

the language and culture of the Portuguese community with the many students of the San Jose High Academy. Mr. da Silva is a tireless advocate and tremendous resource for his students and our community.

The Portuguese Education Foundation of Central California continues to be a strong asset to our community. The Foundation's efforts are immense and I am honored to recognize them and their awardees this evening.

THE POLITICIZATION OF THE
JUDICIAL NOMINATION PROCESS

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, November 21, 2003

Mr. SOUDER. Mr. Speaker, I rise to address a matter of deep concern to every Member of Congress and to every American citizen—the judicial nomination process. I am chairman of the Government Reform Committee's Subcommittee on Criminal Justice, Drug Policy and Human Resources, which has responsibility for oversight of, among other things, our federal judicial system. I am deeply concerned by the growing politicization of the judicial nomination process by a handful of left-wing groups and their advocates in Congress.

Last week, the Wall Street Journal reported on a number of memos written by Congressional staff between 2001 and 2003. They illustrate the extreme political prejudice, crass maneuvering, and pandering to special interest groups that are bringing the judicial nomination process to a standstill. One memo actually claims that "most of [President] Bush's nominees are nazis". Another shows that action on nominees was delayed to allow "the groups"—i.e., left-wing special interest groups—"time to complete their research," i.e., to dig up as much dirt as they could on the President's nominees. And shockingly, a third memo shows that action was delayed on a nominee in order to affect the outcome of a case before the Sixth Circuit.

At present, no one can say for sure how the newspaper obtained the memos. Certainly illegal theft of any confidential materials should not be tolerated. I note, however, that given the large number of the memos, the fact that the source blacked out the names of the staff members who wrote and received the memos (presumably to save them from embarrassment), and the date of the documents (most are from 2001 and 2002) strongly suggest that the source was a member of the Democratic staff, and not someone illegally stealing the memos. In any case, now that these memos have been distributed to the press, I believe that it is important for the Members of Congress and the public to see them and judge their contents for themselves. I am therefore submitting the first installment of these memos for the RECORD, and intend to submit more of them in the days to come. I hope that a full and vigorous debate of this important issue will help the process to move forward, so that the President's nominees can quickly receive the yes or no vote that they deserve.

* * * * *
Big fight early next year. Three benefits: (1) Sends message on Supreme Court; (2) Forces WH to bargain; (3) encourages more moderate nominees.

To work, need all 10 Dems on board and need commitment not to go to the floor. Query: will it be possible to get all 10 Dems to commit before a hearing? Doubtful. There is a big risk. We must choose a nominee tailored to our weakest link. E.g., Pickering is bad but is he had enough? Probably not—finish him AFTER.

Who to fight? Not Estrada—hard to beat, and don't want him on the Supremes.

Groups have 3 names: Kuhl, Sutton, and Owens. Kuhl seems like a bad idea, b/c Boxer will never return the BS. Why waste that power, freeing up another nominee to go through? Similar with Sutton—he is being held up right now. Sutton will be hard to beat—very strong paper record, impressive credentials. GOP will carp about how only criteria should be excellence ("Should Ideology Matter?" retreat.) (Same problem with Estrada.) Sutton is personification of the threat the New Federalism poses to Civil Rights, but his defenders will muddle debate. Why not use someone else, show WH we mean business, then bargain to "release" hold on Sixth Circuit.

I say Owens. She is from Texas and appointed to SCT by Bush, so she will appear parochial and out of mainstream. She is definitively anti-abortion, in ways that make her look disingenuous. Pro-business. Questionable ethics. Plus can craft the message: concerted campaign to pack the Courts. Phase I: GOP blocks many well-qualified people—Johnson, Moreno, etc. Phase II: GOP picks extremists like Owen, and pushes hard. Court gets way out of wack. Focus not only on numbers, but tangible outcomes—rulings striking down VAWA, civil rights laws, environmental laws, etc.

No more hearings this year. Lay the foundations for next January/February. Schumer hearing on federalism, and the threat it poses. Coordinate media strategy. Drop hints. Schedule the hearing well in advance in January, so we don't face accusations of sandbagging.

Stress that we have cut the BS: no more anonymous holds, no more years without a hearing, no more ridiculous document requests, no more shutting down the Committee. Rather than hold a nominee up endlessly, and ruin their career, we will vote. There's a reason why they did that—most of Clinton's nominees were impeachable. There's a reason why we do what we do—most of Bush's nominees are Nazis. That doesn't mean we will roll over and play dead. Mainstream nominees will get quick turn around time. Controversial ones demand more careful scrutiny.

WHY HAVE A HEARING AT ALL?

Memorandum: June 21, 2002

To: Senators Kennedy, Schumer, Durbin, and Cantwell

From: —

Subject: Strategy on Judges

In advance of the Judiciary Democrats' meeting on Tuesday at 2:15, below is the strategy regarding judges that we recommend that you suggest to Senator Leahy.

1. Cancel or Reschedule Deborah Cook, 6th Circuit nominee. Senator Leahy is suggesting that a hearing for Deborah Cook be scheduled for August 1st, and, Senator Leahy may have promised Senator DeWine that he will hold a hearing for Cook this year. Cook is extremely controversial on labor, employee rights, and right to jury issues and should not have a hearing this year. If Senator Leahy has indeed promised DeWine a Cook hearing, we suggest that he schedule Cook for after the November elections. Given our schedule of controversial nominees (see below), it will be difficult to mount any effective challenge to Cook if she is scheduled

for early August. We recommend that Reena Raggi (2nd Circuit) be scheduled for early August instead of Deborah Cook.

2. Limit the Number of Hearings. Senator Leahy has promised hearings for Priscilla Owen, Miguel Estrada, and Michael McConnell. Other than these nominees, and the two remaining noncontroversial nominees Reena Raggi (2nd Circuit) and Jay Bybee (9th Circuit), no additional judges should be scheduled.

3. Timing of Hearings:

Owen. The consensus is to make Priscilla Owen the big fight for July 18th, as Senator Leahy has suggested, with the hope that we will succeed in defeating her.

Estrada. Miguel Estrada will be more difficult to defeat given the sparseness of his record. We agree with Senator Leahy that Estrada should be scheduled for September 19th. This will give the groups time to complete their research and the Committee time to collect additional information, including Estrada's Solicitor General memos (see below).

McConnell. McConnell will also be difficult to defeat. While he has a clear anti-choice record, he has the strong support of some Democrats and progressives. McConnell's clear anti-choice record, however, makes him a good nominee to bring up before the November elections. While Senator Leahy has suggested that a hearing for McConnell be scheduled on October 3rd, we would suggest October 10th, to provide enough time for preparation after the difficult Estrada hearing.

Suggested Schedule, July 18th: Priscilla Owen—5th Circuit; August 1st: Reena Raggi—2nd Circuit (non-controversial)—instead of Cook; September 5th: Jay Bybee—9th Circuit (supported by Reid); September 19th: Miguel Estrada—D.C. Circuit; October 10th: Michael McConnell—10th Circuit.

4. Obtaining Estrada's Solicitor General's Memos. Senator Leahy took the important first step of asking for Memoranda that Estrada produced while working at the Solicitor General's Office. Unfortunately, the Department of Justice has refused to turn over the memos, and Senator Leahy has been harshly criticized for this in the Press (two pieces in the Washington Post alone). We expect the Administration will continue to fight any attempt to turn these over, but there is precedent for getting these Memos—it was done for the Bork nomination and three other lower court nominations. We suggest that you encourage Senator Leahy to continue fighting the Administration for these Memos and, if possible, that one of you help him in this fight.

U. MICHIGAN SCANDAL

Memorandum: April 17, 2002

To: Senator (Kennedy)

From: —

Subject: Call from Elaine Jones re Scheduling of 6th Circuit Nominees

Elaine Jones of the NAACP Legal Defense Fund (LDF) tried to call you today to ask that the Judiciary Committee consider scheduling Julia Scott Gibbons, the uncontroversial nominee to the 6th Circuit at a later date, rather than at a hearing next Thursday, April 25th. As you know, Chairman Leahy would like to schedule a hearing next Thursday on a 6th Circuit nominee because the Circuit has only 9 active judges, rather than the authorized 16. (These vacancies are, as you know, the result of Republican inaction on Clinton nominees). Senator Leahy would also like to move a Southern nominee, and wants to do a favor for Senator Thompson.

Elaine would like the Committee to hold off on any 6th Circuit nominees until the

University of Michigan case regarding the constitutionality of affirmative action in higher education is decided by the en banc 6th Circuit. This case is considered the affirmative action case most likely to go to the Supreme Court. Rumors have been circulating that the case will be decided in the next few weeks. The thinking is that the current 6th Circuit will sustain the affirmative action program, but if a new judge with conservative views is confirmed before the case is decided, that new judge will be able, under 6th Circuit rules, to review the case and vote on it.

LDF asked Senator Leahy's staff yesterday to schedule Richard Clifton, an uncontroversial nominee to the 9th Circuit, before moving Gibbons, but they apparently refused. The decision has to be made today (or by early Thursday morning) since the hearing will be noticed on Thursday.

— and I are a little concerned about the propriety of scheduling hearings based on the resolution of a particular case. We are also aware that the 6th Circuit is in dire need of additional judges. Nevertheless we recommend that Gibbons be scheduled for a later hearing: the Michigan case is important, and there is little damage that we can foresee in moving Clifton first. (It should be noted that Clifton was nominated three months before Gibbons and that Clifton's seat, and not Gibbons', has been designated a judicial emergency.) Elaine will ask that no 6th Circuit nominee be scheduled until after the Michigan case is decided. This may be too much to promise: we only have three uncontroversial circuit court nominees left and two of these are from the 6th Circuit.

Recommendation: Let Elaine know that we will ask Senator Leahy to schedule Gibbons after Clifton. Given the dearth of uncontroversial nominees, however, the Committee will probably have to hold a hearing for Gibbons on May 9th even if there's yet no decision in the Michigan case.

VETERAN TRIBUTE FOR COLONEL ANDREW C. OLIVO

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, November 21, 2003

Mr. BURGESS. Mr. Speaker, I rise today to recognize the contributions and sacrifices of Colonel Andrew C. Olivo.

Colonel Andrew C. Olivo has served our country for many years in the United States Army Judge Advocate General Reserve. He was a part of the Desert Storm Conflict and Gulf War I. He has received numerous awards and medals for his services. These awards include two National Defense Service Medals and Army Commendation Medals. Colonel Olivo is also a recipient of four Meritorious Service Medals and the Humanitarian Service Medal with one service star.

At a time when we are once again at war, it is necessary to recognize the achievements of these national heroes. Due to their dedication, service, and sacrifice, they deserve our unwavering admiration and our unending gratitude.

Our country often takes for granted the freedoms and liberties our service men and women risk their lives to protect; yet by continuing to honor our veterans we preserve our nation's future by commemorating their past.

Thank you, Colonel Olivo, for your service and sacrifice. You are a true hero.

PAYING TRIBUTE TO DON VANDERHOOF

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Friday, November 21, 2003

Mr. McINNIS. Mr. Speaker, it is my honor to rise and pay tribute to my friend Don Vanderhoof. Don has served the community of Glenwood Springs, Colorado for many years. Over the last eight years, Don has held a seat on the City Council, the last two of which he served as Mayor. Don is a tremendous public servant, and a wonderful person, and it is my honor to call his many contributions to Glenwood Springs to the attention of this body of Congress and our nation.

Over the last eight years, Don was instrumental in providing leadership and guidance for many important City projects. During Don's tenure in city government, there were major additions to the resources available to the Glenwood Spring's Police, Fire, and Public Works Departments. In addition, the City added a new Community Center and City Hall, repaired the City's water delivery system, improved public transportation, and worked to maintain the hiking trails and beautiful wilderness areas surrounding the City. These are just a few of the many accomplishments in which Don Vanderhoof was involved for the betterment of the City of Glenwood Springs. There is no question that Glenwood Springs has become a better place as the result of Don's tireless dedication to its citizens.

The people of my hometown will miss having Don as a devoted public servant. However, Don does not intend to remain idle in his retirement. I know that he will remain very active in the Glenwood Springs community. Don will now have more time for the many volunteer and community service activities that he eagerly undertakes. In addition, Don will have the opportunity to spend more time with his lovely wife Eddie, and his many friends, neighbors and family members throughout town.

Mr. Speaker, it is my privilege to rise and pay tribute to Don Vanderhoof. He has dedicated many years of his life to improving the quality of life for the citizens of Glenwood Springs and has accomplished an incredible amount to that end. In addition to his public service, Don is a great family man and a dear friend to many. He is one of Glenwood Springs' most beloved citizens. Don's life is the embodiment of all that makes this country great and I consider it an honor to call him a friend. Thank you Don, for your service.

THE NIGHTMARE IN TURKMENISTAN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, November 21, 2003

Mr. SMITH of New Jersey. Mr. Speaker, November 25 will mark the one-year anniversary of events in Turkmenistan that turned that already bizarre autocracy into an even more nightmarish kingdom. According to the official version, opposition groups led by former high-ranking officials tried to assassinate Saparmurat Niyazov, the country's President-

for-Life. The attempt failed, the plotters were found, tried and imprisoned, and in the eyes of Niyazov's regime, justice has been done.

What actually happened that day is unclear. There may well have been a coup attempt against Niyazov, who has turned himself into virtually a living god. Or, as some opposition activists in exile maintain, the whole affair may have been staged by Niyazov to crack down even harder. Since no outsider has had access to those arrested in connection with the events, the truth may never be known.

Whatever happened, it is easy to understand the desperate frustration among Turkmen. Niyazov has made Turkmenistan the only one-party state in the former Soviet space, where one man decides everything, no opposition is permitted, all media are totally censored and the populace is forced to study the "rukhnama"—a dictator's rantings that purport to be a one-stop religion, national history and morality lesson.

What is clear is that Niyazov's response to November 25 has trampled on civilized norms, even if his allegations are true. In the wake of the arrests, all opposition—real or imagined—has been crushed. Quick show trials of the accused were broadcast on television, after which they received long prison sentences with no access to relatives or international organizations. Some of the opposition leaders have already died in prison. One individual who was arrested, an American citizen named Leonid Komarovsky of Massachusetts was eventually released, as a result of pressure from Washington. Upon gaining his freedom, he told the world of the horrible tortures people suffered at the hands of Turkmen security forces. The stories rival any we used to hear from the Soviet Union or Saddam Hussein's Iraq. In addition, relatives of those deemed "enemies of the people" have been targeted for persecution. The luckier ones merely are fired and thrown out of their apartments onto the streets; others have been arrested and tortured in prison or forced to watch their loved ones being tortured.

In response to this crisis, the OSCE invoked the Moscow Mechanism, a rarely-used tool to investigate particularly appalling human rights violations. But Niyazov refused to cooperate with the OSCE, whose officially designated rapporteur was denied a visa. Nevertheless, he was able to compile a comprehensive dossier of horror, which documents as well as possible without access to prisons, the mistreatment and abuse of those arrested and the persecution of their relatives. The rapporteur also forwarded to the Government of Turkmenistan recommendations to move towards reform. Niyazov has dismissed them as "offensive" and "interference in internal affairs."

Niyazov has also refused U.S. officials entry to his jails. Recently, Ambassador Stephen Minikes, head of the U.S. Delegation to OSCE visited Ashgabat, but despite his explicit request, was not allowed to check on the health of one of those arrested: former Turkmen Foreign Minister and OSCE Ambassador Batyr Berdiev. There are persistent rumors he has died in prison.

One year after the events of November 25, Saparmurat Niyazov remains in power. He continues his crackdown, and the country's downward spiral accelerates. Niyazov has reintroduced exit visas, a legacy of the Soviet past we thought had been definitively overcome. Just last week, he instituted new laws