

Testimony of

The Honorable Orrin Hatch

January 30, 2003

Statement of Chairman Orrin G. Hatch
Before the United States Senate Committee on the Judiciary
Executive Business Meeting

On the Nomination of Miguel Angel Estrada
to the U.S. Court of Appeals for the District of Columbia Circuit

I would like to comment on Mr. Estrada's nomination. I, along with many other people, have been waiting for this vote for a long time. Mr. Estrada was first nominated in May of 2001, and Senator Leahy scheduled a hearing in September last year, and Senator Schumer chaired that hearing with his usual skill and passion.

In the course of that five-hour hearing, Mr. Estrada proved his patience, his competence, and his aptitude for public service. And, since then, Mr. Estrada has answered all of the written follow-up questions submitted by Senators. Everyone has had plenty of time to review the record.

I promised last year that, if I had anything to say about it, a vote on Miguel Estrada would be the first vote in Committee this year. I am glad to have the opportunity to make good on that promise.

At the September 26th hearing, I noted that because of Mr. Estrada's background, we had many people of Hispanic origin watching us as we displayed the value we give to the independence of our judiciary. One notable observer at the hearing was the Honorable Mario Conahuati, the Ambassador of Honduras to the United States, whom I have since had the pleasure of getting to know.

As Chairman of the Senate Republican Hispanic Task Force, I have met with hundreds of Hispanic leaders from all over the country who have expressed strong support and interest in Mr. Estrada. His supporters include LULAC, the League of United Latin American Citizens, -- the largest and oldest Latino organization in this country. Of course, many letters of support are already in the hearing record.

Lest anyone be unclear, Miguel Estrada deserves to be confirmed not because of his remarkable background as an immigrant to this country, but because he deserves to be confirmed under any standard. Mr. Estrada graduated from Columbia University magna cum laude and as a Phi Beta Kappa. He went on to Harvard Law School where he graduated again magna cum laude and after serving as Editor of the Harvard Law Review. He served as a law clerk for the Second Circuit Court of Appeals in New York, and then for Associate Justice Anthony Kennedy at the United States Supreme Court. Mr. Estrada later worked as Assistant U.S. Attorney and Deputy Chief of the Appellate Section in the U.S. Attorney's office for the Southern District of New York. Then

between 1992 until 1997, Mr. Estrada returned to Washington to work for the Clinton Administration as Assistant to the Solicitor General. He has argued 15 cases before the Supreme Court and is today one of America's leading appellate advocates. These are some of the reasons that the American Bar Association declared him Unanimously Well Qualified - and renewed that rating just yesterday. It is clear on the merits that Miguel Estrada is qualified for the position for which President Bush has nominated him.

Unfortunately, however, notwithstanding all of Mr. Estrada's hard work and well-earned accolades, some of the lobbyists for Washington's leftist interest groups have been attempting to smear his reputation in hopes of denying Republicans the honor of putting him on the court.

They were unable to find anything bad about him, which led them simply to resort to their fall back line - that we do not know enough about Mr. Estrada to confirm him. Well, that's silly. The fact is that we know as much about him as we have ever known about any nominee. The interest groups are simply upset that they haven't found anything bad to defeat him with.

We have also heard it said that Mr. Estrada does not have enough judicial experience. Yet only 3 of the 18 Democrat-appointed judges on the D.C Circuit Court had any prior judicial experience before their nominations. These include Ruth Bader Ginsburg and Abner Mikva. Likewise, judicial luminaries such as Byron White had no judicial experience before being nominated to the Supreme Court. And Thurgood Marshall, the first African American on the Supreme Court, had no judicial experience when he was nominated to the Second Circuit. I could go on and on.

The most embarrassing tactic used against this nominee was to suggest that, because Mr. Estrada has been successful and has had the privilege of a fine education, he is somehow less than a full-blooded Hispanic. I wonder if we would tolerate saying of a woman nominee that because of this or that, she is not really a woman, or of a male nominee that because he is this or that, he is not a man.

I have to tell you that the outrage expressed to me by Hispanic leaders for the treatment given Mr. Estrada has been palpable. I will put into the record an article which appeared in the Wall Street Journal just this morning by Herman Badillo. Mr. Badillo is perhaps the most distinguished Hispanic leader in New York State, with four decades of public service behind him, including as a member of Congress, Deputy Mayor, and Board Chairman of the City University of New York.

Miguel Estrada was born in Tegucigalpa, Honduras. He was so bright at an early age that he was enrolled at a Jesuit school at the age of 5. He was raised in a middle class family. At age 17, he came to live with his mother who had immigrated to New York knowing very little English. Today he sits before the Senate of the United States waiting to be confirmed to one of the greatest courts in the land. I have to admit that I'm proud of Miguel Estrada, and proud of my country because of him.

Now, I noticed that the very liberal Puerto Rican Legal Defense Fund issued a report just last spring, arguing that there were too few Hispanics on the bench and challenging the Bush administration to nominate more. I noticed, however, that they never mentioned Miguel Estrada's

nomination. In fact, they did not even mention the court for which Mr. Estrada is nominated - the D.C. Circuit - even though they addressed all the other federal circuit courts.

In this respect, I want to commend President Bush. He has sent us 8 well-qualified Hispanic nominees so far. At this rate, if he has 8 years to serve, President Bush will have nominated at least 32 Hispanic-American judges. This will be more than any other President before him, Democrat or Republican.

Nevertheless, I am concerned about the few Hispanic judges we have, especially given that Hispanics are now the largest minority group in America. And I am concerned by the obstacles they seem to face, if they don't agree with the liberal interest groups - as if they cannot think independently.

One new obstacle Hispanics face today is the attempt by some Washington political operatives to smear anyone who could be a positive role model for Hispanics and who might be a constitutionalist, rather than a liberal judicial activist, or who might even be conservative or Republican.

Rather than attempt to divide the Hispanic community with such partisanship, we should learn from the Hispanic community in this country. In Spanish-speaking churches of every denomination, Hispanics sing a song called DE COLORES. This means OF MANY COLORS. Hispanics know that they come in many colors, with all kinds of backgrounds. They accept each other, and are united by the desire to see each other succeed.

I am going to place into the record the two editorials by The Washington Post that express their support for Mr. Estrada. As one editorial puts it, his nomination is "an easy call." The Post was right to point out that we who support Miguel Estrada should not do so simply because he is a Hispanic. As the Post points out there is no particularly "Hispanic manner of deciding cases." As I said earlier, Mr. Estrada has earned an exemplary academic record, has applied his abilities to important positions in public service, and has demonstrated his skill as a lawyer during 15 cases argued before the Supreme Court. As The Post said, his confirmation is "an easy call." I urge all of my colleagues to join me in voting to report his nomination favorably to the full Senate.

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on S. 205, the Iraqi Scientist Immigration Act of 2003

I would like to take a moment to discuss S. 205, the Iraqi Scientist Immigration Act of 2003. I am an original cosponsor of this legislation, and I worked hard with Senators Biden and Specter at the end of last Congress to work out the best language possible. I expect that the Committee will report this bill favorably today and that the full Senate will expedite its approval.

We have suspected for years, and have become increasingly aware in recent months, of Saddam Hussein's refusal to comply with promises he made after the Persian Gulf War. United Nations weapons inspectors and officials from the International Atomic Energy Agency have been deceived and denied access in the past. Iraq's plans and progress in building weapons of mass destruction throughout those years must be accounted for. Since the new inspections began and inspectors have interviewed those who would be privy to this type of information, we have heard reports that scientists involved with such programs are being heavily coached as to what they can and cannot say. We can safely assume that if they were to disclose sensitive information, their lives, and the lives of their families, would be in danger. Given that threat, defection and full disclosure is unlikely. This is not acceptable. As the United States evaluates the threat that Iraq and Saddam Hussein present to the United States and others, we must have access to the knowledge possessed by those scientists.

After hearing the President's State of the Union Address and reports from United Nations weapons inspectors, few would argue against the pressing need for this legislation. The Iraqi Scientist Immigration Act will provide the necessary avenue for scientists who wish to disclose information to inspectors, but who fear the deadly repercussions that will inevitably fall upon them by the hand of Saddam Hussein's regime should they do so. This legislation will authorize relevant United States authorities to grant protection -- via nonimmigrant visas and the possibility of permanent residence -- to certain individuals who have worked on Iraqi programs to develop weapons of mass destruction and will share the critical and reliable information they possess with the United States government. This bill will provide the same possibility of refuge for the families of these scientists. In short, the Iraqi Scientist Immigration Act will provide incentive and protection for those who have the information to share the information, thus giving the United States what it needs.

I am proud to be a cosponsor of this legislation and believe that its implementation will provide us with a necessary tool in evaluating the threat that Iraq presents. The Senate passed this measure by unanimous consent late in the 107th Congress. The Iraqi Scientist Immigration Act of 2003 enjoys the full support of the Department of State and the Department of Justice. I urge its approval and passage.

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On S. 153 the "Identity Theft Penalty Enhancement Act"

I want to commend Senators Feinstein, Kyl, Grassley, Sessions and Craig for introducing the "Identity Theft Penalty Enhancement Act," S.153, in the 108th Congress. This important legislation has the Administration's strong support.

We all know that identity theft is one of the fastest growing and most sinister crimes in this nation. Terrorists who have declared war on our country typically employ identity theft schemes

to carry out their deadly plots. Strengthening the tools of our criminal justice system is an essential tool in our country's war against terrorism.

The number of identity theft complaints nearly doubled in 2002. The Federal Trade Commission recently reported that 43 percent of the complaints involved the hijacking of someone's identity information, such as a credit card or Social Security number, to steal money or carry out more sophisticated fraud schemes. Up to 700,000 people in the United States are victimized by identity bandits each year.

S.153 provides enhanced penalties for persons who steal identities while committing terrorist acts, immigrations violations, fraud, firearms offenses and other serious crimes. By creating a class of aggravated identity theft offenses that include the most serious forms of identity theft and subjecting violators to stiff mandatory penalties, this bill will strengthen law enforcement's ability to combat identity theft.

Again, I wanted to commend Senators Feinstein, Kyl, Grassley, Sessions and Craig for this propose legislation. I sincerely hope that we can pass this bill out of Committee today. I am committed to working with members of the full Senate, on a bi-partisan basis, to enact this worthy legislation.

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