

views of the public. That is very interesting.

Mr. President, now Michael Powell is going to have a task force designed to prevent any media company from having excess power over competition or viewpoints.

He does that after two of the commissioners begged for public hearings. They literally begged. They were told they did not have money enough, and they could only hold one hearing. That hearing was held in Richmond.

From their own particular little budget, they had 13 hearings. Now a firestorm has erupted. You not only have the National Rifle Association and consumer groups, but you have the people of authority and respect such as Walter Cronkite and Barry Diller. You can go right on down the list all saying this is the worst thing that could possibly happen.

The interesting thing is that Commissioner Powell says they have "produced a balanced structural rule faithful to the directors of Congress." Total, total applesauce—applesauce and baloney. I can tell you that we begged and we coached. I thought maybe it was a personality difference.

I get along with his father, Secretary Powell. In fact, he and I received honorary degrees at Tuskegee together. He calls me Dr. Hollings. I call him Dr. Powell. I have provided him every red cent he has ever wanted for State Department appropriations as Secretary of State. I have that particular appropriations.

But Michael Powell is a different character entirely. He is very competent, very smart, and very intelligent, but not a regulator. He just believes that the public interest is an empty vessel and the market forces should control. When he says "faithful to the directors of Congress," that is exactly what he has not been. He has been totally unfaithful. We begged him to hold up the order.

This particular reference in the order itself shows that he thinks they need big hearings on localism. Why didn't he hold up the order before he had the task force, before he had the hearings? The task force will make legislative recommendations to Congress to strengthen localism. We fought like tigers to try to get him to listen, and he just absolutely would not listen.

Mr. President, quoting from this morning's Wall Street Journal:

Entertainment giants such as Viacom, NBC parent General Electric Co. and Walt Disney Co., which owns ABC, now reach more than 50 percent of the prime-time television audience through their combined broadcast and cable outlets. The total rises to 80 percent, if you include the parents of newer networks—such as News Corp.'s FOX and AOL, Time-Warner, Inc.'s WB—and NBC's pending acquisition of Vivendi Universal SA's cable assets, estimates Tom Wolzien, an analyst at Sanford C. Bernstein & Co.

The big media companies are quietly recreating the "old programming oligopoly" of the pre-cable era, notes Mr. Wolzien, a former executive of NBC. Of the top 25 cable

channels, 20 are now owned by 1 of the big 5 media companies.

They own each other. You talk to Chairman Powell, and he says, Look, cable is going to be taken over and there won't be any free broadcast. The free broadcaster is the one who owns the cable. He is totally off base. He just will not regulate. An order for localism is a sham and a farce. The American people ought to understand it and they ought to understand why we do not have the support of the National Association of Broadcasters. They want to enhance the value of their individual stations. They see if you can get the cross-ownership, the value of their station locally. One of the big oligarchies will give an inordinate price and they can go to Virginia Beach, the sun, take it easy, and will not have to worry.

I appreciate the indulgence of the Senate at this late hour. I only ask that you give close attention to the bipartisan Dorgan-Lott resolution, that we disapprove it, and put us back to where we were before they started a feeding frenzy, according to all the stockbrokers in the market in New York, ready to buy up all the rest of the stations as soon as it becomes effective. It has been stayed by the court. Rather than causing chaos, it will bring us back and maybe we can find out from the task force of localism, of Chairman Powell, what really needs to be done, what the public interest is.

I yield the floor.

#### MORNING BUSINESS

Ms. MURKOWSKI. Mr. President, I ask unanimous consent that the Senate proceed to a period for morning business.

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

#### CONGRATULATIONS ON 50 YEARS OF SERVICE

Mr. DASCHLE. Mr. President, today I would like to congratulate Chapter 0336 of the National Association of Retired Federal Employees, NARFE, on the occasion of its 50th anniversary.

Fifty years ago, Chapter 0336 was formed by 17 NARFE members in Rapid City, SD. Today, the chapter's membership has grown to include over 200 persons. As many of my colleagues know, NARFE has been instrumental in protecting the rights of retired Federal and civilian employees.

The importance of Federal employees is well illustrated by the overwhelming majority of those in the Chamber today. Federal and civilian employment is an essential component of governmental efficiency. These employees are the backbone of our great country, and those who devote their lives to public service deserve to know that they will retire with dignity.

By acting as an advocate for these retirees, NARFE not only ensures that retirees receive the benefits that were

promised to them but also aims to improve future conditions for current Federal and civilian employees. The years of experience on Capitol Hill and in Federal agencies have made NARFE a name respected by Members of Congress and a key player in the Federal community.

Throughout my congressional career, NARFE offices across my State have contacted me on numerous occasions urging me to support legislation beneficial to those who helped strengthen our country over the past decades. Its members have always been forthright in suggesting legislative remedies for their problems—I appreciate that.

Again, I wish to extend my congratulations to all involved in making this momentous occasion possible, and I look forward to working closely with Chapter 0336 and other NARFE offices well into the future.

#### THE AL NEUHARTH MEDIA CENTER

Mr. DASCHLE. Mr. President, today I would like to salute a great American and South Dakotan, Mr. Al Neuharth. As the founder of USA Today, former chief executive officer of Gannett New Service, and founder of the Freedom Forum, he has made immeasurable contributions to our understanding of the world.

Mr. Neuharth's commitment to free speech and the press began with a paper route in Eureka, SD, when he was 11 years old. Al continued to work in local media throughout his youth, later in the composing room at the weekly Alpena Journal in neighboring Alpena. Following his service in World War II, Al returned home to South Dakota, graduating from the University of South Dakota in 1950 with a degree in journalism.

Upon graduation, Al Neuharth began what would be a historic career in print media. He began working for the Associated Press in Sioux Falls, SD, as a reporter and soon launched his first publication, a statewide weekly tabloid called SoDak Sports. While SoDak Sports would not prove to be his most successful venture, Mr. Neuharth pressed forward as a journalist. In 1954, he became a reporter at the Miami Herald, quickly ascending the ranks, and in 1960 he was named assistant executive editor of the Detroit Free Press. This remarkable success demonstrates that Al's talent for straight truth and love of communication was visible to all who worked with him. In 1963, Neuharth began his career with Gannett News Service as the general manager of its two Rochester, NY, newspapers. Only 7 years later he was named president and chief executive officer of Gannett News Service, a position he held until his retirement in 1989. Under Al's leadership, the company launched USA Today in 1980—the first national daily newspaper—and their reputation for quality journalism has grown each year since.

Upon retiring from Gannett News Service, Al Neuharth founded the Freedom Forum in 1991 and has since dedicated his work to the pursuit of "free press, free speech, and free spirit for all people." I have had the pleasure of working with Al on many occasions and have seen his genuine commitment to preserving free expression for all Americans.

In addition to his ongoing efforts to preserve free speech, Al Neuharth has also dedicated both time and treasure to his hometown of Eureka, SD, and has never forgotten his South Dakota roots. Most notably, he contributed greatly to the Eureka Information Center. This center houses community nonprofits and civic organizations, providing a space for the involvement and dialogue that strengthens small towns.

On September 25, 2003, Mr. Neuharth's alma mater, the University of South Dakota, will dedicate its Al Neuharth Media Center. This center, funded by the Freedom Foundation and the University Foundation, will house the Freedom Foundation's regional offices, South Dakota Public Broadcasting, the University's Department of Contemporary Media and Journalism, the Native American Journalists Association, the University's publication *The Volante*, campus radio station KAOR and television station KYOT.

Freedom of the press is an essential component of America's experiment in democracy and one of the principal reasons the experiment has succeeded. By training future journalists and defenders of the first amendment, the Neuharth Media Center will convey Al's passion for free speech and help ensure that this great experiment in democracy will be preserved for generations to come.

I am proud to honor Al Neuharth and the University of South Dakota Neuharth Media Center and proud to know Al Neuharth.

#### TRIBUTE TO GOVERNOR O'BANNON

Mr. LUGAR. Mr. President, it is my sad duty today to inform the Senate that the State of Indiana has lost its beloved Governor, Frank O'Bannon. He passed away on Saturday at Northwestern Memorial Hospital in Chicago, where he was being treated for a massive stroke suffered five days earlier. He was 73 years old.

All of us in Indiana mourn the loss of this fine man, whose kind and gentle nature had won the hearts of so many Hoosiers over the years. Frank O'Bannon will always be remembered for the warmth and friendliness that were essential elements of his character. He was a true Hoosier.

He and his wife, Judy, had been married 46 years and were part of a close-knit family that includes their three children and five grandchildren. Judy was at his side at the hospital when he passed away. I extend my deepest condolences to Judy, and I know she will

draw strength and support from her family and many dear friends.

I consider it a privilege to have known Frank O'Bannon. He grew up in Southern Indiana in the town of Corydon during the 1940s, where he experienced first-hand the special charm of that era captured so wonderfully in the movie *Hoosiers*. After graduating from Indiana University in 1952, he served in the Air Force, went to law school and then came home to settle down and work as a lawyer and publisher of weekly newspapers.

He was first elected to the Indiana State Senate in 1970 and went on to serve 18 years there—much of it as the Democratic floor leader. He was Lieutenant Governor for 8 years before being elected Governor in 1996 and then re-elected by a wide margin in 2000. He was an optimist by nature, a consensus builder and a man of absolute integrity. I always looked forward to my visits with him. I will miss him greatly.

On Saturday, our Lieutenant Governor, Joe Kernan, was sworn in as Indiana's 48th Governor. He will serve the remainder of Governor O'Bannon's term, until January 2005.

Frank O'Bannon's remains will be buried near other family members in a small cemetery in Corydon. He touched many people in his life. May he rest in peace.

#### WITHDRAWAL OF THE ESTRADA NOMINATION

Mr. LEAHY. Mr. President, earlier this month the President withdrew the nomination of Miguel Estrada to the U.S. Court of Appeals for the District of Columbia Circuit. This was a nomination for a lifetime appointment to the second highest court in the land. The Constitution accords the Senate the duty to make informed judgments for these lifetime appointments to our Federal courts. Senators cannot make informed judgments if the White House stonewalls the Senate.

This withdrawn nomination is another example of the White House's insistence on dividing instead of uniting the American people over the President's decisions for the Federal courts. Ultimately, the nomination was a casualty of that divisive policy. For more than a year, the White House has consistently spurned many private and public bipartisan appeals to resolve this matter by working with the Senate to provide access to requested information. Mr. Estrada's work at the Justice Department was at the core of the administration's claims for his qualification to serve on this court. Despite the questions raised about his work at the Justice Department and the ample precedents from similar document requests involving earlier nominations, this administration decided to stonewall the Senate. This stonewalling, combined with Mr. Estrada's reluctance to answer substantively Senators' questions,

prompted this impasse. The White House always had the key to unlock this stalemate.

In the absence of cooperation from the White House, and with the persistence of the White House's stonewalling, Mr. Estrada has concluded that this impasse will continue. He is probably right, and he and his family can now move on with their lives.

In the aftermath of the announcement on September 4, some Republican Members of the Senate have come to the Senate floor and sought out the airwaves to renew their offensive and untrue rhetoric about this nomination. I must take a few moments to set the historical record straight.

First, some Republicans have repeated their false assertion that Democrats opposed Mr. Estrada's nomination because of his ethnicity. That is absurd. In the last Congress, Senate Democrats swiftly acted to confirm six Latino judicial nominees—Christina Armijo, NM; Judge Phillip Martinez, TX; Randy Crane, TX; Judge Jose Martinez, FL; Magistrate Judge Alia Ludlum, TX; and Jose Linares, NJ. During this Congress, Democrats have unanimously supported the confirmation of six other Latino judicial nominees—Edward Prado, Fifth Circuit; Consuelo Callahan, Ninth Circuit; S. James Otero, CA; Cecilia Altonaga, FL; Xavier Rodriguez, TX; and Frank Rodriguez Montalvo, TX. All of these nominees received the unanimous support of the Senators in the Democratic caucus.

Moreover, it was Democrats who worked to clear the nominations of Judge Prado and Judge Callahan to the circuit courts over delays and initial objections from the Republican side of the aisle. Yet some Republican Senators assert that those who opposed Mr. Estrada's confirmation to the circuit court did so "because he's Hispanic." That is obviously false, demeaning and divisive.

These partisans may need to be reminded that, in addition to supporting the confirmation of two other Latinos nominated to the appellate courts by President Bush, Democrats supported the appointment of 11 Latinos nominated by President Clinton to the appellate courts. It was Republicans who blocked three of those Latino circuit court nominees of President Clinton. Those qualified and distinguished Latino nominees were never given hearings by the Republican majority and never allowed to come before the full Senate. They were not opposed through debate and votes in the light of day; instead, their nominations were filibustered and killed by delay, in the dark of night, without any meaningful explanation of any substantive concerns about their nominations. This all begs the rhetorical question: Do the current Republican charges mean that Republicans are anti-Hispanic for having blocked three Hispanic nominees to