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Subject: : Confabular

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The New York Sun
September 25, 2002

Hatch Challenging Schumer On Hispanic Court Nomination
G.O.P. Accuses New York Senator Of 'Confabular' on Estrada

BY ADAM DAIFALLAH

WASHINGTON - Partisan tension is rising in the lead-up to tomorrow's Senate Judiciary Committee hearing on Miguel Estrada, the Bush nominee for the D.C. Court of Appeals.

It nearly boiled over yesterday as Senator Schumer presided over a subcommittee meeting that Estrada's supporters say was designed to set the stage for his eventual defeat - a meeting in which a Republican senator displayed a sign in Spanish that accused Mr. Estrada's critics of spreading "falsehoods."

Mr. Schumer chaired yesterday's meeting called "The D.C. Circuit: The Importance of Balance on the Nation's Second Highest Court." The meeting was supposed to feature legal scholars and experts making statements about the special role of the D.C. Circuit Court, but the instead the issue of the role that ideology should play in the judicial confirmation process dominated the discussion.

Mr. Schumer has argued that ideology plays a crucial role in the way senators vote on judicial nominees, and he says that's okay. Senators tried to remain collegial at yesterday's meeting, repeatedly exchanging light-hearted jokes and barbs, but the simmering hostility was clearly visible.

Senator Hatch, the ranking Republican on the Judiciary Committee, had some choice words, airing his frustration at what he and other Republicans see as the Democrats building up to Mr. Estrada's eventual defeat.

"I am disappointed that we are having this hearing because, to be frank, it strikes me that we are regressing, that this subcommittee is just a thinly veiled attempt to lay the foundation to oppose one of the most intelligent, accomplished and respected lawyers ever named to the D.C. Circuit Court," Mr. Hatch said. "It seems to me that it would have been more forthright to name this hearing what it is: the Contra Estrada Hearing."

Mr. Hatch was also harshly critical of liberal Hispanic groups, saying: "they ought to be ashamed of themselves. They have sold out the aspirations of their people just to sit around schmoozing with the power elite."

An aide to Mr. Hatch placed a large sign on an easel in front of the committee with the Spanish word "confabular" and its definition. "It means 'when [two] or more persons come together secretly to invent falsehoods about another.' I am afraid that this is what we will see this week against Miguel Estrada, and I am sorry, Mr. Chairman, that this hearing is part of the effort," Mr. Hatch said.

The D.C. Circuit court is considered the nation's second most powerful court. More judges have been nominated and confirmed to the Supreme Court from the D.C. Circuit than from any other court. Mr. Estrada would be the first Hispanic to sit on the court, and Republicans are already touting him as a future Supreme Court nominee.

Mr. Schumer said: "nominations to this special circuit merit special scrutiny" and that "Anyone who thinks we should just blindly confirm the president's nominees to this all-important court needs to think again."

Mr. Schumer said that during the 1990s, conservative judges had a "stranglehold" on the D.C. Circuit, leading to the striking down of fuel economy standards, wetlands protections, and pro-worker rulings by the National Labor Relations Board.

"Now, for the first time in a long time because of the resignation of two Republican judges, there is some balance on the D.C. Circuit. Some of us would like to keep balance on this all-important court - not giving either side an ideological edge," Mr. Schumer said.

Attorney General Ashcroft yesterday weighed into the debate, urging the Judiciary Committee to confirm Mr. Estrada and to move quickly to fill up what he called "the severe vacancy crisis plaguing the federal bench."

"Miguel Estrada's nomination is a testament to his talent, perseverance and intelligence," Mr. Ashcroft said. "He is superbly qualified and has been praised by a broad range of supporters, including by prominent Democrats. I strongly urge the Senate to confirm Miguel Estrada to be the first Hispanic American to sit on the D.C. Circuit Court of Appeals."

Groups such as the League of the United Latin American Citizens, the Hispanic Business Roundtable, the Hispanic National Bar Association and the U.S. Hispanic Chamber of Commerce have come out in support of Mr. Estrada. Prominent Democrats including former Clinton Solicitor General Seth Waxman and a former chief of staff to Vice President Gore, Ron Klain, have defended Mr. Estrada.

Other Hispanic organizations such as the Mexican American Legal Defense and Education Fund have expressed reservations about Mr. Estrada, while the Puerto Rican Legal Defense and Education Fund opposes his nomination.

That group issued a report last week that chided Mr. Estrada for what they called a "clear lack of any connection whatsoever" to the Hispanic community and their concerns, such as affirmative action.

Mr. Estrada embodies the values of Hispanic Americans, said Jos? Fuentes, a Washington lawyer and former Puerto Rican attorney general.

"He represents all that we are. He is family oriented, conservative and religious. If you are going to have a Hispanic representative on this court, you need someone who is a mainstream Hispanic. I think Senator Schumer has been put in a difficult position by the Democratic leadership. we can see through this," Mr. Fuentes said.

Mr. Estrada is a magna cum laude graduate of Columbia College and Harvard Law School and is a partner in the law firm that represented Mr. Bush in his battle with Mr. Gore over Florida's electoral votes in the 2000 election.

Mr. Bush nominated him for the D.C. Circuit judgeship more than 500 days ago. Last July he received a unanimous "well qualified" rating from the American Bar Association, the highest possible.