

our judgment, the tactics now being employed again show that Miguel Estrada is receiving differential treatment.

Now Judge Gonzales Concludes this way, addressing himself to Senator Schumer:

As I have said before, I appreciate and respect the Senate's constitutional role in the confirmation process. You have expressed concern that you do not know enough about Mr. Estrada's views, but you have not submitted any follow-up questions to him. We respectfully submit that the Senate has ample information and has had more than enough time to consider questions about the qualifications and suitability of a nominee submitted more than 21 months ago. Most important, we believe that a majority of Senators have now concluded that they possess sufficient information on Mr. Estrada and would vote to confirm him. We believe it is past time for the Senate to vote on this nominee, and we urge your support.

Sincerely,

ALBERTO R. GONZALES  
*Counsel to the President*

Now as we heard earlier an enormous number of editorials, over 60 editorials all over the country have opposed the Democrat filibuster and support Miguel Estrada. Only eight have taken the Democrat view of things—only eight.

It is clear to anyone that what the minority is doing in filibustering Miguel Estrada's nomination is far from the mainstream of what thoughtful people are thinking across this country.

Mr. President, I will read from just a few of these:

First, on the question of the Solicitor General memos:

Boston Herald, 2/14/03:

The latest [bad argument] has to do with the White House's refusal to release memos and documents written by Estrada during his tenure in the solicitor general's office. Now all of the living former solicitors general—four Democrats and three Republicans—happen to agree with the White House position. There is such a thing as attorney-client privilege, even for the solicitor general.

South Carolina's Spartanburg Herald Journal, 2/14/03:

The administration refused to turn over his Justice Department memos—though no reasonable Congress ought to be seeking such material, as a letter from all living former solicitors general attests. They have asked the White House to release internal legal memos he wrote while working for the Solicitor General's Office. These are documents that are usually kept within the White House. In fact, every living former solicitor general, four Democrats and three Republicans, are against releasing the memos. Presidents rely on the Solicitor General's Office to give them legal advice. They don't want those lawyers to be worrying about how their memos will impact future attempts to win judicial seats. The White House has refused to release the documents.

California's Redding Record Searchlight, 2/15/03:

Well, but the administration won't hand over memos he wrote when he was in the solicitor general's office, say the Senate Democrats. It apparently does not matter to them that publicizing them could rob future memos of their candor and that every former solicitor general of either party has said the Democrats seek too much.

Rhode Island's Providence Journal-Bulletin, 2/14/03:

[Democrats] have demanded not only supplementary detailed responses to political inquiries, but also Mr. Estrada's confidential memoranda written while he was an assistant solicitor general. Every living solicitor general, Democratic and Republican, has gone on record to oppose this unwarranted intrusion into the deliberative process in the Justice Department. And the Bush administration has been correct to resist Democratic demands.

Chicago Tribune, 2/10/03:

The Justice Department has refused to release Estrada's memos, noting that such documents have always been regarded as confidential. Every living former solicitor general, Democratic and Republican, has publicly endorsed that position. They say making the documents public would discourage government lawyers from offering candid advice. Anyone who wants a glimpse into Estrada's thinking can scrutinize the briefs he wrote and oral arguments he made.

Detroit News, 2/11/03:

Democrats also demanded that he produce his memos and recommendations while he was in the solicitor general's office—which had never been done for any other candidate who had been an assistant in that office. The demand was rejected not only by Estrada, but by every former solicitor general still living, including those who served Democratic presidents.

Tampa Tribune, 2/10/03:

Yet the Democrats claim they don't know enough about Estrada. They have demanded to see copies of his work in the Justice Department, intentionally seeking papers they knew to be confidential. Because Estrada did not turn them over, they have attempted to crucify him, this despite letters from former solicitors general complaining that their demand amounted to legislative overreach and that acceding to it would set a dangerous precedent.

St. Louis Post-Dispatch, 2/7/03:

Mr. Estrada is an immigrant from Honduras who went to Harvard Law School, clerked on the Supreme Court and worked in the Solicitor General's office. Democrats, frustrated by the absence of a paper trail, and Mr. Estrada's sometimes-evasive answers on issues such as abortion, tried to get legal memos that Mr. Estrada wrote while in the Solicitor General's office. But both Democratic and Republican solicitors general have urged that the memos be kept private so that future solicitors general receive candid views from their staff. In short, the Democratic position doesn't justify a filibuster.

Washington Post, 2/5/03:

Mr. Estrada's nomination in no way justifies a filibuster. The case against him is that he is a conservative who was publicly criticized by a former supervisor in the Office of the Solicitor General, where he once worked. He was not forthcoming with the committee in its efforts to discern his personal views on controversial issues—as many nominees are not—and the administration has (rightly) declined to provide copies of his confidential memos from his service in government.

Also from the Washington Post, September 29 of last year:

Democrats are still pushing to see confidential memos Mr. Estrada wrote in the solicitor general's office and trumpeting criticism of him by a single supervisor in that office—criticism that has been discredited by that same colleague's written evaluations. Seeking Mr. Estrada's work product as a government lawyer is beyond any reasonable inquiry into what sort of judge he would be.

Nor is it fair to reject someone as a judge because that person's decision to practice law, rather than write articles or engage in politics, makes his views more opaque. And it is terribly wrong to demand that Mr. Estrada answer charges to which nobody is willing to attach his or her name.

The Press-Enterprise, Riverside, CA, entitled "Advice and Filibuster," 2/18/03:

Democratic senators are frustrated by the White House's refusal to release to them memoranda he wrote as solicitor general. But in the best of times, such a request would be out of line, and these are closer to the worst than to the best for the nomination process. If the memoranda were to be used as an honest beginning to a discussion of Mr. Estrada's legal views, there might be some justification for releasing the documents that would normally be considered privileged. One suspects that's not the role the Democrats have in mind for the memoranda. They probably hope to expose Mr. Estrada's conservative views, which no one doubts he holds, in hopes of defeating the nomination or at least scoring some political points.

Winston-Salem Journal, 2/20/03:

[Democrats] have demanded that [Mr. Estrada] turn over confidential papers from his years as solicitor general. Congress should not be asking for such material, as all living solicitors general have said in a letter.

Mr. President, as I said, over 60 editorials share this view. Only 8 have expressed an opposite view.

Mr. President, the hour is late, or early, depending on how you see it. I hope that my friends on the other side of the aisle will see differently tomorrow in the light of day.

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## LEGISLATIVE SESSION

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### MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate return to Legislative Session and proceed to a period of morning business.

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

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### RACE-SENSITIVE ADMISSIONS: BACK TO BASICS

Mr. FRIST. Mr. President, I ask unanimous consent that the following paper, "Race-sensitive Admissions: Back to Basics," by William G. Bowen, president emeritus of Princeton University, and Neil L. Rudenstine, president emeritus of Harvard University, be printed in the RECORD.

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

The controversy (and confusion) surrounding the White House's recent statements on the use of race in college and university admissions indicate the need for careful examination of the underlying issues. The Justice Department has filed a brief with the U.S. Supreme Court urging it to declare two race-sensitive policies at the University of Michigan unconstitutional; however, the brief does not rule out ever taking