

PRLDEF's own meeting minutes. For example, on October 8, 1978:

[Litigation Committee] Chairperson Sotomayor summarized the activities of the Committee over the last several months which included the review of the litigation efforts of the past and present. . . .

The New York Times has detailed her active involvement, as recounted by former PRLDEF colleagues, who have described Judge Sotomayor as a "top policy maker" who "played an active role as the defense fund staked out aggressive stances." According to these reports, she "frequently met with the legal staff to review the status of cases" and "was an involved and ardent supporter of their various legal efforts during her time with the group."

What were the litigation positions advanced by PRLDEF during Judge Sotomayor's tenure there? Well, it argued in court briefs that restrictions on abortion are analogous to slavery. And it repeatedly represented plaintiffs challenging the validity of employment and promotional tests—tests similar to the one at issue in Ricci.

I want to return to a question I raised in my opening statement of Judge Sotomayor's hearing: What is the traditional basis for judging in America?

For 220 years, Presidents and the Senate have focused on appointing and confirming judges and Justices who are committed to putting aside their biases and prejudices and applying the law fairly and impartially to resolve disputes between parties.

This principle is universally recognized and shared by judges across the wide ideological spectrum. For instance, Judge Richard Paez of the ninth circuit—with whom I disagree on a number of issues—explained this in the same venue where, less than 24 hours earlier, Judge Sotomayor made her remarks about a "wise Latina woman" making better decisions than other judges. Judge Paez described the instructions that he gives to jurors who are about to hear a case. "As jurors," he said, "recognize that you might have some bias, or prejudice. Recognize that it exists, and determine whether you can control it so that you can judge the case fairly. Because if you cannot—if you cannot set aside those prejudices, biases and passions—then you should not sit on the case."

And then Judge Paez said:

The same principle applies to judges. We take an oath of office. At the federal level, it is a very interesting oath. It says, in part, that you promise or swear to do justice to both the poor and the rich. The first time I heard this oath, I was startled by its significance. I have my oath hanging on the wall in the office to remind me of my obligations. And so, although I am a Latino judge and there is no question about that—I am viewed as a Latino judge—as I judge cases, I try to judge them fairly. I try to remain faithful to my oath.

What Judge Paez said has been the standard for 220 years. It correctly describes the fundamental and proper role both for jurors and judges.

Before the hearing, my biggest question about Judge Sotomayor was whether she could abide by that standard. We spent 3 days asking her questions, trying to understand what she meant in some of her controversial speeches and what drove her to questionable conclusions in cases such as Ricci and Maloney.

Judge Sotomayor did not dispel my concerns. Her sworn testimony was evasive, lacking in substance, and, in several instances, incredibly misleading.

Her dissembling was widely noticed. Indeed, in an editorial, the Washington Post criticized Judge Sotomayor's testimony about her "wise Latina" statement. Here is what the Washington Post said:

Judge Sotomayor's attempts to explain away and distance herself from that statement were unconvincing and at times uncomfortably close to disingenuous, especially when she argued that her reason for raising questions about gender or race was to warn against injecting personal biases into the judicial process. Her repeated and lengthy speeches on the matter do not support that interpretation.

Until now, Judge Sotomayor has been operating under the restraining influence of a higher authority—the Supreme Court. If confirmed, there would be no such restraint that would prevent Judge Sotomayor from—to paraphrase President Obama—deciding cases based on her heartfelt views.

If the burden is on the nominee to prove herself worthy of a lifetime appointment to the Nation's highest Court, she must do more than avoid a "meltdown" in her testimony. She must be able to rationalize contradictory statements—assuming she does not repudiate one or the other—such as the differences between her speeches and her committee testimony. Her failure to do that has left me unpersuaded that Judge Sotomayor is absolutely committed to setting aside her biases and impartially deciding cases based upon the rule of law.

Judge Sotomayor is obviously intelligent, experienced, and talented. She represents one of the greatest things about America—the opportunity to become whatever you want with your God-given abilities. She is a role model for young women, as well as minorities, specifically. She is personable and, apparently, hard working. I respect the views of those who regard her well.

Moreover, I appreciate her many declarations during the hearing that judges must decide cases solely on the basis of the facts and the law; and especially her disagreement with the President's erroneous, I believe, formulations that, in the hard cases, a judge should rely on empathy and what is in his or her heart.

It may have been possible to vote to confirm her notwithstanding her decisions in Ricci, Maloney, and some other questionable cases. What I cannot abide, however, is her unwillingness to forthrightly confront the con-

tradictions among her many statements, so as to give us confidence that her Judiciary Committee testimony represents what she believes and what she will do. Instead, she would have us believe that there is no contradiction, that she can hold onto what she said before in speeches and decisions—for example, that she merely followed Supreme Court and circuit precedent in Maloney, and that the dissenters in Ricci did not disagree with her reasoning—and also her testimony.

I cannot ignore her unwillingness to answer Senators' questions straightforwardly—for instance, her insistence that as chair of PRLDEF's litigation committee, she had little to do with the organization's legal positions. She has not carried her burden of proof and, therefore, regrettably, I cannot vote to confirm her.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 5 p.m.

Thereupon, the Senate, at 3:11 p.m., recessed until 5 p.m. and reassembled when called to order by the Presiding Officer (Mr. BURRIS).

NOMINATION OF SONIA SOTOMAYOR TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume the 1-hour alternating blocks of time with the Republicans controlling the first hour.

The Senator from Oklahoma.

Mr. COBURN. I ask unanimous consent that the Republican time for the next hour be allocated as follows: Myself, 15 minutes; Senator SNOWE, 30 minutes; and Senator BROWNBACK, 15 minutes.

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

Mr. COBURN. Mr. President, I rise today to discuss the nomination of Judge Sonia Sotomayor to be a Justice on the U.S. Supreme Court. Judge Sotomayor comes to the Senate with a compelling personal story and notable professional accomplishments. She has worked as a prosecutor, a corporate attorney, and then as a Federal district court and circuit court judge. And, after meeting with Judge Sotomayor and visiting with her, I like her. She is a very kind and affable person.

Certainly Judge Sotomayor has an impressive resume; however, the Senate's inquiry into her suitability for a seat on the Supreme Court does not end with her professional accomplishments. Equally important to our providing "consent" on this nomination is our determination that Judge Sotomayor has the appropriate judicial philosophy for the Supreme Court. Judge Sotomayor needed to prove to the Senate that she will adhere to the