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Senate

The Senate met at 11 a.m. and was called to order by the Honorable CONRAD R. BURNS, a Senator from the State of Montana.

PRAYER

The guest Chaplain, Monsignor Robert J. Fuhrman, offered the following prayer:

Lord God of life and love, Creator of heaven and Earth, morning has again filled the sky and we ask for Your grace. The men and women of this Senate and every American face a world of uncertain promises and fragile peace. Strengthen, bless, and guide our Senators with Your warm light. Then threats and fear will cease to make us weak, for we can do all things in You. Give the Senate wisdom, Lord, the intended at Your throne. With wisdom they will be courageous in leadership, proud servants of a free people. Perfect in them the art of willing service, Lord. Show them and all of us the way. Help us to know what is right and to protect that which is good in this wonderful Nation and this beautiful world. Bless us, protect us from all evil, and give us Your peace. Amen.

Mr. LAUTENBERG. Mr. President, I rise today to welcome the Reverend Monsignor Robert J. Fuhrman to the Senate. Monsignor Fuhrman hails from Saddle River, NJ, and we are very happy that he is joining us today as the Senate's guest Chaplain. Monsignor Fuhrman was ordained to the priesthood in 1981. He received his bachelor's degree from Seton Hall University in 1977 and he currently serves as pastor at St. Gabriel the Archangel Church in Saddle River. He is also currently on the board of directors of the Society for the Propagation of the Faith, which is a mission support agency of the Catholic Church. In this capacity he has daily contact with missionaries providing important services in developing countries around the world.

I am always excited when we can welcome someone from New Jersey to the

Senate Chamber and I am honored to welcome Monsignor Robert J. Fuhrman to lead us in our morning prayer.

PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, February 13, 2003.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CONRAD R. BURNS, a Senator from the State of Montana, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BURNS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senate majority leader is recognized.

SCHEDULE

Mr. FRIST. The Senate will resume consideration of the nomination of Miguel Estrada to be a circuit judge for the DC Circuit. This is now the sixth day of debate on this judicial nominee. I thank Chairman HATCH, chairman of the Judiciary Committee, for leading

the debate on Miguel Estrada last night. I believe Senator HATCH laid out very clearly the qualifications of this nominee, as well as the traditional practice and process of our judicial confirmations.

I thank all Members on this side of the aisle for their questions last night. I believe those questions and answers provide a great insight and clear away much of the rhetoric surrounding this well-qualified nominee.

Again last night I attempted to reach an agreement as to when we might have an up-or-down vote on the Estrada nomination. All of my proposals were rejected. I hope out of a sense of fairness my Democratic colleagues would rethink their objection and allow the time certain for an up-or-down vote on Miguel Estrada.

With respect to the omnibus appropriations conference report, the House filed the report late, very late, last night. The House is expected to act on that conference report later today. Therefore, it is my intention the Senate will be able to complete action on that measure on Friday.

I will be working with the Democratic leader in an effort to reach a time agreement on that conference report. Rollcall votes are, therefore, possible during today's and tomorrow's session.

The ACTING PRESIDENT pro tempore. The distinguished minority leader from South Dakota.

Mr. DASCHLE. I ask the distinguished majority leader if it is his intention to bring the bill up tomorrow? There have been questions about the schedule tomorrow. You did indicate it was more likely it would come up tomorrow rather than tonight?

Mr. FRIST. Mr. President, in response, it may well be tonight, in which case we could consider moving ahead tonight. It depends on when the House finishes their business and delivers it to us. A number of Senators have asked. Looking realistically, it is likely to be tomorrow. But if we receive it

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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earlier, I will be more than happy to work on it tomorrow.

I might turn to the distinguished chairman and ask for his perspective on what we might see over the course of today.

Mr. STEVENS. Mr. President, it is my understanding the House will not get to the bill until quite late tonight so I presume we will not receive it until tomorrow.

Mr. DASCHLE. I thank the chairman and the distinguished majority leader.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

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 resume executive session and the 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.

The ACTING PRESIDENT pro tempore. The distinguished minority leader.

Mr. DASCHLE. I thank the presiding officer.

Let me say in response to the majority leader, it has been 8 days now since Miguel Estrada's nomination came to the Senate floor. The issue in this case is not only Mr. Estrada's qualifications. An even more immediate issue is Mr. Estrada's continued refusal to fill out what, for all intents and purposes, is a job application. Mr. Estrada is asking for a lifetime appointment to the second most powerful court in the land, the court just below the Supreme Court, and yet he refuses to answer the simple questions that are asked routinely of men and women who are nominated to the Federal bench.

We do not need more time to debate the nomination. We need more answers. Without those answers, debate is hollow because we lack the basic information we need to make an informed judgment about Mr. Estrada's fitness. We are prepared to wait as long as we have to for his answers. Whether that wait lasts an hour, a day, a week, or even longer, is up to the administration and Mr. Estrada.

The Constitution does not suggest, it does not hint that maybe it would be a good idea for us to advise the President on his nominees and withhold or offer our consent. The Constitution requires the Senate to advise the President on

the nominees and offer or withhold our consent. By refusing to answer even the most basic questions, Mr. Estrada is not only stonewalling the Senate, he is undermining the Constitution. He is preventing the Senate from exercising our fundamental constitutional responsibility in this matter.

I will simply say to my colleagues: We will not relent on this matter. We are united in our resolve to fulfill our obligation under the Constitution.

There have been efforts made by some on the other side to confuse people. They want the American people to believe that Democrats have been unfair in our handling of judicial nominations. I think most people know better than that. In the last 17 months, we confirmed 100 Federal judges. All of those judges were nominated by President Bush and all of them, one can assume, are quite conservative judges.

Our Republican colleagues have even suggested that this debate may be about Mr. Estrada's ethnicity. Some of his supporters have suggested—incredibly—that if you ask Mr. Estrada to answer questions, you are somehow hostile to the rights of Hispanic Americans. They have asserted on the floor of the Senate and also on the floor of the House that those who ask questions are somehow anti-Hispanic.

That charge is desperate and, frankly, offensive, and it is obviously untrue. In fact, the Congressional Hispanic Caucus, which unanimously opposed Mr. Estrada's nomination, has actually demanded an apology from those who have made this false claim. Regrettably, we have heard no apology from those who have had the poor judgment to make such unfounded allegations. Even one of the groups that supports Mr. Estrada's nomination has denounced those allegations by Republicans. So I hope we are not going to hear any more of that ill-advised talk on the Senate floor.

The fact is, many groups have expressed concern over Mr. Estrada's refusal to answer the Senate's questions. Among them, few have spoken out more forcefully than the organizations representing Hispanic Americans.

His nomination is opposed by every member of the Congressional Hispanic Caucus, by the Mexican-American Legal Defense and Education Fund, and the Puerto Rican Legal Defense and Education Fund.

Leaders of the Mexican-American Legal Defense and Education Fund said:

It is unclear whether Mr. Estrada would be fair to Latino plaintiffs as well as others who would appear before him with claims under the First Amendment, the Fifth Amendment, and Due Process clauses of the Constitution.

They continued:

Further, we found evidence that suggests that [Mr. Estrada] may not serve as a fair and impartial jurist on allegations brought before him in the areas of racial profiling, immigration and abusive or improper police practices . . .

We have concerns about whether he would fairly review standing issues for organiza-

tions representing minority interests, affirmative action programs or claims by low-income consumers.

We are also unsure, after a careful review of his record, whether he would fairly protect labor rights of immigrant workers, or the rights of minority voters under the Voting Rights Act.

All this, not from some Democratic Senator, not from some partisan Democrat, but from one of the most respected Hispanic groups to speak out on this issue, on either side.

Other Hispanic groups, including the Puerto Rican Legal Defense and Education Fund have expressed very similar concerns.

If these perceptions are inaccurate, Mr. Estrada could disprove them—if he would stop stonewalling. But, unfortunately, so far he has refused to do so.

As I said, there is far too much we don't know about Mr. Estrada. We will do everything we can to prevent his nomination from coming to a vote until he provides this Senate and the American people with some straight answers.

Perhaps the most troubling aspect of this situation is not the red herrings. It is not the cynical or false accusations of obstructionism or anti-Hispanic bigotry, as offensive as those charges are. What is even more troubling is what the Senate is not doing right now.

We have made it clear that the Senate cannot vote on the Estrada nomination until the necessary information is provided. Yet our Republican colleagues have chosen to force this fight onto the floor rather than to take up other, more urgent business.

Americans who watched as this debate stretched late into the night last night must have been mystified. They know we are facing daunting challenges at this critical moment in our history. Our Nation may be on the verge of war. We are told that America is at a high risk of terrorist attack. People are experiencing great anxiety about their safety and the safety of their loved ones. What is more, millions of Americans are out of work and our economy is in trouble.

Why—Americans must have asked themselves last night—with all of the great challenges confronting our nation, why has the Republican majority chosen to pick this fight at this time?

I don't understand, and I doubt that people at home do, either.

America faces serious, even life-and-death challenges: homeland security, the economy. That is what the Senate should be working on day and night. That is a good reason for an all-night session.

Miguel Estrada should stop the stonewalling. He should answer the Senate's questions and we should get on with addressing the real, urgent issues confronting our country—the economy, the terrorist attacks, and war in Iraq.

We can wait and we can talk, or we can set this nomination aside until we have the information to make an informed judgment and, in the meantime, we can deal with the issues that