

John Warner, Chuck Grassley, Lincoln Chafee, and Olympia Snowe.

Mr. FRIST. I will be very brief, but I will quote four paragraphs from this letter which does demonstrate the majority support of Senators for this nominee. The letter itself is dated February 25, 2003. The letter is to the President of the United States.

First paragraph:

Dear Mr. President, we write to express the strong, majority support in the United States Senate for Miguel Estrada, your nominee to the United States Court of Appeals to the District of Columbia Circuit.

The second paragraph reads:

Mr. Estrada's professional accomplishments and personal achievement are truly impressive. He graduated magna cum laude from both Columbia College, where he was elected to Phi Beta Kappa, and Harvard Law School, where he served as an editor of the Harvard Law Review. He clerked on the Second Circuit Court of Appeals and the Supreme Court of the United States. Miguel Estrada served with distinction as an assistant U.S. attorney in the prestigious Southern District of New York, rising to Deputy Chief of the Appellate section, and in the Solicitor General's Office during both Republican and Democrat Administrations, where he argued fifteen cases before the Supreme Court.

It is no wonder Mr. Estrada received a rare, unanimous rating of "well qualified" from the American Bar Association, what many of our colleagues called the coveted "Gold Standard."

Mr. Estrada's professional successes are even more remarkable in light of his compelling personal story. After emigrating from Honduras at the age of seventeen, he reached the pinnacle of his profession by overcoming a speech impediment and mastering a second language. These are daunting challenges for anyone; they are particularly impressive when one's profession is the practice of oral advocacy before the nation's highest Court.

Mr. President, the last paragraph before the pages of the signators of a majority of people in this body, 52 Senators, reads:

Despite his obvious qualifications and remarkable personal story, we have been unable to obtain fair consideration on the Senate floor for Mr. Estrada's nomination. Nevertheless, we, the undersigned majority in the United States Senate, commend you for your outstanding choice, and will continue to work diligently to ensure Mr. Estrada receives a simple up or down vote on the Senate floor.

Again, there are 4 pages of signatures. The first page is signed by Senators MITCH MCCONNELL and ZELL MILLER, followed by 50 signatures, which is now in the RECORD.

We will have a full day today. I look forward to continuing the discussions as we go forward.

#### RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

#### EXECUTIVE SESSION

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

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session and resume consideration of Executive Calendar Order No. 21, which the clerk will report.

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

The PRESIDING OFFICER. The Senator from Nevada.

#### ORDER FOR RECESS

Mr. REID. Before the majority leader leaves the floor on a matter regarding what we are going to do this afternoon, at 2:30 today it is my understanding the Secretary of Defense will be here to brief Senators. I think it would be in everyone's interest if we had at least an hour recess during the time the Secretary is here.

Mr. FRIST. Mr. President, given the circumstances surrounding and leading to the discussion today at 2:30, that would be satisfactory on our part.

We will likely be in session late this afternoon, into the evening, because there are a number of issues we do want to address. It is appropriate to be in recess from 2:30 to 3:30 today.

Mr. REID. I ask unanimous consent that that be in order.

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

The Senator from Nevada.

Mr. REID. Mr. President, Senator HATCH is in the Chamber, as well as Senator DORGAN, who has been trying to speak for 2 days now. It is obvious there are not enough votes, as indicated by the letter sent to the President. The fact is that there are three ways to dispose of Estrada: No. 1, pull the nomination so we can go to other issues that affect this country, such as the economy, such as have a discussion relating to the global warming document that came out today indicating there certainly needs to be a lot more done regarding global warming. It certainly is time we should be talking about the education of our children. Yesterday, the Democratic leader offered an economic stimulus plan. We wanted to bring that to the floor. So the nomination should be pulled for those other reasons.

If that is not the case, then there is another way of disposing of this matter perhaps—by having the majority file a cloture motion. That failing, it seems to me they should meet our request to have him honestly—I should not say honestly—thoroughly answer questions that have been propounded to him; and, secondly, submit the memos to this body, at least to the Judiciary Committee, so they can review the memos he wrote while he was Solicitor General.

That failing, we can stay in tonight and tomorrow night, whatever the leader decides to do, but as I have indicated before, now that the majority has changed, the majority has to preside and we will have people to protect our interests on the floor, so that is certainly no punishment to us.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been interested in the approach by the other side. Yesterday, they came on the floor and said, oh, my goodness, we should get rid of this because we have so many important issues to take care of. There is one way to get it rid of it, and that is to let the people's representatives in the Senate vote. That is what the Washington Post said: Just vote. Vote up or down.

The real reason they are not allowing a vote—because, as we can see from the letter, we have at least 52 votes and there have been at least 3 other Senators on the minority side who have said they are going to vote for Mr. Estrada. So there are at least 55 votes for Mr. Estrada, and I believe there will be others votes as well.

It is one thing to support your party and to stand in an intractable way against the first Hispanic ever nominated to the Circuit Court of Appeals for the District of Columbia. It is another thing to come on the floor and say we are not going about the people's business because we are dealing with this incidental judicial nomination. Well, it is not incidental. It is one of the most important nominations in the country.

This is a man who really deserves to be on the Circuit Court of Appeals for the District of Columbia. This is a man who has every credential and has not had a glove laid on him. That is why the fishing expedition request into privileged matters. They want to get his recommendations, or I suppose in the future anybody's recommendations, especially Republicans who might have worked in the Solicitor General's Office, on appeals, on certiorari petitions, and on amicus curiae matters. Those have never been given to anybody. Those are the crucial documents upon which the Solicitor General, the people's attorney, makes decisions as to where to go and what to do. There is only one reason they would like to get these privileged documents, and that is they are on a fishing expedition because they have not been able to find anything to hang on Miguel Estrada yet, other than these phony accusations that he has not answered the questions.

My gosh, the hearing transcript is that thick; the briefs he has filed and the answers in the testimony before the Supreme Court, two volumes, that thick. They have more materials on Mr. Estrada to know what he is and what he is about than almost any judicial nominee, other than the Supreme Court, who has been nominated in the whole 27 years I have been in the Senate. I think my colleagues can take it