racial profiling; again, Mr. Estrada downplays its existence. We question whether he has a commitment to protecting civil rights of Latinos.

We want more representation from our community in the courts, but not at such a high price. We accept liberal and conservative thinkers among us, but Mr. Estrada is much more than a conservative, he is an ideologue. We cannot support the confirmation of the ideologue to such an important position in our society. The cost is too high. We urge you and the members of the Senate to oppose Mr. Estrada's confirmation.

Sincerely,
Leonard Valverde, Professor, Educational Leadership & Policy Study, Arizona State University, Tempe, AZ.
Dorinda Moreno, Napa Community College, Ohlone Jr. College, SF State University, Concord, CA.
Duane Campbell, Bilingual/Multicultural Education, CSU Sacramento, Sacramento, CA.
Gary Urdiales, Youth Development Specialist, Lanier High School.

Ian Haney-Lopez, Professor of Law, U.C. Berkeley, Berkeley, CA.

Jesus Nieto, Associate Professor, School of Teacher Education, San Diego State University, San Diego, CA.

Jose Anazagasty-Rodriguez, Department of Comparative American Cultures, Washington State University, Pullman, WA.

Lorenzo Cano, Associate Director, Center for Mexican, American Studies, University of Houston, Houston, TX.

Rquel Rubio-Goldsmith, LL.M., Mexican American Studies and Research Center, University of Arizona, Tucson, AZ.

Julio Bernal, Assistant Professor of Entomology, Texas A&M University, College Station, TX.

Luis Moreno, CSU Northridge, Northridge, CA.

Lisa Garcia Bedolla, Department of Political Science, University of California, Irvine, Irvine, CA.

Richard Griego, Professor Emeritus of Mathematics, Director of Chicano Studies, University of New Mexico, Albuquerque, NM.

Roberto Lovato, Founding Member of Central American Studies, CSU Northridge, Northridge, CA.

Loui Olivas, Assistant VP Academic Affairs, Arizona State University, Tempe, AZ.

Roxane Royalty, MA, Youth Development Specialist, Lanier High School, San Antonio, TX.

Ignacio Garcia, Brigham Young University, Provo, Utah.

Ernesto Virgil, Writer, Activist and Historian, Denver, CO.

Maria Teresa Marquez, University of New Mexico, Albuquerque, NM.

William de la Torre, Department of Educational Leadership & Policy Studies, CSU Northridge, Northridge, CA.

Serigo Romero, Sociology, University of Oregon, Eugene, Oregon.

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Dolores Delgado-Campbell, History, American River College, Sacramento, CA.

Miguel Paredes, CSU Northridge, Los Angeles, CA.

Ralph de Unamuno, UCLA, Los Angeles, CA.

Amanda Espinosa-Aguilar, Washington State University, Pullman, WA.

Ruben Davalos, Assistant Professor, Public Administration, Emeritus Graduate Center for Public Policy/Administration, CSU Long Beach, Long Beach, CA.

Reynaldo Anaya Valencia, A.B., A.M., J.D., Professor of Law, St. Mary's University School of Law, San Antonio, TX.

Robert Vazquez, CEO, LaRed Latina, The University of Nevada at Las Vegas, Las Vegas, Nevada.

Angelo Falcon, Senior Policy Executive, Puerto Rican Legal Defense and Education Fund (PRLDEF), New York, NY.

Antoinette Sedillo Lopez, Associate Dean for Clinical Affairs, University of New Mexico, Albuquerque, NM.

Carlos Munoz, Professor Emeritus, University of California, Berkeley, CA.

Albert Camarillo, Professor of History, Stanford University.

Gloria Valencia-Weber, Professor, University of New Mexico School of Law, Albuquerque, NM.

Jorge Mariscal, Department of Literature, University of California, San Diego, La Jolla, CA.

Jose Roberto Juarez, Professor of Law, St. Mary's University School of Law, San Antonio, TX.

Ana Cecilia Zentella, Professor, Ethnic Studies, University of California at San Diego, La Jolla, CA.

Adolfo Bermeo, Associate Vice Provost For Student Diversity, UCLA, Los Angeles, CA.

Carmen Gonzalez, Professor, Seattle University School of Law, Seattle, WA.

David Cruz, Professor of Law, USC Law School, Los Angeles, CA.

Dr. Guadalupe San Miguel, History Department, University of Houston.

Dionicio Valdes, Department of Chicano Studies, University of Minnesota, Minneapolis, Minnesota.

Enrique Buelna, Chicano Studies Department, CSU Northridge, Northridge, CA.

Dr. Anna Sampaio, Ph.D., Assistant Professor Dept. of Political Science, University of Colorado, Denver, CO.

Dr. Victor Rodriguez, Ph.D., Associate Professor, Chicano & Latino Studies Dept., CSU Long Beach, Long Beach, CA.

Dr. Ana Juarez Ph.D., Assistant Professor, STSU, San Marcos, TX.

Dr. Antonia Castaneda, Ph.D., Associate Professor of History, St. Mary's University, San Antonio, TX.

Dr. Estevan Flores, Ph.D., Executive Director, University of Colorado, Denver, CO.

Dr. Jorge Huerta, Ph.D., Chancellor's Associates Professor of Theatre, University of California, San Diego, La Jolla, CA.

Dr. Leticia Flores, Ph.D., Psychology Department, Southwest Texas State University, San Marcos, TX.

Dr. Gloria Contreras, Ph.D., Professor, Dept. of Teacher Education, University of North Texas, Denton, TX.

Dr. Jose Centeno, Ph.D., Dept. of Speech, Communication Sciences, & Theatre, St. John's University, Jamaica, NY.

Dr. Ayse Yonder, Ph.D., Associate Professor and Chair Pratt Institute, Graduate Center For Planning and the Environment, Brooklyn, NY.

Dr. Roberto Calderon, Ph.D., Department of History, University of North Texas, Denton, TX.

Dr. Vivian Tseng, Ph.D., Department of Psychology, CSU Northridge, Northridge, CA.

Dr. Mario Gonzales, Ph.D., Assistant Professor of Anthropology, Southwestern University, Georgetown, TX.

Dr. Ray Leal, Ph.D., Department of Criminal Justice, St. Mary's University, San Antonio, TX.

Dr. Rebecca Blum-Martinez, Ph.D., College of Education, University of New Mexico, Albuquerque, NM.

Dr. Domenico Maceri, Ph.D., Professor of Spanish, Allan Hancock College, Santa Maria, CA.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

EXECUTIVE SESSION

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

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

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

Mr. REID. Madam President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally among the two sides.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LEAHY. Madam President, what is the parliamentary situation?

The ACTING PRESIDENT pro tempore. The pending question is the Estrada nomination. The Senator has 12 minutes under his control.

Mr. LEAHY. I thank the distinguished Presiding Officer.

Madam President, the Senate Judiciary Committee is meeting. I spoke to our distinguished chairman, Senator HATCH, who is still there, and, by mutual agreement, I have come to the Chamber to speak now, and then he will, of course, have his time preserved.

Before I start, I thank both the Democratic leader and the assistant leader, Senator REID, for their efforts to safeguard our Constitution and to protect the special role of the Senate in ensuring that our Federal courts have judges who will fairly interpret the Constitution and laws passed by Congress. We pass these statutes for the sake of all Americans, not just for Republicans, not just for Democrats—all Americans. I also thank all the Democratic Senators who have spoken on the floor or who have joined together to preserve the integrity of the confirmation process.

What is at stake in this nomination is a lifetime appointment to the second highest court in the country. Most of the decisions issued by the DC Circuit in the nearly 1,400 appeals filed per year are final because the Supreme Court now takes fewer than 100 cases from all over the country. Our DC Circuit has special jurisdiction over cases involving the rights of working Americans, as well as the laws and regulations intended to protect our environment, safe workplaces, and other important Federal regulatory responsibilities. This is a court where privacy rights will either be retained or lost, and where thousands of individuals will have their final appeal in matters that affect their financial future, their health, their lives, and their liberty, as well as the lives of their children and generations to come.

If a nominee's record or responses raises doubts or concerns, these are matters for thorough scrutiny by the Senate, which is entrusted to review all of the information and materials relevant to a nominee's fairness and experience. No one should be rewarded for stonewalling the Senate and the American people. Our freedoms are the fruit of too much sacrifice to fail to assure ourselves that the judges we confirm will be fair judges to all people and in all matters. No one should have a lifetime appointment as a gift because they stonewalled the Senate.

It is unfortunate that the White House and some Republicans have insisted on this confrontation rather than working with us to provide the needed information so we could proceed to an up-or-down vote.

Some on the Republican side are having too much fun playing politics, seeking to pack our courts with ideologues or leveling baseless charges

of bigotry, to work with us to resolve the impasse over this nomination by providing requested information and proceeding to a fair vote.

I was disappointed that Mr. BENNETT, the distinguished Senator from Utah, in his honest colloquy with the distinguished Senator from Nevada, Mr. REID, and me on February 12, which pointed to a solution, was never allowed to go forward by hard-liners on the other side. I am disappointed all my efforts, and those of Senator DASCHLE and Senator REID, have been rejected by the White House. The letter that Senator DASCHLE sent to the President on February 11 pointed the way to resolving this matter. The responses we got showed me that they would rather engage in politics at the White House.

The Republican majority is wedded to partisan talking points that are light on facts but heavy on rhetoric. There has often been an absence of fair and substantive debate and a prevalence of name calling that has offended many. At the outset of this debate, I called for an apology for remarks calling Democrats "anti-Hispanic" and I urged debate on the merits. Unfortunately, the Republican name calling continued, and those attacks were extended to include members of the Congressional Hispanic Caucus, some of the highest and most respected Hispanic elected officials in the Nation, and other Hispanic organizations and leaders that oppose this nomination. That is extremely disappointing.

Our sincere concerns have been distorted and then dismissed. So in these closing moments before the cloture vote, let me puncture some of the Republican myths about this nomination and this process.

First, Republicans rely on a letter from former Solicitors General stating a policy preference that did not acknowledge past precedent. Republicans claimed, in fact, that our request for memos written by this judicial nominee was unprecedented. That is false. And, during the course of this debate, even the administration had to concede their claim was false.

The smoking gun was a letter from the Reagan Department of Justice asking the Judiciary Committee to return similar memos written to the Solicitor General by lower level attorneys that had been provided "to respond fully to the Committee's request and to expedite the confirmation process." This was done in another nomination but refused in this one. In fact, buried in the current administration's rejection of Senator DASCHLE's good-faith effort to resolve this impasse was the belated concession that other administrations had produced Solicitor General Office work papers and other legal memos in other nominations.

But notwithstanding having admitted that, they misstated that precedent. They continued to misstate the precedent, claiming incorrectly that disclosures were predicated on allegations of misconduct by those past